PIONEER INSTITUTE
PUBLIC POLICY RESEARCH

POLICY BRIEF

Getting There:
Transportation Reform in 2009

by Steve Poftak

Introduction

Transportation policy will play a prominent role in Massachusetts politics over the coming months. The Massachusett Bay Transportation Authority's (MBTA) structural deficit is projected to grow to $160 million in FY2010. The MassPike is facing an operating deficit and the potential implosion of its financing structure. MassHighway is scrambling to initiate a $3 billion accelerated bridge repair program that will leave us with hundreds of structurally deficient bridges even after it is done.

Elite opinion has long favored an increase in the gas tax, while public opinion has been implacably opposed.

In crisis lies opportunity. And given the strong work starting back in 2004 to reform and reshape our transportation agencies, the Commonwealth is within striking distance of achieving important milestones in changing the way we manage, maintain and build our roads, bridges, and transit lines. In January, the Senate staked out new ground with the release of its plan to dramatically alter the state's transportation management and practices. The Patrick administration, with a new secretary on board, is reportedly on target to release its long-awaited proposal later this month.

At the same time, gas tax proponents have gained new momentum. Elite opinion has long favored an increase in the gas tax, while public opinion has been implacably opposed. Legislators and the Governor have begun raising the possibility of an increase in the gas tax, particularly with gas prices declining from their peaks of the summer and fall.

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Proponents of raising the gas tax appear to be settling on an increase in the range of 20 - 30 cents per gallon. They view the current crisis as a singular opportunity to pass a large increase in tax revenues that will fund the majority of our transportation funding deficit.

This 'one bite of the apple' view is coupled with growing frustration at the 'reform before revenue' mantra. As a Boston Globe editorial noted in January, "Reforms are good, but they shouldn't be used to hold revenues hostage."

PRINCIPLES AND CONCERNS

Pioneer starts from a sober and pragmatic assessment of the transportation landscape and of public opinion:

1) **The public is deeply skeptical of the Commonwealth's ability to effectively spend transportation funds**. Given skepticism about the effectiveness of transportation spending after the Big Dig, it will be difficult to convince the public to support new revenues, unless we clearly show that we have implemented meaningful reform.

2) **The addition of new revenue through tax increases and federal stimulus funding will reduce the energy behind reform.**

3) **The public sector has limited capacity to absorb additional funding**, and it will take a few years to increase that capacity in a way that also changes the way agencies do business. Our current transportation agencies do not have the ability to effectively spend hundreds of millions of dollars in additional funding in the next few years, while reforms are being implemented.

We draw the following conclusions:

1) Advocates of additional transportation revenue may tire of the refrain "**reform first**," but it must continue to be the first action item on the policy docket.

2) The state needs a **comprehensive reform** package and not simply an outward display of reform, or we risk losing a generation's worth of credibility and political support for a focus on infrastructure maintenance and development.

3) We should follow the example of the most successful state policy reform of the past two decades—the Education Reform Act of 1993—which was a grand bargain that provided **accountability, performance measurement, market reforms and managerial flexibility in exchange for new revenue**.

With this in mind, we offer a measured and deliberate approach to address transportation funding and governance. We begin with reform as the necessary first step. We distinguish ourselves from other observers in that we believe institutional reforms, especially when they address long-engrained practices, are exceptionally difficult to get right. Real reform must be staged and measured, with room for corrections along the way. We also believe momentum for reform will dissipate quickly once new revenues are introduced into the system. In support of this view we note the long history of excess and unchecked spending on programs when reform and accountability were treated as afterthoughts.

Real reform must be staged and measured, with room for corrections along the way.

As with the grand bargain of education reform in 1993, new revenues requested by the public sector should be provided over time, as a "transaction." We need to ensure that a system of measurement and accountability is in place, together with reforms, that offers the ability, on an ongoing basis, to demonstrate to the public that the transportation agencies are delivering better service. It is unreasonable to believe that our entire transportation funding gap needs to be addressed in a single revenue increase. The call for a one-time increase in the gas tax will likely be perceived as an admission that leaders do not believe that they can demonstrate a sense of progress over time, and feel the need to "get it all" at one time.

Lastly, we take a hesitant view of major governance changes, given the practical obstacles to achieving them. Properly implemented, radical changes in governance might result in major efficiencies. But there is little consensus as to the "right" governance structure here and in other states. Further, it is likely to prove a vexing distraction from the real, common sense reforms that are needed. We recommend a greater focus on management reforms that will in turn prepare the way for later governance reforms, as appropriate.

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The following is a summary of our strategic and tactical approach to reforming transportation in Massachusetts.

ISSUE ONE: MANAGEMENT AND ACCOUNTABILITY REFORM

Although many advocates are tired of the reform refrain, it must continue to be the priority item. With the prospect of additional revenues on the horizon through tax increases and federal stimulus funding, we ask the following questions:

> *Has our current transportation governance system demonstrated an ability to effectively spend hundreds of millions of dollars per year? If not, how could the same system be expected to have the ability to effectively spend potentially hundreds of millions of dollars in additional funding every year?*

Right now, the answers are no and no. And given the public's skepticism about effectiveness of transportation spending related to the Big Dig, it is imperative that we get it right this time, or risk losing a generation's worth of credibility and political support for crucial infrastructure development.

Cognizant that the recently filed Senate bill already includes a number of important reforms, we limit the recommendations in this paper to those areas where the language may need strengthening, reform is not achievable solely through statutory means, or additional reforms are advisable.

To that end, we offer the following strategy and tactics:

Strategy: Increase accountability and transparency in our transportation system

Our transportation system currently operates through a variety of agencies and authorities and across multiple modes, but lacks a series of global measures to determine its level of performance and any improvement or deterioration. These measures are needed to provide the public and public managers with the tools to understand how the system and its components are performing.

It is unreasonable to believe that our entire transportation funding gap needs to be addressed in a single revenue increase.

Tactic: Fully implement a comprehensive system of performance measurement.

The Executive Office of Transportation (EOT) has just released its first attempt at performance measurement, but more data is needed to fulfill the intent of the statute. In addition, the Secretary needs a performance measurement system to evaluate commissioners and agencies. Commissioners should have to sign performance contracts that include achievement of specific tasks and performance goals.

This should include a public process in which the Secretary outlines, on a yearly basis, what improvements have been made in key metrics and what improvements are projected for the upcoming year. Oversight from the Legislature, particularly the Transportation and Ways and Means committees, should actively track implementation of performance measurement.

Strategy: Enable authorities to operate as self-sustaining business units

Although the Senate proposal envisions collapsing the MBTA and Turnpike into a single MassTrans entity, our approach assumes their continued existence. Each tactic listed below would apply regardless of the future governance structure.

Tactic: Relieve financial pressure on the MBTA and MassPike by defeasing Big Dig legacy debt.

This topic will be addressed at greater length in the "New Revenues" section below.

Tactic: Use a performance measurement system to oversee operations and identify problems in early stages.

Performance measurement can serve multiple purposes. In addition to providing transparency to the public and managers at the secretariat-level, they can also provide line managers with data on operations.

The Senate bill already includes a number of important reforms.

Tactic: Curtail expansion projects not already underway to reprioritize maintenance. Limit expansion spending to 20% of transportation expenditures (on a cash basis) until maintenance benchmarks and standards have been met and durable, reliable sources of maintenance funding have been committed.

Maintenance is an issue across our transportation system affecting reliability and service quality. Yet, the Commonwealth continues to press on with major expansion projects that lack funding for operating and maintenance costs. We need to curtail expansion until the maintenance needs of the system are fully assessed and a realistic funding plan is put in place to eliminate the backlog of deferred maintenance. Expansion funding should be significantly curtailed until the state can meet certain benchmarks, such as pavement quality levels, state of good repair funding levels at the MBTA, and number of deficient bridges.

Tactic: Commit to using state funds for all future expansion projects and to cover incremental operating costs related to expansion.

Future expansions should be planned holistically across the entire system and funded by the Commonwealth, not by the individual authority. A subsidy that covers the operating costs of the expansion should also be provided.

Tactic: Require each authority and agency to have a comprehensive asset management plan.

Currently, only the MBTA has a complete asset management plan. Each agency should develop a similar program, be directed to keep it current and use this information as the basis of their maintenance program.

Strategy: Reduce Costs

Tactic: Give MassHighway responsibility for DCR roadways and bridges, and bridges at the MBTA and Massport.

DCR, and its predecessor agencies, have consistently struggled to maintain roadways and bridges even while other entities have significant bridge assets. It would be more efficient to have all roadways and bridges planned for and maintained by a single entity. MassHighway should have comprehensive oversight of these assets, but be required to develop a set of standard operating procedures for the maintenance and construction of parkways and bridges that are demonstrably aware of the potential impacts on the state's recreational areas and natural resources.

Tactic: Allow alternative forms of procurement, including life-cycle delivery.

Our current laws prevent the Commonwealth from using the full range of internationally accepted procurement methods. For certain projects, life-cycle delivery offers the possibility of more cost-effective design and engineering, additional financial resources, and better management. Life-cycle delivery methods should be allowed in Massachusetts.

Tactic: Reform prevailing wage laws.

The Commonwealth's prevailing wage laws transfer state funds to a select group of construction firms. A more competitive construction environment would allow more projects to be built and would employ more construction workers.

Life-cycle delivery methods should be allowed in Massachusetts.

Tactic: Initiate universal open-road tolling

Manual toll collection is expensive, inefficient, and inflexible. Open road tolling offers much lower transaction costs, eliminates a physical barrier on roadways, and provides transportation providers future options for toll placement and levels. The Commonwealth should encourage the market penetration of transponders by increasing distribution channels, minimizing service charges, and eventually, incorporating them into license plates or inspection tags.

ISSUE TWO: GOVERNANCE AND ORGANIZATIONAL STRUCTURE

Strategy: Minimize time-consuming bureaucratic distractions.

In the beginning of its policy planning process, the Administration commissioned Deloitte & Touche to analyze several different governance structures and survey other states to determine their practices. From Deloitte's work, it is clear that there is no consensus on 'best practices' for transportation governance. Other states use different combinations of secretariats of transportation, independent boards, authorities, and appointed boards to govern transportation, with no consensus on the most appropriate model. We propose a series of simpler steps below that build more quickly on the 2004 transportation reforms without using an untested governance model.

Again, we would note that the Education Reform Act of 1993, which faced an equally difficult task, did not focus on the "boxes" on Beacon Hill, but rather understood that small organizational changes, together with a focus on performance measurement, accountability, and managerial flexibility and reforms, would be a more effective set of policy actions. The legislation's subsequent success bears this out.

In addition to our hesitation about the effectiveness of a large-scale reorganization, we note the lessons of the MDC-DEM merger, which proved to be extremely time-consuming with significant internal opposition to reforms that delivered efficiencies. In an effort to make the concept more politically palatable, this 'merger of equals' lacked the ability to execute in a timely manner. We would expect a large-scale transportation reorganization to face many of the same challenges.

Tactic: Consider the Full Implications of MassTrans.

The combination of all or most public transportation entities into an independent authority is unprecedented in this country. The current proposal also includes a five-year term (presumably with a contract rather than at-will) for the MassTrans CEO, which has the potential to create conflict between the authority and a newly elected Governor.

The public is deeply skeptical of the Commonwealth's ability to effectively spend transportation funds.

As noted previously, the Commonwealth has struggled in the past to even modestly restructure government. Would MassTrans have the political muscle and managerial ability to simultaneously consolidate multiple agencies and authorities, realize cost-savings and efficiencies, and effectively administer transportation funds?

The actual division of authority between MassTrans and EOT is also an open question. Would the Secretary of Transportation or the MassTrans CEO be the focal point for transportation planning and policy?

Tactic: Abandon the MassPike/MHS – Massport Merger.

The "emphatic maybe" from Massport's Executive Director sums up that organization's ambivalence to this proposal. It is also apparent that the Legislature does not support the idea. This merger would be difficult to implement properly in the best of circumstances, lacking any champion outside the Governor's Office and EOT. It will not work and should be abandoned.

Tactic: Merge Turnpike operations into MassHighway; Retain MassTurnpike as a legal, bond-holding entity and pass-through for revenues.

Regardless of the final structure, it is apparent that the MassPike should be consolidated into MassHighway and that the Turnpike as an entity should be preserved only as a bond servicer and toll revenue pass through. Roadway operation and maintenance should be assumed by MassHighway.

Tactic: Make the Transportation Secretary the chair of Massport.

The 2004 Transportation Bond Bill began the process of giving the Secretary of Transportation oversight over the major transportation assets in the state. It added the Secretary of Transportation to the MBTA and MassPike boards. The next logical step would be to make the Secretary the chair of the Massport board. In 2002, the Carter Commission came to the conclusion that Massport should remain independent, based partly on the experience of September 11th. However, it is our belief that the Secretary of Transportation should have board-level oversight of the state's most important airport and shipping port.

Tactic: Give the Secretary sign-off responsibility for bonding and related derivative activity at MBTA, MassPort, MassPike, and RTAs.

A crucial element of oversight is control over the financing practices of the authorities. By giving the Secretary sign-off on all bonding and derivative activities, it will provide important leverage over the policymaking at authorities. Currently, the Finance Advisory Board has some oversight over these matters, but sign-off by the Secretary provides greater focus on transportation policy.

Tactic: Give the Secretary sign-off responsibility for all collective bargaining agreements and changes to benefit-related items at MBTA, MassPort, MassPike and RTAs.

The disparity in salary and benefits between the authorities and the state workforce is dramatic. In certain cases, positions with the same title and responsibility have substantial differences in compensation. A related concern is that any additional revenues flowing into the transportation system will be consumed by increased compensation, not investment in maintenance. To deter this, the Secretary would have to approve all collective bargaining agreements and any benefit changes at authorities.

Tactic: Allow the Secretary to appoint all direct reports.

The Secretary of Transportation should have the ability to appoint his or her direct reports, including the Highway Commissioner.

Tactic: Strengthen the policy staff for transportation at EOT.

The Executive Office should be the primary locus for overarching planning and policymaking for the agencies. To the extent possible (and to the extent envisioned in the 2004 Transportation Bond Bill), key policymaking and planning personnel should be housed at EOT in order to maximize intermodal coordination and shared resources.

Tactic: Add qualified staff at EOT.

In order to properly oversee additional funds and provide strong oversight of projects, EOT will have to increase its staffing, particularly in engineering. EOT should be empowered to add staff at competitive salaries.

Tactic: EOT should be a locus for shared services across transportation entities.

The following areas should be operated as shared services out of the Executive Office: GIS and other technological mapping, legal, finance, and project management IT systems.

ISSUE THREE: NEW REVENUES AND FINANCING

Strategy: Increase Revenues Responsibly and Equitably.

It is undeniable that our transportation infrastructure needs additional funding to make up for a deferral of past responsibilities and to maintain pace with increasing costs. However, it is also true that our public sector transportation management system has limited capacity to responsibly and effectively use new funding.

We believe that a gas tax increase does not need to be accomplished all at once and argue further that an excessive increase in the gas tax will eliminate the momentum for reforms and result in ineffective expenditures that will further damage the credibility of the public sector.

The following actions would address $7.3 billion of transportation spending needs over 20 years.

Tactic: Move non-capital spending off the bond cap, providing $120 million more in yearly available capital funds.

Before we ask for more revenue from taxpayers or toll payers, the public sector must show spending discipline as well. First, we advocate a phased-in approach to moving payroll and other inappropriate spending off of the bond cap and onto the operating budget. This will require the reallocation of operating funds, a difficult prospect in our current fiscal condition, but it is a necessary pre-condition to turning to the taxpayers for additional money. Fully implemented, this will result in an additional $120 million in bond capacity per year that can be programmed for transportation purposes.

Tactic: Limit bond cap spending and use some of the excess capacity to defease Big Dig-related debt at authorities, with a goal of defeasing $2 billion in authority debt over a period of years.

The Administration's Debt Affordability Analysis foresees the bond cap increasing to $1.9 billion by 2013. We suggest keeping actual bond spending capped at a lower level and using a portion of the difference each year, to pay off Big Dig-related debt at the MBTA and MassTurnpike.

Tactic: Decrease tolls by 25 cents, providing $44 million in yearly toll relief.

The recent preliminary decision to increase tolls is excessive. Toll payers have borne an excessive share of the burden of the Big Dig and deserve relief. We envision an across the board decrease in the average toll by 25 cents.

The gas tax falls disproportionately on those who have sought out lower cost housing.

Tactic: After enacting reforms, raise the gas tax by 6.5 cents, or $208 million annually.

Finally, with the assurance of reform, accountability, and shared sacrifice, the gas tax should be increased by 6.5 cents. While the gas tax has the advantage of being a broad-based user fee with minimal transaction costs, it is also regressive – and in some ways more regressive than a sales tax. The gas tax falls disproportionately on those who have sought out lower cost housing and therefore have no access to public transportation and must drive longer distances. The gas tax is also unlike a user fee as it does not reflect the massive differences in the cost of infrastructure (e.g. a lane-mile in the central part of the state versus a lane-mile in downtown Boston). We believe that a 6.5 cent increase is not unduly burdensome while also not being excessive, given our current capacity.

Conclusion

All told, the changes suggested in this section can provide up to $7.3 billion over 20 years, even before reforms are accounted for. This amounts to between a third and a half of the gap in transportation resources identified in the Transportation Finance Commission report and Pioneer Institute's *Legacy of Neglect* report.

In addition, the Senate bill estimates annual savings of $200 to $325 million from the reforms in its bill. Taken together, these packages amount to $11.3 billion to $13.3 billion over 20 years, or the majority of the resource gap identified by the TFC and Pioneer.

To be clear, this does not address the entire transportation funding gap immediately. Rather, it puts an accountability and governance framework in place, then puts a down payment on the funding gap. This provides an opportunity for the public sector to demonstrate its ability to perform and the public to assess services levels. We envision that funding the entire gap will require a future series of additional revenue measures that would be structured as transactions between the Commonwealth's citizens and its government – increased performance and system improvement in exchange for additional revenue.

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