
CHAPTER 5 GOVERNANCE OPTIONS

At present, the City of Fredericksburg, through FRED, operates what has become a de-facto regional transit system. With a significant expansion of service as presented in Chapter 5, the development of a different transit governance mechanism could potentially better serve the Region's transit needs. This chapter presents the existing institutional structure for transit in the George Washington Region, and presents six initial institutional alternatives for the development and operation of expanded transit services in the George Washington Region.

EXISTING PUBLIC TRANSIT PROVIDERS

Three entities are currently involved in the provision of public transit service in the George Washington Region. These are Fredericksburg Regional Transit (FRED), which provides all local transit service, the Potomac and Rappahannock Transportation Commission (PRTC), which co-manages Virginia Railway Express (VRE) commuter rail service, and VRE, which operates the commuter rail service.

Fredericksburg Regional Transit (FRED)

Fredericksburg Regional Transit, or FRED, provides local transit service in the George Washington Region. FRED operates 18 local routes throughout the region that are designed to provide a basic level of mobility. Five routes operate primarily within the city of Fredericksburg, eight routes operate in Stafford County, and two operate in each of the other three counties (Spotsylvania, Caroline, and King George). FRED also operates two "FRED Express" routes that operate in Fredericksburg that are designed primarily to serve Mary Washington University (MWU) students.

FRED is a department of the City of Fredericksburg, and FRED's program manager reports to the City Manager. The city owns all FRED facilities and equipment, and all FRED employees are city employees. Services outside of the city and for Mary Washington University are operated through agreements with the counties and the University, with those entities funding the net cost of service.

Although FRED operates all services, the decision-making process for service provision is decentralized. The City of Fredericksburg, through FRED, determines the services that are provided in the city, the counties determine the services provided in their areas, and MWU determines the services that are provided to the university. The working relationships between the city, the counties, and the University are considered my most to be very good.

Potomac and Rappahannock Transportation Commission (PRTC)

The Potomac and Rappahannock Transportation Commission (PRTC), through a partnership with the Northern Virginia Transportation Commission (NVTC), operates Virginia Railway Express (VRE) service between Fredericksburg and Washington, D.C. PRTC also provide express bus service outside of the George Washington Region between Prince William County and Washington, D.C., as well as local flex-route bus service in Prince William County, Manassas and Manassas Park. PRTC is also actively involved in transportation planning, ridematching, capital project management, policy analysis, and regional coordination, although outside of the George Washington Region.

PRTC is a transportation district created as authorized by the Virginia “Transportation District Act of 1964” and represents the City of Fredericksburg and Stafford County, as well as Prince William County, Manassas, and Manassas Park. The major benefits for Fredericksburg and Stafford County of PRTC membership are VRE service and the ability to levy the 2% sales tax on motor fuels within their jurisdictions. Fredericksburg uses the sales tax revenues to fund FRED, including the new transit center, for its VRE assessment (see below) and for a variety of roadway projects. Stafford County uses its funds for its VRE assessment, and for roadway projects.

PRTC is governed by a board of 15 commissioners, one of who is from Fredericksburg, and two of who are from Stafford County. Prince William County has 6 commissions, Manassas and Manassas Park each have one commissioner, three are appointed from the General Assembly (one Senator and two Delegates), and one represents the Virginia Department of Rail and Public Transportation (VDRPT). Most of PRTC’s board members represent jurisdictions in the metro-Washington area, which is where PRTC provides service.

While local service in Fredericksburg and Stafford County is provided by FRED, PRTC could also provide service in these areas, if either or both of those jurisdictions chose for PRTC to do so.

Virginia Railway Express

The Virginia Railway Express (VRE) operates commuter rail service between Fredericksburg and Washington, D.C. (as well as a second line entirely outside of the George Washington Region between Manassas and Washington). This service is provided through a joint venture of PRTC and the Northern Virginia Transportation Commission (NVTC), and is managed by the two commissions. VRE's Operating Board is comprised of three commissioners who represent PRTC, three who represent NVTC, and one who represents VDRPT. Arlington and Alexandria contribute funding, but are not represented on VRE's board.

Approximately 40% of VRE's non-federally funded net operating and capital costs are funded through contributions from PRTC and NVTC member jurisdictions, and from Alexandria and Arlington. These contributions are determined by a formula that is based 10% on population and 90% on ridership, with credits for fares paid by local riders. For FY 2007, Fredericksburg contributed \$111,115 for operations, and Stafford County contributed \$917,147. These contributions are funded through the 2% motor fuels sales tax that are authorized through Fredericksburg's and Stafford County's membership in PRTC.

For FY 2008 and beyond, VRE's Operating Board has proposed changes to both its governance structure for local funding contributions. The proposed governance changes would change the composition of the Operations Board to better reflect relative ridership:

- Jurisdictions with 15% or more of total systemwide ridership would each have two representatives.
- Jurisdictions with less than 15% of total ridership would each have one member.
- Arlington and Alexandria would each have one member.
- VDRPT would continue to be represented by its director.

Under this proposal, there would be a total of 12 board members (up from seven currently). Fredericksburg would have one board member, and Stafford County would have two.

The board has also proposed that the local funding formula be revised to be based 100% on ridership, with credits for fares paid by local riders. This proposed change would increase Fredericksburg's contribution from \$111,115 in FY 2007 to \$126,861 in FY 2008, and Stafford County's from \$917,147 to \$1,011,298.

REGIONAL TRANSIT ENTITY OPTIONS

Six alternative transit governance options were developed as part of this study. In order of their general ease of implementation, these options are:

1. Status Quo (continued operation by the City of Fredericksburg)
2. Separate Transit Systems for Each Jurisdiction
3. Expansion of PRTC
4. Creation of a Transportation District
5. Creation of a Service District
6. Creation of a Transportation Authority

Each Option is presented in terms of:

- An overview of its governance.
- The steps that would be needed to create the new institution.
- Its powers and functions.
- Potential taxing and funding powers and opportunities.
- Funding and expenditure obligations for the involved jurisdictions.
- The ability of implementing jurisdictions to subsequently withdraw.

Option 1: Status Quo (Continued Operation by The City of Fredericksburg)

FRED is currently operated as a department of the City of Fredericksburg. As a Department of the city, FRED reports to the City Manager. Regional services are currently operated through agreements with the individual counties.

Governance

As a department of the City of Fredericksburg, FRED's Transit Manager reports to the City Manager, who in turn reports to the City Council. The counties have no direct role in FRED's governance, but do have an indirect role through their individual decisions to "purchase" service. Key characteristics of FRED's governance structure include:

- The Fredericksburg City Council is, in effect, FRED's Policy Board. As a practical matter, however, the City Council's involvement is generally limited to funding and staffing approvals as part of the city budget process.
- The City Manager and FRED's Transit Manager split what would normally be considered "General Manager" functions:
 - The City Manager is responsible for setting and recommending to the City Council overall budget, staffing and service levels.
 - FRED's Transit Manager is responsible for FRED's day-to-day operations, FRED-specific administration and planning functions, manages FRED staff, and makes recommendations to the City Manager on service, budget, and staffing levels. FRED's Transit Manager is also the city's primary contact with the counties for its regional services.
- Administrative functions that are not transit-specific, such as payroll and accounting, are provided by other city departments.
- Regional services are provided at the request of individual counties. County staff works with FRED staff to determine specific services, and the counties reimburse the city for the cost of those services. The provision of these services must be approved by the City Manager and the City Council, but since the counties pay the cost of the service, these approvals are generally on a pro-forma basis.
- There is no formalized policy level collaboration on transit issues between the city and the counties, or between the counties. To a certain extent, the George Washington Regional Commission (GWRC) and the Fredericksburg Area Metropolitan Planning Organization (FAMPO) act as forums where broad regional transit issues and some funding decisions are addressed. However, most day-to-day city-county collaboration on transit issues is between FRED's Transit Manager and the County Administrators and their staffs.

- The city has formally recognized the Public Transit Advisory Board (PTAB) as an advisory body to the City Council on transit matters.¹ PTAB meets regularly, either monthly or every other month, and has a defined membership and committee structure. All of the local jurisdictions, social services agencies, the Chamber of Commerce, Mary Washington University, Mary Washington Hospital, the religious community, GWRC and FAMPO are represented on PTAB.

Creation

As the status quo option, no actions would be needed to continue the current arrangement.

Powers and Functions

FRED, as a department of the City of Fredericksburg, has at its disposal all the powers available to the city. For the provision of transit services, these include:

- Construct and acquire the transportation facilities.
- Operate or contract for the operation of transportation services.
- Enter into contracts and agreements.
- Issue bonds.
- Provide operating and capital funding for services operated by others (for example, VRE).
- Acquire land through purchase, lease, gift, condemnation, or otherwise, either for its own use or on behalf of other agencies in connection with an adopted mass transit plan.
- Regulate fares, determine schedules and routes.
- Enter into contracts and agreements with adjoining counties, to provide transportation services to and from those areas, and to operate related facilities.
- Apply for and receive loans and grants of money and property.

Taxing and Revenue Authority

In urbanized areas with fewer than 200,000 residents, the Federal Transit Administration (FTA) recognizes the states as the designated recipients of FTA 5307 funds, which can be used for transit capital and planning purposes, and for JARC and New Freedom funding. However, for FTA 5307 funds, the

¹ FAMPO has also formally recognized PTAB in the same regard.

FTA provides the state with the authority to name other eligible entities as the designated recipient. For the Fredericksburg area, the state, through VDRPT, has named Fredericksburg as the designated recipient. As a designated recipient, the city can also apply directly apply for and receive JARC and New Freedom funds. The city also has the ability to pass some of all of these funds through to other public entities (i.e., the counties) for eligible purposes, but does not do so because there has been no call to do so.

The city is also a member of Potomac and Rappahannock Transportation Commission (PRTC), a Transportation District created under Virginia law. As a member of PRTC, which has passenger rail and bus authority, the city is a required to levy a 2% sales tax on gasoline sold within the city, the revenue from which must be used for transportation purposes. The city currently uses these revenues to pay its share of VRE's net costs, and all FRED-related costs that are not covered by other transit-related funding sources, such as grants, reimbursements from the counties and other organizations (for example, Mary Washington University and Mary Washington Hospital), and fares. At present, these funds are more than sufficient to cover existing costs,² and as a result, other city revenues are not used. By statute, the motor fuel tax revenue is administered by PRTC, and the PRTC board must approve the use of these funds. In practice, once the city's PRTC and VRE funding obligations have been met, the uses of additional funds are determined by the city and approved by the PRTC board on a pro-forma basis.

The city also has additional taxing authority as provided by the Code of Virginia, and thus the ability to impose a number of taxes that could be used for transit (and which will be addressed in the financial analysis). However, this is not currently done or anticipated for the future.

Expenditure/Funding Obligations

Fredericksburg, and the individual counties directly control the services that are provided, and thus the related costs. For the most part, annual expenditure and funding decisions can be made on a year-by-year basis (with the exception that each jurisdiction must fulfill any prior multi-year funding commitments).

² 2% motor fuels gas tax funds can be used for any transportation purposes, and Fredericksburg uses the funds that are not needed for VRE and FRED for roadway purposes.

Withdrawal

All regional transit services are now operated via agreements between the city and the counties. All parties are free to terminate the agreements at any time.

Option 2: Development of Individual Transit Systems

In a similar manner as the City of Fredericksburg provides FRED service, counties that desire to have greater involvement in and control over local transit services could provide their own services.

Governance

Each county would determine how to structure its own transit services. It is likely that transit would become a county department in a similar manner as FRED is a city department, and would report to either the County Administrator or the County's Board of Supervisors.

As with the current structure, other than collaboration through GWRC and FAMPO, there would likely be no formalized policy level coordination on transit issues between the different jurisdictions. It is likely that coordination between city and county services would be addressed at a staff level.

It is typical for transit operators to be advised by advisory boards, in a similar manner as PTAB is FRED's advisory board. PTAB could also act as the advisory board for new county transit systems, or a new county-specific board could be created.

Creation

County transit services would be developed and operated as determined by each county's Board of Supervisors, which would exercise existing powers under Virginia law.

Powers and Functions

Virginia counties currently have all of the powers necessary to provide transit service. These include the ability to:

- Construct and acquire the transportation facilities.
- Operate or contract for the operation of transportation services.
- Enter into contracts and agreements.
- Issue bonds.
- Provide operating and capital funding for services operated by others (for example, FRED, as is currently the case, and VRE, if individual counties were to join under some future scenario).
- Acquire land through purchase, lease, gift, condemnation, or otherwise, either for its own use or on behalf of other agencies in connection with an adopted mass transit plan.
- Regulate fares, determine schedules and routes.
- Enter into contracts and agreements with adjoining counties, to provide transportation services to and from those areas, and to operate related facilities.
- Apply for and receive loans and grants of money and property.

Taxing and Revenue Authority

The George Washington Region's counties currently access various local, State, Federal transit funds that are used to fund FRED (including the 2% motor fuel gas tax in Fredericksburg and Stafford County). With the development of individual county services, these same sources could be shifted from FRED to the new county services. However, the development of new county services would not automatically trigger the availability of any new local, State or Federal revenues.

As described for the Status Quo, VDRPT has named the City of Fredericksburg as the region's designated recipient for FTA 5307 funds. VDRPT has the authority to name one of the counties as the designated recipient, but FTA policy is that each urbanized area should have only one designated recipient. Therefore, the naming of one of the counties as the designated recipient would be in place of the city. Such a change would likely require a compelling reason and a mutual agreement between the city and the counties. However, through agreements between the city and the counties, individual county shares of FTA 5307 funds could be passed-through by the cities to the counties.

Expenditure/Funding Obligations

Each jurisdiction would directly control the services that it would provide, and thus the related costs.

Withdrawal

All jurisdictions would be free to terminate services at any time.

Option 3: Expansion of PRTC

The Potomac and Rappahannock Transportation Commission (PRTC) is a Transportation District created as authorized by the “Transportation District Act of 1964” (Virginia Statutes §15.2-4500 to §15.2-4534). PRTC is currently comprised of the City of Fredericksburg and Stafford County, as well as Prince William County and the Cities of Manassas and Manassas Park.

PRTC currently provides transit service in Prince William County, Manassas and Manassas Park, and, along with the Northern Virginia Transportation Commission (NVTC), manages Virginia Railway Express (VRE). Fredericksburg and Stafford County are members of PRTC due to their desire to be members of VRE.

PRTC does not currently provide any bus service in Fredericksburg or Stafford County, but has the legal ability to do so. If other George Washington Region counties were to join PRTC, PRTC would also have the ability to provide service in those areas, and could become the George Washington Region’s transit provider.

Composition and Governance

PRTC is governed by a board of 15 commissioners, most of whom represent jurisdictions in the metro-Washington area, which is where PRTC provides its service. In addition, members of the General Assembly and the Director of the Virginia Department of Rail and Public Transportation (DRPT) serve on the PRTC Board:

Northern PRTC District (8 total)

- 6 from Prince William County
- 1 from Manassas
- 1 from Manassas Park

George Washington Region (3 total)

- 2 from Stafford County
- 1 from Fredericksburg

Commonwealth (4 total)

- 3 appointed by the General Assembly (two by the House of Delegates and one by the Senate).
- 1 from DRPT

Fredericksburg and Stafford County are full members in PRTC, but have no direct service or financial interests in PRTC's bus services, all of which operate in Prince William County and the cities of Manassas and Manassas Park. For this reason, George Washington Region board members take an active role in VRE issues but typically give a great deal of deference to the board members from Prince William County, Manassas, and Manassas Park on bus-related service and budget issues in those areas.

If PRTC were expanded to include the George Washington Region, based on population, it is likely that Spotsylvania would have two Board members and Caroline and King George Counties would each have one. This would increase the George Washington Region's representation to up to seven Board members, compared to eight for Prince William County, Manassas and Manassas Park.

VRE service, which is provided through a partnership between PRTC and the Northern Virginia Transportation Commission (NVTC), has its own governance structure. The service is overseen by its Operations Board, which oversees all operating aspects of the Virginia Railway Express under authority delegated by the two commissions and consistent with the terms of the VRE Master Agreement. Technically, the Operations Board is an advisory committee to PRTC and NVTC, and these agencies must individually approve all VRE actions. Furthermore, while VRE is a partnership between PRTC and NVTC, the Master Agreement that creates this arrangement is between all of the individual jurisdictions that comprise PRTC and NVTC, rather than between the commissions.

Currently, the VRE Operations Board is comprised of three members appointed by PRTC, three by NVTC, and one by the state, which has been assumed since VRE's inception by VDRPT. Because there are only seven members of the VRE Operations Board, six of which are representatives of the VRE member governments, not all local governments are represented on the VRE Operations Board at the same time. However, for FY 2008 and beyond, VRE's Operations Board will be reconstituted such that

all member governments are represented on the Board, with a voting structure that explicitly accounts for ridership and the amount of local subsidy borne by each member. More specifically:

- Jurisdictions with 15% or more of total systemwide ridership will each have two representatives.
- Jurisdictions with less than 15% of total ridership will each have one member.
- Arlington and Alexandria will each have a half-member (though both will have a representative “at the table”).
- VDRPT will continue to be represented by its Director.

Under this governance change, there would be a total of 12 board members (up from seven currently). Fredericksburg would have one board member, and Stafford County would have two. New members that joined PRTC would then have one or two representatives depending upon whether ridership represented more or less than 15% of total ridership.

The governance change also provides for weighted voting if there isn't unanimity, with a “two-part test” having to be satisfied in order for an action to be enacted: (1) no fewer than five of the existing eight member governments must be in agreement; and (2) those in agreement must comprise no less than 60% of the overall local subsidy. The first of these tests would still be satisfied by five jurisdictions being in agreement if one new member were to join, but would require six jurisdictions to be in agreement if two new member jurisdictions were to join, continuing to increase by one for every two new jurisdictions that newly join such that a majority of the member jurisdictions must always be in agreement to meet this first test.

With the VRE governance change, the members of the VRE Operations Board will be appointed by the member governments with concurrence by the applicable commission. Therefore, until such time that VRE becomes a legal entity with complete autonomy from the commissions, membership in VRE by additional George Washington counties would require membership in PRTC.

Further into the future, both PRTC and NVTC have agreed that it would be desirable for VRE to become an autonomous entity, and have pledged to expeditiously explore how this can be accomplished. However, neither the specific steps that will be taken to achieve this, nor a timeline, have yet been determined. If and when this does occur, then presumably individual counties could join VRE without also joining PRTC.

Creation

As noted above, PRTC is an existing Transportation District authorized by the Virginia Transportation District Act of 1964. Transportation Districts such as PRTC can be expanded through mutual agreement.³ For Spotsylvania, Caroline, and/or King George Counties to join PRTC the following actions would be required:

1. Agreements would need to be negotiated between PRTC and the counties on terms and conditions. These agreements would require the mutual consent of each new jurisdiction and PRTC.
2. Each new jurisdiction would need to adopt an ordinance specifying the new area to be included within PRTC, specifying certain findings related to the need for the expansion, including a statement that a contract or agreement between the new jurisdiction and PRTC has been executed.
3. The ordinances would need to be filed with the Secretary of the Commonwealth.

The negotiation of terms and conditions with PRTC could possibly include the development of a revised Board structure that could, in effect, transform PRTC into two subsidiaries: a “PRTC South” comprised of the George Washington Region, and a “PRTC North” comprised of Prince William County, Manassas, and Manassas Park. Such an arrangement could possibly allay concerns that the George Washington Region’s interests would be subordinate to those of the northern areas.

Membership in PRTC does not as a legal matter require membership in VRE. However, prevailing PRTC Board policy, as described in both PRTC’s Founding Ordinance and Bylaws, does require this. As described above, VRE is managed by PRTC and NVTC, and with the present structure, membership in PRTC would require membership in VRE, and thus contributions to VRE’s net costs. An enlargement of PRTC would also trigger changes to the composition of the VRE Operations Board, and the terms and conditions applicable to each new member would be negotiated between the prospective new member and existing members collectively represented by the commissions.

³ For new transportation districts that are originally comprised of two or more jurisdictions, the code is silent on whether the jurisdictions need to be contiguous, and on whether subsequently joining jurisdictions need to be contiguous. However, this is a moot point as Spotsylvania, Caroline and King George Counties all adjoin Fredericksburg and/or Stafford County, which are members of PRTC.

However, if PRTC and NVTC’s efforts to transform VRE into an autonomous agency succeed, then membership in PRTC would be become independent of membership in VRE. In this case, then additional counties could presumably join PRTC, or VRE, or both.

Powers and Functions

Transportation Districts can:

- Prepare transportation plans, or if “within a metropolitan area which includes all or a portion of a state or states contiguous to Virginia” (which includes the Washington D.C. metropolitan area); collaborate in the preparation, revision, and amendment of the regional transportation plan.
- Construct and acquire the transportation facilities included in the transportation plan.
- Operate or contract for the operation of transportation services.
- Enter into contracts and agreements.
- Issue bonds.
- Provide operating and capital funding for services operated by others (for example, VRE).
- Acquire land through purchase, lease, gift, condemnation, or otherwise, either for its own use or on behalf of other agencies in connection with an adopted mass transit plan.⁴
- Regulate fares, determine schedules and routes, and franchising agreements within its boundaries.
- Enter into contracts and agreements with adjoining counties and cities that are within the same planning district, and with adjoining transportation districts, to provide transportation services to and from those areas, and to operate related facilities.
- Apply for and receive loans and grants of money and property.
- Regulate traffic signals and other vehicle control devices.

Taxing and Revenue Authority

The expansion of PRTC would have both federal and state funding implications:

⁴ The condemnation powers of transportation commissions are limited to “slow-take” condemnation, which means that when there are disputes, a court decision is required before possession can take place. Cities and counties, on the other hand, also have “quick-take” powers, in which case possession can take place quickly in advance of court proceedings.

Federal

As described previously, the City of Fredericksburg is designated recipient for FTA funds for the Fredericksburg urbanized area. For the Washington urbanized area, which is where PRTC now provides service, the Washington Metropolitan Area Transit Authority (WMATA) is the designated recipient. WMATA passes through a portion of the Washington area's FTA 5307 funds to PRTC, which then passes through a portion to VRE. If PRTC were to become the George Washington Region's primary transit provider, then VDRPT could name PRTC as the Fredericksburg area's designated recipient. A change in the designated recipient status from the city to PRTC would require a consensus agreement between PRTC and the local jurisdictions, and approval from VDRPT.

State

Virginia tax code (Section 58.1-1720) levies a 2% sales tax on gasoline in every city and county that is a member of certain Transportation Districts, one of which is PRTC.

For the George Washington Region, this tax code provision would mean that membership in PRTC would require the levying of the 2% motor fuels sales tax in each new jurisdiction. As is the case for Fredericksburg and Stafford County, these funds would be administered by PRTC, and the PRTC board would need to approve the use of the funds. As a practical matter, PRTC ensures that member jurisdictions meet their PRTC and VRE funding obligations, and then approves additional expenditures as desired by the jurisdiction on a pro-forma basis. All 2% motor fuels tax funds are administered and allocated on a jurisdiction-by-jurisdiction basis.

Expenditure and Funding Obligations

PRTC expenditure decisions would be made by the PRTC Board, which would be reconfigured as agreed during expansion negotiations. There would be less direct control than at present, but with a representative Board, expenditure levels and costs to individual jurisdictions should be set at acceptable levels.

As described above, membership in PRTC would also mean membership in VRE. Membership in VRE, either through PRTC or independently, would require annual expenditures to subsidize VRE. Based on

the VRE governance changes described earlier, these costs will be based on each jurisdiction’s VRE ridership and the passenger revenue associated with these riders.

Withdrawal

According to Virginia code (§ 15.2-4530 to 4531), a city or county may withdraw from a Transportation District by resolution or ordinance. The withdrawing jurisdiction would remain responsible for its share of any financial obligation incurred while a PRTC member, including financial obligations for VRE service.

Option 4: Development of a New Transportation District

As noted above, the Transportation District Act of 1964 provides the authority for local jurisdictions to create Transportation Districts to provide transportation facilities and services. This act could be used to create a new “George Washington Transportation Commission.”

Composition and Governance

- Transportation Districts can be created by a single city or county, or by combinations of cities and/or counties.
- Transportation Districts are governed by a Commission, the composition of which is determined by the participating jurisdictions, plus the Chair of the Commonwealth Transportation Board or his designee.⁵
- The governing Commissions determine an equitable funding allocation among the participating jurisdictions that must take into consideration the cost of facilities in each jurisdiction, population, transportation benefits, and “all other factors.”

⁵ By statute, the names of transportation agencies created under this act are to be the name of the Transportation District, with the term “Commission” appended to the end. In practice, this is not adhered to—for example, neither the Northern Virginia Transportation Commission (NVTC) nor the Potomac and Rappahannock Transportation Commission use the term “district” in their name, and the Transportation District Commission of Hampton Roads uses the term in the middle of its formal name and operates under the name Hampton Roads Transit (HRT).

Creation

The Transportation District Act provides local jurisdictions with the authority to create Transportation Districts, without additional legislation. To do so, the governing body of each jurisdiction needs to adopt and file with the Secretary of the Commonwealth an ordinance that:

1. Sets forth the name of the Transportation District.
2. Fixes the boundaries of the Transportation District.
3. Names the cities and counties that are included within the Transportation District.
4. Contains a finding that “the orderly growth and development of the county or city and the comfort, convenience and safety of its citizens require an improved transportation system, composed of transit facilities, public highways and other modes of transport, and that joint action through a Transportation District by the counties and cities which are to compose the proposed Transportation District will facilitate the planning and development of the needed transportation system.”

Local governments may belong to one or more transportation districts. This would mean that Fredericksburg and Stafford County could become a member of a new transportation district and either remain as member of PRTC or withdraw from PRTC.

There would be no requirement that a new Transportation District formed in the George Washington Region participate in VRE. However, a new District may desire to participate in VRE (for example, to extend service southward). In this case, with the present PRTC/NVTC/VRE institutional structure, the new transportation district would need to negotiate with PRTC, NVTC, and the member jurisdictions on the terms of its involvement. These terms and conditions would need to be unanimously approved by all of VRE’s member jurisdictions, PRTC and NVTC.

If VRE becomes an autonomous entity, then the new transportation district and/or its members would negotiate terms directly with VRE under conditions that have yet to be determined.

Powers and Functions

A new Transportation District would have the same powers as PRTC, which would be to:

- Prepare transportation plans.
- Construct and acquire the transportation facilities included in the transportation plan.
- Operate or contract for the operation of transportation services.
- Enter into contracts and agreements.
- Issue bonds.
- Provide operating and capital funding for services operated by others (for example, VRE).
- Acquire land through purchase, lease, gift, condemnation,⁶ or otherwise, either for its own use or on behalf of other agencies in connection with an adopted mass transit plan.
- Regulate fares, determine schedules and routes, and franchising agreements within its boundaries.
- Enter into contracts and agreements with adjoining counties and cities that are within the same Planning District, and with adjoining Transportation Districts, to provide transportation services to and from those areas, and to operate related facilities.⁷
- Apply for and receive loans and grants of money and property.
- Regulate traffic signals and other vehicle control devices.

These powers can extend beyond transit, and could include other types of transportation, such as toll roads. In this case, the development of a broader transportation district could provide additional funding opportunities, such as the use of toll revenues to fund transit.

A new transportation district could contract for service from an existing transit provider, including the City of Fredericksburg or PRTC. In this manner, the transportation district could set regional transit policies and determine services but avoid the need to develop new operational capabilities. A new transportation district could also assume ownership of the existing FRED system and personnel.

⁶ As with PRTC, a new transportation district would only have “slow-take” condemnation powers.

⁷ If strictly applied, this could mean that a “George Washington Transportation Commission” could not provide service to and from the NVTC region or to Washington because these would not be adjoining areas.

Taxing and Funding Authority

Virginia tax code (Section 58.1-1720) levies a 2% sales tax on fuel in every city and county which is a member of certain Transportation Districts. These transportation districts are defined as follows:

1. Those with a rapid heavy rail commuter mass transportation system operating on an exclusive right-of-way and a bus system controlled by the Transportation District.
2. Any Transportation District which is subject to §15.2-4515 C and which is contiguous to the Northern Virginia Transportation District (meaning PRTC and any successors).

At this time, it is believed that a “rapid heavy rail commuter mass transportation system operating on an exclusive right-of-way “ is intended to refer specifically to the Washington Metro, and not to VRE. In this case, a new George Washington Region Transportation District would not have the authority to levy the 2% motor fuels sales tax. However, if the provision is ultimately interpreted as including VRE, then this tax code provision would require that a new Regional Transportation District levy the 2% motor fuels sales tax in every member jurisdiction.

As with an expansion of PRTC, a new Transportation District could be named the designated recipient for the Fredericksburg area. Such a change would require the mutual agreement between the city and the new Transportation District, and the approval of VDRPT.

Expenditure/Funding Obligations

Expenditure decisions for the new transportation district would be made by its board, which would be configured as determined by the jurisdictions forming the district. Expenditure and funding requirements could also be incorporated into the agreements negotiated between the participating jurisdictions during formation of the district , and could incorporate measures of financial and service equity.

If the new transportation district were to join VRE, and depending upon the specific negotiated terms and conditions, then each participating jurisdiction would also likely assume VRE funding obligations.

Withdrawal

A city or county may withdraw from the Transportation District by resolution or ordinance. As described above, this withdrawal does not relieve the county or city from any obligation or commitment made or incurred while a district member. The transportation district could also withdraw from VRE in a similar manner.

Option 5: Development of a Service District

Virginia Code (§15.2-2400 to §15.2-2405) provides for the creation of “Service Districts” within one or more localities “to provide additional, more complete or more timely service of government than are desired in the locality or localities as a whole.” Services that these Districts can provide include transportation and transportation services, such as public transportation and transportation demand management.

Composition and Governance

Service Districts can be created by a single city or county, or by combinations of cities and/or counties.

Service Districts are governed by a “development board or other body” which is delegated powers and responsibilities as agreed upon by the participating jurisdictions and set forth in the local ordinances which together create the Service District.

Creation

Participating jurisdictions can create Service Districts following duly-warned public hearings, and the adoption of ordinances that:

1. Set forth the name and describe the boundaries of the proposed Service District and specify any areas within the District that are to be excluded.
2. Describe the purposes of the District and the facilities and services proposed within the District.
3. Describe a proposed plan for providing such facilities and services within the District.
4. Describe the benefits, which can be expected from the provision of such facilities and services within the District.

Powers and Functions

Service Districts can construct, maintain, and operate the facilities and equipment that are necessary to provide a wide range of services. These permitted facilities and services include “transportation and transportation services within a Service District, including, but not limited to: public transportation systems serving the District; transportation management services.”

In more detail, powers include:

- Construct, maintain, and operate facilities and services.
- Acquire facilities, equipment, and real estate.
- Contract for services.
- Enter into contracts and agreements.
- Accept funds and reimbursements from any source, including persons, authorities, Transportation Districts, localities, the State, and the Federal government.
- Employ a workforce.
- Negotiate and contract with others “with regard to connections” to other systems.

Service district do not have condemnation or bonding authority. To acquire property through condemnation, one of its member jurisdictions would need to exercise its own condemnation powers on the service district’s behalf.

A service district created in the George Washington Region could contract for service from an existing transit provider, including the City of Fredericksburg, the private sector, or PRTC. In this manner, the Service District could set regional transit policies and determine services but avoid the need to develop new operational capabilities. It could also operate its own services.

Taxing and Funding Authority

Service Districts are empowered to levy and collect property taxes (but are not required to do so). There are no limits to the amounts that can be imposed, other than that Service Districts cannot impose property taxes for non-service related expenditures, such as schools, police, or general government expenditures.

A service district would not be required to levy the 2% motor fuels tax that would be required with a transportation district. As a result, the creation of a service district could be a way to create the equivalent of a Transportation District without incurring the requirement to levy the 2% gas sales tax.

Moreover, the creation of a Service District, coupled with a limited expansion of PRTC, could provide a means for some, but not all, of George Washington Region counties to impose the 2% gasoline sales taxes, while others could defer. To accomplish this, the George Washington Region could create a service district that would have the same transportation powers as a Transportation District, but without the need for a universal 2% fuel tax. At the same time, any county that desired to levy the 2% motor fuels tax could join PRTC in the same manner as Fredericksburg and Stafford County.

As with an expansion of PRTC or a new Transportation District, a new Service District could be named the designated recipient for the Fredericksburg area. Such a change would require the mutual agreement between the city and the new Service District, and the approval of VDRPT.

Expenditure/Funding Obligations

Expenditure decisions for a Transportation Service District would be made by its Board, which would be configured as determined by the jurisdictions forming the District. As with the development of a transportation district, expenditure and funding requirements could be incorporated into the agreements negotiated between the participating jurisdictions during formation of the district. They could also incorporate measures of financial and service equity.

Withdrawal

The Virginia law does not include any language on withdrawal from Service Districts. This implies that a member of a Service District can withdraw at any time. Presumably, a withdrawing Service District member would be responsible for a proportionate share of its debts and obligations incurred during that member's tenure.

Option 6: Development of a Transportation Authority

The Virginia Legislature has created three Transportation Authorities that have differing powers related to transportation:

- The Northern Virginia Transportation Authority (NOVA) was created in 2002 to administer new funds that were expected to be generated from a local sales tax for transportation. NOVA was also provided with the power to construct and operate transportation facilities and services. The sales tax failed to pass and NOVA became, in effect, a transportation planning agency. The recently passed transportation bill (H 3202) gives NOVA broad authority to levy a number of new taxes, to implement tolls, program and implement transportation projects, and to issue bonds.
- The Williamsburg Area Transit Authority was created in 2006 to merge two existing transit systems, one of which was privately operated. The merger was designed to provide more seamless transit service and to maximize funding opportunities. The powers granted to the Williamsburg Area Transit Authority are generally the same as those granted to Transportation Districts, with the major difference being that Williamsburg and area counties are permitted to include private institutions in the transportation authority.
- The recent transportation bill (H 3202) creates a Hampton Roads Transportation Authority. This authority has “all of the powers given to transportation district commissions,” plus broad powers to levy new taxes and fee, to impose tolls on new and expanded transportation facilities, to issues bonds, and to use revenues for transportation improvements. The Hampton Roads Transportation Authority is, in many respects, a toll road authority, but with broad powers relating to all transportation modes.

As these existing Transportation Authorities have differing powers and authorities, a George Washington Area transportation authority could have a variety of powers that would range from taxing authority to the development of toll roads.

Composition and Governance

The three existing Transportation Authorities are composed of combinations of cities and counties, and in the case of Williamsburg, private institutions. Their governing boards are comprised of representatives from it members, and except in Williamsburg, VDRPT, the House of Delegates, and the Senate:

- The Northern Virginia Transportation Authority is governed by a 16 member Board that is comprised of:
 - The chief elected officer, or his designee, from each of member jurisdictions (i.e., one representative per jurisdiction, irrespective of size).
 - Two members from the House of Delegates.
 - One member from the Senate.
 - Two citizens appointed by the Governor.
 - The Director of VDRPT, or his designee (ex-officio).
 - The Chair of the Commonwealth Transportation Board, or his designee (ex-officio).
- The Williamsburg Transportation Authority is governed by one member from Williamsburg, one member from York County, and two members from James City County. In addition, those members may elect up to three members “to represent the interests of higher-education facilities (i.e., College of William and Mary) and nonprofit tourist-drive agencies in the Williamsburg area (i.e., Colonial Williamsburg), provided that such member facilities and organizations contribute significant financial resources to the Authority.” The Williamsburg Area Transportation Authority’s Board does not include representatives from VDRTP, the House of Delegates, the Senate, or the Commonwealth Transportation Board.
- The Hampton Roads Transportation Authority is governed by an 18 member Board that is comprised of:
 - The chief elected officer, or his designee, from each of member jurisdictions (i.e., one representative per jurisdiction, irrespective of size).
 - One member from the Commonwealth Transportation Board who is from the Hampton Roads area.
 - Two members of the House of Delegates.
 - One member of the Senate.
 - Two citizens appointed by the Governor.
 - The Director of VDRPT, or his designee (ex-officio).
 - The Chair of the Commonwealth Transportation Board, or his designee (ex-officio).

Creation

The development of each of the three Transportation Authorities described herein was by legislation. Similarly, the creation of a George Washington Area Transportation Authority would require legislation. This legislation would define the Authority, its governance and its powers and duties.

Powers and Functions

The three Transportation Authorities generally have the same powers as Transportation Districts (many or most of which are not exercised), plus additional powers. The powers of Transportation Districts were described above. Additional powers for the three Authorities include:

Northern Virginia Transportation Authority

- H 3202 provides the ability, following approval by the governing bodies of six of its nine member jurisdictions, to levy a wide range of taxes and fees for transportation purposes. These taxes and sources are described in the “Taxing and Funding Authority” section.
- H 3202 also allows the authority to impose, collect, and set tolls on new or expanded transportation facilities.
- Subject to certain conditions specified in H 3202, to determine the use of the new taxes, fees and toll revenues.
- It is not clear whether the Northern Virginia Transportation Authority has condemnation powers (it has the authority to “construct or acquire, by purchase, lease, contract, or otherwise, the transit facilities specified in the plan.”)
- H 3202 provides the authority to issue bonds.

Williamsburg Transportation Authority

- Williamsburg has generalized powers for oversight of Williamsburg area programs involving public transit, congestion mitigation, priority setting and advocacy.
- It is not clear whether the Williamsburg Transportation Authority has condemnation powers (it has the authority to “construct or acquire, by purchase, lease, contract, or otherwise, the transit facilities specified in the plan.”)
- It is also not clear whether the Williamsburg Transportation Authority has bonding authority. (Its enabling legislation does not specifically provide it, but other legislation pertaining to authorities may provide the necessary authority).

Hampton Roads Transportation Authority

- Acquire, construct and operate, highways, bridges, tunnels, railroads, rolling stock, transit and rail facilities and other transportation-related facilities.

- H 3202 provides the Hampton Roads Transportation Authority the same condemnation powers as transportation districts (“slow-take” condemnation).
- H 3202 provides the ability to issue bonds in the same manner as transportation districts.
- H 3202 provides the ability, following approval by the governing bodies of seven of its 12 member jurisdictions that represent 51% of the population, to levy a wide range of taxes and fees for transportation purposes. These taxes and sources are described in the “Taxing and Funding Authority” section.
- H 3202 also authorizes the Authority to impose, collect and set tolls on new or expanded transportation facilities.
- Subject to certain conditions specified in H 3202, determine the use of the use of the new taxes, fees and toll revenues. The conditions, among other things, specify the initial projects to be undertaken.
- It is not clear whether the Hampton Roads Transportation Authority has bonding authority. (Its enabling legislation does not specifically provide it, but other legislation pertaining to authorities may provide the necessary authority).

Taxing and Funding Authority

H 3202, which was enacted in 2007, was intended to provide a number of tax and fee revenue opportunities for the Northern Virginia and Hampton Roads Transportation Authorities. This law was later invalidated by the Virginia Supreme Court due to the manner in which the taxes were enacted, and the Virginia Legislature has yet to act on a replacement bill. However, the sources that were initially approved do provide an indication of the types of revenue sources that could potentially be available to a Transportation Authority. These sources are listed in Table 5-1, and differed slightly for the two regions:

- H 2302 authorizes a 2% sales tax on motor fuels in the Hampton Roads region (this tax is already collected in Northern Virginia).
- The bill authorizes a 2% transient occupancy tax in Northern Virginia but not in the Hampton Roads area.
- The commercial real estate tax can be up to 40¢ per \$100 in Northern Virginia, but only up to 25¢ in the Hampton Roads area.

Table 5-1: H 2302 Funding Authorizations

	Northern Virginia Transportation Authority	Hampton Roads Transportation Authority
Region-Wide		
Sales Tax on Gasoline	-- ⁸	2%
Grantor's Tax (property transfer tax)	40¢/\$100	40¢/\$100
Motor Vehicle Rental Tax	2%	2%
Transient Occupancy Tax	2%	--
Safety Inspection Fee	\$10	\$10
Initial Vehicle Registration Fee	1%	1%
Sales Tax on Auto Repairs	5%	5%
Regional Registration Fee	\$10	\$10
Local Option		
Commercial Real Estate	Up to 25¢	Up to 10¢
Local Registration Fee	\$10	\$10
Commercial/Residential Impact Fee	TBD	TBD
Annual Revenue (millions)	\$200 - \$215	\$425 - \$445

In the Williamsburg area, the Williamsburg Area Transit Authority does not have any special taxing authority.

For the George Washington Region, the specific new revenue sources that could be available would be specified in the enabling legislation, and could potentially be some or all of those authorized in Northern Virginia and Hampton Roads.

Federal funding issues would be the same as with most other options. With the agreement of local jurisdictions and the approval of VDRPT, a new authority could become the designated recipient for FTA 5307 funds.

Expenditure/Funding Obligations

Expenditure decisions for Transportation Authorities are made by their Boards, which are configured as defined by their enabling legislations. As with most other institutional options, there would be less direct control by each individual jurisdiction than at present, but with a representative Board, expenditure levels and costs to individual jurisdictions should be set at mutually acceptable levels.

The relationship between a new George Washington Region Transportation Authority and VRE would likely be determined and defined by the Authority's enabling legislation. This could specify financial

⁸ A 2% sales tax on gasoline for transportation purposes is already levied in Northern Virginia.

commitments and limitations, and could determine whether the Authority or individual jurisdictions could withdraw from VRE.

Withdrawal

Enabling legislation for the three existing Transportation Authorities creates the Authorities, defines their membership and provides no means for withdrawal. Therefore, withdrawal would likely require new legislation.

The Authority and individual member jurisdictions would be able to withdraw from VRE in the same manner as with an expansion of PRTC and the development of a new transit district. Also as with those options, the withdrawing jurisdiction would remain responsible for financial commitments incurred while a member.

SUMMARY

Each of the six options would represent different approaches to providing transit service, and each would have different advantages and disadvantages (see Table 5-2). In summary:

- **Option 1, Status Quo:** The status quo will remain a viable alternative as long as the City of Fredericksburg continues to be willing to provide Regional service on behalf of the Counties. The City has all of the powers required to provide service within its own boundaries, and the Counties have the ability to exercise any needed powers that may be required for the provision of transit service within their own jurisdictions that they can exercise on behalf of the City. However, a significant drawback the status quo is that, as presently constituted, it is not well equipped to undertake the implementation of major new Regional initiatives such as the new services and transportation centers that will be funded by the HOT Lanes project.
- **Option 2, Separate Transit Systems for Each Jurisdiction:** Each jurisdiction has all of the powers required to operate its own transit service, and this option would provide the highest level of local control to each individual jurisdiction. However, most existing services operate in

Table 5-X: Summary of Governance Options

	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
	Status Quo	Individual Transit Systems	Expansion of PRTC	Transportation District	Service District	Regional Transportation Authority
Governance						
Policy level representation for all localities	No	Yes	Yes	Yes	Yes	Yes
Regional Perspective	No	No	Improved	Yes	Yes	Yes
Permits withdrawal from transit entity	Yes	Yes	Yes	Yes	Yes	Difficult
Could join VRE	Yes	Possibly	Yes	Possibly	Possibly	Probably
Permits withdrawal from VRE	Yes	Yes	Yes	Yes	Yes	Yes
Powers and Functions						
Construct, operate, and maintain transit	Yes	Yes	Yes	Yes	Yes	Yes
Construct, operate, and maintain other regional transportation modes	No	No	Yes	Yes	Yes	Yes
Construct & operate toll roads	No	No	???	Possibly	Possibly	Yes
Condemn property & Issue Bonds	Yes	Yes	Yes	Yes	No	Possibly
Revenue Generation						
Levy 2% gas tax	If desired via PRTC	If desired via PRTC	Required	via PRTC or Legislation	If desired via PRTC	Probably
Levy dedicated taxes	Limited	Limited	No	No	Property taxes	Wide variety

multiple jurisdictions. As the Region grows, its jurisdictions will likely become even more intertwined, and the operation of individual systems would complicate the provision of Regional services.

- **Option 3, Expansion of PRTC:** Fredericksburg and Stafford County are already members of PRTC, and through mutual agreement, PRTC could assume operation of transit service in those jurisdictions. Spotsylvania, King George, and Caroline Counties, either individually or collectively, could also join PRTC, in which case PRTC could also provide service in those counties. In addition, prevailing PRTC Board policy would require the Counties to also become members of VRE. They would also be statutorily required to levy the 2% motor fuels tax, which would be used to pay their local shares of VRE costs and would also be available for other transportation purposes.
- **Option 4, Transportation District:** A Transportation District would be a new legally-recognized agency that could be comprised of the City and Counties that would have all of the powers necessary to operate a regional transit system. It would not provide any new revenue opportunities, and would not require enabling legislation.
- **Option 5, Service District:** A Service District would be similar to a Transportation District and could be comprised of the City and Counties. A major difference, however, is that a Service District could generate additional revenue through the ability to levy higher property taxes within the service district. The development of a Service District would not require enabling legislation.
- **Option 6, Regional Transportation Authority:** A Regional Transportation Authority (RTA) would be the most “robust” of the alternatives in that it would provide for the widest range of options and would have the fewest limitations. It would be a true regional entity that could include the City and Counties. It would be a legal entity that would have all of the powers necessary to operate and expand transit service and facilities. In a similar manner as in Northern Virginia and Hampton Roads, an RTA could provide for the development of new dedicated transportation funding sources. The creation of an RTA would require a strong regional consensus and subsequent enabling legislation. The responsibilities of an RTA could be limited to transit, or they could be expanded to other transportation services and facilities, such as Regional roadway, and ridesharing/TDM.