

**Making Self-Help Infrastructure Finance Regional: Promises
and Perils of a Multi-Jurisdictional Approach**

By

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Dedication
To my family

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Abstract

In recent decades, Congress has failed to raise transportation revenues to keep pace with inflation and growth in traffic volume. Insufficient funding for transportation programs has induced many local governments to fund new road and transit infrastructure themselves, using ballot initiatives known as local option transportation taxes. While localized taxing decisions have become more politically expedient than raising federal and state motor fuel taxes, local funding comes with inherent drawbacks for developing regional transportation, which crosses into multiple taxing jurisdictions. This creates a potentially serious impediment to dealing with crucial problems like air quality, job access for the economically disadvantaged, and promotion of economic growth. In response, some regions have chosen to make local funding decisions using multi-jurisdictional, rather than local, taxes. These places have voted across an entire region, allowing them to develop comprehensive, systemic solutions to transportation problems.

This study identifies barriers to the implementation of regional self-help strategies, and approaches that have worked in overcoming them. Using interviews and archival evidence, this study examines seven cases in Atlanta, the San Francisco Bay Area, Seattle, and Denver, focusing on how state authorizing legislation shaped each process. This study develops a typology of multi-jurisdictional transportation funding mechanisms and identifies appropriate state and local policy approaches for situations that vary according to features of the authorizing legislation.

The political cost of developing a multi-jurisdictional option tax can be reduced by the existence of robust regional policy making institution, though these rarely exist in U.S. regions. The cost may also be lowered by permissive legislation. Such legislation can lift a major political obstacle to regional funding initiatives but can also make local collaboration more costly due to absence of legislation forcing rival jurisdictions to cooperate. Nevertheless, both possibilities are much less costly than the lack of any pre-approved authorizing legislation. This situation requires special legislation for each tax measure, which can result in elevated influence by state legislators in developing the transportation plan, and difficulty repeating the process.

Chapter 1: Multi-Jurisdictional Option Taxation:

The Problem and the Theory

Chapter 1 Summary:

This chapter describes the localization of transportation funding that has resulted from stagnating federal transportation funding, and illustrates how disjointed local funding structures can result in a fragmented transportation system. The chapter discusses local option taxes as an important driver of this fragmentation—taxes decided one jurisdiction at a time, often by putting the question to voters whether they would be willing to fund a proposed infrastructure improvement plan. Local referendums of this sort can be politically expedient for politicians, because they shift the responsibility for politically difficult decision making to the electorate. Yet they also incentivize local decision planning, making multi-jurisdictional infrastructure planning a serious challenge. This research expands the discourse on local option taxes to identify potential solutions to these taxes' inherent localism. It focuses on multi-jurisdictional approaches to local option taxation, in particular, cases that have employed local option taxes across multiple jurisdictions in a single ballot initiative. These cases remain relatively unstudied, but hold the potential to maintain local option taxes' political advantages, while providing a way to fund cross-jurisdictional infrastructure needs. This study assesses multi-jurisdictional option tax processes across four U.S. regions, in order to identify benefits and costs of using the multi-jurisdictional self-help finance approach to funding future transportation infrastructure.

This chapter defines terms that are critical to the discussion in later chapters, especially *pre-authorization* versus *special authorization* of state enabling legislation for holding regional tax votes, as well as *permissive* versus *prescriptive* legislative language. These concepts will define the parameters under which the local or regional tax proposal is constructed, as well as the likelihood that voter approval can take place across multiple jurisdictions at once. The chapter provides an overview of specific prescriptive factors of legislation, which are considered important for the policies examined, including taxing instruments, the tax rate to be imposed, the timing of the election process, the geography of local jurisdictions to be included in the vote, and the process for selecting projects to be proposed. This chapter discusses the difficulty of overcoming the aforementioned prescriptive legislative provisions, and the challenge of lobbying for state enabling legislation as part of the process of proposing a multi-jurisdictional tax.

Introduction: Localization of Transportation Funding

In Southern California, anyone driving from Orange County to Los Angeles will notice a persistent bottleneck at the county line. This is where Interstate 5 constricts from a 12-lane superhighway to a modest eight-lane freeway, in obvious need of repair. Almost 20 years after Orange County voters elected to raise taxes to double the size of their road, Los Angeles County is only just beginning to add a single lane. Transit riders from Los Angeles to Orange County will notice something similar, as they cannot take the Los Angeles Metro system's new light rail routes past the county line. These two counties have failed to coordinate their divergent transportation systems and differing priorities—Los Angeles favoring transit, and Orange County, roads.

This is what can happen when funding decisions for regional infrastructure like transportation are left up to local governments with no incentive to coordinate their policies. In

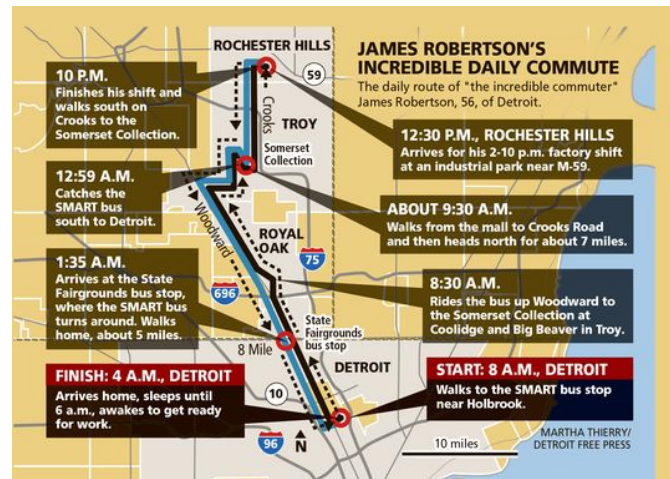
the absence of adequate federal and state funding for new infrastructure, each county's electorate has passed its own local sales tax increase, with different plans and incompatible priorities—65% of the money in Los Angeles going to transit, while 75% of the money in Orange County is going to roads (OCTA, 2015; LAMTA, 2010). This does not prevent the two counties from coordinating their operations. However the creation of separate funding streams with inconsistent funding levels, and different priorities, incentivizes inward-looking intra-jurisdictional infrastructure development over the construction of cross-jurisdictional infrastructure.

Funding strategies can have real impacts for citizens, as illustrated so prominently by a recent news story about a Detroit man who spent four hours traveling 21 miles to work due to excessive poorly coordinated transfers from one county to the next, and the lack of bus service in cities that had opted out of the system (Laitner, *Detroit Free Press*, February 10, 2015). As in Southern California, local taxation supported separate agencies with little incentive to serve one another's area.

While many communities in the United States have long funded a number of local services, dependence on local 'self-help' funding has grown in recent years due to a weakening federal commitment to transportation funding. Local funding sources, often referred to as *local option taxes*, have made it possible to fund large new infrastructure projects needed by fast-growing metro regions, even as federal funding has not risen sufficiently to cover growing maintenance costs and demand for new projects. Yet local option taxes raise important issues over whether people paying the taxes will benefit from new roads or transit, especially when sales taxes are used (Goldman et al., 2001a: 22). Local option taxes are tinged in politics, to a much greater extent than transportation planners are accustomed to, due to their reliance on local elections for approval. And local taxes have raised important questions over their long-term

viability as a transportation funding source, especially because they often fail to include necessary maintenance of existing projects, in favor of new projects for which politicians can take credit (Hess & Lombardi, 2005: 143).

Figure 1.1: Local Funding Can Fragment Infrastructure



Detroit Free Press, February 10, 2015

Furthermore, local option taxes provide an incentive for local planning of the type illustrated in Southern California and Detroit (above), making them a poor choice for resolving a number of challenges like air quality, job-housing imbalances, isolation of distressed inner city areas from regional labor markets, employer access to larger and more diverse job markets, and, conversely, access to expanding and constantly changing regional job markets by the disabled, the elderly, and others unable to drive. All these policy challenges require regional solutions, and integrated regional transportation systems to facilitate their implementation. Obstacles to coordination may arise unintentionally, simply from differing local priorities, different tax rates across jurisdictions, and separate planning processes, since each jurisdiction's voters usually approve a separate list of proposed projects.

Given the reluctance to raise taxes for new federal transportation funding, local option taxes should continue to be a key finance mechanism in the coming decades. Yet it is an open

question how well local option taxes can incorporate regional planning into their framework. All these taxes require state authorization, and legislation defines the features of each local option tax process. This requires a deeper look into this legislation, the way different legislative elements shape the local/regional process for developing each plan, and the politics at both state and local/regional levels. *This dissertation examines seven processes in four regions, and focuses on local option transportation taxes conducted across several jurisdictions, in order to identify legislative approaches that resulted in particular benefits and costs at the state and local/regional levels.* This research should help identify the obstacles to using these processes more universally for regional infrastructure needs, and it contributes to existing literature in four ways. These include, first, the expansion of existing local option tax literature into a regional context; second, a better understanding of the funding and legal structures that support regional governance; third, a better understanding of the laws and financial resources that can influence the collaborative planning process, as well as the role a political ‘champion’ might play in local option taxes and collaborative planning processes under different circumstances.

The Rise of the Local Transportation Funding Regime

Infrastructure planning can produce nothing without funds, and strategies for ensuring financial resources require attention to local politics due to increasing insecurity of the funding model for the Interstate Highway System over the last couple decades. In particular, the motor fuel tax funds a large proportion of federal transportation programs, and growing fuel efficiency has reduced the amount of gasoline used per mile driven. Rapid inflation in the 1970s further reduced fuel tax collections,¹ while maintenance costs for an aging Interstate Highway System have increased (Goldman, 2003: 30), and demand for new infrastructure has risen. This situation

¹ The motor fuel tax has not kept pace with inflation because the tax is charged by volume of gasoline sold, rather than by percentage of the price (ad valorem), which would adjust to inflation automatically.

has long demanded Congress raise the fuel tax rate. But this has rarely happened, due to politicians' fear of being perceived as having 'raised' taxes—though, in real dollars, tax rates have actually declined steadily over time (Wachs, 2003a: 235).

These long-term trends were compounded by deliberate and substantial federal cuts in transportation funding during the 1980s, which had an especially acute impact on public transit funding, cut 20% in 1982 alone. Congress cut funding for transit operations entirely in 1998, and in the same year, the Federal Transit Administration (FTA) changed its guidelines to reduce the federal matching share for new locally proposed projects from 80% to 60%.² The federal government further encouraged local contributions to new infrastructure by making the stability and commitment of local funding sources a key criterion in their process for selecting projects for federal funding (Weiner, 1999). Thus it is not surprising that state and local efforts to improve their transit systems ensued, and, the federal share of funding for public transit has generally dropped over time (Hess & Lombardi, 2005: 141).³

The situation for highways has been one of weakening federal commitment as well. The last time Congress raised the motor fuel tax was in 1993. Since the early 1990s there have been many Congressional hearings and conferences by transportation experts on what to do about the declining fuel tax, but Congress has had little political appetite to raise taxes. Congress has sought a host of other solutions, primarily focused on tolling, public/private partnerships, and increased state and local funding (Weiner, 2013).

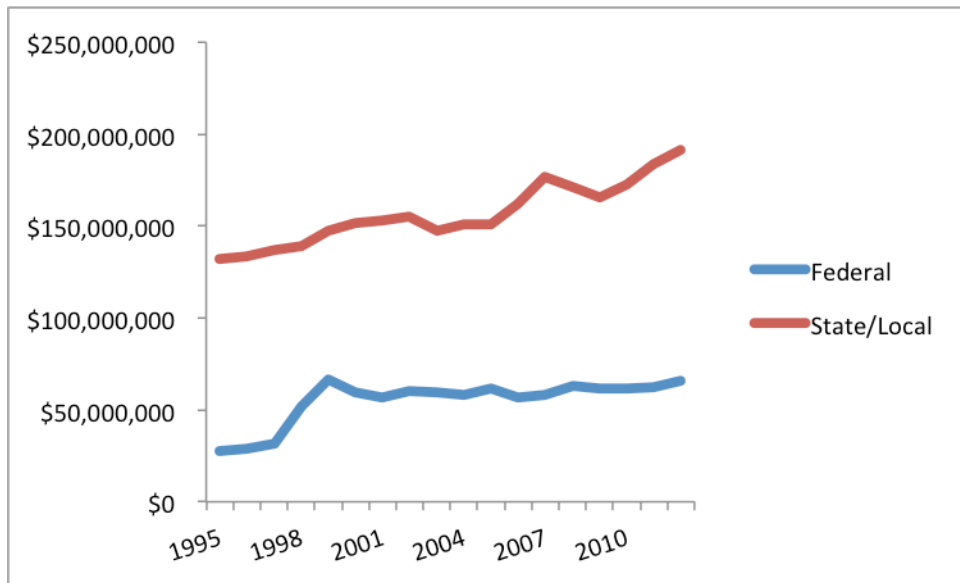
Federal money has largely stagnated in real dollars since the late 1990s (Figure 1.2), and in recent years, political disagreement over how to fund transportation has grown so controversial that Congress changed from the usual seven year renewal of the transportation bill

² This program provides money for building new public transit infrastructure projects (Hess & Lombardi, 2005).

³ While the dollar amount, in real dollars, rose, so did total expenditures, making the federal share decrease (Figure 1.2).

to a two year extension (Weiner, 2013). And by 2015, Congress was approving stopgap extensions for months at a time, increasing concern about the long-term viability of the system (Laing, 2015).

Figure 1.2: Transportation Revenues by Government Level (Thousands of 2009\$)



Bureau of Transportation Statistics, 2014: Table 10B

The figure reflects a rise in federal transportation revenues in the 1990s, due to a rise in the fuel tax approved in 1993, and a budget compromise in 1997, redirecting fuel tax monies toward transportation uses, which had previously been designated for deficit reduction. Following this rise, federal revenues dropped, and then stagnated, while state and local sources have risen (DOT 2015).

Uncertain and inadequate federal funding for new transportation projects, regardless of mode, has induced many local governments to fill the void by funding new transportation projects themselves, often through transportation taxes approved directly by local voters (Hess & Lombardi, 2005; Goldman, 2003; Goldman and Wachs, 2003; Wachs, 2003). Local funding brings certain advantages like letting the people who will use the system have a greater voice in its development. However increased local decision making has also exposed regional infrastructure plans to many new challenges from cross-jurisdictional disagreements, and other

parochial issues that federal transportation funding has bridged for half a century. Consequently, this raises important questions about the delivery of cross-jurisdictional projects if local sources continue to be a regular feature of the transportation funding regime.

The Challenge of Local Funding

Local governmental structures are not particularly well equipped to provide robust multi-jurisdictional services in the absence of federal or state money, making it necessary to examine multi-jurisdictional funding models. Following federal reductions in financial support for Metropolitan Planning Organizations (MPOs) and Councils of Governments (COGs) in the 1980s (Goldman, 2003: 15), state governments might have decided to compensate for the lost revenue, since historically, they have provided more transportation money than the federal government. However when faced with the political difficulty of raising their own fuel taxes to compensate for federal losses (Crabbe et al. 1995), many states have instead favored allowing local governments to tax themselves. Many local governments have, out of necessity, funded their own infrastructure improvements using local option transportation taxes (LOTTs). This is a form of funding decided at the local level, often by referendum, which shifts much of the political responsibility over funding decisions from politicians at upper levels of government to voters in each local area, usually for a specific period of time and a clear list of projects. Researchers have developed a concise three part definition, describing LOTTs as “...a tax that varies within a state, with revenues controlled at the local or regional level, and earmarked for transportation-related purposes” (Goldman and Wachs, 2003: 21). Since these taxes are developed and approved at the local level, local jurisdictions, and local voters, often control the use of the money. This can have a profound impact on regional plans, especially in regions where most counties or cities have approved a LOTT. Nominally, such regions will still have to

approve a federally required Regional Transportation Plan (RTP) every five years, which directs allocations of federal highway funds towards projects intended to support a number of regional goals. However in regions with many LOTTs, a large portion of the money will come from local taxes, rather than coming down from higher levels of government. Furthermore, these taxes and intended uses will vary, and they may or may not be well coordinated with each other. Of course, the Metropolitan Planning Organization (MPO) responsible for developing the RTP will continue to develop a regional planning document, but it becomes a conglomeration of projects previously approved by voters in each local jurisdiction, rather than an integrated regional plan (Goldman, 2003). This has led to significant gaps in developing transportation connections across jurisdictional lines. For example, past research in the San Francisco Bay Area found a number of key regional projects went unsupported by county local option taxes, because local decision makers shied away from projects that crossed the county line (Goldman 2003).

Conversely, multi-jurisdictional versions of LOTTs offer a tool to overcome inter-jurisdictional service gaps, and previous research has identified projects passed over in single-jurisdictional tax initiatives, that were funded by multi-jurisdictional ones (Weinreich, 2015: 17). Inevitably, not all regions will use multi-jurisdictional option taxes, referred to in this study as MOTTs, to the same effect. And, as with any decision making process, the results depend greatly on factors like negotiations and popularity with voters, but greater knowledge about how such measures operate should identify obstacles preventing them from being more effective, and this should make it easier for more regions to attempt MOTTs in the future.

Some regions have already tried this route, either instead of, or in addition to, single-jurisdiction option transportation taxes, and the incentives for doing so have only grown greater over time, as federal and state politicians both try to devolve tough decisions on raising taxes to

lower levels of government. Lost in this political drive to move decision making closer to the voters is what to do about multi-jurisdictional infrastructure. Multi-jurisdictional option tax measures offer, at least the possibility for developing regional infrastructure in a funding process dependent on self-funded transportation and other services.

In theory, multi-jurisdictional measures could offer the promise of better coordination from one jurisdiction to the next, while preserving potential advantages of single-jurisdiction measures, like support for local decision making, ability to avoid federal funding restrictions, and the possibility of bringing a wider range of politically active local interests into the planning process (Goldman, 2003: 7). This can include citizen groups, those who depend on public transit, business interests, unions, and others who might have a strong interest in ensuring the transportation system meets their needs—a goal that technocratic planning, complying with federal guidelines, might easily pass over. For example, disability advocates might be especially concerned about the precise location of a stop, and its ability to connect with surrounding services, or environmental communities might be concerned about a proposal that focuses on roads, but not transit, while businesses might want to ensure that the system serves the region's airport—concerns that may be reflected in ridership numbers and other indicators, but would be improved with more substantial community inclusion when developing the plan. However use of MOTTs has been limited in most U.S. regions, and a better understanding of their development process is needed to shed light on why that is the case.

Policy Role of Multi-Jurisdictional Taxes

Past MOTTs have allowed regional agencies, or a collection of local governments, to develop a plan for transportation improvements for their region, and to offer voters the option to support the plan with higher taxes. Historically, multi-jurisdictional elections on whether to

support a transportation plan through higher taxes have seen sporadic use for large proposals, including a three-county 1962 measure to support the Bay Area Rapid Transit system, and measures in 1980 and 1983 to support the Dallas Area Rapid Transit light rail system. Multi-jurisdictional tax votes have occurred in at least ten U.S. regions since 1980 (See Table 4.4 for a full list), including the San Francisco Bay Area, Denver, Atlanta, among others.⁴

A number of agencies have used regional measures to build ambitious, cross-jurisdictional transportation projects that were not possible using single-jurisdiction measures. For example, this study will further discuss a 2008, three county measure, in the Seattle metropolitan area (Chapter 7). Not only was this a large proposal, at over \$12.5 billion,⁵ and funding an extensive light rail system, but this proposal was able to focus on routes that cross local jurisdictional lines. These cross-county routes would have been far more challenging with a series of single-county measures. Similarly, in the San Francisco Bay Area, policy makers included many crucial regional transportation links in a 2004 bridge toll increase proposal (Chapter 5), many of which had gone unfunded by the area's numerous single-county tax measures (Goldman, 2003). Most startlingly, these projects included many public safety measures like the seismic retrofitting of the Bay Area Rapid Transit (BART) system's Transbay Tube, which is an essential link between San Francisco and the rest of the Bay Area, but had not been a priority for county-level local option tax measures (Weinreich, 2015: 17).

Challenges of Multi-Jurisdictional Election Processes

While multi-jurisdictional option taxes offer a framework for supporting regional infrastructure, they are very challenging to develop, as is most regional policy making, and require a great deal of collaboration across numerous local jurisdictions. This requires not only

⁴ Vancouver, British Columbia recently became the first Canadian region to attempt a multi-jurisdictional transportation measure, though it did not succeed (Bula, *Globe and Mail*, July 2, 2015).

⁵ The lifetime budget for the program, as of the most recent financial estimate (Sound Transit, 2015: 12).

political agreement for the betterment of the region, even when this might not be in the best interest of each jurisdiction involved, or when money collected in one jurisdiction must be spent in another part of the region in order to develop regional connections. The overall region might benefit, but the local jurisdictions with high tax collections might want to protect their own control of the decision making.

State legislation authorizing multi-jurisdictional processes has the potential to overcome or minimize the local jurisdictional cost-benefit calculation associated with the decision to participate politically, or to contribute local money to a regional system. This could be an important advantage over local option taxes, and collaborative processes that local jurisdictions can easily opt out of. On the other hand, if state legislation authorizing MOTT measures is written in a very prescriptive manner, it may add challenges for locals to comply with the state legislation, making it less attractive to conduct a regional process. The costs imposed by state legislation differ primarily along two dimensions (Figure 1.3), which are further examined in the coming chapters. These include whether the process was authorized before it began, and the factors that might constrict local decision making.

The State Role in Local/Multi-Jurisdictional Decision Making

Authorizing a MOTT process before it begins may have an important role in affecting how politically costly the process is to pursue. It is incumbent on state governments to authorize any local elections, and multi-jurisdictional tax referendums are no different. In the U.S. legal system, local powers are vested with the state government, and state governments delegate this power to local governments like cities, counties, and regional entities through what is known as *state authorizing legislation*. As of the most recent count, 37 states had authorized some kind of local option tax election process (Goldman et al., 2001), and almost all of these were single-

jurisdictional. By contrast, this study only found nine states that had authorized multi-jurisdictional tax elections in the years since 1980 (Chapter 4).⁶ In most regions, policy makers must go through the legislature to initiate a multi-jurisdictional tax process, since there is no state legislation authorizing it in advance. If multi-jurisdictional processes are to be used more frequently to resolve regional infrastructure needs, it is essential to understand the impact that lack of previous authorization, and other legislative features might have on the potential for a multi-jurisdictional proposal to move forward, and the process of developing one.

Authorizing legislation can be *pre-authorized*, meaning the legislation exists well before the process begins. A closely related concept is legislation that provides *blanket authorization*, with no sunset clause, which allows the region to conduct a new ballot initiative at any future date, without bringing the issue back to the legislature for consideration. Blanket authorization may be especially helpful in ensuring local governments can select the election cycle most conducive to their changing local political circumstances. And this may also provide for the possibility of a revote, should the measure fail the first time around. On the other hand, a process that has not received pre-authorization or blanket authorization requires a new bill in order to conduct, and is referred to in this study as *special authorization*. Since a special bill requires resources and time, this is, potentially, a situation adding great political costs, but also the prevailing circumstance in most U.S. regions and states today.

Prescriptiveness

A second dimension from which to analyze multi-jurisdictional legislation is the prescriptiveness of its language. The difference between *prescriptive* and *permissive* legislation refers to a number of features that could potentially reduce or expand local autonomy to make decisions once the process begins. For example, specific features like an election date or choice

⁶ California, Colorado, Georgia, Ohio, Oklahoma, Michigan, Virginia, Washington State & Texas.

of jurisdictions to be included could have a profound effect on the contours of the process, and it may be very important whether these details are decided at the state capitol, or left to local leaders. Identifying where a particular piece of authorizing legislation falls along the continuum requires one to specify the factors that make a process prescriptive or permissive. This is necessary because it is not possible to speak in absolute terms. Indeed, by virtue of allowing a tax vote, the legislation is permitting *something*, even if it has many restrictions. However a relatively permissive process leaves important decisions to local and regional policy makers.

Figure 1.3: Dimensions for Evaluating MOTT Legislation



*Defined here as legislation not written expressly for the local election process examined.

** Defined here as legislation with no sunset clause for the tax vote, allowing it to occur again without another legislative approval.

*** Defined here as legislation authorized expressly for the single process examined.

One could imagine the very most restrictive process being one not authorized at all, leaving all decision making with the state by default. However, this study focuses on the features of each process that facilitate or hinder its progress by examining the nuances of processes that sub-federal governments attempted to initiate, especially the collaborative process of developing the proposal that was offered to voters.

Some key types of prescriptive features observed in later chapters include limitations on taxing instruments and tax rates to be imposed, timing of the election process, geography of local jurisdictions to be included, the process for selecting projects, and the voting process (Table 1.1),

all of which can influence the process in important ways, and provide factors to compare the level of prescriptiveness of several legislative bills, as this study does in Chapter 9.

Table 1.1: Elements of Prescriptiveness

Factors Explored
1. Taxing instruments
2. Tax rates to be imposed
3. Timing of the election process
4. Geography of local jurisdictions to be included
5. Process for selecting projects
6. Voting Process

Promises and Perils of the Legislative Features

The form of legislative authorization (i.e. pre-authorized versus blanket authorized), as well as the prescriptiveness of the legislation can result in both political benefits and costs, which may differ at the state versus the local levels. For example, pre-authorized legislation may significantly reduce the cost of beginning a new proposal, a benefit for local policy makers. However it could also reduce state leverage over the process or result in approval of new taxes at a time inconvenient for state politicians, which, for them, would be a concern. And, since there is no guarantee that local politicians will ever initiate a process authorized by the state, legislators may worry that without strong deadlines, there is no way to ensure the process ever reaches completion—a concern that may be even more poignant in regions with a history of cross-jurisdictional discord.

Similarly, each factor of prescriptiveness may come with advantages and disadvantages for state leaders and local ones, which are not necessarily the same. For example, it might benefit local and regional leaders to have flexibility over the *choice of taxing instrument*. Some taxes, like a sales tax, might be more popular with voters in a particular region, and their decisions might be strongly influenced by local polls. However state leaders may be reluctant to offer too

many choices, or may want to ensure that tax instruments do not take away from state and local funding sources.

Similarly, the *timing of the election process* is an important decision that can influence the outcome, and local/regional leaders will want to have the option to choose an election cycle when the tax is doing well in the polls, and appears likely to pass. Legislation that prescribes the election cycle may make it difficult for the measure to pass. However for state politicians, choosing the election cycle may ensure local governments do not abuse the privilege of permission to hold a tax vote, and may ensure that election times do not conflict with state leaders' own political campaigns.

For similar reasons, one can imagine that flexibility concerning the *selection of projects* is very important to local/regional policy makers, and potentially important to the outcome of the proposal. But it may be a risk for state politicians to grant flexibility on this matter to local and regional governments, who might make choices that conflict with state politicians' own agendas, incentivizing them to impose strict guidelines for selecting projects, or even select them directly in the legislation—solutions that may be problematic for regional policy makers.

The Legislative Process and Impacts of the Legislation

It appears that the lack of authorization has hindered the development of MOTT processes, as has prescriptive legislation. This dissertation will try to answer how different legislative features can be beneficial or costly to the process, and focuses, especially, on the role of the policy entrepreneur, or as this character will be called in this study, the *boundary-spanner*, due to this agent's role in developing collaboration across jurisdictions, while initiating and leading MOTT processes. The boundary-spanner's role may become less vital if a process is authorized well in advance, which could be a key factor in ensuring that these processes can

begin and repeat themselves without depending on a single politician, thus reducing the cost of initiating a new process, and ensuring repeatability. Furthermore, this study will examine whether the boundary-spanner was needed to lobby in favor of a more permissive process, better suited for the local political environment. This study will examine ways that permissive language facilitated or hindered that process, and the boundary-spanner's role in lobbying for new legislation. This might be especially important in cases requiring special authorization, where the boundary-spanner's relationship with legislators could determine the success of legislation designed to reduce the local/regional costs of undertaking a MOTT process. Potentially, anything that limits the number of people or organizations able to act as successful boundary-spanners could be a limitation on the ability to conduct MOTT processes, for example, if only a few well-connected politicians are interested in initiating a multi-jurisdictional option transportation tax process.

MOTTs Versus Other Regional Funding Solutions

Faced with a need to fund regional infrastructure, despite pressure to fund it locally, some regions have chosen to use multi-jurisdictional option taxes to fund large infrastructure proposals. However academics have yet to study them. There is no guarantee that MOTT processes are sufficient to overcome the problems associated with LOTTs. However other options for providing cross-jurisdictional projects are woefully inadequate. States are rarely interested in funding a large collection of regional projects because they also need to fund projects in other parts of the state. Overreliance on state funding also ties the program to continual state political battles over funding levels. On the other hand, local funding often results in poor coordination across jurisdictions. MOTTs offer perhaps the best possibility for a coordinated system that preserves local/regional autonomy in decision making. And it fulfills

the call by federal and state politicians for greater devolution of decision making over funding. Thus, this study does not recommend MOTTs as the *only* way to overcome jurisdictional barriers in transportation funding, but, rather, as an important tool that many regions are likely to need in the current funding climate. However the concept of self-help necessitates that each region will choose the best multi-jurisdictional funding model for its circumstance. And in cases with very high levels of inter-jurisdictional division, like in a multi-state region, or a region with longstanding discord between jurisdictions, MOTTs may call for more cross-jurisdictional cooperation than is feasible. On the other hand, in regions with extraordinary state-level interest in providing services, or few jurisdictions, cohesiveness might be so great that MOTTs are not needed. However in most regions, MOTTs will be needed in order to ensure a cohesive plan in the self-funding era.

Outline of This Study

This study examines seven regional processes in four regions, to learn more about what has helped or hindered them, and the role of state enabling legislation in shaping them. This study begins with a thorough discussion of previous research on sub-state taxation, in Chapter 2. Based on this background information, Chapter 3 develops a theoretical proposition, research question, hypothesis and research design. As the previous discussion indicates, it seems clear that pre-authorization, and the various elements of prescriptive legislation (Figure 1.3) impact the process. The more interesting question is *how*. To answer this, Chapter 4 defines multi-jurisdictional option taxes, along with other forms of multi-jurisdictional transportation funding used in the United States. The chapter identifies which funding types are used in which regions, and selects cases that have used MOTTs, based on specific criteria. The four regions this study examines provide a range of pre-authorization and permissiveness in their legislative elements.

The San Francisco Bay Area case, discussed in Chapter 5, was specially authorized, and examines a situation where a well connected boundary-spanner gained legislation that made the process possible, but also leveraged the situation to add some of his own desired projects to the proposal, thus altering the proposal for political reasons, and raising the possibility that dependence on a well connected boundary spanner might add potential costs to a process that uses special authorization. The Atlanta case, discussed in Chapter 6, required special authorization as well, and resulted in a very prescriptive process, where the legislature imposed a number of costs on the process that made it difficult to succeed. This chapter examines the problem of the state-local disconnect that can develop during the legislative process, which becomes an important part of the theory of this study. In Chapter 7, two of the three Seattle processes used very permissive legislation, which was pre-authorized. This chapter discusses the benefits of Seattle's process, and some of the innovative techniques the region used to overcome geographic equity challenges. Yet it also discusses the challenges related to a third process, which was specially authorized and more prescriptive than the others. Even in this process, it was not terribly prescriptive compared to that in Atlanta, but imposed requirements on key issues like election timing, which ultimately made the process unsuccessful. Chapter 8 discusses the two Denver processes, which were also permissive, but without the benefit of a well connected boundary-spanner to lobby for flexible legislation from the legislature. This chapter examines the paradox, and identifies the importance of a robust regional agency, as an important element that allowed them to succeed, even without a powerful boundary-spanner. Chapter 9 looks across these cases, providing an assessment of the hypotheses in relation to the cases, and drawing conclusions based on the results. Finally, Chapter 10 focuses on broader implications of this study, applying its theoretical proposition and findings to theory and public policy.

Chapter 2: Review of Literature

Chapter 2 Summary

This chapter explores previous research on regional transportation, home rule, regional governance and collaborative planning. These topics help clarify the challenges of providing regional transportation, and possible strategies to overcome them. These include the importance of regional accessibility over local/neighborhood accessibility in ensuring access to transportation systems, the growing role of local funding sources in transportation, and the challenges these create for regional infrastructure planning. This is followed by a discussion of the principles of local and regional governance formation, and the role of collaborative planning, policy entrepreneurs and boundary-spanners in overcoming legal and funding limitations of the current system. which is something multi-jurisdictional tax processes often need to do, and informs the theory in Chapter 3 on the process for their development.

Introduction: Transportation's Role in a Regional Job Market

Regional transportation is becoming ever more important in the current job market. Yet the current funding and institutional governance instruments to provide it are woefully inadequate. Regional transportation is especially important for economic development. Larger cities, or better-connected agglomerations of smaller cities, do a better job than smaller ones in matching workers to the job they want most, and make possible greater specialization of labor (Krugman, 1993). Yet the transportation links needed to connect those places are often inadequate. This is unfortunate, because links between two cities with poor connections can have a larger impact on the economy than additional transportation within a local area that

already has a high level of accessibility (Giuliano, 1995: 306, 328). The reason for this is that in any transportation investment—highway or transit—the magnitude is important, as is the investment’s scale compared to the transportation system already in place. For example, the first ten miles of a regional freeway system will have a much greater impact than the last ten miles (Giuliano, 1995: 306). Based on this principle, an analysis of the existing transportation in most U.S. regions would find a highly developed auto network, with over 80% of American commuters driving to work (Census, 2009), and a high degree of accessibility for most travelers. Consequently, most transportation improvements, whether for cars or transit riders, will be limited to marginal impacts. However, new infrastructure that bridges gaps in the existing system is likely to have a significantly stronger impact than a project that parallels existing infrastructure (Giuliano, 1995: 306). Yet a number of financial, legal and political obstacles make regional transportation infrastructure development a difficult proposition in most regions in the United States.

Multi-jurisdictional Transportation Coordination: The Need and the Challenge

One such challenge can be found in the existence of separate local jurisdictions with increasing influence over transportation financing and policy, making regional transportation planning more challenging. This is especially problematic for public transit, due to the detrimental effect that transfers in poorly-coordinated cross-jurisdictional systems can have on ridership. While incompatible cross-jurisdictional road planning would be expected to create traffic bottlenecks, the existence of separate transit operators or separate transit services would require riders to transfer from one agency to another—assuming the lines connect at all. Uncoordinated transfers require a great deal of waiting time to change from one bus or train to the next. (As seen below, transit’s financial structure exacerbates this situation, since there is

very little federal money available for transit operations, requiring operators to seek local funding sources).

Based on empirical observations (Koppelman and Bhat, 2006: 43), transportation riders often feel less utility for time spent out of the transit vehicle than the same amount of time in it,⁷ *even though both are components of the same trip* (Koppelman and Bhat, 2006: 43). Perhaps time standing still waiting for the bus or train to come simply feels less productive. Out of Vehicle Travel Times (OVTT), as these values are often called, are generally higher for trips that require more transfers, and transit trips inherently have more transfers than auto or shared ride trips.

Transfers cause a further psychological sense of disutility to the rider on top of OVTT, known to modelers as a *transfer penalty*. For example, if a rider were offered a 35 minute trip with no transfer, or a 30 minute trip that required a transfer, the rider would likely choose the longer trip. Models based on rider surveys have borne this out, revealing that any transfer at all, regardless how seamless, reduces transit trip demand by an estimated 25%.⁸ A transfer between transit modes reduces ridership demand by about 55% (Liu, Pendyala and Polzin, 1998: 91-92).

Not all transfers are equal, however. For example intra-modal transfers might inconvenience riders by subjecting them to the elements, possibly dropping them off in areas with poor security, or making them walk a long distance. Intermodal transfers are more problematic, often requiring separate tickets and creating uncertainty about missing the next bus or train (Liu, Pendyala and Polzin, 1998: 91). When different transit agencies plan together, there are significant efficiencies they might realize. Some examples include timed transfers,

⁷ Importantly, utility decisions are not the only decisions found to influence ridership. Individuals may harbor a bias towards a particular mode, or may not have adequate information about a particular mode to be able to choose it. (e.g. Where does the bus go and what time does it come back?) (Koppelman and Bhat, 2006: 17, 23).

⁸ Guo and Wilson, 2004 and Kanafani. 1983 essentially agree with this finding. For example the latter found that riders believed transfer time cost them three times more than in-vehicle time (pg. 201).

free/discounted transfers, multi-agency fare cards, or multi-agency cooperation to develop a single cross-jurisdictional service.

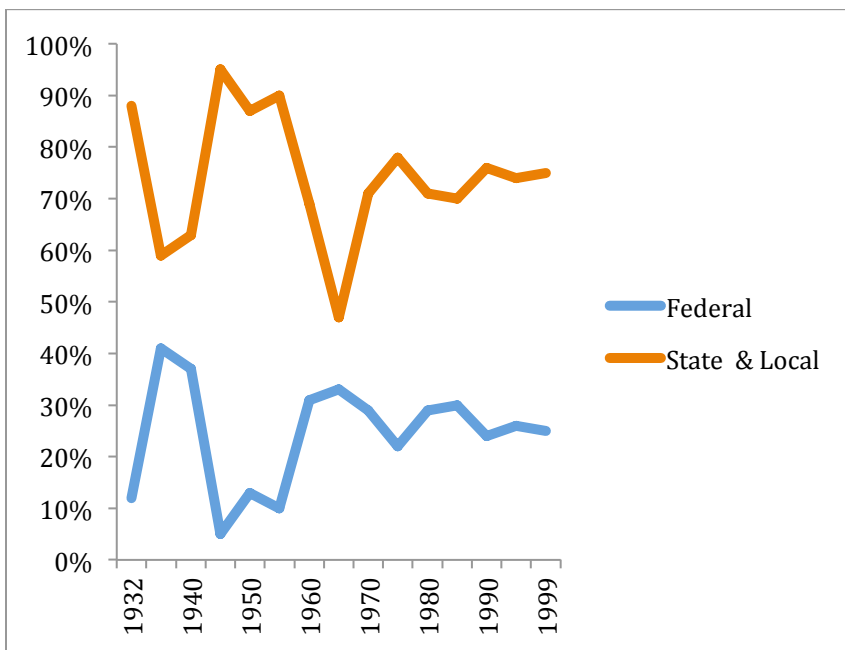
The need to reduce transfers is one of the key reasons why it is so important that transportation be well-coordinated across jurisdictional lines. However the transportation funding structure has not supported this need, and instead, transportation funding has come to rely on increasingly localized sources that make it difficult to plan in an integrated regional manner.

The Shift from Federal Transportation Funding to Local Option Taxes

In recent years, there has been a growing use of local funding sources for transportation, due in part to an inability to raise taxes at the federal level. This devolution of taxation often brings with it more parochial planning, making it more difficult to develop an integrated transportation system. Much of this localization of transportation funding goes back to the devolution that began in the 1970s, and accelerated in the 1980s. The energy crisis was the chief precipitator, causing inflation, which eroded the primary source of revenues supporting the federal Highway Trust Fund—the motor fuel tax. Since this tax is charged per gallon of gasoline, it does not increase with inflation without an act of Congress. Consequently, the tax rate increased at a lower rate than the cost of acquiring rights of way, and construction. At the same time, the energy crisis demanded the imposition of fuel economy standards for the first time, which reduced fuel usage—and decreased fuel tax collections per mile of roadway built.

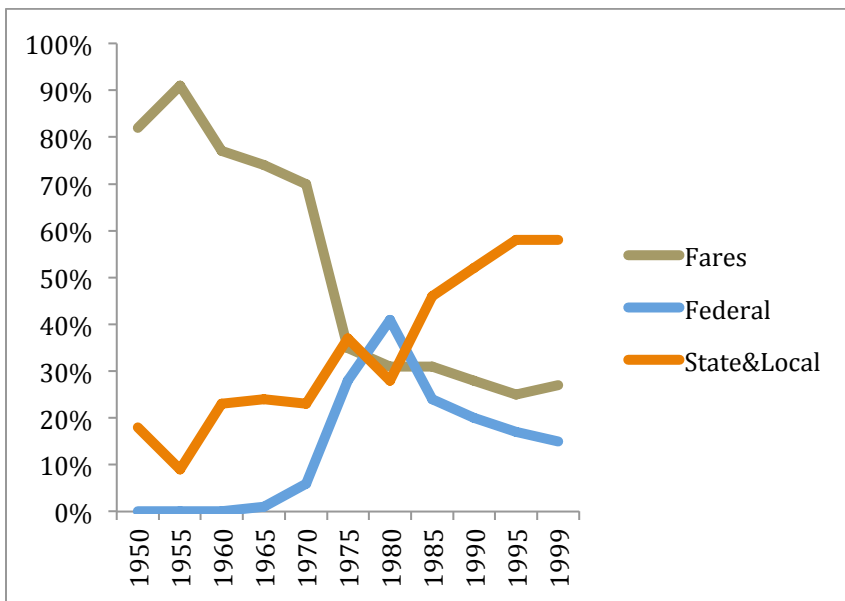
In response to similar cuts, and declines in state governments' own fuel tax revenues, many states decided to authorize local governments (e.g. cities, counties, townships, etc.) to raise taxes on themselves, when federal and state funds were not meeting pressing transportation

Figure 2.1: Highway Revenues Shares Over Time



Altshuler & Luberoff, 2003: 82

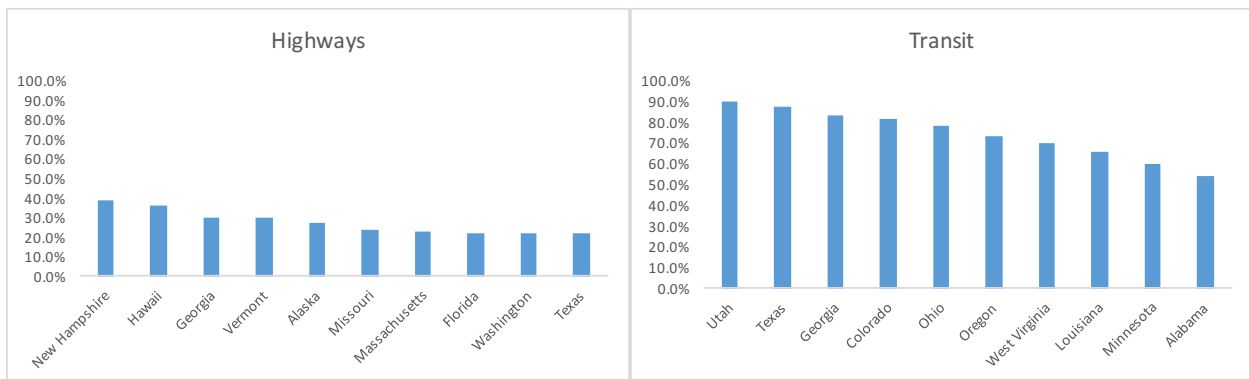
Figure 2.2: Transit Revenues Shares Over Time



Altshuler & Luberoff, 2003: 185

needs (Goldman and Wachs, 2003). This type of funding is known as local option transportation taxes (LOTTs). By 1998 this revenue source was providing 12.9% of the non-federal money for highways and 19.4% for transit, across the U.S., though these numbers have varied substantially from state to state, as seen in Figure 2.3 (Goldman and Wachs, 2003: 34-35).

Figure 2.3: Top Ten States Using Local Option Tax Revenues, Share Non-Federal Money Provided by LOTTs (1998\$)



Goldman & Wachs, 2003: 34-35

Much of the state and local money has come through local option transportation taxes, or LOTTs, whose contribution to localized planning is still not fully appreciated. As discussed in Chapter 1, researchers have defined these taxes as a “...a tax that varies within a state, with revenues controlled at the local or regional level, and earmarked for transportation-related purposes” (Goldman & Wachs, 2003: 21). A great deal is known about the variety of LOTTs, with different taxing instruments, different tax rates, different rules of passage depending on the state. The most comprehensive study on the subject provides an overview of each state’s LOTTs policies as of 2001, using surveys from state departments of transportation, departments of revenue, associations of counties, and major transit agencies (Goldman et al., 2001a,b). Further

research looking into why local option transportation taxes have become so popular raises concerns about a number of features intrinsic to LOTTs, such as overreliance on regressive sales taxes;⁹ selection of projects based on popularity rather than usefulness; and a disincentive to tackle transportation needs on a regional basis (Wachs, 2003c). On the other hand, research into the process of developing LOTTs has revealed a number of reasons why local public officials choose to use them, and finds that LOTTs fulfilled many of the needs of a growing region not being met through the federally mandated MPO process (chiefly infrastructure targeted at fostering economic development). And LOTTs allowed local civic organizations like chambers of commerce or citizen advocacy groups closely affected by the outcome of transportation planning to be directly involved in the planning process to a much greater degree than they would through the development of MPOs' periodic regional transportation plan updates (Goldman, 2003).

Despite these benefits, LOTTs are also decidedly *local*, and in all four cases Goldman examines, the organizers selected local projects over important regional ones that did not provide direct tangible benefits to local jurisdictions (Goldman, 2003: 181-183). The problem appears closely related to LOTTs' political underpinnings, which encourage local jurisdictions to think within their own boundaries, and provide benefits to the voters paying the tax. Indeed, researchers have viewed LOTTs as a political tool as well, and have done a number of studies looking at methods to ensure such taxes pass (Beale et al., 2007).

Unsurprisingly, researchers have found that it is important for the proposal to have the appearance of providing geographic equity to voters across the various parts of the voting area (Werbel and Haas, 2002). However this complicates the goal of regional planning, if some parts

⁹ Sales taxes are more popular at the polls than fuel taxes because sales taxes' larger tax base requires a lower percentage tax in order to provide the same revenue, making them *appear* 'cheaper' to the voter (Wachs, 2003b, c).

of the region are part of a local tax voting area, while many are not—or if two or three counties in a region each have their own local option taxes, with different project lists, priorities, and taxation rates.

Localized taxation has led to a disjointed planning style in many cases. In regions heavily dependent on LOTTs for their transportation funding, the new *de facto* project planning process may occur when local leaders are composing the proposed list of projects for the ballot, which the MPO diligently approves and inserts into its RTP. The LOTT is ‘found money’ as far as the MPO board is concerned, but it comes at a price. After approval by voters, such measures lock MPOs into locally approved projects for decades at a time. Local control of the purse strings leaves policy makers little room to develop integrated plans for the region. This reality gives MPOs less control over what gets built and when (Sciara and Wachs, 2007), since these decisions are merely confirming what local voters have already decided. Most concerning, LOTTs contain a lack of an established procedure or incentive system to reconcile differences between proposals that conflict across jurisdictions. Under a LOTT-based planning system, there is no forum to advance regional goals. This can result in uncoordinated policy aims from one jurisdiction to the next, with no overarching regional policy framework¹⁰ (Crabbe et al., 2005: 111 & Goldman, 2003: 193-194).

Due to this political and jurisdictional dynamic, LOTTs are quite attractive for tackling local issues (Goldman and Wachs, 2003: 29), but are not very effective at providing broad benefits to citizens throughout a region, especially if those programs require local costs (Goldman, 2003: 188). Consequently, increased use of LOTTs presents a disincentive to tackle regional over local issues (Goldman, 2007; and Crabbe et al., 2005: 111).

¹⁰ A unified policy framework would establish a set of policy goals, which direct agency plans. Examples might include establishing regional accessibility, reducing greenhouse gas emissions, improving air quality, or reducing congestion, among others.

Multi-Jurisdictional Cases of LOTTs

Self-help transportation funding is a natural outgrowth of a federal funding structure that provides inadequate opportunities to meet local needs, but absent a major political shift, LOTTs are likely to become an increasingly important tool for transportation finance. Yet, while the existing literature describes the emergence of this *de facto* regional planning regime, it has rarely considered multi-jurisdictional cases of LOTTs, even though they suggest the potential to harness this funding method for regional transportation planning purposes.

Doing this requires a better understanding of how self-help taxes occur in multi-jurisdictional environments than provided by the current literature. Existing studies indicate that, as of 2001, there were 37 states that had authorized LOTT processes (Goldman et al., 2001). However, only nine of them—California, Colorado, Georgia, Ohio, Oklahoma, Michigan, Virginia, Washington State and Texas—had authorized multi-jurisdictional option transportation taxes since 1980 (Chapter 4). Some authors have mentioned the possibility of using local option taxes to solve regional problems (Goldman, 2007: 15), or used MOTT cases to examine another phenomenon like networks or taxpayer elections (Alpert et al., 2006; Wall, 2013), and the deepest examination of the MOTT as a phenomenon in its own right has been confined to a single case (Weinreich, 2015).

Based on that study, however, the process of developing a multi-jurisdictional option transportation tax (referred to hereafter as a MOTT) raises unique challenges around the relative influence of the participants in the collaborative decision-making process. A key factor affecting this process is the relationship between the person who initiates the process and lawmakers at the state capitol, due to the fact that MOTT processes are often not pre-authorized in state legislation. In the Bay Area case, the authorizing legislation was not in place in advance, and the

politician who initiated the process needed special ties with the state capitol in order to write new authorizing legislation. (He was himself a powerful state senator). It is not surprising that this relationship allowed him to influence the projects chosen and the transparency of discussions on which projects to include. This dissertation seeks to better understand how MOTT measures work across a diverse range of multi-jurisdictional cases, which were heavily influenced by the legislation that authorized them.

The Evolving Nature of U.S. Regional Governance

Regional governing solutions have evolved over the past century from a focus on city annexations to federally-funded regional programs, and then towards collaborative planning across many jurisdictions, though the shift from one model was never entirely chronological, as several might be present at the same time, in the same region or state. Nevertheless regional decision making has increasingly moved towards collaborative multi-jurisdictional strategies, rather than city governments morphing into regional ones through annexation.

The First Wave: the Monocentric Central City and Suburban Annexation

Regional governments rarely exist in the United States as legally sanctioned entities with electoral representation and powers of taxation. States often grant local self-government powers to cities, counties, townships, and other units, but almost never to regional elected governments.¹¹

However in the late nineteenth century, there was a movement to consolidate big city powers over larger geographical areas through direct annexation. Reformers, driven by manufacturing interests, believed centralized power could provide greater efficiency of service distribution, and eliminate free riders paying low taxes on their homes in the suburbs, while benefiting from city jobs and services. These goals were achieved almost entirely through state

¹¹ State-granted autonomous powers are often the same powers referred to as “home rule,” which is discussed further in Appendix B.

legislative approval of suburban annexations, often over the objections of local residents (Wallis, 1994b: 160-163).

Over time, however, regions continued to grow past the new boundaries. As one study observed, "...as regions grow, newly created metropolitan boundaries are as resistant to change as those of the municipalities that anteceded them." (Benjamin and Nathan, 2001; pg. 92). Indeed, newly-expanded cities were unable to keep up with the expanding urban areas. Over time, suburban interests gained power in their own right, and were sometimes able to provide equally good, if not better, services as the central city, causing some to question the "first wave" reformists' chief argument for annexation. Legislatures became disinclined to approve new annexations by the 1920s, and succumbed to lobbying efforts by increasingly influential suburban interests for changes to state constitutions. These changes often required local referendums in order to approve new annexation proposals, thus providing a tool for suburbs to resist future annexations to their central city. By the 1960s, the movement for annexation was losing ground to growing suburban power, and polycentric job growth (Wallis, 1994b).

Limitations to State Authorization of Regional Governance

First Wave reformers focused heavily on state authorization legislation. Following the 1920s, regional government authorization often required the consent of local jurisdictions being annexed (Frug, 2002: 8; Benjamin and Nathan, 2001: 56).

First Wave governance regional governance became still less practical as cities grew across state lines, leading to governance challenges that city governments were no longer able to resolve on their own. Since the U.S. Constitution recognizes states, not cities or regional governments (Appendix B), multi-state regions pose a special problem, since political entities created to govern across state lines must be approved by the participating state legislatures

through an Interstate Compact.

There are 38 multi-state regions in the United States, of which New York City is the largest (Benjamin and Nathan, 2001: 27), but some other notable ones include: Chicago; Washington, D.C.; St. Louis, Philadelphia, Cincinnati and Portland. Perhaps due to the political difficulty of establishing such authorities, only five regions use interstate compacts to authorize the construction or operation of transportation projects within their urban areas, applying to only the Kansas City, New York, Philadelphia, St. Louis, and Washington, D.C. metro regions (National Center for Interstate Compacts, 2015).¹² Such agreements require the federal government and individual states to cede power. Interstate compacts create significant political complications for establishing a system to represent each state on a joint management commission, while sufficiently representing local interests within the region. This can be complicated by the presence of separate policy agendas and clashing politics from different state governors—a constant problem at the Port Authority of New York and New Jersey, where the two governors have, historically, rushed to take credit for successes, while blaming each other for the agency’s failures (Benjamin and Nathan, 2001).

Transportation infrastructure managed through interstate compacts experiences significant challenges funding regional infrastructure—often contributed unevenly across state boundaries,

¹² Bi-State Development Agency (IL-MO: St. Louis metro region), V.A.M.S. §238.010-238.100; Delaware River Port Authority Compact (NJ-PA: Philadelphia metro region), 36 P.S. §3503, N.J.S.A. §32:3-2 et seq.; Delaware River Joint Toll Bridge Compact (NJ-PA: Philadelphia metro region), N.J.S.A. §32:8-1 et seq., 36 P.S. §3401-3415; Delaware River and Bay Authority Compact (DE-NJ), 17 Del. C. §1701-1728, N.J.S.A. §32:11E-1-32:11E-12; P.L. §87-678; Kansas City Area Transportation District and Authority Compact (KS-MO: Kansas City metro region), V.A.M.S. §238.010-238.100, K.S.A. §12-2524 et seq.; New York-New Jersey Port Authority Compact of 1921 (NY-NJ: New York metro region) N.J.S.A. §32:1-1 et seq., §32:2-1 et seq., N.Y. McKinney's Unconsolidated Law §6401-7217; Rail Passenger Transportation Compact (NY-CT: New York metro region), C.G.S.A. §16-343, §16-344, N.Y. McKinney's Transportation Law 5 Sec. et seq.; Washington Metropolitan Area Transit Authority Compact (Congress-MD-VA: D.C. metro region), Md. Transp. Code Ann. §10-201 to 10-203, V.A. Code 1950, §56-529, §56-530, D.C. Code §9-1103.01 to 9-1103.07; Washington Metropolitan Area Transit Regulation Compact (Congress-MD-VA: D.C. metro region) D.C. Code §9-1103.01 to 9-1103.07, Md. Transp. Code Ann. §10-201 to 10-203, V.A. Code 1950, §56-529, §56-530; Woodrow Wilson Bridge and Tunnel Compact (D.C.-MD-VA: D.C. metro region), D.C. Code §9-1115.01 to 9-1115.04, Md. Transp. Code §10-301 to 10-303, V.A. Code 1950 §33.1-320.2.

and not helped by the fact that many interstate compact agreements explicitly prohibit cross-state taxes in the powers granted,²⁰ thus relying on voluntary contributions from each state, rather than regional governance.

Interstate compacts point to reasons why state-authorized regional governing bodies are insufficient to fund infrastructure in multi-state situations, just as city annexations were unable to provide this within a single state. As regions continued to grow, other solutions had to be devised for planning, funding and managing regional infrastructure.

The Second Wave: Procedural Reforms

In an attempt to overcome some of the obvious limitations to direct state authorization for central city annexations of their suburbs, or of regional governments, the federal and state levels of government developed regional policy implementation processes to establish particular programs across many jurisdictions.¹³ These processes included structures for distributing money that were designed to incentivize regions to discuss issues that affected more than one jurisdiction, allowed them to plan across jurisdictions, and remedy spatial inequities (Wallis, 1994b: 168).

By 1977, there were 39 federal programs that contained area-wide comprehensive planning requirements. Many programs required regions to establish Councils of Governments (COGs) in order to distribute federal money, thus increasing the number of regions that developed COGs, and enhancing their significance as an institution for regional governance (Wallis, 1994b: 169). The advantages and limitations of these programs provide important background for the research in this dissertation, since MOTT are considered a way to supplement the planning and funding process performed by MPOs and COGs.

¹³ E.g. Housing Act of 1961, the Federal Highway Act of 1962, and the Urban Mass Transit Act of 1964.

Benefits and Limitations of the Second Wave

Federally supported regional programs have had the benefit of covering the whole region and integrating many different policy programs into the same agency, under a national funding umbrella, which has made policy coordination possible. The federal government could easily direct MPOs to solving a single planning goal across a particular region, or the entire country. For example, they could direct road capacity expansion, ensure social equity (Goldman, 2003: 194), or implement air quality improvements in the transportation system. MPOs and other agencies could also be instituted with relative ease across major political boundaries, including state lines.

However, the need for state authorization of these federally funded institutions (as with local government annexations, discussed earlier) has been a key limitation to further development of these regional programs. At first, governors identified existing agencies or created new ones to fulfill their responsibilities, and to the extent feasible, state legislatures were asked to approve them (Weiner, 1999: 93). However few states have granted MPOs or COGs major autonomous powers, since state governments felt threatened by the potential for political competition (Wachs & Dill, 1997). As a result, in almost every U.S. metro region, federally mandated regional agencies like MPOs remain unelected, and without authority to raise their own revenue (Sciara and Wachs, 2007), limiting many agencies' legitimacy, visibility and political power.

The situation is made worse by threats to their authority from below. Without significant state-granted powers, MPOs rely on unelected board representatives from other levels of government, as well as key organizations in their region (e.g. the state government, transit operators and members from business or citizen organizations). This structure gives MPO

policies a strong bias towards local interests over regional ones (Gerber and Gibson, 2009: 635). Consequently, the power they do have is “derivative,” rather than autonomous, from other organizations and levels of government. This incentivizes MPOs to focus on providing relatively equal distributions of resources across geographic jurisdictions,¹⁴ rather than promote cross-jurisdictional social equity (Wachs & Dill, 1997) or system efficiency.

In most U.S. regions, the challenges for Second Wave programs have only increased since the 1980s due to federal funding cuts. Of the 39 federal programs supporting a regional focus in 1977, President Reagan either terminated the program, reduced its funding, or redirected the program away from a regional focus (Wallis, 1994b: 172). Though it is notable that MPOs in Las Vegas, the San Francisco Bay Area, Portland, and others, have managed to overcome these federal challenges and improve their functionality through innovative state and local-level initiatives (viz. Sciara and Wachs 2007).

The Second Wave began as an attempt to plan infrastructure for an increasingly polycentric region, with a focus on comprehensive planning, coordination and performance (Wallis, 1994b: 172). However, these federally-funded regional agencies have not been able to convince most states to authorize, or local governments to cede, enough autonomous authority to create regional agencies with strong political legitimacy. With weakened federal procedural processes and less federal money as the fuel tax has lost value to inflation (Wachs, 2003a,b), many regions have dissolved into a multitude of poorly-coordinated local option transportation tax programs. Meanwhile, a Third Wave of regionalism has gradually emerged from MPOs and local policymakers that have tried to overcome these localist tendencies through extra-governmental collaboration.

¹⁴ Many MPOs rely on a one-city-one-vote formula for their boards, which can skew the distribution of resources away from populous central cities, or distribute funds based on tax contributions rather than resource needs for each project (Wachs and Dill, 1997).

The Third Wave: Devolution

Rather than approach the problem through hierarchical, top-down processes, this “Third Wave” has come from below, through policy setting and mobilizing for action. It has de-emphasized the role of government, in favor of cross-sectoral negotiation between public, private and nonprofit actors, attempting to draw from the strengths and connections of each. The focus has not been on formal structure and mandated coordination towards specific policy goals, but rather, the creation of regional visions, goal setting, consensus building, and mobilization of resources towards implementation. Notably, the Third Wave has operated through networks of actors, not a formal structure (Wallis, 1994c: 293).

This process can be quite different from region to region, and while it can lead to creative policy collaborations, flexibility can also be a weakness. A collaborative process’ ability to occur, or succeed, is closely associated with the strength of a region’s “civic infrastructure,” i.e. organizations with strong networks, which have worked together on solving issues in the past, communicate often, and trust one another (Wallis, 1994c: 308-309). Ostensibly, this may appear to be an unreliable and unpredictable process. However it may be able to achieve regional objectives in situations where it is politically infeasible to authorize a strong regional planning body.

The Challenges of the Third Wave: Constructing the Region

Stagnating federal funding, and decreasing effectiveness of federal and state-supported planning efforts has increased the importance of overcoming jurisdictional inconsistencies at the local level of government. Consequently, the success of the regional policy process depends heavily on the ability of people in the region to coordinate across jurisdictional boundaries. Foster’s “regional impulses” provide a useful framework for the obstacles such a process would

need to overcome. This framework focuses on factors that motivate local governments and interest groups to cooperate in achieving regional outcomes (Foster, 1997: 1). Foster writes that it is easier to pursue regional alliances when there is greater similarity between people or places within a particular region—socially, fiscally or politically (Foster, 1997: 15).

Table 2.1: Foster’s Regional Impulses

Regional Impulse	Examples
Natural Resource	Natural feature that cities share.
Economic	Rural vs. urban economic needs.
Centrality	Are the suburbs self-sufficient, or do they need the core city?
Growth	Competition when uneven growth. When no growth or decline, cities band together.
Social	Social differences across region.
Fiscal	Benefits several cities to share services or merge.
Equity	Needy city has an incentive to share services, while an affluent one does not.
Political	Same/different political parties dominant from one city to another.
Historical	Shared history/animosity.

Foster, 1997: 15

Others have explained this phenomenon in political economic terms, as the cost/benefit of negotiating. As Feoick puts it:

For public officials that are bargaining agents for their governments, knowledge that counterparts in other jurisdictions represent similar constituencies signals similar political and economic interests. Demographic homogeneity suggests that there will not be political and economic power asymmetries that advantage one of the parties and create problems for negotiating fair divisions of benefits (Feoick, 2009: 369).

Factors like a similar racial background, political, fiscal or historical factors can all provide contextual reasons why two jurisdictions might or might not be able to collaborate together on a single project, depending on the ‘cost’ of working together (Feoick, 2009: 369).

Implementing the Third Wave: Collaboration

Third Wave regional governance strategies are essentially collaborative planning, though it is difficult to translate the existing theory on collaborative planning to infrastructure planning, because it only covers the planning stage of developing a project, and does not give sufficient

treatment to funding and implementation. Despite these limitations, collaborative planning can be a useful framework for understanding how MOTT plans are negotiated, in a horizontal power situation.

Collaborative methods are theorized in the Communicative Action planning epistemology championed by Jürgen Habermas, which aims to bring stakeholders together in order to break out of the bureaucratic and governmental barriers that would otherwise limit the scope of discussion to a small range of politically acceptable ideas, in order to develop far-reaching solutions to intractable problems. However his epistemology provides no way to enact these goals (Bernstein, 1976).

Habermas seeks free and open communication among stakeholders who normally might not ever talk to one another. To be able to come to a consensus on a solution to a particular problem, participants must be able to understand one another, have the same amount of power, must all have the same level of information needed to come to a decision, and discuss without compulsion (Bernstein, 1976: 213). The result of such a discussion does not arrive at a single unquestionable truth. It is a truth that presupposes the possibility for further argumentation (Bernstein, 1976: 214). Friedmann sharply criticizes this epistemology for its lack of practicality, calling it "...the ideal of a graduate university seminar, though for Habermas it describes the conditions of a perfect polity" (Friedmann, 1987: 267).

Innes, Booher and Helling describe what it takes for collaborative governance to work for planning: There must be a clear issue that brings participants to the table to try to solve (Helling, 1998: 343); participants must control the process (Helling, 1998: 344); all must have access to the same information (Innes, 1996: 467), as well as the ability to collectively set their own ground rules (Innes and Booher, 2003: 37); and finally, the process works best in win-win

situations (Innes and Booher, 2003: 37), where fundamental changes to the system are not necessary. Additionally, as seen during the discussion of local option taxes above, collaboration can bring new types of groups to the table that have been left out by the traditional political process, or the MPO process (Goldman 2003: 190), giving greater meaning to the resources Third Wave processes are able to tap into from different sectors of the civic infrastructure (Wallis, 1994c).

Yet transferring the results of a collaborative process into policy can be a vexing problem. Some theorists recognize the need to better “mesh collaborative planning with conventional institutions” (Innes and Booher, 2003: 58). Their answer is to view the collaborative processes as a kind of shadow governance that traditional government bodies must enable. This can be done through incentives for stakeholders to participate, provision of technical knowledge and legitimacy, budgets, laws, regulations and political or financial incentives for participation, as well as setting targets and direction (Innes and Booher, 2010: 207, 211). In other words, by replicating what government already does, in a horizontal power multi-jurisdictional environment.

However even with all these forms of institutionalization, collaborative planning is unlikely to happen without someone to initiate the process—the boundary-spanner.

Network Policy Making & Boundary-Spanners: Infrastructure of the Third Wave

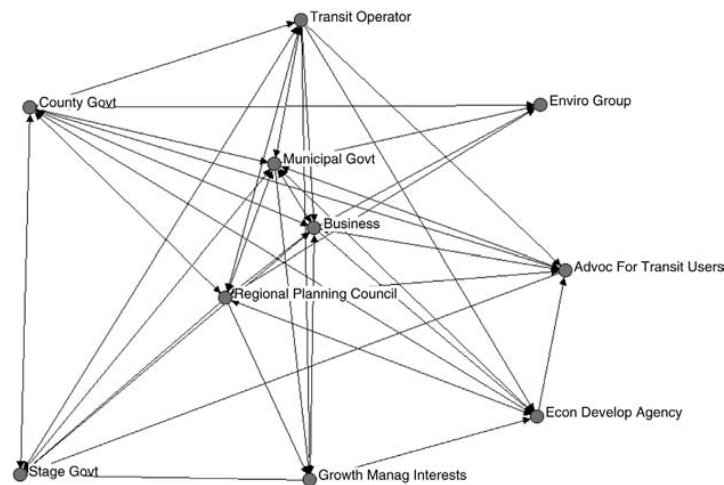
In this era of policy making, networks tie collaborative actors together. In such networks, government agencies are but one actor among many (Kickert et al., 1997: 32), though they can sometimes take on a larger role, helping arrange the network or manage it. Actors may be individuals or organizations such as businesspersons, nonprofit organizations, and government agencies. They choose to join networks because of dependency on each other for information,

policymaking and other needs. What began as informal networks may become formalized over time, as participants begin to share perceptions, and establish patterns and rules of interaction (Kickert et al., 1997: 6).

Not all participants are equal, of course (Kickert et al., 1997: 33). While no single actor has sufficient power to determine the actions of the other members of the network (Kickert et al., 1997: 31), it is still assumed that participants occupying a central position in the network (i.e., ones that have more direct links to other actors) have more access to information, can get others to act in specific ways, and can mobilize more resources (Kickert et al., 1997: 32). As policymaking has shifted away from top-down government to multi-sectoral Third Wave approaches, the managing participants' role has become one of sustaining interaction between different actors, and uniting goals and approaches among them. These central actors play an important role in managing networks that cross from one organization to another. They facilitate tasks such as bargaining and compromise, changing the perspectives through which actors approach certain issues, and managing the bargaining context in a way that is more likely to produce agreement (Kickert et al., 1997: 148-149).

The network manager has been called a "boundary-spanner" (Williams, 2002), who knows "the art of walking through walls" (Trist, 1983). Specifically, this agent acts as a catalyst across political boundaries, cutting down the communication cost between them and acting as a lynchpin between political organizations. In doing these things, the boundary-spanner reduces information asymmetries and uncertainties, and facilitates discussions between people that otherwise would not talk to one another (Williams, 2002: 108).

Figure 2.4: Schematic of “Third Wave” Multi-Sectoral Networks



Alpert, 2006: 152

The boundary-spanner’s role shares many of the attributes of another construct, the “policy entrepreneur,” and this study will usually refer to the two jointly as simply the “boundary-spanner”—or the nonhuman “boundary-spanning agent” that performs this function. (Since a person could play this leadership role, as could a chamber of commerce or an environmental group). The policy entrepreneur is someone or some organization that tries to alter the status quo. Some theorists describe this champion as a singular local or appointed official that exercises initiative (Parks and Oakerson, 2000). Others define the policy entrepreneur more broadly, as someone willing to invest resources—time, energy, reputation, or money, hoping to gain some kind of future return. That could come in the form of policy successes, satisfaction from leading the process, or a sense of personal aggrandizement (e.g. job security or career promotion) (Kingdon, 1995: 122-123). Some might take on such advocacy either because they want to promote pet projects, promote their values/affect the shape of policy, or simply because they like the game and enjoy being at the center of an important project (Kingdon, 1995). Unlike the

boundary-spanner, the policy entrepreneur is usually described as acting within a single political unit (e.g. a county, state or national government), rather than acting in an intergovernmental space. Yet for the purposes of this dissertation, the boundary-spanning person or agent is imagined to have the policy entrepreneur's drive to change the policy status quo.

Boundary-spanners derive their role from a central position in the network they are managing, and their role can change, depending on several factors. Formal policy can expand or reduce their power, providing/removing veto power over other actors' decisions. So can designation of a particular actor as "lead organization," or the division of resources within the network (Kickert et al., 1997: 51-52, 127-130). This suggests a continuum of influence over the rest of the network for the boundary-spanning agent, depending on their particular role and connections.

It is important to note that the boundary-spanning agent is a particularly unique and idiosyncratic actor, difficult to replicate. There may not be very many people or entities with the contacts, experiences/histories and motivation necessary to play the role of network lynchpin for a particular policy issue. The role may change, depending on whether it is taken up by a driven agent or organization, like a regional planning agency or a nonprofit organization. There has not been much study to date of barriers to a boundary-spanner coming along, and certainly none on LOTT measures. However one study tries to determine the potential supply of policy entrepreneurs by estimating the costs and benefits to *potential* entrepreneurs, which might influence their decisions regarding whether to initiate a particular policy discussion (Schneider et al., 1995: 70). Schneider reinforces the fact that the presence of a support network can lower the policy entrepreneur's costs. Assistance can come in the form of a political party, a business organization, etc., from which the entrepreneur can draw expertise, emotional support,

information and other resources that facilitate the policy entrepreneur's quest to make changes in the system (Schneider et al., 1995: 177). Perhaps the likelihood of an entrepreneur coming along for a multi-jurisdictional tax proposal might similarly be tied to the strength of their regional policy making network, and the authorization legislation, since this establishes the legal environment in which the policy entrepreneur can arise.

Conclusions

There is a strong need for regional transportation, which has been fulfilled by various attempts at regional governance. However all of these have come far short of providing regional planning across local jurisdictional boundaries. Regional funding strategies have long been limited by state governments' reluctance to authorize elected regional governments with funding powers, and while MPOs have been able to overcome this problem for many years with federal money, these funds are no longer sufficient to develop new regional infrastructure, and new strategies are needed.

Collaborative planning has offered a possible solution to developing regional infrastructure in an environment where no particular local government is in charge. However collaboration still depends on state authorization of planning and funding capabilities to implement the plans developed. Nor have most state-sanctioned local governments, MPOs, COGs, or interstate compacts provided both the planning and the funding authorities needed.

LOTTs have provided an additional funding source for transportation that has been helpful for building local projects, but they have made it more difficult to plan across jurisdictional lines, and they made cross-jurisdictional projects both less attractive to build and harder to plan. However the existing literature has not examined multi-jurisdictional LOTTs sufficiently to say how such a process would develop, though it is clear that it would require a

great deal of collaboration both among local jurisdictions, and with the state government. The process might need to be initiated by a policy entrepreneur/boundary-spanning agent as well, though this character's role is likely to be dependent on the legislative authorization that exists at the time the process begins.

Indeed, some policy entrepreneurs have attempted to overcome the limited options for funding regional transportation infrastructure projects by initiating their own planning processes, and proposing multi-jurisdictional versions of local option tax measures. However MOTTs have occurred infrequently, likely because insufficient state legislative authorization of such taxes means that a policy entrepreneur/boundary-spanning agent needs to initiate them, and in cases where there is no previous legislation in place, lobbying the state legislature becomes another step in the planning process. Existing research has not sufficiently explored the MOTT development process, nor the role played by the boundary-spanning agent in their development. Of course, the boundary-spanner's role is likely to be complicated significantly by the state legislative authorization in place before the process begins. More research is needed to understand this relationship, and how it affects the boundary-spanner's role in the collaborative planning process, and the following chapter outlines the theory and research methods used in this study to better understand these relationships.

Chapter 3: Propositions and Methodology

Chapter 3 Summary

This chapter discusses how pre-authorized legislation, and the level of prescriptiveness of the language might affect the degree to which a boundary-spanner is needed to lobby the legislature for legislative provisions that make a multi-jurisdictional process compatible with local/regional political circumstances. This chapter develops the study's research questions, including how pre-authorization versus special authorization, as well as how the permissiveness of the legislation both influence the role played by the boundary-spanner when selecting projects to propose to voters. This chapter examines how these two dimensions impact the ease with which the measure is able to move forward; as well as how special authorization affects the process' ability to overcome differences in local versus state political imperatives.

This chapter identifies potential costs and benefits of blanket versus special authorization. It similarly looks at costs and benefits of permissive versus prescriptive authorizing legislation language. Based on this discussion, this chapter develops several hypotheses to explain potential relationships between the legislation and the process, which subsequent chapters examine further. Following this discussion, this chapter identifies methodology for studying these relationships.

Introduction

Current research does not usually distinguish between multi-jurisdictional and single-jurisdictional local option transportation tax processes. Nevertheless, there are important differences, which mainly relate to state legislative authorization of each process (or lack thereof). First, the local governments that participate in multi-jurisdictional measures may not be fixed. This number can change over time, and in some cases local governments can opt out completely. Additionally, there is uncertainty surrounding the rules for making decisions, which are often left to state and local governments, or require collaboration by local governments to come to an agreement. Both processes require an agent to initiate and lead (who can be either a person, or an organization, like a chamber of commerce). However the multi-jurisdictional process requires one that works on a much larger scale, with a larger and more complex support network. And if new legislation is required, this network may require access to politicians at the state capitol. Since this agent, referred to here as the boundary-spanner, is likely to be a key component of the process, this study is especially interested in how the unique characteristics of multi-jurisdictional option transportation tax (MOTT) processes influence the boundary-spanner's role in the collaborative policy development network.

As research reviewed in the previous chapter indicates, a key factor is the set of rules governing each MOTT process—the state authorizing legislation. Powers that states might grant to a regional planning authority (RPA) will affect its ability to develop a MOTT proposal in fundamental ways. Some factors that were especially important in the cases studied here include (Table 1.1) the ability to choose the election date; authority to earmark which projects go on the ballot; the presence of a sunset date by which the region must hold a vote; the ability to choose which jurisdictions will be included; or an aggregate majority vote provision (so there is no need

to get every local jurisdiction to vote in support). The presence of some or all of these and other autonomous powers should strongly shape the way multi-jurisdictional processes take place, just as it would single-jurisdictional processes. The difference is whether a process has already been authorized by the state legislature, and most of the states that have authorized LOTTs have only done so for single jurisdictional processes, not multi-jurisdictional ones (Goldman et al., 2001).

Table 3.1: Local vs. Regional Scales

Local	Regional
Single leg trips, fewer transfers.	Multi-leg trips, more transfers.
Single operating agency.	Multiple operators.
Local funding sources approved in one jurisdiction.	Coordination of many jurisdictions to approve non-federal/state monies.
Policy entrepreneur needs access to key players within single jurisdiction, but not legislative connections.	Policy entrepreneur/boundary-spanner needs access across region and at state capitol.
Boundaries clear, government defined.	Participating governments variable, opt out possible, regional government weak or nonexistent.
Geographic equity issues in funding distribution, but tax rates imposed in uniform manner across the city.	Geographic equity issues complicated by different per capita funding contributions and different per capita needs for each member jurisdiction.

Lack of authorization for multi-jurisdictional processes in most states sets up a situation where many multi-jurisdictional processes have occurred without the existence of legislation before the process began, requiring a special one-time authorization for the process to begin. The success of the process is likely to be tied to the existence of legislation, and the features in it. The question is how this affects the process in practice. There are likely to be different advantages and disadvantages to having existing legislation in place, and to the permissiveness with which the legislation is written. One would expect prescriptive legislation to be able to overcome parochial reluctance for local jurisdictions to participate in developing a regional transportation plan, by lowering the local cost of participation. However, prescriptive legislation

may also run the risk of shaping the process based on state-level political priorities, which may or may not be appropriate at the local level, and could raise the cost of participation. It is important to know what situations each of these possibilities becomes problematic or beneficial to the process. Furthermore, it is important to know how each possibility compares to the costs and benefits at both the state and local levels for having legislation authorized in advance, versus reliance on special legislation.

Theoretical Proposition

This research focuses specifically on the ways authorizing legislation can both facilitate and hinder multi-jurisdictional processes, depending on how it is written. It is thought that regional cases fall along a continuum based on the degree to which the process is already authorized *before* it begins—referred to here as “pre-authorization,” and very similar to another concept, “blanket authorization” (legislation authorizing a local measure with no sunset date).¹⁵ Without any legislation in place, separate local jurisdictions wanting to hold a joint tax vote would need to seek special legislation to do so—referred to here as “special authorization.” This would afford the legislator writing the authorization bill a great deal of influence on key factors like the jurisdictions included, the rules of the process, the stakeholders included, and the projects selected. Additionally, in the absence of existing authorizing legislation, a decision by voters to reject such a proposal may require a new authorization bill (depending on the language in the legislation). This dynamic may give the author of the legislation a large amount of leverage, and thus, influence over the final language of the legislation, and the process that follows (Weinreich, 2015).

In the absence of pre-authorized legislation, the entire process is highly dependent on the presence or absence of a single actor to champion a multi-jurisdictional vote. The agent that

¹⁵ The two often go together, but not all pre-authorized legislation lacks a sunset date.

organizes the process—the boundary-spanner—may sometimes be a person, sometimes an organization, but in either case, brings people from different jurisdictions, different policy sectors, together to initiate a multi-jurisdictional process. In many of the cases examined in this dissertation, the boundary-spanner’s role is played not by a member of the legislature, but rather, a mayor, a transit agency General Manager, or a civic organization, like a chamber of commerce. As discussed in the last chapter, while there are plenty of people to fill these roles in any U.S. region, few are likely to be interested in championing a multi-jurisdictional tax proposal.

Another challenge lies in the potential for a difference of interests between local and state politicians. Local politicians are primarily considering the needs of their district. However state legislators also have to compromise with legislators from other districts, from other regions of the state, as well as the governor. In addition to a broader scope of interests, they also have to account for state budgets, state agencies, state elections, and state political interests. While these differences will depend on the case, it is fair to assume that local/regional governments would need to lobby for legislative provisions that support local/regional political needs.

Legislation written in a prescriptive manner could create local/regional costs for undertaking a MOTT measure—for example if the legislation specifies an election date, a geography, or project selection process that does not take account of the local political necessities. Conceivably, a boundary-spanner coming from the legislature, or with strong legislative connections, would be able to overcome this inherent complication. However as discussed before, there are not likely to be many candidates interested in being a boundary-spanner, and even fewer with strong legislative connections.

According to this proposition, the situation could be eased substantially with legislation authorized in advance, and/or blanket authorization to hold a process (i.e. legislation without a

sunset clause). The law would already be written, and presumably, the boundary-spanner could initiate a process without the need to go through the legislature . In this case, the boundary-spanner would, presumably, serve a less essential role. Additionally, differences in local and state political imperatives would pose fewer challenges. With less legislative involvement, there would be less opportunity to add supplemental provisions specific to a particular process, like, requirements that the process happen during a particular election cycle or that the proposal contain specific projects. Instead, such decisions could be left to local policy makers to determine, based on the latest political needs of their area. Blanket authorization would further allow local leaders to hold the vote again if they were to lose the first time. This would make local policy makers less dependent on the legislature to repeat the process, without the need for a boundary-spanner to help gain a new legislative authorization. As this example indicates, if the authorization was broad enough, local leaders would not face significant hindrances to developing the process in a way that they deemed optimal for their local political situation.

As such, the presence of a boundary-spanner with legislative connections may be less critical to the process when there is a high degree of pre-authorization,¹⁶ since local governments might be able to initiate the process without one. Furthermore, institutionalization of the process through pre-existing legislation may open the role of boundary-spanner up to a much broader group of people, likely making the process easier to initiate. Finally, substantial pre-authorization and blanket authorization could reduce the boundary-spanner's influence within the group of parties collaborating to select projects for a ballot proposal. If the boundary-spanner is not as essential to initiating and developing the ballot proposal, and is not as rare a commodity, then the other participants become less dependent on the boundary-spanner. This could help

¹⁶ Even in a pre-authorized process, the boundary-spanner may need to fend off new legislation that could halt the process, and would still be needed to initiate the ballot proposal.

level the power dynamic between the boundary-spanner and the other participants in the process, ensuring that the boundary-spanner does not have an inordinate amount of influence over which projects get selected (as happened in the case examined in Weinreich, 2015).

As concepts, *pre-authorization* and *blanket authorization* differ in that pre-authorization refers to legislation authorized before the process begins. Of course, in practice, it is certainly possible that legislation is authorized at different stages for different provisions governing the process, so one might think of pre-authorization as a process with a high degree of features governing the process having been authorized in advance, and without connection to any particular process. Pre-authorized legislation is quite similar to another concept, blanket authorization, meaning the lack of a sunset date. Blanket authorization makes it possible to repeat the process in case the first attempt fails, or if the board decides to propose a second phase to a voter-approved plan. However in this study, both terms refer to legislation that is not specific to a particular process.

Another important element is the specificity of the legislative language. The legislation may fall along a continuum between *prescriptive* and *flexible*, based on the limitations the law places on the following factors: taxing instruments and tax rates to be imposed, timing of the election process, geography of local jurisdictions to be included, and process for selecting projects. (As in Table 1.1, one could add voting provisions to this list, like the percentage vote required; and whether the ballot is counted as an aggregate across the district, versus one jurisdiction at a time. However due to the widely different local political contexts across regions and election cycles, the election process is considered only to the extent that it influenced the selection of projects. However the election outcome is outside the scope of this study).

Each prescriptive factor can limit local governments' ability to make decisions in particular ways, which can result in a local process that is better suited, politically, to the needs of state legislators than the political needs of the region. Nevertheless, it is also possible that legislation written very loosely could result in local indecision, inability, or unwillingness to act, or inability to collaborate across jurisdictions. The decision whether to make legislation prescriptive or flexible is a balancing act between the need to facilitate collaboration at the local level versus the need to ensure the process moves forward.

Since state legislation can strongly affect multi-jurisdictional decision processes, this research focuses, especially, on points where the authorizing legislation hindered or facilitated the selection of projects to propose to voters. This study examines how and when the degree of pre-authorization and/or blanket authorization indicates whether the process depends on a boundary-spanner to act as champion, and to put the necessary coalition together.

The type of authorizing legislation will likely determine the role of the boundary-spanner and the degree to which this agent is needed for the process to occur. This study examines how these different elements of prescriptiveness (Table 3.2) help or hinder local actors' ability to agree on projects to include. The level of prescriptiveness could also determine how well the state legislation caters to local political imperatives—and consequently, the degree to which the boundary-spanner may need legislative ties in order mitigate state-local disjunctions in the writing of authorizing legislation. Thus, the instances where the process is too prescriptive to facilitate local actions could indicate places where the boundary-spanner needs closer ties to the legislature to ensure the legislation is written in a more helpful way, and perhaps, places where pre-authorization/blanket authorization might have overcome or prevented this disjunction from

occurring. A comparison of cases with different levels of pre-authorization/blanket authorization, and different levels of prescriptiveness, should help answer this question.

Table 3.2: Elements of Prescriptiveness

Factors Explored
1. Taxing instruments
2. Tax rates to be imposed
3. Timing of the election process
4. Geography of local jurisdictions to be included
5. Process for selecting projects

Developing the Research Questions

This study examines whether the presence of pre-existing, blanket and/or permissive authorization makes it easier to overcome the disparate political imperatives between local and state government, thus making it easier to bring together actors with different priorities from across the region; though it also considers the possibility that permissive legislation could do the opposite, in fact reducing pressure from above for local jurisdictions to move forward with the process, thus slowing its progress.

An important question is what a boundary-spanner with legislative connections can do that a boundary-spanner without them cannot. Is such a boundary-spanner needed, and what elements of the process may reduce the need for such an agent? To answer these questions, this study looks at whether it is more likely that a boundary-spanner with legislative connections (i.e. influence and connections at the state capitol) is needed to shape the authorizing legislation in a way that will be most amenable to cross-jurisdictional discussion. Is a boundary-spanner with such connections needed to make the legislation sufficiently permissive for local governments to develop a multi-jurisdictional measure that suits their political needs? And if not, then what circumstances allowed the process to continue without such an agent?

Table 3.3: Summary of Variables for Analysis

Independent Variables	Dependent Variables
<p>1) Pre-authorization & blanket authorization vs. special legislative authorization.</p> <p><i>E.g. Is there a regional entity with previously existing authorization to place a multi-jurisdictional self-help transportation tax measure on the ballot? Can it put similar measures on the ballot in the future, when this process is over?</i></p>	<p>1) Role played by each group and degree to which each group managed to get its proposals passed.</p> <p><i>E.g. the boundary-spanner, nongovernmental stakeholders in the collaboration process, and actors from the state government.</i></p>
<p>2) Degree of permissiveness of the authorizing legislation</p> <p><i>Maximum permissiveness for a state-authorized regional process means maximum flexibility for local governments or a regional agency to make decisions independent of the state. (See Table 3.2 for indicators of permissiveness).</i></p>	<p>2) Ease with which process is able to move forward.</p> <p><i>E.g. How significant are the obstacles to it moving forward?</i></p> <p>3) Influence of differing state/local political imperatives.</p> <p><i>E.g. Instances where state leaders write laws that are appropriate for state politics, but incompatible with local political needs.</i></p>

Perhaps in a process with a high degree of the legislation pre-authorized and/or blanket authorized, there may be no need for a well-connected boundary-spanner. Perhaps permissive legislation obviates this need. Or perhaps both factors do? To find out, this study investigates whether the RPA and the other stakeholders are free in such cases to start the process without legislative involvement, (making it easier to initiate one). Therefore, this study investigates how the levels of pre-authorization and permissiveness are related to the project selection process. Lack of pre-authorization and permissiveness could significantly increase the boundary-spanning agent’s leverage and relative influence in the collaborative decision network. It is also possible that pre-authorized and/or permissive legislation helps the boundary-spanning agent overcome

the disjunction between local and state political imperatives, or bridge cross-jurisdictional differences—or, alternatively, that permissive legislation might make it more difficult for a boundary spanner to facilitate the collaborative process.

Research Questions (Using Variables in Table 3.3)

This study compares the processes for developing four multi-jurisdictional transportation taxes negotiated under different circumstances. Certainly one commonly used approach for a study like this might measure each tax's success at the polls. However due to the vastly different scopes, political circumstances, state legal environments, and historical contexts, this approach would yield results that are not comparable. Furthermore, this study is most interested in what features of the policy process make it *possible* for multi-jurisdictional funding decisions to be made, rather than which one succeeds with the electorate. This is because success in election and implementation rests with political strategists and project managers, and is context-dependent, so not easily generalized without a substantial quantity of cases to perform a statistical analysis. However the number of MOTT elections since 1980 is well below the threshold needed for a quantitative study (Table 4.4).

This study's **research questions (bolded)** examine the benefits and costs for pre-authorization/blanket authorization versus special authorization (Table 3.4), and for permissive legislation versus prescriptive legislation (Table 3.5). **This study does this by examining how the presence of pre/blanket authorization and the level of permissiveness of the legislation influences the role played by the boundary-spanner when selecting projects to propose to voters.¹⁷ This study also asks how these dimensions, both separately and jointly, impact the ease with which the measure was able to move forward. This is measured by the obstacles**

¹⁷ The participants examined include the boundary-spanning agent, the collaborative stakeholders, and the state and the regional government actors.

each case encountered due to prescriptiveness of: taxing instruments and tax rates to be imposed, timing of the election process, geography of local jurisdictions to be included, and process for selecting projects (Table 3.2). Finally, this study asks how pre/blanket authorization versus special authorization affects the ability for each process to overcome differences in local versus state political imperatives.

Hypotheses

- A. Pre-authorization or blanket authorization (rather than special authorization) could remove a potential place for the legislature to intervene in the process, potentially an opportunity to add projects or requirements that hinder the process. This would be signified by the presence of prescriptive features in the legislation that hinder progress of the process, or conflict with local political needs (for example an election date favorable to state politicians but not in local polling).
- B. Pre-authorization or blanket authorization (rather than special authorization) would ensure that a tax proposal does not require the legislature to place the multi-jurisdictional proposal on the ballot. This would reduce the need for a boundary-spanner with legislative connections to initiate a multi-jurisdictional process, reduce the importance of the boundary-spanner, and make the process easier to initiate and repeat, since more people or organizations could perform that role. This would be signified by stakeholders without legislative connections being influential in initiating the process, leading it, and/or choosing projects.
- C. Pre-authorization or blanket authorization, rather than special authorization, could result in legislation that languishes unused, since there would be no state deadlines to ensure

that local jurisdictions implement the process, and no state requirements to ensure that local jurisdictions work together to develop a multi-jurisdictional proposal.

D. Prescriptive, rather than permissive, legislation may indicate a failure to coordinate between local and state policy makers. This may be indicated by authorizing legislation following policy considerations that are important to state politicians, rather than local ones, potentially suggesting the need to have a boundary-spanner with stronger legislative connections to lobby for local concerns when drafting the legislation.

Table 3.4: Potential Benefits & Costs of Blanket vs. Special Authorization

	Benefits	Costs
Pre-Authorization	<ul style="list-style-type: none"> • Offers an institutionalized process through which local governments can propose a multi-jurisdictional tax. • Less state intervention in project selection and other issues when the legislation has been written in advance. 	<ul style="list-style-type: none"> • Legislation cannot guarantee use- i.e. Locals may decide to never use the legislation, and the process would never happen (for example, in cases of inter-jurisdictional political disagreement).
Blanket Authorization	<ul style="list-style-type: none"> • Process can occur repeatedly with limited involvement by boundary-spanning agent. • No time limit on when to hold the election, meaning less leverage for legislators writing the authorizing legislation. 	<ul style="list-style-type: none"> • Legislation cannot guarantee local governments will use the authorization-i.e. with no time limit, locals may never initiate or complete a tax proposal, especially in cases of inter-jurisdictional disagreement. • Regional taxes could reduce potential tax revenue available for state and local programs. A maximum taxation limit is required on blanket authorization, to ensure sufficient resources for both state and local needs.
Special Authorization	<ul style="list-style-type: none"> • Legislative authorization may be an opportunity to gain political support for the plan. • Ensures that locals will not overstep their authority, and over-tax themselves. 	<ul style="list-style-type: none"> • Its passage in the legislature offers an opportunity for state legislators to impose requirements that may hinder the process. • Process cannot occur frequently.

		<ul style="list-style-type: none"> • Offers limited adaptability to the needs of the region at the time. • May require a boundary-spanner with legislative connections for the bill to be written favorably for local political needs.
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Table 3.5: Potential Benefits & Costs of Prescriptive vs. Permissive Processes

	Benefits	Costs
Permissive	<ul style="list-style-type: none"> • Easier to gather strong local support. • Easier to overcome state/local disjuncture. • Easier to find a boundary-spanner to organize process, and less dependent on that boundary-spanner. • Can happen more often. 	<ul style="list-style-type: none"> • Possibly unable to move forward. • Locals may be unable to work toward common goal, especially if local governments have strong disagreements. • Locals may be unable to agree on cross-jurisdictional projects.
Prescriptive	<ul style="list-style-type: none"> • Happens on timeline set by the legislation. • Forces disparate local governments to work together. • Might force local governments to include multi-jurisdictional projects. 	<ul style="list-style-type: none"> • Disparate governments may develop a plan together, but it might not be one they like. • Mismatch between state and local political imperatives. • Dependent on boundary-spanner with legislative connections, which can be hard to find.

Methodology

Case Selection: Chapter 4 defines categories for multi-jurisdictional funding strategies, and organizes the 50 largest U.S. metro regions based on this typology. This study selects regions from one of several defined categories, which have attempted to use multi-jurisdictional option taxes to fund their transportation infrastructure. This dissertation targets all U.S. metro areas over 1 million people in either their 2000 Combined Statistical Area (CSA) or their

Metropolitan Statistical Area (MSA), chosen depending on the data available.¹⁸ Setting a minimum population ensures a complexity of inter-jurisdictional relations that requires multi-jurisdictional planning to overcome.

To select cases from the 50 largest U.S. regions, this study ascertains where the funding for transportation projects originates, or how the regional agencies get their funding. It selects four regions from those identified in the typology as using multi-jurisdictional option transportation tax measures (see Chapter 4). Since this study is looking for patterns regarding how regions undertake their processes, it selects cases to represent different legislative conditions like pre-authorization and level of permissiveness, as well as outcome, and geographical balance (Yin, 2009: 54). This study is limited to cases that have attempted to conduct a multi-jurisdictional process, rather than ones that have simply proposed it, or situations where the state has authorized such a process, but no region has tried to use the statute; this supports the study's focus on how the legislation works in practice. Note, however, that this does not suppose every region in this study succeeded in passing the statute at the polls. Indeed, this study includes cases that passed as well as those that failed, under the assumption that the outcome is a potential indicator of deeper differences across cases that should be represented in the sample. It is also important to note that this study does not assume the same factor will result in the same effect in every region. Sequences of events occur differently across time and space, and combinations of events are even more difficult to predict. Yet by looking at a wide diversity

¹⁸ These numbers are for case selection purposes only, so this study uses Combined Statistical Area (CSA) numbers in most cases. This minimizes the possibility of excluding regions divided by census statistical boundaries. However this study uses MSA numbers in some cases, where CSAs encompass separate metro regions with separate transit systems. (e.g. The Washington-Baltimore CSA encompasses two quite independent metro regions). This study uses MSA numbers when CSAs encompass areas unreasonably far beyond the urbanized region. Additionally, this study uses MSA numbers when there is no CSA number available.

of cases chosen from within a narrow set of parameters, patterns should begin to emerge from the ways the factors play in each context.

Case Analysis: This study leverages the rich variety of political processes present across U.S. regions as a means for comparison. A multi-case study design was selected to answer questions about how and why the processes happened the way they did (Yin, 2009: 8). A qualitative approach is appropriate, as well, because there are only 13 potential regions that have used MOTT processes in the United States since 1990—too few to do a statistical analysis at the regional unit of analysis (Yin, 2009: 12). The case study design allowed the collection of detailed data that was inseparable from its context—one of the strengths of this approach (Yin, 2009: 18; Babbie, 1983: 244-245). To avoid potential limitations of this method, multiple cases were included, and evidence is generalizable to theoretical propositions rather than all regions, meaning results are intended to expand theories, to develop understandings and predictions about other cases, rather than to count frequencies (Yin, 2009: 15; Lipset et al., 1956, 419-420).

The author conducted interviews in the four selected metro regions. Chapters 5-8 determine how the collaboration took place in each multi-jurisdictional process, how ideas moved through the process from start to finish, and which parties were most influential. In each case, the author assessed the boundary-spanner's influence, how negotiations occurred, what venue they took place in (e.g. a public and publicized forum? Behind closed doors? At the state capitol?), and who set the rules for discussion. The author identified the role performed by other stakeholders, and identified the extent to which various stakeholders were influential in the decision making, and tried to determine who was taking a leadership role in the process. The author assessed the role of the regional agency and state politicians in each process, interviewing many of them in order to learn their motivations. Finally, the author identified barriers to each

process occurring and moving forward (especially including the presence of differing local/state political imperatives).

Defining the Cases Under Consideration

This study defines cases to include metro areas that held a regional collaboration process aimed at developing a transportation funding proposal intended for consideration by voters across their region. All cases are part of a multi-jurisdictional process occurring in 1990 or later. However the study is agnostic as to the election process, the types of projects selected (e.g. bus rapid transit, heavy rail, highways, etc.), or the quality of the project design.

Collecting the Data

Data consists primarily of interviews, complemented by public documents, historical information and archival documents collected from local sources. This study includes interviews of bureaucrats, politicians, business leaders, and public advocacy groups that participated in putting together regional collaborative processes in each of the four regions (consisting of about 15-20 interviews per region).

The author determined who the boundary-spanning agent was through one of two ways (Table 3.6). First he tried to find out who/which entity initiated the process, and/or was most influential in leading it. Some of this leadership likely would include acting as champion and bridging jurisdictional boundaries in collaborative discussions. Second, the author asked interviewees with whom they had interacted during the process, and if they could recall who initiated and/or led the process? (Additionally, the author checked interviewee accounts against meeting minutes and archival accounts). The boundary-spanners should be the people or organizing agencies with the most direct interactions. Note that neither measure presupposes that the boundary-spanning agent was the most *influential* actor in the decision making.

Table 3.6: Indicators of the Boundary-Spanning Agent

<p>1) Displayed Characteristics of a Boundary-Spanning Agent (Developed in Chapter 2)</p> <ul style="list-style-type: none"> • Initiated Process, or Most Influential Leader* • Acted as Champion/Policy Entrepreneur • Bridged Jurisdictional Boundaries
<p>2) Identified as Leader by Most Interviewees</p>

*Preference given for those who performed both roles, especially if there was more than one boundary-spanner.

This research began with a historical analysis of the process for each case. The results were compared with primary sources and interviews through triangulation (Yin, 2009: 114-118). The interview process began by contacting key people identified in news articles, reports, websites and other easily obtainable public sources. The author used a *snowball sampling* technique to learn who else was involved in developing the measure (Babbie, 1983: 251-252). Each interviewee was asked to recommend other participants involved in the process. This technique is especially useful for targeting a specific group that underwent a shared experience, in this case the process of putting their region’s multi-jurisdictional transportation funding proposal together.

In this study, the participants often remembered one another, this method facilitated the author’s ability to learn whom to contact. The author stopped conducting new interviews when he had interviewed enough people that he was receiving the same information several times, and there were diminishing returns from each new interview. A possible threat to validity is this technique is not designed to be representative of all potential participants in the process, but rather to target the most active or influential participants (Babbie, 1983: 252). Participants may not remember everyone involved, or may recommend the people who most agreed with their viewpoints. This issue is mitigated here by contacting every participant for whom contact information was available, by targeting a diverse group (some leading the process, some critical of it), and by checking against newspaper accounts as well as meeting minutes for other people

who might have been involved. The author then used these references as new points of contact for additional snowball processes.

In several special circumstances, this study employed a multiple participant, rather than individual, interview format.¹⁹ In these cases, interviewees requested to conduct their interview in the presence of other participants who had worked with them on the process in question, in order to jog their memory. This study employs multiple participant interviews for the following situations: 1) Three political consultants in the San Francisco Bay Area had worked together and requested to be interviewed together. 2) The Atlanta Mayor requested to be interviewed along with his senior transportation staffer, who helped him craft his regional transportation policies. The author had already interviewed the mayor's senior staffer separately, on a previous date. 3) A top staffer at RTA/Sound Transit, in Seattle, had already met for a private interview two days earlier. In a follow-up session, he requested to have another staff member from his department present, who had been at the agency longer, and could fill in particular details.

Multiple participant interviews and focus groups run the risk of developing a 'group think' recollection of the case (Carey & Smith, 1994), which reduces opportunities for triangulation across interviewees—a potential threat to validity. However this format also allows interviewees to recall more elements of the story than they would in a solitary interview (Morgan, 1996). As Table 3.7 indicates, multiple participant interviews were the exception in this study, rather than the rule.

¹⁹ Occasionally, researchers have referred to group interviews as focus groups, depending on the formality of the questions and relation of participants to each other. Nevertheless, the "group effect" is present in both formats (Morgan, 1996).

Table 3.7: Interviews Conducted by Region

Region	No. Interviewed*	Group Interviews	Declined Interview	Didn't Return Calls/Emails	Logistics/ Health Impediment**	Deceased
SF Bay Area	17	1 session, 3 participants	1	5	3	0
Atlanta	22	1 session, 2 participants	1	3	3	0
Seattle	21	1 session, 2 participants	3	2	4	1
Denver	21	0	0	4	4	3
Total	81	3 sessions, 7 participants	5	14	14	4

*Number Interviewed includes all participants in individual and group interviews. People that were interviewed more than once are only counted once in this column.

**Logistical reasons for not meeting included: Could not find at least 15 minutes, moved to another state, health-related, now in prison.

Within Case Analysis

For each case, this study includes a timeline and a narrative based on triangulation across interviews and documents. Case chapters analyze the events and the chain of evidence, looking for places where one party might have blocked another's ideas from inclusion in the final proposal (Yin, 2009: 122-124). Chapters look for changes to the rules for deciding which projects to include, and decisions over which stakeholders to invite. Chapters note cases where barriers to influence, and other obstacles, slowed down the overall process, and which factors made it harder to move the proposal to the voters for approval. Some potential barriers include those related to pre/blanket authorization versus a special authorization. Barriers also include the level of permissiveness in the categories from Table 3.2 (i.e. taxing instruments and tax rates to be imposed, timing of the election process, geography of local jurisdictions to be included, and process for selecting projects). Finally, chapters look at whether these factors are best explained by the study's hypotheses, by rival explanations, or by previously unpredicted explanations.

Cross-Case Analysis

This dissertation compares across cases in a way analogous to how a researcher might compare several experiments, examining whether or not the results can be replicated across multiple tests. This study examines whether the theoretical framework laid out in this chapter is replicated across cases (Yin, 2009: 54), and whether the factors identified in the hypotheses explain the process in the manner predicted. It looks at whether there was evidence for the rival hypotheses (Patton, 2002: 553; Yin, 2009: 134-135), or other unpredicted factors. It compares conclusions by matching patterns across cases (Yin, 2009: 136). As one would do with quantitative data, it is possible to look at multiple dependent variables, and various potential outcomes across cases, and find patterns based both on what was expected to happen, and what was not (Cook & Campbell, 1979: 118; Patton, 553; Yin, 2009: 137). Using these results, this study asks what the cross-case differences say about its propositions, and the existing literature.

The Interviews

Interviewees all agreed to participate in this study, and were warned in writing about the risks of participation. They were given the opportunity to opt out. Participating interviewees were asked to note any portions of their interviews that would be off the record, up to and including the entire interview if they so chose. These procedures were formally exempted from further review by the University of Michigan Institutional Review Board (IRB).²⁰

Some interviewees provided primary source documents, which have been included in this study. These include reports, advocacy and campaign materials, emails and letters, faxes, memos, video & YouTube recordings, and meeting minutes. Most other the documents collected for this study were publicly available

²⁰ Study eResearch ID: HUM00072892, approved 4/30/2013.

Ensuring Internal and External Validity

Perhaps the biggest challenge was collecting sufficient data for older cases. The cases took place between 1993 and 2012.²¹ Interviews for the Bay Area case were conducted from 2010 to 2011, with follow-up contacts, and additional interviews in 2013 and 2014. Interviews for other cases were conducted in 2014. The degree to which this affected the author's ability to collect data depended on the case, and is noted separately in Appendix A. Atlanta occurred the most recent, and had the most data available, while Seattle's 1995 process (farthest back) had the least. In cases where there was not sufficient interview data available, the analysis relies on written historical records to a greater degree. More recent cases also had new sources of data, like YouTube videos and opposition group blogs, while older cases required traditional sources like meeting minutes, archives and interviews. The multi-case study design helped to mitigate against inadequate data in particular places. However the analysis was similar across cases: timeline, historical narrative, triangulation and analysis using research questions as a guide.

Sorting out inconsistencies in data was challenging in all cases. The author looked for instances where data sources conflicted—archival data versus interviews, or one interview against another. In cases where data gathered from different sources were in conflict, the author conducted follow-up interviews, and sought additional documentation. Likewise, this study sought to mitigate external validity issues presented from the dearth of regions from which to examine (using case study analysis). There was also a great deal of variability between regions, especially political variability. This study tried to use the regions' variability to its advantage, as a source for comparison of conditions across cases, which were chosen for specific characteristics. For improved generalizability, the typology developed in Chapter 4 defines which kinds of cases are comparable to those examined in this study, and which are not.

²¹ The Seattle 1995 process began in 1993, while the Atlanta process ended in 2012.

Conclusion

The theoretical propositions outlined in this chapter create a “replication logic,” which is based on patterns observed across cases in the data (Yin, 2009: 41, 54). As this study builds towards the cross-case comparison in the final chapters, the question is *not* how each case compares to the *exact conditions* in the other cases. Inevitably, the conditions in each case will be rather different. They occurred in different political environments, legal environments, cultural environments and time periods. Instead, the main question is how each case compares to the hypotheses discussed in this chapter (Yin, 2009: 136-140). This study seeks to explain the costs and benefits of special authorization versus pre-authorization and blanket authorization. It also seeks to explain the impact of permissive versus prescriptive legislation for governing multi-jurisdictional processes. The following chapters will examine how the level of state-granted autonomy in each process relates to the role of various participants, and how this impacted the ease with which each process was able to move forward—i.e. what obstacles were there? Finally, the following chapters examine how these factors affected the process’ ability to overcome potential disjunctures between local/regional and state political motivations in each of the cases—often referred to in this study as differing “political imperatives.” First, in the following chapter, this study will develop a typology of multi-jurisdictional funding methods used in the 50 largest U.S. regions, which will provide the basis for identifying regions that have used a multi-jurisdictional option transportation tax, and for selecting the four regions for further study.

Chapter 4: A Typology of Multi-Jurisdictional Funding Strategies & Selection of Regions for Study

Chapter 4 Summary

This chapter defines multi-jurisdictional option transportation taxes (MOTTs) and their place within a range of potential multi-jurisdictional funding methods. It does this by establishing key differences between methods for funding cross-jurisdictional service—for example the kinds of projects that are funded and the ability to overcome service gaps. This chapter identifies specific regions that have used MOTTs; this list forms the basis for selecting regions to analyze in subsequent chapters.

This chapter compares legal codes and histories for funding transportation infrastructure across the 50 largest U.S. regions, in order to highlight important distinctions in law and implementation of funding methods. It uses this information to build a typology that describes multi-jurisdictional funding structures present in U.S. regions today.

Introduction: Developing a Framework for the Funding Policy Environment

This chapter identifies types of multi-jurisdictional transportation funding processes that have been employed in the United States over the last three decades, and the political situations associated with the development of each type. Finally, it identifies which regions have used MOTTs, and selects cases for analysis. Categories of funding are designed to separate level of government from which the funding originated, while they distinguish degrees of centralization of funding decisions. This ranges from state-directed funding to informal coordination.

Proposed categories and descriptions are outlined below, which are later used to classify and

identify cases for selection:

Multi-Jurisdictional Transportation Funding Types

Direct State Funding

The most direct form of state involvement in creating a regional service is where the state government pays for it. States frequently delegate the power to plan, fund, manage and operate cross-jurisdictional transportation programs to local authorities. However in the absence of such delegation, states may perform this role by default. (See the discussion on home rule in Appendix B). Notably, many states that have used the state-directed approach are relatively small, and none of them has more than one metro region over 1 million people. Baltimore, Maryland, and Hartford, Connecticut are two such examples (Maryland DOT Budget, 2013; ConnDOT, 2014). This funding method has the potential to provide integrated funding and planning across a large number of local jurisdictions; for example the Boston region's MBTA serves 178 cities (Massachusetts General Laws, §161A-8, 161A-9).

State-directed Funding for Regional Agency

This category represents cases where the state legislature authorizes a multi-jurisdictional agency to manage projects that cross jurisdictional lines. The state may also approve funding sources for the agency, collected either from state-level taxes, or locally. For example, the six-county Chicago Regional Transportation Authority is funded through a regional sales tax, but rates are set at the state capitol. As of 2011, the state was providing a 30% match from the state general fund (Shields, *The Bond Buyer*, April 27, 2011). While this approach ensures that all local jurisdictions participate (Washburn, *Chicago Tribune*, April 18, 1989), regional money in Chicago is also subject to state political fights, and funding reductions to balance the state budget (Washburn, *Chicago Tribune*, April 18, 1989). State legislation also specifies many details about operations, and shares of the funding from each county that should go towards each kind of

transportation (70 ILCS §3615, IC §8-24-2). This method, then, uses funds collected both regionally and from the state, while state laws manage it closely.

Single Regional Body

While an unusual approach in the U.S., Oregon, Nevada and Colorado, in particular, have authorized at least one regional transportation agency with the ability to enact taxes in their district. Additional measures aimed at making it difficult for local governments to exit the regional agency increase the regional entity's long-term stability. A revenue source collected at the regional level, in addition to local/regional election of board members, provides independence from both state and municipal governments (Orfield & Luce, 2009).

Despite these benefits, this funding type is difficult to implement due to its scale and competition from previously existing governments. It also appears to be confined to single-state transportation needs, since even if an interstate compact were developed, each state would need to fund its share separately (this arrangement is discussed below). Another challenge (described further in Chapter 2) is the difficulty of planning some issues on a regional basis if people do not feel a strong sense of connection to residents on the other side of the region (Foster, 1997). This makes it challenging to set up a comprehensive regional agency, and to plan within it.

Multi-jurisdictional Option Transportation Taxes

This funding method employs the initiative process to let voters decide whether to raise taxes to fund their transportation needs. Usually, balloting for transportation funding is conducted on a single-jurisdiction basis. This can lead to poor coordination across jurisdictions (Goldman et al., 2001), and the need for an interlocal agreement to manage service gaps. A multi-jurisdictional election avoids this problem. Unlike a Single Regional Body, however, the multi-jurisdictional election occurs across more than one transportation funding jurisdiction, and does not *require* a regional board to initiate it (though this depends on state legislation). Use of a

MOTT avoids a major hurdle to having comprehensive regional funding and planning. However the multi-jurisdictional option initiative requires state legislation to authorize, which only exists in some states. Otherwise, some regions have requested special legislative authorizations for their proposed process.

A key disadvantage of conducting a multi-jurisdictional vote is the lengthy time it takes to develop a plan and campaign for its passage across a large region. As with many other processes, this requires complex negotiations across several jurisdictions and actors serving local interests. However this process must reach out to the public and to special interest groups, in order to achieve their support.

Bi-jurisdictional negotiations can be accomplished relatively easily through an interlocal agreement, and are therefore classified under the Memorandum of Understanding/Interlocal Agreements category. *Thus, the MOTT funding type is defined here as limited to cases with three jurisdictions or more.*

It is highly unlikely that such a process would occur in a multi-state region, unless each state is willing to authorize and plan a separate campaign, which would be so complex, it is hard to imagine it happening. This process may be most appropriate for regions with strong existing jurisdictional divisions and a political dynamic that precludes developing a regional body with tax powers—yet the citizens have a shared desire for a particular proposal that ties them together.

This funding strategy has the ability to overcome many local political barriers but requires heavy investment in time, and may be difficult to repeat regularly. Whatever projects are chosen will most likely be the region's transportation plan for decades to come.

Single Multi-Jurisdictional Agency Funded by Voluntary Local Money

Under this funding model, the state creates a single multi-jurisdictional agency, which develops infrastructure funded on a voluntary basis by whichever local jurisdictions choose to

participate. This arrangement can result in local pockets that never decide to opt into the agency. Or local agencies may join, but not pay for services to go into their jurisdiction, also leaving service gaps. This funding type can overcome seemingly intractable political obstacles that arise when developing multi-jurisdictional infrastructure. For example, this method is especially useful for crossing state lines, as the St. Louis Bi-State Development Agency has done.

In the St. Louis case, each jurisdiction decides whether to participate, as well as the rate of taxation (MRS §67.700; §70.370; §94). This has meant that local governments in the two states have decided to build new capital projects at different times, at different speeds and to different levels of expansion, though they are in the same transportation agency. Furthermore, the legal use of sales tax money varies by state. In Missouri there are variations from county to county *within* the same state and the same agency. For example, St. Charles County, MO has not passed its own sales tax, and no transit services go there, though other counties in the agency have paid for services (Bi-State Development Agency, 2014).

Even when jurisdictions participate, they may not always pay the full amount agreed to. During lean budget years, payments into a regional transportation agency may be the first thing to go, as experienced by the San Francisco Bay Area's Caltrain service in 2010 (DeBolt, *Mountain View Voice*, May 28, 2010). As a less hierarchical approach, this strategy requires negotiation across jurisdictions to ensure member discipline and participation over time. On the other hand, the existence of a single multi-jurisdictional agency can ensure there is an institutionalized forum for coordination, even when there are such strong jurisdictional divisions, and cross-jurisdictional variations, that this might be the only way to coordinate.

Memorandum of Understanding/Interlocal Agreements

This is not a formal regional strategy but a combination of local agreements to develop

coordinated cross-jurisdictional infrastructure. This relationship must be secured with a contractual agreement or a memorandum of understanding between two or more jurisdictions. Perhaps one of the least institutionalized, least centralized multi-jurisdictional funding strategies, participation is entirely voluntary and no state-level involvement is necessary for negotiation. However there is also no structure and no guaranteed longevity to the arrangement. Consequently, it would be difficult to develop a comprehensive regional plan using this approach, especially in a region with many jurisdictions. It would also be difficult for each interlocal agreement to cover more than one problem at a time, limiting the efficacy of this approach for large infrastructure development proposals. This approach can be the germ from which future more centralized regional governance takes place (Savitch & Vogel, 2000). It can also offer an avenue for governments to cooperate when they might have had too many cultural or institutional differences to contemplate a permanent relationship (Savitch & Vogel, 2000).

For example, interlocal agreements in Jacksonville, FL may be morphing into a regional transit authority. The Jacksonville Transportation Authority (JTA) primarily serves its home jurisdiction, Duval County, FL. Its services, funding, and board members are almost entirely from Duval County, supported partly by a sales tax there (JTA, 2014). However JTA offers additional services to neighboring Clay, Nassau and St. Johns counties through interlocal agreements. Under the agreements, the other counties pay the cost of the service, though they can terminate for any reason with 90 days' notice (Clay County, 2013).

The agency seems to recognize that this is not a stable long-term management arrangement, and discussion in its Annual Report and Consolidated Plan identifies the need to create a more permanent solution through a regional transportation authority. However the interlocal agreement not only serves as a stopgap measure; it also has the potential to serve as a

‘proof of concept’ for developing a permanent regional authority. In fact, this is the same way Seattle began its process of developing a regional transit agency. They also began with interlocal agreements, which were later formalized into a regional agency through state legislation (Sound Transit, 2007: 2).

This model can be especially useful for overcoming some of the most intractable funding divisions across jurisdictions, in cases where existing funding and structural differences foreclose the possibility of developing an integrated multi-jurisdictional funding source. In the Dallas-Fort Worth metro region, for example, neighboring counties have used interlocal agreements to overcome different political priorities and different taxation rates across the two counties.

The Dallas Area Rapid Transit authority uses a multi-jurisdictional option taxation method to fund its system, as does neighboring Tarrant County. Fort Worth was originally left out of the Dallas-Fort Worth area’s regional plan in order to maintain local planning control and gain support.²² In turn, Fort Worth decided to pursue its own transit plan in Tarrant County (TTC §452). The two counties each went through difficult and time consuming processes to set up their multi-jurisdictional option taxes, but ended up with different tax rates, and different long-term plans. Nor did they raise taxes at the same time (Fort Worth Transportation Authority, 2013: 17). It would have been very difficult to integrate the two, since Tarrant County residents would have had to agree to double their transit tax.

In response, the two developed an interlocal agreement in 1994, in order to establish the Trinity Railway Express commuter service connecting their areas. While this has allowed the introduction of a cross-county service, any future changes to that service, or any additional lines, would require a new or revised interlocal agreement (Trinity Railway Express, 2013).

²² Texas law permitting multi-city referendums on funding transit infrastructure does not limit them to single county usage, but it does *encourage* this limitation by making a one-county vote the ‘default,’ and requiring a jurisdiction from a neighboring county to request to join (TTC §452.704).

This is surely a solution with many limitations for developing comprehensive and integrated multi-jurisdictional service. However it can overcome the jurisdictional barriers that would otherwise make cross-jurisdictional infrastructure impossible.

Informal/Weak Coordination

One can easily take the interlocal approach to the extreme. The Informal/Weak Coordination regional funding model represents the least centralized, least formalized multi-jurisdictional funding situation, and is really more the de facto result of poor coordination than a strategy. The Weak Coordination approach can include the case where local jurisdictions within a region fail to coordinate at all, and have no agency capable of planning, funding and implementing multi-jurisdictional projects. Sometimes, informal coordination fills the leadership vacuum, with both sides taking their cues from the other, but not forming a formal partnership. (Crisholm, 1989). In fact some authors (viz. Tiebout, 1956) do not see this situation as a bad thing, but rather an incentive for governments to improve their services through competition.

The Informal/Weak Coordination funding type is used frequently for cross-county coordination in Southern California, where counties are exceptionally large, and formal coordination for cross-county projects is very difficult due to scale. Several different institutions maintain planning at the county level, though many services are needed at the regional level. For example, state transportation funding is distributed by county transportation commissions (Adams et al., 2001: 16), local option sales taxes are usually authorized at the county level (the metropolitan region covers five counties), and transportation operators usually offer services only within a single county.²³

²³ The commuter rail agency, Metrolink, is the exception in Southern California, acting as a single multi-jurisdictional agency funded by voluntary county-level money.

While Southern California has a Metropolitan Planning Organization (known as SCAG, or the Southern California Association of Governments) that makes long-range regional transportation plans, these are only carried out when county authorities vote to fund particular projects that meet county needs, usually limited to small projects. Collaboration on larger infrastructure projects frequently begins when one side initiates, designs and builds its half, and the other side later decides to complete it—a ‘follow the leader’ form of governance. For example, when the Orange County Transportation Authority decided to fund additional Metrolink commuter rail service, Los Angeles County, CA did not pay to have the new trains continue past the county line into Los Angeles, even though Los Angeles Union Station had over eight times the boardings of the Orange County, CA station where the line terminated (Fullerton) (Metrolink, 2014). Similar disconnects have occurred with widening freeways, leaving bottlenecks at the county line for decades as the neighboring county decides whether or not to allocate money towards continuing a project into its territory (Molina, *Orange County Register*, November 4, 2011). While a cross-county project may eventually be finished using this funding strategy, the process appears to be slow, which is especially undesirable for capital infrastructure development.

Table 4.1: Advantages, Disadvantages of Each Strategy

	Pros	Cons
1) Direct State	<ul style="list-style-type: none"> • Integration across many local jurisdictions. • Integration with state policy goals. 	<ul style="list-style-type: none"> • May discourage local financial contributions. • Funding may get reduced due to whims of state-level politics. • Not conducive for multi-state projects.
2) State-Directed Funding for Regional Agency	<ul style="list-style-type: none"> • State funding with home rule. • State money ensures participation by local agencies. • Regional service integration possible. 	<ul style="list-style-type: none"> • Agency funds easily caught in state-level political fights. • Not likely for multi-state projects.
3) Single Regional Body	<ul style="list-style-type: none"> • Allows for control at regional level. • Coordinated regional decisions. • Minimizes state political interference. • Stable planning process allows region to make bold changes. 	<ul style="list-style-type: none"> • Rarely happens. • Threatens existing power held by state and local governments. • Not likely for multi-state projects.
4) Multi-Jurisdictional Option Transportation Tax	<ul style="list-style-type: none"> • Can accomplish ambitious, well-integrated regional projects despite jurisdictional divisions. • No need to change the existing governance structure. • Works well when strong jurisdictional divisions present, if sufficient citizen agreement on regional plan. 	<ul style="list-style-type: none"> • Difficult, time-consuming process that is hard to initiate very often. • Projects may be locked in for decades. • Unlikely it could happen at multi-state level. • May require special legislation.
5) Single Multi-Jurisdictional Agency, Voluntary Local Funding	<ul style="list-style-type: none"> • Overcomes intractable local and state political barriers. • Good for multi-state regions. • Long-term structure. 	<ul style="list-style-type: none"> • Service gaps likely. • Jurisdictions dis-incentivized from paying their full share.
6) MOU/Interlocal Agreements	<ul style="list-style-type: none"> • No state-level involvement needed. • Easiest funding coordination strategy to arrange. • No long-term commitment. • Overcomes difficult jurisdictional or social/cultural divisions. • Can be a ‘proof of concept’ for more permanent regional transportation. 	<ul style="list-style-type: none"> • No guaranteed longevity. • Not comprehensive. • Hard to arrange in large regions, over many jurisdictions.
7) Informal/Weak Coordination	<ul style="list-style-type: none"> • Informal relationships ensure local autonomy, home rule. • Little setup necessary. • No political risk. 	<ul style="list-style-type: none"> • Slow process. • Poor coordination in road projects, transit schedules or fares. • Service gaps may persist for decades. • Especially undesirable for new infrastructure development.

Categorizing Programs for Case Selection

Using the above typology, this chapter seeks to determine which programs fit into which category, so cases can be selected from within the same category, which will facilitate cross-case comparability. This chapter examines sub-federal transportation funding programs in the 50 largest U.S. metro areas over 1 million people, targeting the period from 1990 through 2014. For each region, it ascertains the levels of government contributing to transportation funding, now and historically. This classification uses programs and facilities funded at local, regional and state levels as its scope for examination. The categories help distinguish the level of autonomy for local governments to make decisions, and whether those decisions could be easily coordinated from jurisdiction to jurisdiction.

Other factors used for classification purposes can be found in Table 4.2, and were developed iteratively from observing characteristics in the state authorizing legislation and the case histories. These include: the National Transit Database information on level of government contributing the greatest funding (not counting fares); whether decisions are made by a board selected at the local/regional level, or the state level (data taken from authorizing legislation and news articles); whether local governments can opt in/opt out of funding the multi-jurisdictional service (taken from authorizing legislation); whether local governments can exit the multi-jurisdictional funding arrangement at a later date (taken from authorizing legislation); and whether or not the funding decisions can be made directly by local citizens through ballot initiatives (from authorizing legislation). Also included are two factors that directly represent the degree of political fragmentation: the number of local jurisdictions included (taken from authorizing legislation); and whether the boundaries used for the funding district are identical to those used for local governments (also taken from authorizing legislation). This last factor is a

technical point, indicating how independent board members are likely to be from local politics, and, by extension, how likely they are to serve regional interests over local ones.

Table 4.2: Features by Multi-Jurisdictional Funding Category*

Funding Type	Government Level of Largest Funding Source	Local/Regional, or State-Level Selection of Board Members	Opt-In	Local Jurisdictions May Exit	Proposal Placed on Ballot	No. of Jurisdictions	Board Member Districts Same as Local Jurisdictions
1) Direct State Funding	State	State	No	No	No	1	No
2) State-Directed Funding for Regional Agency	State and/or Region	Local/Regional	No	No	No	1	No
3) Single Regional Body (elected or appointed)	Regional Agency or Electorate	Not Specified	No	No	No	1	No
4) Multi-Jurisdictional Option Transportation Taxes	Regional Electorate	Local/Regional	No	No	Yes	3+	N/A**
5) Single Regional Agency Funded by Voluntary Local Money	Local	Local/Regional	Yes	Yes	No	2+	Yes
6) MOUs/ Interlocal Agreements	Local	Local/Regional	Yes	Yes	No	2+	Yes
7) Informal/ Weak Coordination	Local or State	Local/Regional	Yes	Yes	No	2+	Yes

*Factors help distinguish differences across cases, but are not rigid criteria. Note that different funding types can exist for different transportation programs within a single region.

**Permanent board is not a prerequisite of a multi-jurisdictional option tax measure.

Classification of Cases

Factors for measurement are designed to distinguish the degree to which upper levels of government devolve decision making to local governments. Some regions, especially very large ones like Los Angeles, Atlanta and New York have more than one type of regional transportation

funding within the same region at the same time. Some regions have used different strategies at different points in time. Making definitive classifications of entire regions would be a futile exercise. However it is possible to classify particular policy programs within each region. At least one program in each of the 50 largest regions (using the 2000 regional census unit discussed earlier)²⁴ was examined to ensure geographic diversity. In some regions two strategy types were present in the same region, and are listed separately (Table 4.3), making the number of case samples 59. Informal funding relationships may exist that were not detectable through publicly available laws and reports. This data was used only for case selection purposes, but a deeper analysis across cases would require surveys and interviews to fully understand the cross-agency relationships not represented in laws and public documents.

Multi-jurisdictional funding programs were catalogued. This was done using agency websites, newspaper articles, reports, state legal codes and other publically available documents. A summary of the final classification is presented in Table 4.3. Note that this study did not select cases based on transportation mode, and half the regions selected include road and transit projects. However few MOTTs in Table 4.3 reflect exclusively road measures, due to state administration of highway improvements, and the fact that these were urban regions, with most having at least some transit in their project selections.

²⁴ Since these numbers are for case selection purposes only, this study uses Combined Statistical Area (CSA) numbers in most cases. This minimizes the exclusion of regions divided by census statistical boundaries. However for CSAs which encompass separate metro regions with separate transit systems, or encompass areas unreasonably far beyond the urbanized region (or simply didn't have a CSA for their area) this study uses MSA numbers instead (e.g. Washington-Baltimore CSA encompasses two quite independent metro regions).

Figure 4.1: Cases Represented

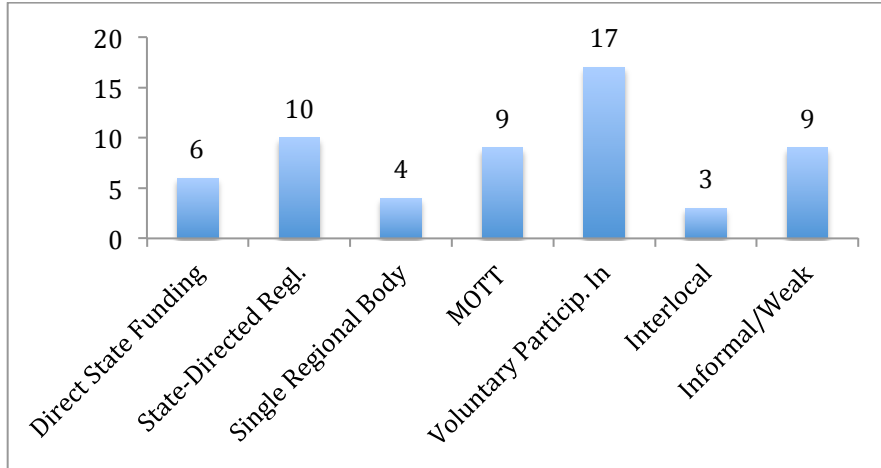


Table 4.3: Multi-Jurisdictional Transportation Funding Strategies Observed Across 50 U.S. Regions

Funding Type	Cases of Use
1) Direct State Funding	Baltimore: Maryland DOT; Boston MBTA; Hartford: Connecticut Transit; Minneapolis: Metro Transit; Milwaukee: MCTS; Washington, D.C. metro region: State of Virginia
2) State-directed Funding for Regional Agency	Atlanta: GRTA; Albany: Capital District Transit Authority; Buffalo-Cheektowaga-Niagara Falls, NY; Chicago: RTA; Miami- West Palm Beach: Tri-Rail; Minneapolis: CTIB commuter rail; New York: MTA; Philadelphia: SEPTA; Pittsburgh: Port Authority of Allegheny County; Rochester-Batavia-Seneca Falls, NY
3) Single Regional Body (Elected or Appointed)	Denver: RTD; Las Vegas: RTC; Portland, OR & Vancouver, WA: TriMet; San Diego: MTS
4) Multi-jurisdictional Option Transportation Tax*	Atlanta (Road & Transit); Austin (Transit); Columbus (Transit); Dallas-Fort Worth (Transit); Houston (Road & Transit); Seattle (RTA & RTID); San Antonio (Transit); San Francisco Bay Area (Road & Transit); N. Virginia (Road & Transit)/Virginia Beach & Hampton Roads (Road)
5) Single Regional Agency; Voluntary Local Money	Charlotte: CATS; Greensboro: PART; Indianapolis: IndyGo; Kansas City: Kansas City Area Transit Authority; Los Angeles: Metrolink; Memphis: MATA; Miami-West Palm Beach: Tri-Rail; Nashville: Regional Transportation Authority of Middle Tennessee; New Orleans: NORTA; Port Authority of New York & New Jersey; Orlando: LYNX; Phoenix-Mesa: Valley Metro; Raleigh-Durham-Chapel Hill: Triangle Transit Authority; Sacramento: RT; Salt Lake City-Provo: Utah Transit Authority; St. Louis: Bi-State Development Agency; Tampa-St. Petersburg: TBARTA
6) MOUs or Interlocal Agreements	Cleveland: RTA; Dallas-Fort Worth: Trinity Railway Express; Jacksonville: JTA; Central Oklahoma Transportation and Parking Authority/COTPA
7) Informal/Weak Coordination	Atlanta: CCT/Gwinnett County Transit/MARTA; Birmingham: BATA; Cincinnati: Southwest Ohio Regional Transit Authority; Detroit/Southeast Michigan: DDOT/SMART/AAATA; Milwaukee: MCTS; Grand Rapids: Interurban Transit Partnership; Louisville: Transit Authority of River City; Southern California: MTA/OCTA/Foothill Transit/Omnitrans; San Francisco Bay Area: SFMuni/AC Transit/VTA/Samtrans/CCTA/GTA/BARTA

See References section for citations.

*Since MOTT measures include projects for multiple agencies, this table identifies the type of projects included (road or transit), rather than the agency.

Selecting Regions for Study

To ensure comparability, it is important for the regions selected for this dissertation to have used similar multi-jurisdictional funding types. Using the criteria listed in Table 4.2 to define the types, case data was compiled from Table 4.3.

All the regions identified as having used a multi-jurisdictional option transportation tax to fund transportation have conducted multi-jurisdictional elections across three or more jurisdictions. For most regions, this meant three counties, but under Texas law that meant three cities, and in Virginia, that meant three cities or counties. For example, the Texas MOTT regions identified in Table 4.4 cover only one county, but still provide a multi-jurisdictional option transportation tax (MOTT) election across all those local jurisdictions. From the top 50 metropolitan areas, the following regions were identified as having used a MOTT to fund transportation projects since 1990: 1) Atlanta, GA; 2) Austin, TX; 3) Columbus, OH; 4) Detroit Metro Area, MI; 5) Houston, TX; 6) San Antonio, TX; 7) San Francisco Bay Area, CA; 8) Seattle, WA; 9) Virginia Beach/Newport News, VA; 10) Northern Virginia/Washington, D.C.

Notably, there were no bi-state cases of MOTTs, and all bi-state multi-jurisdictional funding agreements fell into the “Regional Agency, Voluntary Local Money” and the “Informal/Weak Coordination” categories.

**Table 4.4: Regions That Have Attempted Multi-Jurisdiction
Transportation Tax Elections***

Region	Election (Outcome)	Jurisdictions	Size (Year)
Atlanta, GA	2012 (Failed)	13 counties	\$7.2 billion (2012)
Austin, TX	1985 (Passed) 2000 (Failed) 2004 (Passed)	10 jurisdictions (mostly cities)	\$210.4 million (2015)**
Columbus, OH	1988 (Failed) 1989 (Passed) 1995 (Failed) 1999 (Passed) 2006 (Passed) 2016 (In Progress)	1 county, 11 cities	\$118.6 million (2014)***
Dallas, TX	1980 (Failed) 1983 (Passed)	21 cities	\$519 million (2015) **
Denver, CO	1997 (Failed) 2004 (Passed)	8 counties	\$5.89 billion (1997) \$6.34 billion (2004)
Detroit Metro, MI	2016 (In Progress)	4 counties	\$4.6 billion
Houston, TX	1983 (Failed) 1988 (Passed) 2003 (Passed)	15 jurisdictions	\$715.2 million (2015)**
Northern VA, Hampton Roads	2002 (Failed)	4 counties, 5 cities	\$5 billion (2002)
San Antonio, TX	1977 (Passed) 2004 (Passed)	13 jurisdictions	\$197.6 million (2015)**
Seattle, WA	1995 (Failed) 1996 (Passed) 2007 (Failed) 2008 (Passed) 2016 (In Progress)	3 counties	\$6.7 billion (1995) \$3.9 billion (1996) \$30.8 billion (2007) \$7 billion (2008) \$53.8 billion (2016)
Bay Area, CA	1988 (Passed) 2004 (Passed)	7 counties	\$2.3 billion (1988) \$3.1 billion (2004)

*Regions listed here since 1970s, but cases are limited to those from 1990-present.

**Ongoing Annual Intake for Texas cases (No sunset date on collection).

***Annual Intake for combination of permanent levy, approved in 1999,
and temporary ten year levy, approved in 2006.

N.B. Some regions required a single vote across multiple counties, others across cities, depending on which unit of governance makes local transportation decisions in the state.

Inclusion of Both Fees and Taxes

It is important to define more precisely what kinds of funding measures should be included in the definition of MOTTs for this study. This dissertation is agnostic as to whether projects are funded through a fee or a tax. The Bay Area case, in particular, raises bridge tolls, and thus differs from the strict definition of local option taxes, since tolls are not taxes, but fees.

However this study argues that a proposal's use of a tax or a fee is less relevant than the multi-jurisdictional context. This is primarily due to the fact that the research question here focuses on the process more than the particular funding instrument.

MOTTs should be viewed as closely related to local option transportation taxes, which are already well studied. Goldman et al. (2001a: 4-5; b), which is probably the most extensive compendium of local option tax measures to date, excludes non-tax revenue sources from its definition, while including fees in the list of observed local funding sources. Their definition is: "A tax that varies within a state, with revenues controlled at the local or regional level, and earmarked for transportation-related purposes" (Goldman et al., 2001a: 5). Their focus is on voter-approved local option taxes. The tolls studied here are also confined to a defined part of the state, revenues are controlled at the local level (decided on through the Toll Bridge Advisory process and administered by the regional agency BATA), and their purpose is tied to transportation use. The toll increase is decided through a tax election that is not held statewide, but regionally. The main differences are in the percentage of votes needed for passage under California law, and the requirement that the money be spent on projects that relieve traffic on the bridges, since money usage had to be tied to the source of funds. (See Chapter 5 for more on this).

These are important differences, but the question is whether local option taxes and fees should be seen in separate categories, and when looking across states, there are analogous legal distinctions between LOTTs between California, which require a two-thirds majority, and Florida, where they only need 51%; or the use of sales taxes in Colorado and property taxes in Michigan (Goldman et al., 2001b). These are important legal differences between funding instruments that may affect the choice of projects, or the proposal's ability to win political

support. This study argues that the difference between a fee and a tax should fall into this category.

Indeed, the percentage vote needed to approve a fee in California has increased even since the 2004 process was conducted, posing the question whether these categories should change based on vote requirements. Furthermore, to the politician making the decision, the difference between a tax and a fee is instrumental, based on the legal and political advantages and disadvantages of each, rather than the way the nuances of the decision process per se. Both taxes and fees are funding instruments, and the rules that govern them are more important than their categorical classifications. Therefore, the inclusion of fees appears unlikely to be a significant confounding variable. Consequently both fee and tax measures were included in this study if they were decided at the sub-state level, and the money is required to come back to the local level to fund local projects.

Drawing the Line Between MOTT and Single Regional Body

A few further refinements were made to typology of funding categories developed in Table 4.2 for the purposes of case selection. While the distinction between a Single Regional Body and a Multi-Jurisdictional Option Tax is important and has been discussed earlier, it is a very fine line. Las Vegas has been described as having a regional tax election in the literature (Sciara and Wachs 2007), and might be considered a MOTT in this study, if it had three counties. The same could be said for San Diego. Denver has directly elected board members on the Regional Transit District (RTD) board, not bound to city jurisdictional lines. However through preliminary interviews the author discovered that, in practice, city mayors and council members in the Denver region often had a significant role, alongside RTD board members, in developing each plan and deciding to present it to voters.

For the purposes of answering this study's research questions, it appeared more helpful to consider these two categories together. Therefore, this study includes regions that have a Single Regional Body, but use an optional taxation model. However this study remained limited to regions that have at least three jurisdictions, to ensure complexity exceeding the capacity of an interlocal agreement to resolve.

This allowed consideration of multi-jurisdictional cases where a single agency has an exceptional amount of autonomy to conduct a MOTT election. This classification was useful because it could clarify differences between cases that had a great amount of autonomy and those with very little, thus adding Denver as a potential case. (Las Vegas and San Diego were not included since their transportation planning jurisdiction encompasses the entire county, and Portland has not conducted a tax election). Including Denver could make the role of the agency in the process more clear. On the other hand, it is important to note the distinction of the agency role when comparing processes, and avoid equating the situations faced by regions without an integrated, elected regional agency along with those with it. Many aspects of the processes will be comparable, but not all.

Additional Selection Decisions

For practical reasons, this study also confines itself to cases that occurred in 1990 or later, and to focus on more recent cases, when possible, since a key source was the interviews. This was designed to ensure interviewees would remember the circumstances better, and improve chances of finding archives.

The Texas cases were excluded from this study because of the significant number of differences between them and the rest of the potential case list. In preliminary studies of the 50 largest metro regions, the Texas cases raised challenges for both analysis and comparison to the

other cases. First, in all four cases, the first multi-jurisdictional election occurred more than 30 years before the study began (Austin 1985, Dallas 1980, Houston 1983, San Antonio 1977). The Texas cases were also significantly more reliant on local decision making than the others, since they were the only cases where the local government unit was the city level. Furthermore, cities under Texas law can decide to leave with each new election cycle (TTC §606). If jurisdictions are continually opting in and opting out, the effectiveness of state-granted autonomy can be eroded from below. This dynamic would have added two important confounding variables to this study, and the Texas cases were not easily compared to the others.

A similar situation was present in the Columbus case, where most of the population was located in the central county, but outlying cities could participate in the levy if their voters supported the measure. However the lack of an aggregate majority provision meant it was possible for some jurisdictions to vote against participating (ORC §306.49(C)). This local autonomy was not as extreme as the Texas cases, but could be a similar confounding variable.

The Detroit/Southeast Michigan case had not progressed far enough at the time of this analysis to include, though the author was a direct participant in it, and it is likely to be useful for comparison in later research.²⁵

A final consideration in case selections was this study's intention to examine how the authorizing legislation works in action, rather than only in theory. Therefore, cases were limited to those that have attempted to conduct a multi-jurisdictional process, rather than ones that have simply proposed it, or those that received state authorization, but never used the statute. For example Oklahoma City and several neighboring counties can hold an election, but have not done so (OS, §1370.7).

²⁵ Namely, the project selection process had not yet begun, and no key decisions had been made until the summer of 2016, well after data collection was completed. This would make it difficult to assess how the level of pre-authorized local/regional autonomy affected the decision process.

The Bay Area, Atlanta, Seattle, and Denver included cases having varying levels of prior legislative authorization, as well as permissiveness (Table 4.5). The San Francisco Bay Area and Atlanta cases had no pre-authorization before the process began. Seattle and Denver had varying degrees of pre-authorization over time, with possibilities for comparison within the same region. For example Denver began with no pre-authorization but highly permissive special authorization, prior to its first attempt at an MOTT; however the legislature offered a pre-authorization (including a blanket authorization as well) at a later point, prior to the beginning of a second process. As a key variable in the study, different types of authorizations provided the basis for interesting comparisons both within a single case, and across cases.

Table 4.5: Pre-Authorization & Permissiveness in Cases Studied

	No Pre-Authorization	Pre-Authorization
High Permissiveness	Denver (1997 proposal) Seattle (2007)	Denver (2004 proposal) Seattle (1995, 1996, 2008)
Low Permissiveness	Atlanta (2012)	Bay Area (2004)

These cases are spread across several geographical regions—West, Middle, and Southeast. Should the Detroit case be possible to add to the study later, there would be a Midwestern case. There is not a Northeastern case, which is not surprising, since Local Option Transportation Taxes are not a popular way to fund transportation in this region. Voter referendums are much more popular in the Western United States, though they are also used in the Midwest and South (Goldman, et al., 2001a,b).

The four regions this study examines also represent a diversity of outcomes. The Seattle case had four measures over 20 years, with some passing and some failing, and the potential for comparisons within the same region. Denver and the Bay Area both had successful measures, while Atlanta was a well publicized failure at the polls.

This is not a study of election outcomes or campaign strategies, though the electoral result is important to the extent that a process that failed at the polls may have had important differences throughout the legislative and project selection processes. Therefore it was deemed important to ensure that this study included both cases that passed and cases that failed at the polls. In fact, Denver and Seattle both include failed and successful election results within the same region.

Also note that boundary-spanners (Table 4.6) in each case were either the one who initiated the process, or the one who led the process most prominently, and for the majority of processes, boundary-spanners were the one most interviewees remembered having playing an especially strong role. While reading the cases, please refer to Table 4.6 for the primary boundary-spanning agents.

Table 4.6 Boundary-Spanning Agents Across Cases Studied

	Bay Area, 2004	Atlanta, 2012	Seattle, 1995	Seattle, 2007	Seattle, 2008	Denver, 1997	Denver, Post 2003
Boundary-Spanner	State Senator Perata	Metro Atlanta Chamber of Commerce	RTA Board Chair Laing	RTA Board Chair/ Pierce County Executive Ladenburg	RTA Board Chair/ Seattle Mayor Nickels	RTD General Manager Marsella	RTD General Manager Marsella

Now, with multi-jurisdictional option transportation taxes placed into a context of other multi-jurisdictional funding types, and the cases selected, the following four chapters will analyze the decision process in each case. This will begin with the Bay Area and Atlanta, as examples of what can happen in a case where there is no state authorization at all, prior to the process beginning. This is followed by the Seattle and Denver cases, which had varying degrees of pre-authorization, blanket authorization and permissiveness of that legislation over time. These case studies will set the stage for the final chapters, which will compare the four processes to each other.

Chapter 5: San Francisco Bay Area Case Analysis

Chapter 5 Summary:

This chapter examines a seven-county bridge toll increase proposal that took place in a region that was pre-authorized to conduct a multi-jurisdictional measure, but where the authorization was so prescriptive that it was incompatible with local political imperatives, and infeasible to use. Consequently, a new authorization was needed. This case finds that the area's dependence on a boundary-spanner to initiate the process and achieve legislative approval for it made local politicians quite dependent on this figure, in order to initiate a regional transportation proposal. This situation made it unlikely for such a process to be repeated in the future, and provided opportunities for the boundary-spanner to add pet projects into the proposal as his 'price' for championing the passage of legislation to authorize the process.

Introduction

Multi-county funding measures are hardly a regular occurrence in the San Francisco Bay Area, but when they have happened, it has usually been through specially authorized legislation. For example, in 1962, voters in three counties approved the Bay Area Rapid Transit system in a bond measure using a special authorization (Goldfarb, 1982; Zwerling, 1974). Similarly, in 1988 voters approved an increase on bridge tolls targeted at bridge and transportation improvements. Both of these used special authorizations. This pattern had the potential to change with legislative approval in 1997 of a nine county blanket authorization measure permitting the region's Metropolitan Planning Organization (MPO) to place a ten cent fuel tax proposal on the

ballot (California Assembly Bill 595, 1997; California Revenue and Taxation Code §8502). However the requirements for passage proved politically infeasible, and MTC has still not proposed a tax using this measure. Challenges posed by AB 595's process included its use of a fuel tax, which is rarely a popular funding instrument (see Chapter 1),²⁶ as well as a requirement for each county's Board of Supervisors to approve placement of a proposal on the ballot (a cumbersome process), and a two-thirds majority requirement for passage at the ballot box. The last time the area's MPO, the Metropolitan Transportation Commission (MTC), conducted a poll on the subject, support was registering just 42% (Cabanatuan, *San Francisco Chronicle*, April 12, 2012). Due to the limitations of the fuel tax authorized by AB 595, another special authorization was needed in order to propose a multi-jurisdictional option transportation funding measure in the early 2000s.

This chapter will demonstrate that the absence of sufficient pre-authorization/blanket authorization necessitated the involvement of a boundary-spanner with strong legislative connections to champion such a proposal. While the absence of legal controls over the process gave the boundary-spanner plenty of flexibility to make the proposal successful, this also made it harder to put together, slower to occur, and subject to the unique policy goals of the boundary-spanner (whether or not other participants agreed with them). The boundary-spanner's immense influence over the process was mainly because multi-jurisdictional processes of this kind happen so rarely in the region and are not typically used to resolve regional transportation needs, due to the lack of permissive pre-authorized/blanket authorized legislation.

This is not for lack of need. Crisholm (1989) discusses strategies used in the Bay Area over many years in order to cope with a fragmented transportation governance environment,

26 Fuel taxes target only a single item of sale, making their tax base far narrower than a sales tax. As a result, fuel taxes require a higher tax rate to provide the same level of revenue as a sales tax, and appear more 'expensive' to voters.

using longstanding personal relationships and inter-agency discussions, both formal and informal. Much of this was facilitated by the MTC. However he focuses on management issues, and the efficacy of these interagency relationships has been limited when attempting to solve larger inter-jurisdictional challenges that required programmatic changes or multi-jurisdictional funding. This chapter looks at a measure that appeared on the 2004 ballot in seven Bay Area counties to raise bridge tolls by \$1 on most Bay Area bridges. This went well beyond interagency management issues, with the aim being to change the status quo in the region and improve cross-jurisdictional transportation.

The Bay Area is tied together economically, but it is politically polycentric and fragmented, with nine counties and 26 transit operators. This has created substantial strains on the existing agency structure, which is composed of county-based transit agencies, and transportation planning by county-focused Congestion Management Agencies (CMAs). This planning regime means transportation solutions are designed to manage county transportation problems first, while regional MPOs simply amalgamate the results and ensure that inconsistencies across county lines are not significant enough to be problematic (California Government Code, §65088-65089.10). The decision making context has changed over time, however, as state and federal fuel tax monies have failed to grow with increasing needs (Figures 2.1, 2.2, 2.3). This has been exacerbated in California since voters in 1978 required limited property tax collections, in a measure known as Proposition 13 (Green, 2006). This induced the California Legislature to authorize county-level LOTTs in 1987, in lieu of increasing the statewide motor fuel tax (Green, 2006). As with many other states, California has allowed counties to do this without the need for a special authorizing legislation for each election. But, as this case illustrates, a similar process has not become common practice at the regional level.

Case Outline

The program examined here developed over five phases: 1) preparation and set up, 2) open discussion among transportation agencies and stakeholders over what projects to include, 3) the legislative process, 4) the campaign for voter approval, and 5) implementation. This chapter examines the first three.

Through all phases examined here, and the election as well, the boundary-spanner played an indispensable role in putting the process together. As the history below illustrates, the election simply never would have occurred without him. The history will show how this measure evolved in an ad hoc manner, to fulfill a policy need. Since a boundary-spanner led the effort, it was much easier to overcome the divide between differing political imperatives at the local and state levels of government. This history will show how the boundary-spanner planned the effort and had the final say in most key project decisions at the local level, before other state legislators got heavily involved. Thus, the plan presented to the legislature was already one acceptable to both local politicians and advocacy groups who helped the boundary-spanner develop the proposal at the local/regional level.

The Process of Developing Regional Measure 2: Setting It Up

Discussion about holding a regional vote to increase bridge tolls began in 1999, during the Bay Area's 'Dot.Com' economic bubble and a time when traffic was becoming a major issue in the region (Goulder, *San Francisco Chronicle*, January 22, 1999; Rapport, interview, August 22, 2014).

Largely because of the limitations from MTC's fuel tax authorization, and the lack of other avenues for conducting a regional transportation vote, RM2 was spearheaded not by a

regional agency, but by a politician, State Senator Don Perata (D-Oakland), working in close collaboration with his senior staffer Ezra Rapport.

According to Mr. Rapport, he suggested the idea to Senator Perata. Rapport was unemployed at the time, but he had worked with Perata on previous projects before. Rapport says he had grown dismayed by the process for distributing funding through MTC. This is because he believed MTC had been favoring projects that benefitted each county, rather than the region. As Rapport said, MTC couldn't develop a regional funding process because "it would have been very difficult for [the MTC board members from each county] to divide up the money among their own people... They allocate a lot of money to a lot of different agencies, and they need to be seen as fairly neutral and providing those funds." By contrast, Rapport and Perata "were involved in planning, and ... wanted to allocate those funds in accordance with the criteria we had for planning, which is not neutral" (Rapport, E., interview, September 17, 2010). In Rapport's eyes, the status quo created a systemic disadvantage for funding and planning cross-county projects that improved the regional network (Rapport, E., interview, August 22, 2014).

Figure 5.1: Timeline of Bay Area Events

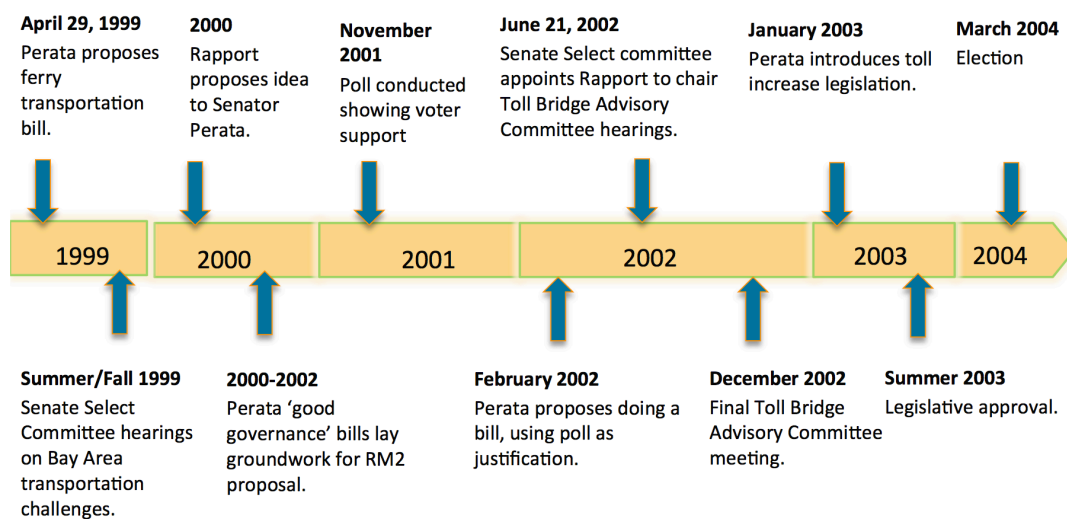


Figure 5.2: The Final RM2 Proposal: A Focus on Cross-County Transportation



Regional Traffic Relief Plan, Metropolitan Transportation Commission, 2003

Part of the difficulty stemmed from the region's funding and management arrangement, with a different transit agency for almost every county (though several counties share agencies), separate Congestion Management Agencies, and separate local option sales tax measures for every county except Solano. For each county representative on the MTC board, it was difficult to think about regional planning, and county transit agencies, in Rapport's view, were another set of local constituents. Rapport believed MTC couldn't develop a truly rational regional funding process because it had to divide the money according to the governments with seats on its board. MTC would amalgamate local option tax plans from each county into its Regional Transportation Plan, rather than develop a plan intended to solve regional issues (Rapport, E., interview, September 17, 2010; Goldman, 2003: 181-183). Rapport says he was seeking to improve "system-level" services that crossed county borders (Rapport, 2010). As will be discussed later, not all the participants believed Rapport's claim that he was devoted to these lofty goals (San Francisco Muni Staff Member, 2011; McCleary 2011; BART Staff Member, 2011).

At the time Rapport pitched the idea to Senator Perata, the legislator had been running into problems gaining support for a separate regional ferry proposal, which he was advocating in conjunction with the area's chamber of commerce (known as the Bay Area Council), as well as land development interests in his district (Fimrite, *San Francisco Chronicle*, July 8, 2000; Cunningham, M., interview, August 20, 2014). According to the *San Francisco Chronicle*, ferries were one such system-level transportation concept that lacked county and MTC support, since they would compete for money with the county-level transportation agencies (Fimrite, 2000). (Express buses and BART were other prominent examples of regional transportation concepts). Ferries performed especially poorly on a cost per mile basis. Yet supporters argued

water transit could increase long distance connectivity and provide system resilience in case of an earthquake. While both were desirable goals, they required a change in the region's funding system. As one political strategist noted, "None of the interests wanted a new transit agency, even if that new agency brought money, because ultimately, they viewed it... behind the scenes as a threat to funding" (Whitehurst, J., interview, February 9, 2010). Thus Rapport's RM2 concept appears to have made sense to Perata due to his own frustration advocating for ferries (Rapport, E., interview, August 22, 2014; Cunningham, M., interview, August 20, 2014; Fimrite, 2000).

Additionally, Rapport recounts that Senator Perata had concerns about how well the MTC decision process was representing diverse stakeholder groups, especially environmentalists and transit advocates (Rapport, E., interview, September 17, 2010).

Strategizing & Assembling a Regional Decision Process

Unlike a previously authorized measure, RM2 required a great deal of initiative and ingenuity on the part of its proponents. Rapport recounts that at the very beginning Perata mapped out what it would take for such a measure to pass, and developed a multi-part strategy: It would be a process over the course of several years, starting with Mr. Rapport's role as the Principal Consultant for the Senate Select Committee on Bay Area Transportation, of which Senator Perata was Chair. Environmental groups had been instrumental in defeating an Alameda County LOTT measure in 1998 (Pimentel, *San Francisco Chronicle*, August 14, 2000). Perata told Rapport early on that they needed to have the support of environmentalists, business and labor in order to pass through the legislature and at the polls (Rapport, E., interview, August 22, 2014). They would begin with "good government bills"—legislation aimed at better coordination across agencies and stronger performance criteria, but no new funding measures.

According to the legislative record from this time, Perata introduced several good government bills. For example, the committee analyses for SB 1995 of 2000 say it originated through hearings of the Senate Select Committee on Bay Area Transportation; and a newspaper article mentions both SB 1995 and SB 2017 (2000 legislative session) as products of the Select Committee (Vorderbrueggen, *Contra Costa County Times*, April 18, 2000). Perata held hearings of the Senate Select Committee in late 1999; Senate select committees are not permanent standing committees, and there were no official records were available. However according to several newspaper accounts and the MTC newsletter, the committee met several times in Oakland over the legislature's 1999-2000 winter recess (MTC, 2000). They discussed "pragmatic" solutions to congestion, including infrastructure projects, consolidation of the region's transit agencies, enforcement of smart growth zoning, and performance standards for MTC based on entire corridors rather than individual counties (Cabanatuan, *San Francisco Chronicle*, December 10, 1999). These actions refrained from moving too fast, while also gaining the people's trust in what the committee was doing before proposing a large increase in fees or taxes.

Based on newspaper accounts, it appears RM2 became official in February of 2002, when Perata first announced that his consultants had conducted polling, and it looked like a bridge toll could pass (Gonzales, *San Jose Mercury News*, February 20, 2002). According to Rapport, this exploratory polling was designed to prove to transportation agencies and others that the proposal could succeed (Rapport, E., interview, August 22, 2014). According to pollster Alex Evans, contrary to what many politicians believed at the time, 79% of respondents thought tolls would increase on Bay Area bridges within the next three years (EMC Research, 2001). As Evans recalls, "We had to show elected officials that supporting a toll increase was not the equivalent to

touching the third rail of politics. Which has been a strong belief in the Bay Area—that you couldn't support toll increases, and expect to get reelected" (Evans, A.; Linney, D.; Capitolo, M., Group Interview, February 10, 2011). Using the polls, Perata built on a perception of voter support in April of 2002, proposing specific bills at a Senate Select Committee hearing in Oakland. To observers, this might have appeared to be a response to the findings of the December hearings (Vorderbrueggen, *Contra Costa County Times*, April 18, 2000). However based on Rapport's interview, the hearings had been designed to justify the bills, and the bills were designed to lay the groundwork for RM2 (Rapport 2014). It appears this worked. Several newspapers reported on his proposals, and one editorialized: "State Sen. Don Perata's push for regional planning in solving the Bay Area's transportation problems is both ambitious and welcome" (*Contra Costa Times*, Editorial, 2000).

The polls helped in another way as well—with the selection of which counties to include in the measure. Rapport claims the counties were chosen through a rational and criteria-driven process (Rapport, E., interview August 22, 2014). However Alex Evans of EMC polling, who conducted the poll for Perata, said they wanted to know "who should be in, who should be out?" (Evans, A. Linney, D.; Capitolo, M., Group Interview, February 10, 2011). His recollection is corroborated by the fact that polling data, collected in November 2001, was broken down by county, providing information about which counties were most supportive.

Unlike a LOTT measure with pre-existing/blanket authorization, Perata and Rapport could choose which counties to include when they wrote the legislation, and polling helped indicate some important things to consider. Evans said that Santa Clara County, home to Silicon Valley south of San Francisco, had only one bridge on its very edge, and few bridge users, but about one quarter of Bay Area voters. If Santa Clara County voters had appeared unlikely to

support RM2, then there would have been no reason to include them in it. However, because they used few bridges, the toll increase was more like a free ride than an undue burden; the polls there looked favorable, so it was advantageous to include them (Evans, A.; Linney, D., Capitolo, M., Group Interview, February 10, 2011).

Choosing the Funding Instrument

There were several notable legal distinctions between raising a fee and raising a tax, which influenced Perata's decision to propose raising bridge tolls rather than regional taxes, and influenced the subsequent project selection process in several ways. The toll was more desirable because the vote threshold was significantly lower than for a tax. Proposals to increase fees required a majority vote, while tax measures needed to obtain a two-thirds supermajority at the time (this changed in 2010, under California Proposition 26, which required a two-thirds majority for most fees as well). It was important for Perata to achieve a legal opinion from California Attorney General Bill Lockyer stating that the proposal classified as a fee in order to reduce the vote that would be necessary for it to pass when it eventually went to the voters.

Additionally, a toll measure was desirable because a precedent had already been set for raising a regional fee in the much smaller Regional Measure 1 in 1988 (California SB 45, 1988), and when gaining legislative support, this acted as a "proof of concept" which made it more acceptable to propose (Senate Pro Tem. Legislative Staff Member, interview September 15, 2010; Toll Bridge Advisory Committee, minutes, June 21, 2002). There was already a regional agency (the Bay Area Toll Authority) in existence to manage the bridges and administer the toll. Finally, bridges may have commanded an important symbolic connection between otherwise disconnected parts of the region. Poll results indicated voter support was greater when bridges were the basis for the measure, rather than ferries or buses, and political consultants would later

make sure to use bridge traffic as the setting for their campaign advertisements (Whitehurst, J., interview, February 9, 2011).

The choice to make this a bridge toll measure meant projects had to adhere to a “nexus” requirement that fees be used in a way that benefits users of the facilities tolled. This mainly served to focus discussion on projects that crossed county lines, but also made it harder to obtain funding for counties with a low number of bridge commuters like San Francisco and Santa Clara/the Silicon Valley area (Toll Bridge Advisory Committee, minutes, October 18, 2002). This meant that projects like the Caldecott Tunnel and projects in San Francisco, which could not be easily linked to bridge congestion, had a much tougher argument to make; at times, it would become necessary to relax these standards in ways that allowed for political agreement across geographic boundaries.

Gaining Legitimacy for the Project Selection Process

Following this initial preparation, the key parameters for the process were laid out at the pivotal hearing of the Senate Select Committee on Bay Area Transportation on June 21, 2002. (The Toll Bridge Advisory Committee, minutes, June 21, 2002). The meeting was led by Senator Perata and attended by Senators Torlakson and Spier. The Select Committee heard Rapport’s vision for a ballot measure to increase bridge tolls by \$1, in seven Bay Area counties (excluding Napa and Sonoma, which were not polling well). Rapport proposed that transportation projects to be funded would be decided by a committee that summer. It is notable that this meeting legitimized the process, but granted a significant amount of leeway for the participants to develop project proposals. This is evident in the four principles to which the committee was to adhere when selecting projects: 1) focus on new regional transit projects rather than roads or local projects, 2) nexus between the people served by the project and the bridge users paying for

it, 3) a 50/50 split between capital and operating funds, and 4) projects would be chosen based on specified performance measures. The Committee asked Rapport how he would ensure inclusivity in the decision process, to which he replied that he intended to include major transportation agencies in the region and ensure they were notified. (However it is notable that he did not mention a process for publicizing the meetings). Following his testimony, the Select Committee approved his proposed guidelines and project selection principles.

Finally they created a Toll Bridge Advisory Committee, which Rapport would lead. This committee was tasked with developing a specific plan, which was intended to be introduced as a legislative bill in January the following year (Toll Bridge Advisory Committee, minutes, June 21, 2002). The Advisory Committee process included stakeholders from county transit agencies across the Bay Area, MTC, county-level Congestion Management Agencies, Caltrans, as well as advocacy groups from the business and the environmental communities. Rapport made an effort to include a number of stakeholder groups from outside governmental institutions in the project selection process—groups that are often not directly represented in the process of developing policy through MPOs (e.g. no MTC commissioner seats are reserved for the environmental community). The Toll Bridge Advisory Committee met nearly every week for the summer and fall of 2002, closely following the parameters laid out by the Senate Select Committee. This process is one where the state, ostensibly, did not impose a significant amount of requirements limiting the decision making ability of local participants, though there were several important exceptions, discussed below.

Establishing the Principles of Project Selection—And then Breaking Them

One principle approved by the Senate Select Committee was the importance of ensuring a strong “nexus” between bridge corridors being charged the toll increase, and traffic relief in

those corridors from projects being funded. This was important in order for the measure to stay within the parameters of a written California Attorney General opinion stating that, to be a fee, it needed to benefit the bridge users who pay it. This could be challenged, potentially in court, so the strength of nexus was an important criterion for project selection; essentially, it asked for quantification of the reduction in traffic each project could produce on a particular nearby bridge.

Other performance measures included the cost per new rider, congestion relief, travel time savings, land use impacts, and project readiness. Mr. Rapport noted: “there were people who didn’t like some of the criteria because they knew it kind of aced out some of the projects they were hoping to get funded some day” (Rapport, E., interview, September 17, 2010). For example, the nexus rule made it more difficult for San Francisco Muni to argue that it was a legitimate recipient of bridge toll funds, since the area’s bridges mainly serve suburban commuters going *to* San Francisco (Toll Bridge Advisory Committee, minutes, October 18, 2002).

There was also concern over how meticulously the Advisory Committee would stick to its performance measures. Dennis Fay, of the Alameda County Congestion Management Agency and Bob McCleary of the suburban Contra Contra County Transit Authority together complained that the decisions were being made behind closed doors, without full discussion on how the criteria would actually be applied (Toll Bridge Advisory Committee, minutes, September 18, 2002). In this case, McCleary was certainly concerned that an important project to his county, the Caldecott Tunnel, would not be included because the project only relieved traffic on the Bay Bridge for *reverse commuters*, diminishing its effect on bridge traffic statistics (McCleary, B., interview, February 10, 2011; Rapport, E., interview August 22, 2014). One BART staff member, who asked to remain anonymous, also saw the performance measures as

unfair, recalling: “Ezra had a profound influence on the *list* [of projects] selected—he wasn’t just a moderator” (interview, February 23, 2011; emphasis in the original). He called the nexus discussion “surreal,” essentially because he could not trust that the performance measures they developed would actually be used to determine which projects were included. Yet, in the end, when asked whether it was a fair process, his idea of fairness was tied to how well his agency did, rather than how fair it was across agencies: “We got a fair amount of money out of it,” he concluded. There were a lot of competing opinions coming out of the 26 different transit operators, seven county-level Congestion Management Agencies, Caltrans and others. There was a constant geographical competition between the suburbs and San Francisco. In the end, Ezra Rapport got to make the final call over which projects to recommend to Perata. He even reminded the Advisory Committee of this at their last meeting. As stated in the minutes, Rapport “...emphasized that he is a consultant to Senator Perata. The bill will be Perata’s and will reflect Ezra [Rapport]’s recommendations as well as those made by others” (Toll Bridge Advisory Committee, minutes, December 13, 2002).

The big transit operators still participated, whether they agreed with the process or not, because, as one MTC staffer noted: “It’s money they didn’t have before.” This is an example of the win-win dynamic that drew diverse and competing stakeholders into the same room. On the other hand, the process had to be designed to allow decisions to be made across so many competing actors. Perata’s role and the potential for new funds that he offered appear to have been key in bringing them together. This begs the question just how collaborative such a process could be, with a powerful boundary-spanner watching over it.

RM2 left the decision over inclusion in the project selection process to the organizers. However in the absence of authorizing legislation, the organizers were limited to the politicians

with the power and legislative connections to write the final bill, giving them great influence over all aspects of the process, from the implementation of project selection principles to the choice of participants for inclusion.

‘Alpha Participants’ and their Impact on Collaboration

Though Rapport had assured the Senate Select Committee the process would be “inclusive,” not all the participants were invited to be there from day one (Toll Bridge Advisory Committee, minutes, August 16, 2002), and this, in fact, made San Francisco’s representative perceive the entire process as an “East Bay-driven initiative” (SF Muni Representative, interview, February 23, 2011). Participants mostly consisted of transit operators requesting funds for project proposals that they would present to the Advisory Committee—which would provide its feedback. This dynamic certainly influenced the way participants viewed their role, in some cases limiting the influence of established agencies like BART, and in other cases empowering activist citizen groups like the Transportation and Land Use Coalition, or TALC.²⁷ In fact, Mr. Rapport made a concerted effort over the course of the process to bring in participants from outside. However Rapport and Perata remained what one might call ‘Alpha Participants’ in all collaborative discussions involving the selection of projects, due to their status as organizers of the effort, designers of the principles for discussion, and their power to write the legislative bill, which would include the final list of projects proposed to the voters.

The most poignant example of this is Perata’s support for ferries. Despite the strong opposition to the ferry system from MTC and county operators worried about more competition for funds (Fimrite, *San Francisco Chronicle*, July 8, 2000), Perata used his influence in the RM2 process to ensure ferries were a significant part of the proposal. Indeed, rather than compete with other projects in terms of performance indicators, Rapport and Perata agreed right from the

²⁷ TALC, later renamed TransForm, was a Bay Area coalition of groups supporting smart growth.

start that 27 or 28% of the money would go to ferries. As Rapport recalls, “I pretty much had to make it non-negotiable with the other agencies; that the price of Senator Perata’s sponsorship of the overall bill was that this amount of money would be allocated to ferries. So if they had a problem with that, they should take it up with him” (Rapport, E., interview, August 22, 2014). The non-negotiability of ferries was apparent to one MTC staffer, who observed that the ferry transit proposal did not come to the committee from the agencies or stakeholders: “That was definitely... ‘Perata, you’re carrying this bill; you know—you’re the rainmaker. Who are we to argue if you want to put in a whole bunch of money into ferries?’”

Maintaining Geographic Equity in a Multi-Jurisdictional Process

The strong role of the boundary-spanner also helped RM2 overcome differing interests across the region through its performance measures, and raw politics. Some participants saw the process as a tug of war between the two, as a compromised version of a rational process, in which the Alpha Participants heavily influenced the outcome. As Contra Costa Transit CEO McCleary observed: “So they wanted to have goodies in there...—there’s the classic politics.... Other than the concept that it was for transit, I wouldn’t say that there was a real rational process” (McCleary, 2011). Rapport disagreed, however, arguing: “Very few people, I would say, knew about the fact that we had chosen these projects strategically. Cause you had to have been there to experience it. So there were people on the outside who said it’s just a bunch of typical Christmas tree things, chosen for political reasons” (Rapport, E., interview, September 17, 2010).

The San Francisco Muni Representative failed to see the connection between the projects and Rapport’s vision, and thought the process gave too little to the region’s historic center (though no longer its population center). He was disappointed at not being included from the

very beginning, and at the constant need to justify San Francisco's claim to any bridge toll funds, being the destination for most rush hour trips (which ensured most city residents would be using the bridge as reverse commuters). In one exchange, Dennis Fay, of the Alameda County Congestion Management Agency asked why San Francisco should get anything when it doesn't pay any tolls. San Francisco's representative responded by asking why San Francisco should pay those tolls when not all suburban areas (likely referring to San Jose) are heavy toll payers either? (Toll Bridge Advisory Committee, October 18, 2002). San Francisco's reservations about the process were only exacerbated when the city's \$1.3 billion in project proposals was rejected—though this figure represented more than a third of the entire budget available for all seven counties. In the end, the city relied on political might in hometown ally, Senate Pro Tem John Burton, to ensure that the city was treated “fairly” (Perata Legislative Staff Member, interview, September 15, 2010). In the San Francisco Muni Representative's judgment, the Advisory Committee was: “A planning veneer on a horse-trading process—this list had sort of largely been put together. That's sort of a reverse justification, in a way, for the projects that sort of made it on the lists through the horse-trading process” (SF Muni Representative, interview, February 23, 2011). Yet, whether he liked the way San Francisco was treated, he still thought Muni should participate. “Any opportunity to get funding is better than none” (SF Muni Representative, interview, February 23, 2011).

McCleary, from suburban Contra Costa County, questioned the rationality of the process itself (though not its mission). He thought the performance measures were more of a show—or something he needed to comply with just to satisfy Mr. Rapport (McCleary, B., interview, February 10, 2011). It appears McCleary strategically leveraged the performance measures to his advantage, for example, to classify certain express bus projects as serving the catchment area

for bridges with less competition for projects within their ‘nexus’ (McCleary personal email, 2002). Nor did McCleary hesitate to leverage political muscle outside the Advisory Committee to push for the agency’s project proposals, eventually contacting Contra Costa County’s own State Senator, Tom Torlakson, for support. McCleary recalls that the process, in its early stages, appeared to be focused on transit improvements. “We went along with that early on, but in the background, about halfway through the process – I don’t know exactly when – I began to hear that the Caldecott project was going to be added, but it was going to be added late in the progress, because they didn’t want to upset the environmentalists who were supporting [RM2] because it was a transit-oriented measure” (McCleary, B., interview, September 10, 2010). Overriding the performance measures completely, and doing so after the Advisory Committee had already concluded its work, Rapport explains: “I waited on the Caldecott Tunnel for everything else to clear before I inserted it, because it was going to be so controversial with the environmentalists, and because it didn’t really fit into the transit agenda that I had been so strongly promoting. It was controversial because, while the nexus was strong, it served only reverse commuters, so it was hard to argue it reduced traffic and did not meet the performance measures.” Rapport continued, “So I think I got everyone’s agreement on everything else, held some money back, and then inserted it” (Rapport, E., interview, August 22, 2014).

On the other hand, Rapport appears to have held a sincere commitment to the performance measures. Most crucially, he still used them as his primary tool to assess projects in private meetings away from the Advisory Committee, as exemplified by a January 27, 2003 meeting between him and MTC Executive Director Heminger.

Participants from outside the county transportation agencies saw a clear need for the performance measures as a way to select across localities and overcome parochial decision

making. Executive Director Stuart Cohen, of TALC, agreed with Rapport's emphasis on using performance measures as a tool to "knit together a region that was balkanized, into a regional one" (Cohen, S., interview, February 9, 2011).

The performance measures, combined with political clout, helped the Alpha Participants overcome the region's fractured politics. They were able to persuade key politicians to support the proposal, and by working closely with environmental interests like TALC, they had enough support to pass the referendum in spite of the concerns by some county transportation agencies.

The Alpha Participants didn't throw their weight around gratuitously. While the process could have benefitted from a more public vetting of the proposals, they made decisions designed to make cross-jurisdictional deals when these would have otherwise been difficult. Furthermore, there was plenty of opportunity for public comment when the formal bill that resulted from this process was introduced. However by then it would be too late to make serious changes. In the legislative process that followed, the Alpha Participants would need to translate the results into something the legislature could accept and vote for.

Translating the Regional Proposal into Politically Acceptable State Legislation

The legislative process involved making minor adjustments to the proposal in order to satisfy the political needs of particular legislators whose support was especially crucial for passage. In these cases, the locally-developed legislation needed to conform to a combination of legislators from across the state, each representing their own local interests, not all of them the same as Perata's. In the aggregate, these legislators' interests formed the state-level political imperatives. But they were not especially limiting for the Bay Area proposal. Part of this is because the largest legislative limitation came from Perata himself—the unwritten requirement that the bill would contain a large amount of money for ferries. Like this issue, other areas of

state legislative involvement were limited to selection over projects. Other legislative features the state might specify (see Table 3.2 for prescriptive features) were in the initial version of the legislation and did not change over the course of the process, such as toll vs. tax, tax rate, date of the election, or which counties to include (California SB 916, as introduced, April 21, 2003).

A staffer from Perata's capitol office from that time commented: "The work had been done at the local level: talking with folks, hearing from folks" (Senator Perata Legislative Staff Member, interview, September 15, 2010). Ezra Rapport, as well, noted the importance of getting such a strong regional consensus across counties, agencies, and stakeholder groups, because "If anybody wanted to object, you could easily lose folks, and that would be the end of it. So we first had to convince everyone that we either hang together or we fail" (Rapport, E., interview, September 17, 2010).

Despite this important local support, both interviews and archival records from the Toll Bridge Advisory Committee suggest there was some difficulty with the South Bay Assembly delegation over \$2 million that SB 916 allocated to study a potential high speed rail corridor that upset nearby residents in Assemblyman Dutra's district (Rapport, E., interview, 2014). In Ezra Rapport's recollection, "The thing that was most controversial was the Regional Rail Master Plan, which allowed to study other forms of Bay Area access for high speed rail." (Rapport, E., interview, 2010). As Chair of the Assembly Transportation Committee at the time, Dutra (D-Fremont) didn't support the RM2 proposal, and supporters were concerned as early as November 22, 2002, that he could provide resistance to the bill (Meeting Notes, November 22, 2002).

Assemblyman Dutra offered a series of amendments on the Assembly floor just before the final vote—eleventh hour changes that may have been necessary to secure his support, and passage through the Assembly. These doubled the money for a Warm Springs BART extension

to \$105 million, bringing BART closer to Dutra’s district, added \$50.5 million for the Caldecott Tunnel (satisfying legislators from Contra Costa County), and provided money for a project both favored by environmentalists (City Car Share), and supported by San Francisco (its Transbay Terminal project). These changes appear to have been aimed at placating the most restive parts of a broad regional coalition of supporters. While the bill passed with a comfortable majority in the State Senate, the Assembly vote of just 41 out of 80 was the bare minimum needed to pass (California SB 916, 2003). This underscores the importance of tinkering with the product of the local process in order to get the bill through the legislature. However because the main decisions had already been made at the local level, the general contours of the proposal were designed to please particular advocacy groups, local politicians, transit agencies, and—of course—Perata. Thus, most conflicts between the political imperatives of local versus state-level politicians had already been confronted in the Toll Bridge Advisory Committee meetings, before the proposal even went to the legislature for final approval; and changes at the legislature did not present any fundamental challenges to the vision of the process; nor did they add language that would have stalled the process, or made it unlikely to pass at the polls (e.g. factors related to the permissiveness of the language, from Table 3.2). Since the hardest work had been done within the region, legislators in the Senate saw it as the equivalent of a “district bill” (Senator Perata Legislative Staff Member, interview, September 15, 2010). That is, “For all of them outside of the Bay Area, it’s a free vote. Because they’re not impacted by it” (Senate Pro Tem Legislative Staff Member, September 15, 2010). On the Assembly side, clearly the record was not as accommodating, though changes were relatively minor, and (as noted above), limited to project selection.

Discussion: The Collaborative Dynamic of the Toll Bridge Advisory Committee

This case reveals ways where the collaborative planning process itself was compromised somewhat due to the lack of a neutral body empowered to convene it. The Toll Bridge Advisory Committee resulted from a hybrid of successful collaboration between stakeholders, intertwined with old fashioned power politics.

In its attempt to create a free-flowing dialogue capable of producing solutions that would change the status quo, this process followed a number of key principles from the collaboration literature discussed in Chapter 2. Notably, decision makers agreed with the process and the rules for discussion, even if they did not author them. It was a win-win situation for participants, with no particular outcome in mind from the beginning, other than agreement on a regional proposal. Finally, participants had roughly the same access to information on projects' performance. However they were likely not all aware of backroom deals taking place—for example the inclusion of the Caldecott Tunnel.

Participants' roles were not clearly defined from the beginning, and developed over the course of the process. Transportation agencies' presence on the Committee presented them with the challenge of working with each other more closely than they would have otherwise been inclined to do. While the participants did not have the opportunity to define the process from the beginning, its win-win nature brought them to the table to negotiate, and strong adherence to the performance criteria offered guidelines for difficult negotiations across agencies.

Participants from established county and regional transit agencies like Contra Costa Transportation Authority, San Francisco Muni and Bay Area Rapid Transit clearly disliked the performance criteria the Committee used, but cooperated nonetheless, due to the prospect of new money (San Francisco Muni Staff Member, 2011; McCleary, 2011; BART Staff Member, 2011).

Agencies presenting proposals to the committee also did not always trust that it would follow its own performance criteria (MTC Staffer, interview, September 10, 2010). And, in some cases discussed above, it didn't.

The process also deviated from the best practices recommended by the collaboration literature in its lack of publicity about the early meetings (Helling, 1998: 346-347; Innes & Booher, 2003: 40). Some key stakeholders like the Sierra Club's representative, and the one from San Francisco Muni, did not find out about the meetings until they had already begun. The series of unofficial meetings was open to the public and notices posted (Toll Bridge Advisory Committee, digital files, 2002), but not heavily advertised, and some key participants were not invited until later in the process (Toll Bridge Advisory Committee, minutes, August 16, 2002).

Finally, the collaborative nature of the process was circumscribed by a dynamic in which Senator Perata wrote the final legislative bill (viz. Toll Bridge Advisory Committee, minutes, December 13, 2002). While interviewed stakeholders largely got what they wanted out of the Toll Bridge Advisory Committee process in terms of projects and policy, the legislative process occasionally overrode participants' voices, which was especially true for the Caldecott Tunnel.

This mix of informal collaboration and formal legislation was necessary to implement a regional transportation tax proposal in a situation where the proposed funding program was not pre-authorized, but it is a compromised version of Innes and Booher's (2003) "authentic dialogue." In practice this meant the process may have limited the creativity of the committee's proposals, and most certainly included proposals like ferries, which were not justifiable based on performance criteria. At the same time, the performance criteria played an important role, acting to ensure a result that bridged the parochial inclinations of many long-entrenched stakeholders.

The incentive for new funding from impending legislation appears to have been an especially effective way to bring local agencies into the process in a state where there was no viable institutional method for proposing a large scale project.

Flexibility of the Process: Writing their Own Authorizing Legislation

Since the pre-existing authorizing legislation did not *grant* flexibility to this process, the boundary-spanner had to make his own, using his political clout to write legislation that created a process exactly the way he needed it to be, in order for it to pass. Since it occurred in a legal environment that required special legislative authorization, the proponents of RM2 had a great deal of leeway to create a measure that would be successful at the polls. They were able to define their electorate in advance, based on polling, and choose which counties to include in the final vote. They were also able to decide the method for conducting that vote—requiring an aggregate majority for passage, rather than a majority of each county. This avoided the potential for any one county to ‘veto’ the proposal, and allowed the Advisory Committee members to suggest a list of regionally-focused projects—many of them, like the Caldecott Tunnel, and seismic retrofitting of BART’s Transbay Tube, projects that had been left out of previous single-county LOTTs (Goldman, 2003). Thus, the lack of permissive pre-authorizing legislation made it possible for Perata to create a process the way he wanted it, and to select many of the projects he and his allies wanted. But as discussed below, this may have come at the expense of making the process easy to repeat in the future.

Findings from the San Francisco Bay Area

Due to the lack of permissive pre-existing authorization to propose a multi-jurisdictional bridge toll measure, a boundary-spanner was required to bring many people together, and write

new special authorizing legislation. This offered the advantage of a process led by an outsider, free from the limitations of codified processes in terms of actors that could be included, projects that could be considered, methods for deciding on those projects, and other examples of permissiveness from Table 3.2. Since the boundary-spanner was the author of the special legislation, he was free to write the law any way he felt necessary to make RM2 successful, and this offered many opportunities for creativity and cross-jurisdictional collaboration—albeit under important guidance from participants in the bill development process. There was a close working relationship between a powerful state senator and politicians at the local level throughout the process. This helped ensure that both sides knew why the projects needed to be decided as they were, and made advocacy groups into partners from the beginning. This confined disagreements to individual projects rather than the ultimate goal of the plan, and while not all participants were happy with the process, everyone that was interviewed accepted it as a means to an end.

Even the fight in the state capitol over the high speed rail corridor was over a project, rather than a more fundamental challenge to the purpose of the measure, the process for developing it, or the Toll Bridge Advisory Committee process. The extended dialogue between local, regional and state leaders during the Toll Bridge Advisory Committee eliminated most local-state disagreements in advance—in what amounted to an extended bill writing session.

Perata's status as a state senator helped make this possible. He used his role in the State Senate to initiate fact finding hearings, finance the polling necessary to bring transit agencies to the negotiating table, write the draft legislation, and gain the Attorney General's opinion that allowed RM2 to be supported by a fee, not a tax. The boundary-spanner's legislative connections played a critical role both in ensuring the projects selected were to his liking,

limiting the legislature's role in changing those projects, and in ensuring the processual issues like the measure's status as a fee, were decided *before* SB 916 went to the legislature for consideration.

The lack of a pre-existing permissive authorization actually helped in achieving legislation written to suit the needs of the process. Yet this informality also made the process quite dependent on a single legislator. This made it difficult to implement without important compromises to the political imperatives of the boundary-spanner who initiated it. (His desire to include ferries is a poignant example). The boundary-spanner's role was made that much more powerful by the scarcity of other legislators looking to champion a similar multi-jurisdictional effort, and the great deal of commitment and resources necessary to succeed. Writing a new law for this one case required someone who had a vision of how the process would occur; local and regional knowledge about what kinds of projects to consider for funding; political experience; connections with politicians at multiple levels of government, and a developed polling, fundraising and campaign apparatus—almost on his own. Participants were well aware that few other politicians with Perata's level of resources were willing to take this issue on as their pet cause. So they obliged the senator when they deemed it necessary to gain his support for their desired projects. The result was a process where Perata and Rapport had a number of important demands that satisfied their own political needs, but were able to bring locals on board both through participation in a joint process, the promise of additional money, and the fear that such an opportunity may not come again soon.

It is notable that this process took five years from the time the Senate Select Committee first conducted hearings on Bay Area transportation challenges (1999) to the time voters went to the polls (2004), and required many hearings and good government bills to make the case for

legislation before the project selection could begin. The project selection process itself went rather smoothly and expeditiously, largely because there were not any strong opposing voices in the room. (And the public, and even some of the later invitees, still largely unaware these hearings were happening). However these hearings required a substantial amount of preparation, and it is questionable how many other boundary-spanners in the region might have had the stamina or resources to see it through from start to finish.

Interestingly, this case is not quite what was predicted in the hypotheses in Chapter 3. It is, in fact, a case that benefited from flexibility, but in the absence of permissive authorizing legislation, rather than because of it. In fact it could be said that the pre-authorization was so *inflexible* that the boundary-spanner had no choice but to write new legislation, and conduct his own process. However, this case supports the hypothesis that the boundary-spanner's legislative ties helped overcome any differences between state-level legislative imperatives and local ones. Or, one could argue that if Perata did not eliminate such differences (since his ferry proposal remained in the final bill), he helped ensure that local activists like TALC were aware of the realities of the legislative process (and accepted the ferries and the Caldecott Tunnel), just as most legislators accepted the bill as one that had already been negotiated at the local level. The flexibility of the process, due to a lack of permissive pre-authorization, and the boundary-spanner's personal ties to the state legislature ensured that the state legislation was crafted to reflect the product of the local process. However the lack of permissive pre-authorizing/blanket authorizing legislation came at a steep price in the significant compromises to the boundary-spanner in the project selection process.

This also severely limited the ability to repeat this process. It is true that, had

Regional Measure 2 failed at the polls, SB 916 contained a mechanism to hold another vote, but a vote on the same proposal, for the same projects, with the same dollar amounts (California SB 916, 2003 §72(e)). Doing another regional measure would be much more challenging, making it very difficult to continue to adapt to the region's changing needs. As political consultant Alex Evans said, now that Senator Perata is termed out of office, "Why isn't [a regional measure] happening again? I mean, it was a successful effort that has helped fund a lot of projects, demonstrated the ability to raise tolls with a good plan for how you spend the money. But, it really hasn't been done again" (Evans, A.; Linney, D.; Capitolo, M., Group Interview, February 10, 2011).

Chapter 6: Atlanta Case Analysis

Chapter 6 Summary

This chapter examines the case in Atlanta, where special legislation was necessary to begin the process for approving a regional transportation sales tax. This caused several challenges. Most notably, the boundary-spanning agent did not have sufficient influence to ensure that the enabling legislation was designed to suit local political needs.

The chapter documents the ways the legislation prescribed an unfavorable date for the election, prescribed the inclusion of peripheral counties with little interest in an Atlanta regional plan, provided too little time to prepare a plan to present to voters, limited the opportunity for a visionary plan, and made it difficult to respond to citizen comments. State requirements ensured that the counties agreed on a mutual plan to present to voters, simply to avoid state financial penalties. However this process was limited from developing a plan capable of winning broad voter support.

Introduction

Atlanta is not known for its regional transit system. However from 1998 to 2012, regional business and political leaders attempted to rectify this, ultimately asking voters to decide whether to approve a sales tax funding \$7.2 billion in transportation improvements. This process was heavily influenced by the region's long history of disagreement over what infrastructure to build, and strong racial fault lines that exacerbated the region's suburb-city challenges (Bullard, 2000).

The Atlanta case was chosen for this study because it represents a case with little room for

local decision making. As in the Bay Area, Atlanta did not have previous authorization to hold a multi-jurisdictional vote. The legislation that permitted a ten-county tax vote used carrots and sticks to induce the ten counties surrounding Atlanta to vote on a package of transportation improvements in 2012. This was referred to in the media as a “TSPLOST” measure, short for Transportation Special Purpose Local Option Sales Tax. Counties in Georgia have the authority to conduct single-jurisdiction “SPLOSTs.” However doing this at the regional level was unusual. Perhaps the only existing precedent was the Metro Atlanta Rapid Transit Authority (MARTA), though counties must vote separately on whether to join, and the measure must pass in each county for an area to join (thus increasing its sales taxes). This has been a major obstacle to integrating transportation in the region, as many suburban counties have declined to join. The TSPLOST measure provided an aggregate regional vote and the prospect for a comprehensive city-suburb approach that included transit improvements as well as roads and freight.

This required special legislation to be placed on the ballot, in a process initiated by the Metro Atlanta Chamber of Commerce and its business community membership. The case is best known for its spectacular loss at the polls, which was closely connected to the events that occurred in the project selection process and the legislation that authorized the measure. This chapter argues that the TSPLOST measure’s failure was exacerbated by the state government’s reluctance to grant sufficient autonomy to local leaders, which made it difficult for them to develop a regional plan on their own terms. Although state legislation did not limit local decision making with regard to the final decisions over project selection, the law carefully specified the process for developing the list of *potential* projects from which local policy makers could select. It also specified the counties that were included, the tax rate, the year and date of the final election, and exactly how the projects would be chosen. This chapter will discuss how

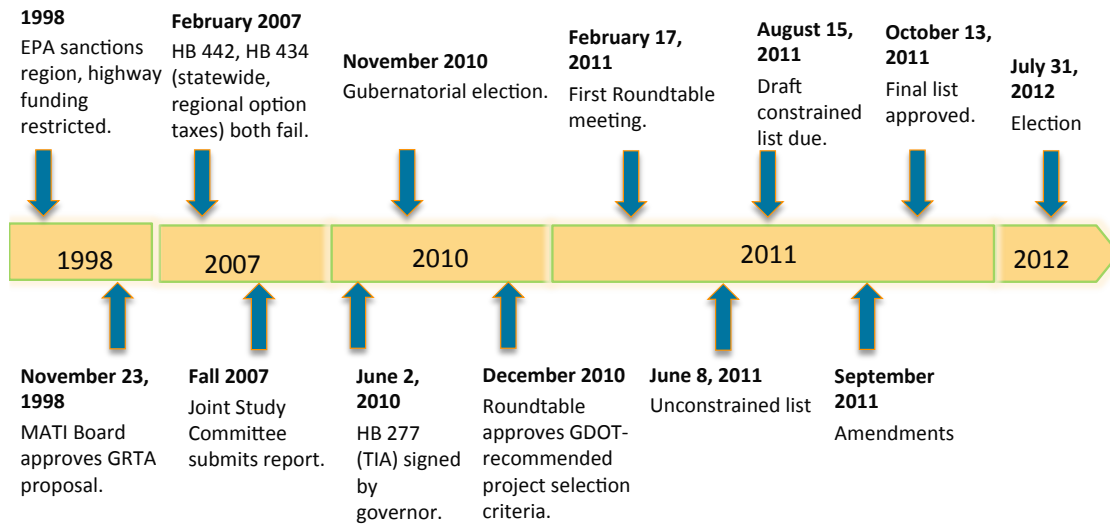
these features of the bill tied the hands of local policy makers even as it left the final selection to local representatives. In a process so dependent on devolution of authority from the state to the local level of government, the legislature's decision to offer a circumscribed autonomy became a crucial limitation, since the process depended on both local and state levels of government working in tandem.

The boundary-spanner was unable to overcome the differences between state political motivations, and local ones. State motivations included political motivations, and often differed from local political imperatives, leaving the participants in the subsequent project selection process to deal with the challenges that resulted. This chapter demonstrates that without pre/blanket authorizing legislation in place, it was crucial for the Atlanta process to have a boundary-spanner with strong legislative influence. However the boundary-spanner was not a legislator, as in the Bay Area case, but instead, a nongovernmental organization (the chamber of commerce). This limited the influence of the entity leading the effort, and meant it was not possible to stop the state politicians from following political imperatives quite different from those that mattered at the local level. This appears to have diminished the shared objectives that would be needed between local and state politicians for the process to move forward successfully.

Case Outline

This process occurred in six phases: 1) Business-led Metro Atlanta Transportation Initiative, 2) legislative process, 3) Georgia Department of Transportation (GDOT) decides which projects are acceptable and recommends selection criteria, 4) Roundtable of political leaders selects projects, 5) campaign and election, 6) implementation (if measure had won).

Figure 6.1: Timeline of Atlanta Events



The following history discusses how the boundary-spanner (Metro Chamber) initiated the process, how it lost control of the legislation, and the impact this had on the selection of projects. The authorizing legislation had a clause allowing future processes to occur. But it should not be mistaken for a *pre-authorization/blanket authorization* because the 2011-2012 process studied here was this bill's first usage, and the bill was intended for this particular process. A special bill needed to be passed in order for this process to occur. This dynamic gave great power to the legislators who wrote the bill, allowing them to make a number of very specific requirements about the date of the election, the counties included and the manner for selecting projects. This decision making at the state level restricted the ability of local politicians participating in the process to make decisions based on their local and regional political needs, and impeded the development of projects that could support a vision with the backing of all the counties. This history argues that in the absence of a pre-authorization/blanket authorization bill, a boundary-spanner *with legislative connections* was needed to ensure a process that would be flexible enough to accommodate local political needs.

Origins & Motivations for the TSPLOST

The Atlanta Metro Chamber of Commerce first became involved in the regional transportation issue due to concern over the region's poor air quality. Following passage of more stringent federal air quality standards in 1990, the Environmental Protection Agency declared the region a "serious nonattainment" area. Additionally, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 linked federal transportation funding to compliance with the federal Clean Air Act. Consequently, the Environmental Protection Agency withheld the area's highway funding (Trelstad, 2000). This drastic action induced many national newspapers to question Atlanta—not just for its air quality, but its suitability as a place to do business. This induced the Chamber to become the chief champion for improving the region's transportation system over the next decade and a half (Trelstad, 2000: 27).

This chapter argues that the Chamber acted as boundary-spanner through its role in leading the response to this problem. Solutions needed to encompass the entire region, and soon focused on ways to improve transportation, as well as the process for planning and funding it. The Chamber launched its first major transportation initiative in 1998, known as the Metro Atlanta Transportation Initiative (MATI). They sought solutions through a regional conversation of CEOs, university presidents and government officials, and hired a consultant to develop a draft set of recommendations to be presented to the Governor-elect in the fall of 1998. The Chamber called for a single regionally focused agency that could integrate responsibilities over planning, funding and implementation (Trelstad, 2000: 34). Chamber representatives met with Governor-elect Barnes following his victory that year, and he adopted the MATI proposals as a key element of his legislative agenda. The final bill, SB 57, created the Georgia Regional

Transportation Authority (GRTA), and gave this agency sweeping powers to overrule local decisions (Trelstad, 2000: 30 & 34).

However one serious flaw in the GRTA legislation was that the Governor got to appoint GRTA's entire board—leaving it vulnerable to drastic swings from one administration to the next. According to former Chamber President Sam Williams, GRTA ran into trouble in 2003, due to the election of a governor from a different political party. This shift from Democratic to Republican was the first such change since Reconstruction, and the new Republican Governor, Sonny Perdue, was not interested in continuing many initiatives of his predecessor, regardless of their policy merit. As Williams recalls: “Sonny Perdue appointed a new board and basically told them to slow down and look mainly at bus systems. ‘Don’t get into regional comprehensive plans, and don’t get into anything around transit.’ So the entire movement that came out of MATI was greatly diminished” (Williams, S., interview, October 29, 2014). With Perdue not providing any significant agenda on transportation, the business community felt the need to fill the leadership vacuum once again.

A New Regional Process Begins

Like the MATI process, the Chamber's next proposal began at the local and regional level, with solutions designed to work for the Atlanta region's particular needs and politics, but as this history shows, the final proposal, the one known as TSPLOST, also changed over time to satisfy the concerns of state-level politicians. This made it problematic for policy makers trying to implement its process in the Atlanta metro region.

The TSPLOST proposal began in the fall of 2006, when the Metro Chamber made the case to the legislature for a new funding solution, and developed a group of local chambers and businesses that held regular meetings (Williams, S., interview, October 29, 2014). Based on

news articles from the time, the Metro Chamber worked to convince other chambers in the Atlanta region to join them in developing a proposal (Hart, *Atlanta Journal-Constitution*, December 1, 2006). (Together, these were known as the Regional Business Coalition). The Metro Chamber began modestly, calling for a bill that would allow two or more interested counties to hold a tax vote together, introduced as HB 434 of 2007.

However this idea ran into conflict with politicians at the state capitol, who came from many areas besides Atlanta, and were committed to providing transportation to their home districts. Moving the tax vote from the state to the regional level offered two advantages. It allowed state politicians to avoid voting to raise taxes directly (Hart, *Atlanta Journal-Constitution*, October 24, 2006), and it ensured that money collected in the Atlanta region would come back to the region (Hairston, *Atlanta Journal-Constitution*, June 13 2002; Georgia Code §32-5-30; Harris 2006). However lawmakers and businesses outside Atlanta grew concerned with this proposal. Georgians for Better Transportation, a lobbying group for road builders (Bookman, *Atlanta Journal-Constitution*, December 11, 2006) and the (state-level) Georgia Chamber of Commerce's "Get Georgia Moving Coalition," argued the regional method would only serve Atlanta (Hart, *Atlanta Journal-Constitution*, October 24, 2006). The statewide approach also won a powerful backer in House Speaker Richardson, who represented a rural area outside Atlanta. His stalwart support for a statewide approach held up legislation for three years, with 14 separate bills.

In 2006, the Metro Chamber used its influence in support of HB 434, a bill that allowed local governments to join together and call a transportation tax election when they saw fit. A rival bill, HB 442, proposed a statewide election on a 1% sales tax increase to fund transportation (Chastain, T., interview, June 27, 2014). Then-Chamber President Sam Williams testified in

favor of HB 434 (Metro Atlanta Chamber, press release, July 11, 2007). However there was tremendous discomfort in the House leadership over HB 434's permissive, urban-focused approach. Representatives in the Georgia House worried that rich counties would band together to fund their transportation needs, while poor counties, both urban and rural, would be left out. As Georgia Representative Sheldon recalls: "There was some of the Senate [that] wanted it to be just so one or two counties could join in together, just a couple counties. You know, that's not going to get your freight corridors addressed" (Sheldon, D., interview, June 26, 2014). Both bills stalled in committee in February 2007, and creation of a Joint Study Committee took the place of direct legislative action.

Metro Chamber Loses Control of the Legislative Process

The Governor remained hesitant to take a stand on the issue, making it hard to break the impasse. The Metro Chamber lobbyist from that time describes the Governor's lack of support as the single biggest reason the process kept dragging on without resolution. In Georgia politics, he observes, "In the absence of that person weighing in, the House and the Senate just fight amongst themselves" (Chastain, T., interview, June 27, 2014).

Other interviewees agreed with his assessment. Speaker Richardson does not remember the Governor driving the process; nor does Representative Sheldon (Richardson, G., interview, June 20, 2014), both from the Governor's own political party. Chamber President Sam Williams recalls it took until Perdue's second term before he talked to the Chamber about the transportation issue, partly out of a lack of experience, no agenda on transportation, a distaste for Atlanta in particular, and urban needs in general (Williams, S., interview, October 29, 2014).

Over the next several years, the business community continued to lobby heavily at the state capitol, and the legislature continued to look for solutions. But without strong gubernatorial

support, they were unable to make a decision. In 2008 they got close, as they almost passed Senate Resolution 845 and its companion bill, HB 1216. This constitutional amendment would have allowed counties to enter into voluntary agreements with their neighbors to raise sales taxes. This was similar to HB 434 of 2007, except as a constitutional amendment, SR 845 required a two-thirds majority. It passed the House, but came just a few votes short in the Senate. In the wake of its failure on the very last day of session, some blamed the bill's chief sponsor, the Metro Chamber, for not reaching out, or for having supported other unrelated initiatives that alienated several Democratic senators. However the Metro Chamber President disagreed with this assessment at the time, saying it fell victim to a Republican leadership reluctant to move forward. Perdue continued his pattern of tepid involvement in transportation, and refused to support the bill, calling for reform at the state's transportation department, GDOT, before he would approve more transportation funding (Wheatly, *Creative Loafing Atlanta*, April 16, 2008).

Once again, the Chamber's proposal for Atlanta fell victim to state-level concerns, and the Metro Chamber was not pleased. Chamber President Sam Williams was quoted at the time as saying: "What they can blame it on is petty fights about taxes and egos in both chambers. This is not going away.... We've been talking about this for the past six years. Every time we try to do something, we are told, 'Wait another year, wait another year.' People are fed up and we should let our elected officials know in the loudest voice possible." (Wheatly, *Creative Loafing Atlanta*, April 16, 2008; Saporta, *Atlanta Journal-Constitution*, April 24, 2008).

As the sense of urgency grew over a shortfall in fuel tax money, the legislature tried to act; but instead, positions hardened into a Senate that supported a regional approach, and a House that supported a statewide solution. In the process, the business community could do little

except lobby, and watch in frustration. This resulted in a number of compromises that eventually made the final bill more restrictive and less politically viable than the Chamber would have liked (Williams, S., interview, October 29, 2014).

Legislation Emerges from the Crucible

In 2009, the climate finally improved. There was a new Speaker, who “just wanted to finish the battle” (Sheldon, D., interview, June 19, 2014). This, combined with a renewed push by the business community, and new engagement by the Governor, made it possible to pass a bill.

It is not completely clear why the Governor suddenly became more interested, but most opinions have to do with state-level electoral politics. For example, (Democratic) Senator Stoner’s opinion was that the Republican House leadership wanted to strengthen its party’s reputation on the transportation issue in case former Governor Barnes decided to run again in the 2010 election—since Barnes had a very strong transportation record, as proponent of the GRTA legislation, during his previous tenure as governor (Stoner, D., interview, June 19, 2014).

In this final decision process, the Atlanta Chamber failed to regain control of the dialogue, and the final outcome had many flaws that made the subsequent process problematic from the start. By all accounts, the Governor and the legislative leadership were thinking more about state issues and state politics than they were about local/regional transportation and political needs when they wrote the bill. The resulting legislation followed a template for compromise offered by the Governor, and was sometimes an odd marriage of the regional and statewide approaches. The final bill, HB 277, was written with state issues in mind, but was dependent on regional elections to approve the tax.

Pitfalls of the Bill

By the time HB 277 went up for a vote, participants were simply too exhausted to iron out many technical issues that would prove to be pitfalls when the local funding processes began.

For example, the authors could not agree on regional versus state approaches, so they did both—multi-county votes in separate regions across the state, all the same day. For state level politicians, it was expedient to use MPO boundaries to draw the geographical boundaries between regions, since these existed statewide. But these were arbitrary lines, and metro Atlanta’s MPO, (the Atlanta Regional Commission, or ARC), encompassed a number of rural counties far outside Atlanta, with very different priorities from the urban area. Yet they were expected to participate in the same process. Not surprisingly, many city and county leaders did not know why they were included, or how the outcome would help them. As Williams puts it, “If you’re in [exurban] Cherokee County why do you want to pay part of your sales tax to [Atlanta Mayor] Kasim Reed to build a beltline?” (Williams, S., interview, October 29, 2014). By the same token, Atlanta residents had a hard time understanding why their money should go to build suburban freeway interchanges even though residents in counties participating in the Metropolitan Atlanta Rapid Transit Authority (MARTA) had paid into their system for decades. As Georgia Senator Fort explains, “After forty years of keeping the faith, paying our [share], creating a mass transit system, and then Gwinnett and Cobb get the benefits of the TSPLOST... without having done what we did” (Fort, V., interview, June 25, 2014). No tax measure, by itself, was going to paper over past animosities, and careful attention was required to choose a geography sensitive to existing inter-county relationships. HB 277 did not do this.

Another major problem was the Governor insisted on a July primary date for the election (Reed, K., interview, October 28, 2014; Williams, S., interview, October 29, 2014). Kasim Reed understood the Republicans’ choice of election dates to be motivated by a desire to ensure that the transportation proposal maintained conservative principles (Reed, K., October 28, 2014). Since Republicans controlled the state government, and the July date was an opportunity to

ensure the TSPLOST initiative would be something they could support, though at the local and regional levels, there are both Democratic and Republican cities in the Atlanta metropolitan region, and the proposal was supposed to be nonpartisan. It is impossible to say how the measure would have done had it been placed on a general election date, though local and regional politicians did not support the July date, since they feared it would increase the number of suburban, Republican and Tea Party supporters voting on TSPLOST (Stoner, D., June 19, 2014). Either way, HB 277's specification of the election date deprived regional leaders the opportunity to make this decision based on polling. In a similar manner, the bill specified which year the vote could occur, denying local elected officials the opportunity to choose the election cycle indicating the best opportunity for success.

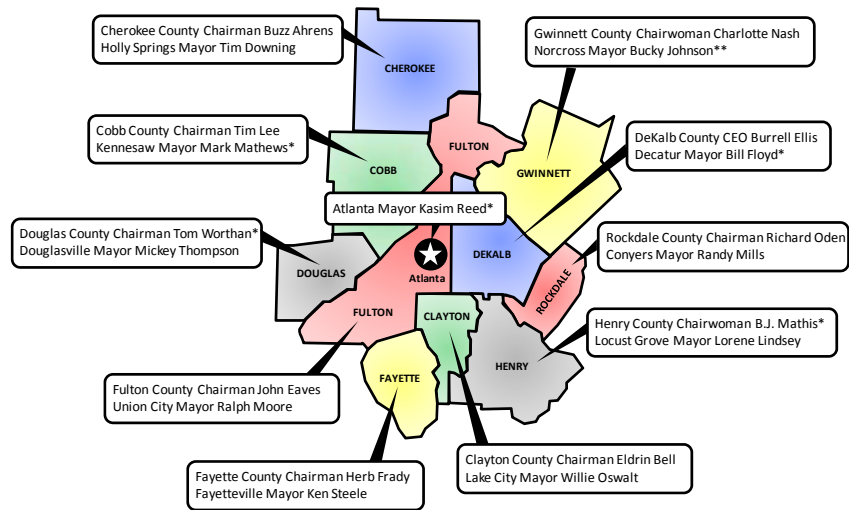
Written from the perspective of state leaders, it was advantageous for the bill to control the project selection process wherever possible, so local decision making had to come with clear parameters—a compromise between local decision making and state control (Roberts, J., interview, June 20, 2014). This part of the bill also emerged through compromise. Chair of the Georgia House Transportation Committee Jay Roberts recalls the Governor wanted GDOT to pick the projects directly. Certainly a top-down process could be faster, with less intra-regional fighting. However Roberts says he wanted more local control. Representative Sheldon, then-Vice Chair of the House Transportation Committee, recalls the committee's motivations: "We wanted to make sure that the voters had the confidence in the projects and ... the people that are closest to the voters, I believe, are going to have a better pulse, a better feel for where the voters are, and just have more trust... with the citizens" (Sheldon, D., interview, June 26, 2014). However they didn't really trust local citizens to keep the process moving on pace. The resulting compromise outlines a process for local discourse designed to achieve buy-in from local elected officials—

but governed by stringent guidelines designed to ensure it moves forward. As she remembers: “There was so much infighting between the cities and counties that we couldn’t just leave it open. We had to have hard deadlines so then you had to get certain things accomplished” (Sheldon, D., interview, June 26, 2014; also discussed by Roberts, J., interview, June 20, 2014). More stringent rules meant a very carefully specified process for selecting committee members, choosing criteria, choosing projects, etc. This meant a more formal and public decision making process, and Chamber President Sam Williams noted the difficulty of implementing an open decision process in such a large metro area, fraught with persistent racial tensions between suburb and city.

At the time, legislators were aware of some of the bill’s shortcomings. However they were ready to pass *something* by this point. As Atlanta Mayor Reed put it, “Legislatures have rhythms, and sometimes the body has given all it’s going to give” (Reed, K., interview, 29 October 2014). The polling at the time looked favorable, so the various participants acquiesced to the final bill, imperfect as it was. The Chamber was left to deal with the result. As Chamber President Sam Williams recalls: “This is not the prettiest baby, but they gave it to us. You know, it’s ours and now we got to figure out how to pass it” (Williams, S., interview, October 29, 2014).

The legislation created a process with many existential challenges—limited as it was by an undesirable election date and counties chosen for inclusion by state politicians, rather than local citizens. Although locals had the opportunity to make the final project selections, their options were limited in a number of ways by the process and the rules outlined in the bill.

Figure 6.2: Regional Transportation Roundtable Members



* Executive Committee Member
 ** Roundtable Chair (Voting) / Executive Committee Chair (Non-Voting)

Atlanta Regional Commission, 2011: 3

Project Selection Begins

The Regional Transportation Roundtable (RTR) was the body of local representatives charged with choosing the projects to bring before voters in the 2012 election. The representatives and procedures for decision making were meticulously defined in HB 277 (known after its passage as the Transportation Improvement Act, or TIA), leading to a highly public process that was unable to articulate a clear vision to present to voters. Each county had two representatives—its County Commissioner and one mayor. The RTR chose five members to sit on an Executive Committee, which did the bulk of the negotiating, and developed a draft plan for the full RTR to consider. Every participant the author talked to believed the Chair did an outstanding job. Yet even before the process began, he was faced with the challenge of how to set up the committee, which was exacerbated by the legislation.

Kasim Reed, as State Senator, had been a vital part of the approval process for HB 277,

yet was not chosen to sit on the Executive Committee in his new role as the Mayor of Atlanta, possibly because he wasn't at the meeting where this was decided (Matthews, M., interview, June 16, 2014). One anonymous interviewee still felt upset about the incident, saying that "...the Mayor of the Central City [in the region] not being on this Executive Committee was outrageous." Georgia House Speaker Ralston eventually had to intervene, and ultimately, Executive Committee member Bucky Johnson, Mayor of Norcross in Gwinnett County, offered to give up his vote on the Committee, and be a non-voting Chair (Johnson, B., interview, June 18, 2014). In hindsight, Mayor Reed says "I'm not a sore winner. I felt like the chief executive of the largest city in the state with the largest arterials [should be on the committee]" (Reed, K., October 28, 2014).

The incident illustrates the extent to which this process was excessively formalized. Johnson observes: "[The legislature] didn't take any input from the local people, but yet they told us how to do it. You know what I'm saying?... [The legislation] was onerous in that if we had picked how to do it we wouldn't have picked that way. [The legislature] kind of put us in that position but didn't give us any, much latitude in how we did it... you know, you have a five member Executive Committee; it can't be six, it can't be four..." (Johnson, B., interview, June 18, 2014).

Though he was fully cognizant of the prescriptive nature of the law, and the challenges this presented, Johnson tried to make the process work, offering coffee breaks when things were about to get contentious. These facilitated horse-trading across jurisdictions, despite the public nature of the process envisioned by the legislation. Johnson also required speakers and staff to avoid acronyms, and put all key documents on the Internet, to ensure transparency and build trust with the general public (Senior Reed Staffer, interview, June 20, 2014).

Developing the Criteria for Project Selection

As a compromise bill, the TIA limited local representatives participating in the project selection process to choosing from a range of possible projects, while giving them the final say over which ones to propose to voters. The bill limited the potential projects the RTR could select by specifying that project selection criteria should be based on guidelines recommended by the Georgia Department of Transportation's Statewide Strategic Transportation Plan of 2010. This was (and still is) their "vision" document for the state transportation system (Georgia HB 277, §2-8-243). However the document's vision was not long-term in nature, limiting the RTR to selecting projects with a *short-term impact*.²⁸ For example, GDOT's Strategic Plan recommended against commuter rail because it was considered to be "more long-term and transformational in nature... and [has] a longer payoff period, especially given the development patterns metro Atlanta has today" (GDOT, 2010: 35). The potential to alter land use patterns was considered outside the scope of GDOT's transportation recommendations, which is consistent with the short-term orientation GDOT Director of Planning Todd Long remembers from his meetings with Governor Perdue. "[The governor] harped on that [issue] all the time. 'Make sure, Todd, they pick projects with outcomes.'"²⁹ Outcomes, of course, within the ten-year timespan of the Transportation Investment Act.

The TIA ensured GDOT's Statewide Strategic Plan would be the starting point for discussion over project selection at the Regional Transportation Roundtable. Projects outside the Strategic Plan that were proposed by local governments had to meet selection criteria

²⁸ The Strategic Plan measured this in terms of increase in workers within 45 minutes of work, increase in reliable trips, and decrease in congestion.

²⁹ When asked what an outcome was, Long clarified that it was a project that moves the needle on congestion (Long, T., interview, June 17, 2014).

recommended by GDOT (Georgia HB 277, §48-8-243). Local governments and the public had several months to comment on these proposed criteria.

Long and GDOT's influence over this process was indirect in nature, and their ability to allow for local discretion over the project selection was heavily circumscribed by the planning regime in the TIA. Many comments submitted to GDOT on their draft selection criteria called for greater local discretion in selecting projects. GDOT responded in many of these cases that this was not possible either because of the requirements in the TIA, or because projects needed to be included in planning documents previously developed by the MPO (e.g. a long-range transportation plan), and ready for completion within a ten year timeframe.

Despite these strictures, GDOT made an effort to take comments by local elected officials into account when crafting its final set of criteria, adding a regional equity provision to ensure geographic equity of taxes paid and benefits received in each county. GDOT also added a requirement that projects improve regional mobility, and made project selection categories less rigid (GDOT Draft Criteria, 2010; GDOT Regional Criteria, 2010). However the final criteria still limited project selections in several important ways.

Proposed projects had to come from previously existing plans and/or studies (e.g. by GDOT, or in the Atlanta Regional Commission's long-range or short-range transportation plans). While some of the selection categories were loosened, the criteria still required projects to be deliverable within ten years, i.e. the life of the proposed sales tax (GDOT Regional Criteria 2010; Long, T., interview, June 17, 2014). This provision would make it difficult for the RTR members to select projects that were large in scope, or unable to produce a short-term impact. Additionally, this made it difficult to leverage local tax dollars to obtain federal grant funding or private partnerships, which might require a longer timespan (RTR Meeting, audio recording, July

7, 2011). One more implication of these criteria was they favored projects in less-developed areas of the region, without potential displacement, social justice issues, or existing infrastructure that might need to be relocated (GDOT Metro Area Deliverability Assessment, 2011), all issues which could have pushed projects past the ten year timeframe. Finally, the regional equity provision reinforced a localist mindset, rather than a regional vision.

Following the Criteria: Making the Unconstrained Project List

Though the Roundtable was given the ability to pick its own projects, GDOT's criteria limited the choices. Additionally, HB 277³⁰ provided the GDOT Transportation Director and, by extension, the Governor's office, the ability to write the criteria for project eligibility (with local input), and allowed GDOT to guide project selection in a direction desirable to them, had it chosen to do so.

Before the project selection could begin, the TIA gave GDOT Transportation Director Todd Long the power to decide what would go on the list of potential projects—a possible limiting factor for any regional proposals (Georgia HB 277, §48-8-241(11)). According to the TIA, counties were expected to submit proposed project lists, and Long had the responsibility to select which ones to include. Long characterized his role at the June 9, 2011 Executive Committee meeting as creating a “menu” for the Roundtable to choose from (RTR Meeting, audio recording, June 9, 2011). In his interview, he said his involvement was limited to picking a very broad list that left the hard choices to the local politicians. While this role gave him a reputation for being the one that “picked the projects,” he notes that the first list required “...three times the amount of money we had. That was easy, right? The hard job was trimming it down” (Long, T., interview, June 17, 2014).

Long's role went beyond just picking a menu of options, however. He recalls: “I had lots

³⁰ §48-8-243

of roles of kind of moving that process through the system. I didn't pick the projects in the long run, but I had a heavy hand in guiding and directing toward that area, right?" (Long, T., interview, June 17, 2014).

Long appears to have managed a constructive relationship with the Roundtable, even as he wielded the ultimate power to create the universe of potential projects from which the Committee could select. At the February 17 Roundtable meeting he told the Committee "I am here to tell you that I'm willing to wear the black hat. I'm the Director of Planning. The one thing the Director of Planning has a lot of authority on in this bill... is not the final selection of projects; it is the development of the unconstrained list." However he also told the group how he planned to use that authority to do things they wanted to do, but couldn't for political reasons: "So let me wear that black hat. Don't just try to appease somebody on your council, just to get them to shut up.... Let's not make the list so exorbitant that it's going to be an *impossible* task to pare it down" (RTR Meeting, audio recording, February 17, 2011; emphasis in the original). Long also told the Executive Committee that he wanted projects that met all the criteria, but wanted to work with them too, saying: "I'm not here to basically kill the process because I didn't include a project you really wanted." (RTR Meeting, audio recording, February 17, 2011).

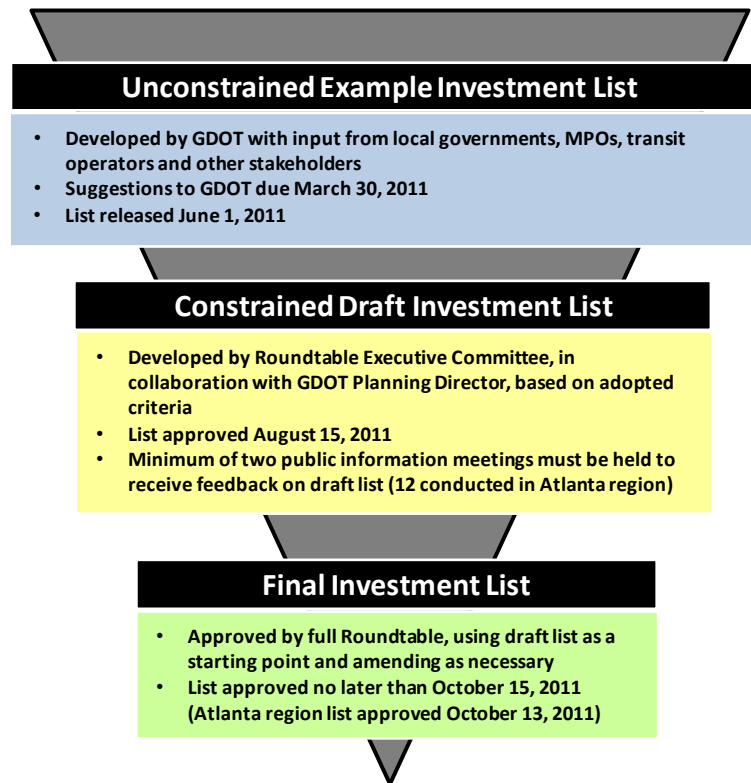
The selection criteria and the unconstrained project list, which Long and GDOT played such large roles in developing, set the course for the remaining selection process. These criteria established methods for achieving geographic equity, the desired outcomes and the short-term timeline for measuring outcomes. All of this would significantly influence the analytical process for determining which projects to include in the final list.

Visioning in the Project Selection Process

The law was developed from the top down, without asking whether there was local

interest in developing a regional transportation plan, or whether they wanted to participate in it. Some Executive Committee members hailed from rural jurisdictions that didn't even understand why they were included in an Atlanta metro area taxation proposal. Participants came to represent their local jurisdiction, but often did not have a clear sense of what they wanted a regional transportation system to look like. Yet the Executive Committee also had freedom to select its own projects. When the Committee tried to develop a plan, it had difficulty, reverting to the mechanics of making cuts through the TIA's 'process of elimination' articulated in the TIA (Figure 6.3). This combination between a restrictive process with a Roundtable able to choose its own projects resulted in a slow process without a clear direction, that had trouble moving forward.

Figure 6.3: TIA Project Selection Process



Atlanta Regional Commission, October 15, 2011: 2

Based on interviews and audio meeting recordings, participants' visions at the outset were limited to vague ideas like cutting congestion, improving transportation, greater access to jobs and increased reliability. The Metro Chamber did not provide any guidance at this stage (though its members returned to guide the campaign). As Chamber President Sam Williams said, "We decided early on that the business community could not get into the political process of advocating or picking projects because.... We felt that the political leaders had to come up with a compromise of doing them" (Williams, S., interview, October 29, 2014). Without any idea how to get to achieve their goals, Roundtable members did not think as much about creating a regional system as cobbling together a set of locally desirable projects. While the process set out in HB 277 was not solely to blame for this, its 'process of elimination' did not help. As Atlanta Regional Commission (ARC)³¹ senior staffer Jane Hayse recalls: "The whole exercise was a matter of culling it down to a constrained list rather than building up from zero to eight billion... so just starting off, I think philosophically it's more negative to have to cut than it is to add, right?" (Hayse, J., interview, June 26, 2014). This led to a technocratic process that stifled the development of a regional vision at the Committee, and left interest groups upset their projects had been cut. "In hindsight, if we could have just built from this base of projects and then built up it would look like you're adding projects rather than taking projects away" (Hayse, J., interview, June 26, 2014).

A Very Public Process

The process outlined in the TIA was quite public, creating a "fishbowl," environment not terribly conducive to cross-jurisdictional deal making (Hayse, J., interview, June 26, 2014). There were eight Roundtable meetings and eight Executive Committee meetings (ARC website 2014), many with over 100 people in attendance, including press. Occurring in the digital age,

³¹ The area's Metropolitan Planning Organization, which provided the staff for the RTR process.

meetings were posted online. There were telephone town hall sessions led by each mayor and county commissioner. There were outreach sessions. And towards the end, there were opposition groups in attendance.

Unlike the backroom deals in the Bay Area, anything a politician said in the TSPLOST process could be in the press instantly: “So... if you were a representative from Cherokee County in the outer loop, and you suggested supporting MARTA,³² well it was in the newspaper the next day” (Floyd, B., interview, June 18, 2014).

Crafting the Framework at the Staff Level

As Hayse observes, “Public officials are not going to go on the record saying they don’t want a project... so they ask the staff to do that, to do their dirty work, right?” (Hayse, J., interview, June 26, 2014). The Roundtable left the hardest work to the Executive Committee. And the Executive Committee continually asked the ARC and county staff to make the cuts that were too difficult to propose in a public forum. The TIA was not directly responsible for this decision, though the process it set up made this an attractive option, since the Committee was without a great deal of vision from its own membership (for the reasons discussed above). It was caught in a politically treacherous public forum. And, per the TIA’s process, the Executive Committee was charged with whittling down a large and unwieldy list. These factors combined to make the selection process more technocratic and bureaucratic than it needed to be.

The necessity of staff involvement became clear as the Committee had difficulty conducting its selections through continual cuts to the project list. In one telling instance, the Executive Committee had a discussion about how it wanted to develop the initial project framework. No one at the meeting articulated an outline for how they could connect the region. Without this, it became hard to decide what projects to include, The Committee focused, instead,

³² The Metropolitan Atlanta Transit Authority (MARTA) has long been unpopular in the Atlanta suburbs.

on principles for *how* to cut the list down, rather than which cuts to make, and came up with several ideas. For example, Douglas County Chairman Worthan suggested ARC come up with a first draft of what to cut, while Henry County Chairman Mathis wanted to use data on the projects' economic impact to inform their decision. There was debate whether to focus on big projects, along with small ones that have a large impact; or small projects spread across the region, supplemented by big-ticket items (to win voter support).

There was little direction to the selection process, and some attendees recognized this. One Roundtable member in attendance (unnamed on the recording) suggested that as elected officials, they needed to prioritize which projects to include: "My only concern with having this done by staff as a first cut is that ultimately a lot of focus is going to be placed on very early in the process.... And too much emphasis in this discussion has been placed on having staff do everything." However another Committee member (name inaudible) disagreed, saying the ARC staff would offer their best professional opinion from a transportation perspective, and Committee members could always change the results if they were unhappy (RTR Meeting, audio recording, June 23, 2011). However he made an important point. The TIA's process of whittling the list down one step at a time left them with no place to start, and the counties included were not all working toward the same goals for the region. The list was just too big to work with, cuts were painful to make, and the Committee was loath to make them in the public process mandated by the bill—a recurring theme throughout the rest of the Committee process.

The Committee decided to begin by voting to have ARC staff cut the list in half by dollar volume, based on defined parameters (expected deliverability, congestion relief, economic impact), and geographic equity (June 23, 2011). While there was a thoughtful dialogue, the Committee remained detached from the hard choices it had to make, even as it drafted the initial

cuts that would shape the final plan.

Jayne Hayse and her staff at ARC ended up doing a lot of the work of this first stage of cuts. This went through several iterations until there was a list the Committee was able to work with. After the first list came back, the Committee still refrained from significant involvement. Mathis, of exurban Henry County, had the full support of other suburban county representatives when she requested the mayors from the urban counties meet to discuss transit projects, since clearly this was not her interest or expertise. Once again, the Committee directed staff to hold a summit to look at the latest information and develop a plan (RTR Meeting, audio recording, July 21, 2011).

Inevitably, Hayse was the one to convene this summit. She did much outreach to the representatives and staff members from each county on a person-to-person basis to talk about projects. Additionally, she convened local staff members to see how they could put a ‘strawman’ list together (Hayse, J., interview, June 26, 2014; Senior Reed Staffer, interview, June 20, 2014; Matthews, M., interview, June 16, 2014).

The ARC staff, left with no direction from the Executive Committee for how to cut, developed three scenarios, one focused on roads, one on transit, and one “balanced” approach. However some Committee members did not know what to do with the results, since the reasons for project selection were too technical for the electorate to grasp in a campaign sound bite. Mathis spoke for many at the Executive Committee when she opined: “What we saw a few weeks ago with the three scenarios was the most confusing thing I’ve ever seen in my life. There was nothing that you could go back and explain [to voters]” (RTR Meeting, audio recording, August 4, 2011).

Meanwhile the mayors from cities concerned about transit held a separate meeting, per

Mathis' suggestion, and had better results than the staff-driven approach. Attended by the mayors of Atlanta, Decatur and suburban Kennesaw, among others, this conversation of elected officials outside the public Executive Committee meetings succeeded in turning the process away from purely technocratic methods for selection; however their discussion remained focused on a project-by-project approach.

The meeting of the mayors appears to have been an important turning point for initiating a serious dialogue about projects. Several who attended called it the most productive meeting they had been to for the Roundtable process up until then (RTR Meeting audio recording, 4 August, 2011). One Executive Committee member remembers this and other county staff meetings as matters of ironing out differences in projects proposed in each county's state-mandated long-range plan, and seeing how they could work together (Matthews, M., interview, June 16, 2014). The Executive Committee ultimately voted 3-2 to choose the top six projects from the meeting, totaling \$2.85 billion.

However the Executive Committee members continued to struggle with how to choose projects from such a big list, and make cuts they could explain to constituents. For example, at the next meeting, Chair Johnson proposed they set percentages for urban versus suburban counties, and ways to ensure geographic equity. Henry County Chairman Mathis favored such an approach because "This whole task of coming up with a project list is a beast, to put it mildly.... You have to have some formula to choose projects from. It has to make sense and it has to be simplified" (RTR Meeting, audio recording, August 4, 2011).

Staff ended up making the majority of the major cuts. There were not audio recordings of the staff meetings where this happened, but at the subsequent Executive Committee meeting, Chair Johnson referred to two staff meetings where county-level staff met with ARC's staff, and

cut the list (RTR Meeting, audio recording, August 11, 2011). Still, without more direction from the elected Roundtable members, the staff could not make the final cuts from \$6.5 billion to \$6.14. Without staff direction for how to make the final cuts, the Executive Committee had to make some at a public meeting, as the TIA's deadline approached for the Committee to submit a financially constrained list to the full Roundtable. Cutting the list was more of a challenge than ever, as proposals to "share the pain" across counties alternated with suggestions by suburban members to make significant cuts to transit, which they considered wasteful. The shared pain strategy won out, however, indicating how the principles of "geographic equity" and "process of elimination" combined to form the final list. This process left a little bit for everyone, but also made it easy for voters to complain that one's own jurisdiction did not get enough (RTR Meeting, audio recording, August 15, 2011).

Local vs. Regional Projects

The process set up by HB 277 and GDOT supported a decision structure based strongly on geographic equity and local needs, rather than regional ones. Certainly Chairman Johnson worked to overcome cross-jurisdictional divisions, for example directing staff to delete county boundaries from all public maps used in the discussion process because the TIA "was supposed to be a regional solution, not a county by county, city by city solution" (Johnson, B., interview, June 18, 2014). However from the beginning of the project selection process, it was cities and counties that proposed the projects, and representatives from each county on the Roundtable couldn't help but think what they could do to defend their county's interests. For example, the Atlanta Mayor's representative says he came with a list of projects to support, and negotiated it down to the core list that they cared most about: "...I don't know how other governments strategized, but... we went in with a list that was substantially larger than what we thought we

would get, but we knew what our target was, and we knew what our target projects were. So ...I think we knew how to negotiate” (Atlanta Mayor Senior Staffer, interview, June 24, 2014). Henry County Chairman Mathis thought locally too, when she brought up geographic equity concerns that outer ring counties were not getting their fair share (RTR Meeting, audio recording, August 15, 2011).

The project selection criteria reinforced a focus on geographic equity that was already prevalent among Committee members. Hayse, from ARC, recalls that the Roundtable members supported this criterion in order to help win the 2012 vote. The Executive Committee ultimately agreed to ensure that at least 80% of the money each county put into the tax would come back to them (Johnson, B., interview, June 18, 2014). This had important impacts on the projects selected. The Roundtable asked Hayse and ARC to try to balance the money spent with the money collected in each county. For example, when considering the Clifton Corridor and the I-20 East transit project, which were both in Fulton and DeKalb counties,³³ Hayse recalls: “...we couldn’t put both in—if you had put both in then you had the issue of geographic equity of the ten counties, and that was the other thing we were trying to preserve is the fact that someone paying their penny in Cherokee would be getting back... I mean, from a planning stand point both of these projects were good. But when you start looking at all these political concerns...” (Hayse, J., interview, June 26, 2014). Geographic equity concerns were on display in an especially obvious way at the August 15 Committee. As that discussion indicated, each county’s representatives had a sort of ownership over the projects from its jurisdiction. In one case, an unnamed representative says he would be willing to cut more from his county’s list, but only if everyone else did the same: “I want to echo the [Atlanta] Mayor’s comments, with regard to shared sacrifice. That’s why I’ve asked for that \$47 million to sit on the table. I’d like to see

³³ Considered the central counties in the region.

that same kind of sacrifice come around to each of you... I'd like to see others do the same. If it's not, then that \$47 million doesn't do anything" (RTR Meeting, audio recording, August 15, 2011). In a similar way, Mayor Reed argued against a proposal that would have cut funding to essential maintenance to the MARTA rail system. He did not argue against it because it was detrimental to an important regional transit provider, but because "I would just urge our team to try and resolve the last \$130 million collaboratively, rather than balancing it on the backs of Atlanta and DeKalb" (RTR Meeting, audio recording, August 15, 2011).

In some cases the geographic equity process was not sufficient to include regionally important projects, and the legislation had one helpful feature for overcoming this, as it allowed GDOT Transportation Director Todd Long to personally add projects to the "menu," when they were not important enough to any one county to support them (Hayse, J., interview, June 26, 2014). However the legislation also supported local projects by requiring that 15% of proceeds for the Atlanta region's tax collections be distributed to the counties for use on projects of their choosing (Georgia HB 277, §48-8-249(e)).

Clearly everyone there knew they needed to think about the region as a whole. Several interviewees saw a direct benefit to being part of a regional process, including things they could do that would not be possible had their county continued to propose ballot measures that were confined to its borders. For example, Mayor Reed's senior transportation staffer says in Atlanta they saw a benefit to doing projects that cross county lines, too large for a single-county tax. For example the Northwest Corridor to Emory, the corridor to South Cobb County, and the I-285/I-20W interchange, which was Douglas County's highest priority project, though it wasn't in Douglas County. "You know, I think people really realized that 'Oh, we really do have some cross-jurisdictional things in common, and cross-jurisdictional goals that we can try to achieve"

(Senior Reed Staffer, interview, June 20, 2014).

By the same token, from Douglas County's point of view, Chairman Worthan recalled: "A lot of people said... why a regional vote when we could do a [local sales tax] our self and we can keep all the money?" However he believed his county was getting more money in projects than it was putting in, because the I-285/I-20W interchange was essential to getting to Douglas County, though it was located in Atlanta (Worthan, T., interview, June 19, 2011). Yet it was hard for the Committee to come to these types of agreements.

Attempts to overcome localism were constant throughout the process, though local concerns kept coming back. Mayor Johnson ensured the Committee members discussed projects according to different dimensions, which spanned city and county boundaries, and allowed for a cross-jurisdictional dialogue. These included inner/outer counties, transportation corridors, and activity centers.

The Roundtable Chairman thought of the region as entirely connected: "Any relief you could give to one part of the system helped the entire system" (Johnson, B., interview, June 18, 2014). His thinking contrasted sharply with the constant transit vs. highway, inner vs. outer, black vs. white divisions cited by almost every interviewee in the Atlanta metro area. There were many attempts to overcome these divisions, and consensus was important to the Chair, in order to present a show of unity to the public, and help the measure pass in the subsequent election. This included a gentleman's agreement among inner and outer counties to make sure a certain percentage of the money collected at home was returned (Floyd, B., interview, June 18, 2014).

Nevertheless, it was hard to overcome decades of disagreement and division in Atlanta. There was a fault line at the "perimeter" highway, i.e., Atlanta's beltway between the urban and

suburban areas. Representatives either came from the “outer loop” or inside it. The inner/outer and black/white divisions did not always coincide neatly, and sometimes racial divisions manifested themselves *within* cities and counties (Floyd, B., interview, June 18, 2014).³⁴ This made it difficult to make decisions on where to build (Stoner, D., interview, June 19, 2014), and senior ARC staff member Jane Hayse remembers having to broker many city-suburb agreements (Hayse, J., interview, June 26, 2014).

These longstanding problems were not helped by the way the process was set up. A pre-authorization/blanket authorization process at the county level would be expected to have a pre-existing county governmental structure on which it could rely to develop the plan and implement the proposal once approved. For the TSPLOST measure, there was no analogous groundwork for a regional process in place—no regional government to plan, build, and operate the system when completed. And projects ‘belonged’ to the counties, not the region. It is not surprising that the Roundtable representatives used the “peanut butter”³⁵ approach to planning, spreading projects evenly around the region, even though they knew all its pitfalls both for transportation planning, and for ensuring a vision that could appeal to voters.

Input from Outside the Roundtable

The Roundtable participants remained focused on local concerns, even though vocal citizen groups persistently demanded multi-jurisdictional thinking with long-term outcomes. In one sense, the Committee found it difficult to know exactly what citizens wanted. There was a conflict between constituents focused on local concerns and large regional organizations like the Sierra Club and the National Association for the Advancement of the Colored People (NAACP), which favored a regional approach.

³⁴ Concerns by south DeKalb County about insufficient transit funding were rampant and racialized to a high degree.

³⁵ A term used frequently by interviewees across the four regions, similar to the “Christmas tree” approach to providing something for everyone.

This choice was made more difficult by the lack of reliable polling information. There are intermittent references throughout the process to the need to pick projects that voters could understand, using methods comprehensible to voters. However local leaders did not have the opportunity, under the TIA, to make other important choices like the year to conduct the election. HB 277 passed in 2010, and by 2011 the Roundtable was deciding on projects. This short timeline meant there was no time to do adequate polling that could have aided project selections, and the Roundtable process had to move ahead without this vital information. This was evident at a February 2011 Roundtable meeting, as a representative from the Metro Chamber told Long there would not even be a Request for Proposals (RFP) on polling data until April. Long replied: “It’s kinda happening so fast, it would be nice to have that on board now...” (RTR Meeting, audio recording, February 17, 2011). But by law, a public agency cannot run the campaign, and depended on outside groups like the Chamber of Commerce’s “First Friday Group” to conduct polls.³⁶ Committee members did not regard these polls as being very useful because they revealed that voters strongly supported projects located near them, but not away from them (Williams, D., interview, June 23, 2014). However, while participants disregarded the data as not useful, it might have been an early warning that the projects on the unconstrained list were too local to attract regional support. In fact one MARTA project did have support across the region, but was disregarded because it was too costly (Williams, D., interview, June 23, 2014).

In the absence of adequate polling data, one might expect the public comment at Roundtable meetings to have provided another important method for the Roundtable to identify citizen concerns and craft a proposal that could satisfy them. However the process designed by

³⁶ ARC conducted limited political data gathering, like focus groups, unscientific straw polls, and telephone town halls, but the Executive Committee did not consider these reliable sources of information (RTR Meeting, audio recording, May 24, 2011).

the TIA did not leave enough room for citizen groups to contribute in its early stages. Projects were selected by representatives from each county, with no direct input from advocacy organizations, other than from the public comment section of each meeting. As State Senator Sheldon recalls, most people didn't really engage until *after* the project list was posted (Sheldon, D., interview, June 26, 2014). By this point the Executive Committee had completed its most intensive horse-trading, and projects requested by citizen groups had, in many cases, been deemed too costly, too long-term and outside the selection criteria that GDOT had developed almost a year before.

Without early participation, it appears there was insufficient buy-in from many important constituencies. Though several groups spoke throughout the process,³⁷ the speakers in the public comment sessions did not become very critical until after the first draft of the list was published. Only then did major concerns from the Sierra Club and the NAACP become apparent to the Committee (RTR Meetings, audio recordings, September 16 & 28, 2011). (It is notable that the Sierra Club, Tea Party and NAACP later formed the coalition that opposed the measure during the 2012 campaign). However few spoke at Roundtable or Executive Committee meetings.

The Georgia Chapter Director of the Sierra Club says she was never asked to contribute to the development of the list early on. Although she went to every meeting, "It was like every time I was speaking I was talking to a wall. They were just like uh huh, uh huh, uh huh. 'Cause it was they just didn't really care... They were going to do whatever they were going to do. And the public input and what was happening at the Roundtable were like almost in two different universes" (Kiernan, C., interview, June 23, 2014). Indeed, based on the audio recordings of the meetings, the responses to public comment presentations sound very pro forma. Dooley, from

³⁷ This included disability rights groups in favor of a call center providing information on accessible transit services.

the Tea Party Patriots Board of Directors, similarly recalls going to the outreach meetings, but never spoke: “You could tell by the look on their faces that they really didn’t care what they were saying. They would have public hearings but they wouldn’t really listen” (Dooley, D., interview, June 19, 2014).

Once the Sierra Club and the NAACP did begin making their concerns known, there was little the Roundtable did to accommodate them. This appears to be due, in part, to the late stage at which these groups brought their concerns to the Committee. By this time, the principles for project selection had been developed almost a year earlier, and the Committee had spent months working to achieve agreement on the financially constrained list. In the audio recordings, there is a palpable reluctance to make any changes to the list at the Committee meetings following the approval of the draft list (RTR Meetings, audio recordings, September 16-October 13, 2011).

While the Committee was willing to entertain amendments, its members agreed that any amendments had to be revenue neutral, ensuring these would be minor in scope, and dependent on agreement among a number of local elected officials whose projects might be disrupted. For example, Fayette County’s Chairman achieved unanimous approval of a road project funded by switching it for a different project on the draft list. The county agreed to make up the minor cost differential by allocating some of its 15% designated for local projects (RTR Meeting, audio recording, September 28, 2011).

By contrast, a proposal by the DeKalb County Chairman to fund a MARTA extension eastward was unable to gain the Committee’s support. DeKalb County’s proposal was much more ambitious than Fayette County’s, and the DeKalb Chairman Burrell Ellis proposed defunding a major highway interchange project to pay for it. Atlanta’s Mayor Reed, from the neighboring county, strongly supported the project’s potential to bring rail towards many lower

income communities in South DeKalb County. However he withdrew his support when the project sponsors failed to identify another way to fund it. Cutting the money from a key interchange was a nonstarter for Mayor Reed, and everyone else on the Committee.

Consequently, the motion to amend the list died without a second (RTR Meeting, audio recording, October 11, 2011). While the NAACP was upset with this (DeKalb NAACP, blog, July 3, 2012), the dynamic of the Committee process made it too difficult to make a big change at this late date.

Analysis of the projects that the Sierra Club and the NAACP questioned shows that these were largely decided before the August 15 draft list was approved. Funding for Sugarloaf Parkway, the road the Sierra Club was most concerned with, remained fairly constant throughout the process. The MARTA North extension was cut in late July. The MARTA East extension was reinstated August 11, with \$250 million. The only project advocated by these groups which was added after August 15 was the Commuter Rail to Griffin, where the Committee decided to provide \$20 million to do preliminary environmental studies, in preparation for future development of the project (RTR Project Lists: 4/15/11, 6/8/11, 7/7/11, 7/21/11, 8/11/11, 8/15/11, 10/13/11).

The advocacy organizations certainly had enough time to make their complaints known. However the process did not offer sufficient involvement for outside groups, especially in its early stages. Public comment during meetings was clearly not enough to create real buy-in for organizations not directly represented on its board. This may have been a lost opportunity to discuss what the ideal system could be from multiple perspectives, and to appeal to citizen needs. To groups that were disengaged from the process, like the Tea Party, the carefully crafted list looked like “a big slush fund” (Dooley, D., interview, June 19, 2014). Several groups that were

not integral to the project selection later became opponents leading the campaign against TSPLOST.

Findings from Atlanta

The special authorization provided by HB 277 made it difficult to develop a proposal that appealed to a broader regional sense of purpose, which contributed to an unsuccessful campaign to sell the plan that the Roundtable produced. The prescriptive features (see Table 3.2) of the legislation included the choice of a sales tax set at 1%, the July primary election held in the 2012 election cycle, the decision to include ten counties using the ARC boundaries, the short timeline for holding the process, the criteria for selection, the limited project list, the public process with carefully specified membership, the hard deadlines, and its process of elimination. All of these features followed state-level political imperatives. These were not always the same as local ones, and at times, these features were at odds with the way local leaders would have organized the measure on their own. Although state politicians gave locals a degree of leeway over project selections, these decisions had to be made in accordance with a carefully prescribed set of rules and criteria.

The law's language made it difficult to have a geography or election date conducive to passage. It established a rigid regime of rules that required projects to provide short-term outcomes, follow the state vision already in place, and draw projects from existing 'off-the shelf' proposals. It set up a process based on continual elimination of projects (Georgia HB 277, §48-8-243), decided in a public forum where these choices were hard to make (Georgia HB 277, §32-9-14(i)). These limitations were reinforced by asking local governments to come forward with local project proposals, rather than beginning with a discussion of what the region needed.

These strictures made it hard for the participants in the Roundtable to move the process towards projects that would have better matched public desires. For example, without a single narrative or reason for doing the tax, the locals' decision on projects was selected from an unwieldy list that needed to be whittled down one step at a time. These were easily criticized as local 'pork' in the subsequent campaign—especially when the projects were in another jurisdiction. In sum, the prescriptive legislation had a pronounced effect in limiting the role various leaders could play to ensure the TSPLOST proposal would succeed at the polls.

The Atlanta case required the introduction of special legislation to place a tax on the ballot across multiple counties at once. This translated into a process that involved both local and state-level politicians, each with different political imperatives. The Atlanta process was originally spearheaded by the Atlanta Chamber of Commerce, which did not have members directly elected to state-level office. Its state ties were indirect, and it was unable to wield the same level of influence on the state process as the boundary-spanner in the San Francisco Bay Area case, who was himself a state senator. Furthermore, the legislature was reluctant to offer the region much leeway in how or when it conducted the process. Authorization to do future processes was made unlikely by a provision requiring a majority of county governing bodies to approve a second vote, in addition to obtaining legislative consent. HB 277 was written specially for the 2011-2012 process (Georgia HB 277, §48-8-245(c)(1)). Consequently, the state political imperatives over issues like the election date, the counties included, and every other aspect of the bill, had a direct influence on the way this process was conducted, ensuring that state politics colored many key aspects of it.

For example, state legislators had great concerns about whether the locals could make their decisions in time for the 2012 election, and felt the need to include many requirements that

kept it on schedule (Sheldon, D., interview, June 26, 2014; Roberts, J. interview, June 20, 2014)—which they succeeded in doing. For example, the Executive Committee would not have met for a final round of horse-trading on October 15, 2011, were it not for a deadline in the legislation. It is also very possible there would have been no Roundtable process at all had it not been for the substantial financial incentives in the bill for counties to participate (Georgia HB 277, §48-8-244).³⁸ However despite these goals, the rigid rules governing the process combined with the large amount of freedom locals had to select projects within those tight guidelines. Consequently, it took a very long time to complete all the steps, and it was very difficult to go backward when citizen groups complained about particular projects at the very end.

It does appear the process needed some legislative direction to proceed on time. But proceed to where? Few people quite understood why they were doing this or where they wanted the process to go. They were following a prescription, with its final goal (less traffic, more transportation) predetermined at the capitol—a goal, but not a vision for how a regional transportation proposal might look. While Committee members developed a consensus, as ARC staffer Hayse observed: “It’s hard for the public to understand how 150 projects fit into a coherent vision” (Hayse, J., interview, June 26, 2014). In fact, Johnson acknowledged: “...It was a complex product just for the people who were part of the whole process” (Johnson, B., interview, June 18, 2014). In fact, at a Gwinnett County telephone town hall meeting, Hayse’s own explanation for the plan reveals the lack of local support for doing the plan in the first place: “Well, why are we doing this? Because the Georgia General Assembly passed the Transportation Investment Act in 2010, that allows regions of the state to enter into a referendum on a penny sales tax for ten years to fund regional transportation projects” (ARC, audio recording, June 20, 2011).

³⁸ Should the measure lose, local governments would be required to pay a 30% match for maintenance and improvement grants from GDOT, for a two year period; however if the tax were to have passed, governments would have been offered 10% match rates (Georgia HB 277, §48-8-244).

As her statement indicates, Atlanta's elected officials were conducting the Roundtable process not because anyone came with a plan they wanted to fund, but because the state initiated a process they had to follow.

This was a very cumbersome, political and technocratic process. Most participants imagined it as nothing more than a single, extraordinary process, unlikely to be repeated. It was simply too challenging, too stressful, and took too long to do it again. The Chair himself said he would not participate in it if it were to occur again. "It was basically about a two year time frame by the time you put the committee together, you know, there was almost a year lapse.... So it was just a long, stressful time...." (Johnson, B., interview, June 18, 2014).

As noted above, HB 277 provides that the process can reoccur on any statewide general primary election date, if a majority of counties vote to do it (Georgia HB 277, §48-8-245). However it would be very cumbersome to attempt this process a second time. Hayse commented, "I've heard, and know, that many, many regions, it fails the first time. And then it maybe passes the second or third time. I don't know what the time frame is between those chances, but in our case it could be once a decade at the worst. And how can you plan and work in that environment?" (Hayse, J., interview, June 26, 2014). Several other interviewees agreed the HB 277 process is simply too difficult to repeat in its current form (Reed Senior Staffer; Worthan, T; Johnson, B, interviews, 2014). It requires too much time and political capital. And that means a hefty investment by a boundary-spanner to initiate it. Even if this were to occur, the process would still have all its same legislative flaws—too many counties, too bureaucratic, projects that are too localized, and too hard to incorporate full citizen participation, among others. It would still be the same state process, the same group of counties, the same procedures

for project selection—not in alignment with local needs. And local needs are likely to change over time, while the bill may not.

Some changes have already manifested themselves. When the bill was written in 2010, the legislature assumed the economy would improve by the 2012 election. When it didn't, there was no way for local governments to simply reschedule the vote, since the timing of the election was written into the bill (Sheldon, D., interview, June 26, 2014). And most politicians would agree, it's not a good idea to ask voters about raising taxes during a recession.

The TIA process is not sufficiently malleable and resilient to accommodate these changes, and it is unlikely anyone will try to do so for many years to come. As Chairman Johnson said, "I wouldn't be involved in [a transportation funding process] if, you know, it was another legislative type thing like that. I would only be involved in this if a group of people could get together and, you know, make a proposal and do it like that. Because it was just too onerous working under all those, you know, conditions.... Under the legislation." (Johnson, B., interview, June 18, 2014). Interestingly, Johnson's suggestion is similar to the MATI process the Chamber first began with, and closer to the processes discussed in the following two chapters.

In conclusion, this case supports the hypotheses of the dissertation. In the absence of state authorizing legislation, a boundary-spanner with legislative connections was needed to develop a process that could bridge the local and state political imperatives. While the Chamber acted as a boundary-spanner in Atlanta, the business community did not have sufficient legislative influence to win the region-driven proposal it originally sought. While the Metro Chamber initiated the discussion, the legislature continued it, and developed a bill that did not respond to local political needs—not to mention cumbersome, time consuming and restrictive as well. As this case suggests, it is simply too difficult for legislators to know all the things locals

will need to make the process work well and legislation with a more permissive structure would have left greater opportunities to develop a project list that could gain support from a large portion of citizens.

Chapter 7: Seattle Case Analysis

Chapter 7 Summary

This chapter examines a series of regional processes in Seattle, which relied on pre-authorized legislation that was also highly permissive. This created an environment where most decision making was made at the local and regional level. The boundary-spanner acted as one facilitator among many committed participants, and was not singularly essential to the process. This chapter also identifies and analyzes the level of permissiveness of the various elements of the authorizing legislation, and discusses their impact on the process. The discussion compares the role of the authorizing legislation in shaping the decision process to the role played by local and regional policy making frameworks. All together, this chapter finds that the process in Seattle facilitated decision making that supported local political needs ahead of those tied to state-level political imperatives.

Introduction

Today, Seattle has a strong reputation for its public transport system, with a light rail system undergoing ambitious expansion to the University of Washington, Sea-Tac Airport, and the technology clusters in the eastern part of the region. One could easily assume it was always that way. However before 1990, public transit in the region was largely local and single-county. This chapter examines several of the referendums that changed this situation.

It was by no means a foregone conclusion that the process would succeed. The region was more conservative in 1988. Snohomish County voted for President Bush in the 1988

election (Washington Secretary of State, 2016). Several early board members from suburban parts of King County were Republicans (Nickels, interview, September 10, 2014). And the 1995 ballot measure went down in defeat due to staunch opposition from anti-tax groups, led by a powerful local shopping mall developer (Foltz, 2010; Butler, interview, September 4, 2014).

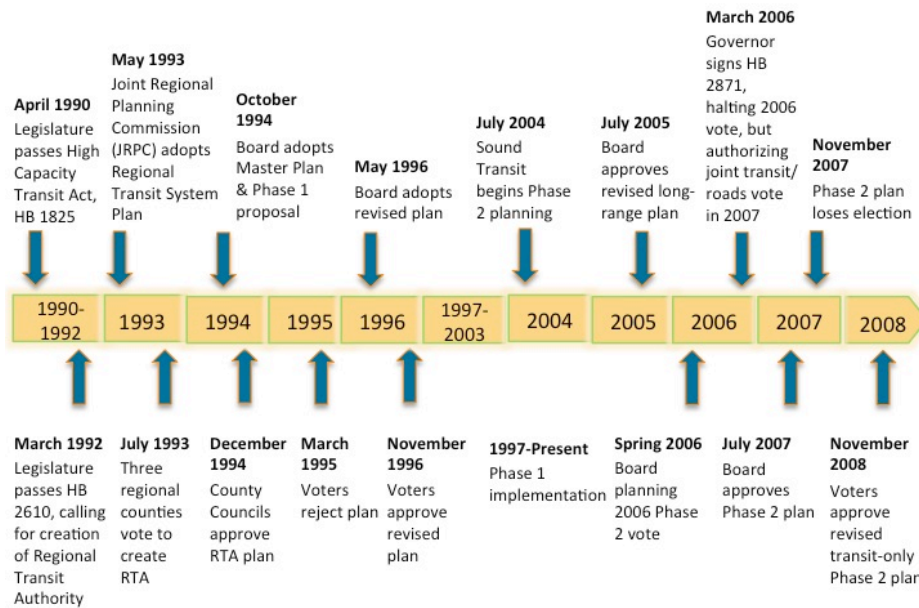
Seattle makes an interesting case for this study due to the extent of its pre-authorization/blanket authorization, and the law's unusual level of permissiveness. Out of the regions studied in this dissertation, Seattle's legislation is, in fact, the most permissive. Unlike Denver, which is also a pre-authorized case, Seattle leaves much of the decision making to local governments, especially counties, allowing them to decide whether to create a Regional Transit Authority (RTA). The law gives counties the power to appoint Sound Transit board members, and to select boundaries. And it gives counties the final say over whether to approve the Authority's proposals and call a tax referendum (Washington HB 1825, 1990 & Washington HB 2610, 1992).

This chapter analyzes how this locally driven regional process worked, and looks into the relative influence of local versus state authority in that decision making. This has been a highly inclusive process, with strong pre-existing legislation and little necessity to fight for new authorizing powers. Boundary-spanning agents have existed, but bore a diminished role, acting mainly as facilitator, and occasionally, defender of existing legislative authorization, rather than lobbyist for new authority. Sound Transit has relied strongly on regional decision making frameworks, which were not prescribed in legislation, but emerged, instead, from the Regional Transit Authority's own policies. Finally, the Regional Transit Authority has been more concerned about local approval of its plans than extensive state oversight.

Case Outline

In 1992 the legislature in Washington State created a Regional Transit Authority for the three county metro area, known since 1997 as “Sound Transit” (Washington HB 2610, 1992; Sound Transit, 2007). The Regional Transit Authority/Sound Transit board was to be appointed by county executives from each county, rather than elected. Under this law the board was given the power to place transportation funding plans on the ballot across the District’s member counties (which could change over time), raising taxes to support a multi-county transit investment plan. As summarized below, RTA/Sound Transit boards did this four times between 1995-2008, and voters approved its proposals twice. This long timeline requires a brief history.

Figure 7.1: Timeline of Seattle Events



A County-Driven Process: Overview of Regional Processes

The Seattle metro area had long discussed the possibility of building a regional rail system, but had little history of working on collaborative cross-county projects. King County voters had rejected single-county rapid transit proposals in 1968 and 1970 (Foltz, 2010: 23-24).

With time, however, the need to reduce congestion became apparent. State Representative Ruth Fisher, in particular, is credited with bringing this topic to the fore at Washington State's capital, Olympia. In an effort to accommodate the state's rapid growth, she sponsored HB 1035 of 1987, which created the Rail Development Commission, charged with examining comprehensive solutions to the state's growth (Washington HB 1035, 1987). The Commission's recommendations became the basis for legislation providing a framework for the development of so-called "high capacity transit" in the state's urban areas. A key finding was that one solution would not work across the state, due to highly divergent needs between Washington's growing Puget Sound region and the state's rural eastern half. Consequently, the Committee recommended funding at the local level (Baxtrom, from McCleod, Oral History, 2007: 153-154).

The bill resulting from the Commission's recommendations created a regional process propelled by bottom-up decision making and local consent to each major progression into a new agency, a new plan. HB 1825 provided a framework for interlocal agreements among county transit agencies in the Puget Sound Region, and led to the creation of a tri-county committee, known as the Joint Regional Policy Committee (JRPC), which was charged with investigating the possibility of constructing a multi-county transit system in the region. County leaders increased their involvement after the JRPC process highlighted some weaknesses of a county transit agency-driven regional plan. These issues included an inability to make the cross-agency compromises they needed to make in order to develop an affordable plan (Foltz, 2010: 27-28), as well as the daunting task of holding a separate vote in each county jurisdiction, and the difficulties of staging and bonding projects through collaboration of three separate agencies (House Transportation Committee Bill Report, HB 2610, February 6, 1992).

HB 2610 of 1992 resolved these issues by formalizing the establishment of a Regional Transit Authority (RTA) to develop a plan and implement it (Baxtrom, from McCleod, Oral History, 2007: 154), but maintained local control of the process by requiring county councils to consent to the JRPC's initial plan and approve the creation of an RTA to continue the process. And it required further consent to any plan the RTA might bring to bring to voters. It was not always easy to get this support. As former King County Council Member Nickels recalls, "We had to go through each county council and have them authorize the creation of the district, and that was quite a fight. There was significant opposition to that. People saw it as a place where they could kill it before it was born" (Nickels, interview, September 10, 2014). Suburban Pierce County and Snohomish County were not seriously interested in opting out. However King County—home of Seattle, and center of the region—was more difficult. "I think the King County Council was actually the toughest of the three. We had a Republican majority, some members of whom were anti-rail, and if it hadn't been for Bruce Laing [a Republican], frankly we would not have gotten to the ballot. [It was] his leadership and the respect that some of his Republican colleagues had for him" (Nickels, interview, September 10, 2014).

All three counties ultimately decided to proceed with JRPC's plan and begin the planning process. Following JRPC's recommendation, the new RTA proposed a 0.4% sales tax increase and an increase of 0.3% of vehicle value. They developed an extensive regional proposal, dubbed "Sound Move," which failed to gain enough voter support in 1995; however with major revisions and reductions, a regional plan passed with 56.5% voter approval in 1996 (Sound Transit 2007).

improvements, then being developed by a separate road improvement authority from the same region, the Regional Transportation Investment District (RTID).

The two regional authorities did not have coterminous boundaries, but HB 1396 specified that a simple majority of voters in *both* districts needed to approve a unified ballot measure for it to pass (known as Proposition 1). This provision confused voters, and the combination of an already massive \$30.8 billion transit measure with a \$16.4 billion highway improvement measure was simply too large for many voters. Additionally, the combination of transit with road proposals elicited opposition from environmentalists like the Sierra Club, concerned with the global warming effects of roads (Lange, November 6, 2007). Consequently, the measure lost by a 56-44% majority (Sound Transit, 2007). While this may seem to be an example of strong state intervention in the regional process, even in this instance, the state left intact the system of requiring county approval to join the regional authority and place either measure on the ballot (Washington HB 2817, 2006; Washington HB 1396, 2007 §2). And Sound Transit's planning process was also left largely untouched. It is more accurate to describe this as an involuntary pairing of two agencies, with separate planning processes, for the duration of the election.

2008 Proposal

This failure elicited dire predictions in 2007, but RTA/Sound Transit was able to come back only one year later with a new regional measure, again using its remaining taxing authority under HB 2610 of 1992 as the basis for a second phase—a process that relied on each county's stamp of approval, just as in 1995 and 1996.

Identifying a Pre-Authorized/Blanket Authorized Proposal for Analysis

Although Seattle metro area voters considered four different ballot measures between 1990 and 2008, for the sake of brevity, this chapter considers only one of the two processes from the 1995-1996 period, in order to understand the patterns of decision making that emerged for

future Seattle processes. (Several more decision making patterns arose in 1996, and will be cited periodically, but they developed out of the same attention to local needs described for 1995).

Figure 7.3: Sound Transit 2 Proposal, 2008



Sound2 Making Connections, 2008, pg. 5

Being the most recent processes, many interviewees remembered the 2007 and 2008 proposals the best. Both processes relied to some extent on authorizing legislation approved in the 1990s, though the 2008 process, in particular, provides a unique perspective on a process governed by legislation pre-authorized long before. All four processes, in fact, could be described as pre-authorized, though they defy easy categorization. One could see the 1995 process as a new stage of the JRPC process, coming right on the heels of new legislation that created a long-term implementation instrument. However the legislation was also quite permissive, and essentially left RTA and county councils to act on their own. Though the legislation was approved just before the 1995 process began, it was not tied directly to a single election year, and is therefore identified here as pre-authorized. The same can be said for the

1996 process. This legislation contained a sunset clause, but one that allowed enough time for a second ballot attempt, following the 1995 defeat. Thus, the process took place, again, using legislation that was not written expressly for it.

Another complication came in 2006, when the legislature passed HB 2871, preventing a 2006 process from taking place. Even this interference, however, was confined to the date of the election, which the legislature required to occur in 2007, as well as the requirement to pair RTA's transit measure with a roads measure being developed by a separate authority. These specifications had a strong impact on the vote, but RTA was largely able to keep its project selection process intact, keep the same tax rate, tax type, and other essential features, though the transit and highway proposals were now joined. This study classifies the 2007 process as specially authorized, since the legislation was directly targeted at the 2007 ballot measure.

Yet the 2008 process was quite different. Though it stemmed from the same legislation that authorized the state's intervention in 2007,³⁹ that legislation also introduced a blanket authorization provision, by not specifying a sunset date to RTA/Sound Transit's ability to go back to voters should the 2007 proposal fail, except in 2008, the provision requiring the joint roads-transit measure was no longer in force. Therefore the 2008 proposal should be seen as a blanket authorized proposal. And since none of the four bills that supported it were written with specifically to allow the 2008 measure, it should be considered pre-authorized as well.

For the sake of simplicity, the earlier processes will be discussed to the extent possible, based on archival details, providing background for the many decision patterns that continued into the post 2004 proposals.

³⁹ Washington HB 1825, 1990; HB 2610 of 1992; HB 2871, 2006, HB 1396 of 2007.

Permissive Legislation

Clearly, several pieces of legislation governed the various regional processes over an 18 year timespan, but HB 1825 of 1990, and HB 2610 of 1992 provided the majority of the powers RTA/Sound Transit used throughout its four planning processes, and these bills formed the basis for the 2008 process examined in this chapter, though its blanket authorization came from HB 2871 of 2006. Since the 2008 process was pre-authorized almost 16 years before it took place, legislative features, rather than legislators' intentions, are this chapter's primary concern.

Both bills have an extraordinary degree of deference to local decision making. This was partly due to the different needs on each side of the state (Baxstrom, from McCleod, Oral History, 2007: 153-154), and a desire to involve local governments in the decision process (Haugen, from McCleod, Oral History, 2007: 84). This is apparent right away when reading the 1992 bill's statement of legislative intent, "...to empower counties in the state's most populous region to create a local agency for planning and implementing a high capacity transportation system within that region." In fact, the bill states explicitly that it "...is not intended to limit the powers of existing transit agencies" (Washington HB 2610, 1992).

This can be seen in the choice of geography for the regional planning agency. Rather than prescribe this in the legislation, both bills let local governments decide whether to be a party to the regional planning process. This is done in HB 1825 of 1990 through interlocal agreements, which county transit agencies must join voluntarily, which lead to the creation of a regional process led by a "Joint Regional Planning Committee" (JRPC). HB 2610 modifies this, while creating a long-term Regional Transit Authority, and requiring county councils to vote on whether to join the new agency. Additionally, the 1992 law ensures robust local participation by providing that each county council appoints its own members to the RTA.

Once created, county councils maintain strong control over the process, and must vote to ratify the RTA's proposed plans before the proposal can go to the ballot. If unsuccessful within two years of its creation, member counties may leave, or with a 2/3 vote, the RTA board may dissolve itself. However despite these local powers, RTA maintains its stability, due to a provision that prohibits counties from unilaterally withdrawing from the RTA once voters have decided to create it (Washington HB 2610, 1992 §3). While the measure uses an opt-in, rather than an opt-out strategy, in practice, it was challenging but not daunting to assemble local support, since there were only three counties, and all three voted to participate within months of the Legislature's action.⁴⁰

Lack of a Sunset Date

HB 2610's lack of a sunset date on the taxing authority allowed RTA to return to voters several times for additional approval. This was not entirely a 'blank check,' particularly in 1995 and 1996, because another provision required voters to ratify both the formation of the RTA and its regional transportation proposal within two years of the agency's formation (Washington HB 2610, 1992 §3). Furthermore, HB 2871 of 2006 prevented RTA from exercising its authority before 2007, and then, only in combination with a highway package approved by the separate Regional Transportation Investment District (Washington HB 2871, 2006 §8, 12). As mentioned above, this provision only applied to the 2007 election, and in following years, the agency was again free to offer a proposal at the ballot following the 2007 defeat (Washington HB 2871, 2006 §5, 12). Notably, none of these bills discussed here limited the period over which taxes could be collected, or the time period for implementing the proposed construction, which provided additional flexibility when developing a set of projects desirable for the electorate.

⁴⁰ Counties participated by interlocal agreement under HB 1825 (1990), and by voting to join the RTA, after passage of HB 2610 (1992).

Geography

The bills are highly flexible on determining the boundaries for the RTA. Both HB 1825 and HB 2610 allow counties to join as long as they are contiguous (Washington HB 1825, 1990 §17; Washington HB 2610, 1992 §3, 5). Both bills allow additional counties to join later.

Finally, HB 2610 clarifies the procedure for drawing boundaries at the local level, leaving a great deal of the decision making to the RTA board. While the bill offers the JRPC boundaries as a starting point for the new RTA, board members had discretion over whether to move those lines, as long as they kept entire cities inside the borders, and followed precinct lines. In fact, the new board spent several meetings developing maps and fine tuning its borders in advance of the 1995 vote (RTA Board Meeting Minutes, July 8, 1994).

No Projects Specified

Neither HB 1825 nor HB 2610 requires specific projects or even corridors for inclusion in regional plans by RTA or the JRPC, following Washington State's preference for local decision making. RTA and the counties have the flexibility to choose the main projects. To be sure, there were other challenges, like geographic equity, which was a difficult ongoing challenge when developing RTA's plans. However state legislation does not specify projects, and leaves these decisions up to local leaders. Instead, HB 2610 provides a very general framework for resolving geographic equity matters during project selection, requiring that the final plan contain an equity element identifying revenue collections and revenue returns, as well as the schedule by which jurisdictions are likely to see benefits (Washington HB 2610, 1992 §3.7C).

Tax Instrument & Rates

The legislature leaves a great deal of discretion to RTA board members on one of the most basic issues—tax instruments and tax rates. The tax instrument could be either a Motor Vehicle Excise Tax (MVET) or a sales tax. The MVET tax rate could be anywhere from 0-0.8%, while the sales tax could be anywhere from 0-1% (Washington HB 1825, 1990 §42, 43; Washington HB 2610, 1992). Potentially, this would allow such a decision to be made based on polling and citizen input, enabling the board to find a tax instrument and rate that makes the measure more likely to pass.

Voting Requirements

One final permissive element of the legislation is the provision for what kind of voting majority should be required at the polls. HB 1825 and HB 2610 require a simple majority of the total number voting across the district (Washington HB 1825, 1990 §25.3; Washington HB 2610, 1992 §3.7C; Washington HB 2871, 2006), with no requirement to win in every county, which incentivized the selection of projects with a regional, rather than local, appeal. The simple majority provision, in tandem with approval by a county legislative body, follows the practice used for other local tax measures in the state of Washington (Goldman et al., 2001: 210-212).

HB 2871 of 2006, discussed later, created a number of special concerns by preventing voting in 2006, and created confusion by placing measures from two different authorities on the same ballot (Washington HB 2871, 2006 §8).

Decision Making in RTA's First Planning Process, 1993-1995

An examination of the minutes from the first RTA decision process reveals little dependence on a single boundary-spanning agent, and few legislative limitations to the decision making process. RTA held its first meeting in the summer of 1993, the year after passage of HB

2610 (1992). This continued an existing multi-county planning process, but under the auspices of a new regional agency, the RTA, which was intended to have the longevity needed to implement any voter-approved plan. While JRPC had offered a vision for developing transit in the region, RTA would institutionalize it.

A Free Hand to Change the Existing Plan

As RTA's new board soon discovered, HB 2610 did not require that they kept the JRPC plan intact, giving them significant freedom to select projects. However this was not so certain in the fog surrounding the creation of a new agency. The fledgling board, with little budget or staff guidance, was unsure what to do with the JRPC plan it inherited. At an October 1993 workshop session to discuss the possible directions for the new agency, the board did not believe RTA's authorizing legislation required them to use their predecessor, JRPC's, plan, but this was not yet clear. Many RTA board members had clear reservations about using it, with one member concerned JRPC had rushed its work towards the end of the process, and noted, "After the plan went through the EIS process... commuter rail was suddenly added" (RTA Board Workshop Minutes, October 16, 1993).

RTA board members were unsatisfied with JRPC's final conclusions as well, but were unable to articulate a coherent alternative. It is true, they were not in complete disagreement that, as Board Member Madsen pointed out, "The [RTA] board hasn't settled on a single goal [yet], other than the fact we plan to build a rail system" (RTA Board Workshop Minutes, October 16, 1993). Indeed, Ms. Gates, of King County, spoke for many when she noted the existing plan was "...a good starting point for discussion purposes...[However] if I were asked to actively endorse the JRPC recommendations to my area and help sell them on a public ballot, I couldn't do it." Even as a starting point for discussion, the existence of JRPC's plan came with a

potential pitfall for RTA. As Seattle Mayor Rice put it, “Sending out the JRPC plan for public comment may mislead the public into thinking it is the RTA’s plan, rather [than] a RTA device to generate public input about what RTA should develop” (RTA Board Workshop Minutes, October 16, 1993).

This workshop left open the question of whether RTA could or should modify the JRPC plan, and at a November RTA board meeting, Board Member Nickels of King County expressed his belief it was RTA’s “...responsibility to finalize that plan and see that it is implemented” (RTA Board Meeting Minutes, November 12, 1993). However many other board members were not so sure, and RTA’s new legal counsel settled the uncertainty over the role JRPC’s plan might play in constraining RTA’s decision making. RTA could, in fact, make minor changes to the JRPC plan, with a two-third majority, and could make very significant changes as well, but these would require a new environmental impact study, thus slowing down the process. The supermajority did not appear to be a major obstacle, and would be desirable in any case, when bringing a measure to the ballot. However the board was still uncertain about changing the plan, because HB 2610 failed to provide a definition for ‘major’ and ‘minor’ changes (RTA Board Meeting Minutes, November 12, 1993) (RTA Board Meeting Minutes, February 25, 1994).

Indeed, the RTA board’s ability to depart from the JRPC plan is an example of the level of flexibility RTA was granted in HB 2610. The JRPC plan’s elements certainly continued to color RTA’s decision making throughout the 1995 process, and all three plan alternatives initially offered by staff were based on the JRPC plan (RTA Board Meeting Minutes, March 25, 1994). However the board was not constrained by the plan either, and quickly made significant changes to the staff proposals based on it. As early as January 1994, the agency’s newly hired Executive Director Matoff was recommending the board consider a scaled down plan, in stages,

including bus service (rather than just rail), and segments that were not fully grade separated, as JRPC had envisioned (RTA Board Meeting Minutes, January 28, 1994). This was a major departure, but RTA kept the JRPC version as its master plan, while labeling the RTA plan a “phase” of implementing it. As Matoff put it, “I am not viewing this as a new planning process, but a way of defining and focusing on an increment we can move ahead with” (RTA Board Meeting Minutes, February 25, 1994).

By May, the board was making further changes to the JRPC version, and even Board Member Nickels, who had once argued for keeping it in its entirety, was now suggesting amendments to serve residential communities, a departure from JRPC’s focus on employment centers (May 27, 1994). This was not the only example, and indeed, in its final planning meeting, the board made additional major changes, including \$100 million for a trunk regional bus line, and several changes attempting to ensure geographic equity to outlying parts of the region, which feared they would not receive service funded by the proposed tax for many years.⁴¹ In the end, the board approved a \$6 billion plan, which was far more reliant on surface light rail, trunk express bus routes and commuter rail than the JRPC’s \$13 billion heavy rail plan had envisioned (RTA Board Meeting Minutes, October 28, 1994).

RTA’s Freedom to Change JRPC Boundaries

As with project selection, RTA did not need to keep the boundaries drawn by JRPC. HB 2610 of 1992 specified that RTA use the boundaries already set by the JRPC as a basis for discussion, but gave RTA the authority to “...make adjustments to the boundaries as deemed appropriate” (Washington HB 2610, 1992 §5). Board members changed boundaries little from the JRPC lines, which had already been vetted by the public (RTA Board Meeting Minutes,

⁴¹ This included \$200 million for Pierce County transit to spend on local feeder service, \$25 million for North King County for local service, and \$100 million to the I-405 corridor, serving the Eastside, for the study of future commuter rail between Bellevue and Renton (RTA Board Meeting Minutes, October 28, 1994).

September 23, 1994). RTA used the same uncodified practices for drawing boundaries as JRPC as well, using urban growth boundaries as a starting point, except in Pierce County, which didn't have an urban growth boundary designated at that time.⁴²

Though the legislation did not require the use of urban growth boundaries as a basis for discussion, the JRPC provided a convenient system to follow, and RTA board members did not discuss any ways that this practice might force them to include areas that did not want to be included, or limit their development of the plan. Indeed, county councils' original vote to join RTA had confined boundary selection decisions by the RTA board to refinement.

Legislative Interventions Post HB 2610, and Impact on Decision Making

RTA did not see significant active legislative interventions in its first process, freeing RTA to pursue its planning without state-level obstacles. New legislation was constructive, and not intended to limit RTA's decision making process in a significant way. For example, legislative interventions between summer 1993 and fall 1995 were technical in nature, and best seen as 'clean-up' legislation to HB 2610 and HB 1825. Even the most consequential bills during RTA's process merely allowed county executives to appoint themselves to serve on the RTA board—a change proposed by State Representative Fisher, the original sponsor of the RTA legislation (Washington HB 1825, 1990 & Washington HB 2610, 1992). This change gave local decision makers more flexibility, not less, helping some county executives join the board, and ensuring greater participation from local leaders in RTA's process—the same county executives who would be influential in deciding whether to approve RTA's plan and send it to the voters (RTA Board Meeting Minutes, January 14, 1994; RTA Board Meeting Minutes, February 25, 1994; Washington HB 2169, 1994). Other legislative changes were even more technical. For

⁴² Instead, the board drew the line to approximate the county transit operator's boundaries, and simply following the board's "...gut feeling on where growth is likely to happen" (RTA Board Meeting Minutes, September 30, 1994).

example, one bill clarified whether RTA could offer the JRPC master plan to voters in phases, rather than all at once—clarifying that, indeed, RTA could offer just a small, affordable part of the original JRPC vision to voters (RTA Board Meeting Minutes, January 28, 1994; Washington SB 6491, 1994). These bills had no problem passing; nor did a third that merely clarified activities eligible for RTA funds (RTA Board Meeting Minutes, January 28, 1994; RTA Board Meeting Minutes, February 25, 1994). These bills could be seen as the legislature’s attempts to ensure the RTA it had so recently created would succeed at its plan, and are a sign of the legislature’s commitment to RTA’s success. Without significant state-level obstacles, the new RTA board was free to concentrate on overcoming the cross-county differences among them, and develop a regional plan.

Minimal Obstacles From RTA’s Authorization Legislation

The pre-existing authorization legislation, HB 1825 and HB 2610, did not significantly limit RTA’s planning process either, leaving most of the decision making to local processes. One example was the lack of legislative limitations on the selection of an election date, tax rate, or tax instrument. Much of the decision making over the election date was influenced not by legislative limitations, but, instead, by contextual factors occurring on the same election date. For example, in early 1994, the board discussed its concern over holding the election in the fall of that year, fearing that ballot would be too crowded with issues and candidates, possibly confusing voters (RTA Board Meeting Minutes, January 14, 1994). However the board tried to avoid holding an election in May 1995, fearing the prospect of holding a tax election just after voters had finished their April tax returns, and at a time of year when “...tax and spend issues will be in the newspaper” (RTA Board Meeting Minutes, September 9, 1994).

Ultimately, the board favored early spring, in hopes that, should the proposal pass, it

would come early enough in the legislative session to win support for voter-approved projects (RTA Board Meeting Minutes, October 14, 1994), and after weighing the dates when particular constituencies friendly to RTA's plan might be more or less likely to vote (RTA Board Meeting Minutes, July 8, 1994).

As with the election date, the RTA board met few legislative limitations on its choice of tax rate or tax instrument, and considered an array of tax rates, ranging from 0.4% to 0.6% sales tax, as well as two potential tax instruments (sales tax and MVET), in different combinations of higher/lower rates for each tax instrument. The board was not limited to a particular timeframe for the tax to sunset, and while they first assumed it would be ten years, during project selection, they decided to consider a longer time period, in order to fund more projects (RTA Board Meeting Minutes, October 14, 1994). Remarkably, the board had so many options under HB 2610, they had to use a nine-cell matrix to help them sort out the possibilities (RTA Board Meeting Minutes, September 9, 1994). Even then, Board Member Sutherland still expressed frustration narrowing the choices, though polling certainly helped make this decision as well (RTA Board Meeting Minutes, October 14, 1994).

Of course there were certainly funding options the board wanted to consider, but couldn't because of legislative limitations, though they almost seem excessive, given all the other choices before the board. For example, the board discussed a desire to have access to a sales tax on gasoline (RTA Board Meeting Minutes, October 14, 1994). However ultimately, while the board could not do everything it wanted, it had enough taxing options that it was able to develop a strong funding package within the limitations of the pre-existing legislation (RTA Board Meeting Minutes, October 28, 1994).

Geographic Equity in the 1995 Process

Participants in the Sound Move process struggled to grapple with how to ensure geographical equity across local areas. This was an issue since the process first began, and the legislation itself had called for some kind of broadly defined equity element in the final plan, which “Identifies revenues anticipated to be generated by corridor and by county within the authority’s boundaries... identifies phasing of construction and operation of... facilities, services and benefits in each corridor... [and] Identifies the degree to which revenues generated within each county will benefit the residents of that county...” (Washington HB 2610, 1992 §3). The legislation left a number of important decisions to the area’s local leaders, requiring difficult choices. For these calculations, the board followed JRPC’s practice of using “subareas,” derived from county boundaries for the two least populous counties (Pierce and Snohomish). King County, far more populous than the other two, was subdivided into three parts, drawn at the local level. These units would remain over time, throughout the four processes examined here.

With subareas agreed on, board members faced the challenge of equalizing ‘benefits’ across jurisdictions. As RTA’s first process, a number of questions remained to be considered, and board members were forced to confront seemingly technical issues like whether their idea of equal ‘benefits’ for each subarea should only count projects located in that subarea, or whether subareas could receive benefits from projects built in other parts of the region as well. This issue was problematic because not all subareas could, realistically, receive their benefits at the same time. For example, Board Member Boekelman, of Pierce County, grew concerned by the potential that her county, located 35 miles from Seattle, might wait years for any rail projects to reach her area. Casting for an equity solution, she moved that the board require geographic equity for every project. This immediately concerned King County Board Member Nickels, who

worried, "...If we are building anything we will be building from the center out, in which case [under Boekelman's proposal] funds will initially be spent in the outlying areas... Do we want a system with that kind of a flow to it?" (RTA Board Meeting Minutes, May 27, 1994).

This discussion failed to resolve the problem, and the board continued to grapple with how to allocate benefits to geographical units. The issue included concerns that some benefits could not be counted in dollars and cents. As board Chair Laing noted, "I think the proposition of equations, sources of revenue with reinvestment in a particular area of capital and operating costs is an artificial means of equity in a regional system. There are components that benefit everyone" (RTA Board Meeting Minutes, October 14, 1994).⁴³ While other board members understood this problem and recognized the need to resolve it, they were hampered by the lack of an apparent politically viable solution, and, as Board Member Miller quickly pointed out, it would be hard to explain to his constituents "...why we are the only subarea shipping dollars out and not getting them back" (RTA Board Meeting Minutes, October 14, 1994). These concerns lingered to the very end of the planning process, though the board still agreed to settle on an equity calculation based on revenue collected and received, simply because they couldn't come up with anything better. As Board Member Nickels put it, while he had concerns over the ability to develop regional lines through a subarea equity model, "I guess subareas may be something that we can all agree on as the definition" (RTA Board Meeting Minutes, October 29, 1994).

The board tried to paper over these problems using a Transit Development Fund, which would support local projects that feed into the regional system, and could easily be distributed to each subarea. This would ensure equity by making up the difference for subareas that were not

⁴³ Board Member Nickels illustrated the problem, noting: "North commuter rail is not something King County [which Nickels represented] asked for. It is something intended to provide a meaningful service to Everett and Snohomish County... All capital costs occur in Seattle and are 100% attributed to North King County.... Costs from Northgate to 205th [Street] are allocated to North King County, but the benefit is not 100% North King County..." (RTA Board Meeting Minutes, October 15, 1994).

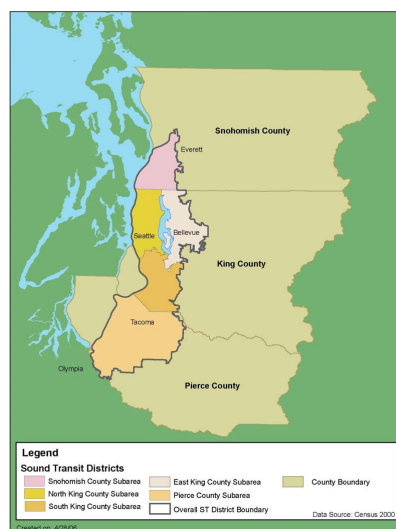
receiving as many ‘benefits’ as they paid in, or not receiving them as quickly. But this solution was also not very transparent, making it unclear what each subarea was getting, and whether they could trust they were receiving equal benefits. One board member noted this concern, stating “I don’t think you can move very far from local dollars generated and local investment without having the public question our explanations” (RTA Meeting Minutes, September 9, 1994).

This left even some board members unsatisfied. Most prominently, Mayor Hansen, of Everett in Snohomish County, who had said little against the plan at earlier meetings, unexpectedly brought his concerns just before the final approval of the plan (RTA Board Meeting Minutes, October 28, 1994), and actively campaigned against it after the board approved it, trying to convince his county to withdraw (RTA Board Meeting Minutes, December 2, 1994). Hansen’s concern was that the proposed light rail line would not reach his city until the very end—though this is not surprising, considering Everett sits at the far edge of the region, 28 miles north of Seattle. He hoped to remedy his concern by adding language to the proposal guaranteeing Everett would be “the” first priority in a potential Phase 2 of the plan, rather than simply “a” first priority, as contained in the proposal’s language. Hansen’s last minute request disrupted the process, and highlighted the distrust people had in RTA’s precarious equity balance. Hansen could not be sure he could count on the rail making it to Everett in a future, still unfunded, plan. And the Transit Development Fund did not provide tangible, transparent, benefits to present constituents. Conversely, other board members were concerned Hansen’s request would mean disproportionate benefits for Snohomish County. For example, Board Member Madsen of Pierce County spoke for many when he noted, “I encourage Mr. Hansen to trust me, I am with you but I cannot in all diligence go back and ask voters in my area to support projects outside Pierce County. We have a relative balance on equity; this would totally disrupt

it” (RTA Board Meeting Minutes, December 2, 1994).

Hansen ended up becoming one of several prominent opponents of the plan when it reached voters in 1995, and clearly, a better solution was needed for establishing geographic equity in future plans. RTA’s methodology for ensuring geographic equity grew more sophisticated when the agency came back to voters in 1996. Eventually, board members decided to resolve the issue by providing voters with more information, including a full accounting of the revenues expected, and projects allocated for each planning subarea, as an appendix in the 1996 Sound Move plan. As discussed more for the post-2004 plans, not all projects listed as ‘benefits’ by subarea were located in the area where the money was collected. Additionally, some projects were counted as benefits for both subareas, and costs were charged to both as well. This approach represented a hybrid between locating projects by subarea and by corridor, and has provided the flexibility needed to develop a regional system, while ensuring that costs and benefits were distributed relatively evenly across local geographies.

Figure 7.4: RTA & Subarea Map



Sound Transit, Sound Transit 2 Benefit-Cost Analysis Methodology Report, 2008, pg. 8. Subareas Include: Snohomish County, North King County, East King County, South King County, Pierce County.

Legislative Role in Post-2004, Phase 2 Processes

Many of the patterns developed in the Phase 1 proposals continued into the Phase 2 planning, which began in 2004. These are especially interesting because they occurred long after the HB 1825 and HB 2610 had been approved, separating the legislative sponsor from the leaders of the process. That is not to say the legislature left the process to happen on its own. Quite the opposite.

Sound Transit had authorization to raise up to 9/10 cent sales tax, and by this point, voters had only raised sales taxes 4/10 cent, in 1996. Technically, Sound Transit (renamed from RTA in 1997) could go to the ballot at any election, and propose a Phase 2, without the need for new legislation. In fact, the Sound Transit board was making preparations to do that as early as the May 2005 election (Sound Transit Board Meeting Minutes, June 10, 2004). Based on this understanding, the Sound Transit board developed an updated long-range plan and a Phase 2 proposal, and by spring 2006, the board was ready to send that plan to voters for the November 2006 election (Sound Transit Board Meeting Minutes, March 23, 2006). As discussed earlier, the legislature passed HB 2871 instead, which required Sound Transit and a previously existing road funding district known as the Regional Transportation Investment District, to coordinate their activities and offer a joint road and transit measure in November 2007; furthermore, the bill specifically prohibited Sound Transit from going to voters before 2007 (Washington HB 2871, 2006).

This bill apparently caught people at Sound Transit off guard and disrupted the planning process that had been advancing toward a fall 2006 election. Although Sound Transit CEO Joni Earl was on medical leave and unavailable for interviews during the course of this study, one study quoted her discussing her staff's reaction as Governor Gregoire issued a press release

announcing she had signed HB 2871—just as Sound Transit was nearly complete with its Phase 2 plan for the November election. “People were furious... my staff was devastated,” she said (Foltz, 2010: 64).

There were some early warning signs of impending legislative action, to be sure. The summer before, Sound Transit Chair Ladenburg read a letter to the board from Regional Transportation Investment District (RTID) Chair Shawn Bunney, proposing the two agencies work together on a joint ballot measure for the 2006 ballot. Chair Ladenburg and Sound Transit CEO Earl agreed to meet Bunney and consider whether to pursue a joint ballot measure (Sound Transit Board Meeting Minutes, June 9, 2005). Sound Transit’s project selection process continued essentially independently, though Bunney came back to Sound Transit in January 2006 to offer a more specific plan, including methods for establishing criteria for a joint ballot measure, a list of potential projects, and letters addressed to Governor Gregoire, and the Chairs of the Washington House and Senate Transportation Committees (Sound Transit Board Meeting Minutes, January 26, 2006). In the time between this meeting and March 8, 2006, the legislature considered separate legislative proposals from each Transportation Committee Chair, meaning that by at least February 3, there was an increasingly real possibility of legislation delaying the process to 2007, and combining Sound Transit’s ballot measure with one by RTID (Washington SB 6599, 2006; Washington HB 2871, 2006; Washington House Committee on Transportation Bill Report, February 21, 2006; Washington Senate Committee on Transportation Report, February 27, 2006).

Still, this happened very suddenly, and many interviewees from Sound Transit remain unsure what took place. As Greg Nickels, who was, by this time the Mayor of Seattle,⁴⁴

⁴⁴ Previously a Council Member from King County, Nickels was elected Seattle Mayor in 2002, and is thus referred to as Mayor here, serving until 2010.

remembers, “It was a very strange year... and I don’t know exactly what happened other than we all got screwed. And I have my hunches as to who screwed us, but I’m not, even at this date, entirely sure” (Nickels, interview, September 10, 2014). To Sound Transit staff, it appeared the legislature moved the election to an odd numbered year out of legislators’ fear, rational or not, that a tax increase would jeopardize their own reelections (which occur on even numbered years). As Sound Transit Executive Director of Policy, Planning, and Public Affairs, Ric Ilgenfritz, puts it, “They just had this fear that people would put two and two together and take punitive action and, it was just mind boggling” (Ilgenfritz, interview, September 12, 2014).

However Pierce County Executive Ladenburg, who was Sound Transit’s Board Chair at the time, was not quite so surprised. In his mind, the drive to put transit and road projects together in one referendum came from a combination of the House and Senate Transportation Committees, the leadership from both houses, as well as the Governor. As he recalls, “I think the political thinking was, if we marry these two together, the roads which are not as popular here in King County, will get passed because, [voters will] want this big Sound Transit package” (Ladenburg, interview, September 9, 2014). Every interviewee approaches the story slightly differently and it is hard to know exactly what motivated people behind closed doors, but Governor Gregoire was likely responding to advocacy from the business community (Johnson, interview, September 4, 2014) and some county executives—particularly King County Executive Ron Sims (State Senator Clibborn, interview, September 11, 2014). Rob Johnson, who lobbied against the legislation on behalf of the Transportation Choices Coalition, describes the Governor as “...the biggest champion for this process,” and in his recollection,

The governor really thought that this was a good move. She got in early on this issue and she really rallied sort of two big champions at the legislative level to be all in on this, and that’s the former Senate Transportation Committee Chair, her name is Mary Margaret Haugen, and then the former and still current House

Transportation Chair. And that's Judy Clibborn. Between the two of them, the Governor, and the State's DOT Secretary at the time [Hammond], those four women were very powerful in convincing other legislators that this was the right idea for the region (Johnson, interview, September 4, 2014).

Even after the legislature's decision to prevent a 2006 referendum, the impact was stronger on the election process than the selection of projects. While it was delayed by a year, Sound Transit continued to select projects based on the same evaluation criteria selected before HB 2871 passed. Though the legislation did not limit Sound Transit's ability to select projects, Sound Transit Chair Ladenburg made a modest effort to coordinate with RTID. And the legislation's role was primarily confined to governing boundaries, the election, and developing a procedure to include RTID in the same vote as Sound Transit. However it did not integrate the two into the same agency, did not affect Sound Transit's tax rate, or choice of projects, and it allowed voters to cast ballots based on which district they lived, but did not attempt to reconcile Sound Transit boundaries with those of RTID (Washington HB 2871, 2007), causing much confusion for voters but leaving Sound Transit's planning process intact. Even HB 1396, the following year, was seen in Sound Transit board meetings as 'clean-up' legislation, designed to consolidate the Sound Transit measure and the RTID measure into a single ballot question (Sound Transit Board Meeting Minutes, April 26, 2007), even as the two processes continued to run in parallel, under different management, using different procedures, different planning assumptions, and approving their draft plans a month apart from one another (Sound Transit Executive Committee and Regional Transportation Investment District Executive Board Joint Meeting, October 5, 2006; Ladenburg, interview, September 9, 2014).

Lack of a Hegemonic Boundary-Spanning Agent

Despite the presence of such strong state-level power politics in instituting HB 2871 and HB 1396, it is striking that no particular person or agent emerges as a pre-eminent champion in Seattle. Instead, different agents took a leading role at different points in time. Based on interviewees' recollections of the post 2004 processes, different agents took lead roles from year to year, and sometimes there were multiple people at the same time, whom one might term boundary-spanners.

Sound Transit's Chair, John Ladenburg, certainly stands out as one who led for a long period of time. He was Chair for four years, and guided the process through 2007—an especially complicated year. He covered most of the long-range planning and the selection of projects for the joint “roads and transit” measure. Thinking back, Sound Transit staffer Ilgenfritz recalls Ladenburg's great imprint on the process, saying,

“He extended a term because, which is unusual; usually our chair serves a two year term; he had a second term because people recognized that he was a strong leader. He was very forceful and meticulous. He was a former prosecutor, a real imposing guy” (Ilgenfritz, interview, September 12, 2014).

Additionally, and perhaps most importantly, Ladenburg was “...helping the board through the decision on whether to consent to the legislature's directive to be on the ballot in 2007” (Ilgenfritz, interview, September 12, 2014).

Certainly Ladenburg was championing projects from his own county while in his position. Most notable among these was the region's light rail extension down to Tacoma (Ilgenfritz, interview, September 12, 2014). However he also championed construction of the environmentally controversial Cross-Base Highway, which he viewed as critical to his own county's economic growth (though it won him opposition from many environmentalists like Rob Johnson's group and the Sierra Club).

At the same time, there were other leaders who played crucial roles impacting the process, especially the politicians at the state level, but also King County Executive Ron Sims, and even the Sierra Club. Ladenburg was not a hegemonic boundary-spanner, and legislatively, he found himself on the defensive, with HB 2871 impeding on Sound Transit's authority.

Nor did Ladenburg continue to act as boundary-spanner after the 2007 election. Ladenburg was running for state Attorney General, and the board elected a new chair, in Seattle Mayor Nickels. Though Ladenburg remained on the board representing Pierce County, he took a back seat in the 2008 process. Most poignantly, Ladenburg was no longer rallying other board members to support the proposal to place their Phase 2 plan on the 2008 ballot, and he even declined Mayor Nickels' request to do the same. In Nickels' recollection, Ladenburg was facing a difficult election against his Republican opponent for Attorney General, and "...had some anxiety about being the 12th vote for a tax increase. So he said, I'll be with you. But I won't be the 12th vote", which was the deciding vote (Ladenburg, interview, September 9, 2014).

A Defensive Boundary-Spanner: The Role of Pre-Authorization

An important reason for the boundary-spanner's limited role was the pre-authorization of the process. Sound Transit did not need to go to the legislature to request authorization for holding a vote, and consequently, legislative advocacy was a less important role for the boundary-spanner than facilitating decision making within the agency, and defending existing legislative authorizations from unwanted legislation. With no new legislation necessary, the Sound Transit board forged ahead with developing a new long-range plan (Sound Transit Board Meeting Minutes, June 10, 2004; September 23, 2004; April 22, 2005; June 9, 2005), and Phase 2 plan (Sound Transit Board Meeting Minutes, October 12, 2005; June 8, 2006).

During 2006-2007, the boundary-spanner's role became one of facilitator, as Ladenburg worked closely with RTID Executive Director Shawn Bunney, holding joint meetings with RTID, and meeting frequently with Governor Gregoire to develop legislation that would fix some of the technical flaws in HB 2871 (which became Washington HB 1396), all in an effort to make the 2007 vote a success. (Sound Transit Board Meeting Minutes, October 26, 2006). Of course, a number of important legislative decisions came down from Washington's state capitol during Ladenburg's time as Chair, especially HB 2871 and HB 1396.

However his role was defensive. He did not seek new powers for Sound Transit, and the planning process could proceed until the legislature said otherwise—an unlikely scenario, considering each county had initially voted to join, meaning the agency's authority came not only from the state, but from local government members as well. What the legislature did in HB 2871, then, was not revoke Sound Transit's authority, but redirect it, in an attempt to find a comprehensive multi-modal transportation solution that would be attractive to the business community. Of course, this also made for a confusing proposal for voters, and a loss at the polls.

Nickels as Boundary-Spanner in 2008

After the 2007 electoral loss, many people at Sound Transit, the business community and the legislature were understandably exhausted. Seattle Mayor Nickels, however, was not. He accepted the charge to be Chair, following Ladenburg, and immediately set about convincing his board colleagues to go back to the ballot in 2008. As Ilgenfritz recalls, "It wouldn't have happened without [Nickels]. He was instrumental. ...He came in convinced we needed to be on the ballot again in November. And he had a very skeptical board, a very skeptical political establishment. And he took them all on and gave us, you know, not *carte blanche*, but he gave us just full support to retool the plan and get it back in front of the board, you know, for reconsideration" (Ilgenfritz & Beal, group interview, September 12, 2014).

Ostensibly, nothing stood in the board's way legislatively. However, as with Ladenburg, Nickels assumed a defensive posture, using the threat of legislative action as reason to act. This pre-existing authority gave the Sound Transit board the upper hand, and made it possible for them to act before the legislature did—therefore reducing the potential legislative threat. As Nickels recalls, “The legislature couldn’t do anything to us in ‘08 because they had just suffered this huge defeat with the roads and transit [measure], so they were not in a position to act quickly to put us down” (Nickels, interview, September 10, 2014). Moreover, Nickels believes the legislature would have prevented a 2009 vote if Sound Transit didn’t act first. The Governor was not a strong supporter of a transit-only measure (Hammond, interview, September 3, 2014). Moreover, Johnson, of the Transportation Choices Coalition, recalls, “There were folks that were actively lobbying for legislation to be created to [prevent a vote]. We never saw a bill, but we actively lobbied against that [possibility], and were convincing enough with enough legislators that it didn’t end up happening” (Johnson, interview, September 4, 2014).

While legislation blocking a vote the following year was a concern, Sound Transit’s pre-existing authority gave them the ability to move quickly, and the legislature’s part-time sessions made it difficult for them to act fast enough. Nickels feared the legislature could block his 2008 proposal if he acted while they were in session. However, “I think it was too late by the time they realized that we might be serious about going to the ‘08 ballot” (Nickels, interview, September 10, 2014). Nickels meant this literally. By the time the Sound Transit board voted in late July to place the measure on the November 2008 ballot (Sound Transit Board Meeting Minutes, July 24, 2008), the legislature had adjourned for the year (March 13, 2008).⁴⁵ In fact, when the legislature adjourned in March, the Sound Transit board had still been reviewing its new plan

⁴⁵ Washington State Legislature, 2016

based on the work done in 2007. At that time, a 2008 vote was a possibility, but it was still far from certain whether Nickels could secure enough votes to place it on the ballot (Sound Transit Board Meeting Minutes, March 13, 2008; Nickels, interview, September 10, 2014). It is far from certain whether this was actually a motivation for the legislature, but for Nickels and the board, fear of losing their authority to hold a referendum was a primary reason to act.

Boundary-Spanners and Subarea Equity

Sound Transit's decision making in the post 2004 processes was primarily a product of deal making across local jurisdictions, guided by the subarea equity framework developed in 1995 and 1996, and passed down from the 1996 Sound Move plan (RTA, 1996), complete with the accounting architecture used to make local costs and benefits transparent to the public. This framework played a large role in the Phase 2 decision process *because* the legislation was so permissive. The legislature continued to stand as an omnipresent threat; however even in 2007, their impact was limited to Sound Transit's choice of election cycle, not the project selection process itself.

Subarea equity acted as a framework for cross-jurisdictional agreements that Sound Transit board members needed to make anyways. However it did not create a significant limitation on decision making in its own right, and as Washington State Secretary of Transportation Hammond puts it, "In the end the subarea doesn't get to dictate what happens. [Locals] just get to advocate at the board. And so the money is measured and weighed and parceled, but in the end the guiding principle is that the transit system has to fit together" (Hammond, interview, September 3, 2014). Sound Transit's Finance Officer Brian McCartan concurs, describing subarea equity as a means to ensure transparency for the voting public:

"Some politicians here think subarea equity has really been *terrible*. But in my experience it hasn't. The board members have still thought regionally, they've

divided up projects, they've made the right investments. It's just been a way to sort of quantify who gets what..." (McCartan, interview, September 3, 2014, emphasis in the original).

Indeed, McCartan compared the situation at Sound Transit with the way equity decisions are made in other cities, where voters are insistent they are not getting their fair share, but do not have a concrete framework by which to judge.

Furthermore, the subarea equity framework has, in fact, been tested for the most challenging circumstances, where projects cross from one subarea to another. Even then, board members have learned to negotiate across subareas and still represent them in the subarea accounting. This is where Sound Transit's board chairs were useful in facilitating negotiations, but in the mind of Ilgenfritz the agency has also "...been very lucky in that our board has often been very pragmatic about these things, recognizing that there needs to be some give and take to develop the system they all ultimately want. Now when that give and take is to the tune of \$2 billion, well that definitely engenders conversation. When it's a relatively smaller amount they get comfortable very quickly" (Ilgenfritz & Beal group interview, September 12, 2014).

Cross-subarea deal making was certainly a feature of earlier proposals, but became much more common in the post-2004 plans. As in 1995, a project is supposed to "benefit" the constituency that pays for it, but as Ilgenfritz notes, "...there's nothing in the law, or our agency's policy, that requires a project paid for by another subarea, to be in that subarea. It could be elsewhere." Indeed, King Street Station is a prime example, located in North King County, but paid for by South King County, and serving commuter rail lines from four subareas. Ilgenfritz recalls, it was "...originally paid for by South King, because as we put the first plan together, they had some money, and of course they needed the project, and they were willing to say 'We Benefit'" (Ilgenfritz & Beal, group interview, September 12, 2014). This reasoning

seemed like simple common sense to one board member and mayor from the suburban East King subarea. As she puts it, “You have to have a central hub of some sort, right? And that’s what Seattle is. It’s a central hub, right? And so if they have a station in downtown Seattle, do we use it? *Yeah*. So we’re ‘benefitting’” (Burleigh, interview, emphasis in the original, September 8, 2014).

There were numerous other examples of cross-subarea deals from the 2007 and 2008 plans, which illustrate how this system provided a framework for regional negotiations, while its limitations on decision making have been more subtle. Perhaps the most prominent case was the final deal made between Nickels of Seattle, and Snohomish County Executive Reardon, which was crucial to gaining the votes needed to approve the 2008 plan. As County Executive, Reardon appointed the other two Snohomish County board members, and Nickels recalls, Reardon “...clearly wanted to put himself into a position where he could get what he wanted, so he waited me out a bit...” Ladenburg’s unwillingness to be the deciding vote made some kind of deal with Reardon vital to passage in 2008. As Ilgenfritz recalls, “...come to the final hour, Nickels and Reardon cut the final deal... to extend the light rail line all the way to Lynnwood [in Snohomish County]” (Ilgenfritz & Beal, group interview, September 12, 2014; Sound Transit Board Meeting Minutes, July 10, 2008; Sound Transit Board Meeting Minutes, July 24, 2008). Ilgenfritz remembers that Nickels and Reardon toyed with the idea of having the City of Seattle assume responsibility for a proposed streetcar project. Staff analyzed the idea, and agreed it could save money since the city could create synergies from city-owned utilities—a cost savings which Nickels traded over to the Snohomish County subarea to win support for the plan (Ilgenfritz, group interview, September 12, 2014).

Overcoming Parochialism

As the Nickels-Reardon agreement highlights, the subarea deals were vital in decision making, and formed a well developed framework by the post-2004 period. Each subarea had its own partnership.⁴⁶ Many of them met regularly to discuss projects requested by cities and counties, and prepare for upcoming board meetings. These forums seem to have been especially crucial to the process after the revised Long-Range Plan and project criteria had been developed (Sound Transit Board Meeting Minutes, July 7, 2005). At this point, subareas were asked to develop their own project lists to forward to the larger board, which were then compiled into a composite list of regional projects (Sound Transit Board Meeting Minutes, September 8, 2005; Sound Transit Board Meeting Minutes, December 8, 2005).

Anderson, a board member from Tacoma in Pierce County, describes this process as one where her subarea board members would meet once a month, often in the presence of Sound Transit staff. This helped eliminate confusion and ensure that everyone from her area was proposing the same projects when they got to the board meeting. As she recalls, “I remember just the relation being pretty darn good. There wasn’t a lot of secretiveness. We just generally were not surprised at board meetings, with board members proposing something that we hadn’t heard of before, or board members withholding discussion” (Anderson, interview, September 9, 2014). Furthermore, Anderson remembers board members from other subareas sometimes would attend the Pierce County meetings to discuss projects that affected both counties (Anderson, interview, September 9, 2014).

Staff helped bridge the inconsistencies from one subarea plan to another. As Ladenburg recalls, “The staff was good enough, you know, to see those issues already and bring them to

⁴⁶ Listed in Sound Transit minutes as: Eastside Transportation Partnership, South County Transportation Board, Seattle Shoreline Area Transportation Board, Snohomish County Policy Forum, and RAMP in Pierce County (Sound Transit Board Meeting Minutes, June 9, 2005).

both subareas.” Staff would say, “...wait a minute, if you do this, they need to do that, to fit together. And between the two, they’d worked it out, you know, a solution to it” (Ladenburg, interview, September 9, 2014). This could result in deals when, “...occasionally you just, you know, if you wanted to do something over the subarea, you paid for it. For years Pierce County subarea paid for the Express Buses to King County... So, I mean, sometimes a subarea will just say, ‘Well, if it’s going to cost an extra \$8 Million dollars to gain, we’ll just pay it... So, regional efforts are not uncommon really” (Ladenburg, interview, September 9, 2014).

Anderson credits Sound Transit’s CEO, especially, for seeing potential parochial conflict before it occurred. “She would immediately get people together to talk about things.... And sometimes she would even let us know the political pressure the person was under and why they were asking for it” (Anderson, interview, September 9, 2014). Indeed, one board member recalls discussions at meetings about how they could make the plan work for the local political needs of particular board members. As Kirkland Mayor Burleigh puts it, “...they got to take home to their folks something that’s worthwhile. We would talk about setting up things like this, how can we sell this to the people of Everett, how can we sell this to the people of Puyallup and Sumner and Tacoma? How do we sell it to the East Side?” (Burleigh, interview, September 8, 2014).

That is not to say the process was devoid of parochialism. Certainly the subarea framework was parochial at its core, and ensured projects would be selected to consider subarea needs over regional ones. Snohomish County repeatedly demanded light rail extensions over 30 miles long, which stretched the limits of the technology and the agency’s budget; and supported a 20 year tax over a 12 year one, presumably to help pay the cost (Sound Transit Board Meeting Minutes, June 26, 2008). Many of the amendments added to the plan just before final approval

could be described as nothing but parochial, guaranteeing any “extra” money would be used to cover planning for various local projects that did not make it into the financed plan (Sound Transit Board Meeting Minutes, July 24, 2008). And County Executive Sims’ surprise last minute decision to vote against the plan in hopes of getting more urban bus service for his area was a very prominent example of parochialism (Sound Transit Board Meeting Minutes, July 24, 2008). It would be unlikely to have such a regional process of this size without any parochialism. But the subarea framework, and general staff outreach, attempted to reduce the negative consequences. And it attempted to provide a platform for cross-jurisdictional negotiation, to ensuring a more integrated system.

The Impacts of Subarea Equity

When asked about the planning limitations from subarea equity, Finance Officer McCartan couldn’t cite a single project decision Sound Transit was deterred from making due to divisions across subarea boundaries. However McCartan noted another, more subtle consequence of subarea equity—implicating it for reducing transit investments in low income jurisdictions with fewer resources to pay for them—notably South King County—even as the board has spent large sums on bringing rail to Bellevue’s technology centers. As McCartan puts it, “So we might chase an investment in an area that’s not appropriate, necessarily, or the best return, because that subarea has to get something” (McCartan, interview, September 3, 2014).

Indeed, the subarea framework has not just been problematic for South King County. Pierce County has suffered too, from being located beyond South King County, and therefore, cut off from many of the services coming out of Seattle. Any light rail to Pierce County must pass through South King to get there, which helps explain why Pierce County has willingly paid the cost of express bus service to its major city, Tacoma (discussed above). This also explains

why the 2008 plan included light rail all the way to Lynnwood on the north, but on the southern end, only as far as Federal Way, 10 miles shy of Tacoma.

Ladenburg—himself the Chief Executive of Pierce County—tried to overcome this obstacle in 2007, by crafting a proposal to spend \$200 million of Pierce County’s funds to bring light rail farther south, in hopes that a future Phase 3 might bring it the rest of the way to Tacoma. However in 2008, other Pierce County board members reversed his proposal after some constituents “...complained that Pierce County was giving away its money...Yeah... just parochialism” (Ladenburg, interview, September 9, 2014). Ladenburg expresses frustration at the situation, saying “I mean, I was always against having the different districts. ...[Other subareas] have a lot more to spend, more massive projects in their districts than South King County does, which is one of the poor districts—*is* the poorest district in all of the Sound Transit Districts. South King County didn’t get much of anything other than the Light Rail extended down past the airport” (Ladenburg, interview, September 9, 2014, emphasis in the original) (Ilgenfritz & Beal, group interview, September 12, 2014), forcing them to add commuter rail service to Pierce County, in an effort to overcome the South King obstacle.

It appears the subarea equity framework has been flexible enough to overcome jurisdictional divisions, but only when actors from multiple subareas have been willing to work together, and the default situation of division it has created has required board members and staff to actively pursue subarea agreements when they want to overcome it. Unsurprisingly, it has been difficult to reach an agreement when there is no money to work with. In Pierce County’s situation, this situation has not worked to their benefit.

Open Decision Making Process

A key reason why the cross-subarea decision making process has worked so well is simply the openness of the process, and the lack of disagreement among board members on the agency's goals. As noted earlier, Sound Transit staff were quite good at diffusing conflict before it began, and forestalling potential backroom alliances (Anderson, interview, September 9, 2014). Indeed, incidents like Ron Sims' sudden reversal from strong rail supporter to opponent of the plan came as a shock to fellow board members, making it notable *because* it was considered so unusual. Several interviewees cited this incident, and Anderson described it as

“...the only kerfluffle we ever had on the board. Like he was withholding his vote on the budget or something because he wanted additional Yeah, that was the only bad behavior we ever...Not bad behavior. It would be typical for city [politics], you know. It was a pretty typical legislative move, but it was unusual for our board to have somebody withhold their support for something that was very particular for their subarea...” (Anderson, September 9, 2014).

Anderson cited the frequency with which the board met as a primary reason for members' good relationship. Indeed, the board met about every two weeks throughout much of the period studied, in addition to committee meetings, and numerous other opportunities to interact.

Many board members—not just the Chair—were paying attention to the local needs of other board members, and this appears to have resulted in a shared sense of mission. As Hammond noted, coming as she did from working outside the region at the Washington Department of Transportation,

“The Sound Transit board has always been a very strong and strongly connected board.... I think that the board, bought in...to what the mission was and that was to get Light Rail delivered throughout Puget Sound, North, South, East, West. There are differences of opinion on how far and how fast, where the stops should be, how much commuter rail while we're waiting for Light Rail. And you know, how much bus service... But by in large the majority, consensus really held up on expanding the light rail system in the way that it has [done]” (Hammond, interview, September 3, 2014).

Board members' agreement on the overall vision harkens back to the long-range plan approved in the very first Sound Move measure, and provided a plan for what the eventual build-out could look like, if funds were unconstrained (Ilgenfritz, interview, September 10, 2014). This vision, just like the subarea equity framework, continued to be an integral part of planning at Sound Transit all the way up through the 2008 process. It ensured stability even through the 2007 joint roads and transit plan, with Nickels commenting that even the joint process did not disrupt the long-range plan (Nickels, interview, September 10, 2014). The long-range plan also offered some continuity between board members, who changed frequently over time. In interviews, several board members expressed their gratitude for having such a plan in place to guide them. Anderson noted how this vision helped solidify the coalition, making the process "...less transactional with your citizens and with your council, and more of a buy-in to long-range policy." As she pointed out, "These projects take ten to fifteen years to complete, so.... some of that greediness is being tempered.... Because you're not going to be an elected official long enough to see this thing reach fruition." (Anderson, interview, September 9, 2014).

Perhaps one reason board members agreed to this vision so readily was it was so intuitive, with lines going north, south and east (there is no west, since Seattle sits by Puget Sound). As Hammond says, the real controversies were over how far, how fast, not where or if? With the first phase already under construction, bigger questions from the 1995 measure over whether to proceed, and technology to use were less poignant. And fierce disputes over geographic equity were subsumed by the sub area equity framework.

Findings from Seattle

The second phase of Sound Move was clearly less controversial than the first, and was aided greatly by Sound Transit's continuing institutions, its decision making mechanisms, and commitment to a more focused mission. Despite temporary legislative obstacles in 2007, Sound

Transit had a significant level of pre-authorization, under unusually permissive legislation, through most of its processes.

Over the course of four different measures (three of them examined here), multiple ‘boundary-spanners’ emerged. None of them could be considered singularly indispensable to the process, though some of them clearly did an impressive amount to develop decision making frameworks; facilitate discussion among board members and local leaders; and push the process along. Nickels even used his political apparatus as Seattle Mayor to help support the 2008 process (Johnson, interview, September 4, 2014). However, crucially, boundary-spanners were not needed to lobby for new legislation. As a pre-authorized process, the most lobbying needed from boundary-spanners was to defend Sound Transit’s already substantial powers; though at times, certainly, boundary-spanners did lobby for ‘clean-up’ legislation to improve the operation of the decision process, though the process would have proceeded even without such bills.

Boundary-spanning agents, and many other elements of the local/regional process were apparently divorced, as much as possible, from the need to lobby for the vital legislative elements governing the taxation process. Decisions over boundaries, project selection, election cycles, tax instruments and tax rates were previously left to the discretion of local/regional decision makers (with HB 2871 of 2006 the big exception, when Sound Transit was unable to call a vote). Project selections were entirely up to the RTA/Sound Transit board. Over time, the board acted as representatives of local governments. County Executives and big city mayors played an especially large role in decision making. And decisions at RTA/Sound Transit were not consistently in concert with the desires of state-level politicians—for example the Governor’s tepid support for a transit-only tax measure in 2008 (Nickels, interview, September 10, 2014).

Local government gave RTA/Sound Transit its legitimacy and local government officials limited its decision making far more than the state did. Election cycles, tax instruments, tax rates, and projects were all chosen with close attention to local elected officials, polling, public outreach, and the opinions of key constituencies like environmentalists and the business community. State-level political imperatives loomed large as a potential threat, but, with the exception of 2006, local political imperatives, managed through the subarea equity decision framework, were the focal point for decision making in Seattle, while legislation only became an important factor when legislators expressly decided to take away existing authority—and even then, legislators granted RTA/Sound Transit blanket authorization to come back to the ballot should their proposal fail.

This local dynamic appears to have helped ensure processes that were accepted by local actors. No county was included in the RTA/Sound Transit District that did not want to be in. Projects were developed at the local subarea level. Even tax rates and time until sunset were chosen to match the results from polling and focus groups (Sound Transit Board Meeting Minutes, June 26, 2008). Whether this helped the measure pass or not, it gave the board the option to develop a plan they deemed to be politically advantageous at the time. Similarly, pre-authorization made it possible for the board to resume planning immediately after losses in 1995 and 2007, and come back with revised plans the following years. As the minutes reveal in both cases, planning began almost the meeting after the election (RTA Board Meeting Minutes, March 17, 1995; Sound Transit Board Meeting Minutes, November 8, 2007).

There has been no shortage of structure at the agency or in its processes, which have all been highly transparent and inclusive to the public. However RTA/Sound Transit's oversight has come from mainly below, rather than above.

Chapter 8: Denver Case Analysis

Chapter 8 Summary:

This chapter examines sequential proposals in the Denver Metro Region, which proposed an increase in the level of sales tax it was charging, in order to fund a system of light rail and bus rapid transit improvements. The region's previously existing Regional Transportation District (RTD) provided the institutional support needed to develop a detailed regional transportation plan that was visionary enough to garner support outside the agency, and convince legislators to authorize a multi-county vote on its approval. The agency had no pre-authorization to hold a tax election on its plan, but RTD had sufficient autonomy to plan and lobby without needing new legislative authorization. Because RTD was not developing its plan under any particular legislative mandate, it had autonomy to select projects fully in accordance with local political imperatives before presenting the completed plan to the legislature for authorization to hold the election.

In RTD's 1997 proposal, the legislature mandated an election cycle that was unfavorable, contributing to the plan's failure at the polls; however by most measures, RTD's planning autonomy helped ensure legislation that supported the needs of local political imperatives. This was true even with regard to selection of projects, in spite of the fact that Denver's boundary-spanner was not especially influential with the legislature. With RTD having strong pre-authorized powers, many politicians and outside groups were lobbying the legislature to approve a multi-county vote, and the boundary-spanner's role was diminished. In fact, different

politicians and outside organizations assumed leadership roles at different points during the process. Consequently, the boundary-spanner in the Denver case represents a leader and visionary among equals, rather than an ‘Alpha Participant’ power broker. The process was not dependent on any one agent, and it was not very controversial (at least on the second attempt), due to the buy-in of many mayors and outside organizations.

Introduction

Denver represents a region with a strong regime of pre-authorized autonomous powers for regional decision making, including an elected board, and ongoing sales tax collection. Between 1995 and 2004, Denver area voters were asked to weigh in on two ballot questions on expanding transit in the region. The boundary-spanner in this case did not have particularly strong influence with the legislature. Yet both times, the legislature largely refrained from requirements that could interfere with local political needs. This appears to be due, in part, to the Regional Transportation District’s (RTD) strong institutional support for planning a regional transportation solution even before the legislature weighed in on the matter, which ensured that the bills voted on by the legislature were heavily influenced by the plan, rather than the other way around.

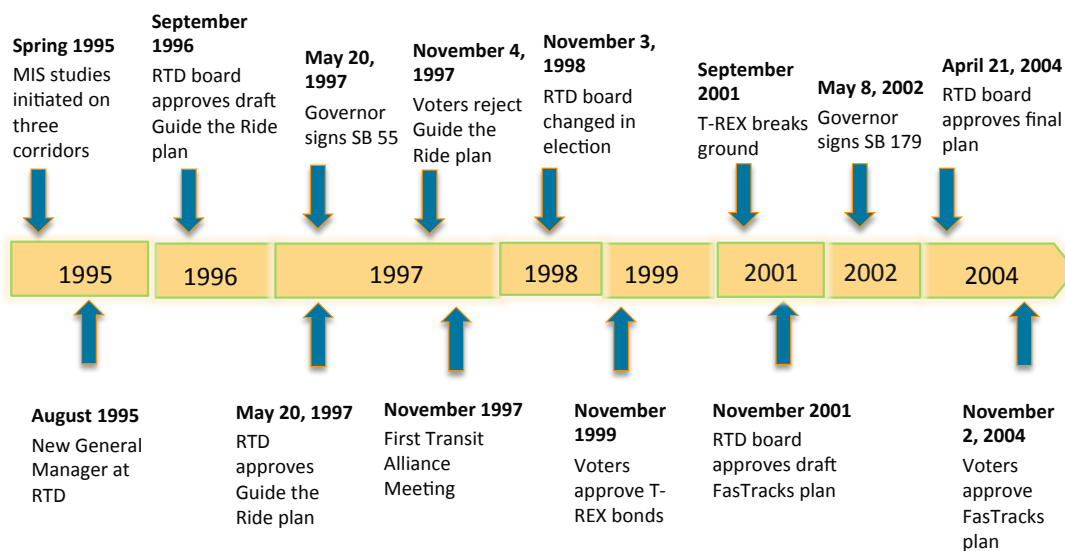
RTD’s pre-existing structure supported the development of a regional vision, followed by detailed studies needed to develop it into a plan, even before legislative sanction. Because RTD already had so many pre-authorized autonomous powers, the lack of pre-authorization was an asset, rather than a liability, because it provided RTD the flexibility it needed to lobby for a law that matched its planning, and the region’s politics. At the same time, RTD’s institutional structure gave the legislature reasonable assurance that the agency could implement its plan, and made the vote an incremental step of still greater authority to an existing regional agency, rather

than a leap of faith on an untested idea. All together, RTD’s institutional autonomy made the boundary-spanner less essential to the process, even as it ensured that the authorizing legislation would support local political imperatives.

Case Outline

This case had nine phases: 1) Development of the regional plan, 2) Legislative process, 3) 1997 campaign and loss 4) Preparation for second vote, 6) Refinement of the regional plan, 7) Second legislative process, 8) 2004 campaign and victory, 9) Implementation. This chapter covers all phases except numbers three, eight and nine (campaigns and implementation).

Figure 8.1 Timeline of Denver Events



Denver’s Regional Transportation Structures

By the time RTD was considering a regional ballot vote for 1997, RTD’s institutional support structures had been gradually gaining autonomous powers, experience and funding support since 1969. RTD was designed to be a metropolitan special district, and covered all or

part of six counties by 1997.⁴⁷ In fact, RTD's 1997 and 2004 measures, studied here, were just two of a long series of regional referendums related to RTD. Following voters' approval to create the agency, in 1969, there was also a 1973 measure to fund bus service with a regional sales tax (U.S. Congress Office of Technology Assessment, 1976: 15), a 1980 measure to give RTD an elected board, and a 1999 measure to approve bonds that financed a light rail/highway project (discussed below). Consequently Denver area voters and politicians had time to grow accustomed to regional transportation tax votes, and RTD had time to gain sophistication and experience conducting them.

RTD at the Outset of the 1997 Process: A Relatively Autonomous Actor

Though the legislature had granted RTD many autonomous planning powers by 1995, RTD still needed special legislation to place one of its plans on the ballot. Nevertheless, RTD had significant institutional support to develop a plan without the legislature having to weigh in. First and foremost, RTD's pre-existing \$0.06 sales tax provided funding for planning and transit operation, and made it possible for the agency to develop incremental capital infrastructure improvements, albeit slowly, over many years.

Second, RTD's member counties were codified, establishing a six county geography for regional ballot proposals (CRS §32-9-119.1, 119.3), and ensuring counties could not opt out (CRS §32-9, 101-164), though RTD could annex new areas without specific legislative approval.⁴⁸

Additionally, RTD was, and still is, one of the few examples of an elected multi-jurisdictional transportation agency in the U.S. RTD's fifteen elected members represented districts, and provided the agency with added legitimacy by virtue of their electoral mandate.

⁴⁷ Adams, Arapahoe, Boulder, Douglas and Jefferson counties.

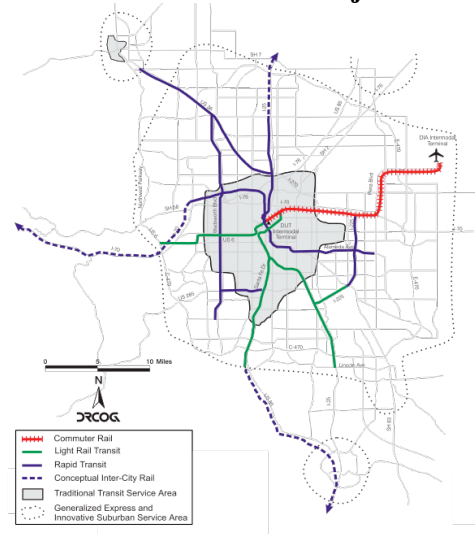
⁴⁸ Prior to the 1997 process, there were a series of referendums and statutes providing a system to annex new areas to the district that petitioned to join, or were contiguous to existing boundaries (CRS §32-9-106.6, §106.7, §106.8).

Their district boundaries reinforced this autonomy by not adhering to municipal jurisdictional lines, thus establishing a dynamic where RTD board members were technically independent from city and county politics, rather than municipal appointees.⁴⁹

The 1997 “Guide the Ride” Process

The gradual development of RTD’s regional plan, even before proposing it to the legislature and voters in 1997, indicates the degree to which RTD’s institutions supported its planning process and minimized the need for state direction. For example, RTD’s transit vision was well developed and readily accepted because it grew out of the DRCOG’s (short for Denver Regional Council of Governments)⁵⁰ fiscally unconstrained version of its Regional Transportation Plan (RTP). Known as the Metro Vision 2020 plan, this plan was to become the blueprint for subsequent regional rail proposals.

Figure 8.2: 1997 DRCOG’s Metro Vision 2020 Unconstrained Long-Range Rail Plan: The Basis for the Guide the Ride Projects Selected



(Metro Vision 2020, 1997)

Development of a regional ballot proposal began in earnest in August 1995—

⁴⁹ In practice RTD’s autonomy was diminished somewhat by local governments’ own power. Interviewees agreed that city officials still ended up being much more powerful than RTD board members, and often had a great amount of influence in decision making at RTD.

⁵⁰ The Denver area’s MPO.

well in advance of any legislation—due to the interest of RTD’s new General Manager, Cal Marsella (Marsella Memo to Staff, August 22, 1995; RTD Board Meeting Minutes, January 17, 1995-December 21, 1995). By this point, RTD was one agency, among several others, studying rail proposals in a formal way, all based on DRCOG’s Metro Vision 2020 plan, including the Southeast Corridor, by the Colorado Department of Transportation (CDOT); the East Corridor, by DRCOG; and the West Corridor, by RTD. Though each corridor had a different lead agency, they were all considered to be part of the same joint effort (RTD Board of Directors Report, December 8, 1995).

This process could hope to produce incremental improvements, building one segment at a time. However Marsella and some RTD board members had greater ambitions, and they were able to begin without new legislative approval, due to RTD’s considerable funding and planning capacity. Within months of Marsella’s hiring, in September 1995, Board Member Benker proposed a resolution to bring rapid transit to all corridors. This resolution proposed that voters should decide whether to support a regional plan with increased sales taxes in November 1996 (RTD Board Meeting Minutes, September 19, 1995). However Benker’s proposal required new legislation, and Marsella followed up with a plan to take this to the legislature (RTD Workshop Summary, November 13, 1995).

While this was Marsella’s first foray into initiating and leading the process, he did not act in a singular capacity as boundary-spanner.⁵¹ He coordinated closely with the business community, the Metro Mayors Caucus (MMC), and many others. Interviewees agreed Marsella’s role was characterized by initiating, providing vision, and, most importantly, acting as

⁵¹ Many interviewees also talked about Denver Mayor Hickenlooper’s key leadership role. However he was not elected until 2003, just after the RTD board had approved the draft plan for its second process (RTD Board Meeting Minutes, December 16, 2003). Hickenlooper’s role was mainly as spokesperson during the 2004 FasTracks campaign.

chief salesman. As a senior staffer from the Denver Metro Chamber of Commerce puts it, Marsella “...was the dream seller.... [He] could run a used car dealership without a car and sell it to people” (Clark, interview, December 10, 2014). He did not do this by himself. As Martens, of Transit Alliance recalls,

“Cal was a very effective proponent of the vision, for sure, but so was Linda Morton, so was Pat Cronenberger, so was Tom Clark.... this isn’t a story where the agency went out and did it alone. This has been a story of a region and a coalition coming together across the region that’s committed to a vision of growth and development, for which transit is an essential component, and people that were willing to take risks to support that vision” (Martens, interview, December 12, 2014).

Indeed, broad acceptance of the necessity of proposing a regional tax meant that not one, but several organizations, were simultaneously developing such a plan. In fact, many cities offered suggestions to improve RTD’s proposal, and many mayors lent their support to the process.

Project Selection

Agreement on the parameters for a plan translated into political support for RTD’s vision, and built on strong institutional support, enabling RTD to develop a plan even before the legislature weighed in on the matter. Indeed, legislative prescriptions rarely became an issue for RTD’s planning process, which proceeded with project selection through a fairly cooperative regional process, supported by technocratic planning, and adjusted to conform with comments from citizens and cities, but few limits from the state. This was possible partly because the planning was done before any legislation had been drafted. Indeed, discussions in the summer of 1995 began more than two years before the legislature began to talk about enabling legislation.

If anything, RTD ran into occasional difficulties from legislation that was *too* flexible. The lack of legislative prescriptions created some challenges, since planning was not centralized

under a single agency. A different agency, in fact, volunteered to conduct the major investment study (MIS) in each corridor.⁵² Only later were these sometimes disparate plans combined into a regional plan. However these challenges were mitigated by agreement from all three agencies on the general parameters for a plan. For example, they avoided controversy over route selections by using existing plans, like the Metro Vision 2020, and limited discussion to corridors for which a MIS was already underway. In fact, there was little disagreement on corridor routing, and RTD board members generally assumed corridors would follow the region's main freeways.⁵³ These routes were little changed from the Metro Vision 2020 plan (Figure 8.2), and stayed the same through final approval in 2004.

Previous planning efforts played an important role in focusing the discussion and limiting controversy over the parameters, though RTD could certainly have changed those parameters had citizens requested it. Soon after arriving at the agency in 1995, Marsella recalls looking through all the long-range plans of the RTD and DRCOG. He remembers asking his staffers, "Let's cull this down to the best, most efficacious projects, [that] have the best chance. Tell me what it looks like" (Marsella, interview, December 5, 2014). As a result, the corridors for the "Guide the Ride" plan were selected, through performance criteria, from a compilation of the three MISs. For example, corridors were selected for inclusion based on logistical merits like the availability of right of way, and the strength of each corridor's projected growth in ridership (Marsella, interview, December 5, 2014).⁵⁴ Marsella's technocratic approach made decisions that helped limit controversy. "I'll do it in any city," Marsella said. "I could go in and look at their plans and probably in two hours tell you the best lines, or where the next lines should go, just

⁵² RTD, DRCOG & CDOT.

⁵³ North to the airport, east to Aurora, west to Golden, north to Boulder and south to the Denver Technological Center (RTD Board Meeting Minutes, November 14, 1995).

⁵⁴ Numbers were projected based on existing parallel commuting corridors (Kenney, interview, December 9, 2014; confirmed by Morton, interview, December 9, 2014).

based on population densities, growth, congestion, time and delay. It's not that hard to do. It's not that hard to do” (Marsella, interview, December 5, 2014).

Within corridors, the decisions became more difficult, though the process still remained technocratic. These decisions happened primarily within each alignment’s own MIS process (Kenney, interview, December 9, 2014; Van Meter, interview, December 9, 2014),⁵⁵ and each process included a significant amount of outreach to elected and appointed officials, agency and technical staff, citizen groups and other interested members of the public (RTD Board of Directors Report, December 8, 1995). Together, these MISs formed the core of the 1997 regional proposal.

However there was no legislative limitation as Marsella and RTD staff gradually conformed to local political demands by expanding the proposal beyond the three MIS corridors, including other projects from DRCOG’s MetroVision 2020 plan. The MIS corridors were weighted towards the south side of the region, which was more developed, but additional corridors were needed to the north to balance the plan’s coverage across the district. Adding northern corridors was the first among many decisions to appeal to the needs and desires of people in the district, rather than to meet project criteria. One such decision that required a great deal of discussion was how to serve the suburbs. Kenney, of the MMC, recalls that suburban cities were asking why all the MIS plans’ routes went to Denver. Suburban mayors wondered why none of the proposed rail routes connected the suburbs to each other, though RTD responded that crosstown ridership would be too low to justify such routes, and bus services were a more appropriate solution. Indeed, this was hardly a new concern. In the very earliest discussions about the 1997 proposal, some board members asked why the routes all went to

⁵⁵ Criteria included: 1) Consistency with regional goals from the RTP, 2) Capital cost/ affordability, 3) Mobility levels achieved, 4) Environmental impacts, and 5) Community impacts.

Denver (RTD Workshop Meeting Summary, November 13, 1995). Marsella worked actively to appease this sentiment, first by including a significant number of new park and ride facilities in the plan; second, by including a neighborhood circulator system connecting people with rail stations; and finally, by including a corridor from suburb to suburb (along I-225) at the request of Aurora Mayor Paul Tauer (RTD Board Meeting Minutes, April 23, 1996 & May 28, 1996).

RTD's freedom to change the plan to conform to local requests was manifestly useful in appeasing local politicians' concerns, and this flexibility became useful in a similar way when RTD presented its plan to the public. Following the board's approval of the plan, in September 1996 (RTD Board Meeting Minutes, September 17, 1996), RTD staff held meetings with officials in all counties but one, along with meetings with civic organizations like the Chamber of Commerce and the League of Women Voters. The legislative language made it possible for RTD to accommodate changes suggested by attendees, which helped the final plan better answer voter's concerns (RTD, *Guide the Ride* Plan, 1997). The final plan incorporated a long list of additions designed to provide more service, extend lines, provide new park and ride facilities, increase local bus service, and improve carpool lanes used by express buses. Indeed, the lack of legislative prescriptions also made it possible to extend the proposal's sunset date from 2011 to 2015, in order to accomplish the additional plans that were requested by citizens during the outreach process (RTD, *Guide the Ride*, 1997; RTD Board Meeting Minutes, May 20, 1997). Indeed, when writing the legislation at a later time, the legislature would adapt the sunset date to the timespan necessary for the plan to be paid off (RTD, *Guide the Ride*, 1997).

RTD also had a free hand to incorporate late requests to change its plan only a month before final board approval. These requests came chiefly from the City of Westminster and other cities along the U.S. 36 corridor, which lobbied to add rail service. Though express buses on the

Denver-Boulder corridor would serve this route, there was late concern that RTD would bypass Westminster and other small cities on their way to Boulder (Letter by Boulder City Manager, May 15, 1997; Letter by Denver Deputy City Manager, May 15, 1997; Letter by City of Broomfield City Manager, May 15, 1997; Letter by Westminster Mayor, May 19, 1997). Since there was no legislative prescription on what RTD could or could not include in its proposal, the agency was free to accommodate all of Westminster's concerns by adding funding to study a supplemental commuter rail for the same corridor (RTD Board Meeting Minutes, May 20, 1997).

1997 Legislative Process & Implications

By the time RTD presented its plan to the legislature to request for legislation authorizing a multi-county tax election, the plan was fairly complete, which minimized the need for the boundary-spanner to lobby for favorable legislation. By May 1997, when the legislature approved the final plan, the three core MISs had been finished, Guide the Ride's public comment cycle was complete, and the media were supportive of the plan (*Denver Post*, Editorial, May 4, 1997; *Denver Post*, Editorial, May 25, 1997). The process had gained a great deal of momentum, and the legislature did little to stop it. Instead, RTD staff worked with legislators to help the bill meet their needs (RTD Legislative Liaison Committee Minutes, February 25, 1997).

Consequently, the legislative process played a surprisingly small role in the development of RTD's regional plan, signified by the fact that RTD continued to plan, confident of a favorable legislative outcome (RTD Board Meeting Minutes, September 19, 1995). In one key example, the decision to go ahead with the vote in 1997 was made at RTD, not the capitol, and in one instance Marsella even cited this date to the Governor's Blue Ribbon Panel⁵⁶ on transportation and the Denver Metro Chamber of Commerce without mentioning the need to authorize it first (October 22, 1996). Perhaps this was partly because RTD played such a large

⁵⁶ As seen below, the Governor was not a supporter of Guide the Ride.

role in determining what was in the legislation. RTD's legal department helped write an early draft of the bill (RTD Board Meeting Minutes, February 18, 1997), and many features RTD sought were included in the final version.

RTD representatives became less intimately involved in the final stages of writing the bill (known as SB 55), and continued to develop its Guide the Ride plan while legislators worked out the last details. By the time legislation was signed into law, the public comment process had been completed, and the RTD board had already voted to approve the final plan (Robey & Brown, May 21, 1997).⁵⁷

Only rarely did the legislature intentionally attempt to limit local decision making in the Guide the Ride proposal, and controversy never affected fundamental elements of prescriptive legislation identified in Table 3.2. For example, one hostile amendment would have required RTD to increase its rate of privatization, which would have fundamentally limited RTD's ability to plan and implement its transportation system; however this was defeated (RTD Legislative Liaison Committee Summary, April 30, 1997). Another amendment required a citizen petition process to place RTD's proposal on the ballot, which was ultimately approved, but was an accountability measure rather than a severe limitation to RTD's planning. Consequently, the legislative process did not significantly limit RTD's planning capabilities.

In fact, there was little strong opposition to RTD's proposal, and there was little desire to impose strong regulations on its planning. A strong opponent of the measure at the time, State Senate President Tom Norton,⁵⁸ does not remember the bill being a controversial vote. "There was no coalition building prior to... the vote. I don't recall it being a particularly difficult battle one way or the other" (Norton, interview, December 2, 2014). In his mind, legislators lined up

⁵⁷ In fact, the RTD board voted to submit its completed plan for voter consideration just hours after the Governor had granted final approval for the legislation that authorized the referendum.

⁵⁸ Norton was later a gubernatorial candidate, and CDOT Director.

more along geographical, rather than political party lines. “It was a few people in the downtown Denver metro area that felt that it was the right thing to do, but the coalition or the—not really coalition, but the suburbs, at that point in time, were not convinced that they were getting their fair share, which is always a question in transportation” (Norton, interview, December 2, 2014).

However even without significant intention to regulate RTD’s process, the legislature and RTD were working separately, and certain fissures emerged. Most importantly, SB 55’s short timeline specified that RTD had to adopt its finished plan by July 1, 1997 (Colorado SB 55, 1997 §3)—a little over a month after SB 55 was approved. RTD had only finished MISs for some, not all, of its corridors by this time, and the legislature wanted many things to be completed before projects could be built, including the identification of projects, and the completion of MISs (RTD Board Meeting Minutes, May 20, 1997). RTD board members wanted these things too (RTD Board Meeting Minutes, May 20, 1997), but by the spring of 1997, projects in the northern half of the region remained unstudied. Had the legislature made the election date more flexible, RTD could have taken another year to study the northern corridors, and identify potential alignments and station locations.

The RTD board was divided on whether to proceed with an unfinished plan, and a large minority of board members favored waiting until the next year to place the proposal on the ballot (RTD Board Meeting Minutes, May 20, 1997). This would have made it possible to study the region’s northern corridors more carefully before the election. However staff did not recommend waiting, due to the time constraints in SB 55 (RTD Board of Directors Report, May 20, 1997), which left the RTD board with no alternative, other than to approve the regional transit plan in its incomplete form.

Guide the Ride's lack of specificity turned out to be the most important point of attack for opponents in the campaign (*Denver Post*, editorial, October 19, 1997). SB 55's short timeline for voter approval created a situation where RTD was unable to provide voters with sufficient data about ridership and cost. As Lauren Martens, then a staffer at the Environmental Council, recalls, "The concept [of light rail] was popular, but the opposition was able to raise too many doubts about cost effectiveness of the plans, the vagueness of the plans... There were a lot of things we didn't have answers for" (Martens, interview, December 12, 2014). Garcia-Berry, the campaign manager for the 2004 proposal (discussed below), understood the weaknesses of the 1997 effort quite intimately. She opines, "I'm glad Guide the Ride failed, because it forced us to come together to a plan that actually had discipline and structure and not just this 'trust us and we will build it'" (Garcia-Berry, interview, December 8, 2014).

Indeed, by the summer of 1997 the regional plan was still a somewhat loose compilation of corridor studies, not always integrated. Staff had done multi-million dollar studies on the southern corridors. They had proposed alternatives, and brought local citizens and politicians into the process for the three southern corridors. However on the northern corridors (the I-225 corridor, the Gold line corridor, the North Metro corridor, and the US-36/Northwest corridor to Boulder), one senior staffer recalls, "We had lines on a map, but we didn't have technologies, we didn't have stations, we didn't have a lot of the detail that, in hindsight, we realized we needed to have" (Van Meter interview, December 12, 2014). People living in these corridors were uncertain what RTD was promising them. While RTD provided dollar amounts, it was unclear what those amounts could buy, or what would be built, should the approved money prove insufficient (Van Meter, interview, December 12, 2014).

Even for the three corridors with extensive studies, there were inconsistencies across the studies, because each had been written by a different agency, and needed to be reconciled. In one example, RTD used DRCOG's earlier data on the West Corridor in its plan to speak to citizens groups. At an RTD board meeting, a Citizen Advisory Committee member complained that RTD had changed the corridor endpoints. In reality, it turned out RTD had used corridor data from DRCOG, which used different endpoints (RTD Board Meeting Minutes, March 18, 1997). This should have been a relatively minor problem to fix, but the short timeline did not allow RTD the time necessary to uncover and resolve such discrepancies.

Inconsistencies in the plan and insufficient planning on the northern corridors created uncertainty for voters. However voters' greatest cause of uncertainty came not from the planning process at all, but RTD's own divided and combative board members, some of whom were ideologically opposed to raising taxes for transit. The board was described as a "dysfunctional, embarrassing board of directors" by one of the board's own members, and while some RTD board members were testifying in favor of the proposal at the Colorado Senate, others were testifying *against* it (Brown, *Denver Post*, February 12, 1997).

Contemporary newspaper editorial boards saw the RTD board members as inexperienced and unable to work collaboratively (Brovsky, March 6, 1997; *Denver Post*, Editorial, March 7, 1997). In Marsella's mind, "The board was incredibly antagonistic.... The board was acting crazy purposefully. [Board Member] John Caldera will tell you, 'I love it when you go crazy and make the paper because then it erodes confidence in the agency and I love that.' As he put it, 'We put the fun in dysfunctional.' It was a contrived strategy to make us look bad" (Marsella, interview, December 5, 2014).

It is remarkable, then, that the legislature gave RTD as much authorization as it did to develop a plan, hold a vote, and manage a multi-billion dollar regional transportation building project. Legislators could have added more severe roadblocks, but limited themselves to more modest accountability measures. As it turned out, legislators were more concerned about *whether* RTD would follow through in implementing its plan than *what* the plan looked like.

The best explanation for the legislature's willingness to approve permissive legislation appears to be RTD's accumulation of institutional powers over its long history, which gave it the financial and legal ability to plan and tax. By the time SB 55 was discussed in the legislature, the plan was developed to such an extent that legislators saw no reason to limit the contents of the plan. They already knew what they were going to get, it seemed reasonable enough to support, and it was popular. Still, lawmakers weren't rushing to offer RTD blanket authorization to conduct the measure a second time, should the referendum fail. SB 55 required citizen signatures to go on the ballot (Colorado SB 55, 1997: §5), and limited the time to go to the ballot. This, combined with a disagreeable board, facilitated the proposal's defeat. Still, even though Guide the Ride lost in 1997, the regional transit vision lived on and transit proponents built upon the 1997 loss to develop a stronger, more detailed, and more popular proposal.

Preparation for 2004 Measure

Support for the vision of a regional plan continued to grow and benefit from RTD's strong institutional autonomy even after the proposal's defeat in 1997. This was evident immediately afterwards, when RTD's pre-existing electoral process made it possible to reform the agency's quarrelsome and dysfunctional board without the need for new legislation. This made it possible for a coalition of outside groups to make major changes at RTD, which earned the agency greater credibility when it proposed a second ballot measure.

The Transit Alliance was a coalition of transit supporters who led the electoral reform, and their first meeting was the brainchild of MMC⁵⁹ staffers and the Chamber of Commerce (Cronenberger, interview, December 1, 2014). The breadth of its coalition helped solidify its ability to make changes at RTD. Several mayors, environmental, and business organizations, from around the region met in late November 1997, just weeks after the Guide the Ride proposal had failed (Cronenberger, interview, December 1, 2014). Cronenberger, a Littleton mayor, and early Transit Alliance member, said it was clear how to proceed and whom to include. “These things are sometimes amorphous. Everybody sort of knows who needs to be there giving the blessing” (Cronenberger, interview, December 1, 2014).

From the start, the coalition had a clear goal. Attendees discussed how they would maintain the vision of regional transportation in the wake of Guide the Ride’s defeat (Clark, interview, December 10, 2014). Indeed, maintaining the momentum was an important motivation for many of the attendees at that meeting (Clark, interview, December 10, 2014; Cronenberger, interview, December 1, 2014; Kenney, interview, December 9, 2014). As Peter Kenney, a senior staffer from the MMC, recalls,

We felt like we had great momentum and a lot of broad base of support for Guide the Ride. We knew why it had failed, which was largely dysfunction on the RTD board, and a lack of trust by the public in RTD’s ability to manage the money.... but we still felt it was the right answer, and thought that we ought to just not say, ‘That was that. We tried it and it failed and let’s think about some other problem’ (Kenney, interview, December 9, 2014).

The MMC organized support for the Transit Alliance from many of the region’s mayors out of fear that Governor Owens’ competing vision—funding a single line at a time—would never lead to a finished system. Many worried this could culminate in a situation already seen on the region’s south side, where a ‘one line at a time’ approach had fostered intense competition

⁵⁹ Metro Mayors Caucus

between the Southeast and Southwest corridors, with each sponsoring its own lobbyists to fight for federal money (Tonsing, interview, December 11, 2014). As one leader from the Southeast Line leadership recalls, once the southern line was built, the northern, western and eastern suburbs “...began putting a lot of pressure on DRCOG—‘where’s our piece of the action?’” (Neukirch, interview, December 5, 2014).

Martens, the Transit Alliance’s Executive Director, recalls cities’ great concern that “...someone would be the last one and get left out,” so in response, there was “a political drive to just go for it all” (Martens, interview, December 12, 2014). Counter-intuitively, this concern over geographic equity helped *unify* politicians and cities from around the region, to the degree that the largely suburban Transit Alliance members *invited* Denver to join (Transit Alliance, Letter to Denver Mayor Wellington E. Webb, September 18, 1998)—quite unlike the city-suburb disagreements seen in other regions.

By the fall of 1998, several cities and civic organizations became dues-paying members of the Transit Alliance,⁶⁰ and the organization began to hire staff. Growing interest in the Alliance attracted other cities to join, even though many of them were far less enamored of rail or transit. Aurora Mayor Paul Tauer, hailing from a moderate to conservative suburb, was particularly reluctant to join, believing the Transit Alliance was “narrowly focused” on light rail. However by September 1998, he was ready to consider the group, and the rail plan it supported.

Tauer was against building light rail—at least until the Southwest Line opened with impressive ridership. Speaking of Tauer, MMC Staffer Kenney recalls “...there was one mayor who was particularly opposed to light rail and to transit in general and he said, ‘I’m never going

⁶⁰ Early members included the cities of Lakewood, Arvada, Littleton, Golden, and Northglenn, the West and Denver Metro Chambers of Commerce, the Cherry Creek Transportation Management Organization, the Colorado Public Interest Research Group (CoPIRG), the Colorado Environmental Coalition, and the Center for Neighborhood and Regional Action (Transit Alliance Letter to Arapahoe County Commissioners, September 18, 1998).

to get any benefit out of this for my city. I don't think it's a good idea, but I see I'm in the minority, and I see these other cities want it, and I think it would help them and so I'm going to support it" (Kenney, Interview, December 9, 2014). As Tauer explained at the time, "That's another example of where it would probably be worth our while to be at the table and determine what direction they are going to take, rather than sit back and just let it happen" (King, *Aurora Sentinel*, September 23, 1998).

The Transit Alliance was just one group in a large coalition of supporters coming from outside RTD, and worked closely with the MMC and the Denver Metro Chamber of Commerce. Martens argues that what the Transit Alliance added to the dialogue, which was not as evident in the 1997 process, was "Everybody's holding everybody else accountable... [And] it's not just RTD saying, 'We have a regional vision.' It's mayors from around the region saying, 'We have to stick together and support each other.' It's being able to speak with a political voice that's separate from RTD, from the agency, so that when you go lobby for the bills, it's an independent voice" (Martens, interview, December 12, 2014).

The MMC and the Denver Chamber lobbied for legislation and gathered support as well, but approached the goal from different angles, with the Transit Alliance being especially useful for consolidating the environmental and business communities in the same coalition (Martens, interview, December 12, 2014). Meanwhile, the MMC built consensus among cities. However there was a great deal of overlap between groups, and many interviewees were members of several groups at once.

Together, these groups did much to make RTD a more professional organization. RTD's raucous board was their primary target, and the Transit Alliance recruited and trained candidates to run in the 1998 election. In fact, several interviewees from this study were elected to the RTD

board as a result of these efforts.⁶¹ Alliance members did significant outreach at public events, held educational forums, and built a list of over 6,000 potential supporters. As a result, four out of five of the candidates they considered “anti-transit” (Ewegen, *Denver Post*, July 20, 1998) were voted out of office, or chose not to run in 1998 (Colorado Secretary of State, 1999). This included Board Member Caldara, who had led the opposition to Guide the Ride in 1997.

The electoral process hadn’t brought strong candidates to the RTD board in the past. As Kenney of the Metro Mayors Caucus recalls, “The RTD board flew under the radar for years and years and years. Nobody really knew them. The average voter wouldn’t have any idea who their RTD representative was. Those campaigns were never very well... funded. It was just somebody stood up and said, ‘hey, I’ll be an RTD board member,’ and they got elected. Starting in 1997 that all changed” (Kenney, interview, December 9, 2014).

RTD’s electoral structure made it possible to reform the agency without any legislative intervention. The Transit Alliance selected candidates through an interview process, which ensured experienced candidates genuinely interested in transit (Martens, interview, December 12, 2014). Marsella, in particular, was grateful for the new board members (Marsella, interview, December 5, 2014), recalling, “I was a caged animal, personally [in 1997]. I had already been taken out of the game. [The board] had neutered me in doing Guide the Ride. I saw what they did. They absolutely corrupted the entire system, wouldn’t even tell the public what it is and, again, kept acting crazy, the board walking out of board meetings. They loved it. I said, ‘No. As GM, I need to get more control here...’” (Marsella, interview, December 5, 2014). RTD’s structure certainly facilitated that change.

⁶¹ Directors Briggs and Garcia were interviewed in this study. Briggs defeated an incumbent whom the *Denver Post* considered an “anti-rail director,” while Garcia defeated a director considered to be among the “...loose cannons,” whose own agendas lead them to switch erratically between the pro- and anti-rail factions” (Ewegen, *Denver Post*, July 20, 1998; Secretary of State, 1999).

However this transition could not come directly from any one boundary-spanner, especially one situated as General Manager of an organization, in a position where it would be inappropriate for him to campaign for a change of its elected board. Outside organizations were involved in the election by necessity, and if they cooperated with Marsella at all, it was only tacitly. However Marsella was certainly grateful for the outcome, recalling “[The new board members] were ready [to support me] going in. When they got elected, they already knew Guide the Ride. They knew what happened... They wanted a system built, they wanted transit investments and they were basically marrying up with me to make that happen” (Marsella, interview, December 5, 2014).

RTD’s Growing Internal Credibility

RTD’s reforms included a project that helped rehabilitate the agency’s reputation. Built jointly between RTD and CDOT, this highway/transit line to the Denver Technology Center was known as T-REX.⁶² This project was constructed with \$1.7 billion in bonds approved by voters in 1999, (Neukirch, Rocky Mountain News, December 12, 1999), and was only possible because RTD had the autonomy to take on bonded debt and make an agreement with CDOT.

This partnership was a win for both agencies, since they could share resources and lobby jointly for federal funding. Success of the ballot measure proved RTD could finish a large project on time and under budget, and built confidence in the agency. T-REX also served as a ‘proof of concept’ for light rail in the region, making it tangible to politicians and voters. By summer 2001, as RTD was again considering a regional proposal, T-REX was about to break ground (Proctor, *Denver Business Journal*, July 6, 2001). In Marsella’s mind, this project contributed a great deal to support for the regional plan. “Once people saw it, felt it, and touched it, they really liked it” (Marsella, interview, December 5, 2014).

⁶² Transportation Expansion Project

Refinement of Guide the Ride Plan Through Major Investment Studies

Marsella and RTD also worked to gain credibility from increasingly detailed Major Investment Studies (MISs), which strengthened support for its plans, and continued to develop RTD's regional proposal before the legislature even began to discuss new authorizing legislation. As Fellman, from the Metro Mayors Caucus put it, "...So the issue was if we're going to do this again, we got to be able to tell voters what it is they're getting for this increase of taxes... and we better come up with a plan that we really think we could follow through on" (Fellman, interview, December 9, 2014).

Marsella recognized that Guide the Ride had failed, at least in part, due to its lack of specificity in four out of the seven of its proposed corridors, most of them on the northern side of the region. To overcome this problem, Marsella requested board support to embark on MISs for the remaining corridors. Senior RTD staffer Van Meter recalls that these appeared to be separate studies at the time (Van Meter, interview, December 12, 2014). However, Marsella had a larger goal: "[The full measure] was a gleam in our eye at that point. The full measure was a gleam in our eye" (Marsella, interview, December 5, 2014). Additionally, as Van Meter points out, while the MISs didn't appear closely connected, "...why else would we have embarked on multimillion dollars worth of studies on those corridors, other than to rework and bring that plan back to the public?" (Van Meter, interview, December 12, 2014).

The Major Investment Studies helped lead to legislative support for a regional vote, created the plan, and framed the debate before the legislature even tried to. As Marsella recalls, after Guide the Ride, "We used the Major Investment Study process, really, as part of the ballot initiative. By taking it out, having all these public hearings to get input, we were able to go after [it]... The plan finally got sealed, and we said, 'This is the plan'" (Marsella, interview, December

5, 2014). RTD's new board approved MISs for the northern corridors in March 2001—with considerably less infighting than in 1997, and more support from the region's mayors (RTD Board Meeting Minutes, March 20, 2001).

With the corridor plans complete, RTD packaged them into a regional proposal—something RTD probably could not have done, had it not been for its strong pre-existing autonomy to plan and act independent of legislative action. For example, RTD, CDOT and Transit Alliance partnered to commission a poll gauging voter interest, which found 78% support for a transportation sales tax increase (Leib, *Denver Post*, July 3, 2001). As part of this effort, RTD rebranded the corridor plans with a more appealing name—"FasTracks" (Ewegen, *Denver Post*, August 18, 2001). By the time this plan made it to the legislature, RTD had developed a sufficiently detailed plan to minimize opposition from key legislators and journalists before asking the legislature for new authorization to hold a multi-county vote.

Legislative Process for FasTracks

The completeness of the plan made it possible to win support for RTD's program from both a Republican House and Democratic Senate. By the time the plan made it to the capitol, Fellman, Chair of the MMC, recalls, "We were telling legislators here's what the *plan* will be" (Emphasis added; Fellman, interview, December 9, 2014), rather than what the *process* would be. Indeed, RTD's plan was developed and detailed enough to win key support from municipal elected officials, outside organizations like the Denver Metro Chamber of Commerce, and, most importantly, the President of the Colorado State Senate, who played a critical role in neutralizing Republican opposition at the state capitol.

RTD's credibility at the capitol was much improved from 1997, due to its success building the T-REX project, and Marsella's leadership and salesmanship continued to be

essential, though he was by no means a singularly essential Alpha Participant, but, rather, a visionary and advocate that worked closely with others. RTD's lobbyist (who asked to remain anonymous) recalls that, even in a legislature evenly divided along party lines, his voice resonated. "To Cal's credit...I think [he and RTD leadership] were instrumental in changing the debate here [at the capitol, so] that it's not just 'transit is a liberal, environmental kind of thing.' It is a part of a multimodal 21st century program." (RTD Lobbyist, interview, December 10, 2014).

Marsella's message was a tough sell to the Governor and many Republican legislators, but having a completed plan helped overcome their skepticism. "You know, I think some of them were completely unconscious. They couldn't even dream it. They were like, 'Oh, okay.' They had no idea that he was really serious" (RTD Lobbyist, interview, December 10, 2014). Owens opposed the proposal throughout the legislative process (RTD Lobbyist, interview, December 10, 2014). Even so, the disputes were relatively minor, largely because RTD had already done most of the planning, and the plan was clear. As Kenney of the MMC recalls, "I don't know what went on in every conversation in the hallways of the legislature, but there was never any serious effort to say, 'Well, you can do this, but only if you cut that line.' There wasn't stuff like that.... So what we had was pretty straightforward: Here's the plan. These lines would be built" (Kenney, interview, December 9, 2014).

While there were no disputes over the choice of lines, there was disagreement over how many of them should be built at once. The Governor continued to favor an incremental, single-corridor approach, using RTD's existing funding sources, rather than new taxes, and he made it difficult for RTD to get its plan approved at the capitol (Kenney, P., interview, December 9, 2014). This was clear immediately after Marsella proposed FasTracks to the public. Tom

Norton, presumably acting as the Governor's proxy,⁶³ was reported "...urging RTD to slow it down at least a year, so that CDOT can develop a companion package of highway improvements to go along with it" (Flynn, *Rocky Mountain News*, August 22, 2001). By December, Governor Owens made it clear to Marsella that he was "...not supportive of FasTracks and he [felt] the district should use the one corridor at a time approach" (RTD Board Meeting Minutes, December 18, 2001).

However RTD's status as an elected metropolitan special district helped protect the agency from such opposition. The Governor was opposed to the plan, but he also believed in local self-governance, and he considered RTD large enough to deserve democratic autonomy, causing him to temper his opposition. This was illustrated soon after legislation was introduced on January 9, 2002, which authorized RTD to hold a tax election (Colorado SB 1, 2002, Legislative History). Only a week later, Owens softened his stance, saying he could let RTD go to the voters, as long as its plan was incorporated into the state's transportation planning process (Leib, *Denver Post*, January 16, 2002; RTD Legislative Committee, meeting minutes, January 15, 2002). RTD's right to self-governance was an important part of the Governor's shift. Tom Clark, a senior staffer at the Denver Metro Chamber of Commerce, recalls the Governor willingly told people he opposed the bill, when asked during the legislative process; however Owens never sent his lobbyists to actively oppose it. "Owens has, like all of us, his own foibles. But I think he's always been a man of his word... He was not a doctrinaire, right wing wack job.... He spent his whole life studying government, interested in what it could do and shouldn't do. And transportation is something government does" (Clark, interview, December 10, 2014). There were still obstacles for RTD to overcome, but the Governor's predisposition to support

⁶³ Though he was State Senate President in 1997, by the time of the second process, in 2002, the Governor had appointed Norton Executive Director of CDOT.

local self-governance, and RTD's status as an elected local/regional government, helped reduce opposition.

However RTD's elected status did not win explicit *support*, either. The Governor's offer sounded conciliatory on its face, but RTD was uncertain whether conformance with the state transportation plan could be used later as a tool for the Governor and CDOT to direct how the agency chose its projects. As Marsella stated to RTD's Legislative Committee, he "...has been in meetings in which CDOT Director Tom Norton has indicated he would be the interpreter for FasTracks integration with the state transportation plan as required by this legislation and that he would not approve all the corridors included in FasTracks" (RTD Legislative Committee Meeting Minutes, February 19, 2002). As it appeared, RTD would need to prove its projects would not cost the state transportation account unbudgeted funds, and RTD and CDOT each had a different interpretation of how much FasTracks would cost CDOT. This bureaucratic dispute likely stood as a proxy for the Governor's own misgivings about FasTracks, which, perhaps, he was reluctant to express through the legislative process in a gubernatorial re-election year. RTD was able to overcome Norton's challenge by presenting its own cost estimates, which was possible because FasTracks was so well developed by this time. RTD's numbers indicated CDOT would not, in fact, need to spend any highway dollars to support FasTracks projects (RTD Legislative Committee Meeting Minutes, March 19, 2002).

This opened the door for a legislative deal, in which RTD's growing reputation for competence helped induce legislators to propose a more permissive bill than even RTD had asked for. Separate bills proposed differing solutions, but one of them (Colorado SB 9, later renumbered SB 167, by Senator Windels) provided RTD with blanket authorization to choose its election cycle, even in the absence of an explicit request by RTD. Indeed, as Fellman, Chair of

the MMC notes, blanket authorization to go to the ballot was simply “...not the main focus.... The main focus was, how do we get the FasTracks plan on the ballot?” (Fellman, interview, December 9, 2014). In fact, the RTD board did not anticipate a blanket authorization bill for its proposal, and the board’s first recorded discussion of its 2002 legislative agenda does not propose such a bill (RTD Legislative Committee Meeting Minutes, December 4, 2001). Nevertheless, when given the choice, RTD’s board was quick to side with the blanket authorization bill (Colorado SB 9, Windels) over a less permissive alternative⁶⁴ (RTD, Legislative Committee Minutes, January 15, 2002; Colorado, SB 1, 2002; Colorado Special Session-SB 9, 2002).

Even with a growing well of state-level support, RTD faced a number of challenges at the state capitol, as the debate rapidly became tied to statewide political concerns. State leadership was politically divided that session, with the Republicans controlling the governorship and the General Assembly, while Democrats controlled the Senate. Partisan tension exacerbated perennial urban-rural divisions often seen in state-level politics, brought on by legislators outside RTD’s boundaries, who “...didn't see the value in the investment, or didn't care at best” (RTD Lobbyist, interview, December 10, 2014).

The Governor’s opposition added to RTD’s challenge, but RTD also won powerful allies willing to do everything in their power to support FasTracks authorization. The Governor’s concerns softened significantly when Senate President Matsunaka tied FasTracks authorization to a comprehensive state transportation deal (later codified as SB 179), which the Governor and many others saw as essential (RTD Legislative Liaison Committee, Minutes, May 7, 2002). As political consultant Garcia-Berry recalls, “It wasn’t until 2002 when the Governor wanted something; he wanted a tolling enterprise created... Then the Democrats ...in Congress [sic]

⁶⁴ SB 1, by Senator Tupa.

drove a very hard bargain and said, ‘Okay if you...want that, let us tell you what our price is. Our price is you give RTD the authority to go to the ballot’ (Garcia-Berry, interview, December 8, 2014). As RTD’s lobbyist recalls, “A huge part [of the credit] goes to Stan [Matsunaka] for being willing to play the poker game along the way and play this out so that we ended up in a conference committee where the administration was going to get a lot of the things they wanted up or down...” (RTD Lobbyist, December 10, 2014).

By this point, FasTracks’ success was completely caught up in state-level politics. It is very likely that the Senate Democrats were motivated by a desire to offer an opposing transportation plan during an election year where Matsunaka was running against Governor Owens. However their choice of a plan was consistently focused on transit. Based on newspaper accounts, it appears the Democrats did not have a strong proposal to offer (Leib, *Denver Post*, January 15, 2002), and the RTD FasTracks proposal provided one that was readily available. At the same time, Owens was willing to support FasTracks, as long as it became part of the state transportation plan. By this time, both sides felt the need to support RTD’s proposal, though the Democrats more enthusiastically. However the key question remained, how to fund it (Leib, *Denver Post*, January 30, 2002)?

RTD’s status as an elected agency helped win political support and protected the proposal from excessive state intervention, even in the face of high-stakes state political negotiation. Autonomy of local governance continued to be very important to the Governor and other Republicans, and in conference committee, this became Matsunaka’s core argument for why the legislature needed to grant RTD authorization to hold its election. As RTD’s lobbyist put it, “Our arguments were, it doesn’t mean it’s going to pass, but the district, and it’s a district made up of elected board members, would like to have that authority to make their case to the voters” (RTD

Lobbyist, interview, December 10, 2014). The Governor eventually used this argument as well. After the bill passed, his spokesperson explained that, “As a conservative, the governor has always supported the use of citizens’ initiatives” (Leib, *Denver Post*, May 10, 2002).

RTD’s strong preparation was especially helpful throughout the legislative process. In fact, RTD’s lobbyist recalls being surprised by the magnitude of RTD’s request from the legislature, considering the state political environment:

“I think RTD had done some polling already about how to craft that ballot measure question in the best way to get voter approval. So, we as the lobbyists weren't just making up ballot language. It had been fairly vetted through the district. Accompanying all that preplanning work. I mean, they'd been doing the EIS [Environmental Impact Studies]... So, it was a matter of... I remember at the time thinking we're really pushing this early, and Cal being very aggressive, was like ‘We can do it.’ I remember thinking I get that's what my job's going to be, but knowing how challenging it was going to be, based on that political environment...” (Lobbyist, interview, December 10, 2014).

As aggressive as Marsella and RTD were, the agency’s status as an elected local government district was very important for winning legislative support. The agency provided the institutional support needed to develop a detailed measure, which eventually translated into support at the state capitol.

Impact of SB 179

Even though the bill that resulted from the legislative process was flexible in many ways desired by RTD, it was authored separately from them, and there were inconsistencies on one key issue—the deadline for returning petition signatures to place RTD’s proposal on the November 2002 ballot. This did not become clear until a month after the bill had been signed, in the newspaper. The article explained that, in conference committee, Republicans had asked to remove the “safety clause,” in the bill, meaning voters could repeal the measure in a referendum if they so desired—but also meaning the bill would not go into effect until August 7, 2002, rather

than immediately. In practice, this meant voters could not circulate petitions for the legislation until the bill went into effect, which just happened to be the same day the Colorado Secretary of State required those signatures be turned in, for the proposal to be placed on the November 2002 ballot (Leib, *Denver Post*, June 12, 2002).⁶⁵

This revelation put Republican committee members on the defensive, and the Governor's spokesman said, "It was totally inadvertent" (Leib, *Denver Post*, June 12, 2002). House member Rob Fairbank (R-Littleton) explained further, "...neither he nor his Republican colleagues had the 'evil genius' to adjust the legislation to ensure no vote on FasTracks this year. 'We were not whipping out our calendars' to see if the law's effective date meshed with the secretary of state's timetable for a November initiative petition" (Leib, J., *Denver Post*, June 12, 2002).⁶⁶ On the other hand, the same journalist speculated the Governor was on the ballot, and wanted to avoid having FasTracks on the same ballot (but did not explain why).

Intentional or not, this delayed the FasTracks vote by over a year. The delay was a surprise to those at RTD. Marsella was eager to expedite the vote (Garcia-Berry, interview, December 8, 2014), and the board was discussing specific ballot language just two days before the *Denver Post* article (RTD Executive Committee Meeting Minutes, June 10, 2002); however the signature provision compelled RTD to consider 2003 instead.

The power dynamic changed in 2003, however. With the legislation approved, legislators no longer had strong leverage over RTD's process, due to both the momentum in favor of a regional vote, and the flexibility of the legislation, which provided blanket authorization. Even new legislative proposals did little to slow down the process, as evidenced

⁶⁵ Signatures were required to equal at least 5% of the votes cast for the office of Secretary of State in the previous election (Colorado SB 179, 2002, §5) within the district boundaries (Leib, *Denver Post*, May 10, 2002).

⁶⁶ One reporter pointed out that Governor Owens was against RTD holding its election in 2002, perhaps because the Governor was up for re-election on the same ballot (Leib, *Denver Post*, June 12, 2002).

by some legislators' unsuccessful attempts to thwart the regional initiative after SB 179 had passed. This was true in spite of the fact that the Senate changed hands to Republican control in 2002, bringing a leadership staunchly opposed to public transit (Flynn, *Rocky Mountain News*, December 16, 2002), and explicitly seeking to reverse the compromise transportation package approved the year before. For example, Senator Andrews, the new Senate President, proposed legislation allowing voters to repeal or reallocate funding from all RTD's local tax funding—not just the FasTracks 0.04% sales tax, but the original 0.06% funding RTD operations, as well (Colorado SB 257, 2003). However the process had already progressed too far for Andrews' bill to gain traction. Even though Andrews was the Senate President, he had a hard time winning supporters, and newspapers chastised him for offering a bill that "...breaks faith with voters of metro Denver who approved the RTD tax to begin with—with the promise that it would be dedicated to a modern transit system" (Editorial, *Denver Post*, January 28, 2003).

This first failure did not deter Andrews from making several more attempts at derailing FasTracks, and his 2003 legislation amounts to the farthest any legislators tried to go to halt FasTracks. RTD was able to overcome the challenge because its FasTracks plan had already progressed to a near-final form, and the agency had already won over a diverse coalition of allies. For example, a typically neutral journalist came to RTD's rescue to write, "This is my 40th year covering state government and I have never before seen an attempt to divert a voter-approved tax without resubmitting the issue to the voters" (Ewgen, *Denver Post*, February 1, 2003). Republican State Senator Bob Briggs—a former RTD Board Member—also came to RTD's aid, as a member of Andrews' caucus. As Briggs recalls, "I voted against that. I ran the campaign against that... I got more political heat on that one than I did with the rest of them. It

was ridiculous what he was trying to do, but it passed because R's [Republicans] voted for it. I was one of the token R's that didn't... “ (Briggs, interview, December 10, 2014).

In addition to strong momentum for the FasTracks plan, Senator Andrews’ proposal failed due to its lack of constitutionality. This issue, too, was a function of the legislature’s declining leverage once authorizing legislation had been approved: it would be unconstitutional for voters to later repeal taxes that had been approved and bonded for construction to begin; nor could jurisdictions later opt to leave and halt tax payments under such circumstances (RTD Board Meeting Minutes, April 15, 2003).

It is telling that Senator Andrews was the leader of a Republican majority in the Senate, in an all-Republican state government; yet was only able to pass one out of his seven attempts between 2003-2004⁶⁷ to limit RTD’s finances, regulate its organizational structure, and limit campaign fundraising for FasTracks. The bill Andrews was able to pass was by far his most mild proposal, calling for state oversight of RTD (Colorado SB 114, 2004), a sign of the legislature’s limited ability to halt the direction of the FasTracks' process after 2003.

Developing the Final FasTracks Plan

The development of the final FasTracks plan proceeded apace even as such legislative roadblocks continued to come its way. With clear legislation in place by this point, there was little need for a Bay Area style Alpha Participant figure to manage the process (as in Chapter 5), and it was guided primarily by economic, political and practical considerations instead. This process included a full discussion by the RTD board over which year was the most economically and politically optimal to hold the election, considering the advantages and disadvantages of each. Economic circumstances, rather than the boundary-spanner, or legislative influence, were the most important element in shaping the board’s decision. While board members were eager to

⁶⁷ SB 74 (2003), SB 257 (2003), SB 323 (2003), SB 54 (2004), SB 114 (2004), SB 242 (2004), SB 248 (2004).

go to the ballot in 2003, the regional economy had declined since they originally began working on the measure in 1998, and it appeared the economy might no longer generate enough sales tax revenue to support the entire plan (RTD Board Meeting Minutes, December 17, 2002).⁶⁸

However the legislation was flexible enough for the RTD board to adapt the plan to changing circumstances, and there was no need to seek legislators' assistance. This is evidenced during the board's March 2003 debate over whether to ask voters in 2004. Board members had different perspectives, but the flexibility manifested itself in one staffer's comment, "When the board says it's ready, we'll be ready" (RTD Planning and Development Committee Minutes, March 3, 2003).

Consequently, political calculation and logistics, rather than legislative prescription, guided the final decision. When Garcia-Berry's polling data indicated that FasTracks was unlikely to pass in 2003, many RTD board members took a closer look at 2004 (Leib, *Denver Post*, July 8, 2002), and polling data guided the board's final decision (RTD Board Meeting Minutes, November 18, 2003). Based on the polling data, Garcia-Berry insisted on an even year as well. "I mean, the numbers are very clear. If you need a high margin and a high vote count out of Denver and out of Boulder you needed to do it in an even year" (Garcia-Berry, interview, December 8, 2014). Logistical considerations were also crucial. Recalling this time, Garcia-Berry discusses the extent to which practical considerations shaped the board's decision. "We had a big fight about that. Cal wanted to go right away. His staff finally said, 'We can't get through the 208 process⁶⁹ in less than 18 months.' So the earliest we'd go was 2004. He didn't like it" (Garcia-Berry, interview, December 8, 2014). On the other hand, there is no evidence

⁶⁸ Board of Labor Statistics numbers indicate the Denver-Aurora MSA unemployment rate jumped from 2.1% in November 2000 to 4.8% in November 2001, and peaked at 5.6% in 2002. By 2003, it had plateaued, and begun to decline (BLS <http://www.bls.gov/sae/#data>).

⁶⁹ The process that required DRCOG to approve RTD's proposal before presenting it to voters, so named because it was based on requirements from Colorado SB 208 of 1990.

that legislative requirements influenced this final decision, since SB 179 contained no sunset clause, providing blanket authorization to choose the election cycle.

The Boundary-Spanner in Project Selection—First Among Equals

Legislative permissiveness facilitated the selection of projects to include in the final proposal, as well. The boundary-spanner continued to offer vision and guide the process, but did not hold singular control over it. Instead, he cooperated closely and from an equal power relationship with many local politicians, when resolving geographic equity disputes. This is especially noticeable when resolving a difficult \$850 million shortfall from the region's economic downturn during that period (Flynn, *Rocky Mountain News*, August 14, 2003). RTD staff, board members, city officials, and outside organizations had to grapple with hard choices over what to keep in the final plan.

Until this point, the RTD board had spent little time limiting lines. In fact, one of the primary reasons for doing a regional plan had been to minimize disagreement, by including something for everyone. This strategy had its critics, especially CDOT Director Norton, who characterizes the process as one where “Many times in a RTD board meeting they’d say, ‘If you get a bus, I get a bus’” (Norton, interview, December 2, 2014). Nevertheless, ‘spreading the peanut butter’ held the plan together, so, as Van Meter puts it, “...we wouldn’t have to pick winners and losers, and wait 30 to 50 years to have built out that system” (Van Meter, interview, December 12, 2014).

All this was threatened by the funding shortfall. Marsella proposed a new plan, with some lines truncated, parking at stations severely reduced, and the rail line from Boulder to Longmont postponed into a Phase II (Flynn, *Rocky Mountain News*, August 13, 2003; Flynn, *Rocky*

Mountain News, August 14, 2003).⁷⁰ As soon as it became apparent that FasTracks could not reach every area equally, old rivalries between the different parts of the region immediately resurfaced, requiring a new understanding among cities, counties and RTD board members. County commissioners began to speak, once again, about their area not getting its fair share—which was especially true for representatives from the northern part of their region (Flynn, *Rocky Mountain News*, August 14, 2003).⁷¹

Marsella hardly could be described as ‘leading’ or ‘leveraging over’ the process that followed. Tensions went beyond the traditional north-south axis, extending to cities in the west and east as well, which were all concerned that Marsella’s two-phase proposal would require a second vote to bring rail to their area. As one reporter put it, “...Voters already served by rail in the first phase would be inclined to vote against expansion in the future for outlying areas” (Flynn, *Rocky Mountain News*, October 9, 2003). Marsella responded with a revised proposal with only one phase, but made up the lost revenue by stretching out the construction time from 10 years to 12, and reducing service on some lines in their early years (Flynn, *Rocky Mountain News*, November 5, 2003).⁷²

Even Marsella’s compromise elicited anger from cities scheduled to be served last, indicating the power cities had in the final decision process. Aurora Mayor Tauer made his concerns known immediately after RTD staff released the new plan, saying to the *Rocky Mountain News*, “It casts doubt on the credibility of RTD’s commitments to the eastern metro

⁷⁰ Additionally, the Gold Line was truncated from Olde Town Arvada to Ward Road; the West Line from Denver Federal Center to Golden; the North Metro Line from 124th Avenue to Colorado 7; an extension of the Southwest Corridor to Highlands Ranch was eliminated; as was the Central Connector line into downtown Denver.

⁷¹ In just one example, Elaine Valente, Chairwoman of the Adams County Commission, expressed her concern that “The north area has always felt like it hasn’t gotten its fair share... that everyone share equally in the cutbacks” (Flynn, *Rocky Mountain News*, August 14, 2003).

⁷² This would lower the cost from \$5.1 billion to \$4.8 billion—which was still more than the \$4.2 billion cost for the first phase of the segmented plan (Flynn, *Rocky Mountain News*, November 5, 2003).

area [where Aurora is located]. I have become less inclined to be a supporter of FasTracks than I was before today. I'm not an outright opponent yet, but this is a slap in the face' (Flynn, *Rocky Mountain News*, November 14, 2003). Tauer's hesitation with Marsella's compromise reveals the key role cities played in shaping the final plan, in the absence of strong state-level prescription over the process.

RTD's relationship with cities had always been complicated by the fact that the boundaries of RTD directors' districts were not coterminous with those of the cities, which made it unclear exactly which jurisdiction should be used to measure whether tax collections were equivalent to services returned. According to Martens of the Transit Alliance, RTD directors' low salaries (\$3,000 per year) further diminished their power and ability to do their jobs, making Marsella more powerful than the elected board members "in many ways" (Martens, interview, December 12, 2014). This dynamic varies, as well, from city to city, since cities are quite different in size and power, making the web of relationships between directors and mayors quite complex. Consensus on a final plan required some kind of formal agreement that could satisfy all cities that RTD would fulfill its promises to their jurisdiction.

The challenge was resolved when mayors led the way in calling for a system of "trust, but verify" (Fellman, interview, December 9, 2014). By December 2003, the mayors of Arvada and Aurora were asking Marsella to develop a formal mechanism to ensure FasTracks corridors constructed in earlier years would not consume the monies promised to later corridors (RTD Board Meeting Minutes, December 16, 2003). The product of this discussion was a resolution to minimize cost overruns on corridors in order to "hold harmless" FasTracks corridors scheduled to be built later (RTD Planning and Development Committee Minutes, January 5, 2004).

It seems unlikely RTD could guarantee each corridor against cost overruns in all other corridors, and indeed, the resolution left RTD plenty of room to make adjustments. For example, the resolution specified that its guarantee was “...contingent upon a successful ballot initiative and obtaining funds and commitments from various sources as identified in the financial [sic] for FasTracks”

Figure 8.3: RTD’s Final FasTracks Proposal



Regional Transportation District, 2004, pg. 1-2

(RTD Planning and Development Committee Meeting Minutes, January 5, 2004). Presumably, the resolution was referring to successfully applying for federal New Starts grants, and other outside sources, but it is hard to see how this agreement provided any protection that would not have existed in its absence. Nevertheless, RTD’s “hold harmless” resolution provided political insurance for mayors against the possibility of RTD overspending its budget. As MMC’s

Fellman explains, the goal for cities at the end of the schedule was to have reasonable assurances that RTD wouldn't be able to change the plan and say, "Oh, we can't do your line anymore" (Fellman, interview, December 9, 2014). The best answer they could come up with was to assume that "everybody's going to hold everybody else's feet to the fire" (Fellman, interview, December 9, 2014). This mutual accountability mechanism depended not on the continual oversight of a single powerful person, but the same multi-city engagement that had led to its development, which, like the previous stages of the Denver proposal, was the preferable way to resolve the geographic equity dispute because the legislation did not specify the outcome, or the process leading to it.

Findings from Denver

The lack of pre-authorizing legislation to conduct a regional tax vote enabled RTD to develop its plan before the legislature weighed in on how to conduct the process. Paradoxically, without legislation authorizing the vote, RTD was able to shape its process and outcome with limited state influence, ensuring that the plan matched the region's political imperatives, rather than ones imposed by the state. However this was possible only because RTD already had such strong institutional autonomy to plan and act. This included a 0.06% ongoing sales tax funding bus operations, and allowing for gradual capital investment in new infrastructure. RTD was able to take out bonds, and had the experience needed to conduct plans.

However most extraordinarily, RTD had an elected board. RTD's status as an elected local/regional government helped make the case for providing additional decision making powers to a legitimate and autonomous local government, and won support for authorizing legislation from many legislators and the Governor.

RTD's strong institutional structure meant the boundary-spanner was the most pre-eminent actor among a group of people that assumed leadership roles in supporting Denver's regional transportation process. The boundary-spanner was not singularly essential. He provided vision and direction, but other regional agencies like DRCOG and CDOT did much planning, in addition to RTD. Outside organizations like the Denver Metro Chamber, the Transit Alliance, and the Metro Mayors Caucus all played crucial roles at different times in the process, including the efforts to lobby the legislature for authorization to hold a multi-county tax vote.

Following RTD's failure to win in its 1997 attempt, the agency needed significant reform to rebuild its reputation. RTD's institutional autonomy made it possible to make major changes at RTD through the electoral process, rather than through new legislation. This made it easier for outside groups like the Transit Alliance to assume a large role in making these changes, and at times, the boundary-spanner was more dependent on these outside groups to make major changes possible than the other way around. Their assistance made reforms at RTD easier and faster, and made it possible for RTD to gain credibility sufficient to win the legislature's authorization in 2002 (RTD Board Meeting Minutes, February 18, 1997). Consequently, it appears that RTD's strong institutional structure facilitated the swift repetition of the process after its 1997 defeat.

Following 2003, RTD's blanket authorization to choose its election cycle led to a boundary-spanner that was essentially the 'first among equals,' along with local mayors, who made the final decisions over how to resolve a budget shortfall in the FasTracks proposal. The resulting plan was influenced primarily by practical considerations, political and economic needs, and city-level politics, rather than state-level political imperatives. With no sunset to RTD's authorization, mayors as well as RTD board members were able to find solutions to

geographic-equity disagreements with vision, assistance and leadership from the boundary-spanner, but not political leverage.

Many people did not buy into Marsella's vision right away. Marsella encouraged board members, coalition members and legislators to act. And, indeed, he didn't need to push too hard, since many already supported the concept. Ironically, it was easier to overcome geographic equity concerns and unite the region with a large regional plan, than with small incremental plans that would have required continual fights over which corridor to build next. A regional plan minimized the politics, and RTD's structure incentivized the development of a regional plan by including districts spread evenly across the region. Every board member wanted to ensure the plan had a project in his/her district.

Regionwide planning appealed to potential supporters outside RTD as well, due to its visionary outlook for the region, which won support from the MMC, the Transit Alliance, and influential legislators. There was no worry of cities and counties leaving, due to difficult exit requirements. Nor was there a sunset date on approving the tax, after the 2002 legislation. Consequently, RTD was able to plan for the very long-term on a large geographical scale. RTD was able to compose a plan that was to its liking, and won the legislation it needed—legislation that imposed few limitations based on state political imperatives. Indeed, the *lack* of pre-authorization to hold a tax vote facilitated RTD's development of a plan that both served local and regional, more than state-level concerns, and, at the same time, was visionary enough to gain the legislative support for authorization.

RTD's achievement was only possible because the agency had a strong institutional and financial structure to plan. This provided the autonomy necessary to develop this plan. It made sufficient money available to begin developing trial rail lines. And it ensured RTD had the

institutional autonomy needed to commission polls, write legislative language and lobby legislators. Had RTD been a new agency with no reputation, no power, no staff, no money and unelected officers, it is questionable whether the agency could have developed a seven county plan in such detail; or whether RTD would have had the credibility to win legislative support for authorization, without significant changes to either the projects themselves, or the process used for selecting them. Nor is it likely RTD would have accomplished any of this without a much more significant role by the boundary-spanner to initiate legislation, overcome state legislative and gubernatorial opposition, or local geographic equity concerns. Not only did a robust regional agency support a smaller role by the boundary-spanner, but it made the planning process easier to conduct, more repeatable, and possible to initiate even in the absence of legislative authorization.

Chapter 9: Cross-Case Comparison

Chapter 9 Summary:

This chapter compares the seven processes examined in four regions analyzed in Chapters 5-8. It begins by comparing the legislative features in each case, and assessing their level of prescriptiveness. It identifies and examines important factors not included in the study hypotheses. It classifies cases with high levels of prescriptiveness versus permissiveness, and strong pre-authorization/blanket authorization versus those with special authorization. The chapter then compares across processes, examining the impact each indicator of strong prescriptiveness had on the way the various processes developed. The discussion then examines whether the hypotheses from Chapter 3 were upheld on a case-by-case basis, and finally, the chapter draws conclusions that compare the findings across cases.

Introduction

This study is interested in how different levels of pre-authorization and permissiveness have impacted the way proposals for multi-jurisdictional transportation funding were assembled. Dimensions include the role played by various collaborative actors, the presence of obstacles as the process moved forward, as well as differences between state political motivations encapsulated in legislation and local policy needs. The case chapters discuss how the various factors of prescriptiveness and the extent to which the legislation was pre-authorized have led to different processes in each of the cases studied. Differences are to be expected to some degree,

due to varying contexts and histories, but even with this in mind, noticeable patterns still emerge across cases, which this chapter will identify and discuss.

In order to properly compare cases and test hypotheses, it is important to classify them based on their levels of pre-authorization and prescriptiveness. Tables 9.1-9.3 do this by organizing the information from the previous four chapters. Table 9.1 classifies cases by level of pre-authorization, based on whether the legislation was tied to the specific process that was analyzed in this study (pre-authorization vs. special authorization), and whether the legislation included a sunset clause (the absence of which would constitute blanket authorization). Table 9.2 follows by identifying legislative features from the authorizing legislation governing each process. These are used in Table 9.3 to summarize the levels of prescriptiveness for each process, for each of the factors of prescriptiveness originally found in Chapters 1 and 3 (Table 1.1 & Table 3.2). Of course any summary masks the complexities discussed in the earlier chapters to some extent, for the sake of cross-case comparability, but legislation was considered “prescriptive” if it carefully specified the rules, whereas legislation was considered “permissive” if it did not specify how a factor was to be fulfilled, or did not mention it at all. For example, a number of legislative features are marked “not specified” in Table 9.2, meaning the authorizing legislation did not identify the extent of the local permission to act, thus making these permissive features. In other cases, the limits are less distinct, like voting requirements, which are considered prescriptive if they require a supermajority for passage.

Table 9.1: Authorization Types By Process

	Special Authorization	Pre-Authorization/Blanket Authorization
High Permissiveness	Denver (1997), Seattle (2007)	Denver (2004), Seattle (1995), Seattle (2008)
Low Permissiveness	Atlanta (2012), Bay Area (2004)	Bay Area (1997 Fuel Tax)*

*Mentioned in the case studies, but there was never a proposal using this law.

Table 9.2: Prescriptiveness of Authorizing Legislation⁷³

Factors	Bay Area, 2004	Atlanta, 2012	Seattle, 1995	Seattle, 2007	Seattle, 2008	Denver, 1997	Denver, 2004
Taxing instruments	Bridge toll only	Sales tax only	Sales tax, Motor Vehicle Excise Tax (MVET)*	Sales tax	Sales tax	Sales tax	Sales tax
Tax rates to be imposed	\$1 toll increase (exactly)	1% sales tax (exactly)	-Sales tax, up to 0.9 % tax -MVET, up to 0.8%*	Up to 0.5% (the unused portion from Phase 1)	Up to 0.5% (the unused portion from Phase 1)	Up to 0.4%	Up to 0.6%
Timing of the election process	-March 2004 ballot primary only -Can resubmit proposal to voters, if it loses	-July 2012 primary only -Future elections, with approval of half the counties	Within two years of forming the RTA (1993-1995)	Any year <i>after</i> 2006	No Sunset	November 1997	-November 2003 onward, any odd year general election -No sunset
Length of Collection	In perpetuity	10 years	Not specified**	Not specified**	Not specified**	Not specified**	Not specified**
Geography of local jurisdictions to be included	7 counties, excluding (Napa & Sonoma, which are MTC members, were excluded)	10 counties chosen in legislation	Boundaries decided by RTA Board. Adjustment & annexation permitted	Boundaries decided by RTA Board. Adjustment & annexation permitted	Boundaries decided by RTA Board. Adjustment & annexation permitted	-Hard for cities to exit	-Hard for cities to exit -Annexation possible
Project Selection Process	Projects written into the legislation, but selected before legislation approved	Roundtable of local leaders select from menu of state-approved projects	Not specified	Not specified	Not specified	Not specified	Not specified
Equity Requirement	Nexus between toll collection corridors and projects selected	Ensured by GDOT guidelines, not the legislation	Calls for an equity mechanism, but details decided locally	Not specified	Not specified	Not specified	Not specified
Voting Process	Simple majority, aggregate vote	Simple majority, aggregate vote	Simple majority RTA/Sound Transit district, aggregate vote	Simple majority of <i>both</i> Sound Transit & RTID areas	Simple majority RTA/Sound Transit district only	Simple majority districtwide	Simple majority districtwide
Issuing Agency	MTC & local operators	None	RTA/Sound Transit	RTA/Sound Transit & RTID	RTA/Sound Transit	RTD	RTD
Local action to Place on Ballot			County Councils must place plan on ballot.	County Councils must place plan on ballot	County Councils must place plan on ballot	-Petition of voters to place on ballot***	Petition of voters required to place on ballot.

*Cancelled by Proposition I-776 in 2002.

**Length of tax collection decided at the local/regional level.

⁷³ California AB 595, 1997; California SB 916, 2003; Georgia HB 277, 2010; Washington HB 1825, 1990; Washington 2610, 1992; Washington 2871, 2006; Washington 1396, 2007; Colorado HB 1070, 2003; SB 55, 1997; SB 167, 2002.

***Petitions must be signed by enough voters to equal 5% of the votes cast within the RTD district for Secretary of State in previous general election.

Table 9.3: Comparison of Prescriptiveness Across Cases

Factors (Number Prescriptive)	Bay Area, 2004	Atlanta, 2012	Seattle, 1995	Seattle, 2007	Seattle, 2008	Denver, 1997	Denver, 2004
Taxing instruments (6/7)	Prescriptive	Prescriptive	Permissive	Prescriptive	Prescriptive	Prescriptive	Prescriptive
Tax rates to be imposed (2/7)	Prescriptive	Prescriptive	Permissive	Permissive	Permissive	Permissive	Permissive
Timing (4/7)	Prescriptive	Prescriptive	Permissive	Prescriptive	Permissive	Prescriptive	Permissive
Geography of local jurisdictions to be included (2/7)	Prescriptive	Prescriptive	Permissive	Permissive	Permissive	Permissive	Permissive
Project Selection Process (2/7)	Prescriptive	Prescriptive	Permissive	Permissive	Permissive	Permissive	Permissive
Voting Process**** (1/7)	Permissive	Permissive	Permissive	Prescriptive	Permissive	Permissive	Permissive
Number Prescriptive	5/6	5/6	0/6	3/6	1/6	1/6	1/6

*Bay Area Toll Authority can resubmit to voters at future general elections, if it loses.

**Future elections, with approval of half the 10 counties.

***Considered “prescriptive” when the required vote threshold is higher than a simple majority.

****Categories were classified “prescriptive” if they carefully specified the rules, whereas they were considered “permissive” if they did not specify how a factor was to be fulfilled, or did not mention it at all.

Examining the Hypothesized Factors of Prescriptiveness Across Cases

Comparing the impact of both high versus low prescriptiveness, and of pre/blanket authorization across cases, it appears that high levels of prescriptiveness made it more difficult for local policy makers to develop regional plans without great concern for state-level political imperatives. However this impact varied to some extent by factor. For example, prescriptive project selection rules were much more important than similarly prescriptive rules over the tax instrument. It is necessary to examine the effect for each prescriptive factor cited in Table 9.3 (exception of Voting Process, which is outside the scope of this study). In the subsequent section, this study can use these cross-case comparisons to examine whether the hypotheses, from Chapter 3, hold true.

Tax Instrument

The tax instrument was the most consistently prescriptive feature across cases, with seven out of eight restricted to a single potential tax instrument. Yet the impact of high prescriptiveness was surprisingly limited. In almost all cases, the tax instrument was the one prescriptive factor for which local policy makers did not usually seek more flexibility than the law provided. In most cases examined, it was not a major impediment to decision making.

However this study selected for cases that made use of the legislation. In one case where the legislation was never acted on, the tax instrument was the primary impedance, and illustrates the way a tax instrument can limit the policy process. In the fuel tax proposed by AB 595 in California (California AB 595, 1997), the area's MPO, MTC, has long wanted to go to the polls, but has still not done so, more than 20 years after their authorization was signed into law. As a measure limited to a fuel tax, it has several undesirable limitations. Most importantly, fuel tax increases have never polled highly enough to in their region to make this feasible. Perhaps fuel taxes are undesirable in many regions, due to their limited tax base—just targeting one part of the larger economy (driving). This means the tax rate needs to be high to achieve sufficient revenues, and makes the tax appear more 'expensive' than a sales tax might be (Wachs, 2003a,b). In California, fuel taxes face the additional burden of a state requirement that all taxes (distinct from fees) need a two-thirds supermajority to pass (Kane et al., 2001: 63-66). This explains why the Bay Area's fuel tax never polled highly enough to be acted on, though some staff at MTC certainly said it was something they hoped to do, should the polls ever prove favorable.

The Bay Area example helps explain why Perata chose to write special authorizing legislation for a measure that was independent from the pre-authorized fuel tax. Since they

developed their proposal before the legislative process took place, the boundary-spanner was able to choose the tax instrument, and ensure that he could use a fee, rather than a tax, to pay for the measure. However doing this required additional connections on the part of the boundary-spanner, to ensure that his measure was considered to be a fee, not a tax by the state's attorney general. Consequently, this case provides perhaps the clearest example of how a limitation in the taxing instrument ultimately led to complications and limitations for the process itself.

Seattle was another case where local/regional policy makers discussed their desire that the authorizing legislation contain (ironically) a fuel tax. However in Seattle, the legislation authorized several potential tax instruments, making this a very minor limitation. Seattle, in fact, had the most flexibility on its tax instruments of any of the cases, with the ability to choose between a sales tax and a Motor Vehicle Excise Tax (MVET). In fact, prior to ballot initiative limiting RTA/Sound Transit's flexibility on tax instruments,⁷⁴ they had so many choices in both taxing instruments, as well as sunset date and tax rates, that they even had trouble deciding which combination to use (RTA Board Meeting Minutes, October 14, 1994). At one point the board considered asking for legislative approval to use a fuel tax. However gaining new legislation became too complicated and appeared too time consuming to undertake. Yet this did not become a serious limitation for them because of all the other options they had available. The board decided it was not important enough to be worth the effort and potential delay, and they went ahead with a measure that combined use of a sales tax and MVET (Sound Transit Board Meeting Minutes, October 14, 1994). Flexibility on tax instrument provided them the ability to adapt to the circumstances and it expedited decision making. However in most cases in this study that did not have such flexibility, like Atlanta, Denver, and Seattle (2004), inability to

⁷⁴ Due to passage of state ballot initiative I-776, in 2002, Seattle's RTA/Sound Transit could no longer use the Motor Vehicle Excise Tax in subsequent voter initiatives.

choose the taxing instrument never really registered as a major impediment, or a reason to request new legislation.

Tax Rates

Precise specification of tax rates significantly limited tax plans' ability to earn citizen support and choose desirable projects. Only two out of seven processes had such limitations, and in most cases, the legislation actually allowed *up to* a particular level, while not specifying exactly how much. The Bay Area 2004 and Atlanta 2012 cases were the two places where the legislation specified a precise amount. However in the Bay Area case, this precision was only the consequence of a long process to craft a proposal at the local level before seeking legislative approval, and the boundary-spanner carefully considered polling choosing a bridge toll of \$1.

By contrast, Atlanta's legislation was very limiting, specifying a 1% sales tax that many local citizens considered too high. Indeed, this was almost twice the rate of the next highest sales tax request studied here—0.6% in Denver. The difference is even wider when taken in context, since Denver's proposal came after RTD had already begun building light rail lines, making this a tested concept, in voters' eyes. In Atlanta, MARTA had built rail before, but a regional tax vote was entirely new, and 1% was a lot to ask on the first time. Furthermore, Atlanta's sunset date limited the collection time substantially, to just 10 years (Georgia HB 277, 2010: §48-8-241), the only legislation examined in this study to impose such a strict limit. The next closest was the Bay Area's 1997 fuel tax law, which allowed up to 20 years (California AB 595, 1997 Georgia HB 277, 2010). Atlanta's legislation (the Transportation Investment Act) further restricted project selections to those that were ready to construct within the 10 year timespan. This made it difficult to include projects that required a federal grant, since these could be slowed by an additional federal process (RTR Meeting, audio recording, July 7, 2011).

In this way, Atlanta's tax rate requirements combined with other limiting factors to rule out more ambitious projects, like commuter rail or MARTA extensions. This made the final list less attractive to citizens, even while the tax rate appeared too high for many people to support.

Timing

Limited choices of election cycles or election dates impacted four out of seven cases, and had a significant in most cases. These could lead to regional measures that appear on the ballot during an unfavorable election cycle—for example, Atlanta's requirement that they go during a July primary, which was expected to be low in turnout and high in anti-tax voters, but chosen so the governor could avoid putting himself on the same ballot (a state-level political consideration). Atlanta was not the only case with such issues. For example, Denver's 1997 legislation required RTD to go to the ballot before the plan was entirely ready. Though, in this case, the plan was developed at the local/regional level before the legislation was approved, the legislative restriction over choice of election cycle may have made the process unable to adapt to changing circumstances. As the process moved along, it became apparent the transit lines to the northern half of the region were not sufficiently developed, and the board was uncomfortable taking it to the voters that year. The rigid authorization language did not make it possible to delay the vote (RTD Board Meeting Minutes, May 20, 1997). In fact, something similar happened again in 2002, when another authorizing bill made it impossible for RTD to conduct a vote that year, when their prospects seemed good, though it was uncertain whether this restriction caused problems intentionally or accidentally (Leib, J., *Denver Post*, June 12, 2002). Either way, the limitation over the choice of election year was a limitation for RTD in both processes.⁷⁵

⁷⁵ After 2002, this changed, and the bill's blanket authorization provision gave RTD the ability to choose its election cycle.

In Seattle, an example of limited election timing can be found in 2007, where the state actively rescinded RTA/Sound Transit's previous authorization to bring a proposal to voters in 2006 (Washington HB 2871, 2006), the year the board preferred (Sound Transit Board Meeting Minutes, March 23, 2006). This was clearly for state political reasons, primarily to satisfy the business community's concerns by ensuring any transportation measure included roads, while holding the vote during a year when legislators would not share the same ballot (Johnson, interview, September 4, 2014; State Senator Clibborn, interview, September 11, 2014; Ilgenfritz, interview, September 12, 2014; Ladenburg, September 9, 2014). This decision became entangled in state-level politics, and RTA/Sound Transit was left to deal with the consequences—namely a poorly planned voting process confusing to voters, not conducive to passage.

By contrast, the Bay Area stands as the only case with a carefully prescribed election cycle that passed at the polls. However that is only because its boundary-spanner ensured that the decision process and the legislative process were closely connected before submitting his proposal to the legislature. This allowed Perata to gauge local/regional support for his proposed election cycle while crafting the proposal (EMC Research 2001, 2003), ensuring that the results gained support from the legislature, while at the same time producing an outcome appropriate for local circumstances.

However in processes, where the legislation was written before the policy process took place, limitations on election cycle made it very difficult to seek voter approval during years when political leaders judged to be most conducive to victory.

Geography

Legislation prescribing the jurisdictions that participate in the proposal created significant challenges for developing a plan, while more permissive cases could resolve such issues with far

less conflict. The two processes with prescriptive legislative language defining the geographic scope of their process were in Atlanta and Bay Area. However because the Bay Area's prescriptive language was developed during the local/regional collaborative process, before it was submitted to the legislature, their bill was only prescriptive from a technical standpoint, and did not have a negative impact. In fact, in their case, the counties were chosen before the legislation was written, and the proposal was actually quite carefully tailored to the local political circumstances, based on polling data (Evans, A.; Linney, D., Capitolo, M., Group Interview, February 10, 2011).

The Atlanta example was quite different, and in their case, the Georgia legislature's requirement that the Atlanta tax measure include all ten counties that were part of the area's MPO (the Atlanta Regional Commission) limited local/regional policy makers' ability to cut counties that were not interested in being part of the process. This forced local leaders to craft a deal between exurban counties that were interested almost exclusively in highway improvements, and more urban ones interested primarily in transit (Floyd, B., interview, June 18, 2014; Stoner, D., interview, June 19, 2014). Inclusion of so many counties meant that many of them did not see themselves as having similar interests, and were burdened by a history of conflict between the "inner" and "outer" counties (Bullard, 2000).

Atlanta had, perhaps, the strongest historical and cultural regional divisions among the regions in this study, but they were hardly alone in facing highly contentious intraregional politics. Permissive geographic legislation was quite helpful in allowing regions to bridge these divides. For example, the Bay Area faced difficulty deciding whether to leave out Napa County or Sonoma County, because they were too rural (and polling was unfavorable), or Solano County because they had voted against all their previous attempts to pass a local option sales tax, or

Santa Clara County⁷⁶ because they were more moderate, and had few bridges. Seattle also faced issues what to include, and eventually decided to leave out unsupportive rural areas in Pierce County, and Thurston County (where the state capitol is located). Nor was Denver immune to such issues, as they faced annexation concerns over Lonetree, and occasional discussion of including lines to more far flung areas like Greeley, which was not in their district.

In regions with permissive legislation on selection of geography, geographic inclusion issues never turned into political problems, and were resolved, instead, through discussion within the region, based on reasons more favorable to the local political circumstances. In Seattle and Denver, and the Bay Area, local decision makers were able to choose counties and cities for participation based on their likeliness to vote for the measure,⁷⁷ minimum density to need transportation services, feasibility of access, and likelihood of residents in expansion areas to be interested in paying for the new service.⁷⁸ Permissive legislation made it easier to develop a proposal, and ensured the proposal was one desirable to the politicians developing it. On the other hand, perhaps in a region like Atlanta, with so much conflict, a regional proposal could not have developed without such prescriptions, due to their history of conflict, and differences over how to spend the money, though the counties could have been chosen more carefully, with local input, and local circumstances in mind.

Project Selection

Project selection limitations were particularly important, since they directly shaped the plan itself, and thus, its ability to appeal to citizens. Both the Atlanta and Bay Area legislation

⁷⁶ Home of Silicon Valley

⁷⁷ For example, Pierce County left out its western half, which was seen as more conservative, lower density, and probably less likely to need transit (Ladenburg, interview, September 9, 2014).

⁷⁸ For example, in Denver's Lonetree area, citizens were divided on the issue, but eventually voted to join (Editorial, *Rocky Mountain News*, October 10, 2003). In Washington State's Thurston County extension, the Sound Transit Board even bought the right of way up to the county line in hopes of someday extending a line to the state capital, Olympia. However residents were largely retired, and not interested in paying the cost of an extension they would be unlikely to use, at least in the near term (Ladenburg, interview, September 9, 2014).

had highly prescriptive language. Yet, in the Bay Area, while the legislation chose projects directly in the bill, it was only reflecting the results of the collaborative process conducted at the local/regional level. Even so, the California legislature did make some important changes to the proposal after the collaborative process was over. There is evidence that an influential assemblyman had objections to the inclusion of a project to study high speed rail routes, which might have affected his district (Rapport, interview, 2014; Toll Bridge Advisory Committee Meeting Notes, November 22, 2002). Decision making at the legislative level was the exception, not the rule in this case. Even so, the boundary-spanner, who was himself a state senator, Senator Perata, personally influenced what projects could be selected at the local/regional level, making clear, for instance, that 27-28% of all money would go to ferries (Rapport, E., interview, August 22, 2014). Furthermore, Perata and his lieutenant Rapport set the criteria for project selection, and the boundary-spanner's staffer personally inserted one important project that violated the project selection rules. While the rules were made at the local/regional level, it was possible to break them too, sometimes to the benefit of legislators.

Unlike the Bay Area case, Atlanta's project selection decisions, perhaps, followed too many rules. This process had innumerable procedures that sharply reduced the potential for developing a cross-county vision, and reduced creativity in planning. Projects were limited to ones already in GDOT's long-range Statewide Strategic Transportation Plan. Projects had to have an impact within the ten year life of the program. The process itself even minimized the potential for transformational planning by asking counties to propose projects, and then reducing the list one step at a time, leaving little potential to make major changes at later stages, when citizens began to identify a number of specific needs.

By contrast, both Seattle and Denver used last minute political deals among the members of the project selection committee to make agreement possible. Seattle’s proposal, for example, ensured large changes to the plan and new thinking in what to prioritize that ensured the support of Snohomish County, by bringing light rail to their area. (Requiring innovative cost savings to pay for the extension). This kind of complex multi-county agreement was much more difficult to achieve in Atlanta, where late proposals to add commuter rail and extend MARTA were not taken seriously, because these projects had already been eliminated at an earlier stage of the process (RTR Project Lists: 4/15/11, 6/8/11, 7/7/11, 7/21/11, 8/11/11, 8/15/11, 10/13/11).

Table 9.4: Summarizing Dependent Variables (Taken from Case Chapters, 5-8)

Factors	Bay Area, 2004	Atlanta, 2012	Seattle, 1995	Seattle, 2007	Seattle, 2008	Denver, 1997	Denver, 2004
Boundary-Spanner’s Legislative Connections	State Senator Perata Strong	Metro Atlanta Chamber of Commerce Insufficient	RTA Board Chair Laing Weak	RTA Board Chair Ladenburg Medium	RTA Board Chair Nickels Weak	RTD General Manager Marsella Weak	RTD General Manager Marsella Weak
Obstacles Measure Ran Into	Few	Significant	Medium	Significant	Few	Significant	Few
State-Local Disconnect (Permissive features visible)	Boundary-spanner overcomes disconnect for all factors	Tax rates, timing, geography, project selection	Not significant	Timing, voting process	Not significant	Timing (minor & technical)	Timing (minor & technical)

Results for Hypotheses A-D, Described for Each Case (Table 9.5)

(Based on Summary of Findings in Table 9.4)

Hypothesis A: Pre-authorization or blanket authorization, rather than special authorization, removes the main point for legislative intervention, resulting in fewer prescriptive features.

Bay Area: The Bay Area case confirms this hypothesis, because the legislature intervened on a number of occasions during the legislative process—a process that had to occur because this process required special legislation. Assemblyman Dutra intervened to some extent during the passage of the bill. However most intervention took place during the project selection, the result of the boundary-spanner's requirements to use particular selection criteria and specific projects. Some of these requirements (e.g. the selection of ferry projects) conflicted with what local public officials would have done on their own. [R1]

Atlanta: Like the Bay Area, this process was specially authorized, and created an opportunity for the legislature to influence its outcome. In this case, the Georgia Legislature significantly changed the proposal from the one originally put forth by the Metro Atlanta Chamber of Commerce, passing much more restrictive language, which conflicted with local needs and hindered the process. [R1]

Seattle: Seattle's processes followed the same pattern. The 1995 and 2008 processes were pre-authorized, and removed a potential point for legislative intervention for most legislative features (except the election date and voting method). Legislative features were not intended for a particular election cycle, and key decisions were made almost entirely at the local/regional level. For example, projects were chosen based on local decision making motivations. Boundaries were left to county councils and Sound Transit board members to decide. The election date was

chosen based on political and practical reasoning. The legislature devolved leverage over planning decisions to the county councils as well, through their ability to approve the final plan. By contrast, Seattle's 2007 process was specially authorized, and while it retained many of the permissive project selection features that had become an expected element of the Seattle processes, the legislature imposed crucial provisions over the election date, the geography, and the combination of the transit measure with a separate highway package. 1995: [R2]; 2007: [R1]; 2008: [R2, R3]

Denver: Denver did not follow the same pattern as the other cases, and even though its 1997 process was specially authorized, the legislature did not make significant use of this opportunity to alter the proposal. Nevertheless, even the legislature's minimal intervention caused difficulties for RTD, as their decision to hold the election in 1997, when RTD was not yet ready, made approval more difficult than it might otherwise have been.

The legislature's decision to only make a minimal intervention may be due, in part, to RTD's status as a local/regional elected government, which the governor, and, likely, many legislators, felt the need to grant autonomy over decision making, whether or not state elected officials agreed with what RTD was doing. RTD's robust institutional structure also facilitated development of a fairly complete plan, reducing the risk for the legislature to authorize it. In 2002, the legislature passed another bill for RTD to go to the ballot, this time providing blanket authorization. This legislation followed the pattern of the other regions, with few restrictions on RTD's decision making. However, once again, it limited the year RTD could go to the ballot (though perhaps through typographical error). Nevertheless, it was also similar to the bill from 1997 in that it passed after RTD had already completed a significant amount of

local/regional planning, and largely facilitated the needs of the plan that RTD had already developed. 1997: [R1, R6, R12]; 2004: [R2, R3, R12]

Hypothesis B: Pre-authorization or blanket authorization, as opposed to special authorization, would reduce the need for a boundary-spanner with legislative connections to place a multi-jurisdictional proposal on the ballot, reducing the importance of the boundary-spanner in the process, and making the process easier to initiate and repeat, since more people or organizations could perform that role.

Bay Area: This pattern was present in the Bay Area, where the boundary-spanner's legislative connections made it possible for the process to occur, using special legislation. Perata relied on his connections at the state capitol to initiate the process and pass the legislation. His reputation convinced transit agencies to take the process seriously and participate in it. And the strength of his political apparatus made it possible for him to undertake special legislation. However the dependence on one politician meant that he made many important decisions on project selection, and required a committed politician with a number of resources at his disposal, making the process difficult to repeat. [R1, R7]

Atlanta: Like the Bay Area, the Atlanta process was authorized through special legislation. However its boundary-spanner, the Metro Chamber of Commerce was not a member of the legislature, and had weaker legislative influence than in the Bay Area case, leading to legislation that contained many problematic provisions. Unlike in the Bay Area, the boundary-spanner did not participate actively in the project selection. However this was due to reasons unique to Atlanta's boundary-spanner, rather than the process. (i.e. business leaders' fear of overstepping their bounds, and disagreement within the Metro Chamber's coalition (Williams, S., interview, October 14, 2014). While in both Atlanta and the Bay Area, the process required a boundary-

spanner to initiate, the unique connections, motivations—and inadequacies—of the boundary-spanner took on an outsize role. In the Atlanta case, the Metro Chamber certainly had plenty of connections, just not enough to get a permissive bill. At the same time, there were not many other organizations in the region with the motivation, and level of resources, they had to put together a regional plan and propose new legislation. This makes it highly unlikely that new legislation can pass, and a new regional vote can take place in the near future. [R1, R8]

Seattle: In comparison to the Bay Area and Atlanta cases, the boundary-spanners in the Seattle processes were not nearly as involved in state politics. In fact, all were representatives from city and county councils, serving on the RTA/Sound Transit board. Some of them had moderate legislative connections, mostly as a function of their role as RTA/Sound Transit board Chair, lobbying on behalf of the agency. In keeping with this pattern, the boundary-spanners' legislative connections were mostly necessary for the one special authorization, in 2006, which prevented RTA/Sound Transit from going to the ballot that year. And as that case illustrates, the boundary-spanners in Seattle mainly needed to defend the agency's pre-existing authorization, rather than lobby for new measures. Indeed, in Seattle, in the two pre-authorized processes (1995 & 2008), it was more important for the boundary-spanner to have local connections, in order to manage the project selection at the subarea level. Unlike the specially authorized cases like the Bay Area and Atlanta, multiple actors—often the entire Sound Transit board—were involved in initiating each process. And the role of boundary-spanner was less important, with this agent simply facilitating decision making across different local governments during the collaborative decision process. Unlike the Bay Area case, the boundary-spanner did not make singular decisions over project selections (this was done largely at the local level). And when one boundary-spanner was ready to pass on the leadership role, another board member was always ready to take the job

in his place. This power dynamic was made possible, in no small part, by the existence of a robust regional agency, and a long-range plan that everyone accepted as their ultimate goal. Interestingly, the boundary-spanner's role was similar through the 2006-2007 process as well, despite the fact that this one was specially authorized. While this may seem to go against the pattern seen in the other cases, this appears to be due to the fact that many decisions over developing the proposal remained with the RTA/Sound Transit board, despite the state government's assertion of authority over the election date, geography and method for voting. Within these limitations, the boundary-spanner still continued to serve as a facilitator and used the same project selection system. Hence, like the other Seattle processes, there was no need to wait for a boundary-spanner to emerge, and this agent's role was diminished from the Bay Area and Atlanta regions.

1995: [R2, R8, R9, R11]; 2007: [R2, R8, R9, R11]; 2008: [R2, R3, R8, R9, R11]

Denver: Even though only one of Denver's two processes was specially authorized, both followed a similar pattern to Seattle. The boundary-spanner's legislative connections were not strong, though he had credibility built on the growing reputation of the agency itself, and he was good at selling the plan to legislators. The boundary-spanner was not singularly essential to either process, and acted mainly as the visionary, initiator, promoter and facilitator of collaborative discussion. This was possible because RTD's status as a local/regional elected government entity, and the plan's high level of development supported the boundary-spanner's argument. RTD's resources supported its planning process, and ensured that the process was based on local political imperatives, since there was no legislation to constrict it. The boundary-spanner was a charismatic figure, but he also worked closely with other leaders that emerged at various points throughout the process, and many of them forcefully argued for RTD's plans as

well. This did not happen within the framework of pre-authorization to go to the ballot, as hypothesized, because there was no pre-authorization for Denver's first process. However the boundary-spanner and other leaders rose within RTD's uniquely robust agency structure. 1997: [R6, R8, R11, R12]; 2004: [R2, R3, R6, R8, R11, R12]

Hypothesis C: Pre-authorization/blanket authorization could result in legislation that languishes unused, since there would be no state deadlines to ensure local jurisdictions implement the process, or work together to develop a proposal.

Bay Area: This pattern was present in the Bay Area, beginning with the 1997 fuel tax measure (California AB 595, 1997), which, at the time of writing, still has yet to be used. There was no requirement that local/regional actors make use of this, and they didn't. That said, there were understandable reasons why this was the case, due to restrictions over the tax instrument and the supermajority requirement. This stood in contrast to the 2004 toll bridge measure, which was specially authorized, had an election date specified in the legislation, and was already moving ahead prior to passage of the legislation. [R4]

Atlanta: Atlanta's process followed this hypothesis as well (except as a specially authorized process), because it was so prescriptive there was little option for local jurisdictions to delay it. Atlanta's legislation compelled local officials to proceed with the TSPLOST process, even though many participants were unsure they wanted to work on a regional plan, and did not know what vision they were trying to achieve. Despite such reluctance, state deadlines, as intended by the legislature, ensured the process would proceed, whether it was successful or not. The legislature strengthened these incentives by threatening a reduction in local money for transportation programs if the region could not, at the least, approve a plan. While this helped ensure the proposal would be implemented, it lacked a sense of vision and direction, illustrating

the drawbacks to ensuring cross-jurisdictional collaboration by legislative prescription alone.

[R1, R5]

Seattle: The hypothesized pattern, as seen in the Bay Area and Atlanta, does not hold up in Seattle. A series of four regional processes in the Puget Sound region moved forward without significant legislative deadlines or other prescriptions. Perhaps the most significant legislative intervention, in 2006, was not to force a process to happen, but rather, to *delay* a process that RTA/Sound Transit was then preparing. Seattle's enthusiasm for conducting a regional measure is the primary explanation for RTA/Sound Transit's ability to move forward without strong implementation requirements, since all three counties in the region expressed interest in building a regional transit system well before the legislature acted on this issue. [N/A]

Denver: Like in Seattle, there was no evidence of the hypothesized pattern occurring in Denver. RTD had pre-authorization/blanket authorization to go to the ballot, beginning in 2003. Almost the day after the legislature granted it, RTD was working to place a measure on the ballot, and continued to try over the next two years, until their 2004 election. Like in Seattle, perhaps this was due to contextual factors, like local enthusiasm for RTD's proposal. In fact, RTD had actually developed its plan *before* the bill was written, and there was no doubt that they would use that bill to propose a tax vote. 1997: [N/A]; 2004: [N/A]

Hypothesis D: Prescriptive, rather than permissive legislation may indicate a failure to coordinate between local and state policy makers, indicated by legislation following state policy considerations, but not local ones. This could signify the need to have a boundary-spanner with stronger legislative connections to lobby for local concerns when drafting the legislation.

Bay Area: This case certainly had prescriptive legislative features. However these features do not necessarily indicate a *failure* to coordinate, since the legislation was developed after a local/regional project selection process—a “reverse sequence,” which was a possibility not considered in the hypotheses. Therefore the Bay Area’s overwhelmingly prescriptive legislative language is merely an artifact of the sequence, while the project selection process was able to follow local political imperatives, since there was no legislation governing the process. This an instance where the boundary-spanner’s considerable legislative influence ensured a process that was relatively free from state legislative requirements, especially for the choice of election cycle, election date and geography. Even so, the boundary-spanner personally intervened in the choice of projects for issues that were particularly important to him, illustrating the cost of relying too much on a powerful boundary-spanner to initiate a special legislative authorization. [R6, R7]

Atlanta: Atlanta certainly matched the pattern suggested in this hypothesis. Its prescriptive legislation indicates a failure to coordinate between local and state leaders when drafting the legislation. The legislation was prescriptive in a number of ways that were not conducive for local needs. From the state’s perspective, these provisions were chosen partly to ensure the process happened at all, partly to meet the short-term political needs of the governor and Republican legislative leaders (like avoiding an election where the governor was running for office), but also simply because, from the state’s perspective, certain provisions made more sense than they did at the local level. (For example, the choice of a geography that could be applied to all regions of the state, but included counties that did not want to participate, when applied to the Atlanta region). Certainly this illustrates what can happen when the local/regional coordination with the state is inadequate, and, in this case, the boundary-spanner tried to obtain different provisions, but did not have the influence needed to achieve that result. [R5, R8]

Seattle: Unlike Atlanta, RTA/Sound Transit planned using highly permissive authorizing legislation for two of the three processes analyzed here, where planning decisions were guided by local/regional needs, rather than state legislative requirements. Indeed, local political imperatives were the main guide for developing the plan and so crucial to board members that they institutionalized a system for making local decisions in their planning processes.

Local and state decisions were not always in concert, as when RTA/Sound Transit began its 2006-2007 process at a time inconvenient for state politicians. Even then, the legislature changed the election date and voting process, but not many other features like the planning process, the tax rate, or choice of projects. As Seattle's only specially authorized measure, and relatively restrictive process, the 2006-2007 measure follows the pattern of inadequate boundary-spanner involvement seen in other regions with restrictive processes. Perhaps this was made more problematic for RTA/Sound Transit than in other regions by the fact that boundary-spanners in Seattle were typically local government elected officials, with weak legislative connections. When this threat to RTA/Sound Transit's autonomy came along, from the highest levels in state government, it was impossible to change the proposal. However at the same time, RTA/Sound Transit's decision process had become well established by two other regional measures, discouraging state politicians from intervening to a greater extent.

1995: [R2, R4, R8, R11]; 2007: [R1, R5, R8, R11]; 2008: [R2, R3, R4, R8, R11]

Denver: Denver did not follow the model proposed in the hypothesis, since its first ballot attempt, in 1997, achieved a plan that followed local political imperatives through specially-authorized legislation, without a strong boundary-spanner. However, the existence of a strong institutional framework supported local planning even in the absence of state legislation, through a 'reverse sequence' process. Paradoxically, the absence of pre-authorization *facilitated* the 1997

planning process in Denver, by removing the possibility for state legislative requirements that might limit the outcome. The plan produced was well developed, and attractive to the legislature. And the agency was robust enough to win their confidence. Consequently, they approved permissive legislation even without a strongly connected boundary-spanner. The permissive legislation was helpful to RTD, providing the flexibility to shape their proposal by political concerns, the demands of shifting economic conditions, and practical local concerns, rather than the demands of state politics. However the boundary-spanner was not the primary reason for the legislation's passage. 1997: [R1, R4, R6, R11, R12]; 2004: [R4, R6, R11, R12]

Table 9.5: Summary of Cross-Case Findings

Factor:	Bay Area, 2004	Atlanta, 2012	Seattle, 1995	Seattle, 2007	Seattle, 2008	Denver, 1997	Denver, 2004
Prescriptiveness (Table 9.3)	5/6	5/6	0/6	3/6	1/6	1/6	1/6
Authorization Type (Table 9.2)	Special	Special	Pre/Blanket	Special	Pre/Blanket	Special	Pre/Blanket
Reverse Sequence?	Yes	No	No	No	No	Yes	No
Hypotheses:	Reasons For Findings, by Hypothesis:						
A	R1	R1	R2	R1*	R2/R3	R1/R6/R12	R2/R3/R12
B	R1/R7	R1/R5/R8	R2/R8/R9/R11	R2/R7/R9/R11	R2/R3/R8/R9/R11	R6/R8/R12	R3/R6/R8/R12
C	R4	R1/R5	N/A	N/A	N/A	N/A	N/A
D	R6/R7	R5/R8	R2/R4/R8/R11	R1/R5*/R8/R11	R2/R3/R4/R8/R11	R1/R4/R6/R12	R4/R6/R12

*This case had both specially-authorized and prescriptive features, and pre-authorized, permissive ones, since the special authorization applied only to the timing of the vote and the voting process, but not the tax rate, the geographic boundaries, or the selection of projects.

**For the election timing.

Reason 1: Special Authorization.

Reason 2: Pre-Authorization.

Reason 3: Blanket Authorization.

Reason 4: Permissive Legislation.

Reason 5: Prescriptive Legislation.

Reason 6: Reverse Sequence Process. (Process occurs before the legislation is approved).

Reason 7: Boundary-Spanner With Strong Legislative Connections.

Reason 8: Boundary-Spanner Without Strong Legislative Connections.
Reason 9: Municipal Government Role Institutionalized into the Process.
Reason 10: Requirement for Citizen Petition to Place on Ballot.
Reason 11: Agency-Level Institutions Ensure Continuity and Expedite Process.
Reason 12: Status As An Elected Local/Regional Government.
Not Applicable (N/A): No Evidence of This Hypothesis.

Cross-Case Findings

The course of events in each case, by no means, should be expected to proceed in other places precisely as observed, due to different histories and contexts. Yet the patterns can be used to expand upon researchers' existing understanding of local and multi-jurisdictional option taxes and regional governance. Some general observations appear across the hypotheses in this study. First, pre-authorization and blanket authorization removed a potential leverage point for a legislature to influence the process in ways that added costs at the local level. There was a clear contrast on this dimension between most of the specially authorized cases (Bay Area 2004, Atlanta 2012 and Seattle 2007 cases) and the pre-authorized/blanket authorized cases (Seattle 1995, Seattle 2008, and Denver 2004 cases), in the degree to which the legislature inserted provisions that were costly at the local level, though they may have benefited state-level politicians for political reasons, or been pragmatic decisions from a state point of view.

Of course there were complications to this pattern. The Seattle 2007 process did not quite follow this model in that the legislature significantly altered and reduced its *previous* pre-authorization to conduct a process, rather than granting new authorization. The actual provisions of the bill were still permissive on a number of counts like project selection, but not on many critical features like the election cycle, and compared to other Seattle processes, it was a significant reduction of permissiveness, and increased the local cost of planning.

The Bay Area 2004 case required special legislation as well, but its costs came not so much from the legislature as a whole, as from the particular legislator who initiated the process

and lead it (as boundary-spanner). Yet he had a mixed record, and was responsible both for imposing explicit costs in the project selection as for lobbying the legislature to reduce potential costs that might result in a process with features problematic for local/regional political needs. Finally, the Denver 1995 case departed most significantly from the hypothesized impact of pre-authorization and special authorization, in that it was not pre-authorized at all. Yet RTD managed to plan with very little legislative intervention, and to win legislation that was relatively permissive. Indeed, the legislature did not use its leverage much at all, and planning took place primarily at the local/regional level. This was not thanks to the efforts of a strongly connected boundary-spanner, but instead, due to the presence of a strong and well established regional elected agency, which had the resources to develop a robust plan, even before the legislation was written, and win adoption for legislation that adapted to its needs.

The Denver 1997 case also highlights another factor not considered in the hypotheses—the strength of the agency structure. In this case, a robust RTD ensured that local/regional planning could proceed, even in the absence of pre-authorized legislation, and without a well connected boundary-spanner to win special authorization. Unfortunately, this finding will not apply to very many U.S. regions, which rarely have the level of regional governance autonomy found in Denver. The Bay Area, Atlanta, and Seattle 2007 circumstances represent more typical U.S. regional governance situations, where special authorization is needed to undertake a multi-jurisdictional tax, and no strong regional agency exists to support planning, provide vision or financial support for initiating the process.

Regions without a robust agency or permissive pre-authorized legislation probably need to find a boundary-spanner with strong ties to the state capitol, enabling the development of supportive legislation. And this requires significant legislative connections. As the Atlanta case

illustrates, simply having ties may not always be enough to ensure legislation is conducive to a local/regional process. Indeed, the boundary-spanner in the Bay Area was only able to ensure that state legislation supported the projects that locals desired because he himself was a powerful member of the California State Senate. Conversely, the boundary-spanner in the Seattle 2006-2007 case was unable to stop the legislature from removing significant autonomy over developing their plan.

This is why pre-authorization/blanket authorization was so helpful, as the 1995 and 2008 Seattle processes illustrate best. Previous authorization and blanket authorization ensured that these processes could proceed without the need for a boundary-spanner with strong legislative connections. This did not guarantee success, when RTA/Sound Transit lost some autonomy in 2006. However even then, RTA/Sound Transit's blanket authorization for *future* processes remained, and they proved successful at rebounding with a new proposal that won voter support the following year—just as they did in 1996, just following their 1995 defeat. RTA/Sound Transit's repeated attempts at going to the ballot reveal a remarkable level of ease initiating each new ballot measure, but also repeating them.

Furthermore, pre-authorization brought many people into the process, enabling any municipal government official sitting on the Sound Transit board to act as boundary-spanner, initiating and leading their effort. The agency did it four times in 13 years—the most of any region examined. This removed the need to lobby the legislature every time, expediting the process and significantly lowering the cost at the regional level. And while it was helpful to have Seattle's mayor take the leadership role in 2008, and offer his political apparatus to support it, the other three attempts did not benefit from this level of support, but proceeded nonetheless.

That is not to say Seattle's success was due entirely to the legislation. County level support was quite high, with a great amount of participation and interest in the program, and this played no small part in helping initiate RTA/Sound Transit's tax referendums. The Washington Department of Transportation and the legislature were also supportive of Seattle's early processes, providing financial resources, and additional legislation whenever RTA/Sound Transit board members felt they needed further powers to make their efforts succeed. It definitely helps to have support from other levels of government, and this is something that was clearly lacking in Atlanta.

Seattle, in fact, was not the only case to display a high level of ease initiating its processes, and especially its later ones. In Denver, the 2004 process had been authorized two years earlier, and, like in most Seattle processes (except 2007), the Denver process did not require lobbying to begin, nor did the boundary-spanner need strong legislative ties. Most of Denver's political and processual costs came at the local level, rather than from higher levels of government—for example, RTD's quarrelsome board. Fittingly, these obstacles were resolved at the local level too, through electoral change.

The pre-authorized cases also had diminished costs in their reduced dependence on the boundary-spanning agent. While the boundary-spanner's role in Seattle and Denver was important, it was not absolutely essential to initiate the process. Instead, that agent's work was tied more to defending existing legislation and facilitating the cross-jurisdictional discussion, once the process had begun. In Denver, the agency had to fight against several legislative attempts to disrupt its planning process. Similarly, in Seattle, the Sound Transit board and the agency's boundary-spanners failed to stave off the legislature's 2006 attempt to alter the process. In fact, this was the most extreme legislative involvement in the Seattle case, but even then, the

boundary-spanner had a limited role, and the majority of Sound Transit's permissive powers remained, simply due to inertia. In fact, this is analogous to the failed attempts in Colorado to thwart Denver's regional transit process by *taking away* powers previously granted to RTD, which caused outrage by experienced capitol journalists. Once the legislature had begun these programs and granted strong autonomy to these agencies, the programs and institutions played a larger role in influencing the process than boundary-spanners and legislation. In contrast, Atlanta had no process from which to build, no pre-authorization for a new process, and no regional transportation agency.⁷⁹ This made it much more difficult to ensure permissive legislation, and added costs like the wait for a boundary-spanner and the limited legislative support.

Trends Not Anticipated in Hypotheses

The hypotheses assume the legislation in each case precedes the local/regional process for developing a proposal; however, as noted above, in some cases, this order was reversed. In 'reverse-order' cases, instead of lobbying for legislation to be permissive, and to serve local political needs, the local/regional agency planned first, and sought legislation later, to codify the proposal they had already produced.

This strategy was only possible under circumstances where there was a strong regional agency in existence to support the process, or a strong politician to lead it. For example, the existence of a supportive agency structure was especially helpful in Denver's 1997 process, which was not pre-authorized. In this example, RTD began planning, even without legislative sanction to hold a vote. This ensured that Denver's plan closely followed local priorities, and was not strongly affected by the legislature's own prerogatives. Indeed, RTD had the resources and authority to proceed with the planning, even though it did not have the power to call a vote,

⁷⁹ Other than GRTA, which is a state agency.

and the plan could be developed to conform with local political circumstances, like the project choices, length of the sunset, election date, and other factors—all without a well connected boundary-spanner to lobby for permissive legislation. In fact, the reversed order and RTD's strong finances combined with its ability to write the plan before the legislation, to ensure that, even though the bill was specially authorized, it was far more accommodating to local/regional political imperatives than imagined in the hypotheses.

The Bay Area case also proceeded in reverse order, not because it was managed by a strong regional agency, as in Denver, but because it was managed by a boundary-spanner with strong connections to the state legislature (and a powerful state senator himself). There were important reasons why it was a politician, rather than a regional agency, that provided support for a reverse order process in the Bay Area. While there was a pre-existing regional planning body in the Bay Area (MTC), as in Denver, MTC had far less taxing and political power, relative to their region, than Denver's RTD. MTC was not an elected agency. But more importantly, MTC's main potential funding source for a MOTT required a two-thirds supermajority for passage (California AB 595, 1997), and had never been employed due to poor polling. Consequently, it was more politically feasible for Perata to authorize a bridge toll increase through new special legislation than to use MTC's previously authorized tax, since the bridge toll could be classified as a fee, not a tax, and pass with a simple majority.

As this situation suggests, there was no routine mechanism for proposing a regional funding referendum in the Bay Area, though in 1988, a previous state senator had organized the passage of Regional Measure 1 (California SB 45, 1988)—a much smaller measure, but a good precedent for Perata to build upon. Expanding on this concept, from 2002-2004, Senator Perata

stepped forward once again, providing support for the proposal (Rapport, interview, August 22, 2014).

As in the Denver example, there was no previous legislation to govern the Bay Area's project selection process, and it could be closely attuned to local/regional political circumstances. Projects were proposed by local county transportation agencies (Toll Bridge Advisory Committee Complete Submittals, 2002). Polls and political instinct guided the selection of counties for inclusion, and timing of the election (Evans, A.; Linney, D.; Capitolo, M., Group Interview, February 10, 2011). While this situation provided a great deal of flexibility, it depended on a boundary-spanner from the legislature who could support passage of the special legislation. And, as Perata's associate, Rapport, made clear to participants, the price of that support was the inclusion of some projects, like ferries, which counties and transportation agencies would not support under normal circumstances (Rapport, E., interview, August 22, 2014).

Reverse sequence cases add a new layer of complexity not considered in this study's hypotheses, which were focused on the legislation, but did not fully consider the sequence of decision making. This is particularly apparent when categorizing reverse sequence legislation as either "permissive" or "restrictive," since the local/regional process was quite flexible, likely more so than specially authorized ones, but when codified into law, the legislation can appear quite specific. As this indicates, contextual circumstances are of the utmost importance in fully understanding how each process progressed.

Conclusions

The Denver 1997 process managed to plan without state-imposed obstacles, yet without a strongly connected boundary-spanner, using a reverse sequence planning process. This may be a

model for how specially-authorized legislation can work in the 41 U.S. states that have no form of pre-authorized MOTT legislation in place (Goldman et al., 2001). However it comes with an important caveat. If applied, as it was in the Bay Area, this strategy could provide the potential for the boundary-spanner to influence the process and insert costly projects very important to him/her, but not to others in the region—perhaps projects that are unjustifiable from a transportation planning perspective. The Bay Area illustrates this concern quite vividly. On the other hand, Denver avoided this problem, while still using special authorization, through its supportive agency structure. This ensured planning could proceed *while minimizing the need for the boundary-spanner to have legislative connections* in order to achieve approval at the state capitol. This presents an interesting combination, but not one that can be repeated in many regions.

On the other hand, the Seattle case offers a model that many areas are likely to find intriguing—an institutionalized structure for planning, with full consent and participation by local governments, which are often the chief skeptics of a regional planning approach. Counties were consulted before joining the Regional Transit Authority. They contributed board members. They developed project lists that were the basis for the regional projects selected. Counties were assured that locally collected money would come back to them. Local governments even had to approve RTA/Sound Transit’s final plan. Not only did this model offer the best chances for initiating MOTT processes, but of repeating them too.

Seattle and Denver represent different solutions to the same problem. However taken together, they suggest that to make regional transportation tax processes occur more often and happen more reliably, either a regional agency needs to be created, a pre-authorized process needs a high level of permissiveness—or both.

Chapter 10: Conclusions and Policy Implications

New strategies will be necessary in the coming years to develop regional infrastructure, but legislative requirements and funding methodology are two clear limitations to developing more robust, better integrated cross-jurisdictional infrastructure in U.S. regions. This study has examined one potential alternative to the fragmentation caused by growing use of local option transportation taxes (LOTTs). However this study has also identified immense challenges to employing this strategy on a regular basis in order to provide regional transportation infrastructure, not least of which is the fact that only nine states have authorized them to date. Without more state authorizing legislation, regions seeking to conduct such taxes in non-authorizing states will have to seek special legislation, which is a slow and difficult process. It is also hard to repeat in cases where the tax loses on the first attempt, or policy makers want to raise taxes to improve the program at a later date.

Previous authorization significantly reduced local/regional costs of initiating a MOTT. In most specially authorized cases, it was important to have a well connected boundary-spanner to lobby for legislation that reduced the local cost of undertaking a MOTT process. Unfortunately, this need sometimes came along with additional costs, tied to the unique assets, limitations and demands of the boundary-spanner. In the Bay Area case, this meant a boundary-spanner who leveraged the fact that there were few others in his position to initiate a regional transportation proposal, and used this as an opportunity to ensure particular projects were included in the final plan. In another case, in Atlanta, the boundary-spanner did not have the political leverage

needed to ensure the final proposal was conducive to the Atlanta region's needs, and lost out to an alternative proposal that was a poor fit for the Atlanta region. Atlanta's dependence on a boundary-spanner from the business community also meant disengagement with the project selection process, and a much weaker political apparatus than, say, a politician might have provided had one been interested in acting as boundary-spanner.

In the other two regions too, boundary-spanners' roles were determined by their unique assets and limitations. For example, in Seattle, the boundary-spanners' role was much more limited, in part, because of their limited resources as local government officials. Similarly, in the Denver, the boundary-spanner's role was strongly tied to his position as RTD General Manager (which required, for example, that he not campaign openly for the measure). Few agents have both the resources and the desire to act as boundary-spanner, and overdependence on one person not only makes the process less likely to happen and harder to repeat, but ensures that the outcome will be colored heavily by the unique characteristics of this one agent.

Perhaps it is even possible to talk about different kinds of boundary-spanning agents that are appropriate for different situations. For example, cases without pre-authorization require a legislatively focused boundary-spanner to lead the lobbying effort, while cases with pre-authorization need an agent who can manage the local/regional politics, and defend against potential new state legislation that might diminish their existing authorization. But they would not need to lobby for new authorization. And all cases probably would benefit from a boundary-spanner with a vision, who can work cooperatively with others to develop a plan. Cases with pre-authorization appear to have more ease finding new boundary-spanners, in no small part because the requirements for one are not as strong. The Seattle region, for example, saw four

different boundary-spanners over the course of four processes from 1995-2008, while in Atlanta, it took over three years just to pass their special authorization through the legislature.

The assets and limitations of each boundary-spanner also can contribute to their ability to ensure that the process is able to adapt to the local/regional political situation, and facilitate passage of the plan. For example, a boundary-spanner without enough leverage at the state capitol might not be able to ensure that the authorizing legislation is well adapted to geographic boundaries or election dates (and other factors) that are well suited to a successful process. Based on examples in this study, a boundary-spanner from local government or the private sector was not nearly as effective in this regard as one from the political sector.

One way to mitigate against the need to have such a highly specialized boundary-spanner was to develop the proposal before seeking legislative approval, as the Denver process did. This reduced the costs of conducting a specially authorized process by ensuring that the major decisions could be made locally, without the difficulty of seeking state legislation, and without the need to find a powerful boundary-spanner who could mitigate these costs. However Denver's strategy was only possible because of the significant resources and political autonomy of the region's multi-county transit agency, which made it possible for RTD to develop the plan before introducing it to the legislature for approval—not a scenario most U.S. regions will be able to emulate.

These findings point to the potential for processes developed by regional agencies, and later codified in legislation, as in Denver. Perhaps some regional governments can make this happen even without Denver RTD's unusual level of autonomy and financial resources, though it remains for further study whether Denver's situation was a prerequisite, or one potential regional

structure among many that can reduce local/regional costs sufficiently to make the process work without pre-authorization.

These findings also indicate the desirability of having legislation that provides permissive pre/blanket authorization in regions that do not have a regionally elected special district.

Both the Seattle and Denver examples required more faith in regional planning on the part of state lawmakers, but perhaps the Seattle approach required less so, even though it was a pre-authorized process. This was because the Seattle process required a great deal of local government involvement and consent at every stage of the process, from initiation to approval of the final plan. Local governments are often just as large an obstacle to the creation of regional governments as state governments are, with both being afraid to cede too much authority, and the Seattle approach offers a way to maintain the power of local governments while providing a robust framework for funding and planning of regional infrastructure.

Still, the Seattle approach has its drawbacks, especially for a region with strong local disagreements. A locally-oriented strategy may have seemed impossibly difficult for a region like Atlanta, with a long history of animosities. Yet the Georgia legislature's strategy of ensuring progress through deadlines and rules did not work well either. While the process moved forward, there was a notable lack of interest in the final plan, and the primary motivation at the local level became not one of developing a vision for the region, but of getting to the end of a state mandated exercise. The challenge of overcoming parochial concerns about financially supporting a regional plan was a common theme throughout the cases, not just in Atlanta, and all these regions had cross-county disagreements. The common challenge was developing a framework for overcoming these challenges, and the most successful MOTT measures were able to reduce the political cost of local actors negotiating cross-jurisdictional agreements.

Multi-Jurisdictional Taxes in a Regional Planning Context

Local collaborative negotiations will usually have costs, and successful state legislation should attempt to minimize them. All seven processes, in all four regions, had difficulty balancing the tension while distributing resources across jurisdictions. This led to conflict over whether to develop transportation infrastructure based on anticipated ridership, cost per new rider, and other performance measures, versus infrastructure located where the tax revenue was raised (known as geographic equity). MOTT processes cannot be expected to erase the challenges present in any regional planning process, which are hardly unique to MOTTs, but they can facilitate the process of local decision makers finding a way to agree on a solution. Transportation planners will find geographic equity problematic because it leads to a plan developed under political considerations, rather than transportation performance criteria alone. Yet agreements to manage geographic equity may simply be a necessary cost of any regional agreement. State legislation can't remove these costs entirely, without using a state-funded technocratic planning process—and even then, there will be state-level political costs that may influence the choice of projects. While self-help funding is likely to contain geographic equity costs, supportive state legislation can reduce them by facilitating the local development of geographic equity frameworks.

Regional decision making can be helpful in developing projects too, and distribution of infrastructure across jurisdictions is not entirely a 'cost,' though its benefits might be understated in the literature. Past research has often criticized the return of tax dollars influenced by political motivations, rather than transportation need (Taylor & Norton, 2009). But perhaps geographic equity is less problematic when funding infrastructure connections across jurisdictions, rather than local transportation operators. For example, geographic equity for public transit dollars

used by local operators runs the risk that an excessive amount will go toward suburban operators, where few commuters take transit, and the cost per rider is high, while sending too little money to operators in the urban core (Taylor, 1991). This is problematic because these operators are local, not designed to connect from one locality to another. On the other hand, it would not be possible to connect each local area on a metropolitan scale if the funds were focused just on high ridership areas at the region's urban core, and in this case, geographic equity may be a necessary cost to developing agreements across the places infrastructure seeks to link.

As the processes examined here indicate, it is difficult to determine whether geographic equity is imposing a 'cost' without knowing exactly what projects could be considered a 'benefit,' and this was highly subjective in all cases examined. One could define a benefit as a project that runs through a particular jurisdiction, and this is how a benefit might be described for distribution of MPO funds to local jurisdictions, or for politicians looking for more projects in their jurisdiction. When developing a regional system, projects really benefit everyone in their corridor, and perhaps beyond. Indeed, if jobs are distributed across the region in a polycentric manner, commuters and reverse commuters alike will need connections to all major job and housing centers. It would be difficult for transportation to do this if it were concentrated primarily at the urban core. This may call for a rethinking of what is 'fair' for regional transportation systems. Riders like James Robertson (Chapter 1) living in the urban core of a sprawling region might find it is 'unfair' if the system does not allow them to access jobs in the suburbs, through a reverse commute, even though the required infrastructure needs to be located far from their home.

Politicians in most regions in this study favored the more parochial definition of a benefit, as a service for the locality paying the cost—especially when that was their own

jurisdiction. This should not surprise anyone who recalls Congressional Representative Young’s (R-AK) famous “bridge to nowhere” (Murray, *Washington Post*, October 21, 2005). Politics is replete with examples of politicians steering money to their district, whether it makes policy sense or not, and MOTTs, as a political process, are likely to result in deviations from technocratic, criteria-based planning in order to satisfy local political necessities—an inherent cost of the process no matter how the legislation is written.⁸⁰ In the processes studied here, local politicians met the challenge of distributing ‘benefits’ through a variety of locally-developed decision frameworks (Table 10.1, and Appendix C) designed to reduce the cost of cross-jurisdictional planning in a way single-jurisdiction LOTTs could not.

Table 10.1: Geographic Equity Solutions, By Region⁸¹

Bay Area	Atlanta	Seattle	Denver
-Nexus principle* -Performance criteria	-80% return to counties -Gentleman’s agreement on inner/outer county money -15% back to counties	-Long-term plan -Subarea Equity process - Accounting of benefits received -Projects proposed by board members of each subarea	-Long-term plan -Regional plan to <i>minimize</i> equity disputes -“Hold harmless” resolution -Mutual accountability

*The expectation that each transportation project could be tied to, and relieve congestion in, a specific bridge corridor, thus providing a logic to distributing projects according to the corridor in which the bridge tolls were collected.

In most regions studied, local politicians had a strong desire to ensure sufficient benefits went back to the jurisdiction where tax dollars were collected. This became a major limitation for both Seattle and Atlanta, with Seattle politicians in outlying areas sometimes frustrated that they could not receive light rail service, when a low income subarea along the light rail route meant they couldn’t build the connecting leg of the line. The Atlanta program did not witness

⁸⁰ This is a cost in the MPO process of distributing federal funds, even though that process is more technocratic.

⁸¹ Further description of each geographic equity framework can be found in Appendix C.

this concern because fewer projects crossed jurisdictions in the first place, and 80% of the money simply returned to the county from which it was collected.

These were clear costs of geographic equity discussions, but the regional conversations made possible by the MOTT processes also led to a number of examples in which projects seamlessly crossed county lines, including some for which jurisdictions funded projects in neighboring counties. For example, in one case in metro Atlanta, a suburban county saw more benefit for a freeway interchange in Atlanta than the people in Atlanta did. There also was the case in Seattle, in which suburban counties agreed to pay for improving the main train station in downtown Seattle. The collaborative conversations afforded by these processes made it possible for local elected officials to see past their jurisdictional boundaries, develop trust with elected officials elsewhere in the region, and, at times, make deals to provide better connections. Thus, while collaboration had inherent costs, they were significantly lower with a MOTT than would otherwise be the case.

In a number of situations, local elected officials even developed formal—and informal—frameworks to make cross-jurisdictional decisions, thus reducing the geographic equity costs by setting parameters for decision making. For example, in the Bay Area plan, they recognized the potential problems that could come from allocating projects by political jurisdiction, and since the money came from bridge tolls, it was possible to justify allocating projects by bridge corridors, thus developing a “nexus” between bridge tolls and congestion relief projects. This had the added benefit of making it possible to think about the entire corridor, thus avoiding the problem seen in Seattle. Yet this process still came with inherent costs of its own, as the decision over which bridge to tie each project to was often rather contrived, even inaccurate, and motivated by politics of ensuring every jurisdiction received a respectable number of projects—

even those without many bridges. As this example illustrates, any distribution of resources across a large area will have winners and losers, especially if local jurisdictions continue to have their own funding and planning processes in parallel to the regional process.

Denver succeeded in overcoming some of these challenges precisely because they had a single regional elected board, with their own constituents, a regional mission and a regional tax base. This afforded them the opportunity to think about an integrated regional system to a larger degree—first as integrated corridors, competing for funding, and then as an effort to remove geographic equity concerns by building everything at once.

Certainly Denver’s geographic equity framework was the most effective at reducing the costs of collaboration. However theirs may also be the least transferable to other regions, since few places have single regional governments with elected representation. Policy makers in most regions need to work with the myriad existing local jurisdictions, yet provide a method for managing planning disjunctures between them. In fact, this should be one of the key goals of any regional infrastructure planning process, including MOTTs.

By contrast, Seattle’s process was a model that built upon existing local governments, and made them part of the regional process, rather than developing the regional approach in parallel. Seattle’s process certainly came with major costs, but RTA/Sound Transit was also able to manage those costs by resolving any planning inconsistencies before the board adopted the final plan. Transparency was very important in doing this, and the RTA/Sound Transit board officially assigned ‘benefits’ each county received, as well as costs incurred, from projects outside their own jurisdiction. And the agency made these clear to the voting public by publishing the ongoing accounting of costs and benefits between jurisdictions. This made it possible to forcefully answer accusations that the board had made decisions unfairly, that it

would take too long for proposed projects to reach outlying areas, or that the plan sent money from one jurisdiction to other parts of the region. All three accusations were frequent throughout the cases, but the Seattle model managed these problems the most successfully.

Reducing the Cost of Including Cross-Jurisdictional Projects

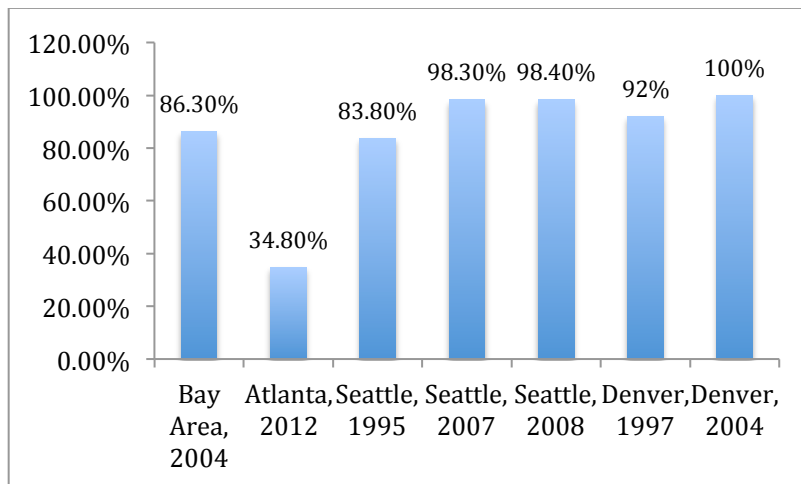
The Seattle decision making framework effectively managed local decision making costs, but these costs persisted in each of the four regions (Table 10.1), despite their best efforts to manage geographic equity issues. This is not surprising, due to the inclusion of local governments in the process, and the local decision making that is integral to any form of local option tax. The challenge for MOTTs is to minimize local costs from politically motivated decision making while making local governments the primary leaders and decision makers, with ownership over the process.

Even in the Atlanta case, which probably did this least successfully, the end result was far better than would be the case without the MOTT, though the process needs to be viewed in the context of the larger regional planning environment. Each regional MOTT is composed of project proposals provided by local governments, and with participation from local advocacy organizations. And all of these processes occurred alongside existing single-county LOTTs within the region (Goldman et al., 2001). Indeed, MOTTs did not replace the system of poor coordination that existed before. Rather, they added another layer of funding and decision making for projects that could not be supported by the prior funding methods. (And MOTTs are just one method for achieving cross-jurisdictional collaboration).

The reduced cost of cross county collaboration is evident in the results produced in each case, with all regions' plans including a significant number of cross-county projects (Figure 10.1), which one imagines would have likely been very difficult to do using LOTTs, or other

funding methods like voluntary local participation in joint powers authorities, though similar research on other regional funding models will be necessary to say for sure. Certainly there was a significant amount of cross-county cooperation from the MOTT model studied here. Even in Atlanta, which didn't have the same kind of concentration as in the other three regions on bold projects designed to connect the region, an analysis of the final project list indicates that over 34% of the funds were spent on projects marked as serving more than one city or county (RTR Project Final List: October 13, 2011). In other regions, like Seattle and Denver, this figure was even higher, and sometimes the entire project list included proposals designed to connect local jurisdictions.

Figure 10.1: Share of Projects that Cross County Lines



TBAC, 2004; RTR, 2011; RTA, 1997; RTD, 1997 & 2004; Sound Transit, 2007 & 2008

The discrepancy between the percentage of projects crossing jurisdictions in Atlanta versus the other three regions may be one more example of the challenges the state legislation imposed in the Atlanta case, though cross-county disagreement was an important factor as well. All costs in the Atlanta case did not by any means come from the legislation, but it magnified the local costs, and made it more difficult for local policy makers to develop a more integrated, more

popular regional plan. Ironically, one reason this legislation was so prescriptive was to ensure that local jurisdictions *would* develop a plan, but deadlines were not enough to ensure cooperation in project selection decisions.

Alternative Solutions to MOTTs

MOTTs usually require collaborative planning across local jurisdictions, and perhaps an approach based on local decision making simply does not work well in cases like Atlanta, where local governments have very different desired goals. It is worth considering what the options are for regions that simply have too many differences from one jurisdiction to the next to bear the full cost of negotiation. Indeed, some Georgia lawmakers expressed concern that such permissive authorizations could give too much opportunity for local elected officials to put the authorization aside, or, worse, fight over what to do. As one former Georgia senator recalled, "...there was so much infighting between the cities and counties that we couldn't just leave it open. We had to have hard deadlines, so then you had to get certain things accomplished... There was a lot of posturing going on and if we didn't have those hard deadlines, there would have even been more of it" (Sheldon, interview, June 26, 2014). It is not always easy for state legislators to let go of the process and leave the decision making to cities and counties. However the legislator's concern is likely true. Writing authorizing legislation while mindful of decades of cross-jurisdictional discord gives a sense of the political challenges at both the local and state levels.

As noted above, Atlanta's strict deadlines didn't work very effectively. Nor did this strategy result in a coherent regional plan. This is not a likely strategy for success, either for a MOTT or an LOTT, because ultimately, the plan needs to capture the voters' imagination, and answer citizen concerns. A list of 150 loosely connected projects is unlikely to do that.

If the region is too divided to develop a fully integrated plan, perhaps any strategy requiring a regional vote is simply asking for too much unity to succeed. This study has identified other regional approaches that hold promise for places in this predicament (Chapter 4). Most promising would be the use of a single joint powers regional agency, supported by voluntary local funding—and St. Louis, MO and East St. Louis, IL used it in a similar way to connect across state lines—typically a very difficult political situation, and one that is far more legally complex than what Atlanta faced. It is unclear whether using voluntary local money would be more politically complex as well, and more research will be needed to say for sure. In theory, this strategy would be easier to implement, since it could be developed incrementally, one transportation route at a time, or one jurisdiction at a time, and this strategy might not require the same type of cooperation as an MOTT that reaches across the entire region. On the other hand, if the St. Louis example is any indication, it could result in uneven service from one jurisdiction to another, depending on the tax dollars each jurisdiction is willing to devote to the system. This situation would leave fragmentation in place, and social equity challenges as well, since people in low income areas might not receive transportation access to major job centers, even as wealthy counties built infrastructure in their jurisdiction.

Alternatively, a fragmented region like Atlanta could simply allow the state to act as its regional government, and develop transportation directly. This would erase inter-jurisdictional fragmentation, but would also reduce local autonomy by leaving funding decisions with the state. (And this strategy would not be sufficient in regions that cross state lines). The problems Atlanta encountered with state legislators during their 2012 MOTT measure would become an annual occurrence during budget time. In fact, the region's state-funded Georgia Regional Transportation Authority (GRTA) already ran into similar issues when a new governor was

elected from a different political party, who was disinterested in supporting his predecessor's programs, and significantly slowed the program's progress (Chapter 7).

The MOTT approach would clearly be an improvement over these challenges for Atlanta and many other regions, though perhaps a region like Atlanta would do best to try a less ambitious strategy in the future. In fact, the original plan offered by the Georgia Chamber of Commerce was more like the Seattle approach, allowing two to three counties to join together for a single vote, rather than require the entire 10 county region to develop a single plan.

Federal Role Promoting MOTTs

Certainly there is more than one strategy available for local and regional governments, and further reliance on self-help funding may demand approaches that are increasingly customized to each region's needs. There is increasing pressure for regions to take the initiative in self-funding their infrastructure, and to a surprising degree. The U.S. Department of Transportation and the Federal Transit Administration have long encouraged local governments to adopt self-help financing by incorporating a local match into the requirements to receive federal New Starts transportation funds. As it turns out, regional planning is no different, and federal representatives urged several regions examined in this study to conduct their own process, and to do it regionally as a way to integrate services across jurisdictions. This reveals the degree to which self-help finance has become a mainstay of Washington policy, and indicates that strategies like MOTTs, and the other state and local approaches identified in Chapter 4 are likely to be important regional infrastructure funding methods for years to come.

One illustration of this trend came at Atlanta's very first Regional Transportation Roundtable meeting, when DeKalb County CEO Burrell Ellis commented on a recent ARC-led

trip to Washington, D.C., where they had met Ron Sims,⁸² Deputy Secretary of the U.S. Department of Housing and Urban Development. As Burrell recalled, “The message that’s coming down from the federal government is that we’re going to have to compete with other regions to be eligible for funding. And they’re going to be looking to those regions that are working together and working well.” The motivation was obvious, and as Burrell put it, “We want to be on their radar screen as we compete for funding going forward.... We heard about competitiveness of grants. More than going just to cities or just to counties, they’re going to be looking at funding regional initiatives. And we want to be in there” (RTR Meeting, audio recording, February 17, 2011).

Indeed, many regions are responding to the federal encouragement to help themselves. In November 2016, Seattle will vote on a Phase Three of its three county light rail plan. Southeast Michigan will consider a four county proposal including bus rapid transit and commuter rail. There is even a chance the Bay Area may go ahead with MTC’s long delayed fuel tax measure in the near future—if polls indicate they can win the required supermajority (Baldassari, *San Jose Mercury News*, May 13, 2016). Multi-jurisdictional option tax processes were difficult in every case studied here, but some regions have realized they simply have no other choice.

The Limitations of Cross-Regional Advice

The small group of regions that has conducted MOTTs has tried to learn from one another to identify strategies and mistakes. But these efforts focused almost entirely on campaign tactics, which depend on local/regional context, rather than the legislation, and the process as a whole, which are more generalizable across regions. Consequently this collaboration did not help to avoid serious challenges in Atlanta and other regions.

⁸² The same former King County Executive who served on the Sound Transit Board throughout the 2007 process.

For example, awareness of the problems elsewhere did little to change the course of the Atlanta process. Decatur, GA Mayor Floyd even reported from his Seattle trip, quite presciently, that the people in Seattle had complained that "...the [2007] one that didn't pass, was criticized for being too, what they called, 'peanut butter.' Spreading the love everywhere, but with no clear vision. And for being too long, and bureaucratic in tone—I'm not so sure we're not dealing with something like that here," he said to general laughter (RTR Meeting, audio recording, May 24, 2011; Clark, interview, December 10, 2014). Yet despite being fully aware of such concerns, due to the way Atlanta's legislation was written, there was little the Roundtable participants could do to change the situation. In fact, Floyd commented, as well, on Seattle's ability to come back to the ballot in 2008, just a year after their loss in 2007, "I don't know that we have that luxury here. If this doesn't pass... it's two to three years to get something on the ballot." As it turned out, Floyd was being optimistic. Clearly, the local politicians in Atlanta knew the legal parameters in their state did not allow the same approach that would be possible in Seattle.

But there was not much else local elected officials thought they could do. Perhaps by the time the Roundtable began, they did not have many options. The legislation was approved and the process was beginning, after years of negotiation at the state capitol. Furthermore, these processes happen so rarely that they seem to catch local elected officials by surprise—especially in regions that required special authorization, where multi-jurisdictional processes were not a routine part of their funding regime or political culture.

Hopefully just by defining and categorizing MOTTs, local leaders may become more aware of their existence, and propose plans or legislation themselves, before legislative leaders do so using a model that is less costly for *them*, based on state-level concerns. Perhaps state legislators can craft pre-authorizing legislation for MOTTs, similar to the legislation many states

have already approved for LOTTs. However legislation for MOTTs will need to be more complex than for LOTTs, with provisions for determining which jurisdictions would be included, and what regional body should make decisions over choice of election date or implementation of the program, among other things. Seattle's legislation provides the best example of the cases examined in this study of a process that allows a high degree of local/regional decision making while reducing the cost of initiating a proposal and developing it across jurisdictions. Their strategy may work especially well in cases where all the region's counties shared the same vision. In metro areas like Atlanta, without broad interest in developing a single regional system, perhaps the Seattle example would be helpful because it preserves the role of local government decision making. But it would be unrealistic to expect all ten counties to join. Nevertheless, even if several counties were to participate, this could be a major improvement over the county-based LOTTs on which the region now relies for its self-help funding.

Permissive pre-authorized legislation can reduce the cost of conducting a process substantially over the cost of using special authorization, but more states will need to approve MOTT authorization bills in order to make this possible. Perhaps national civic organizations and federal agencies can draft model legislation for states to approve, so local governments do not need to wait for the next legislatively connected boundary-spanner to emerge in order for their process to begin; perhaps just a boundary-spanner with local leadership abilities would then be sufficient. In the vast majority of U.S. regions, which do not have a well funded, publicly elected regional agency of the type Denver relied on, pre-authorized, permissive MOTTs may be their best option for developing regional infrastructure using self-help funding. However even with the help of model legislation, many states may still be reluctant to entrust local/regional policy makers with so much authority. Approval of transportation agencies of the RTD variety

in more U.S. regions would provide another way to provide the supportive framework needed to initiate MOTT processes in the 43 states that have not pre-authorized MOTTs. Yet, as noted before, Seattle-type pre-authorization legislation respects city and county autonomy. In states that still find this to be a concern, it is even more unlikely that they would accept an autonomous, regionally elected special district instead.

Another potential option for regions that do not have either pre-authorization to conduct an MOTT, or a robust regional government, is for the federal government or MPOs to support the development of a proposal, which can then be implemented through special legislative authorization. This could provide the advantages of planning with local/regional political imperatives in mind, but without dependence on an autonomous regional agency. If federal policy is going to rely more on self-help funding for its transportation, perhaps support for regional planning and development of MOTT plans and legislation is an integral, essential component of that policy.

MPOs could play a stronger role in developing and approving MOTTs than they do now. MPOs provide a structure for cross-jurisdictional coordination, but most do not have the fiscal or operational authority needed to ensure an integrated regional system. Local governments participate in them voluntarily, and without fiscal powers, and MPOs are often left to accept local self-help plans as part of their own—in no small part because the MPO board members are often local elected officials, who are intimately involved in developing LOTT and MOTT plans. This helps explain MPOs' limited leadership role in each of the cases, since they simply did not control the local self-help money (though they continued to distribute federal highway funding). MPOs have assumed a more technocratic, planning function, and self-help funding often operates outside the MPOs structure. More integrated regional planning using self-help funding

sources requires more than just regional planning, but also a willingness to initiate a proposal, fund it and develop the plan. MPOs are unelected, and had difficulty taking this level of initiative in the cases examined here. In all the cases examined, MPOs' Regional Transportation Plans played a key role providing the outline for a regional MOTT, but others had to initiate that process, often outside the MPO framework, using MOTTs and other regional transportation agencies that had the capability of raising taxes, and developing infrastructure.

With these limitations in mind, it might be unrealistic to expect MPOs to provide the initiative to start a MOTT plan. However one can imagine MPOs playing a stronger role in lobbying for state pre/blanket authorizing legislation, and supporting the composition of a regional MOTT funding proposal. However the leadership to initiate a regional plan might have to come from outside the traditional regional governance structure, from civic organizations, local governments and others.

Even with all these changes, the cases examined here illustrate the immense challenges associated with undertaking a multi-jurisdictional option transportation tax to fund a region's infrastructure, though they also reveal the spectacular rewards for regions that have approved them. Even in the best of circumstances, it is difficult to put together a plan that can satisfy so many local jurisdictions, outside civic organizations, and, of course, voters. In all these respects, MOTTs are significantly more challenging than a single jurisdictional local option tax. That is why state and federal governments should do everything they can to make MOTTs easier and less costly for local and regional actors to conduct. Atlanta was by far the most difficult case, but not the only one that faced inter-jurisdictional challenges, especially on their first attempt, and even the Seattle and Denver cases faced significant obstacles, and lost their first elections. However state legislation can make this a more resilient process, with more points of entry for a

wider range of actors, and easier to repeat when it fails. Indeed, the LOTT literature has noted the difficulty of passing a single-jurisdictional LOTT on the first attempt (Beale et al., 2007), and the same was true in the cases studied here.

The processes do appear to become easier with time, practice, and development of a civic infrastructure around conducting them. Advocacy groups and politicians alike appear to make them a more integral part of their agendas in regions like Seattle and Denver, where they have been around for almost two decades. Even political consultants become more accustomed to the unique challenges of a regional campaign. If federal and state policy makers want to see more self-help funding, they can facilitate region's adaptation to the unique challenges of MOTTs and LOTTs by taking an active role in developing pre-authorized legislation what would make MOTTs a viable long-term funding solution. This would make MOTTs easier to initiate, and provide the legal platform needed to make them more regular occurrences. By doing so, this could add a missing dimension to the self-help funding approach that appears to be evolving into a *de facto* national infrastructure finance policy. If this approach does not include a regional dimension, it is hard to say how U.S. will provide essential intraregional transportation with local option taxes alone.

MOTTs will not work in all cases, and the academic community will need to do more research on a variety of self-help funding methods, like some of the ones outlined in Chapter 4, as well as regional HOT lanes, and other potential methods that allow regions to pay for transportation with less federal support. Self-help means greater voter choice, and likely requires customization not just of transportation projects, but of the funding strategies themselves, in order to serve each region's local political environment. For example, a multi-state region might find a MOTT approach so costly it is not worth the benefits from full integration of services, and

might, instead, need to adopt a funding approach reliant on voluntary local participation. Self-help funding means that transportation and other infrastructure planning needs to become more attuned to these local political nuances, which are likely to shape the planning itself.

Infrastructure planning is increasingly tied to local politics, and more research needs to be done on a variety of regional approaches to overcome them. But the local governments and local divisions will remain in every approach and the cost of mitigating these will not go away.

Regional approaches are likely to sit side by side with local politics for the foreseeable future.

Frameworks for overcoming these divisions were much more successful when developed at the local level, rather than imposed from above, and if states want to make self-help finance a viable tool for the long term, they will need to approve legislation that makes repeated multi-jurisdictional processes a realistic proposition. By the same token, local governments will need to become more adept at knowing what to ask for and seeking pre-authorization legislation long before the politics of an upcoming process motivate state-imposed costs. This is a challenge for both local and state governments, but one they need to accept if regional transportation is to be a regular component of a self-help infrastructure network.

Appendix A: Case-Specific Data Collection Issues

San Francisco Bay Area Data: Specific Issues

The Bay Area interview process began by contacting key people at the Metropolitan Transportation Commission (MTC, is Bay Area's MPO). As noted above, in one special circumstance, this study used a three-person group interview rather than a simple interview, according to the interviewee's request.

Regional Measure 2, the case analyzed here, took place from 2000-2004. Most interviews were conducted between 2010 and 2011; additional follow up emails and interviews were conducted in 2013 and 2014. Almost all key figures were still in the area for interview. Most documents were still available, and several interviewees still had large files on the subject that they were gracious enough to share. However the archival record is decidedly more complete after the process became official in the spring of 2002. Before that time the process consisted of private strategizing and hearings of a Senate Select Committee on Bay Area Transportation for which the archivist at the California State Library was unable to find any official records. For the early part of the process, the analysis relies on interviews, newspaper accounts, legislative committee analyses, polling data and references to that time in later documents. Interviews were approximately an hour each, using semi-structured interviews.

Atlanta Data

The "TSPLOST" process took place in 2012, while the interviews for this research took place in June and October 2014. Interviews began by contacting people found in the extensive newspaper articles, blogs and legislative histories available online. The interviews focused on

members of the Executive Committee of the Regional Transportation Roundtable, which was the group of mayors and county commissioners that selected all projects to include in the ballot measure. Interviews also targeted an influential planner at the Georgia Department of Transportation (GDOT), the former Georgia House Speaker and Atlanta mayor, members of the Georgia Legislature, lobbyists, and advocacy groups, including the Atlanta Metro Chamber of Commerce, the Sierra Club, the Tea Party and the NAACP. Follow up emails were sent as needed to clarify information and set up a new round of interviews.

Due to the recent nature of the case, and its heavy presence on the Internet, there was a wealth of documentation available for most of the process. This study focuses on legislative records, official reports, audio recordings of committee meetings, newspaper articles, and advocacy blogs. These do not reveal actors' motivations, however, which are based primarily on the interviews.

Seattle Data

Interviews took place in September 2014. They began with sources mentioned in newspapers and focused on RTA/Sound Transit board members during the time of the processes studied, but also included a state legislator, the Washington Secretary of Transportation, and environmental advocacy groups that were influential in the process. It is important to note that almost all RTA/Sound Transit board members doubled as local government officials, and usually described the process from both the regional and local perspective. It was difficult to find participants from the early processes, but due to the agency's lack of staff during its early years, meeting minutes were largely unedited, almost approaching verbatim accounts, in many cases nearly 60 pages long. From these, it was possible to gain a strong insight into the discussions and concerns during RTA/Sound Transit's first regional decision process. Minutes from

Seattle's post-2004 processes were limited to essential details. However more information was available on the Internet, participants were much easier to find, and they remembered the process much better. Interviews focused on this period, and were used to learn people's motivations and views of the process, which was unavailable from archival documents.

One key interviewee, the CEO of Sound Transit, was highly involved in the process, but unfortunately, unable to participate due to medical reasons. However her deputies, all intimately involved as well, spoke extensively. The chief opponent of the processes, Kemper Freeman, refused to speak when he was reached.

Denver Data

Most interviews took place in December 2014, with a few exploratory interviews in 2012. Interviews began with sources mentioned in newspapers, the Internet and academic articles on the case. Interviews focused on key participants from RTD staff and its board, the Denver Regional Council of Governments (DRCOG), mayors on the Metro Mayors Caucus, the chief staffer at the Chamber of Commerce, a political consultant that managed the campaign and was involved throughout the process, a lobbyist that worked on the authorization bill at the state capitol, and an advocacy group. The 17-year timespan covered by this case included two different ballot proposals, one in 1997 and one in 2004. An effort was made to include as many people as possible from the first process, but several key people were deceased, and many of those who were still alive did not remember it very well. Consequently, this study relies more on secondary sources, like newspaper accounts, to understand the context and motivations behind the 1997 case than the 2004 case. However RTD had extensive archival files on the 1997 process, including meeting minutes, workshops, committee meetings and reports. Archives provided a fairly complete picture of events, as well as people's reaction to them.

Appendix B: Local Home Rule in the United States

Local governments have limited power to act in the U.S. legal system without state authorization, since the ultimate authority for local government is vested with the states, rather than the local governments themselves. States can create, dissolve, and empower local governments, and any understanding of its effectiveness must begin with the legal framework in which the process is nested, and the history of how this developed. Although citizens often assume local governments' powers are a right, they are actually a privilege, dependent on the discretion of the state government. Since 1903, the Supreme Court has accepted states as the ultimate source of local power (Kane et al., 2001: 10).

This wasn't always so. Cities existed in colonial America before states did, and were part of a legal tradition dating back to the Middle Ages, designed to safeguard individual property and provide services. However following the American Revolution, the Tenth Amendment to the Constitution granted states any powers not explicitly given to the federal government, thus preserving the state-federal relationship existing at that time. In the process, the Constitution ended up strengthening states at the expense of local governments—even though state governments had originally emerged from collectives of cities (Krane et al., 2001: 8).

This relationship continued to change over the course of the 1800s, as incorporation was opened to the general public—and private companies feared competition from public corporations like cities. Additionally, the Panic of 1837 exposed profligate borrowing practices by cities—and some responded by simply dissolving themselves out of existence in order to

avoid repayment. This demanded state-level action to clarify cities' murky legal status at the cusp of private corporation and public entity (Kane et al., 2001: 9). However this question was never truly resolved.

Since 1868, many state constitutions have followed a principle known as Dillon's Rule, which treats cities as "creatures of the state," meaning state governments can regulate them or dissolve them out of existence. Essentially, cities and other local governments have only those powers granted expressly by the state (Kane et al., 2001: 10).

A "Home Rule" movement tried to respond to this, under the principle that local governments could write their own charters without state interference, and grant themselves autonomy in situations not expressly *prohibited* by the state. However this movement has had incomplete results. The U.S. Supreme Court rejected Home Rule authority in 1903 and 1923. Thus, in all states, local governments are, by default, considered to be subordinate to the state.

Home Rule has instead taken on an informal meaning—a general local autonomy, whether by state constitutional provisions or statutes granting autonomous powers to local governments. Many states have granted local governments powers by law, and sometimes, even the ability to write their own charters, as the Home Rule movement originally sought. Many state constitutions operate under a Home Rule principle, offering city governments a large degree of deference and autonomy to act, without the need for specific state legislation authorizing them to do so (Briffault, 2004: 253). However, many states alternate between using Dillon's Rule and Home Rule principles, depending on the circumstances, granting local autonomy in some cases but not others. Sometimes this can even differ from city to city within a single state (Briffault, 2004: 253). Indeed, "Home Rule" *never* means total freedom from state involvement, and cities remain so-called "creatures of the state" (Kane et al., 2001: 10). Home Rule often refers to

legislative, rather than constitutional authority, and it is highly dependent on the policy area under consideration.

This has led to a vigorous and continuing judicial debate over which functions should be local, which should be managed by the state, and how this should be interpreted. For example, land use is commonly viewed as a local function due to its role protecting private property—the original purpose of cities (Briffault, 1990). Thus land use has been seen as a function where local interests are regarded as paramount. By contrast, taxation for state purposes, elections, or annexation of territory has historically been seen as state functions. And taxation for local purposes, of the type examined in this dissertation, has been seen as a “controversial” subject that varies from state to state (Kane et al., 2001: 13).

In fact, there is no single idea of “Home Rule.” Many states have tried to clarify exactly which policy areas “Home Rule” applies to, and many have allowed cities to adopt a Home Rule charter, in which they have discretion over any function the state legislature has the power to devolve to a non-Home Rule local government, and which is not explicitly denied to it by the state. Nevertheless, even legislatures’ best efforts to grant blanket local autonomy have not translated into judicial support for the Home Rule principle, since many seemingly local matters affect people outside a single jurisdiction’s boundaries, and Dillon’s Rule prevails in such cases. *As a result, it is necessary for state governments to write legislation expressly granting local authority to perform a particular action, even in “Home Rule” states.*

This is true especially with regards to fiscal policy of the type examined in this dissertation. Fiscal home rule has remained a controversial subject among states, one for which few grant local autonomy (Kane et al, 2001: 13). For example, all four of the states examined in later chapters of this study can be considered “Home Rule” states (Appendix B). But none of

them provides sufficient authority to allow local governments to make fiscal decisions without a high degree of state requirements. In fact, all of them have imposed a number of restrictions on local taxation decisions, permitting some kinds of local taxation decisions, but not others, and requiring legislative authorization to permit a new taxing instrument (e.g. sales tax instead of property tax), or a different tax rate from what is already permitted.

Table B-1: Home Rule in States from this Study

State	Home Rule/Dillon's Rule	Fiscal Home Rule
California	Home Rule	Property Taxes limited by Proposition 13, a 1979 voter-approved constitutional amendment. That proposition also specified that other taxes require a 2/3 supermajority of citizens to approve. Following Proposition 13, the state has made many local fiscal decisions directly (Kane et al., 2001: 63-66).
Colorado	Home Rule	State limitations on local sales and property taxes (Kane et al., 2001: 72-76).
Georgia	Home Rule	Taxes exempted from Home Rule provisions in constitution. Local discretion over property taxes, but state must expressly authorize any new forms of taxation (Kane et al., 2001: 106-110).
Washington	Home Rule	Home Rule poorly defined and does not include taxation. Tax rates and types limited by state law (Kane et al., 2001: 437-443).

Kane et al., 2001

State governments, therefore, must authorize any form of regional governance system, and any local tax, including LOTTs and MOTTs, even in so called 'home rule states.' These authorizations can include a number of specific local or regional powers, which the state government can devolve if it so chooses. Any regional governance solution requires such authorization.

Appendix C: Geographic Equity Approaches in Each Region

Bay Area: The Bay Area was the only region that chose an explicitly corridor-based approach to identifying benefits, distributing funding for projects based on bridges they were near, or could relieve congestion on. (Which they called a “nexus” between projects and bridges). A corridor-based approach was appropriate in this case partly because the money was coming from bridge tolls, which, by law, needed to be used for improvements that could be tied to traffic in their corridor. This system offered a way to ensure those tolls were spent to support the commuters that had paid them. Consistent performance measures for projects in all parts of the region provided additional assurance to local politicians that project decisions were made based on a uniform standard. However this bridge-based formula also had its drawbacks, favoring far-flung suburbs, which required a bridge to commute to San Francisco or Oakland (the urban cores). Areas far enough from San Francisco to require two bridges to get to the urban core did even better, while the central areas like San Francisco (and did not require a bridge at all) found it challenging to find favor for their projects, using this system.

Atlanta: Atlanta’s solution was more haphazard than the Bay Area’s, relying on a formula, guaranteeing that 80% of the money each county put into the regional measure would come back to them in transportation investments. This likely made cross-jurisdictional projects more difficult to fund than in the Bay Area. Local politicians solved the city-suburb division by further dividing the money through an informal ‘gentleman’s agreement’ to set percentages of

money intended for so called “inner” versus “outer” counties.⁸³ Finally, local politicians made use of a legislative provision guaranteeing 15% of money would go to the counties for local projects, to even out any differences across counties (Georgia HB 277, §48-8-249(e)).

Seattle: Seattle used a long-term plan to guide decision making, but decided where to build and when based on what was, perhaps the most sophisticated geographic equity measure used in the regions. RTA/Sound Transit provided citizens with full transparency of the deals made across counties through a formal accounting, published annually, which classified projects based on the subarea of the region they were designated to “benefit.” which was not necessarily the same area the money came from. This certainly facilitated cross-county deal making, though it also encouraged parochial planning, and limited the options for subareas with low tax generation resources.

Denver: Finally, Denver’s elected representational structure ensured projects were distributed across the district—whether that made sense from a transportation perspective or not. As in Seattle, RTD relied on the long-term Metro Vision 2020 plan, uniting the board around it from the very beginning. However unlike Seattle, Denver RTD chose to develop much of the plan in just one phase, and used geographic equity to *justify* their decision. Building so much of it at once minimized the need to negotiate over limited resources. Any lingering cross-jurisdictional distrust was further reduced by a “hold harmless” resolution, which ensured that money spent on projects built in early years of program would not reduce allocations for projects to be built later. This was not a perfectly enforceable solution, but was insurance against RTD changing the plan at a later date, and was designed to be enforced by mutual accountability.

⁸³ Determined by position inside or outside the Beltway.

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