



TO: Southwest Chief and Front Range Passenger Rail Commission
FROM: Eric Richardson and Andy Karsian, CDOT Office of Policy and Government Relations
DATE: August 9, 2019
RE: Potential Legislative Options for Rail District and Funding

Summary: CDOT’s Office of Policy and Government Relations has been asked to provide potential legislative options for the Southwest Chief and Front Range Passenger Rail Commission to consider and discuss at their August 9, 2019 meeting in Pueblo.

Legislative Option 1: District Only (Local District Elections to Join/Exit Over Time)

Legislation would include the district specifics including powers of authority, but would not refer a funding ballot measure to voters. The district could have taxing authority if approved by voters at a future date. Each county/municipality would need to approve measure to opt-into district:

PROS:

1. Allows for some form of local control
2. Legislation produces framework for future revenue opportunities and area where train travel would occur
3. Legislation occurs in 2020, ballot initiatives can come individually for districts or outside legislative process on a district-wide initiative
4. Could be an easier lift within the legislature than a full ballot initiative for 2020 that includes both a district and funding

CONS:

1. Funding for overall project is not identified or guaranteed
2. An estimated number or quorum of jurisdictions would likely be needed for district to become active/viable
3. Concern about “free riders” if some districts opt-in and others don’t, depending on how legislation is structured
4. Rail construction could be a “patchwork approach” if some districts never opt-in; staggered opt-in creates uncertainty
5. Threat of district opt-out would harm potential of rail and could increase borrowing costs
6. Congestion problem could continue to get worse creating worse air quality, etc. until a funding measure passes

Legislative Option 2: Create District, Allocate Operating Funds (\$2.5M/year)

District is created with a governance structure. District could approve funding with 50.1% of total voters in the district. The legislature would approve annual funds for ongoing outreach and development of district plans/reports:



PROS:

1. Not subject to each county approving funding; the district operating as a whole will create more certainty
2. The rail plan can be firmed up with annual operating funds before heading to ballot
3. Governance Board can continue outreach and work during the interim period before a ballot initiative is fleshed out
4. Amount of funding can be increased and possibly used for certain ROW purchases or other minor initiatives that will benefit future rail opportunities along the corridor
5. Commission is already receiving this level of appropriation

CONS:

1. Significant discussion on drawing district boundaries
2. Future legislature can take away funding at a later date
3. Minimal amount of funding will not produce immediate, major infrastructure enhancements
4. Kicks the large-scale funding can down the road to an undetermined date until district member counties approve
5. Congestion problem continues to get worse, air quality etc. as rail line is delayed for an indefinite period
6. May need fully-fleshed out project before district is likely to approve financing

Legislative Option 3: Create District and a Full Referred Funding Measure

District with governance structure and with total majority voter approval of funding. Legislature refers a funding question to the ballot for **2020 election (or later)**:

PROS:

1. Legislation passing General Assembly in 2020 creates political certainty and is the first major step for Front Range Rail
2. Total votes in entire district could be used on ballot initiative, mitigating risk that certain counties/municipalities would vote “no”
3. Even if funding measure fails, district boundaries could still remain in statute for use at later date
4. A referred measure creates publicity and awareness to help raise campaign funds
5. Can get word out for future need and inspire/educate general public about Front Range Passenger Rail

6. Immediate and long-term funding stream for bonding/projects if it passes with district voters

CONS:

1. Competing ballot measures in busy 2020 may dilute support
2. How to alleviate concern over how to draw district?
3. Are there financial or solid project plans that will be available for 2020 election?
4. Will campaign funders and opinions be ready for 2020?
5. Failure at the ballot could hinder opportunity for Front Range Rail for immediate future



Legislative Option 4: Referred Rail Measure Plus SB 18-001 Highway Measure

District with total majority voter approval of funding plus Front Range Rail funding measure plus the Referred SB 18-001 (or other) highway funding ballot measure in 2020:

PROS:

1. District is created as a whole; no piecemeal approach
2. Could gain support of rural/non I-25 legislators who could jump hand-in-hand with pro-rail/I-25 legislators
3. State can present balanced approach with both a roads and a multimodal initiative
4. Good policy to address both highways and rail, since both modes have financial needs
5. Emulates the 1999 ballot initiatives that secured funding for both roads and RTD, both of which were adopted by voters

CONS:

1. SB 18-001 ballot initiative could create a conflict with a rail initiative with a vote for either/or
2. Creates a comparison on cost for voters
3. May not be enough rural support for rail initiative in legislature to create a political consensus at the ballot
4. Increases highway debt for SB 18-001: Where will it come from if General Fund cannot pay?
5. Loss of SB 17-267 transfers if SB 18-001 passes; could take away Front Range highway money depending on SB 18-001 project list
6. Transportation Commission would likely have to create a new project list for a SB 18-001 ballot initiative
7. These likely need to go on ballot in 2020, as delaying SB 18-001 another year, politically, does not seem tenable

Legislative Option 5: Change Funding Formula for SB 17-267 or Other Multimodal Options Fund (MMOF) Requirements to Allocate a Percentage Spent on Rail

No referred measure, instead amend either SB 18-001 or SB 17-267 to dedicate funding for rail out of the MMOF. Ex: “up to 10% spent on transit and of that 3% dedicated to rail”:

PROS:

1. Low-risk solution that continues upward trajectory of rail and transit spending
2. Could be used for operating costs of rail or Commission

CONS:

1. Not enough dedicated revenue for long-term capital needs
2. MMOF needs an appropriation from General Assembly, a future legislature may not approve funding for rail
3. Could create a backlash from highway proponents due to possibly more of a splitout going toward rail/transit or any General Fund going toward rail



Legislative Option 6: Create an Enterprise for Southwest Chief/Front Range Passenger Rail

No referred measure, instead an appointed board would govern rail with the powers of an Enterprise:

PROS:

1. No ballot initiative is mandatory and may not need a special district, could alleviate a major political headache if no taxes are raised; allows state to place other ballot initiatives in the next few years
2. Could have a more flexible phasing approach for rail construction and funding options
3. Any revenue would not count toward TABOR limit
4. Allows debt to be taken out to fund rail expansion in Colorado, in whole or by segments
5. Board can work with municipalities and districts to plan for development near train route, possibly use development as a revenue source
6. HPTE and Public-Private Partnerships (P3's) can be used as a model and for lessons learned
7. If successful, a similar model can be used to fund a train to the mountains along I-70

8. SB 18-001 could be removed; SB 17-267 transfers are politically easier and less risky than a new ballot initiative
9. If CC (TABOR revenue kept in General Fund) passes, General Fund transfers could be made to help fund rail

CONS:

1. In a revenue crunch, the General Fund could be needed to fund debt service
2. Revenue would be limited in first few years of existence if no accompanying funding source is attached
3. Interest rates could be high for debt, especially if there is no revenue certainty
4. Some jurisdictions may dislike not being able to vote for a train initiative
5. How would interactions with private entities (such as freight rail) be conceived?
6. P3 usage could cause rail to lose support due to negative perceptions among certain demographics