

1. Report No. FHWA/TX-03/4007-2		2. Government Accession No.		3. Recipient's Catalog No.	
4. Title and Subtitle TEXAS RURAL RAIL TRANSPORTATION DISTRICTS: NEW ROLES AND RELATIONSHIPS				5. Report Date October 2002	
				6. Performing Organization Code	
7. Author(s) Curtis A. Morgan, Stephen S. Roop, and Jeffery E. Warner				8. Performing Organization Report No. Report 4007-2	
9. Performing Organization Name and Address Texas Transportation Institute The Texas A&M University System College Station, Texas 77843-3135				10. Work Unit No. (TRAIS)	
				11. Contract or Grant No. Project No. 0-4007	
12. Sponsoring Agency Name and Address Texas Department of Transportation Research and Technology Implementation Office P. O. Box 5080 Austin, Texas 78763-5080				13. Type of Report and Period Covered Research: September 2001 – August 2002	
				14. Sponsoring Agency Code	
15. Supplementary Notes Research performed in cooperation with the Texas Department of Transportation and the U.S. Department of Transportation, Federal Highway Administration. Research Project Title: The Role of Rural Rail Transportation Districts in Texas					
16. Abstract The first year of this project found that several factors have prevented Texas Rural Rail Transportation Districts (RRTDs) from meeting their full potential. This report covers research activities that have been undertaken during a second year of study as an extension to the original project. Instead of looking back at what has historically happened with the state's RRTDs, the research summarized in this report explores the impacts that RRTDs may have on the Texas Department of Transportation's (TxDOT) statewide transportation planning responsibilities in the future. The three main topics discussed in this report include:					
<ul style="list-style-type: none"> • development of a framework through which TxDOT may work more effectively with RRTDs; • development of initial evaluation criteria or factors for abandoned rail corridors that TxDOT can use during the public hearing process for its rulemaking requirements under Senate Bill 406 of the 77th Legislature; and • evaluation of the implications that increased formation of single-county RRTDs for economic development purposes may have on TxDOT's planning needs for rail and other transportation modes. 					
17. Key Words Railroads, Rural Transportation Districts, Rail Abandonment, Economic Development			18. Distribution Statement No restrictions. This document is available to the public through NTIS: National Technical Information Service 5285 Port Royal Road Springfield, Virginia 22161		
19. Security Classif.(of this report) Unclassified		20. Security Classif.(of this page) Unclassified		21. No. of Pages 46	22. Price

TEXAS RURAL RAIL TRANSPORTATION DISTRICTS: NEW ROLES AND RELATIONSHIPS

by

Curtis A. Morgan
Associate Transportation Researcher
Texas Transportation Institute

Dr. Stephen S. Roop
Director, Multimodal Freight Transportation Program
Texas Transportation Institute

and

Jeffery E. Warner
Assistant Transportation Researcher
Texas Transportation Institute

Report 4007-2
Project Number 0-4007
Research Project Title: The Role of Rural Rail Transportation Districts in Texas

Sponsored by the
Texas Department of Transportation
In Cooperation with the
U.S. Department of Transportation
Federal Highway Administration

October 2002

TEXAS TRANSPORTATION INSTITUTE
The Texas A&M University System
College Station, Texas 77843-3135

DISCLAIMER

The contents of this report reflect the views of the authors, who are responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the official view or policies of the Federal Highway Administration (FHWA) or the Texas Department of Transportation (TxDOT). This report does not constitute a standard, specification, or regulation.

ACKNOWLEDGMENTS

We would like to acknowledge the guidance and support provided by the TxDOT Project Monitoring Committee: Wayne Dennis, P.E., program coordinator; Fred Marquez, project director; Tommy Robinson, project advisor; Wilda Won, project advisor; and Joe Holland, project advisor. Thanks also go to Dr. Khali Persad, P.E., Andrew Griffith, P.E., Shelia Stifflemire, and Martha Norwood of the TxDOT Research and Technology Implementation Office.

This project was conducted in cooperation with TxDOT and FHWA.

TABLE OF CONTENTS

	Page
List of Figures	viii
List of Tables	ix
Chapter 1: Introduction.....	1
Background	1
Year 2 project Objectives.....	3
Chapter 2: Suggested Framework for the TxDOT-RRTD Relationship	5
Current RRTD relationships with Other Texas Governmental Subdivisions	5
Summary	7
TxDOT Rail Planning Responsibilities	8
Proposed Framework for RRTD Relationship With TxDOT	9
TxDOT Initiatives.....	9
RRTD Initiatives.....	11
Legislative Initiatives	12
Conclusion	13
Chapter 3: Criteria for TxDOT Involvement in Rail Preservation.....	15
System/Safety Related Factors	15
Business Factors.....	17
Funding/Local Support Factors.....	19
Chapter 4: Use of RRTDs for Economic Development Purposes	21
RRTDs as an Economic Development Tool–Public Policy Issues.....	21
Use of RRTDs to Support Alternate Rail Service	22
Use of RRTDs to Support Private Business Initiatives	24
Rail Facility Ownership Outside of RRTD Boundaries	24
Other Economic Development Strategies.....	25
Conclusion	25
Appendix A: Summary of Recommended Legislative Changes to Rural Rail District Statutes – Vernon’s Texas Civil Statutes Title 112, chapter 13, Article 6550c	A-1
Appendix B: Preliminary Preservation Criteria.....	B-1

LIST OF FIGURES

	Page
Figure 1: Map of Rural Rail Transportation Districts (RRTDs) in Texas	6
Figure 2: TxDOT District Boundary Map	10

LIST OF TABLES

	Page
Table 1. Texas RRTD Case Study Summary Table	2

CHAPTER 1: INTRODUCTION

BACKGROUND

TxDOT Project 0-4007, *The Role of Rural Rail Transportation Districts (RRTDs) in Texas*, was originally developed as a one-year project to evaluate and document the history and status of RRTDs that have been formed in the state of Texas since state legislation first authorized them in 1981. RRTDs are subdivisions of Texas State Government that have the power to purchase, operate, and/or build new railroad and intermodal facilities. RRTDs are formed by action of one or more county's commissioner's courts under rules outlined in Vernon's Texas Civil Statutes Title 112, Chapter 13, Article 6650c.

During the 75th Texas Legislature in 1997, several amendments to the authorizing legislation for RRTDs were passed, including a provision allowing single counties to form a RRTD. Previously, two or more counties had been required to cooperate to form a RRTD, and most RRTDs were formed either to prevent rail line abandonment by railroad companies or to purchase abandoned rail right-of-way. Such RRTDs had the goal of redevelopment of the abandoned rail corridors and possible reinstatement of rail service at some future date. Allowance of single-county RRTDs has kindled renewed interest in RRTDs' formation. Most of the single-county districts have been formed with slightly different goals than the earlier multi-county districts. New economic development projects or construction of new rail transportation facilities have been their predominant goals instead of preserving or improving service on pre-existing rail lines. As a result, these new, smaller RRTDs have had more latitude to act as regional economic development entities, either on their own or as a component of larger local/regional economic development plans and programs.

The first year of this project found that several factors have prevented RRTDs from fully meeting the role envisioned for them by the state legislature. There was very little uniformity or consistency in the activities of the 16 RRTDs formed in the state by the time the first-year report was completed in August 2001. [Table 1](#) provides a summary of background information on the 16 RRTDs that were studied for the year 1 research report. Several RRTD boards have been successful in meeting their goals and are rebuilding rail service over their respective lines; however, many others have not had regular board meetings for several years and have allowed board appointments to lapse. Lack of dedicated state funding has limited RRTDs' ability to preserve existing and build new rail infrastructure although those few RRTDs that have been active in seeking out available grant funding opportunities have met with limited success.

It is important to note that, depending on the situation, "success" can also mean different things to each RRTD. To some districts it may be continued rail service with a different operator. To others it may mean gaining control of the right-of-way and using it for other public purposes. Still others may be satisfied with just keeping the linear right-of-way intact for potential redevelopment of rail transportation at some point in the future. Defining of goals and success measures is dependent on the timeliness of RRTD formation, the level of activity supported by the RRTD board, and the presence and status of rail infrastructure and right-of-way.

Table 1. Texas RRTD Case Study Summary Table (status as of August 31, 2001)

District	Number of Counties	Formed	Primary Motivation	Current Board Status	Status of Line	Ownership	Outside Funding Sources
Burnet County	1	2000	Abandonment	Inactive	Operational	None	N/A
Calhoun County	1	1999	Economic Development	Inactive	N/A	None	N/A
Centex	5	Early 1990s	Abandonment	Active	Operational	Right-of-Way	Texas Department of Agriculture (to operator)
Deep East Texas	12	1993-94	Abandonment	Inactive	SP Line Abandoned	None	N/A
Ellis County	1	1998	Economic Development	Active	Progressing as Planned	Right-of-Way & Structures	Public/Private Partnership
Fannin	1	1999	Abandonment	Active	Impending Abandonment	None	N/A
Gulf Coast	2	1993-94	Abandonment	Inactive	Inactive line; Purchased by TM	None	N/A
Gulf Link	2	1998	Economic Development	Inactive	N/A	None	N/A
Matagorda County	1	2001	Economic Development	Active	N/A	None	N/A
North Central	2	1995	Abandonment	Inactive	Operational	None	N/A
North Texas	2	1995-96	Abandonment	Active	Abandoned	Purchased 7-mile Segment	Texas Parks & Wildlife Department (for trail conversion)
Northeast Texas	4	1994	Abandonment	Active	Operational	Right-of-Way & Structures	Texas Legislature & U.S. Department of Agriculture
Northwest Texas	7	1993	Abandonment	Inactive	Abandoned	None	N/A
Nueces County	1	2001	Economic Development	Active	N/A	None	N/A
South Orient	11	1991	Abandonment	Inactive	Operational	TxDOT	Texas Legislature
South Texas	3	Early 1990s	Abandonment	Inactive	Abandoned	Right-of-Way	N/A

Another recent trend identified by the research has been the formation of RRTDs in counties with urban centers rather than along rural, mainly agricultural product lines threatened by abandonment. This is especially true for those recently formed in areas served by ports, petrochemical plants, and other industrial facilities that could also benefit from improved access to rail transportation. In many of these cases, the powers granted to RRTDs by the legislature give them the capability to meet existing transportation needs by developing new rail routes or providing access to an alternate railroad carrier, thereby introducing competition in shipping rates. This ability to offer rail service from multiple carriers at competitive rates, in turn, can attract new business and spur development of new warehousing and distribution facilities that can generate new jobs and property tax revenues. In all cases, RRTDs must seek the approval of the federal Surface Transportation Board (STB) before constructing any new rail lines or facilities that will impact existing rail service.

YEAR 2 PROJECT OBJECTIVES

This report covers research activities undertaken during a second year of study as an extension to the original project. Instead of looking back at what has historically happened with the state's RRTDs, this year's research explored the impacts that RRTDs may have on TxDOT's statewide transportation planning responsibilities in the future. The three main topics discussed in this report include:

- **development of a framework through which TxDOT may work more effectively with RRTDs;**

Currently, TxDOT does not have an official method for interacting with RRTDs. This section of the report suggests a framework through which TxDOT and RRTDs may coordinate efforts to preserve or improve rail transportation in the state. Cooperation between TxDOT and the RRTDs is vital as TxDOT begins to plan more comprehensively for rail transportation on a statewide basis.

- **development of initial evaluation criteria or factors for abandoned rail corridors that TxDOT can use during the public hearing process for its rulemaking requirements under Senate Bill (SB) 406 of the 77th Legislature; and**

Actions of the 77th Legislature in 2001 approved formation of a separate TxDOT fund for the purchase of abandoned rail but did not appropriate funding to that account for the current biennium. Project selection factors related to how TxDOT would prioritize and/or determine whether or not to participate in the purchase of a specific rail line were developed and presented to TxDOT during the early months of this project extension. TxDOT will be able to use these recommended criteria as a basis for moving forward into the rulemaking process for administration of this fund. Research from this task proposes factors that TxDOT could use in the initial evaluation of each potential project.

- **evaluation of the implications that increased formation of single-county RRTDs for economic development purposes may have on TxDOT's planning needs for rail and other transportation modes.**

Research completed during Year 1 showed that many of the changes to the RRTD statutes passed by the 75th Legislature in 1997 have led to increased numbers of RRTDs being formed as economic development tools to sponsor new rail construction activities rather than as entities with preservation of existing rail infrastructure as their primary goal. This section of the report looks at this growing trend and evaluates its implications from a state policy perspective. It also considers this trend's impacts upon existing transportation planning and development processes.

CHAPTER 2: SUGGESTED FRAMEWORK FOR THE TXDOT-RRTD RELATIONSHIP

Cooperation between local and regional government leaders and TxDOT is essential if existing rail lines are to remain in service, if new rail facilities are to be added to the state's rail system, if rail infrastructure is to be kept in place without active rail service for a period of time, or if rail rights-of-way are to be preserved for future redevelopment of rail or other transportation alternatives. The creation of RRTDs by county commissioner's courts potentially allows a very useful mechanism through which both local leaders interested in improved rail transportation and creation of economic development opportunities can work with TxDOT to improve rail transportation throughout the state. This is especially true in rural areas of the state where metropolitan planning organizations (MPOs) do not plan and prioritize transportation improvements for their own local area and TxDOT performs this planning function.

This chapter outlines several suggestions for a framework through which TxDOT districts and divisions may more effectively interface with both existing and newly formed RRTDs. Initially, a discussion of the current organizational framework in which the RRTDs and TxDOT operate is presented. This is followed by a discussion of recommended changes that can be made by RRTDs and TxDOT that will enhance their ability to work together as well as some legislative changes that will augment and assist in this process.

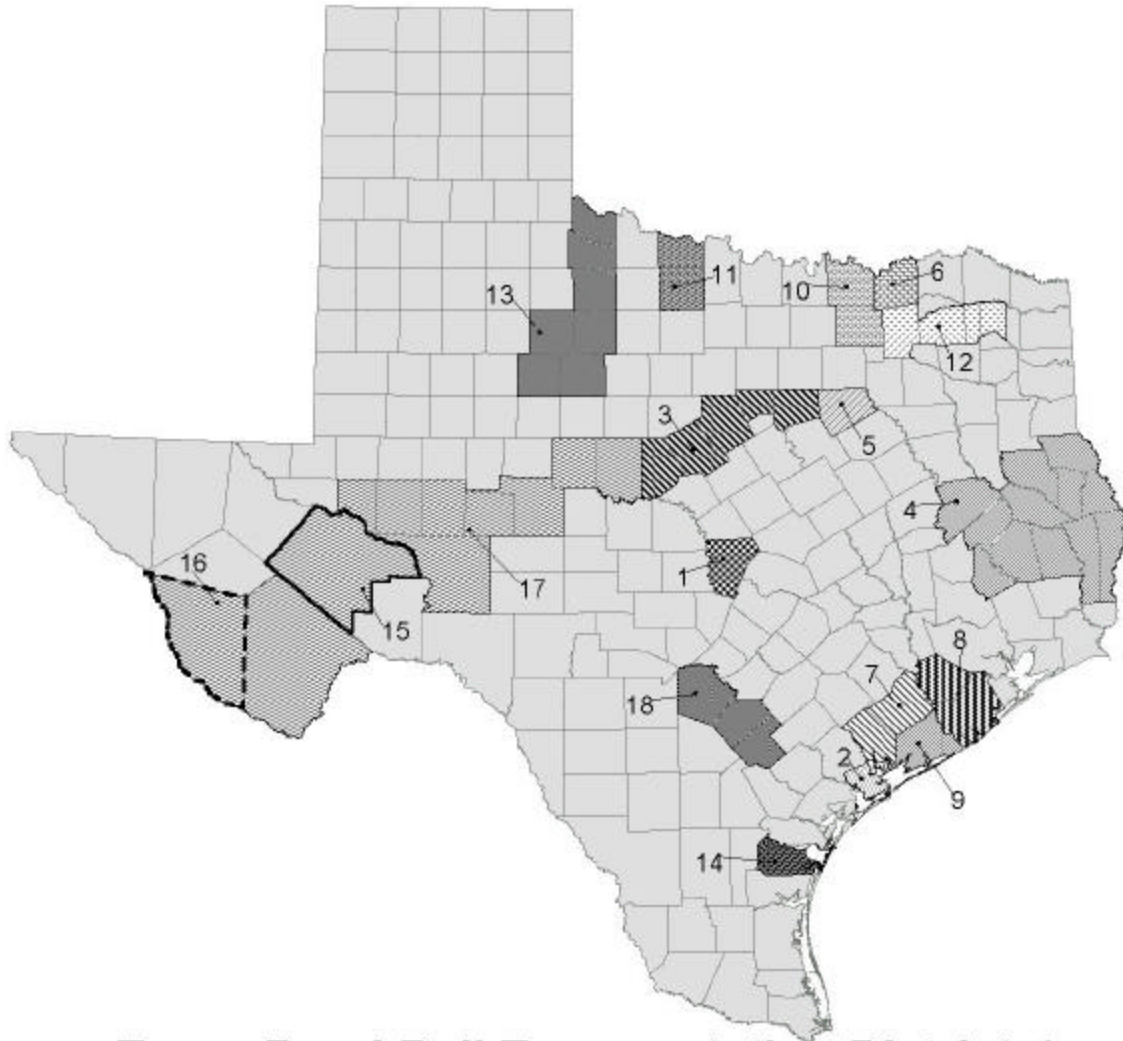
CURRENT RRTD RELATIONSHIPS WITH OTHER TEXAS GOVERNMENTAL SUBDIVISIONS

The present statutes that govern formation and operation of Texas RRTDs are found in Vernon's Texas Civil Statutes Title 112, Chapter 13, Article 6650c. These statutes state that a rural rail district may be formed by the commissioner's court of one or more counties and that each rail district is considered a subdivision of Texas state government. The boards of each district are also appointed by the commissioner's courts to two-year terms at which time RRTD board members may be reappointed, or new board members can be named by the commissioner's court of each county represented on the board.

The statutes outline the powers of RRTD boards and the scope of their activities. These include the power to purchase, operate, and/or build new railroad and intermodal facilities, to acquire lands by exercising eminent domain rights, and to enter agreements with other governmental bodies to use or alter, at district expense, all "streets, alleys, roads, highways, and other public ways" as is necessary for provision of rail service. The statutes specifically mention the capability of RRTDs to work with any municipality, county, or other political subdivision, but do not address any state-level agency or agencies with which the RRTDs must interact to carry out its activities (*1*). In fact, other than a requirement for multi-county districts to inform the Texas Transportation Institute (TTI) upon formation, no reporting requirements or oversight by any state-level agency is mentioned. The requirement to notify TTI was not included in the 1997 amendments for single-county RRTDs and thus does not apply to many of the newly formed

¹ Vernon's Texas Civil Statutes Title 112, Chapter 13, Article 6650c

RRTDs. Figure 1 shows a map with the locations of the 18 known RRTDs in the state as of August 2002. As noted by the outlines in Figure 1, Pecos and Presidio Counties have each recently created their own single-county RRTDs to pursue specific rail projects in addition to remaining part of the larger, multi-county South Orient Rural Rail Transportation District.



Texas Rural Rail Transportation Districts*

*As of 8/31/2002



















- | | | | |
|---|----------------------|---|----------------------|
|  | 1 - Burnet County |  | 10 - North Central |
|  | 2 - Calhoun County |  | 11 - North Texas |
|  | 3 - Centex |  | 12 - Northeast Texas |
|  | 4 - Deep East Texas |  | 13 - Northwest Texas |
|  | 5 - Ellis County |  | 14 - Nueces County |
|  | 6 - Fannin County |  | 15 - Pecos County |
|  | 7 - Gulf Coast |  | 16 - Presidio County |
|  | 8 - Gulf Link |  | 17 - South Orient |
|  | 9 - Matagorda County |  | 18 - South Texas |

Figure 1: Map of Rural Rail Transportation Districts (RRTDs) in Texas.

The independence from state oversight allowed by current statutes have given a number of RRTD boards the necessary latitude in decision making at the local/regional level that has contributed to their success; however, that same independence has also limited access to state-level transportation planning expertise could be of benefit to many other, less successful RRTD boards. Because they have not sought out state-level guidance, many of the latter RRTDs are not aware of, or have not been able to capitalize upon, federal and state programs that could help them to achieve their goals. While not all RRTD needs can be met in this manner, certainly, increased cooperation between RRTD boards and state-level transportation planners can only improve their present situation.

There are two specific cases in which TxDOT has become more involved in planning with RRTD boards. The South Orient Rural Rail Transportation District (SORRTD) and the Northeast Texas RRTD (NETEX) have been required to implement more stringent reporting requirements to TxDOT than those contained in the general statutes regarding RRTDs. In both cases, this resulted from provisions of funding agreements that they have entered into with the state. In each case, special appropriations were passed by the state legislature appropriating funds to the specific district by “riders” on the biennial appropriations bill. TxDOT was required in each case to act as the “pass-through” agency for the funds between the state and the RRTD. Agreements between TxDOT and the RRTDs have generally required that TxDOT be sent copies of minutes from the RRTD monthly meetings as well as regular reports on each of the RRTD’s financial status. This exchange of information has imposed little increased hardship in reporting upon the RRTDs and allowed much more knowledge of the RRTDs and their activities by TxDOT planners.

Another trend of increased contact between RRTDs and TxDOT has occurred recently. Two newly formed single-county districts have been in regular contact with TxDOT as a result of TxDOT’s purchase, on behalf of the state, of the South Orient Line in 2000. In these cases, this level of contact is largely due to the special circumstances that exist on the line. The RRTD’s direct contact with TxDOT is more related to TxDOT’s role as owner of the rail infrastructure rather than as its role as the state’s rail planning agency. TxDOT’s position as owner of the line makes this a special case; however, as these relationships grow, they can provide insight into future TxDOT-RRTD interactions where the line is owned by the RRTD or another third party.

RRTDs that do not fall into one of these special circumstances generally have had little or no communication with TxDOT. Existing statutes do not require RRTDs to notify TxDOT when they are formed or when the RRTD board takes an action that could impact officially adopted transportation planning documents. To date, the limited activity level of RRTDs has not resulted in major conflicts with TxDOT plans. Recent growth in the number and scope of projects that RRTDs are undertaking, combined with the recent increase in the number of new RRTDs being formed in and near urban areas, increases the likelihood of future conflicts taking place.

Summary

The broad powers granted to RRTDs, including ones that are not specifically enumerated here but are covered in the Year 1 report, give RRTDs great potential to be active in development and redevelopment of rail transportation facilities statewide. Establishment of a method for RRTD

board members to interact with TxDOT's rail planning staff could be of great benefit to both entities. Coordination of plans and cross-training of personnel will result in better understanding and interaction at both the TxDOT district and state rail planning levels.

TXDOT RAIL PLANNING RESPONSIBILITIES

TxDOT has been given specific responsibility by the state legislature for development and coordination of planning for all modes of transportation in the state. This responsibility was granted to TxDOT when merging the Texas Department of Highways and Public Transportation with the Texas Department of Aviation and the Texas Motor Vehicle Commission formed it in 1991 by the 72nd Legislature. The act that created TxDOT required that both rail and high-speed rail be incorporated into its statewide transportation planning. The statute also requires that TxDOT "seek opinions and assistance from other state agencies and political subdivisions that have responsibility" for the other transportation modes (2).

At the time that this report was being written, TxDOT was nearing completion of a draft Texas Rail System Plan (TRSP) for the state that is a comprehensive treatment of its role and goals for rail planning in the state. The TRSP is to be published in 2003 following public review meetings in conjunction with those planned for the Texas statewide transportation plan update. Once approved by both TxDOT administration and the Texas Transportation Commission, the TRSP will become the state's official rail planning document and guide TxDOT's rail planning decisions.

As stated above, the interaction of TxDOT planners with RRTDs is currently minimal—limited mainly to those districts in which TxDOT has acted as the pass-through funding agency for state-level funding appropriated directly to a specific RRTD. TxDOT is not required to be notified when a RRTD is formed, nor is TxDOT generally consulted when the RRTD is developing plans for new or improved rail service. This is in the face of the fact that TxDOT has been given responsibility for planning all modes of transportation in the state. TxDOT planners often hear of RRTD activity only through limited newspaper reports or through discussions with rail industry consultants. RRTDs develop plans outside the normal planning processes outlined for other transportation planning entities in the state such as MPOs and TxDOT District offices.

In order to remedy this lack of communication and exchange of information between RRTDs and TxDOT, TTI suggests that TxDOT, RRTDs, and the state legislature implement a number of steps. Taken in concert, these steps will remove many of the barriers that exist to closer coordination and assistance between TxDOT and the RRTDs.

² Texas Transportation Code, Ch. 201, Sec. 201.601.

PROPOSED FRAMEWORK FOR RRTD RELATIONSHIP WITH TXDOT

TxDOT Initiatives

The first step in addressing TxDOT's need to better coordinate with RRTDs is its need to increase awareness of the existence and activities of RRTDs throughout the state. Much of the liaison and planning for traditional, TxDOT highway projects takes place at the TxDOT district level with support from the TxDOT divisions at the state level. The Multimodal Section of the Transportation Planning and Programming Division (TPP) in Austin, however, largely carries out TxDOT's rail planning functions. Their efforts are coordinated with the Statewide Planning Section of TPP to ensure that the needs of the state's rail system are taken into account when planning other transportation modes and projects. The regional nature of RRTDs tends to indicate that TxDOT should interact with RRTDs at the district level, but the long-distance nature of rail transportation and need to plan for rail on a statewide basis point to the necessity for direct knowledge of RRTD activities at the statewide planning levels.

In order to determine how best to accomplish increased communications between RRTDs and TxDOT, the current organization of TxDOT must be explained further. TxDOT is comprised of 25 regional districts within the state as shown in [Figure 2](#). This organizational structure allows regional TxDOT districts to retain much of the decision-making power regarding how and where transportation improvements are made within their own section of the state. This has allowed TxDOT to be responsive to local needs and priorities in the provision of roadways.

The work of the TxDOT districts is supported by a number of planning and oversight divisions at the statewide level, such as the TPP Division, which are located at TxDOT's headquarters in Austin. The divisions also support the TxDOT Executive Director and his staff who set policy and provide operational supervision for the agency on a statewide basis. The actions of the executive director and agency as a whole are further directed and guided by a three-member Texas Transportation Commission that is appointed by the governor and meets on a monthly basis.

Recommendation: TTI recommends that the TxDOT Executive Director instruct each District Engineer to appoint a RRTD liaison on the district staff that can monitor the activities of RRTDs located within that TxDOT district.

Because of its organizational structure, with much of the power distributed to the TxDOT District Engineers and their staff personnel, it is important to include district-level personnel in TxDOT's growing role in interfacing with RRTDs. For this reason, TTI recommends that the Executive Director direct each District Engineer to appoint a RRTD liaison on the district staff that can monitor the activities of any RRTDs located within the district. This position would be similar to the existing position of district bicycle/pedestrian coordinator that was implemented and reinforced by the actions of two previous TxDOT Executive Directors.

TTI recommends that the person selected for this position be a member of the district's Transportation Planning and Development (TPD) staff since the majority of this position's duties would require interaction and coordination with state- and district-level planning staff. In some

districts with limited staff, this may not be possible, and the district engineer may use his discretion in appointing someone who is capable of fulfilling the duties outlined for the position as listed below.

As envisioned, the duties of the district RRTD Liaison would be to:

- Attend all RRTD meetings held within the district.
- Serve as the point of contact at the local TxDOT District for RRTD personnel.
- Coordinate RRTD board activities with planned TxDOT district activities.
- Advise the RRTD board of how their plans correlate with local TxDOT plans.
- Inform local TxDOT planners of RRTD plans and activities.
- Pass along information regarding local RRTD activities and status to TPP's multimodal and statewide planning staffs.

Additionally, the RRTD Liaison would be assigned other duties that would provide needed information to TxDOT planners at both the local and state levels.



Figure 2: TxDOT District Boundary Map.

These tasks would provide both district-level awareness of RRTDs through monitoring RRTD activities and needed input for division-level coordination/analysis for rail planning at the statewide level. The status and activity levels of individual RRTDs could be more readily included in updates to the state rail plan and state transportation plan. In cases where a RRTD's boundaries may fall into more than one TxDOT district, the liaison for the district in which the RRTD has its offices or holds its meetings would be the primary TxDOT contact for the RRTD. In such a case, that TxDOT RRTD liaison would share information with the adjoining district liaison in addition to TPP.

TxDOT's role in the RRTD board meetings would remain limited with the district liaison acting in an informational and support role for members of the board regarding local transportation planning issues. If needed, the RRTD liaison could call on the rail planners in TPP's Multimodal Section for assistance in answering questions that fell outside the realm of the local district. This structure allows for the most flexibility and exchange of information between TxDOT and the RRTD boards while maintaining the RRTD's ability to operate without seeking direction or supervision.

It is recognized that each district has already been directed by previous TxDOT executive directors to create a "rail coordinator" position. In most districts, the person in this position is from a roadway construction background instead of a transportation planning background. The rail coordinator is appointed to coordinate highway rail grade crossing construction projects between the local district, the railroad companies owning tracks that pass through the district, and the Traffic Operations Division's Railroad Section in Austin. The duties of the rail coordinator are generally limited in scope to grade crossing issues and not to the larger planning and development issues that are considered in RRTD activities. We envision that this position would remain intact and keep the same duties. The newly created RRTD liaison would monitor any local RRTD activities and work closely with the rail coordinator on any grade crossing issues related to RRTD actions.

RRTD Initiatives

RRTD boards should take several steps to improve their working relationship with TxDOT. The recommendations listed below are not burdensome for RRTD boards to implement, could immediately enhance communication between the two entities, and provide the basis for future cooperation on project planning.

Recommendation: TTI recommends that all new RRTDs inform TxDOT immediately upon formation of the RRTD's official name, its boundaries, the initial circumstances which have led to its creation, and information on whether or not the RRTD has any rail assets or plans to acquire rail infrastructure. At the outset, all pre-existing RRTDs would also need to fulfill this requirement to ensure that TxDOT's planning staff has a comprehensive database of RRTDs throughout the state. This information should be provided on a voluntary basis whether or not the legislature later passes measures that compel RRTD boards to provide this information.

Recommendation: TTI recommends that each RRTD provide copies of the minutes from each RRTD board meeting to TxDOT so that it may keep abreast of activities and the financial status of each individual RRTD. The TxDOT district liaison should be attending these meetings; however, as a public body and a subdivision of state government, the RRTD board's secretary should produce official minutes of each meeting that could also be shared with TxDOT. TPP's rail planning staff should receive a copy of these minutes either directly from the RRTD or through the TxDOT district liaison. The minutes will be kept on file at TPP for use in coordinating and evaluating future opportunities to partner with the RRTD on rail projects.

Recommendation: TTI recommends that each RRTD board coordinate its activities with those of TxDOT by working with the TxDOT district RRTD liaison in its area. In RRTDs where more than one TxDOT district is represented, the district liaison for the TxDOT district in which the RRTD has its headquarters or holds its meetings will serve as the primary TxDOT contact.

Legislative Initiatives

As part of the second-year research, TTI has also completed an evaluation of the current RRTD statutes to determine if there are any features of the statutes that can be improved. Year 1 research identified several items that are inconsistent from one section of the law to another and also provisions that could be added to improve RRTD effectiveness and the recommendations TTI has made regarding a framework for TxDOT-RRTD relations. [Appendix A](#) includes a list of several changes to the current statutes. The following recommendations sum up key issues that need to be addressed.

Recommendation: TTI recommends that the current statutes be amended to require all RRTDs to report their formation to TxDOT's TPP Division immediately upon passage of the resolution by the commissioner's court(s) of the county or counties that comprise the district. The existing RRTDs should also register with TxDOT providing basic information on their status and activities.

Recommendation: Current statutes require that each RRTD board hold a meeting at least monthly. Research during the first year of this study showed that many RRTDs are not meeting this requirement. TTI recommends that this provision be relaxed to quarterly instead of monthly meetings. This would relieve many districts that have no assets and little business from meeting monthly just to fulfill statutory requirements, post an agenda each month with no business items, or, conversely, choose not to meet in spite of the statutes. Those RRTD boards whose business levels or ownership responsibilities demand it could continue to meet on a more frequent monthly or bi-monthly basis. Only the statutory obligation to meet monthly would be reduced.

Recommendation: TTI recommends that the legislature seek to identify methods for improving the funding sources available to support the activities of RRTD boards. This could be through funding of the Abandoned Rail Account created by the 77th Legislature, development of new state programs that support investment in rail transportation, or

creation of state programs that can provide matching funds for federal rail assistance programs. As part of any legislation to fund RRTD development, the legislature would also be encouraged to create methods for dispersing the funds through the state's transportation agency, TxDOT, and for methods to ensure accountability for the funds.

Recommendation: TTI recommends that several sections of the current statute be rewritten to make the rules for both single-county and multi-county districts consistent. Because single-county districts were authorized by amendments to the previously existing statutes, several numbering and rules differences exist that call for a general “cleanup” of statute language to make them more straightforward and clear. Other provisions of the current statutes are out of date or no longer needed and should be removed. [Appendix A](#) outlines these recommended changes.

Recommendation: TTI recommends that the legislature consider the creation of state incentives encouraging such industrial development along rural, shortline railroads in areas of the state that are currently underdeveloped or that have higher unemployment rates. Such programs could aid in creating development opportunities and provide an opportunity for TxDOT to work in cooperation with the Texas Department of Economic Development (TDED) and other state agencies.

CONCLUSION

Creation of a framework through which both TxDOT and RRTDs can work cooperatively to improve rail transportation options throughout the state is greatly needed. Putting the recommendations made in this chapter into practice will begin a process that, over time, will lead to robust interaction and an alliance between local TxDOT planners and RRTD boards. This relationship, in turn, can prevent conflicts between TxDOT planning documents and RRTD plans while greatly increasing the amount and quality of information available to statewide rail and highway planners in the TPP Division. The legislative recommendations, if adopted, will support this new organizational framework and make compliance with RRTD statutes more straightforward.

CHAPTER 3: CRITERIA FOR TXDOT INVOLVEMENT IN RAIL PRESERVATION

Actions of the 77th Legislature approved formation of a separate TxDOT account for the purpose of purchasing abandoned rail lines. Although the Abandoned Rail Account was created within the State Transportation Fund and several rules regarding this account were outlined, no funds were appropriated to the account for the present biennium. Project selection criteria related to how TxDOT would prioritize and/or determine whether or not to participate in the purchase of a specific rail line must be developed as part of the rulemaking process for administration of this new potential funding source. Research from this task is intended to propose preliminary, initial criteria that TxDOT can use to evaluate each potential abandoned line to determine if it should be a candidate for preservation.

The selection and rate at which rail lines are proposed for abandonment lies largely within the hands of the private sector, making it difficult for public sector agencies such as TxDOT to react quickly and make decisions regarding preservation of any particular line. This task is made more difficult by the relatively short, 110-day, time frame under which the Surface Transportation Board must make a decision on abandonment requests once they are filed by the railroads. This makes close coordination and cooperation between TxDOT rail planners and the private rail companies of extreme importance. TxDOT's awareness of the state rail system must be increased so that when a line is proposed for abandonment, an informed decision may be made regarding the efforts that the state may take to keep the line in service or preserve the existing infrastructure and right-of-way for future rail service.

Initial evaluations in this area have indicated several preliminary criteria/factors for TxDOT to consider upon learning that a line is proposed for abandonment. These are grouped into three main areas—System/Safety Related Factors, Business Factors, and Funding/Local Support Factors. [Appendix B](#) includes a concise listing of these factors. A short explanation of each of the preliminary criteria is presented below.

SYSTEM/SAFETY RELATED FACTORS

The first group of criteria relate to the continued function of the rail system, preservation of rail rights-of-way, and interaction between the rail and highway systems. These items include:

- **the importance of the line to the state's rail system and the rail system goals outlined in the most current Texas Rail System Plan (TRSP) and the Statewide Transportation Plan (STP) update;**

Each line that is proposed for abandonment must be evaluated regarding its importance to the goals established in the current TRSP and the most current update of the STP. For example, branch lines that formerly served a, now-closed, single industrial location may or may not be strategically important to statewide rail infrastructure planning while lines that potentially serve urban or border areas may be of great strategic importance. Limited funding availability will

make prioritization of purchases to accommodate statewide rail planning goals even more critical.

- **the condition of the rail line and its potential to handle projected traffic types (e.g., its ability to handle 286,000 lb [286K] railcars);**

The physical condition of the rail line that is proposed for abandonment must be considered. Often, light traffic density rail lines that are proposed for abandonment have been subject to deferred maintenance by the owning railroad company as a means to reduce costs and remain profitable. Maintaining the line at a lower level results in lower track speeds and reduced service levels to customers. A second issue related to track condition that must be considered is its capability to handle the increased load of 286K railcars. 286K railcars are replacing the older 263,000 lb hopper railcars as the industry standard. If a line's bridges or track structure are not sufficient to handle 286K railcars, a substantial additional investment will need to be made at some point to bring the line up to current industry standards. (A more complete discussion of the 286K issue is included in Appendix E of the Guidebook for Formation and Evaluation of RRTDs produced during Year 1 of this study.)

- **the opportunities for interchange of traffic with other rail carriers associated with the line;**

Rail lines that have direct interchange opportunities with existing Class I or successful shortline railroads have a greater possibility of having future success. The long distance nature of rail shipments requires that rail traffic be efficiently interchanged with adjoining rail companies serving other regions if rail is to be competitive with other modes of freight transport.

- **the number of and distance to other alternate rail services in the area;**

The proximity of another rail line near a line proposed for abandonment can have either positive or negative effects upon its preservation. If the rail traffic can be handled on the other line, it is quite possible that the abandonment should not be opposed. If freight traffic cannot be diverted to a nearby rail line, local highways will likely be adversely impacted by increased truck traffic.

- **the condition and service coverage of existing highway alternatives;**

If the line in question is currently in service and the businesses currently using rail transportation plan to remain at their current locations, an assessment of the condition and service level of roadways in the area must be completed. The increased capacity demand of heavily laden trucks and their impacts on the local roadway infrastructure and its operations must be taken into account.

- **the roadway reconstruction, traffic safety, and environmental costs incurred due to increased truck transportation on rural roadways; and**

Introduction of increased truck travel at today's maximum gross weight (MGW) of 80,000 lb. could have devastating effects on costs to reconstruct and rehabilitate the state's secondary road

system. Many farm-to-market (FM) and ranch-to-market (RM) roadways in the state were built decades ago to accommodate trucks at much lower MGWs of less than 60,000 lb. Increased truck traffic could also have negative impacts upon traffic safety as the percentage of trucks in the traffic mix goes up and upon the environment since trucks produce more harmful emissions than trains on a per ton-mile basis. (A more complete discussion of the benefits of rail transportation is included in Appendix E of the Guidebook for Formation and Evaluation of RRTDs produced during Year 1 of this project.)

- **the potential for safety and maintenance benefits related to the closing of rail-highway grade crossings along the line.**

Under certain circumstances, the benefits to traffic safety and savings from not installing advanced crossing warning systems or grade separation structures may outweigh the long-term transportation benefits of keeping the rail line in place. These issues will need to be evaluated by both state and local transportation planners. In doing so, both present and future transportation and economic development needs and plans for the impacted area should be studied.

BUSINESS FACTORS

The second group of criteria relate to the business base along the line proposed for abandonment. Support and use of the rail line by the local business base is essential if service is to be preserved. Should the line go dormant or disappear, the long-term effects that this would have on business and economic development in that area could be great. The following factors relate to the line's business:

- **the economic development implications of lost rail service to the area;**

Loss of rail service in an area can have negative impacts upon economic development by forcing local businesses to either switch to more expensive trucking options to move its goods or to relocate to another location that still has rail service. In situations where loss of rail transportation options do not immediately affect local businesses, the ability of the area to attract industrial or other types of businesses that depend upon rail transport could be adversely affected. Because of the great costs involved in re-establishing rail service, it may not be possible to restore it in the future if present rail assets are removed and the right-of-way does not remain intact. For these reasons, both the short- and long-term implications of loss of rail service to the area must be considered.

- **the existing and potential business base along the line;**

Closely related to the above criteria is an evaluation of the existing and potential business base along the line that is proposed for abandonment. The types of businesses, their transportation needs, and their current transportation providers should be studied. Several questions must be answered, including:

1. If the businesses formerly used rail transportation, what caused them to switch to other transportation options?
2. Is their lack of rail use due to internal business factors such as the need for more flexible, timely delivery that trucks can provide, or is it related to decreasing levels of service by the current rail operator?
3. Could a new shortline railroad operator increase rail use by providing more responsive or efficient service?
4. Are there any current or planned business ventures in long-term plans for the area that are rail-dependent?

- **the long-term potential for increased development in the area;**

As stated earlier, lack of rail service could prevent certain businesses from locating in a certain area. For example, lack of rail service in a rural area could potentially keep an industrial business from considering that area as an option. Instead, the business might choose to locate in or near an urban area where rail service is available and rail lines are concentrated. This scenario could result in increased highway and rail transportation conflicts in the already congested urban areas. Preserving rail service outside major rail corridors could be considered analogous to maintaining collector and arterial streets for accumulating traffic outside urban freeway corridors. The creation of state incentives encouraging such industrial development along rural, shortline railroads could also aid in creating more development opportunities for areas of the state that are currently underdeveloped or that have higher unemployment rates.

- **the potential for partnering with a shortline railroad or RRTD to operate the line; and**

Before TxDOT considers purchasing an abandoned rail corridor, TxDOT should evaluate whether it is likely that a shortline operator can operate the line and make a reasonable profit. Additionally, the department must consider whether TxDOT staff or local RRTD board will be providing contractor oversight and/or contract management functions for the line. If no shortline operator can be found that is willing to take over service, TxDOT must then consider whether to purchase and preserve the line in place until business conditions improve. Alternatively, if a RRTD board or shortline operator expresses interest in keeping the line in service, the state might be more interested in investing limited funds into its preservation. A final option, direct state subsidization of continued service from TxDOT to an operator, is not currently allowed under state law due to funding restrictions limiting TxDOT spending to mainly highway projects.

- **the long-term potential salvage value of the line and its right-of-way if rail operations do not continue.**

While the goals of SB 406 of the 77th Legislature are long-term preservation of rail infrastructure and rail rights-of-way in the state for continued rail service, the possibility exists that this goal may not eventually be met on each line that is purchased under its provisions. For this reason, the long-term potential salvage value of the track and other railway materials and that of the underlying right-of-way should be one of many considerations in making a decision regarding whether or not to preserve that line. Even if a shortline operator is successful for a few years in building traffic over the line, changing business climates or changes in economic

development patterns in the state could force a cessation of operations in the future. At that point, if the decision is made not to keep the track in place, the state may be able to salvage the rail materials and recoup some or all of the funding that it had invested in the line. Such funds could be reinvested in other rail lines owned by the state. The underlying right-of-way could also be liquidated to generate funds, or sections held in easement could be purchased and alternative transportation options developed in the former rail right-of-way. (A more comprehensive discussion of issues related to levels of rail ownership and right-of-way issues is included in Appendices D and E of the Guidebook for Formation and Evaluation of RRTDs produced during Year 1 of this project.)

FUNDING/LOCAL SUPPORT FACTORS

The third category of criteria regards the financial support that is potentially available to assist in preservation of the line in question and the level of support which local citizens, civic leaders, rail advocacy groups, and elected officials exhibit in working to preserve rail service. They are:

- **the availability of other line-specific appropriated or private funding assistance; and**

The eligibility of the line to qualify for federal or other assistance programs to aid railroads should be considered in deciding whether or not to purchase it. Also a few rail lines have been granted specific appropriations from the legislature to purchase track and/or right-of-way. Generally, RRTDs have received funding in this manner for specific projects by successfully lobbying the legislature and having funds apportioned directly to them through TxDOT. Shortline operators who see the business potential of a line could also invest private funds to improve the line for better service. The level and magnitude of such potential funding avenues should be explored.

- **the interest level of the local community in preserving and supporting future rail service.**

Local support is vital to continued operation of any rail line, especially those that are being considered for abandonment. Local and county government officials' willingness to form an active RRTD and select those who serve on its board are instrumental in improving the condition of the line and its levels of service. Local business and civic leaders that will support rail by using its services and encouraging others to do the same are needed to build traffic over the line that would justify continued operations. If such support does not exist, and the line is not a strategic link in the state's overall rail planning strategy, the line may be a legitimate candidate for abandonment.

These preliminary criteria constitute Product 3 for Project 0-4007: The Role of Rural Rail Transportation Districts in Texas. This list of preliminary criteria was originally provided to TxDOT as part of the mid-year report for Year 2, submitted in February 2002. These recommended criteria do not constitute a standard that TxDOT must consider in each case, but instead suggest factors that could be considered in evaluating rail lines facing abandonment in the state.

CHAPTER 4: USE OF RRTDS FOR ECONOMIC DEVELOPMENT PURPOSES

RRTDS AS AN ECONOMIC DEVELOPMENT TOOL—PUBLIC POLICY ISSUES

The legislation establishing RRTDs in the early 1980s was intended to serve as a vehicle to help the public sector stem the tide of an increasing number of railroad branch line abandonments within Texas. The partial deregulation of the rail industry in 1980 with the Staggers Rail Act (Staggers) made it easier for struggling railroads to abandon lines whose maintenance burden far outweighed their revenue-generating capabilities. Several railroads throughout the U.S. were on the brink of financial ruin following decades of price controls and forced service across lines that were not economically viable. Rail was becoming a poor second choice for many shippers in the face of increasing competition from the trucking industry. Railroad market share and revenues declined as costs soared. Radical changes were allowed under Staggers, and railroads, once they had been freed to adjust to market forces, began making decisions that brought rates in line with costs and set off a process of consolidation and downsizing that continues to this day.

The loss of branch rail lines was not, by any means, restricted to Texas or the Southwest. The shedding process extended throughout the central and Midwest portions of the U.S. and seriously impacted states as far west as Washington. Particularly hard hit were agricultural regions of the country. The relatively “low-cost” transportation option represented by rail had to be replaced by more expensive truck transportation, and agricultural profits suffered as a result. Industry that was reliant on rail was also affected, and truck transport exacted a heavy toll on roadways designed for lighter loads. The fundamental notion behind RRTDs was to provide the public sector with a mechanism by which it could counter the continuing abandonment of branch rail lines.

A telling characteristic of the original RRTD legislation was that the district was to be formed at the local, grass-roots level. This spoke to the growing sense that local communities knew best what was needed for their economic welfare and had a right to be at the heart of transportation decisions affecting their community. The passage of the Intermodal Surface Transportation Efficiency Act (ISTEA) a decade after Staggers institutionalized this sentiment through the formation of MPOs. However, the difference between the financial provisions made for operating programs through the state to RRTDs and those provided by the federal government for MPOs was dramatic and has made the former essentially impotent while making the latter an integral part of the transportation planning process.

The original RRTD legislation in Texas provided the enabling provisions for two or more counties to establish a rail district and, if the financial means could be arranged through debt financing, acquire railroad property that was pending abandonment or otherwise offered for sale. The fact that the Texas Legislature did not provide any direct means for funding RRTDs meant that the fledgling districts had very limited resources upon which to draw. Further, the legislation did not link the newly formed districts to any other state agency, orphaning these entities from the outset by not providing for direction or control through integration with other, broader planning processes. The net result was a new public entity, charged with transportation-

related duties, that was, essentially, a “paper tiger”—usually incapable of strong action to accomplish the transportation goals envisioned in the authorizing legislation.

The success achieved by a few RRTDs, as this research has documented, has been principally due to direct financing by the legislature or due to partnering with a particularly viable shortline rail operation. Most other RRTDs have been late in responding to an abandonment and ill equipped to define and select a meaningful course of action when they finally did respond. It is important to consider, however, certain key economic realities associated with the Texas RRTD experience. While many conditions are possible, two realities are outlined here:

1. The line abandonments experienced in Texas and elsewhere have been largely due to the poor economics underlying the branch lines themselves. This economic reality may have resulted from either an over-extension of the railroads—building into areas that would not support operations over the long term—or due to a changing economic climate such as a loss of key shippers. In any event, following the Staggers Act, the fact that a line was slated for abandonment suggested that there was insufficient traffic to justify maintenance of the infrastructure and operations. Under these conditions, the expectation that an RRTD could alter the economic dynamics seems, in retrospect, somewhat unrealistic—particularly when neither capital nor guidance were readily available.
2. Assuming that an RRTD could negotiate the significant hurdle of initial capital financing, the other important reality is that managing a viable shortline rail operation is, itself, a very challenging proposition. The need to maintain infrastructure, acquire and service rolling stock, negotiate interchange agreements with Class I carriers, hire qualified personnel, and establish a sustaining customer base—all on a thin profit margin—means the likelihood of success in doing so may be low. This research has addressed those cases where success has been achieved, but it has been the exception rather than the rule.

USE OF RRTDS TO SUPPORT ALTERNATE RAIL SERVICE

The positive relationship between transportation infrastructure and economic development has been well researched and is well understood. The most dominant and recent example of this positive relationship, of course, is the interstate highway system. The economic development associated with the interstate system was manifested both by business relocation (to take advantage of the improved economics of the new highway system) and by the creation of entirely new businesses dedicated to the interstate highway system itself. Examples of this latter case include travel motels, fast food establishments, and fuel stops. Innovations linking transportation efficiency to economic development continue to this day with logistics strategies, such as just-in-time manufacturing, which places inventories on the road rather than in warehouses and times deliveries to coincide with the buyer’s production schedules.

So, how does the Texas RRTD fit into the economic development mold? To answer this question, it is important to distinguish between two separate scenarios. The first scenario is likely the one intended by the original legislation: An RRTD is formed in response to the pending abandonment of a line that is critical to the economic health of an area, funds are raised

through bonds to purchase the track materials and right-of-way, an operator is hired, and rail service is maintained. The problem has been, as this research has demonstrated, that things usually fail to play out in this prescribed fashion.

The second scenario is very different. A viable rail line and carrier provides service to industry or agriculture. An interest group, desiring competitive rail service (two carriers rather than one), encourages the formation of an RRTD to assist in the financing and construction of an alternative line, thereby reducing rates and improving the profitability of industry in the area. The assumption is that this is good for the businesses in the region and will improve the production and employment picture over the long run. On the surface, this may be a reasonable contention. What it may also do, however, is set up the conditions for a deteriorating economic position for the original rail carrier and force the original rail line closer to abandonment than it otherwise might be.

Forming the motivation on the part of shippers for competitive service is the practice of differential pricing—railroads, if the circumstances permit, will charge the highest price the market will allow. This is a practice seen throughout our economic system. Passenger airlines routinely charge more across routes that have fewer providers than across those routes where several alternatives exist. It is a fundamental business tenet—the sole service provider will demand more for its services in the absence of competition than if competition is allowed to drive prices down. It's an accepted fact that U.S. railroads depend on differential pricing to provide a major portion of the (relatively modest) profitability they do achieve and thus stay in a position to provide competitive service (under their common carrier obligations) to everyone else along their system.

The argument is not that competition is bad—quite the contrary. Rather the point that requires consideration is that it may be counterproductive in the long term for the public sector (via an RRTD) to assist one private business interest, a railroad company, to reduce the profitability of another segment of the private sector, another railroad company, and thereby hasten the demise of the very competition it seeks to establish. Unprofitable lines become more likely to be abandoned, not less. Railroads, as private companies, must balance the revenue-generating capability of their holdings against the cost of maintaining the infrastructure. It is economically dangerous to assume that two capital and labor-intensive railroad systems can be maintained in all circumstances when prices are pushed toward the margin.

When transportation services are provided by a private industry such as a railroad, the public sector should approach the economic needs and balances carefully. The requisite requirement for competitive service to a region—which almost always means redundant infrastructure, rolling stock, and crews—is sufficient transportation revenue to support two or more complete rail systems. These conditions can be found in many locations and indeed there is competitive rail service in many key industrial locations but certainly not in all locations. It should be understood that it is far more likely that industry has located where there are two or more railroads rather than that a railroad, with its own resources, has constructed new facilities to reach a new market that is already served by a competitor unless there is a business base sufficient to support both companies.

USE OF RRTDS TO SUPPORT PRIVATE BUSINESS INITIATIVES

Allowing RRTDs to be employed as a surrogate decision-making and investment vehicle, serving private business interests, as has been proposed in several of the new single-county districts is unwise and, in the authors' view, inappropriate. It uses the veil of public interest to circumvent bottom-line considerations, some unique to U.S. railroads, best found in the marketplace. These considerations are grounded on economic decisions that relate investment and risk to revenue and profitability. If, in a railroad's assessment, there is sufficient revenue to support the investment of the railroad's own capital in providing alternate rail service—even knowing that increased competition will reduce rates, then the market will allow (even encourage) such service. On the other hand, if a railroad does not see sustainable profits with dual service and thus seeks to build into a market, there is perhaps a “red flag” that should steer away those that would form an RRTD for this purpose as well.

The thought proposed by some is that an operational rail line held by a public entity such as a RRTD could avoid political opposition associated with right-of-way acquisition through exercise of eminent domain rights or be exempt from paying property taxes. The authors' believe that for a private entity to “use” a RRTD to avoid a political fight or to avoid taxes is not a valid public purpose and should be discouraged. Other techniques to support private rail or business initiatives that do not adversely affect long-term property tax revenues should be explored. Development of industrial rail spur construction grants such as those developed in other states would be a more appropriate means to achieve these goals rather than using the powers granted to RRTDs to meet this very real need in the state. TxDOT and TDED could work cooperatively with the legislature to develop such programs.

RAIL FACILITY OWNERSHIP OUTSIDE OF RRTD BOUNDARIES

A final issue of concern in the RRTD statutes, as they currently are written, is the provision that allows a single-county RRTD to own rail facilities both within and outside the district boundaries. There are two sides to this matter. In one sense, it is necessary that a single-county district be able to own such properties since it is unlikely that any existing line or segment would lie only within the boundaries of one county. On the other hand, it is not difficult to imagine a scenario where a single-county RRTD could acquire ownership rights to a rail line that also traverses two or more of its neighboring counties. The RRTD board could choose to support only rail projects within the RRTD boundaries (i.e. the home county) for political reasons—in effect, limiting rail and economic development possibilities in the surrounding counties with which it is “competing” for economic development dollars. The adjoining counties could form their own RRTDs in response; however, this would probably exacerbate the problem rather than improve it since the first RRTD would still retain its ownership rights over the line and could refuse needed connections. While such a situation has not yet occurred, the idea of a public body in one county controlling, or even blocking, rail development outside its own “jurisdictional” boundaries seems to violate the initial idea of local involvement in rail planning and preservation by RRTDs on a regional basis.

OTHER ECONOMIC DEVELOPMENT STRATEGIES

There are several other forms of regional economic development using the RRTD as a vehicle that do not enter the gray areas of impropriety described above. These include the use of the RRTD to assist in developing intermodal facilities or business parks that feed traffic to the railroads and assist in limiting the growth of truck traffic on area roadways. These economic development activities add to the viability of existing rail service and reduce the public transportation expenditures required to provide and maintain roadways.

Similarly, the use of RRTDs to work in concert with existing tax deferred economic zones, such as tax increment financing districts, may become an approach with merit. This economic development strategy could assist an RRTD in improving the attractiveness of a location through incentives tied to transportation or trans-loading facilities. In both cases, the impacts that such actions will have on the existing transportation planning and development process must be considered.

CONCLUSION

In the U.S. railroads are predominantly owned and operated by private companies. If we seek to maintain the private nature of the railroad industry, particularly in areas where the rail service economics are marginal, then the public sector must be very selective in choosing how it will intervene in the provision, preservation, and purchase of rail assets. Public entry into this historically and principally private domain that has the effect of further reducing non-sustaining rail rates through a public entity such as a RRTD is ill advised. In some cases, it can be argued that further rate reductions may have the effect of hastening the demise of the very transportation service the RRTD wishes to invigorate. Each RRTD board must therefore evaluate the rail transportation situation that exists within its area of responsibility and develop plans that address public need for rail transportation while seeking to preserve the delicate economic balance that drives the private sector rail industry.

The background knowledge necessary to make such decisions may or may not be held by RRTD board members when initially appointed. The need for information on the rail industry and issues was addressed in producing the guidebook during Year 1 of this project, Texas Rural Rail Transportation Districts: Guidebook for Formation and Evaluation, TxDOT Project 4007-P1. By combining the knowledge base in that guidebook with the awareness of some of the issues outlined in this chapter, RRTD board members, transportation planners, and others may better define the role of RRTDs in the future.

**APPENDIX A: SUMMARY OF RECOMMENDED LEGISLATIVE
CHANGES TO RURAL RAIL DISTRICT STATUTES – VERNON’S
TEXAS CIVIL STATUTES TITLE 112, CHAPTER 13, ARTICLE 6550C**

Recommended New Provisions

- Recommend that all RRTDs be required to report their formation to TxDOT's Transportation Planning and Programming Division's Multimodal Section immediately upon passage of the resolution creating the RRTD by the commissioner's court(s) of the county or counties that comprise the district. The legislation establishing this provision should also require that existing RRTDs should register with TxDOT as well by providing basic information on their current status and activities.
- Recommend that several sections of the current statute be rewritten to make the rules for both single-county and multi-county districts consistent. Because single-county districts were authorized by amendments to the previously existing statutes, several numbering and rules differences exist that call for a general "cleanup" of statute language to make them more straightforward and clear. Other provisions of the current statutes are out of date or no longer needed and should be removed. These recommended changes are outlined more clearly below.
- Recommend that the legislature consider the creation of state incentives encouraging industrial development along rural, shortline railroads in areas of the state that are currently underdeveloped or that have higher unemployment rates. Such programs could aid in creating development opportunities and provide an opportunity for TxDOT to work in cooperation with the Texas Department of Economic Development (TDED) and other state agencies.
- Recommend renumbering of sections and subsections following adoption of recommended changes.

Amendments to Existing Statutes

Section 1: Findings

No recommended changes.

Section 2: Definitions

- Subsection (6): Definition for "Eligible counties" needs to be updated to include provisions for single-county districts. Current definition is from original legislation and indicates that two or more counties are required to form a RRTD. Update to include all eligible counties as allowed in Section 3A(a).

Section 3: Creation, Re-Creation or Dissolution of District Located in More than One County

General: Suggest combining Section 3 rules for multi-county districts and Section 3A for single-county districts into a common set of regulations for all RRTDs.

Subsection (b): Change “Interstate Commerce Commission” to “Surface Transportation Board.” The federal Interstate Commerce Commission was terminated in 1995 and replaced by the Surface Transportation Board as the federal oversight agency for rail transportation regulatory matters.

Subsection (d)(2): Consider revision of statutes allowing RRTDs to dissolve only when joining to form a larger RRTD.

Subsection (f): Remove requirement to notify Texas Transportation Institute (TTI) upon district formation. As noted above, TxDOT, as the state’s transportation planning agency, should be notified upon RRTD formation.

Section 3A: Creation or Dissolution of District Located Wholly in One County

General: Suggest combining Section 3 rules for multi-county districts and Section 3A for single-county districts into a common set of regulations for all RRTDs.

Subsection (f): Consider revision of statutes allowing RRTDs to dissolve only when joining to form a larger RRTD.

Section 4: Board of Directors; Employees

General: Suggest strengthening provisions for re-appointment of RRTD board members to ensure that there are no gaps in board membership. These gaps have led to extreme inactivity on many of the existing RRTD boards.

Subsection (c): Recommend changing requirement for monthly meeting to quarterly meeting. This would relieve many districts that have no assets and little business from meeting monthly just to fulfill statutory requirements, post an agenda each month with no business items, or, conversely, choose not to meet in violation of the present statutes. Those RRTD boards whose business levels or ownership responsibilities require it could continue to meet on a more frequent monthly or bi-monthly basis.

Section 5: Powers and Duties of District

Subsection (g): Consider adding the Texas Transportation Commission and TxDOT to the list of agencies with which a RRTD may enter into agreements.

Subsection (g): Consider provisions that would better define the limits of RRTD ownership of rail lines outside the RRTD boundaries.

Subsection (p): Consider adjusting the public hearing requirements for budget approval if the new quarterly meeting schedule is adopted.

Section 6: Bonds and Notes

No recommended changes.

Section 6A: Alternative Financing

No recommended changes.

Section 7: Competitive Bids

No recommended changes.

Section 8: Exemptions from Taxes

No recommended changes.

Section 9: Effect on Other Law

No recommended changes.

APPENDIX B: PRELIMINARY PRESERVATION CRITERIA

PRESERVATION CRITERIA

The factors below are recommended as decision criteria for use by the Texas Department of Transportation (TxDOT) in considering decisions regarding purchase of abandoned rail lines in accordance with the provisions of Senate Bill (SB) 406 of the 77th Texas Legislature. These are not final criteria, but are presented as a list of initial factors to be taken into account by TxDOT staff and the Texas Transportation Commission upon entering the public hearing process. This listing constitutes Product 3 (P3) of TxDOT Project 0-4007: The Role of Rural Rail Transportation Districts in Texas.

System/Safety Related Factors

- The importance of the line to the state's rail system and the rail system goals outlined in the most current Texas Rail System Plan and the Statewide Transportation Plan update;
- The condition of the rail line and its potential to handle projected traffic types (e.g., its ability to handle 286K railcars);
- The opportunities for interchange of traffic with other rail carriers associated with the line;
- The number of and distance to other alternate rail services in the area;
- The condition and service coverage of existing highway alternatives;
- The traffic safety, roadway reconstruction, and environmental costs incurred due to increased truck transportation on rural roadways; and
- The potential for safety and maintenance benefits related to the closing of rail-highway grade crossings along the line.

Business Factors

- The economic development implications of lost rail service to the area;
- The existing and potential business base along the line;
- The long-term potential for increased development in the area;
- The potential for partnering with a shortline railroad or RRTD to operate the line; and
- The long-term potential salvage value of the line and its right-of-way if rail operations do not continue.

Funding/Local Support Factors

- The availability of other line-specific appropriated or private funding assistance; and
- The interest level of the local community in preserving and supporting future rail service.