

VII. CONSIDERATION OF INSTITUTIONAL STRUCTURES AND FUNDING

MECHANISMS

The evaluation of institutional structures and funding mechanisms was initially in the RRCS scope of work to be examined at some gross level led by Team 1 (NCTCOG staff). With the development of the Regional Transit Initiative, these issues became of more importance, and NCTCOG staff and consultant staff addressed the issues by providing assistance to the three RTI committees – the Institutional Structures Committee, Financial Options Committee, and Legislative Committee. The work of the committees began in earnest in January 2004 with a joint orientation session of the committees, and culminated in August 2004 with the adoption of guiding principles for regional passenger rail development in a regional summit of elected and appointed leaders.

EXAMPLES FROM OTHER REGIONS

In researching regional public transit organizations and dedicated funding for capital and operating expenses in other parts of the U.S., it was found that the Dallas-Fort Worth area is much like other such metropolitan areas. The regions are interested in providing seamless connections throughout the region, regardless of the entity providing the service. Passengers do not care who provides the service; they just want the opportunity to travel throughout the region. This is very similar to drivers of vehicles in the region, who do not care who pays for roadway construction and maintenance, and are not aware of the boundaries between jurisdictions, but want the ability to drive throughout the region.

It was found that many regions in the country have more mature transit services, often with multiple agencies, taxes, fees, and overlapping boundaries, and are now coping with the need to simplify the delivery of services. Some areas, such as the metropolitan San Diego area and southern Florida, are now consolidating functions or requiring better coordination and cooperation.

The RTI effort evaluated other regions' specific organizations and funding mechanisms and also utilized previously compiled information that was developed by LKC Consulting for NCTCOG and later amplified for DART.

INSTITUTIONAL STRUCTURES AND STRATEGIES

Following a scan of the institutional structures being used in the Dallas-Fort Worth area and nationally, the RTI effort concentrated on a family of institutional structures for consideration:

- Single regional transit authorities that serve the entire region or most of it;
- Authorities that provide primarily single mode service (such as regional rail);
- Regional authorities that only provide planning and funding; but do not operate service;
- Subregional authorities that work together through agreement; and
- Transit agencies that serve only one city.

Each potential structure was tested against the following criteria:

- Assure fair cost sharing for transit services received;
- Address equity issues – east and west;
- Avoid extra layers of bureaucracy;

- Provide regional rail services in all six counties where the RRCS services are planned;
- Encourage transit service through regional cooperation;
- Provide seamless service to customers;
- Maintain the three existing transit authorities with funding, responsibilities, and commitments;
- Structure governance representation fairly; and
- Provide the ability to expand to additional counties as needed.

SOURCES OF REVENUE / POTENTIAL FUNDING STRATEGIES

An understanding of the context of the current funding sources for public transit capital and operating was developed as a background to an evaluation of potential new or expanded funding sources. A summary of federal and state funds received in the region was produced to present to the RTI committees, as well as a detailed description of the current dedicated sales and use taxes being collected for public transit use in the region. Additionally, mapping of those cities with any sales and use tax capacity available for dedicating to public transit was accomplished by NCTCOG staff.

Among the nationally proven funding sources dedicated to public transit that were evaluated in detail were:

- Sales and use tax;
- Local option gas sales tax;
- Local option motor vehicle sales tax;
- Local property tax; and
- Employment tax.

Other revenues sources investigated to a lesser degree were:

- Tire tax or taxes on wrecker services;
- Sales tax on automobiles and property taxes on automobiles;
- A sprawl impact fee; and
- Vehicle inspection tax.

The candidate funding source principles were measured against criteria developed by the RTI Financial Options Committee. Funding sources were rated as being consistent or non consistent with the following criteria:

- Available collection mechanism;
- Equitable;
- Adjusts to inflation;
- Already used for transit;
- Used by others; and
- Legal or political issues.

FINANCIAL PLAN

Working through the issues concerning development of a system level financial plan for promoting regional passenger rail service, it became clear that estimates of the costs of such a system from 2005 to 2025 would be necessary, and that these costs and revenue estimates would be annualized to provide a side-by-side comparison. A more detailed financial plan that plots the investments in capital development, requirements for operating and maintenance costs, and more precise revenue estimates will come at a time when there is a detailed proposal to be developed for the region that uses

legislatively permitted revenue sources and would then be considered by voters in the region. In summary, the RTI financial proposals looked at the projected expenditures and revenues as a whole for the 21-year period.

Projected capital and operating expenditures were prepared using the existing Public Transit Capital Element of the 2004 Update version of Mobility 2025 and the results of the RRCS efforts (as sanctioned by the Policy / Technical Committees, or Committees 1 – 6). In addition, bus capital and operating expenses were estimated based on the actual bus expenditures and projected plans of DART, FWTA, TRE, and DCTA. Bus-related costs included estimates for express bus, fixed route bus, demand responsive services, and vanpool services for the six counties. As the committee's work proceeded, it was agreed that a less intensive bus element should be included in the final estimates.

An estimate for providing the additional regional passenger rail services throughout the six counties, outside of the existing DART service area and Denton County, was developed. The estimated capital and operating annualized cost is \$167.3 million. That cost was compared to the necessary level of revenue generation to cover that cost. A summary of those funding mechanisms is in Exhibit VII-1.

EXHIBIT VII-1

REVENUE SOURCES FOR REGIONAL PASSENGER RAIL DISTRICT

Revenue Source	Rate Needed to Generate Revenue to Cover Estimated Expenses
Sales and Use Tax (outside DART and Denton County)	0.05 percent
Motor Fuels Sales Tax	0.06375 percent
Motor Vehicle Sales Tax	0.02375 percent

Institutional Proposals

In consideration of the families of institutional frameworks for providing regional rail service, the proposal was made and adopted at the regional summit that a new regional rail district should be formed that fills the gaps in the six-county area that is outside the boundaries of DART, FWTA, and DCTA. The proposal also encourages the continued growth of the existing transit authorities through the addition of territory. Thus, the proposed new authority would work cooperatively with the existing authorities to provide the public with regional rail services throughout the region.

Financial Proposals

The evaluation of possible funding sources, measured against the criteria adopted by the Financial Options Committee, resulted in the emergence of a sales and use tax as the funding source meeting the most criteria than any others. Other revenue sources, such as the local option gas sales tax and the local option motor vehicle sales tax, were problematic. Thus, the Financial Options Committee and the regional summit principles call for a new revenue stream dedicated to development and operation of regional rail service, with a strong preference for additional sales tax capacity allowing a region-wide local option election that could provide such revenues.

Legislative Proposals

At the regional summit in August 2004, it was also agreed that the adopted statement of principles for implementing regional rail services should be presented to a wider audience with the intent of seeking legislative action. Steps discussed at that time were:

- Continued RTI Legislative Committee leadership of future efforts;
- Briefings of the county judges and mayors in the North Texas area;
- Briefings of the North Central Texas legislative delegation; and
- Briefings of other legislative leaders led by the Legislative Committee.

Actual briefings on the proposals took place as follows:

- Mayors and County Judges Briefing (September 20, 2004)
- North Central Texas Legislative Delegation Briefing (September 29, 2004)
- North Central Texas Legislative Delegation Briefing (November 22, 2004)

RECOMMENDATIONS OF COMMITTEES 8, 9 AND 10

The final recommendations of the RTI committees are contained within the Statement of Principles for the Implementation of a Regional Rail System in North Central Texas, adopted at the August 13, 2004 Town Hall Meeting regarding the Regional Transit Initiative. The adopted guiding principles are included shown on the next page.

STATEMENT OF PRINCIPLES FOR THE IMPLEMENTATION OF A REGIONAL RAIL SYSTEM IN NORTH CENTRAL TEXAS

WHEREAS, area leaders serving on committees of the North Central Texas Regional Transit Initiative have met over the past year to address the region's rail transit needs, rail funding requirements, and institutional arrangements to meet the region's rail transit needs as defined in Mobility 2025 – 2004 Update, the metropolitan transportation plan for the Dallas/Fort Worth Metropolitan Area; and

WHEREAS, there is an agreement on a demonstrated need for the provision of regional rail services in Collin, Dallas, Denton, Ellis, Johnson, and Tarrant Counties to address the projected increase in population, employment, and congestion; and

WHEREAS, funding for regional rail services should be shared by all residents of the counties receiving regional rail services; and

WHEREAS, regional rail services should offer the region's citizens a seamless system of rail transit services.

NOW, THEREFORE, BE IT RESOLVED:

- Section 1. A new revenue stream is required that would be dedicated to the development and ongoing operation for regional rail service. There is a strong preference for additional sales tax capacity allowing for a region-wide local option election that could provide such revenues.
- Section 2. Local governments, transit entities, and the State should have a common base for taxable goods and services, including any goods and services newly taxed by the Legislature.
- Section 3. The continued growth of the existing transportation authorities, through the addition of new cities, is encouraged.
- Section 4. A new Regional Rail Authority (RRA) should be created to provide funding and represent the area as shown on Exhibit 1.
- Section 5. The new RRA would work cooperatively with the existing transportation authorities to provide the public with regional rail services throughout the region.
- Section 6. A seamless system of rail transit services should be offered throughout the region.
- Section 7. The three existing transportation authorities will maintain their respective funding, responsibilities, and commitments (Dallas Area Rapid Transit, Denton County Transportation Authority, and the Fort Worth Transportation Authority).
- Section 8. There should be a provision for representation for the three existing transportation authorities in the governance of the new RRA to encourage continued cooperation and coordination.
- Section 9. There should be a mechanism (in the permissive legislation) for additional geographic areas (counties) to join the new RRA.
- Section 10. There should be cooperation throughout the region to maximize the amount of federal funding for regional rail.

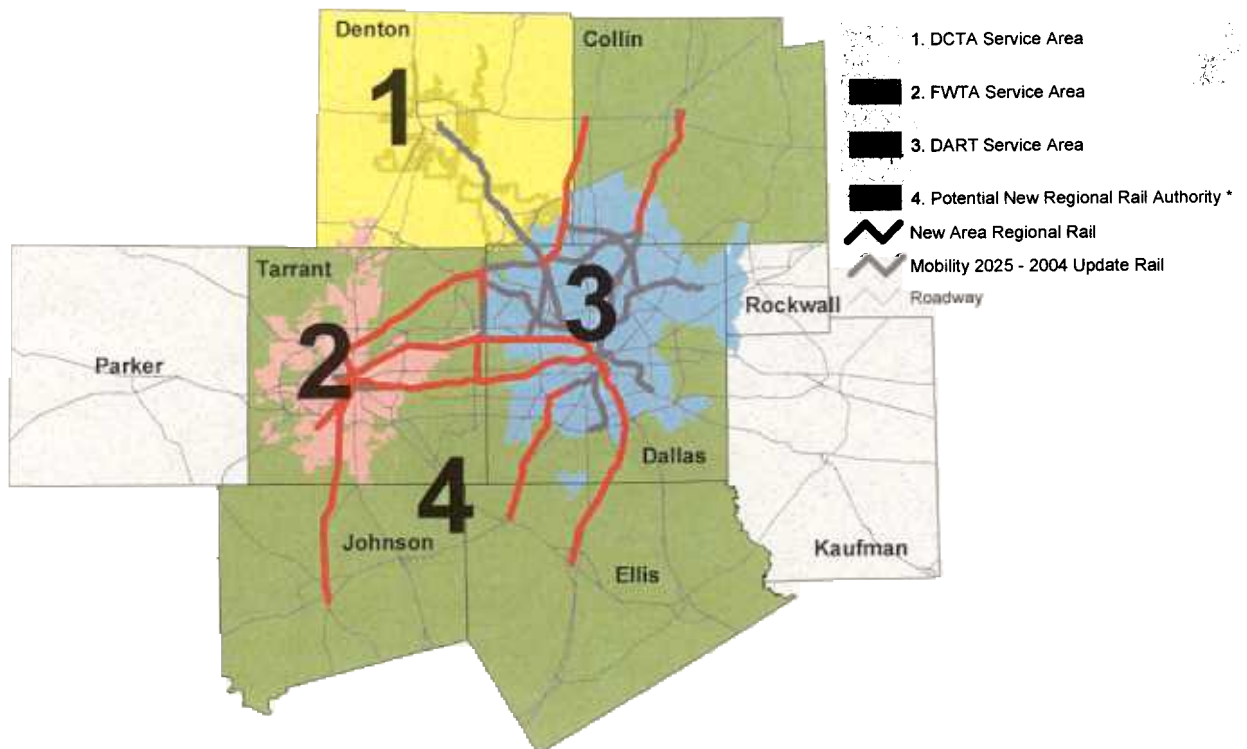
Wendy Davis
Chairperson, Financial Committee
North Central Texas Regional Transit Initiative

Lee Jackson
Chairperson, Institutional Committee
North Central Texas Regional Transit Initiative

David Cain
Chairperson, Legislative Committee
North Central Texas Regional Transit Initiative

EXHIBIT 1

REGIONAL RAIL SYSTEM
Keep Existing Authorities



- * Flexibility including but not limited to the following:
- Creation of Regional Rail Authority Service Area
 - Able to Partner with other Authorities
 - Expand to Counties as Needed
 - Minimal "Feeder" Bus Service
 - Additional Funding Includes: Air Quality Projects, Local Match, Bottleneck Improvements, etc.

Legislative Actions

Legislation was introduced in the 2005 Texas Legislature by State Representative Fred Hill (HB 3228). It was intended as a first step towards consideration of a regional passenger rail district in the Dallas-Fort Worth area and would have provided for a purely organizational effort, without any funding mechanism provided. A copy of the bill, as introduced, is included in Exhibit VII-2.

EXHIBIT VII-2

BILL (HB 3228)

By: Hill

H.B. No. 3228

A BILL TO BE TITLED

AN ACT

relating to the creation, organization, management, powers and duties, and development of service and financial plan for a regional passenger rail district in metropolitan areas; providing for elections; providing for a governing structure; authorizing contracting with existing public transportation providers; making provisions as to severability; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

The Transportation Code is amended by adding the following sections:

Section 1. The legislature finds that:

(1) An increasing proportion of the state's population is located in its rapidly expanding metropolitan areas;

(2) The concentration of population in such areas is accompanied by a corresponding concentration of motor vehicles that emit pollutants into the air and consume great quantities of limited energy resources;

(3) Such concentration of motor vehicles places an undue burden on existing streets, freeways, and other traffic ways, resulting in serious vehicular traffic congestion that retards mobility of persons and property and adversely affects the health and welfare of the citizenry;

(4) Mobility for all citizens, which must include alternatives to the private passenger motor vehicle, is essential to the continued growth and maintenance of economic vitality of these metropolitan areas; and

(5) There is a need for areas not in existing regional public transportation systems to be served with rail transit and to connect with existing systems in a seamless fashion.

Definitions

Sec. 2. In this article:

(1) "Regional rail district facility" means any property necessary for the transportation of passengers and baggage between points in a district. The term includes rolling stock, locomotives, stations, parking areas, and rail lines

(2) "Authority" means a regional transportation authority created under Chapter 452, or a coordinated county transportation authority created under Chapter 460.

(3) "Creating entity" means a local government as described by Section 2(a) of this article.

(4) "District" means a regional passenger rail district created under this article.

(5) "District property" means all property the district owns or leases under a long-term lease.

(6) "System" means all of the regional passenger rail and intermodal facilities leased or owned by or operated on behalf of a district created under this article.

Determination of Population

Sec. 3. In this Act, population of a county is determined by the most recent federal census unless there has been no federal census in the preceding five years, in which case the population is the latest population estimate of the appropriate metropolitan planning organization, provided however no population within an existing Authority is counted.

Creation of District

Sec. 4. (a) A district may be created to provide regional passenger rail service in an area composed of the territory of two contiguous counties each of which contains a municipality having a population of 550,000 or more, and in the counties contiguous to those two counties. Counties with an existing coordinated county transportation authority as created pursuant to Chapter 460 of the Transportation Code shall not be eligible to participate in the district. In counties with regional transportation authorities created under Chapter 452 of the Transportation Code, only the parts of the county outside the boundaries of the authorities will be included.

(b) A district is created upon passage of a resolution favoring the creation of the district by possible creating commissioners courts. The district shall be created if one of the commissioners courts with a regional transportation authority adopts the resolution.

Interim Board of Directors

Sec. 5. (a) After adopting a resolution under Sec.3.(b), the commissioners courts having passed resolutions shall appoint an interim board of directors for the district.

(b) The interim board of directors is composed of:

(1) one member appointed by the governing body of each participating county; and

(2) five members appointed by the commissioners court, to be determined by the county's population proportionate to the total population of the entire district population, counties may combine aggregate population in order to get representation; and

(3) the interim board or executive committee chair, or their designee, of authorities established under Chapter 452 or Chapter 460 in the eligible district area are ex officio nonvoting members of the board.

(4) all members appointed shall reside in the district.

(c) A vacancy on the board is filled in the same manner as the original appointment. Each member serves a term of two years.

Duties of the Interim Board of Directors

Sec. 6. (a) The interim board of directors shall elect three of its members to serve as the chair, vice chair, and secretary.

(b) The district is governed by the interim board of directors. The interim board is responsible for the management, operation, and control of the district.

(c) The interim board shall develop a service plan for the district not later than one year after the date of the interim board's first meeting.

(d) The interim board shall hold at least one regular meeting a month for the purpose of developing a service plan and proposals for an election to confirm the district.

(e) The interim board may accept funding support for activities prior to the confirmation election from the metropolitan planning organization, any local governments, or any other public or private source of funds.

(f) The presiding officer shall call the monthly board meetings and may hold other meetings as the presiding officer determines are appropriate.

(g) A member of the board is not entitled to compensation for serving as a member but is entitled to reimbursement for reasonable expenses incurred while serving as a member.

(h) The board shall adopt rules for its proceedings and may employ and compensate persons to carry out the powers and duties of the district

(i) Chapter 171, Local Government Code, applies to a board member of a district.

Confirmation of the District

Sec. 7. (a) On the approval by the interim board of directors of the service plan, including a general financial approach for implementing the plan, a copy of the plan shall be provided to the commissioners courts of counties participating in the district.

(b) Notice of the interim board of director's approval of the service plan shall be published in a newspaper of general circulation in the participating counties.

(c) Not later than 120 days after the date the interim board approves the service plan, the governing body of the participating counties shall approve by resolution the service plan and indicate the county's intent to participate in the confirmation election.

(d) The confirmation election will not be called in the participating counties without concurrence of the respective commissioners court.

(e) The district will exist and confirmed to include the boundaries of counties where the majority of voters confirm the general election. The district will cease to exist in counties that do not have a majority of voters approving confirmation of the district. For the district to be confirmed, the vote must be affirmative in at least one county with a regional transportation authority.

(f) Alternatively, the commissioners courts representing all counties within the boundaries of the district may agree by resolution

of each to require that the vote be affirmative in all counties in the district to be considered confirm and continue to exist.

Confirmation Election

Sec. 8. (a) The interim board shall notify the commissioners court of the need to call a confirmation election.

(b) The commissioners court in ordering the confirmation election shall submit to the qualified voters in the county the following proposition:

"Shall the creation of (name of district) be confirmed?"

(c) In addition to other information required by law, the notice of the election must include:

- (1) a brief description of the service plan; and
- (2) a statement about the general financial approach for implementing services described in the service plan that will be detailed in a proposal to impose a financing mechanism that must be approved by voters in a subsequent election.

(d) The election must be held on a uniform election date.

Conduct of Confirmation Election

Sec. 9. (a) A confirmation election shall be conducted so that the votes are separately tabulated by county, or by entire area voting, if so called for by the decision made in Sec. 6 (f) and canvassed in order to show the results.

(b) The interim board shall canvass the returns and declare the results of the election.

Results of Election

Sec. 10. (a) If a majority of votes voting in each county favor the proposition, the district is confirmed in that county, except that the district does not include any territory of authorities created under Chapters of 452 or 460 of the Transportation Code. Counties not having a majority of votes will not be confirmed as part of the district and will the district will cease in those counties.

(b) For an election held on a region-wide basis, if there is not a majority of votes in the region the district will cease.

(c) If the authority is confirmed, the interim board shall record the results in its minutes and adopt an order:

- (1) declaring that the creation of the district is confirmed;
- (2) stating the date of the election; and
- (3) showing the number of votes cast for or against the proposition in each county that passed a resolution or order approving the service plan.

(d) On adoption of the order confirming the authority, the interim board becomes the board of the district.

(e) Notice of the election results shall be sent to the existing public transit authorities contiguous to the district.

Failure to Confirm District

Sec. 11. (a) If the district ceases, the interim board shall record the results of the election in its minutes and adopt an order declaring that the authority is dissolved.

(b) The county that passed a resolution approving the service plan shall share the expenses of the election proportionately based on the population of the areas in which the election was conducted, regardless of election results.

(c) A district that has not been confirmed expires on the third anniversary of the effective date of the resolution or order initiating the process to create the district.

Powers and Duties of District

Sec. 12. (a) A district created under this article is a public body and a political subdivision of the state exercising public and essential governmental functions and has all the powers necessary or convenient to carry out the purposes of this article. A district, in the exercise of powers under this article, is performing only governmental functions and is a governmental unit within the meaning of Chapter 101, Civil Practice and Remedies Code.

(b) A district may sue and be sued in all courts of competent jurisdiction, may institute and prosecute suits without giving security for costs, and may appeal from a judgment without giving supersedeas or cost bond. An action at law or in equity against the district must be brought in the county with the greatest percentage of population to the total population of the district, except that in eminent domain proceedings, suit must be brought in the county in which the land is located.

(c) A district may acquire by grant, purchase, gift, devise, lease, or otherwise and may hold, use, sell, lease, or dispose of real and personal property, licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of any of its powers under this article.

(d) A district may acquire, construct, develop, own, operate, and maintain intermodal and regional passenger rail facilities inside the district. For these purposes and with the consent of any local governmental entity, the district may use streets, alleys, roads, highways, and other public ways of any municipality, county, or other political subdivision and may relocate, raise, reroute, change the grade of, or alter, at the expense of the district, the construction of any street, alley, highway, road, railroad, electric lines and facilities, telegraph and telephone properties and facilities, pipelines and facilities, conduits and facilities, and other properties, whether publicly or privately owned, as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of the system. A district may not use or alter a road or highway in the state highway system without the permission of the Texas Transportation Commission or a railroad without permission of the railroad. A district may, at its discretion, acquire by purchase any interest in real property for the acquisition, construction, or operation of any commuter rail facility on terms and at a price as agreed to between the district and the owner. The governing body of any municipality, county, other political subdivision, or public agency

may make conveyance of title or rights and easements to any property needed by the district to effect its purposes in connection with the acquisition, construction, or operation of the system.

(e) A district has the right of eminent domain to acquire lands in fee simple and any interest less than fee simple in, on, under, or above lands, including easements, rights-of-way, and rights of use of airspace or subsurface space. The power of eminent domain under this section does not apply, however, to land under the jurisdiction of the department or a metropolitan transit authority or a rail line owned by a common carrier or municipality. The district shall, to the extent possible, use existing rail or intermodal transportation corridors for the alignment of its system. Proceedings for the exercise of the power of eminent domain are begun by the adoption by the board of a resolution declaring the public necessity for the acquisition by the district of the property or interest described in the resolution and that the acquisition is necessary and proper for the construction, extension, improvement, or development of regional passenger rail facilities and is in the public interest. The resolution of the district is conclusive evidence of the public necessity of the proposed acquisition and that the real or personal property or interest in property is necessary for public use.

(f) A district may make agreements with any other public utility, private utility, communication system, common carrier, state agency, or transportation system for the joint use of facilities, installations, or properties within or outside the district and establish through routes, joint fares, and, subject to approval of any tariff-regulating body having jurisdiction, divisions of tariffs.

(g) A district may adopt rules to govern the operation of the district, its employees, the system, service provided by the district, and any other necessary matter concerning its purposes, including rules regarding health, safety, alcohol or beverage service, food service, and telephone and utility services, to protect the health, safety, and general welfare of residents of the district.

(h) A district may make joint ownership agreements with any person.

(i) A district shall establish and maintain rates or other compensation for the use of the facilities of the system acquired, constructed, operated, regulated, or maintained by the district that is reasonable and nondiscriminatory and, together with grants received by the district, is sufficient to produce revenues adequate:

(1) to pay all expenses necessary to the operation and maintenance of the properties and facilities of the district;

(2) to pay the interest on and principal of all bonds issued by the district under this article and payable in whole or in part from the revenues, as they become due and payable; and

(3) to fulfill the terms of any agreements made with the holders of bonds or with any person in their behalf.

(j) A district may make contracts, leases, and agreements with, and accept grants and loans from, the United States of America, its departments and agencies, the state, its agencies and political subdivisions, and public or private corporations and persons and may generally perform all acts necessary for the full exercise of the powers vested in it. The district may contract for any or all of its activities with existing regional transportation authorities or coordinated county transportation authorities. A district may acquire

rolling stock or other property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement. Any revenue bond indenture may provide limitations on the exercise of the powers granted by this section, and the limitations apply so long as any of the revenue bonds issued pursuant to the indenture are outstanding and unpaid.

(l) A district by resolution may adopt rules governing the use, operation, and maintenance of the system and shall determine all routings and change them when the board considers it advisable.

(k) A district may lease the district rail facilities any part to, or contract for the use or operation of the district rail facilities or any part by, any operator. A district shall encourage to the maximum extent practicable the participation of private enterprise in the operation of district rail facilities. The term of an operating contract under this subsection may not exceed 20 years.

(l) A district may contract with any county or other political subdivision of the state for the district to provide passenger rail transportation services to any area outside the boundaries of the district on such terms and conditions as the parties agree to.

(m) A district may purchase an additional insured provision to any liability insurance contract.

(n) Before beginning the operation of district rail facilities, the board of a district shall adopt an annual operating budget specifying the anticipated revenues and expenses of the district for the remainder of the fiscal year, and the district shall adopt an operating budget for each succeeding fiscal year. The fiscal year of the district ends September 30 unless changed by the board. The board shall hold a public hearing before adopting each budget except the initial budget. Notice of each hearing must be published at least seven days before the date of the hearing in a newspaper of general circulation in each county in the district. A budget may be amended at any time if notice of the proposed amendment is given in the notice of meeting. An expenditure that is not budgeted may not be made.

(o) A district is eligible to participate in the Texas County and District Retirement System.

(p) The board of a district shall by resolution name one or more banks for the deposit of district funds. District funds are public funds and may be invested in securities permitted by Chapter 2256, Government Code. To the extent funds of the district are not insured by the Federal Deposit Insurance Corporation or its successor, they shall be collateralized in the manner provided for county funds.

Bonds and Notes

Sec. 13. (a) A district may issue revenue bonds and notes from time to time and in such amounts as its board considers necessary or appropriate for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement, or extension of its commuter rail facilities. All bonds and notes are fully negotiable and may be made redeemable before maturity, at the option of the issuing district and at prices and under terms and conditions the issuing district determines in the resolution authorizing the bonds or notes, and may be sold at public or private sale, as the board determines.

(b) A district shall submit all bonds and notes authorized to be issued and the records relating to their issuance to the attorney

general for examination before delivery. If the attorney general determines that they have been issued in accordance with the constitution and this article and that they will be binding obligations of the district issuing them, the attorney general shall approve them, and the comptroller shall register them. Bonds and notes issued under this article are incontestable after approval, registration, and sale and delivery of the bonds to the purchaser.

(c) To secure the payment of the bonds or notes, the district may encumber and pledge all or any part of the revenues of its district rail facilities, may mortgage and encumber all or any part of the properties of the commuter rail facilities and everything pertaining to them acquired or to be acquired, and may prescribe the terms and provisions of the bonds and notes in any manner not inconsistent with this article. If not prohibited by the resolution or indenture relating to outstanding bonds or notes, a district may encumber separately any item of real estate or personalty.

(d) All bonds and notes are legal and authorized investments for banks, trust companies, savings and loan associations, and insurance companies. The bonds and notes are eligible to secure the deposit of public funds of the state, cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the state. The bonds and notes are lawful and sufficient security for the deposits to the extent of the principal amount or market value of the bonds or notes, whichever is less.

Competitive Bids

Sec. 14. A contract in the amount of more than \$15,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, or any other property except real property may be let only on competitive bids after notice published, at least 15 days before the date set for receiving bids, in a newspaper of general circulation in the district. A board may adopt rules governing the taking of bids and the awarding of contracts. This section does not apply to:

- (1) personal or professional services;
- (2) the acquisition of existing rail transportation systems;
- (3) a contract with a common carrier to construct lines and to operate passenger rail service on lines owned in whole or in part by the carrier; or
- (4) an agreement with a private entity.

Exclusive Development Agreements

Sec. 15. (a) In this section, "exclusive development agreement" means an agreement with a private entity that at a minimum provides for the design and construction of a district rail facility or system. The agreement may also provide for the financing, acquisition, maintenance, or operation of a district rail facility or system.

(b) A board may enter into an exclusive development agreement with a private entity.

(c) The board may adopt rules governing agreements under this section.

Exemption From Taxes

Sec. 16. The property, material purchases, revenues, and income of a district and the interest on bonds and notes issued by a district are exempt from all taxes levied by the state or a political subdivision of the state.

Financial Plan and Sources of Funds

Sec. 17 (a) The district shall develop a financial plan, including proposed sources of funding as allowed by state law. No tax can be levied before the affirmation of voters in the district as called by the district.

Liability

Sec. 18. (a) The district is created for the purpose of providing public transportation as defined by Section 452.001, Transportation Code, and is a governmental unit as that term is defined by the Texas Tort Claims Act (Chapter 101, Civil Practice and Remedies Code), and all operations of the entity are essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act. If an independent contractor of the entity is performing a function of the entity or of a regional transportation authority operating under Chapter 452, Transportation Code, the contractor is liable for damages only to the extent that the entity or authority would be liable if the entity or authority itself were performing the function.

Severability Clause

Sec. 19. If any word, phrase, clause, paragraph, sentence, part, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, or provision. It is provided, however, that the provisions of Subsection (b) of Section 4 of this Act are not severable in whole or in part.

Declaring an Emergency

Sec. 20. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The bill was not passed out of committee in the legislature; however, State Representative Hill was successful in getting a provision placed in the major omnibus transportation bill that calls for a committee of local appointed and elected officials, in concert with the legislative delegation, to meet, consider plans for legislative actions, and present a legislative action plan. The language in HB 2702 that emerged from the legislative session is in Exhibit VII-3.

EXHIBIT VII-3

ARTICLE 5. REIGONAL TRANSIT SYSTEM REVIEW COMMITTEE

ARTICLE 5. REGIONAL TRANSIT SYSTEM REVIEW COMMITTEE

SECTION 5.01. (a) In this section, "region" means the region formed by two contiguous counties each containing a municipality having a population of at least 530,000 and the counties adjacent to one or both of those counties.

(b) The Regional Transit System Review Committee is created to conduct public hearings regarding, and study the implications of, implementing regional transit service in the region.

(c) The committee consists of:

- (1) each member of the legislature who represents a district that contains territory in the region;
- (2) each mayor of a municipality in the region;
- (3) each county judge and commissioner in the region; and
- (4) the executive director of each transportation authority in the region.

(d) In conducting hearings and studies the committee shall:

- (1) examine whether a seamless system of transit systems should be offered throughout the region;
- (2) examine whether there should be a mechanism for additional counties to participate in the regional transit system; and
- (3) perform a review of funding and financing options.

(e) The initial meeting of the committee shall take place before September 30, 2005. At the initial meeting the committee shall adopt rules governing the committee and establish a work plan and schedule for future meetings.

(f) The committee may accept gifts, grants, technical support, or any other resources from any source to carry out the functions of the committee.

(g) Not later than September 1, 2006, the committee shall issue a report summarizing:

- (1) hearings conducted by the committee;
- (2) studies conducted by the committee;
- (3) any legislation proposed by the committee; and

- (4) any other findings or recommendations of the committee.
- (h) This section expires September 1, 2007.

There appears to be general interest in implementing regional rail services and in providing a legislative mechanism for it. However, it was agreed by all participants that the 2005 Texas Legislative Session was not the right time to consider the funding issue, as funding of education was the main focus of the legislature during that time. The education funding effort remains unsolved as of the completion of this report.

In the meantime, the existing public transit authorities are considering their possible actions for implementing regional services. DART is continuing to finalize its new system plan that considers future service beyond the commitments already made. FWTA is considering ways to begin planning for regional rail service in at least one rail corridor, and DCTA is continuing its efforts towards implementation of rail service between Denton and Carrollton.