

Recommendations

While the announced lease agreement removes some of the uncertainty about the revenue-generating potential of the NCCR, it can only be approved at a shareholder meeting at which the majority of the private stockholders are present or represented. That means a boycott of the yet unannounced meeting has some chance for success if enough stockholders can be brought on board. And even if the lease is approved, what effect will the suits filed by the private shareholders have on its terms? Despite these unanswered questions, one conclusion is crystal clear. The railroad's potential for serving the public good is tightly tied to its ownership structure.

Given the importance of the railroad to the state's future in transportation planning and economic development, the Center makes the following recommendations:

(1) The state should *not* sell its stock in the North Carolina Railroad Co. The tracks are the backbone of the state's east-west rail *freight* system, and they provide the primary rail link to the state port at Morehead City and the planned Global Transpark in Kinston. They are critical to passenger train service between Charlotte and Raleigh and to proposed commuter service in the Research Triangle area. They may also represent a key link to future high-speed rail and a right-of-way for fiber optic cable.

With selling its stock off the table, the state is left with only two viable options: (1) buying out the private shareholders at a yet undetermined price; or (2) maintaining the current 75 percent state, 25 percent private ownership structure.

There are clear disadvantages to maintaining the status quo. Out of concern for the private shareholders, the state will not be able to exercise its full range of policy options for the railroad. The conflict between the need to keep rail lines open and lease rates low for economic development and the need to earn a high rate of return for private shareholders will continue to exist. Freight will come first over any commuter service. And the level of secrecy around lease negotiations likely will continue, leaving both the state and private shareholders in the dark until the deal is struck.

There is only one item on the ledger sheet favoring the status quo. Cost. There would be no need to tamper with the current ownership structure if the following conditions could be met: if the door could be left open to mass transit; if Norfolk Southern could guarantee freight service on all segments of the rail line; if the state's economic development needs could be met; and if the NCCR could earn the maximum return on its assets.

But the number of lawsuits pending against the NCCR is evidence that balancing all these interests is well-nigh impossible. Over the long haul, the state's needs would be best served if it were to follow the advice of both former Gov. Jim Martin and Gov. Jim Hunt and buy out the private shareholders.

(2) The North Carolina Railroad Co. board of directors should buy out the private shareholders in the company so the state can take maximum advantage of this valuable asset in the formation of transportation and economic development policy. The board should use the revenue from the rail lease to accomplish the purchase without spending state tax money through the issuance of revenue bonds or a similar financing vehicle. Among the advantages of full state ownership are these:

- the state could have full control over the future of the rail corridor and could negotiate to keep vital but less profitable rail links open;
- any future lease negotiations could be more open to public scrutiny;
- the state could negotiate lower lease rates if necessary as a catalyst for economic development, and;
- the terms of any lease could include accommodation of passenger service.

In short, the state could plan and implement transportation policy for the NCCR without choosing between getting private shareholders the maximum return on their investment or facing a host of lawsuits.

A primary disadvantage is cost. It would take a minimum of \$25 million and perhaps as much as \$50 million to buy out the private share-

holders. While this is not an outrageous sum in the context of a \$10 billion-plus state budget, it is a significant amount of money given the current fiscal climate in state government.

Yet there is a way out of this thicket. The state could use the proven revenue producing potential of the lease to pay off any indebtedness resulting from the purchase of the private shares. The only loss to the state's till would be future revenue generated by the lease. The investment potentially could be as painless as that of a worker who gets a raise and decides to use part of the raise to invest in the future through retirement savings. Thus, the purchase of the private shares can likely be accomplished without increasing taxes.

There remains one last obstacle to a buyout: fixing a price. The best means of determining the value of the private shares is to finalize the lease agreement and execute a buyout after the deal is approved at a shareholder meeting. After all, the lease determines the revenue generating

potential of the property. When the lease issue is settled, the NCRR board can proceed with acquiring the private shares. If this means negotiating for a higher return to end the boycott by the private shareholders, so be it.

The state has an opportunity to act on a century-and-a-half old vision to nurture the "tree of life" that has spread its branches across North Carolina. For less than the cost of a professional football stadium in Charlotte or a college basketball arena in Wake County, the state can claim full control of the destiny of 317 miles of rail vital to its long-term transportation and economic development interests. And thanks to the commercial viability of the North Carolina Railroad, the deal likely may be consummated at no direct cost to the taxpayers. It's time to complete John Motley Morehead's vision for the North Carolina Railroad by purchasing the private shares and developing this valuable asset to its full potential.

—Mike McLaughlin



Karen Tom