



NEW JERSEY TRANSIT

An Agency in Need of Reform



TRI-STATE TRANSPORTATION CAMPAIGN



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Introduction

NJ Transit was once a national model of excellence among transit agencies. However, years of financial neglect, mismanagement, patronage hires, a disengaged board of directors, and low employee morale have the beleaguered agency running on fumes, while riders pay some of the highest fares in the nation. This not only cripples the agency's ability to deliver safe, reliable, and affordable public transit options, but also affects the quality of life for residents and the overall economic vitality of the state.

While it is important for NJ Transit to have increased and predictable funding, it is just as critical that the agency also engage in significant structural reform to address the myriad levels of administrative and operational dysfunction. Newly elected NJ Governor Phil Murphy and his administration have vowed to focus on the transportation needs of the State, with a specific focus on rebuilding and reforming NJ Transit. In his first weeks in office, Governor Murphy signed Executive Order No. 5, requiring a comprehensive audit of the agency.¹ As of the timing of this report, the audit is underway by the consulting firm North Highland, with preliminary findings expected to be released in August 2018 and a final report by the end of the calendar year.

No agency can be truly effective at delivering high-quality service for riders and managing capital and operating costs efficiently without an active board of directors composed of highly qualified members who can oversee the agency's finances, help set direction, and ask the right questions of executive staff. When boards are weak, agencies act without scrutiny nor oversight, allowing mismanagement and poor fiscal planning to undermine the agency's goal of serving riders.

To that end, the balance of this report examines the best practices of other transit agencies of similar size in order to arrive at a set of recommendations for how the agency, Governor Murphy, and the New Jersey State Legislature can reform the board to meet the specific needs of NJ Transit. Among our recommendations are increasing the size and diversity of the board to better reflect the riding public; requiring board members to have relevant industry expertise; increasing board transparency and accountability to its customers; and streamlining and increasing the number of committees to ensure the board more fully executes its fiduciary and oversight roles.

NJ Transit Board of Directors

Established in 1979, NJ Transit is the end result of a decades-long process of absorbing and consolidating public transportation services that were once owned and operated by a myriad of private transport companies. The most recent reorganization of NJ Transit was in 1992, when the agency's three subsidiaries (NJ Transit Bus Operations, NJ Transit Rail Operations, and NJ Transit Mercer, Inc.) were unified and operations were significantly streamlined.² Today, NJ Transit is the largest statewide public transit agency in the United States, covering a service area of 5,325 square miles and providing 269.1 million annual unlinked trips.³

Management & Authority

NJ Transit is governed by a Board of Directors, consisting of eight members each appointed by the Governor. Seven members are voting members, four members are from the general public, and three are State officials. One non-voting member is recommended by the labor organization representing the plurality of the employees. NJ Transit board membership as of May 2018 is as follows:

- Diane Gutierrez-Scaccetti, Acting Transportation Commissioner, (voting member)
- Mary K. E. Maples, Governor's Representative, (voting member)
- Elizabeth Maher Muoio, State Treasurer, (voting member)
- Flora M. Castillo, Public Member, (voting member)
- James C. Finkle Jr., Esq., Public Member, (voting member)
- VACANT POSITION, Public Member, (voting member)
- VACANT POSITION, Public Member, (voting member)
- Raymond W. Greaves, Labor Organization Representative, (non-voting member)²

NJ Transit's Board selects an Executive Director to administer the entire agency and serve as the President of all three NJ Transit subsidiaries. Additionally, the agency employs a Chief Operating Officer (or equivalent position) to coordinate operations. As of May 2018, while the Chief Operating Officer position remains vacant, Kevin S. Corbett serves as the Executive Director of NJ Transit.²

There are two transit advisory committees that provide the agency with additional input from the public: the North Jersey Transit Advisory Committee and the South Jersey Transit Advisory Committee. Both transit advisory committees having fourteen unsalaried members; North Jersey committee members serve four-year terms and South Jersey committee members serve three-year terms.²

What Should The Board Look Like?

An effective Board of Directors should help set direction and priorities for the agency, play a critical role in managing the agency's finances, and ensure that there is a strong leader at the helm. NJ Transit's current state of disarray, with declining service and massive budget shortfalls, high employee turnover and low morale, and failures to meet federal mandates to install safety equipment, demonstrates that the current structure of the Board of Directors is inefficient in meeting the needs of the agency.

The need for board reform is widely recognized, with both the executive and legislative branches of government focused on reform: Governor Murphy's forthcoming audit of NJ Transit is expected to contain recommendations for board reform, while pending legislation, Senate Bill 630, is focused on modernizing and updating the Board of Directors' makeup and duties. Drawing from best practices at other, similarly-sized transit agencies; analysis from nationally respected transportation experts; and our own deep experience advocating for improved service and management at NJ Transit, we recommend several critical reforms to ensure NJ Transit's Board of Directors is empowered to improve service, exercise fiduciary responsibility for the agency's troubled finances, and aid NJ Transit's executive director in leading agency reform.

Board Structure & Membership

The organization and composition of NJ Transit's board of directors plays a big role in how efficiently and effectively the board discharges its roles and responsibilities. While no two transit agencies are the same, the guiding principles for governance and member selection are consistent when comparing the Southeastern Pennsylvania Transportation Authority (SEPTA), Rhode Island Public Transit Authority (RIPTA), and Massachusetts Bay Transportation Authority (MBTA), three transit agencies similar to NJ Transit in size and services provided. At the end of this report, we offer case studies of how the boards of SEPTA, RIPTA, and MBTA work in terms of size, structure, and duties to help us understand what might work best for NJ Transit.

According to research conducted by the Transportation Research Board (TRB), transit board size has remained consistent over the past 25 years, ranging from five to 23 members, with the majority of boards comprised of nine members. Furthermore, in determining the size of the board, factors to consider are the system's size, structure, group dynamics, and skill needs.⁴

As the largest statewide transit agency in the country and because of the system's significant regional connectivity, NJ Transit should consider increasing the size of its board of directors to create a more balanced representation of localities, residents, and riders. For instance, RIPTA has eight board members, SEPTA has 15 board members and MBTA has a total of 13 board members. While NJ Transit is larger than each of the three case studies, the agency has only eight board member positions, of which two are currently vacant and three are recent replacements.⁵ Having a small board with vacant positions has created a massive leadership vacuum—one that is mirrored in similar vacancies in NJ Transit's senior management, which holds back the agency from making crucial reforms.

A Board That Represents Riders

A Board of Directors is only as strong as the people appointed to serve. When adding new board members, special consideration should be given to the board's diversity of personal background, professional expertise, and geographic representation.⁴ To that end, a reconstituted NJ Transit Board of Directors must include expanded membership in order to have representation reflective of its riding populace, including diverse geographic representation, representation across race and gender, and members who are part of or who have worked with the disability community. Importantly, the board must also have members who are regular transit users in order to ensure that members of the board have firsthand experience on the system they manage.

For the three case studies examined, board members are appointed by a local or state elected official (governor or mayor), or a legislative body (city council, county commission, or state senate). For some board appointments, a two-step process is used that requires a nomination of a prospective board member to be confirmed by the local or state legislative body. This is a best practice that should be followed by NJ Transit as it expands its board in order to ensure a system of checks and balances on any one entity or individual's power as expressed through their board appointees.

Ensuring the board is reflective of actual ridership will help secure policy outcomes that improve the transit experience for daily riders. For example, when Rhode Island added two transit riders to the board of RIPTA, significant improvements to bus service soon followed, and in Dallas, new appointees to the DART board who ride transit are insisting on citywide bus network improvements after years of neglect, and opposed a fare hike because DART has some of highest bus fares yet worst service among major U.S. cities.⁴

Regardless of how board members are appointed, they must also have a degree of independence from the entities that appointed them: fundamentally, the Board of Directors should have a core duty to act in the interests of its customers. We propose a board comprising members appointed by both the executive and the

legislature, with additional members drawn from the unions that represent workers employed by NJ Transit as well as members that represent the interests of the state's major metropolitan planning organizations. This wider net of stakeholders means no one person or entity would control a majority of board members, while still ensuring that the elected officials who are ultimately responsible to their transit-using constituents are still accountable for the success or failure of the agency.

Currently, the statutes governing the composition of the Board of Directors does not require any board member to have specific or extensive experience in transportation and related sectors. Board restructuring efforts would be best achieved by having all board positions open to be filled by the current governor, with existing board members being considered in the pool of considered appointees. The new board members should be drawn from experts in rail and bus operation, finance and budget, land use and real estate law, and environmental sustainability. Relevant expertise will help the board make informed decisions about matters that come before it rather than simply approving decisions made by agency staff.

In order to balance the need for new elected leadership to influence agency policy with the importance of independence, members should serve for no less than four years, with dismissal only for cause. The process used for selecting board members must also be dynamic enough to allow for shifts in representation over time as transit needs change, including welcoming fresh representation while simultaneously allowing the board to continue operating efficiently. To balance the need for new ideas and ensuring institutional knowledge and continuity, members should be appointed to staggered terms.

What Should The Board Do?

Board Duties

A revamped NJ Transit Board of Directors must act in the service of the riding public. In order to do so, the board must exercise financial responsibility for the agency, including ensuring the fiscal health of the agency by aiding the executive director in setting budget priorities. Board members should also actively engage in finding new revenue sources for the agency, including better management of NJ Transit-owned land and resources and advocating for increased state funding where appropriate.

Aside from fiduciary responsibilities, the role of NJ Transit's board of directors should be to establish service policies and standards, set agency-wide strategic priorities, and ensure the agency's contracting and procurement processes are fair and fiscally prudent. The board should also ensure service levels, fares, and new capital projects take into account the geographic, socioeconomic, and other demographic needs of transit users. The board must also oversee the agency's Executive Director, Chief Operating Officer, and Chief Ethics Officer or equivalent position, and set performance measures for those roles, as the board has the authority to hire and fire these individuals. Beyond that, the board's role is primarily to guide agency policy rather than make detailed service, management, and personnel decisions.

Transparency

Historically, NJ Transit has not operated to widely-accepted best practices on transparency. Information about the agency's senior management is not available to the public, its board committee meetings are not live-streamed, and opportunities for public comment are limited. In addition, the agency has a history of covering up serious personnel issues, including sexual harassment complaints.⁶

To improve its legitimacy as a fair and balanced agency capable of making decisions that are in the best interest of New Jersey citizens, NJ Transit must enact and maintain a completely transparent decision-making process. NJ Transit's website is currently overloaded with out of date information, missing crucial information such as an organizational chart and names of key staff, and offers a poor user experience. Following industry best practices, NJ Transit should maintain a user-friendly website and mobile application that provides the latest agendas and decisions, public comment notes, a project list, and underlying documentation that demonstrates a decision-making framework based on New Jersey Transit's values and priorities. These documents should be available at meetings for members of the public. Every NJ Transit board and committee meeting should be live-streamed, as well as held

in an easily-accessible location that ideally accommodates everyone who wishes to attend. The board should endeavor to add and stagger meeting times to allow members of the public who are employed during traditional business hours and those who work non-traditional hours to attend.

Accountability

Going hand-in-hand with transparency is agency accountability. NJ Transit should set performance goals and metrics. This information must be easy to understand and easily accessible to the general public both online and in print at board and committee meetings. Tracking NJ Transit's performance will help to restore the general public's trust in the agency and also help make the case for additional funding in line with agency priorities. NJ Transit can implement this industry best practice by creating online performance dashboards that track service levels of bus and rail, as well as a budget dashboard displaying capital project costs. Additional measures can include the reporting of various performance measures on a regular basis in a format easily digestible to elected officials, experts, advocates and the general public. NJ Transit should also ensure its procurement process is public, allows for multiple bidders, and is cost-conscious as to bid selection.

NJ Transit contracts with private companies to operate some of the agency's transit services. To ensure that public funds are being used appropriately, it is important that NJ Transit establishes accountability mechanisms in order to track and report on contractor performance, both financially and operationally.

Board Committees

Compared to agencies of similar size, NJ Transit lacks requirements for board diversity and relevant professional expertise. Additionally, board membership is too small for an agency as large and extensive as NJ Transit. The board is lacking narrowly focused committees, which would serve to divide the responsibilities of the board among members in order to more efficiently conduct board business and bring recommendations back to the full Board of Directors for debate and voting.

The establishment of committees should be determined by each agency's specific needs. For example, SEPTA presently has only two committees, where the majority of the board's work is conducted: an Administrative Committee and an Operations Committee.⁷ The MBTA, which is governed by MassDOT, has the following committees: a Capital Program Committee, an Automated Vehicles Working Group, a Public-Private Partnership Oversight Commission, and a Standing Committee on Finance & Audit.⁸

NJ Transit currently has a Customer Service Committee, an Administrative Committee, and a Capital Planning, Policy and Privatization Committee.⁹ We

advise breaking up and restructuring the Capital Planning, Policy and Privatization Committee so that each topic can be handled more narrowly as seen below in our recommended committees. Using the Transportation Research Board's model as a foundation,¹⁰ NJ Transit would serve to benefit from the following committees that can address agency-specific management problems:

- Executive Committee: Oversees Executive Director, sets agency policy, coordinates and monitors work of committees.
- Customer Service Committee: Examines issues relating to customer service, reviews customer service policies, recommends policy reform wherever necessary.
- P3 Committee: Reviews and formulates agency policies, proposals, and strategies for developing public-private partnerships.
- Finance & Audit Committee: Reviews budget and oversees audit.
- Capital Planning & Land Use Committee: Identifies and prioritizes capital projects, develops Capital Plan every other year, oversees marketing strategy.
- Legislative & Government Relations Committee: Reviews legislation affecting the agency, lobbies directly with contractors, establishes working alliances with other transit agencies and industry partners.
- Transparency & Accountability Committee: Reviews transparency and accountability practices, oversees internal controls, compliance, ethics, and accounting processes.
- Technology & Innovation Committee: Reviews the agency's overall capabilities and strategic direction in matters of technology and innovation for customers and employees.

Depending on the make-up of the board of directors, NJ Transit may also convene a transit advisory committee or citizen advisory committee. A marketing subcommittee should also be formed of the members of the legislative and government relations committee. Members of an advisory committee should be selected on a merit-based application process established by the board of directors, and membership should ensure representation of senior citizens, disabled, minority, and low-income populations.

Case Studies



Southeastern Pennsylvania Transportation Authority (SEPTA)

SEPTA serves the Southeastern Pennsylvania region, which has a population of 4 million (2015 DVRPC estimate).¹¹ The SEPTA service area encompasses 2,202 square miles and serves over one-half million customers daily. In 2017, SEPTA served 308,299,800 passengers (annual unlinked trips).¹² Pennsylvania funds the SEPTA operating budget through the Pennsylvania Public Transportation Trust Fund (PTTF). The PTTF is itself funded by 4.4% of state sales tax receipts in the Commonwealth and proceeds bonds issued by the PA Turnpike Commission.¹³

Management & Authority

SEPTA is governed by a Board of Directors. With fifteen voting members, the Board of Directors is appointed as follows:

- Two members from each of the five counties in SEPTA's service area
- One member by the Governor of Pennsylvania
- One member by the Senate Majority Leader
- One member by the Senate Minority Leader
- One member by the House Majority Leader
- One member by the House Minority Leader¹⁴

This arrangement gives the suburbs a predominant voice in matters relating to the Authority. However, the majority of SEPTA's services are concentrated within the City of Philadelphia, so this type of uneven representation on the board runs the risk of prioritizing suburban commuter rail over the local transit system.

SEPTA's board uses a committee structure with most of the work of the board conducted in the Administrative and Operations Committee, which meets the week prior to the regular board meeting. The board comprises elected officials, business and laypersons. Two of the 15 are female and four are persons of color.¹⁵

Unlike NJ Transit, SEPTA receives a significant portion of its operating revenue through a dedicated funding source: state sales tax. The agency is known for its creative financing mechanisms and for having a well-defined system for receiving and evaluating service planning suggestions.¹⁵ Recently, SEPTA has struggled to stymie a steady decline in bus ridership, so the agency is considering following Houston's lead by engaging in a full bus network redesign.¹⁶



Rhode Island Public Transit Authority (RIPTA)

RIPTA provides intra- and intercity bus service in 36 of Rhode Island's 39 cities and towns.¹⁷ Similar to the formation of NJ Transit, RIPTA was created to assume control of the state's privately operated bus and trolley systems. Over the last two decades, RIPTA has expanded and improved its bus network, increasing the agency's ridership to over 16,601,191 annual riders.¹⁷

Management & Authority

RIPTA is governed by an eight-member Board of Directors. One member is the Director of the Rhode Island Department of Transportation and the remaining seven members are each appointed by the governor with the advice and consent of the Senate. As of June 2016, legislation was passed which requires at least one of the seven appointees to be a regular user of fixed-route RIPTA service, and one appointee to be a person with a disability.¹⁸ RIPTA is by far an industry leader in board diversity, presently having four women and two persons of color.

RIPTA and NJ Transit both provide statewide public transit service, but New Jersey has five times more surface area and eight times as many residents as Rhode Island.¹⁹ In addition to serving a much larger populace, NJ Transit provides bus, commuter rail, and light rail service, while RIPTA primarily provides bus service. In Rhode Island, commuter rail service is operated by the MBTA through a contractual agreement. Despite NJ Transit operating more modes on a larger scale, both RIPTA and NJ Transit have an eight-member board of directors.

According to Rhode Island law, RIPTA board members may only be removed by the governor for cause, and removal solely for partisan or personal reasons unrelated to capacity or fitness for the office is unlawful.¹⁸ By curtailing the governor's ability to remove board members for partisan or personal reasons, the Board of Directors can be somewhat insulated from an anti-transit governor. This provision would be particularly useful for NJ Transit, which has suffered from years of neglect and mismanagement due to partisan politics.



Massachusetts Bay Transportation Authority (MBTA)

The MBTA is a public agency that became a division of the Massachusetts Department of Transportation (MassDOT) in 2009. The MBTA operates most public transportation in Greater Boston, serving a population of 4.9 million in 175 cities and towns across 3,200 square miles. On average, MBTA serves over 1 million passengers daily.²⁰

Management & Authority

MBTA is governed by the MassDOT Board of Directors and a Fiscal and Management Control Board (FMCB). The MassDOT board comprises eleven members, each appointed by the Governor. The MassDOT Secretary serves as the Chair of the board.²¹

The MBTA is similar to NJ Transit in that both are consolidated statewide transit agencies that operate as a division of each state's department of transportation. The MBTA has the advantage, however, because MBTA service is primarily concentrated in Boston, the capital of Massachusetts, which likely plays a role in prioritizing agency investment.²² In New Jersey, there is a disconnect between the State government in Trenton and NJ Transit, which is headquartered in Newark, where transit service and ridership is most concentrated.

In 2015, Governor Charlie Baker created the FMCB, which is a temporary Special Panel tasked with carrying out an extensive analysis of the underlying functions of the MBTA's governance, finances and capital planning. By statute, the FMCB consists of five members, each appointed by the Governor. The FMCB meets on a near-weekly basis, with each meeting starting with a section for public comments on any topic on that day's agenda.²¹

In its first two years overseeing the MBTA, the FMCB has reduced the forecast operating deficit by \$300 million and made smart investments for the agency's future. The FMCB is required to have one member with experience in transportation finance, one with experience in mass transit operations and three members of the MassDOT Board. As of 2018, the FMCB has only one woman who is also the only member who is a person of color.²¹

The creation of the FMCB was a new governor's response to a perceived urgent need to overhaul MBTA management and operations. This is particularly relevant to NJ Transit, as newly elected NJ Governor Phil Murphy seeks to address many of the same problems that are plaguing the agency. It is therefore worth considering whether Governor Murphy should create a temporary Special Panel for NJ Transit until the agency reaches a measureable state of good repair.

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