21st-Century Transportation:

MBTA Governance and Transformation

May 18, 2020

clf
conservation law foundation

MA Transportation for Massachusetts

AB The MBTA Advisory Board

MASSPIRG

Dedication

21st-Century Transportation: MBTA Governance and Transformation is dedicated to the MBTA workforce, in honor of their courage and perseverance in providing essential public service during the 2020 coronavirus pandemic; in remembrance of Andrew Wong, an MBTA bus inspector who lost his life to COVID-19; and in recognition of the public transit employees whose lives and health have been jeopardized. We are deeply grateful for your service.

Executive Summary

In the winter of 2015, record snowfalls plunged the Massachusetts Bay Transportation Authority (MBTA) into acute crisis. Day after day, riders were subject to long delays, often left waiting outside in freezing temperatures for their bus or train — and too often, that bus or train never came at all. It would be weeks before riders saw the MBTA return to any level of typical, reliable service.

In response to these failures, Governor Baker convened a special panel to review the MBTA's operations and finances. Following the panel's report, the governor and legislature established an interim governance board for the MBTA, dubbed the Fiscal and Management Control Board (Control Board or FMCB). Its five members were tasked with ensuring that the failures of the winter of 2015 were not repeated and that riders would not be, literally, left out in the cold again.

Initially scheduled to sunset in June 2018, the Control Board was extended for two more years and will now dissolve in June 2020. Despite initial skepticism by some legislators and transportation advocates about its ability to accomplish the necessary transition to reliable service, the Control Board has made significant progress in improving operations. It has made smart investments in MBTA infrastructure, offered unprecedented transparency into MBTA operations and capital needs, and provided a dedicated venue for the public to attend its meetings and speak up about issues and concerns.

MBTA rider advocates protest planned fare hikes at 2016 FMCB meeting.
source: https://www.boston.com/news/local-news/2016/03/07/mbta-approves-fare-hike-amid-chaotic-protest

Now, as the legislature contemplates the MBTA's future governance structure, Conservation Law Foundation, MASSPIRG, the MBTA Advisory Board, and Transportation for Massachusetts offer recommendations for the successor board to build on the Control Board's successes while achieving a 21st-century rider-focused transportation system.

Our future transit system must be safe, reliable, affordable, and accessible to:

- motivate people to shift out of their single-occupancy cars and trucks and onto transit;
- promote transportation justice by better serving all riders; and
- cut climate-damaging emissions and air pollution that harms public health.

Conservation Law Foundation, MASSPIRG, the MBTA Advisory Board, and Transportation for Massachusetts recommend the following structure for the successor board (2021+ Board), to be codified in law, which should be in effect before the sunsetting of the Control Board. Throughout this report, we refer to the successor board as the 2021+ Board because we recommend that it begin operating to coincide with the start of the MBTA's 2021 fiscal year on July 1, 2020.

- **Scope of work:** The 2021+ Board should expand the Control Board's scope of work to implement better and safer service now and plan for the service we will need over the next few decades. It should be empowered to balance short-term and long-term needs, ensure that daily system operations are optimized, and maintain a focus on future transit needs. Specifically, the legislative mandate of the 2021+ Board should be to:
    - ensure rider and MBTA employee safety;
    - provide guidance and benchmarks for operational efficiency and transit growth;
    - determine capital and operating revenues needed to manage a 21st-century transportation system;
    - reduce greenhouse gas emissions associated with MBTA operations;
    - improve service for all riders;
    - expand access and reliability for riders dependent upon public transit;
    - assess infrastructure that is vulnerable to climate change and implement resiliency improvements; and
    - oversee and expedite the completion of capital projects resulting in a more reliable transit system for all riders.

- **Oversight of General Manager:** The 2021+ Board should be solely responsible for the hiring and firing of the MBTA general manager so that the position is directly accountable to riders, not solely to the Massachusetts Department of Transportation (MassDOT) secretary.

- **Independence:** The 2021+ Board should be independent of the MassDOT Board of Directors (MassDOT Board) and solely responsible for the issuance of MBTA debt, budgeting, and capital spending oversight. It also should be responsible for overseeing daily MBTA operations and for issuing the debt necessary to plan, develop, and execute major capital projects designed to improve rider experience in the future.

- **Relationship to MassDOT:** Two members of the 2021+ Board should be eligible to serve on the MassDOT Board to ensure coordination between the MassDOT and MBTA governing boards.

- **Membership:** The 2021+ Board should be independent[1] and geographically diverse. It should exclude employees of MassDOT and MBTA. The 2021+ Board should be composed of riders and individuals with experience in at least one of the following: management, financial expertise, engineering, transportation planning, transportation operations, transportation safety oversight, government and public affairs, environmental justice, labor relations, planning, and economic and community development.

- **Compensation:** Members should qualify for an annual stipend for service not to exceed $15,000. This amount will facilitate participation of board members from environmental justice populations, among other communities.[2]

- **Size:** The 2021+ Board should comprise seven members, two more members than the Control Board, to promote a diverse set of member experiences and perspectives.

- **Meeting Frequency:** The 2021+ Board should meet at least 24 times annually and ensure robust public comment opportunities, including options for people to participate beyond standard business hours. This is less than the current requirement for the Control Board to meet 36 times annually.

- **Term:** Upon appointment to the 2021+ Board, four members should serve terms concurrent with the governor. To ensure continuity, the remaining three 2021+ Board members should continue to serve on the board for at least two years beyond the expiration of the current governor's term. This will ensure that the governor in 2023 can appoint four additional board members to serve.

Only with these changes to the governing board can the MBTA become the transit service that riders deserve — one that motivates people onto public transit rather than pushing them into their cars; one that ensures those dependent on public transit have easy access to affordable, on-time service; and one that cuts carbon and air pollution, especially for communities already overburdened by toxic emissions.

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[1] An independent board is one with authority to hold MBTA leadership accountable for the costs and timing of projects, implement a plan to transform the MBTA into a 21st-century transportation system, and provide direction for how to focus resources and staffing to support bus and rail transformation efforts.

[2] Environmental justice means that all people have a right to be protected from environmental pollution and to live in and enjoy a clean and healthy environment regardless of race, income, national origin, or English language proficiency. Exec. Order on Environmental Justice No. 552 (2014), https://www.mass.gov/files/documents/2017/11/29/Executive%20Order%20on%20Environmental%20Justice%20links%20to%20PDF%20file.pdf. The Massachusetts Environmental Justice Policy defines environmental justice populations as neighborhoods that meet one or more of the following three criteria: (1) 25 percent of households within the census block group have a median annual household income at or below 65 percent of the statewide median income for Massachusetts; or (2) 25 percent or more of the residents are minority; or (3) 25 percent or more of the residents have English Isolation. Note that there are pending bills that would update this definition to include additional criteria. See "An Act Relative to Environmental Justice in the Commonwealth," H.4264, S.453, S.464, 191 Session. Massachusetts Executive Office on Energy and Environmental Affairs, Environmental Justice Policy (2017), https://www.mass.gov/files/documents/2017/11/29/2017-environmental-justice-policy_0.pdf.

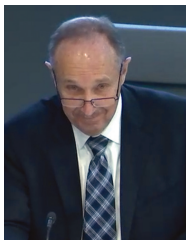
Contents

I. Introduction

The FMCB was established on July 17, 2015, and expires on June 30, 2020. Created by statute, the FMCB is tasked with addressing the MBTA's:

- unsustainable operating budget;
- underinvestment in infrastructure;
- difficulty completing projects;
- ineffective workplace practices;
- lack of long-term vision and strategy;
- leadership changes and staffing issues;
- lack of customer focus;
- inefficient contracting; and
- lack of accountability to the governor and legislature.[3]

This report contains an overview of the FMCB, comparison of the current board structure to other transit authorities, and recommendations for the 2021+ Board that we seek to be established before the expiration of the FMCB.


Joseph Aiello


Chrystal Kornegay


Brian Lang


Brian Shortsleeve


Monica Tibbits-Nutt

Three of the current members have served since the FMCB's inception: Director Aiello, Director Lane, and Director Tibbits-Nutt. Two members were appointed more recently - Director Shortsleeve and Director Kornegay. The 2021+ Board should expand to seven members who serve for at least two years.

[3] Massachusetts Bay Transportation Authority, Fiscal and Management Control Board, https://www.mbta.com/leadership/fmcb.

II. History of FMCB and MBTA Oversight

Until 2015, the MBTA lacked a governance structure responsible for budgeting, capital planning, or contracting.[4] Due to years of underinvesting in the resources and time needed to adequately govern the MBTA, prior to 2015 the MBTA had frequent leadership changes, a lack of customer focus, and a lack of accountability.[5]

The MBTA was created in 1964 as a combined regional transit authority serving 78 municipalities.[6,7] The MBTA was originally governed by a five-member board appointed by the governor, with one member from Boston and another member from one of the inner 14 communities within Route 128.[8] This structure rendered the MBTA a political subdivision of the Commonwealth of Massachusetts and empowered its new board of directors to direct the new authority's efforts toward easing congestion in the region. This board was charged with overseeing daily operations, approving short- and long-term capital planning programs, and issuing debt in the MBTA's name to fund infrastructure improvements and expansion. In 1964, the MBTA Advisory Board was also formed to facilitate oversight by the communities that contribute funds through dedicated local assessments.[9] To this day, the MBTA Advisory Board provides public oversight and technical assistance on behalf of 176 member communities.[10]

In 1980, the MBTA governance board expanded to seven members with a secretary of transportation serving as the chairperson.[11] In 2000, the Massachusetts Legislature passed legislation known as "Forward Funding." The Forward Funding legislation was aimed at making the MBTA financially self-sufficient by dedicating a portion of the sales tax to the transit authority.[12] Shortly after passage, sales tax revenue growth slowed significantly, and actual receipts have periodically lagged behind Forward Funding projections.

With the passage of the Forward Funding legislation, the MBTA governance board increased to nine members, with the secretary of transportation remaining as chairperson.[13] The eight other directors received a yearly stipend of $7,500.[14] Forward Funding legislation required the MBTA governance board

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[4] Governor Charles D. Baker, *Back on Track: An Action Plan to Transform the MBTA*, April 8, 2015, http s://cdn.mbta.com/sites/default/files/2017-10/back-on-track-action-plan-040815.pdf.

[5] *Id*. at 6.

[6] Every Regional Transit Authority (RTA) in Massachusetts, except for the MBTA, is governed by a board representing member communities. These boards are responsible for budgeting, capital planning, and contracting. There is no similar role for MBTA-area governments despite the fact that these communities contribute ten percent of the operating budget to the MBTA. *See, e.g.*, MBTA Fiscal Year 20 Final Itemized Budget, April 4, 2019 https://cdn.mbta.com/sites/default/files/fmcb-meeting-docs/2019/04-april/2018-04-08-fmcb-K-fy20-final-itemized-operating-budget-support-accessible.pdf.

[7] Massachusetts Bay Transportation Authority, *The History of the T*, https://www.mbta.com/history.

[8] The inner 14 communities consist of the high-density cities of Boston, Cambridge, Somerville, Revere, Everett, and Chelsea, as well as more residential streetcar suburbs, such as Arlington and Brookline.

[9] M.G.L. c. 161A § 5(b). In 1964, the MBTA Advisory Board's approval was necessary for bus fare increases, the selection of a general manager, major route changes, the long-range capital plan, the annual budget, and any supplemental budgets. Regarding budgets, the MBTA Advisory Board could not add funds but could reduce line items.

[10] M.G.L. c. 161A, §§ 2, 7A; *See* MBTA Advisory Board, http://www.mbtaadvisoryboard.org/.

[11] George Sanborn, *A Chronicle of the Boston Transit System*, State Transportation Library, Boston, Massachusetts, 1993, https://catalog.mbln.org/Polaris/search/title.aspx?ctx=77.1033.0.0.5&pos=1&cn=185491.

[12] St. 2000, c. 221 (August 10, 2000).

[13] St. 1999, c.127, § 151 (1999) *amending* 1999 M.G.L. c. 161A, § 7.

[14] *Id*.

to create an itemized budget based on budgeted revenue and expenses, and to not exceed expense target. This itemized budget was required the MBTA Advisory Board's approval for authorization.[15] After the budget was approved, spending could only be decreased and not increased without going through a supplemental budget process that included public hearings.[16]

In 2000, the Forward Funding legislation required the MBTA governance board to institute a public comment period at board meetings.[17]

From 2003 to 2007, former Governor Mitt Romney instituted the Massachusetts Transportation Finance Commission in recognition of the longstanding issues at the MBTA:

> (1) [t]o analyze the State's long-term capital and operating needs of the transportation system for the next 20 years, the funds expected to be available, and to estimate the extent to which a gap exists; and (2) [t]o make recommendations to close this funding gap through potential cost savings, efficiencies, and additional revenue.[18]

After one report and the end of Governor Mitt Romney's administration in 2007, the Commission was dissolved.[19] In 2009, an amended MBTA statute created an eleven-member governance board, still chaired by the secretary of transportation.[20] It also eliminated the MBTA Advisory Board's powers over the budget and capital plan by removing the Advisory Board's ability to reduce spending.[21] That same year, former Governor Deval Patrick signed legislation that put the MBTA under the jurisdiction of MassDOT.[22] In 2013, the MassDOT secretary was removed from the chairperson role.[23] The result of transferring MBTA governance to MassDOT was reduced direct oversight of a system that was already not funded at a level necessary to maintain its operations and support prudent investment. In addition to governing the MBTA, the MassDOT Board was also charged with overseeing statewide highways, statewide transportation planning, civilian airports other than those owned by Massport, and the registry of motor vehicles.

Record snowfalls in the winter of 2015 exposed widespread MBTA infrastructure and operational deficiencies. Between late January and mid-March 2015, riders experienced 56 consecutive days in which the MBTA failed to have all its subway cars in service. A low of 33 percent of commuter rail trains were on time in February 2015.[24]

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[15] St. 1999, c.127, § 151 (1999) *amending* 1999 M.G.L. c. 161A, § 20.

[16] *Id*.

[17] St. 1999, c.127, § 151 (1999) *amending* 1999 M.G.L. c. 161A, § 7.

[18] Massachusetts Transportation Finance Commission, *Transportation Finance in Massachusetts, Volume 2: Building a Sustainable Transportation Financing System*, Sept. 17, 2007, https://d3n8a8pro7vhmx.cloudfront.net/t4ma/pages/37/attachments/original/1429279068/TFC_Recommendations.pdf?1429279068; *See also* David Scharfenberg, "The MBTA's Long, Winding, Infuriating Road to Failure," *The Boston Globe*, February 14, 2015, https://www.bostonglobe.com/metro/2015/02/14/transportation/U7vNqP861gKQFRly2jmjdL/story.html.

[19] Gabrielle Gurley, "Baker Creates MBTA Commission," *Commonwealth Magazine*, February 20, 2015, https://commonwealthmagazine.org/politics/baker-creates-mbta-commission/.

[20] St. 2009, c. 25, § 108 (November 1, 2009) *amending* M.G.L. c. 161A, § 7.

[21] St. 2009, c. 25, §§ 108, 109 (November 1, 2009) *amending* M.G.L. c. 161A, §§ 7, 7A.

[22] St. 2009, c. 25 , § 108 (November 1, 2009).

[23] St. 2013, c. 46 (July 24, 2013).

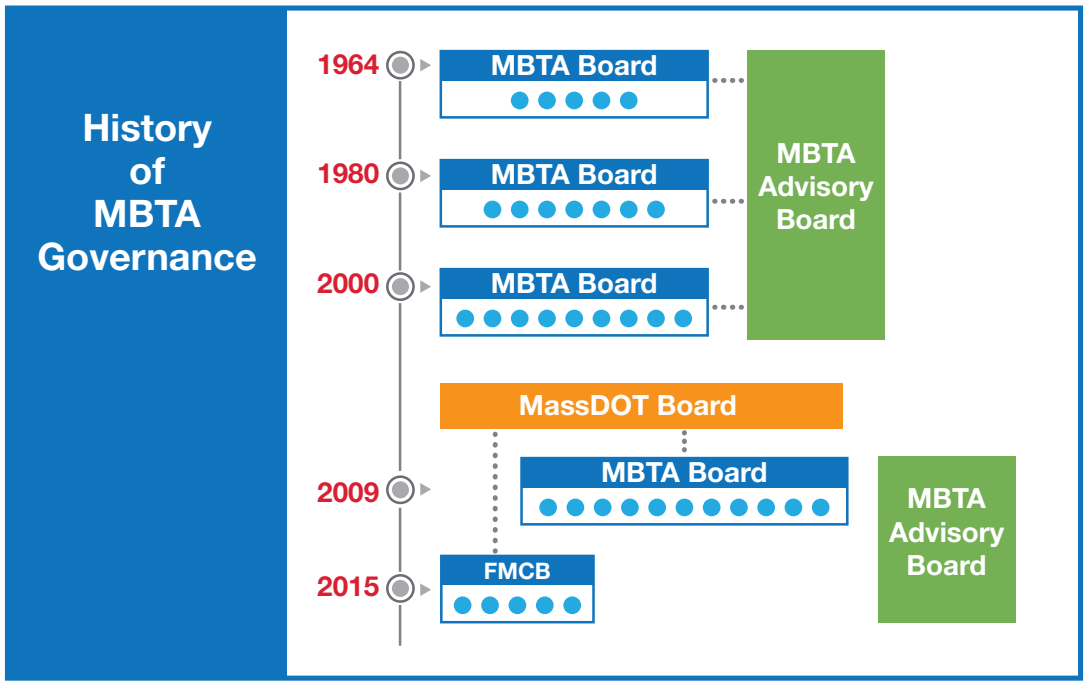
[24] Erin Kayata, "Last Winter's Snowmageddon, By the Numbers," *Boston Globe Magazine*, November 8, 2015, https://www.bostonglobe.com/magazine/2015/11/08/last-winter-snowmageddon-numbers/RgkSKmB3nZJTXijQgRafYM/story.html.

Between 2009 and 2015, the MBTA lacked a governance structure dedicated to overseeing budgeting, capital planning, or contracting for public transit.[25] After the harsh 2015 snowstorms, Governor Charlie Baker convened a special panel to review the MBTA's finances, operations, governance, and overall management. This panel determined that the MBTA was failing in nine areas:

- unsustainable operating budget;
- chronic capital underinvestment;
- bottlenecked project delivery;
- ineffective workplace practices;
- shortsighted expansion program;
- organizational instability;
- lack of customer focus;
- flawed contracting processes; and
- lack of accountability.[26]

In response, Governor Baker and the legislature established the Control Board to improve the finances, management, and operations of the MBTA.[27]

In considering our recommendations for the 2021+ Board to take the MBTA oversight reins, we reviewed governance of other transportation systems around the country.



The MBTA governance structure has grown more complex over time, expanding from 5 members to 11 members by 2009, yet has less direct accountability to stakeholders, including the Advisory Board. A new structure should create more efficiency and independence. *(Dots represent the number of MBTA board members.)*

[25] Governor Charles D. Baker, *Back on Track: An Action Plan to Transform the MBTA*, April 8, 2015, https://cdn.mbta.com/sites/default/files/2017-10/back-on-track-action-plan-040815.pdf.

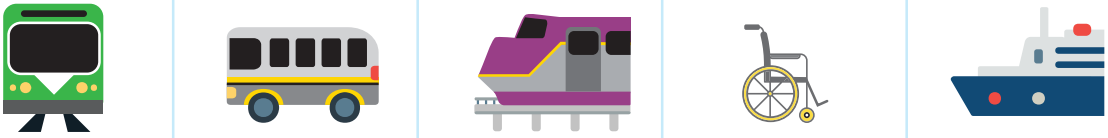
[26] *Id*. at 6.

[27] Greater Boston Chamber of Commerce, CLF, MBTA Advisory Board, *2019 Accountability Report*, page 3, https://www.clf.org/wp-content/uploads/2019/03/2019-Accountability-Report.pdf.

III. Comparison of the MBTA Fiscal and Management Control Board and General Oversight to Other Regions

On an average weekday, the MBTA serves 1.23 million riders: 678,000, or 55 percent, ride the subway; 418,000, or 34 percent, ride the bus; 121,000, or 10 percent, ride the commuter rail; 6,002 riders, or 0.5 percent, use the paratransit service; and 5,912, or 0.5 percent, ride ferries.[28] The MBTA provides 372 million trips each year.[29]

THE MBTA SERVES 1.23 MILLION RIDERS ON AN AVERAGE WEEKDAY



SUBWAY	BUS	COMMUTER RAIL	PARATRANSIT	FERRIES
678,000 RIDERS	418,000 RIDERS	121,000 RIDERS	6,002 RIDERS	5,912 RIDERS
55%	34%	10%	0.5%	0.5%

The FMCB has broad purview over the MBTA, but it does not act without influence and input from stakeholders. For example, the FMCB receives input on the annual budget from the MBTA Advisory Board.[30] Because its members are appointed by the governor, the FMCB coordinates with the governor and his administration, including the MassDOT secretary. Below, we review public transit authority oversight of comparable jurisdictions. Note that we selected four other transportation systems of various sizes, geographies, and governance structures to provide context for alternative structures.

1. **King County, Seattle:** The King County Metro Transit serves an average of 361,000 riders each weekday[31] and provides 127 million trips each year.[32] The King County Department of Transportation – Metro Transit Division is governed by the King County Council and the Metropolitan Transit Commission.[33] The King County Council is responsible for setting a budget, developing and tracking a strategic plan, and establishing service guidelines.[34] The Metropolitan

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[28] MBTA Back on Track Performance Trends (October 2019 data), https://www.mbtabackontrack.com/performance/#/detail/ridership/////.

[29] Federal Transit Administration Monthly Adjusted Data Release, January 2020, https://www.transit.dot.gov/sites/fta.dot.gov/files/January%202020%20Adjusted%20Database.xlsx.

[30] St. 2009, c. 25, §§ 108, 109 (November 1, 2009) *amending* M.G.L. c. 161A, §§ 7, 7A.

[31] King County Metro, *Ridership Average Weekday Transit Boardings*, December 2019, https://kingcounty.gov/depts/transportation/metro/about/accountability-center/performance/ridership/monthly.aspx.

[32] Federal Transit Administration Monthly Adjusted Data Release, *Master Worksheet, Column T*, January 2020, https://www.transit.dot.gov/sites/fta.dot.gov/files/January%202020%20Adjusted%20Database.xlsx.

[33] Wash. Rev. Cod § 35.58.270(1) (2010).

[34] 2017 King County Metro Transit Strategic Plan Progress Report, page 5, October 17, 2018, https://kingcounty.gov/~/media/depts/transportation/metro/accountability/reports/2017/metro-2017-strategic-plan-progress-report.pdf

Transit Commission constructs, maintains, controls, and manages the public transportation system.[35] It may authorize expenditures for transportation purposes within the budget adopted by the King County Council.[36]

The Commission consists of seven members, with six appointed by the King County Council (three residents of the central city and three residents of the metro area outside the central city). The seventh member is the chair of the King County Council.[37] One is a nonvoting member of the Metropolitan Transit Commission.[38]

The first members appointed to the Commission have terms ranging from one to six years; thereafter, commissioners serve for four years, and the compensation is determined by the King County Council.[39] The Commission is informed by six different transportation advisory groups: King County Mobility Coalition; Transit Advisory Commission; Regional Transit Task Force; Technical Advisory Committee; Community Advisory Group; and Access Task Force.[40] Further, King County Metro works with these advisory groups to "deliver the very best services possible."[41]

The King County Metro governance structure is distinct from the Control Board as it is a joint effort by a county council and the Metropolitan Transit Commission. At least six commission board members reside in the county, compared to the Control Board, which is a group not defined by specified geographies. Further, the King County Metro governing entity is informed on various issues beyond the budget by numerous advisory groups, whereas the FMCB receives input on the budget from one advisory body — the MBTA Advisory Board.[42]

2. **Chicago Area:** The Chicago Transit Authority (CTA) serves an average of 1.6 million riders each weekday[43] and provides 468 million trips each year.[44] It is governed by the Chicago Transit Board.[45] The board has seven members as well as four committees: Human Resources, Strategic Planning, Capital Construction Oversight, and Finance, Audit, and Budget.[46] board members (except for the secretary and the treasurer) are compensated $25,000 each year, in addition to expense costs.[47]

   The board meets monthly, with meetings structured around an individual committee's topic

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35 Wash. Rev. Cod § 35.58.270(1) (2010).

36 Wash. Rev. Cod § 35.58.270(2) (2010).

37 Wash. Rev. Cod § 35.58.270(3) (2010).

38 Wash. Rev. Cod § 35.58.270(4) (2010).

39 *Supra* note 35.

40 King County Metro, *Advisory Groups*, https://www.kingcounty.gov/depts/transportation/metro/about/advisory-groups.aspx.

41 King County Metro, *About Metro*, https://kingcounty.gov/depts/transportation/metro/about.aspx.

42 *Supra* note 36; *See also* King County Metro, *Advisory Groups*, https://www.kingcounty.gov/depts/transportation/metro/about/advisory-groups.aspx.

43 King County, *Ridership Average Weekday Transit Boardings*, December 2019, https://kingcounty.gov/depts/transportation/metro/about/accountability-center/performance/ridership/monthly.aspx.

44 *Supra* note 28; Chicago Transit Authority, *Governance & Administration*, https://www.transitchicago.com/governance/.

45 Chicago Transit Authority, *Governance & Administration*, https://www.transitchicago.com/governance/.

46 Chicago Transit Authority, *Chicago Transit Board*, https://www.transitchicago.com/board/#about.

47 Illinois General Assembly Legislative Research Unit, *Boards or Commissions with Salaries or Other Compensation*, September 2018, www.ilga.gov/commission/lru/salaries.pdf.

or topics, which allows the CTA to provide comprehensive oversight to the Chicago transit system.[48] Even though Chicago has one board, the committee structure allows different issues to be brought up in the committee meetings and not in a "tackle them as they come" fashion.[49] Both the overarching Chicago Transit Board and specialized committees meet monthly.[50] In contrast, the FMCB and the MBTA Advisory Board juggle multiple sectors without a structure to address discrete issues.

3. **New York City:** New York's Metropolitan Transportation Authority (MTA) serves an average of 5.4 million subway riders and 1.8 million bus riders each weekday[51] and provides 3.3 billion trips each year.[52] The MTA has a multi-level governance structure.[53] The MTA offices and bureaus include: Office of the Commissioner, Administrative Services Division, Office of Civil Rights, Office of External Relations, Office of Communications, Division of Legal Affairs, Engineering Division, Operations and Asset Management Division, and Policy and Planning Division.[54] All board members serve without compensation.[55] The MTA governance structure provides comprehensive and dispersed oversight of the New York City transit system. Once again, this stands in contrast to the MBTA.

4. **Philadelphia:** Southeastern Pennsylvania Transportation Authority (SEPTA) has 53 subway stations and a system that serves an average of 975,500 riders each weekday[56] and provides 319 million trips each year.[57] SEPTA has jurisdiction over five counties: Bucks, Chester, Delaware, Montgomery, and Philadelphia.[58]

   SEPTA is governed by a 15-member board with two subcommittees: Administration and Operations.[59] The SEPTA board members are not compensated.[60] The City of Philadelphia appoints two members: one by the mayor and the other by the city council president.[61] These two board members can veto any item approved by the full SEPTA board. Their veto can be overridden, however, by 75 percent of the full board within 30 days. The remaining 13 SEPTA board members are appointed by the Pennsylvania governor, House and Senate majority and

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[48] Chicago Transit Authority, *Board Meeting Notices, Agendas, & Minutes*, https://www.transitchicago.com/board/notices-agendas-minutes/.

[49] Chicago Transit Authority, *Board Meeting Notices, Agendas, & Minutes*, https://www.transitchicago.com/board/notices-agendas-minutes/.

[50] *Id*.; *See also* Chicago Transit Authority, *Chicago Transit Board*, https://www.transitchicago.com/board/#about.

[51] New York City Metropolitan Transportation Authority, *Ridership*, http://web.mta.info/nyct/facts/ridership/.

[52] *Supra* note 28.

[53] NY Pub Auth § 1263; NY Department of Transportation, *About NYSDOT*, https://www.dot.ny.gov/divisions.

[54] *Id*.

[55] William Neuman, "MTA Revokes Travel Perks for Board Members," *The New York Times*, June 25, 2008, https://cityroom.blogs.nytimes.com/2008/06/25/mta-revokes-travel-perks-for-board-members/.

[56] SEPTA, *Operating Facts, Fiscal Year 2019*, http://septa.org/strategic-plan/reports/fy-2019-operating-facts.pdf.

[57] *Supra* note 28; SEPTA, *Operating Facts, Fiscal Year 2019*, http://septa.org/strategic-plan/reports/fy-2019-operating-facts.pdf.

[58] SEPTA, *About SEPTA*, http://www.septa.org/about/.

[59] SEPTA, *Board Meetings & Members*, http://www.septa.org/about/board/index.html; *See also* SEPTA, *Administration and Operations Committee Meeting Schedule*, http://www.septa.org/about/board/schedule-admin.html.

[60] 74 Pa.C.S. § 1712.

[61] SEPTA, *Board Members*, http://www.septa.org/about/board/members.html.

minority leaders, and county commissioners for Bucks, Chester, Delaware, and Montgomery counties.[62]

All committee meetings are held in a single day, with regular board meetings held on a separate day.[63] This single board oversees the workings of SEPTA to ensure that all sectors are running smoothly.[64] SEPTA and the MBTA have comparable ridership. SEPTA receives greater oversight from the City of Philadelphia and county representatives than the FMCB receives from the municipalities it serves.

TABLE 1: Comparison of Transportation Agencies and Authorities

	King County Metro Agency GREATER SEATTLE	Chicago Transportation Authority GREATER CHICAGO	New York Metropolitan Transportation Authority NEW YORK CITY	Southern Pennsylvania Transportation Authority PHILADELPHIA	MBTA GREATER BOSTON
Ridership	Serves an average of 361,000 riders each weekday[65] and provides 127 million trips each year.[66]	Serves an average of 1.6 million riders each weekday[67] and provides 468 million trips each year.[68]	Serves an average of 5.4 million subway riders and 1.8 million bus riders each weekday[69] and provides 3.3 billion trips each year.[70]	Serves an average of 975,500 riders each weekday[71] and provides 319 million trips each year.[72]	Serves an average of 1.23 million riders each weekday and provides 372 million trips each year.[73]
Scope	Improve mobility, oversee spending	Fiscal oversight, capital planning	Approve budgets; audit and finance	Fiscal responsibility and oversight; contractual authority regarding projects[74]	Fiscal responsibility and efficient business goals
Oversight of chair/ chief executive officer (CEO)/ general manager	City agency, state oversees	3 CEOs, Regional Transit Authority Board	Board determines salary	Authority oversees	MassDOT secretary[75]
Membership	7 members	7 members	17 voting members, 2 non-voting members, 4 alternate non-voting members[76]	14 active total members, with a cap at 15 total members[77]	5 members
Appointment of Members	6 appointed by the Metropolitan Council; 1 is chair of Metropolitan Council[78]	4 appointed by Chicago mayor and 3 by governor[79]	Governor	1 appointed by governor; 2 appointed by Senate; 2 appointed by House[80]	3 appointed by governor and 1 each referred to the governor by the Senate President and Speaker of the House
Meeting Frequency	12 times annually[81]	12 times annually	11 times annually[82]	12 times annually[83]	At least 36 times annually[84]
Term	4 years[85]	7 years[86]	Chair serves 6 years; other members have varying term lengths[87]	5 years[88]	5 years
Compensation	Determined by King County Council[89]	None	None, reimbursement for actual and necessary expenses[90]	None[91]	None; reimbursement up to $6,000 paid by MassDOT

[62] 74 Pa.C.S. § 1713 (a)(1)–(3).

[63] SEPTA, *Administration and Operations Committee Meeting Schedule*, http://www.septa.org/about/board/schedule-admin.html; *See also* SEPTA, *Regular Board Meeting Schedule*, http://www.septa.org/about/board/schedule-board.html.

[64] SEPTA, *Fiscal Year 2018 Operating Budget; Fiscal Years 2019 to 2023 Financial Projections*, August 14, 2017, at 32, http://www.septa.org/strategic-plan/reports/2018-Operating-Budget.pdf.

In comparing transportation agencies and authorities in King County, Chicago, New York, and Philadelphia to the MBTA, it is evident that the FMCB has the fewest board members and that the term lengths are relatively similar for all boards. The MBTA is most similar in size to the Chicago and Philadelphia transit systems, though the governance structures differ significantly because Chicago and Philadelphia both have a larger number of board members than the FMCB and only meet 12 times per year, less than the required 36 FMCB meetings required per year. Governing boards of transit authorities in King County and Chicago have municipal oversight because municipal leaders are responsible for appointing members to the governance board. By contrast, the FMCB appointments are made by the governor. These similarities and differences inform our recommendations below.

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[65] King County, *Ridership Average Weekday Transit Boardings*, December 2019, https://kingcounty.gov/depts/transportation/metro/about/accountability-center/performance/ridership/monthly.aspx.

[66] Federal Transit Administration Monthly Adjusted Data Release, January 2020, https://www.transit.dot.gov/sites/fta.dot.gov/files/January%202020%20Adjusted%20Database.xlsx.

[67] King County, *Ridership Average Weekday Transit Boardings*, December 2019, https://kingcounty.gov/depts/transportation/metro/about/accountability-center/performance/ridership/monthly.aspx.

[68] *Supra* note 28; Chicago Transit Authority, *Governance & Administration*, https://www.transitchicago.com/governance/.

[69] New York City Metropolitan Transportation Authority, *Ridership*, http://web.mta.info/nyct/facts/ridership/.

[70] *Supra* note 28.

[71] SEPTA, *Operating Facts, Fiscal Year 2019*, http://septa.org/strategic-plan/reports/fy-2019-operating-facts.pdf.

[72] *Supra* note 28; SEPTA, *Operating Facts, Fiscal Year 2019*, http://septa.org/strategic-plan/reports/fy-2019-operating-facts.pdf.

[73] Federal Transit Administration Monthly Adjusted Data Release, January 2020, https://www.transit.dot.gov/sites/fta.dot.gov/files/January%202020%20Adjusted%20Database.xlsx.

[74] SEPTA Board, Minutes of Regular Board Meeting of SEPTA, December 19, 2019, http://www.septa.org/about/board/december.2019.regular.minutes.pdf.

[75] M.G.L. c. 161A, § 3(d).

[76] NY Pub Auth § 1263; MTA Creation Structure, http://web.mta.info/mta/compliance/pdf/MTA-Creation-Structure.pdf.

[77] *Supra* note 61.

[78] *Supra* note 36.

[79] *Supra* note 45.

[80] *Supra* note 62.

[81] King County Council, *Regional Transit Committee*, https://www.kingcounty.gov/council/committees/regional_transit.aspx.

[82] *MTA Governance Guidelines*, page 2, March 26, 2014, http://web.mta.info/mta/compliance/pdf/Governance_Guidelines.pdf.

[83] SEPTA, *Regular Board Meeting Schedule*, http://www.septa.org/about/board/schedule-board.html.

[84] St. 2016, c. 46, § 199.

[85] *Supra* note 37.

[86] 70 ILCS § 3605/20.

[87] NY Pub Auth § 1263 established by L.1994, c. 549, § 3.

[88] SEPTA, *Michael A. Carroll, P.E., Joins SEPTA Board*, http://www.septa.org/media/releases/2017/07-26-17.html.

[89] *Supra* note 37.

[90] *Supra* note 55.

[91] *Supra* note 60.

IV. Relationship between the Fiscal and Management Control Board and MassDOT Board

When the FMCB was created in 2015, it was envisioned that governance of the MBTA would revert to the MassDOT Board upon expiration of the FMCB.[92] The FMCB was created as subordinate to the MassDOT Board. For example, the FMCB reports to the MassDOT Board on its activities monthly,[93] and any consolidations or re-organizations to MBTA operations that affect MassDOT require MassDOT Board approval.[94] Any MBTA borrowing requires the approval of the MassDOT Board, based on the FMCB's recommendation.[95] Unlike the MassDOT Board, and most other governing bodies of public authorities in the Commonwealth, the FMCB reports directly to the MassDOT secretary,[96] and it is the secretary, not the FMCB, who hires and fires the MBTA's general manager.[97]

The 2021+ Board should be independent of MassDOT but work closely with it. The 2021+ Board will need the flexibility to issue its own debt, independent of the secretary or the governor at the time. There may be times when the priorities of the public transportation authority and the administration differ. At these times, an independent governing body must be allowed to do what is right for the MBTA and its riders, despite the political ramifications for an administration. It is also reasonable for the board overseeing capital delivery to authorize the financing of capital projects. The governor and the secretary will still have major influence over the 2021+ Board, but this board needs the legal ability to act for the public good, as it sees fit.

V. Current FMCB Governance Structure and Performance

Prior to making recommendations for the next governance structure, CLF, MASSPIRG, the MBTA Advisory Board, and Transportation for Massachusetts considered the FMCB's existing governance structure.

Scope of Work

The FMCB is tasked with initiating and assuring the implementation of measures to secure the fiscal, operational, and managerial stability of the MBTA.[98] It is also required to develop MBTA performance metrics and a plan to stabilize finances, management, operations, and asset condition. The plan is aimed at providing a safe, reliable, and sustainable transit system, ensuring better service to current riders while attracting future riders and developing a long-range approach to modernize MBTA assets.[99] The FMCB has the authority to recommend to the MassDOT Board that it amend any borrowing authorization or refinance any MBTA debt.[100]

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92 St. 2015, c. 46, § 200(g).

93 St. 2015, c. 46, § 206.

94 St. 2015, c. 46, § 204.

95 St. 2015, c. 46, § 205.

96 St. 2015, c. 46, § 200(a).

97 St. 2015, c. 46, § 116.

98 St. 2015, c. 46, § 200.

99 St. 2015, c. 46, § 203.

100 St. 2015, c. 46, § 205.

General Manager Oversight

The general manager shoulders the massive responsibility of overseeing the oldest mass transit system in the country while balancing daily equipment malfunctions, the safety of employees and riders, seven-day-per-week service, and maintenance and expansion projects. The general manager currently reports to and serves at the pleasure of the MassDOT secretary. FMCB members are not responsible for the hiring or firing of the general manager.[101] The general manager is required to report monthly to the FMCB:

- the status of the revenues and expenses for the operating budget;
- the status of contracting and procurement; and
- authorized and actual spending for the capital program.[102]

A Green Line derailment in October 2016. Safety must be a primary goal for the 2021+ Board.
(source: https://commons.wikimedia.org/wiki/File:MBTA_3837_after_derailment,_October_2016.JPG)

The general manager also is required to report quarterly to the FMCB on progress toward achieving key performance management targets, such as progress toward large project milestones, including the Green Line Expansion.[103] Beyond mandatory reporting, the general manager aims to implement the FMCB's directives, though the position is ultimately responsible to the MassDOT secretary and not the FMCB.

Independence

The FMCB is not an independent governing body because it reports monthly to the MassDOT Board and makes recommendations for issuance of MBTA debt and capital spending.

FMCB & Relationship to MassDOT

Three FMCB members serve on the MassDOT Board.[104] The MassDOT secretary attends nearly all FMCB meetings.

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[101] St. 2015, c. 46, § 116.

[102] St. 2015, c. 46, § 201.

[103] *Id*.

[104] St. 2015, c. 46, § 200.

MassDOT develops a long-range transportation plan that includes input from the MBTA's Program for Mass Transportation (PMT), which defines a 25-year vision for public transportation in eastern Massachusetts.[105] The PMT articulates the universe of transit projects that can be drawn on for inclusion in the Boston Region Metropolitan Planning Organization's Long-Range Transportation Plan and in its Transportation Improvement Program.[106]

Membership and Size

The FMCB has five board members, with one member required to have experience in transportation finance and one member required to have experience with mass transit operation.[107]

Compensation

The current FMCB members are not eligible for compensation. Notwithstanding, they are eligible for annual time and expense reimbursements up to $6,000 to be paid from MassDOT funds.[108] The FMCB may employ, retain, and supervise managerial, professional, and clerical staff.[109]

Appointment

The governor appoints board members.[110]

Meeting Frequency

The FMCB meets at least three times per month for a minimum of 36 meetings per year.[111]

Term

The FMCB members serve until the expiration of the FMCB, currently set for June 30, 2020.[112]

FMCB Performance

The FMCB members are engaged, knowledgeable, and committed to the Control Board's mission. They are devoted to addressing their lofty mandate by focusing on the MBTA's operating budget, infrastructure investment, long-term vision and strategy, staffing issues, and contracting. Since 2015, the FMCB has achieved numerous accomplishments, including:

- reducing the forecast operating deficit by $300 million;[113]
- making smart investments for the T's future;
- overseeing major projects such as the procurement of the new Orange and Red Line cars;
- approving the replacement of one third of the bus fleet;
- resetting the Green Line Extension project with a new management team;
- advancing a long-term vision for the commuter rail system through the Rail Vision process, which has culminated in a bold set of options to guide the future of the commuter rail system;

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[105] Boston Region Metropolitan Planning Organization, *MBTA Program for Mass Transportation*, https://www.bostonmpo.org/mbta_pmt.

[106] *Id*.

[107] St. 2015, c. 46, § 200.

[108] St. 2015, c. 46, § 200(b).

[109] St. 2015, c. 46, § 207.

[110] St. 2015, c. 46, § 200.

[111] St. 2015, c. 46, § 200(d).

[112] St. 2015, c. 46, § 200(f).

[113] MBTA, *Fiscal & Management Control Board*, https://www.mbta.com/leadership/fmcb.

- advancing a reset of the bus network and establishing an office of Bus Transformation; and
- ensuring that the MBTA makes progress toward strategic planning and management goals.

While not required by law, since the inception of the FMCB in 2015, the FMCB has succeeded in making meetings and information transparent. At each meeting, of which there are 36 per year, the FMCB has welcomed public comments. Not infrequently, public comment runs two hours long, which demonstrates the FMCB's willingness to make time to hear from the public and make better-informed decisions.

Nonetheless, the MBTA failed to meet even its own goals regarding increased capital spending, expanded accessibility, and responding to climate vulnerability and weather stressors.[114] Moreover, the FMCB has made improved reliability a priority; however, given the backlog of capital investments throughout the system and the potential for system failures, reliability remains a major challenge. It is necessary for the 2021+ Board to continue the FMCB's success, develop and meet its own goals, and expand its charge to oversee the MBTA's transition to a 21st-century transportation system that provides improved accessibility and reliability, responds to climate vulnerability, and contributes to the Commonwealth's climate-damaging emissions reduction targets.

VI. Recommendations for Future Governance

The 2021+ Board should shift from its 2015 rescue mission to one that is focused on achieving a 21st-century transportation system that is safe, reliable, frequent, resilient, and accessible; operating a system with a customer focus; contributing to the Commonwealth's greenhouse gas emissions reduction targets; and securing and maintaining financial stability. The next board should be a permanent governing board without a sunset date. The 2021+ Board should be empowered to reestablish and provide independent oversight and authority separate from MassDOT and be granted the authority to issue its own debt and bonds without seeking approval from the MassDOT Board. Further, the 2021+ Board should focus on future goals and MBTA functioning for 2035 and beyond.

Scope of Work

Continue existing mandate: To fulfill the aim of providing a safe, reliable, and sustainable transit system for existing and future customers, the 2021+ Board should continue the existing scope of work. This includes:

- assuring the implementation of measures to secure and maintain the fiscal, operational, and managerial stability of the authority;
- assessing MBTA performance metrics, focused on results, not inputs;
- planning to stabilize finances, management, operations, and asset condition.

Further, there is a need for the 2021+ Board to continue to expect a safe, reliable, and sustainable transit system while retaining a focus on existing customers and considering future customers.

[114] Greater Boston Chamber of Commerce, CLF, MBTA Advisory Board, *2019 Accountability Report, page 4*, https://www.clf.org/wp-content/uploads/2019/03/2019-Accountability-Report.pdf.

Expand existing scope of work to address safety, revenue, financing, and transformation:

- *Safety:* The 2021+ Board must focus on the safety and security of all MBTA passengers, employees, and stakeholders. Safety, and a culture of safety, must become the principal concern for the new board and all those it oversees.
- *Revenue needs:* The 2021+ Board should take on the question of new revenue by creating a plan and budget for the legislature that considers public input and forward-looking benchmarks. From there, the 2021+ Board should submit a written request to the legislature to immediately secure sufficient revenue.
- *Financing:* Rather than having to submit a recommendation to the MassDOT Board suggesting that the agency amend any borrowing authorization or refinance any MBTA debt, the 2021+ Board should be able to directly refinance any MBTA debt and issue new debt.
- *Transformation:* The 2021+ Board should incorporate and implement recommendations from the Commission on the Future of Transportation,[115] implement the FMCB Rail Vision resolutions,[116] oversee rail and bus transformation efforts, and include regional rail in capital plans.

Governor Baker with members of the Commission on the Future of Transportation in December 2018. The Commission's Report includes recommendations to move more people in fewer vehicles, and reduce transportation carbon emissions.

(source: https://www.flickr.com/photos/massgovernor/44500365350/in/album-72157701376073432/))

Establishing benchmarks and reporting progress: With the future in mind, the 2021+ Board should establish clear performance benchmarks for the MBTA, including:

- providing greater accountability to the public;
- ensuring improved reliability for all modes;
- implementing safety recommendations from the Safety Review Panel;[117]
- modernizing and decarbonizing the commuter rail and the bus network while tracking associated reductions in greenhouse gas emissions and compliance with Massachusetts climate law;[118]

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[115] Commission on the Future of Transportation in the Commonwealth, *Choices for Stewardship: Recommendations to Meet the Transportation Future*, December 2019, https://www.mass.gov/doc/choices-for-stewardship-recommendations-to-meet-the-transportation-future-volume-1/download.

[116] MassDOT, *Fiscal and Management Control Board Rail Vision Resolutions*, November 4, 2019, https://cdn.mbta.com/sites/default/files/2019-11/2019-11-04-fmcb-rail-vision-final-vote-accessible.pdf.

[117] Massachusetts Bay Transportation Authority, *Safety Review Panel Final Report*, December 9, 2019, https://cdn.mbta.com/sites/default/files/2019-12/2019-12-09-fmcb-B-safety-review-panel-final-report-accessible.pdf.

[118] An Act Establishing the Global Warming Solutions Act (GWSA) was enacted by passage of Chapter 298 of the Acts of 2008. The bulk of GWSA provisions that create ongoing authority and obligation were codified, via GWSA Session Law § 6, as Chapter 21N of the General Laws, as the "Climate Protection and Green Economy Act," https://malegislature.gov/Laws/SessionLaws/Acts/2008/Chapter298.

- updating the bus storage and maintenance facilities to support the next generation of technologies;
- restructuring fares to support increased access for workforce and low-income riders;
- overseeing the timely construction of capital projects;
- making infrastructure resilient to a changing climate; and
- demanding that stations, bus stops, and vehicles are accessible to all riders.

The 2021+ Board should balance its attention between oversight of the MBTA's operations and establishing guidance to set long-term goals. To do this, the 2021+ Board should report to the governor annually by October 1 and include information about the following issues:

- recommended operational changes;
- progress on achieving performance benchmarks, including results, not just inputs;
- guidance for prioritizing expansion projects; and
- opportunities for mode shift.

The 2021+ Board must document its assessments and recommendations into each annual capital investment plan and with every 20-year plan update.

Expansion projects: The 2021+ Board should balance oversight of daily operations with oversight of expansion projects as outlined in Focus40.[119] Moreover, the 2021+ Board's attention is needed to align the five-year capital investment program allocations with the Metropolitan Planning Organizations' Long-Range Transportation Plans and Transportation Improvement Programs, MBTA Focus40, and the Commission on the Future of Transportation recommendations.[120]

Commitment to public engagement: The 2021+ Board should continue the FMCB's commitment to seeking and responding to public comments, providing language interpretation at board meetings, and maintaining transparency about its work. We encourage the 2021+ Board to implement a mindset of transportation justice, which will include the need to hold some meetings during evening hours to hear from riders who cannot attend meetings during business hours.

Transportation justice acknowledges the rights of all people — no matter their race, age, physical ability, income, or immigration status — to move freely between the places they live, learn, work, worship, and play. Just transportation systems are affordable, reliable, and safe and do not jeopardize one community to benefit others. Transportation justice ensures that residents, riders, pedestrians, workers, and cyclists can influence decisions that impact their lives and centers people who have been historically marginalized and underserved. The authors of this report recognize the power of transportation justice to redress racial, socioeconomic, geographic, and health inequities and create just solutions to environmental burdens and the climate crisis.

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[119] MassDOT, *Focus40: The 2040 Investment Plan for the MBTA*, March 2019, https://static1.squarespace.com/static/57757a3cff7c50f318d8aae0/t/5c9042690852294993eae62b/1552958096600/F40+Final+Book+Layout_V9-2019_03_13-508compliant.pdf.

[120] MassDOT's transit planning division for the MBTA service area should be under the MBTA's control because of the MBTA's unique funding resources and the need to create a modern transportation system. The MBTA is the implementing authority and is the entity that receives and accounts for federal funding.

General Manager Oversight

The 2021+ Board should be responsible for the hiring, firing, compensation, term length, and ongoing support of the general manager. The decade-long revolving general manager door must end through consistent oversight and management by the 2021+ Board.[121]

However, the general manager must still collaborate with the MassDOT secretary. To accomplish this, the MassDOT secretary should attend 2021+ Board meetings but would not have voting authority. The general manager should report solely to the 2021+ Board without potential contradiction by the MassDOT secretary.

Consistent with current law,[122] the general manager should continue to determine the employment conditions and compensation for MBTA employees, subject to the 2021+ Board approval.

Independence

The 2021+ Board should be independent of the MassDOT Board and solely responsible for the issuance of MBTA debt, MBTA budgeting, and MBTA capital spending oversight. The same body should be responsible for overseeing daily operations and for issuing the debt necessary to plan, develop, and execute major capital projects designed to improve rider experience in the future.

FMCB and Relationship to MassDOT

The 2021+ Board, as the governing body of an independent public authority created by the legislature as a political subdivision of the Commonwealth, should be independent of secretarial oversight.

There is a clear benefit to an independent MBTA governance structure separate from MassDOT. This will ensure enough focus on the MBTA without diverting resources for other transportation needs. For example, during the MassDOT Registry of Motor Vehicles (RMV) disaster of 2019,[123] when it became public that the RMV had a backlog of unprocessed out-of-state notifications, MBTA staff and the FMCB expended resources on the matter. These resources should not have been diverted from the transit authority.

In addition, two 2021+ Board members should serve on the MassDOT Board to ensure consistency in planning for and operating unified 21st-century transportation systems.

Membership and Size

The 2021+ Board should be composed of seven members. This size balances the need for diverse perspectives with the need for a small group dedicated to transportation oversight, is closer in size to transportation authorities in other regions, and is sufficiently large to manage subcommittees as needs arise.

The 2021+ Board's membership should include routine MBTA riders. To ensure ridership status, the MBTA should provide MBTA passes to 2021+ Board members and require them to report annually on their public transit usage (e.g., commonly used routes and certification that they ride the system

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[121] Between 2010 and 2020, there were nine MBTA general managers: Richard A. Davey (2010–2011); Jonathan Davis (interim 2011–2012); Beverly A. Scott (2012–2015); Frank DePaola (interim 2015–2016); Brian Shortsleeve (acting 2016–2017); Steve Poftak (interim 2017); Luis Manuel Ramírez (2017–2018); Jeff Gonneville (interim 2018); and Steve Poftak (2019–present).

[122] M.G.L. c. 161A, § 3.

[123] Steph Solis, "RMV Scandal: What We Know About the Failures Within the Registry Before New Hampshire Crash That Killed 7," *Mass Live*, August 4, 2019, https://www.masslive.com/politics/2019/08/rmv-scandal-what-we-know-about-the-failures-within-the-registry-before-new-hampshire-crash-that-killed-7.html.

at least weekly). At least two members should represent municipalities of different geographies and demographics. Membership should not include MassDOT or MBTA employees to ensure the board's independence.

The 2021+ Board should have a mix of qualifications between all the members. Members may meet multiple qualifications and represent more than one constituency. The proposed 2021+ Board statement of qualifications is as follows:

- **Expertise in public fiscal management;**
- **At least three years in a leadership or managerial role;**
- **Personal experience riding public transit on a routine basis;**
- **Affiliation with one or more environmental justice communities;**
- **Expertise in labor and employment matters;**
- **Experience with public transit operations;**
- **Willingness to respectfully engage with the public;**
- **Willingness to devote a minimum of five hours per month to MBTA oversight; and**
- **Knowledge of transportation needs across the Commonwealth.**

Compensation

We recommend that 2021+ Board members qualify for an annual stipend for service not to exceed $15,000, which should facilitate participation of board members from environmental justice populations, among other communities, and compensate for all members' travel time and level of effort allocated to board duties. The 2021+ Board should be able to employ, retain, and supervise managerial, professional, and clerical staff.

Appointment

We recommend that the governor appoint members to the 2021+ Board based exclusively on nominations from the following stakeholders:

- The MBTA Advisory Board, as the representative of 176 member municipalities, should nominate at least three board member candidates who are residents of the MBTA service area but do not reside in Boston, Cambridge, or Somerville, one of whom shall be appointed by the governor.
- The MBTA Advisory Board, as the representative of 176 municipalities, should nominate at least three board member candidates who are residents of Boston, Cambridge, or Somerville, one of whom shall be appointed by the governor.
- A coalition of at least eight organizations that are committed to transportation justice should jointly nominate at least three board member candidates, one of whom shall be appointed by the governor. The coalition should include at least five organizations in the MBTA service area and at least three community-based organizations with members residing in environmental justice populations.
- The Metropolitan Area Planning Council should nominate at least three board member candidates who are residents of the MBTA service area but do not reside in Boston, Cambridge, or Somerville, one of whom shall be appointed by the governor.
- The Metropolitan Area Planning Council should nominate at least three board member candidates who are residents of Boston, Cambridge, or Somerville, one of whom shall be appointed by the governor.

- The Massachusetts Municipal Association should nominate at least three board member candidates who are residents of the MBTA service area, one of whom shall be appointed by the governor.
- Municipalities served by the MBTA that have environmental justice populations that meet at least two of the environmental justice criteria should be invited to nominate one or more board member candidates, one of whom shall be appointed by the governor.

Each nomination must include the individual's qualifications, leaving the decision to the governor. The nominations for the first set of 2021+ Board members should be submitted to the governor not later than two weeks prior to the expiration of the FMCB.

Meeting Frequency

The 2021+ Board should meet at least 24 times annually. Meetings should occur at least once a month or more frequently as necessary to ensure the stability of MBTA operations and finances. Meetings should be public and Americans with Disabilities Act of 1990 (ADA) accessible. The 2021+ Board should ensure robust public commenting at every meeting, including opportunities for people to participate beyond standard business hours. Interpreters should be available for members of the public who are deaf and hard of hearing or have limited English proficiency, if requested at least two business days before a meeting. During meetings, board members are subject to public records laws and meetings are subject to the Massachusetts Open Meeting Law.[124]

Term

Upon appointment to the 2021+ Board, four members should serve terms concurrent with the governor. The remaining three board members should continue to serve on the 2021+ Board for at least two years beyond the expiration of the current governor's term. These staggered terms ensure that several board members will have personal knowledge of prior decisions rendered under a different administration. The governor in 2023 will appoint four additional board members to serve. If a board member resigns, then the nominating stakeholders can submit to the governor at least three board member candidates for the governor to appoint a replacement member.

We acknowledge that the FMCB included recommendations in its 2019 annual report for the 2021+ Board, which we include below. Governor Baker laid out a similar plan for the next board, as noted below. Our recommendations differ from the current FMCB and Governor Baker regarding the scope, role of the MassDOT secretary, meeting frequency, compensation, and overlap with the MassDOT Board.

[124] Section 18 to 25 of chapter 30A of the MA General Laws; *See also* Section 10 of chapter 66 of the General Laws. For example, the date, time, location, and agenda for each meeting should be posted on a website at least two business days in advance of the meeting. Meeting materials that will be presented during each meeting should be posted electronically by 9:00 a.m. before each meeting commences so that the public can access the materials before and during the meeting.

TABLE 2: FUTURE GOVERNANCE RECOMMENDATIONS COMPARISON

Structural Component	FMCB Recommendation 1/14/20	Governor Baker's Recommendation 1/23/20	S.2037 (filed on 1/17/19)	H.4530 (filed on 3/4/20)	Our Recommendations
Scope	Safety must be key	Focus on safety, audit, finance	Ensure stability of authority operations and finances	Focus on finance	Safety; rail and bus transformation; greenhouse gas emissions reduction; determining revenue needs; operating budget and staff; planning for 21st century
Oversight of general manager	Future board hires and fires, with certain rights reserved for MassDOT secretary	MassDOT secretary, consistent with current practice	Approve appointment of general manager and make final decisions related to their employment and termination	MassDOT secretary, consistent with current practice	2021+ Board hires and fires
Relationship to MassDOT	Only the MassDOT secretary serves on both boards.	Two board members should serve on both boards.	The MassDOT secretary should serve on both boards.	Two MassDOT Board members should serve on both boards.	Two board members, neither of whom are MBTA or MassDOT employees, should serve on both boards.
Membership	MassDOT secretary should be voting member. At least one specialist in operations and safety.	MassDOT secretary should be voting member. No more than 4 directors in the same political party.	MassDOT secretary is a voting member; 1 transportation finance expert, 1 labor representative.	No mention of MassDOT secretary; 1 transportation finance expert, 1 mass transit operation, 1 municipal official, 1 person representing Boston.	MassDOT secretary should not be voting member; majority of members must be regular riders of commuter rail, subway, or bus.
Appointment of Members	Not specified	Governor makes 5 appointments	Governor appoints 3, MBTA Advisory Board appoints 1, appointment of secretary of transportation	Governor appoints 6 and Boston mayor appoints 1	Governor makes 7 appointments based on recommendations from specific entities
Compensation	Not specified	None	None, but reimbursement up to $3,000	None, but reimbursement up to $6,000	$15,000 annual stipend
Size	Not specified	7 members	5 members	7 members	7 members
Meeting Frequency	15 meetings per year	At least 12 meetings	At least 24 meetings	At least 36 meetings	At least 24 meetings
Term	Not specified	4 years, can serve 2 terms	Chairperson serves through 2023 and reappointed for 4 years, other directors serve coterminous with appointing governor	Members serve for entire length of control board existence unless removed by governor or mayor	4 years, those of the same political party are coterminous with the governor
Timing	Successor board should be in place by May 15, 2020	Not specified	Successor board shall be in place upon passage of law	Successor board shall be in place upon passage of law	Successor board should be in place by May 15, 2020

VII. Conclusion

We applaud the FMCB's work and encourage it to work with the 2021+ Board for at least six weeks to help with the transition. We encourage FMCB members to serve as informal advisors to the 2021+ Board, as requested, for the first six months of the incoming board members' terms.

We are optimistic that the 2021+ Board will bring a continued sense of commitment to MBTA oversight, maintain public access and transparency, and support the shift that riders need toward a 21st-century transportation system.

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The MBTA serves over 400,000 daily bus riders. The 2021+ Board must complete the work of transforming the MBTA bus network to better serve transit-dependent communities.
(source: https://vimeo.com/391552498/1ac2909db6)