

Sound Transit Board should be directly elected and accountable to the public

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Key Findings

1. The Sound Transit Board collects billions in taxes but is unaccountable to the public because its members are hand-picked by three county executives. Nine members of the 18-member board are controlled by the King County Executive.
2. This insider appointment structure insulates members from accountability to the public for cost overruns, broken promises, project mismanagement, and conflicts of interest.
3. Defenders of the insider system say the appointed members are already elected local officials, but this is inaccurate and misleading, because these officials are not directly elected by voters to the transit board.
4. Because members must be public officials in order to serve on the Board, there are serious, built-in conflicts of interest. The former Board chairman is also King County Executive and the head of King County Metro. It is not possible for the Executive to objectively serve the public interest and the conflicting agendas of both agencies.
5. Senate Bill 5001 (and its companion, House Bill 1029) would make Sound Transit fully accountable to the public with directly-elected Board members. The bill would promote democracy, end political conflicts of interest, give people a direct voice, and allow ordinary citizens to run for Board positions.

Introduction

In 2016, Sound Transit Board Chairman Dow Constantine and other Sound Transit Board members pushed hard for the passage of one of the largest rail-centric tax increases in the nation – Sound Transit 3 (ST3). As a result, they expect to collect \$54 billion over the next 25 years. The tax ballot measure passed with 58 percent approval in King County, a bare 51 percent approval in Snohomish County, and failed in Pierce County, with only 44 percent of people voting for the measure.

The great majority of the people who live in the Sound Transit taxing district do not use light rail or other Sound Transit services, but they have to subsidize it for the few who do.

Currently, members of the Sound Transit Board are appointed, leading to public concerns about political favoritism and conflicts of interest. To create greater public accountability, Senator Steve O’Ban and Representative Mark Harmsworth have proposed legislation to improve the Sound Transit governance structure by making members directly elected by citizens.

This paper analyzes the proposed legislation, reviews concerns about political abuse and accountability, and evaluates the importance of shifting power back to citizens.

Background

The regional transit authority known as Sound Transit is governed by a board of 18 appointed members, including the Secretary of the Washington State Department of

Transportation (WSDOT). Fourteen of these members are local elected officials who are hand-picked by just three people; the county executives of King, Pierce, and Snohomish counties. The majority (nine) of the board member appointments are controlled by one person; the King County Executive.

Major policy decisions about adoption of system plans (including the taking of homes and other private property), amendments, annual budgets, annexations, board composition, and hiring of an executive director require a two-thirds favorable vote.¹ Sound Transit Board members serve four-year terms.

Like any other legislative body, the Sound Transit Board meets regularly, is subject to transparency and open meeting laws, has taxing authority, and makes policy and budget decisions for the agency. Unlike a legislative body, however, the board is appointed and not directly accountable to voters. The practice of appointing board members to a powerful public agency, especially when most appointments are controlled by one person, shields Sound Transit officials from the direct accountability one might expect from a large government entity.

The problem: appointed officials lack accountability for the decisions they make as board members

Currently, citizens do not know whether or not their local representative will sit on the Sound Transit Board when the representative is first elected, a structural problem identified by the State Auditor in 2012. The Auditor noted that, “voters have no say regarding who will represent them and limited recourse if

they are dissatisfied with the decisions of the Sound Transit Board.”²

Opponents of a directly-elected board say the members are already elected to their local positions as councilmembers, mayors and county executives. To say they are elected Sound Transit board members is not accurate. They are only directly elected to their local offices, then appointed to the board afterwards.

More importantly, this does not create accountability because it is unlikely that a local official will be voted out of office based on his or her decision on a transit measure. Serving on the Sound Transit Board is just one of many roles an official may have. The official still has to make decisions that are entirely separate from work on a single board. If the board members of a regional taxing authority, like Sound Transit, were directly elected, voters could hold the members accountable for decisions specific to their role that affect people living in the board’s taxing district.

Political conflicts of interest

The special insulation created by the appointment process has resulted in Sound Transit Board members being selected for their political loyalty to the county executives who makes the appointments, rather than to their constituents. Over its 22-year history, very few members have challenged or criticized Sound Transit, and those who had the courage to do so, like former King County Councilmember Rob McKenna, were quickly removed from the Board.³

1 “Board appointments – Voting - Expenses,” Revised Code of Washington 81.112.040, effective date June 9, 1994, Washington State Legislature, at <http://app.leg.wa.gov/RCW/default.aspx?cite=81.112.040>.

2 “Sound Transit: Performance Audit of the Citizen Oversight Panel, Adjustments to Planned Investments, Construction Management and Ridership Forecasts,” Washington State Auditor, October 25, 2012, at <http://portal.sao.wa.gov/ReportSearch/Home/ViewReport-File?isFinding=false&arn=1008277>.

3 “Thank You Rob McKenna,” by Josh Feit, *Seattle Met*, July 20, 2009, at www.seattlemet.com/articles/2009/7/20/thank-you-rob-mckenna.

Furthermore, because members must be public officials in order to serve on the board, this can and has resulted in political conflicts of interest, as demonstrated by the former Sound Transit Chairman who is also the King County Executive overseeing King County Metro Transit. With a position on the Sound Transit Board, the Executive promotes Sound Transit's goal of expanding light rail. This presents a conflict of interest because the current light rail alignment has taken over many of Metro's most productive and efficient bus routes. It is impossible for the Executive objectively to represent the interests of both agencies without compromising or violating public trust.

Although Sound Transit officials insist they have checks and balances in place that provide enough public accountability, those checks and balances actually insulate the Board *from* the public, rather than increase accountability.

One supposed check is the 15-member Citizen's Oversight Panel (COP), which is hand-picked by the Sound Transit Board. In 2012, the State Auditor found many conflicts of interest both within the Board and its Citizen Oversight Panel, which was packed with former board members and individuals who worked for companies that profited from Sound Transit contracts.⁴

One COP member was a Sound Transit Board member in the 1990s and seven members had submitted letters of interest to the Board that focused on their support of Sound Transit's mission rather than any interest in the oversight function of the COP. It is no surprise then that panel members were found to have participated in "highly visible" pro-transit political advocacy, which

raised questions about their ability to be objective and ethical.

The audit also found that the panel acted more in an advisory role rather than as an oversight committee. In 2008, Sound Transit's former CEO stated, "[The] COP's role has clearly been oversight and if members want to change that in ST2, they can recommend it; however, there is the danger of losing [the] COP's *perceived independence*" [emphasis added].⁵

The members of the unelected COP often focus on policy, a role that voters never approved, rather than measuring Sound Transit's performance in meeting commitments the board made to the public. The Auditor noted that the COP "occasionally treated Sound Transit's commitments as policy areas that should be revised versus promises that should be kept."⁶

As a result of the composition of the appointed panel by the appointed board, the COP does not contain any substantial diversity of views on Sound Transit ballot proposals like 2016's large ST3 tax measure.

In defending themselves, Sound Transit officials frequently cite financial audits and quarterly reviews by the Federal Transit Administration (FTA). However, these audits only measure whether or not financial statements are accurate. They do not measure whether the agency is being effective in managing finite tax dollars and are keeping their promises. The public, not auditors, should judge the management of Sound Transit. A directly-elected board would allow voters to do just that.

4 "Sound Transit: Performance Audit of the Citizen Oversight Panel, Adjustments to Planned Investments, Construction Management and Ridership Forecasts," Washington State Auditor, October 25, 2012, at <http://portal.sao.wa.gov/ReportSearch/Home/ViewReport-File?isFinding=false&arn=1008277>.

5 Ibid.

6 Ibid.

Broken promises

The politically protected nature of Sound Transit's appointed board has resulted in numerous broken promises with no real recourse for the voters.

For example, when Sound Transit officials wanted voters to expand the regional public transportation system in Sound Transit 2, they told voters that with the new expansion, light and commuter rail would carry 310,000 passenger trips per day by 2030.⁷ Voters agreed and raised sales taxes in 2008. Later the public learned that passenger rail would only carry about 164,000 trips per day, half of what Sound Transit officials told voters.⁸ Yet Sound Transit officials kept the money they gained from higher taxes and voters were effectively disenfranchised, because they could not vote any of the members responsible for the broken promise off the Sound Transit Board.

More recently, Sound Transit officials promised that Seattle and Tacoma light rail together would carry 32.6 million trips per year, or 107,000 per weekday, by 2010.⁹ The public learned that as of October 2016, Seattle light rail had an average weekday ridership of only 68,387 and Tacoma Link ridership was just 3,617 per day.¹⁰ Together, these two light rail lines provide about 72,000 trips per weekday, which is only 67 percent of what

taxpayers were told these lines would provide seven years ago in 2010.

The solution: shift power to citizens

Proposed Senate Bill 5001 (the companion bill is House Bill 1029) would create a Sound Transit Board with 19 accountable, directly-elected, non-partisan members.¹¹ The Secretary of the Washington State Department of Transportation would continue to serve as a nonvoting member.

The bill resolves conflicts of interest by providing that the board members would not be able to hold any other public office and would be elected from 19 districts with nearly equal populations "in accordance with the one person, one vote principle."¹² A five-member districting commission from each of the five subareas, appointed by the governor, would define the boundaries of the 19 districts. The districting commission would then be reappointed every decade as new census data becomes available.

This proposed arrangement would have the added benefit of allowing ordinary citizens to serve on the Sound Transit Board, which would facilitate a more collaborative approach to future decisions. Residents within the Sound Transit district would gain much-needed oversight of an agency that has shown a pattern of disrespect to voters by overpromising benefits, underestimating costs, and unilaterally reducing the scope of their services without a public vote.

7 "Mass Transit Guide: The Sound Transit 2 Plan," Sound Transit, 2008, at www.washingtonpolicy.org/library/docLib/stinfomailer10-08.pdf.

8 "Transportation 2040, Chapter 4 Transportation," Puget Sound Regional Council, March 2010, page 71, at www.psrc.org/assets/3677/04-Transportation.pdf.

9 "Sound Move – Appendix C: Benefits, system use and transportation impacts of Sound Move," Sound Transit, May 31, 1996, at www.soundtransit.org/sites/default/files/documents/pdf/news/reports/sound-move/199605_soundmove_appendixc_benefits.pdf.

10 "Sound Transit Operations: October 2016 Service Performance Report," Sound Transit, October 2016, at www.soundtransit.org/sites/default/files/20161201-october-2016-service-performance-report.pdf

11 Senate Bill 5001, Washington State Legislature, introduced December 5, 2016, at <http://lawfilesex.leg.wa.gov/biennium/2017-18/Pdf/Bills/Senate%20Bills/5001.pdf> and House Bill 1029, Washington State Legislature, introduced December 8, 2016, at <http://lawfilesex.leg.wa.gov/biennium/2017-18/Pdf/Bills/House%20Bills/1029.pdf>.

12 Senate Bill 5001, Washington State Legislature, December 5, 2016, at <http://lawfilesex.leg.wa.gov/biennium/2017-18/Pdf/Bills/Senate%20Bills/5001.pdf>.

Directly-accountable boards in other states

Two examples of large, multi-county regional transit districts with accountable elected boards are the Regional Transit District in Denver and Bay Area Rapid Transit (BART) in San Francisco.

The Denver Regional Transit District Board of Directors is governed by 15 directly-elected members who serve four-year terms. The members include a director of a transportation management association as well as a real estate consulting firm, a health care consultant, a public relations expert and musical instrument dealer. Also serving on the board are a former transportation planner and employee of an electric and natural gas utility supplier, an architecture and cognitive science expert who is also blind and permanently transit-dependent, a former mayor and councilman, an urban planner, and others.

The BART Board of Directors is comprised of nine members from nine districts. They serve four-year terms.¹³ These elected members include a former mayor and probation officer, a public transit advocate and governmental affairs manager, a former chair of a transit watchdog committee, a former BART safety specialist and chief officer of a fire department, a retired engineer, a civil rights and racial justice executive, and a renewable energy power plant entrepreneur.

Neither transit agency is perfect, of course, but their boards of directors honor voters by allowing the people a choice in board composition. As a result, members of both transit boards face election every four years and run the healthy, democratic risk of being removed from the board for

13 "BART board: Trust trumps system's aging infrastructure in 2016 election," by Erin Baldassari, Bay Area News Group, at www.eastbaytimes.com/2016/10/25/bart-board-trust-trumps-systems-aging-infrastructure-in-2016-election/.

system delays, unreliability, and errors in management caused by the decisions of the transit board.

Conclusion

The state of Washington has long had a reputation for clean, honest local government. That image is put at risk when a powerful and well-funded public agency like Sound Transit is controlled by the political allies of three country executives, and when the majority of its board members are personally appointed by one elected official.

A directly-elected Sound Transit Board, as proposed by Senate Bill 5001 and House Bill 1029, would create a significant public benefit for the people of Washington state, especially since Sound Transit is now set to collect an amount of money that is over three times the size of the state's two-year transportation budget.

This change is supported by Governor Gary Locke's recommendations in the 2000 Blue Ribbon Commission.¹⁴ This was also echoed by Regional Transportation Commission's (RTC) co-chairs, former Seattle mayor Norman Rice and business leader John Stanton, in the RTC's final report to Governor Christine Gregoire in 2006. The report promoted a directly-elected model for the transit authority, that would be "nonpartisan and have an independent authority, such as the Washington State Redistricting Commission, to establish and maintain boundaries."¹⁵

14 "The Blue Ribbon Commission on Transportation," Washington State Legislature, November 29, 2000, at <http://leg.wa.gov/JTC/Documents/BlueRibbonCommissionFinalReport.pdf>.

15 "Regional Transportation Commission Final Report," Puget Sound Regional Transportation Commission, December 31, 2006, at www.bettertransport.info/cats/RTC.pdf.

A new governance structure for Sound Transit would reduce favoritism and special interest influence, be more democratic and would enable citizens to have a greater voice and equal representation on the Board. For these reasons Senate Bill 5001 and House Bill 1029 represent good public policy that would promote ethics and enhance Washington's reputation for clean and honest local government.

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