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Front Range Passenger Rail Governance Options

10/2/2019

Comparison of Suggested Legislative Authority

Governance Options	Summary description	Legal authorization	Formation	Primary powers	Governing body	Ability to operate & maintain passenger rail system	Condemnation authority	Ability to collect revenues and issue debt	Ability to enter into a Public-Private Partnership agreement	Ability to cooperate with other public agencies and private freight railroads	Pros	Cons
Public Rail Authority	Legislation would create the Public Rail Authority Statute for State of Colorado. The Statute would provide the ability to create a Front Range Passenger Rail Authority and any other rail authority the State would wish to create in the future. (this option pulls language from the existing Public Highway Authority and Regional Transportation Authority statutes)	Mirror Public Highway Authority (e.g. E-470); Uniform Election Code of 1992, Articles 1 to 10 of Title 1, C.R.S	Requires legislative authorization for creation of the Public Rail Authority, followed by contracts (IGA, MOU) with participating entities through the Division of Local Government.	Mirror existing Public Highway Authority legislation language that would allow the Public Rail Authority to plan, design, fund, finance, build, operate, and maintain.	Board of Directors at least one elected official from each member jurisdiction or combination of jurisdictions	Legislation should provide flexibility to allow system O&M to be provided through: a) Public Rail Authority staff; b) contracted to a private provider; or c) contracted with Amtrak	Two options based on existing statutory language. Option 1 - mirror Public Highway Authority and condemnation would be available through an extension of the existing power granted to participating local governments. Option 2 - mirror Regional Transportation Authority and condemnation authority is provided in statute.	Mirror statutory language to allow the Authority to assess fees; raise taxes; issue revenue bonds; and charge fares and user fees (what fees and taxes to include)	Mirror existing legislation language that would allow the Public Rail Authority to pursue P3 opportunities, when applicable.	Mirror statutory language that provides the ability to enter into agreements (contract, IGA) with CDOT/HPTE; RTD; Class 1 and Short-line Railroads; Amtrak; and neighboring States adjacent to rail corridor	Would enable a Front Range Passenger Rail Authority and other Rail Authorities to be created at some point in the future without having to go back for enabling legislation.	With regards to the Front Range Passenger Rail Authority, creation would require a two step process.
Front Range Passenger Rail Authority (FRPR)	Legislation would create the Front Range Passenger Rail Authority (FRPR) (this option pulls language from the existing Public Highway Authority and Regional Transportation Authority statutes)	Mirror Public Highway Authority (e.g. E-470); Uniform Election Code of 1992, Articles 1 to 10 of Title 1, C.R.S	Requires legislative authorization for creation of the FRPR Authority, followed by contracts (IGA, MOU) with participating entities through the Division of Local Government.	Mirror existing Public Highway Authority legislation language that would allow the FRPR Authority to plan, design, fund, finance, build, operate, and maintain the defined rail corridor.	Board of Directors at least one elected official from each member jurisdiction or combination of jurisdictions	Legislation should provide flexibility to allow system O&M to be provided through: a) FRPR staff; b) contracted to a private provider; or c) contracted with Amtrak	Two options based on existing statutory language. Option 1 - mirror Public Highway Authority and condemnation would be available through an extension of the existing power granted to participating local governments. Option 2 - mirror Regional Transportation Authority and condemnation authority is provided in statute.	Mirror statutory language to allow the Authority to assess fees; raise taxes; issue revenue bonds; and charge fares and user fees (what fees and taxes to include)	Mirror existing legislation language that would allow the FRPR Authority to pursue P3 opportunities, when applicable.	Mirror statutory language that provides the ability to enter into agreements (contract, IGA) with CDOT/HPTE; RTD; Class 1 and Short-line Railroads; Amtrak; and neighboring States adjacent to rail corridor	Creates the FRPR Authority with defined boundaries during the 2020 Legislative session.	Full legislative vote on creating a rail authority that only provides service on the Front Range.
Rail Transportation Enterprise	Legislation would create a Rail Transportation Enterprise similar to the existing High Performance Transportation Enterprise (HPTE) and Bridge Enterprise within CDOT	Colo. Const. Art. XIV § 20; §§ 29-1-201 et seq., C.R.S.	Statutory Authorization; Intergovernmental Agreement with governing entities	Generally, powers match those of county, municipality or all members of a combination of same. Enterprise may be legislatively established on state or regional level to pursue transportation.	Board of Directors as provided for in the enterprise resolution or agreement (for both BE and HPTE, appointed by Governor via statute); makeup could be legislatively defined	Legislation should provide flexibility to allow system O&M to be provided through: a) FRPR staff; b) contracted to a private provider; or c) contracted with Amtrak	No - would need to come through participating governmental entities	Only 10% of the revenue of an enterprise can come from outside sources (i.e. taxes, general fund, etc.). Fees and/or Farebox Charges/Tolls (i.e. Passenger Fare); specific fees can be defined in statute or left open-ended	Mirror existing Enterprise legislation that would allow the Rail Transportation Enterprise to pursue P3 opportunities, when applicable.	Mirror statutory language that provides the ability to enter into agreements (contract, IGA) with CDOT/HPTE; RTD; Class 1 and Short-line Railroads; Amtrak; and neighboring States adjacent to rail corridor	Does not require vote of the people to form or to issue debt; any revenue is TABOR-exempt	Cannot receive more than 10% of revenues from outside sources, making bond issuances difficult and possibly costly; cannot raise taxes, limiting potential revenue

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Expand current SWC&FRPR Commission authority	Modify existing legislation to expand current authority in order to review the Public Rail Authority and Rail Transportation Enterprise governance options described above and recommend the preferred option	Statutory 43-4-1001	Existing SWC Commission	Facilitate implementation for FRPR, enter into contracts/MOU's with local entities, and develop draft legislation	Appointed Board	No	No	Requires annual appropriation from the Legislature	No	Maintain existing legislation that provides the ability to enter into agreements (contract, IGA) with CDOT/HPTE; RTD; Class 1 and Short-line Railroad; Amtrak; and neighboring States adjacent to rail corridor	Continuity with current Commission; knowledge base already intact	Requires statutory change to enhance allowable functions of current Commission; no ability to raise revenue without help of legislature