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UN-FARE DEAL

HOW FARE POLICY AT BAKER'S MBTA TRANSFERS
WEALTH FROM RIDERS TO CORPORATIONS



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December, 2021

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EXECUTIVE SUMMARY

In March 2020, as news of the expanding COVID epidemic swept the nation, essential frontline workers continued to ride the MBTA to work in the [snow](#) while the wealthiest stayed home or retreated to vacation homes. Since then, riders from low-income communities and communities of color disproportionately affected by the COVID-19 pandemic were more likely to continue using the MBTA. As other demographics stayed home or used other modes of transport more often, low-income ridership and people of color ridership each grew to 40% or more of the total. Low-income riders and riders of color pay a substantial share of the MBTA's regressive fare revenue, even as they struggle to afford the cost of riding.

LOW-INCOME PEOPLE STRUGGLE TO PAY INEQUITABLE MBTA FARES

Unlike other large transit systems, including New York, Miami, Los Angeles, and Seattle, the Massachusetts Bay Transportation Authority (MBTA) has no reduced fare program for low-income adult riders. And fares are high: they have nearly tripled since 2000, rising faster than inflation. That cost means that, for a rider in the lowest fifth of earners in Massachusetts, a year of monthly transit passes costs the equivalent of 2.5 weeks' income or more (for a rider in the highest fifth, it costs just over two days' worth of income).

Despite the affordability crisis, the Baker/Polito administration has opposed fare relief for low-income riders, even as billionaire corporations line up to rake in profits on the backs of the MBTA riders.

PRIVATIZATION OF FARE COLLECTION BENEFITS CORPORATIONS, NOT RIDERS

Under the MBTA's [much-delayed](#) and [controversial fare collection privatization contract](#), the hard-earned transit fares of essential workers and other working families will enrich two private equity owned, for-profit corporations, [Cubic and the John Laing Group](#).

The fare collection privatization contract has already been renegotiated for a 30% cost increase, to [\\$935.4 million](#). In addition, riders will see costs rise, as Fare Transformation plans include a new charge of up to \$5 for every CharlieCard.

What will Commonwealth residents and riders get for that money?

Cubic Transportation Systems' track record reveals a history of problems in New York, Chicago, Atlanta, and the Bay Area, as well as Vancouver, London, Brisbane and other cities. The issues include overcharging riders, ballooning contract costs, implementation delays, technology failures and data privacy questions.

- In Vancouver, the Compass card roll-out for TransLink took two years longer than planned and nearly doubled in cost, from \$100 million to \$194 million.
- In Chicago, the rollout of the Ventra card was so troubled that then-Mayor Rahm Emanuel told the press he was "frustrated ... that the company did not live up to their expectation." He continued, "We're going to hold [Cubic's] feet to the fire because they're not going to get a payment until it does work." Problems included "poor customer service, activation issues, card-reading problems and overcharged cards."
- In cities from New York to Chicago and Atlanta, repeated overcharges seemed built into the system. In Atlanta, a "known software glitch" overcharged riders for years. In New York, terms of service state the "MTA is not responsible if your fare is charged to a card or through a smart device that you did not intend to use."

Beyond access issues, privacy, surveillance and data safety concerns, privatized jobs are also less likely to be high quality, family-sustaining union jobs that build community stability and reduce racial and economic inequality.

Less than half of the \$935.4 million designated for Fare Transformation will go directly to construction and operation, while corporations profit.

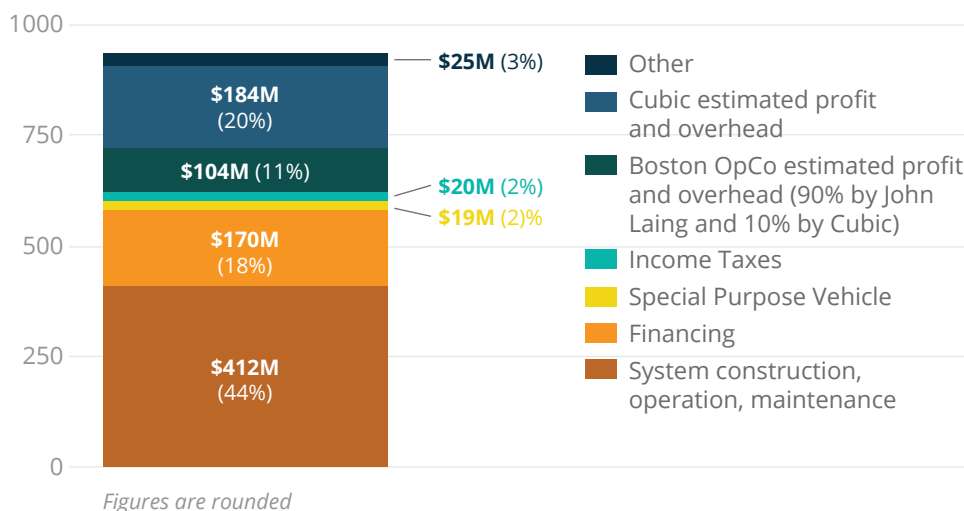
The report estimates that the contract includes as much as **\$372 million in unnecessary costs, corporate overhead and profit, including up to \$288 million in profit and corporate overhead** to John Laing and Cubic. Cubic, a defense and transportation technology corporation, has annual revenues of about \$1.5 billion, while John Laing Group holds more than \$2 billion in net assets.

According to previously undisclosed analysis by the MBTA, the contract includes **\$171 million** in financing costs. This figure represents 29% of total capital costs of \$597.5 million, with the remainder going to build the system and fund reserve accounts for various contingencies. We estimate that the **MBTA could have saved about \$45 million** if it had financed the cost of Fare Transformation by issuing its own bonds.

In addition, our analysis shows the contract includes unnecessary expenses costing the MBTA millions, including:

- **\$184 million** toward Cubic's profit and overhead.
- **\$104 million** toward profit and overhead of BostonOpCo, a corporation formed for the purpose of this contract, owned 90% by John Laing and 10% by Cubic.
- **\$20 million** in income taxes. The MBTA, as a government entity, does not pay income tax. With this privatized approach, the MBTA shoulders millions of the private partners' income tax liability.
- **Another \$19 million** to the "Special Purpose Vehicle," (SPV) the corporate entity formed by Cubic and John Laing to undertake this contract, for purposes unspecified in the financial agreement.
- **\$171 million** in financing costs, as mentioned above.

Estimated uses of fare transformation contract funds



Less than half of the \$935.4 million budgeted by the MBTA directly funds construction and operation

THE PATH TO A FAIR FARE POLICY

The Massachusetts Bay Transportation Authority (MBTA) serves 176 cities and towns in Eastern Massachusetts, at peak serving more than 1 million riders a day. The MBTA reduces traffic, travel times, vehicular crashes, and emissions that contribute to the climate crisis. These benefits save about \$7.8 billion per year. The Commonwealth's economy relies on public transit to succeed, and we can make sure it is funded robustly, sustainably and fairly.

The next Governor of the Commonwealth has the opportunity to lead a transformation for equitable and affordable public transit across the state. And starting today, we can all work together for commonsense solutions to achieve a more equitable MBTA:

We need a low-income fare to decrease the burden on riders who can least afford to ride. A low-income fare would put millions of dollars back into the pockets of low-income riders each year, providing a needed boost to household budgets and local economies. The legislature should pass H.3526 to create a low-income fare program at the MBTA and open a path to similar programs at the Commonwealth's Regional Transit Authorities. And the MBTA Board should not wait for the legislature to act, but should advance the implementation of a low-income fare as a priority this fiscal year.

Wealthy individuals and corporations must contribute more. Voters should approve the Fair Share Amendment on the November 2022 ballot, which would generate about \$2 billion for transportation and education uses, including public transit. The Massachusetts Legislature should also **restore the corporate income tax** to its pre-2008 level, and **close the loophole on corporate off-shored income**. These two corporate tax measures could together raise up to \$950 million in revenue which could be directed to the MBTA. New progressive revenues from these sources should be used to fund a low-income fare, which the MBTA estimates will cost between \$52 and \$85 million a year after ramp up, assuming high enrollment and current service levels.

We must stop corporate profiteering off our public goods. The MBTA should do all it can to exit the wasteful Fare Transformation contract with Cubic and John Laing. To protect against bad deals in the future, the MBTA should form a special committee and establish review criteria and a robust public hearing process for any proposed privatization or P3 contract.

INTRODUCTION

The Massachusetts Bay Transportation Authority (MBTA) provides an essential public good to our Commonwealth. The MBTA serves 176 cities and towns in Eastern Massachusetts, with subway, bus, light rail, commuter rail and ferry service.¹ Before the pandemic, **more than 1 million riders a day used the MBTA** to get to work, to outings with friends and family members, and to the many errands and appointments that make up our lives.² Ridership is rebounding from pandemic lows, with weekday ridership system-wide at 53% of pre-pandemic numbers as of November 11, and fare revenues for the first quarter of FY2022 exceeding expectations by \$30 million (66% over budget).³

The MBTA's contribution to the public good extends far beyond riders. It lowers traffic congestion, reducing travel times, vehicular crashes, and emissions that contribute to climate change. These benefits save about \$7.8 billion per year for the people of Massachusetts.⁴ The MBTA also allows our economy to thrive. Greater Boston drives the Commonwealth's economy, and our central industries—finance, higher education, research, healthcare and tourism—rely on public transit to succeed. Jobs and homes alike are concentrated around public transit stations, and employers heavily rely on the MBTA to bring workers and customers to their doors.⁵

Public goods and services like public education or universal healthcare benefit everyone—whether you are currently a student or currently a patient, access to public education and healthcare provides the basic foundation for residents to participate and grow our local economy. It is the same with public transit—whether you are a transit rider or a business owner, everyone benefits from a robust, sustainable and fairly funded public transit system.

A public good like the MBTA should be funded sustainably and fairly, with wealthy individuals and corporations contributing their fair share. At the same time, MBTA policies and expenditures should maximize public benefits by providing good service and good jobs that increase mobility and equity, while bolstering our economy and decreasing environmental burden. However, when we look at fare revenue and collection at the T, it is clear that the public good is not being served.

Low-income people and people of color—each making up a significant portion of the T’s ridership—pay more than their fair share when it comes to funding the T. Fares have increased faster than inflation and have become unaffordable for many households. During the pandemic, it became clear that relying heavily on fare revenue to fund public transit is neither fair nor sustainable: as many higher-income, white collar riders began to work from home, their fare contributions plummeted, while low-income riders, essential workers and people of color continued to shoulder a disproportionate burden of keeping the T going. The Baker/Polito administration deepened the crisis by opposing a reduced fare for low-income people. This upside-down system, with the lowest income people paying a higher proportion of their household budgets toward riding the T, has hurt families and contributed to worries about the T’s financial outlook over the coming years.⁶

While low-income riders struggle to pay, two billionaire corporations are making hundreds of millions in profit and overhead from an MBTA fare collection privatization contract that threatens service accessibility and good public jobs. The “Fare Transformation” deal is a “public private partnership” that pays two private, for-profit corporations—Cubic and John Laing— to finance, build, operate and maintain a controversial new automated fare collection system. This privatization contract threatens access by making it harder to pay with cash, undercuts good public jobs by outsourcing the work, and poses the risk of rider overcharging, delays, and cost escalation seen in Cubic fare collection systems at other transit agencies.

In this report, we show how the MBTA under the Baker/Polito Administration is, on the one hand, placing a heavy burden of fares on low-income people and communities of color, and on the other, transferring hundreds of millions to the private corporations profiting from the “Fare Transformation” contract with the T.⁷

The high cost to ride and the wealth transfer to private corporations do not serve the public good. We need common sense reforms that will lower the burden on low-income riders, make MBTA funding more equitable, and prevent wasteful contracts with for-profit companies.



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PART 1

RIDERS PAY

The MBTA's financial structure makes it heavily reliant on fare revenues, increasing the burden on riders and making the Authority more vulnerable at times of crisis, like the COVID pandemic. Low-income people and communities of color are hit the hardest, and the impact has been worsened by the pandemic and the Baker/Polito administration's opposition to reduced fares for low-income people.

FARES DISPROPORTIONATELY BURDEN LOW-INCOME PEOPLE AND PEOPLE OF COLOR

Escalating fares put the most pressure on people with low incomes, who scramble to afford the increases and still make ends meet. Public transit is less expensive on a household level than owning an automobile or using taxi or app-based ride services, so for many low-income people, the MBTA is the best or only option. But T fare increases hit low-income riders hard.

Fares are among the most regressive of possible funding sources, requiring low-income riders to pay a higher percentage of their income to ride than riders with more resources.⁸ Low-income people make up a substantial portion of MBTA riders: almost a third of riders in an MBTA pre-pandemic survey reported household incomes of \$43,500 a year or less.⁹ About 40% of people in Massachusetts have incomes within that range (see table 1).

Income Group	Top 20%						
	Lowest 20%	Second 20%	Middle 20%	Fourth 20%	Next 15%	Next 4%	Top 1%
Income Range	Less than \$23,100	\$23,100 to \$44,300	\$44,300 to \$74,600	\$74,600 to \$131,100	\$131,100 to \$279,600	\$279,600 to \$719,500	over \$719,500
Average Income	\$13,000	\$33,800	\$58,600	\$98,700	\$183,600	\$438,100	\$2,507,300

Table 1. Household income distribution in Massachusetts¹⁰

Low-income riders include many riders of color. Structural racism, including exclusion from good paying jobs and lack of opportunities to accumulate wealth, means that people of color are over-represented among the lowest-earning households. In Massachusetts, poverty rates are much higher in Black,

Latinx, Native American, and Asian American populations compared to white populations. People of color are a substantial portion of MBTA riders: a little over a third of riders in an MBTA pre-pandemic survey “self-identified as a race other than white and/or [as] Hispanic or Latino/Latino.”¹¹

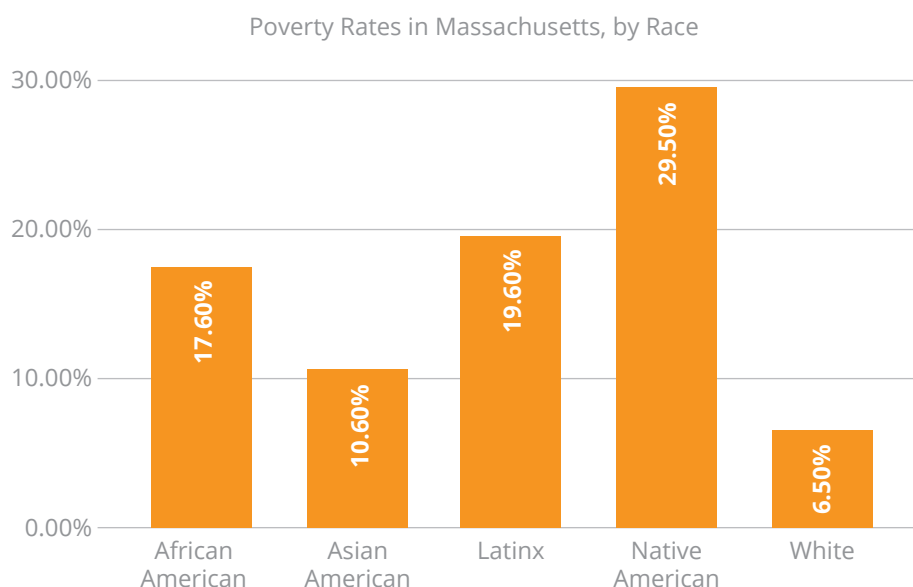


Figure 1. In Massachusetts, poverty rates are much higher in Black, Latinx, Native American, and Asian American populations, compared to white populations.¹²

Fares take more, as a percentage of household budget, from people with lower incomes. In the case of the MBTA, monthly passes are currently \$90. For a rider in the top 20% of Massachusetts earners, with a \$133,000 income, the cost of 12 monthly passes is equal to less than 1% of their annual income.¹³ For a rider in the bottom 20% who makes \$22,000 a year, the same fare would represent 4.9% of their income. That is the equivalent of more than two and a half weeks of income.

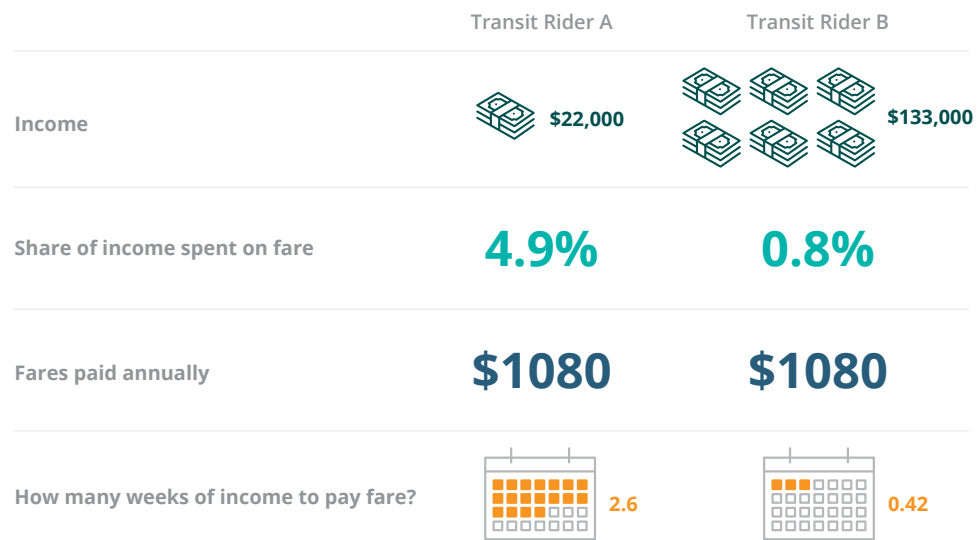


Figure 2. A rider with a \$133,000 salary who purchases a monthly LinkPass every month of the year will spend less than 1% of their income on fare. A rider in the lowest fifth of earners in Massachusetts buying the same monthly pass will spend almost 5% of their income for the same monthly pass.

Fare hikes and fare dependency at the MBTA

The roots of the MBTA's current fare policy crisis can be traced to July 2000, when the Authority was reorganized under what is known as "Forward Funding" legislation. Forward Funding was meant to "transform the MBTA" from an agency that could depend on the Commonwealth to cover costs at the end of each year, to "a system that sustains itself from an identifiable revenue stream....requir[ing] greater cost efficiency and revenue enhancement."¹⁴ Far from fixing the MBTA, Forward Funding saddled it with billions in debt and insufficient sales tax revenues.¹⁵ Forward Funding also set up today's fare policy crises, because its "revenue enhancement" would come largely at the expense of riders.

MBTA fares rose repeatedly over the first decades of the century. The MBTA enacted a fare increase just a few months after Forward Funding in 2000, then again in 2004, 2007, 2012, 2014, 2016, and 2019. Fares have risen faster than inflation, with cash fares nearly tripling since 1999.¹⁶

Cash and CharlieCard fares compared to inflation, 2000-2020

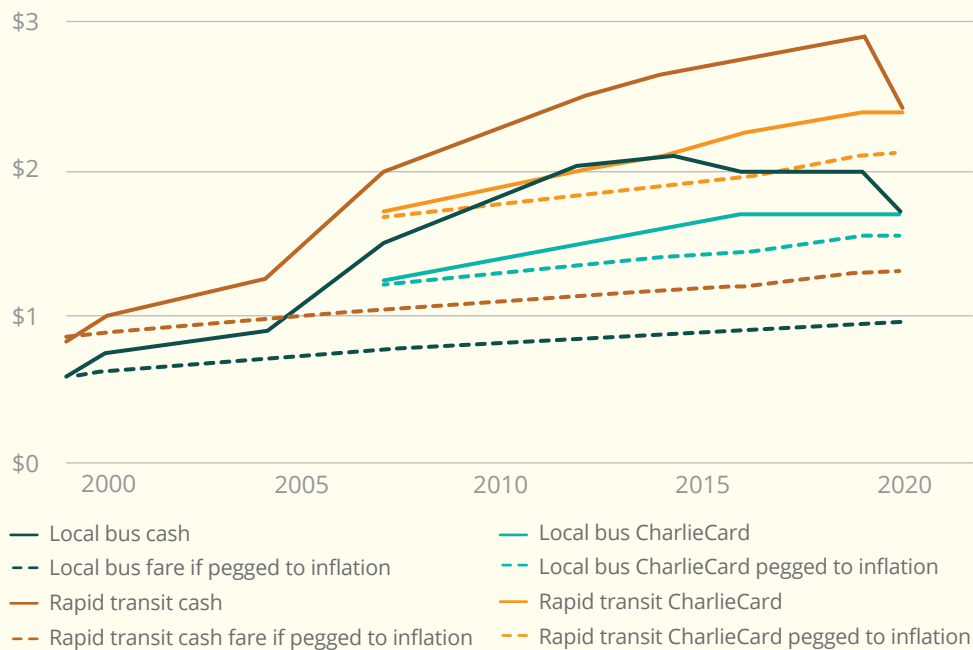


Figure 3. Fares for subway and bus have risen faster than inflation. The CharlieCard was introduced in 2006 with a lower price than cash or “Charlie Ticket” fare; the cash penalty was not removed until 2019. Not all increases impacted cash and CharlieCard fares, but both have risen faster than inflation.

Fares have also grown as a portion of MBTA revenue, making the MBTA more vulnerable to interruptions in ridership, like the pandemic. In 2000, fares made up 22.7% of MBTA revenues. By 2019, that proportion had grown to over 33%.¹⁷

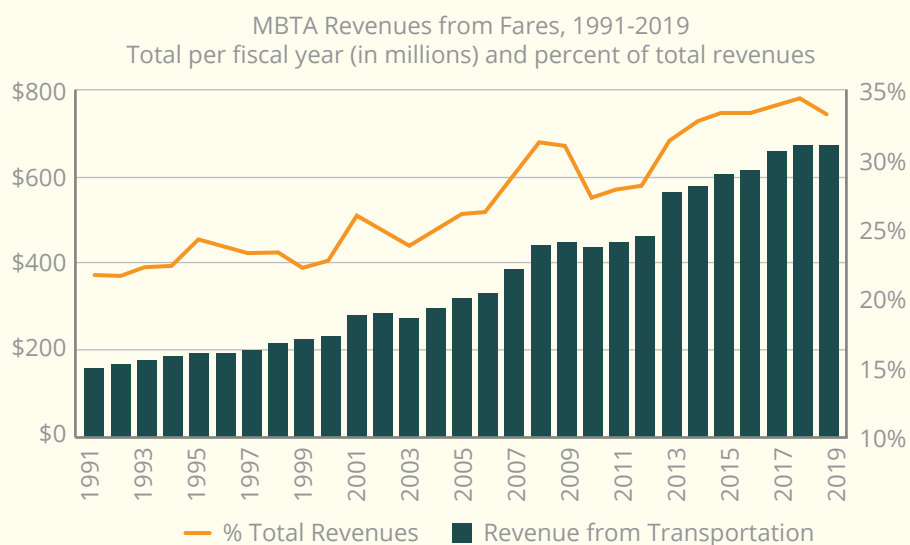


Figure 4. Fare revenue has grown in real terms as a portion of MBTA revenue, making the MBTA more vulnerable to interruptions in ridership.

The MBTA's heavy dependence on fares puts it behind other public transit systems in the US. Fares make up a smaller portion of the total budget for a number of other large systems (percentage of operating budget revenue provided by fares shown in parentheses):¹⁸

- Dallas Area Rapid Transit (9%)
- Houston Metro (10%)
- Los Angeles Metro (14%)
- Miami-Dade Transit (14%)
- Denver Regional Transportation District (18%)
- Metropolitan Atlanta Rapid Transit (20%)
- San Francisco Muni (21%)

INADEQUATE RELIEF FOR LOW-INCOME RIDERS

Despite the high cost of riding, there is currently no discounted fare available to low-income people ages 26-64 who are not disabled. The MBTA does have reduced-fare options that can lower the cost of riding for people with disabilities, those over the age of 65, students, and low-income youth ages 18-25. We estimate that the 26-64 year old age group makes up more than 70% of the MBTA's ridership,¹⁹ meaning a large majority of MBTA riders have no access to reduced fares if they are low-income.

THE PANDEMIC HAS EXACERBATED FARE INEQUALITIES

During the pandemic, low-income people and people of color have continued to ride the MBTA at greater numbers than others. This means they are paying an even greater proportion of the MBTA's fare revenue, making the system more regressive than ever.

While MBTA ridership plummeted in the face of layoffs and white-collar workers working from home, many people were not able to shelter in place. Thousands of workers whose jobs can't be done from home, finally recognized as "essential" during the pandemic, continued to commute every day. Despite the importance of their jobs, essential workers—health care, restaurant, maintenance, and other workers—often face low wages. Essential workers are more likely to be people of color, immigrants, and women, when compared to workers as a whole.²⁰

Key bus routes serving Dorchester, Mattapan, Chelsea and other areas home to many essential workers saw the least dramatic drops in ridership at the height of the pandemic—and have seen the most robust increases since then.²¹ As of November 2021, ridership is as high as 92% of pre-pandemic levels for Dorchester's Route 28, currently a fare-free route under a pilot with Boston. Routes with ridership that has reached 70% or higher include Buses 23, 66, 111, 116 and others.²²

According to the MBTA's 2015-2017 Systemwide Passenger Survey, 28.8% of riders were low-income—their households bring in under \$43,500 a year, a little over 200% of the Federal Poverty Level for a family of three for the year the survey was completed.²³ However, during the pandemic, low-income riders remained on transit in higher numbers. In February 2021, the proportion of MBTA riders with low incomes was about 40%.²⁴

Riders of color, particularly Black riders, have also continued to ride the MBTA in higher proportions than white riders. Before the pandemic, about 34% of riders were people of color. That number rose to around 48% in April-May 2020, dropping back to 40% in February 2021.²⁵

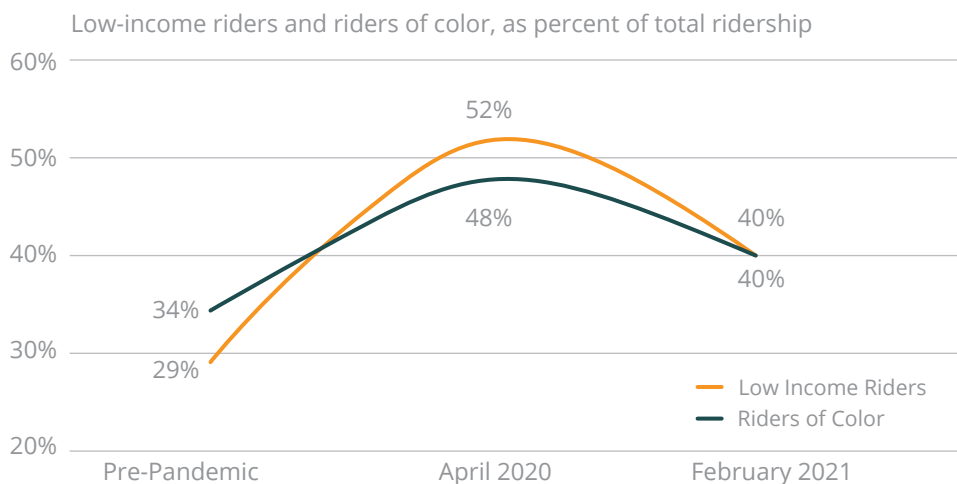


Figure 5. Riders of color and low-income riders have continued to ride the T in higher proportions than white riders and middle- and high-income riders, meaning they are paying an even greater share of fare revenues than pre-pandemic.

A LOW-INCOME FARE WOULD INCREASE MOBILITY OF LOW-INCOME PEOPLE

In 2019, researchers at MIT published results of a randomized controlled study of the impact of reduced fare on transit use by low-income people.²⁶ Study participants were Boston area residents receiving Supplemental Nutrition

Assistance (SNAP) benefits. Participants were randomly assigned to a group receiving either a 50% discount CharlieCard or a full-price CharlieCard, and asked to report all trips and trip purpose via a mobile phone based ChatBot. Pre-and post-participation surveys were also conducted by the ChatBot.

Researchers found that participants receiving the discounted fare took about 30% more trips overall, and took more trips to access health care or social services. This research suggests that high fares are a barrier to mobility for low-income people, and that a discounted fare will increase use of the system to access needed services.

THE BAKER/POLITO ADMINISTRATION OPPOSES REDUCED FARES FOR LOW-INCOME PEOPLE

The Baker/Polito Administration has been a major barrier to making the MBTA more affordable, harming low-income families and communities of color. As part of the Massachusetts Department of Transportation, the MBTA falls under executive branch authority. The Governor appoints the Secretary of Transportation, DOT Board members, and most of the members of the MBTA Board.

The Governor's opposition to low-income fares has likely prevented the staff under his authority from advancing the program. Although a majority of the MBTA's former governing board, known as the Fiscal and Management Control Board (FMCB), supported a low-income fare, the MBTA so far has not implemented it or even presented plans for a pilot, as the FMCB directed staff to do at one of their last meetings in June 2021.²⁷

Tellingly, the Baker/Polito administration vetoed a legislative effort to enact low-income fares. In December 2020, the Massachusetts legislature passed an expansive transportation bond bill that would have established a low-income fare program at the MBTA and opened a path to similar programs at the Commonwealth's 15 Regional Transit Authorities. But Baker vetoed the provision on the grounds that no "financially sustainable plan [was] in place to replace the lost revenue," while simultaneously vetoing language that would have provided a funding source to do exactly that.²⁸ Unfortunately, the veto came too close to the session end to allow for a legislative override.

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PART 2

CORPORATIONS PROFIT FROM “FARE TRANSFORMATION”

While low-income people are shouldering more than their fair share of funding for the MBTA, hundreds of millions of dollars in MBTA expenditures every year are going to big banks, wealthy investors, and corporate privatizers. In this report, we examine the recent, controversial privatization contract for fare collection to show how already-wealthy corporations are making money off the MBTA.

Privatization, including “public private partnerships,” forms part of an attack on the public good that began in the late 1970s and 1980s with right wing ideologues who wanted to shrink the government's role in regulation, providing public services and assistance to people in need, and generating revenue through taxation. By the 1990s, many of these right wing tenets had come to be seen as “common sense”—including the idea that private enterprise was inherently more efficient than government, and that public agencies should be run “more like a business.” In fact, appeals to efficiency and entrepreneurialism disguised the real winners and losers in the war on government: taxes on the wealthy dropped, job standards and wages went stagnant or backwards, public services saw budgets slashed, and social welfare programs were cut.²⁹

Privatization is an extreme form of the notion that government should be run like a business—it actually converts public goods and services into a source of private profit. Contrary to its proponents' claims, however, privatization does not guarantee more efficient public services.³⁰ Instead, it threatens the public with a whole host of problems like lowered job standards, diminished wages, corner cutting, and higher fees, as well as decreased transparency and increased inequality.

“FARE TRANSFORMATION” PRIVATIZATION DEAL

The MBTA's much-delayed and controversial privatization contract with corporations Cubic and the John Laing Group for a new, automated fare collection system is one example of corporate profiteering off our public transit system.³¹ The contract, originally worth \$723 million, was amended in 2020 for a total MBTA expenditure of \$935.4 million.³²

The MBTA calls the project “Fare Transformation,” but both riders and workers have argued it is a [transformation for the worse](#).³³ Eliminating cash fares on board will make it harder to pay for transit, especially for low-income people, underbanked people, and people travelling at night, as well as some seniors and people with disabilities.³⁴ The placement of fare vending machines raises concerns about unequal access. And new payment verification practices raise concerns of racist enforcement. Some observers have pointed out that one of the main goals of a cashless system—all door boarding on buses—could be achieved more simply by making buses free.

While many riders will be negatively impacted by Fare Transformation, banks and credit card companies benefit from the move away from cash. Transaction fees, late fees and overdraft penalties have become multi-billion dollar revenue streams for big banks. Privatized automated fare systems like the MBTA's are one example of how financial institutions and other big corporations are profiting from the public good—as they do when they profit from risky financial deals, threaten our homes, or capitalize on public education.³⁵

This report examines the worrisome track record of one of the main privatizers, Cubic Transformation systems. Other Cubic fare collection systems have been plagued by problems including overcharging riders, delayed and problematic roll outs, and privacy concerns.

We also analyze the financing, profit and corporate overhead costs of the \$935.4 million “public private partnership” or P3, in which the private “partners” will profit off the outsourced design and installation of the new fare collection system, as well as its operation and maintenance for an initial term of 10 years. The contract also includes private financing of the project, meaning that the private “partners”—not the MBTA—will raise the funds to build it, and the MBTA will pay Cubic/John Laing when the project hits certain milestones and on a monthly basis once the new system is up and running.³⁶ Using a P3 model **increases borrowing costs as well as private profit and**

overhead expenses. Despite the high costs of the deal, the amounts spent on financing, profit and corporate overhead costs have been hidden from public view.

Proponents of the P3 model argue that while financing costs might be higher, the contract shifts risks to the contractor, so it is appropriate for the MBTA to pay more in order to reduce its exposure to cost overruns. But the renegotiation of the contract—which added more than \$200 million to the MBTA's bill—has already demonstrated that the P3 has not protected the MBTA from the risk of escalating costs. In essence, the MBTA has the worst of both worlds: higher financing costs and the responsibility for cost overruns. We estimate that the Fare Transformation contract includes **\$372 million in unnecessary costs, corporate overhead and profit.**

FARE TRANSFORMATION WILL INCREASE THE BURDEN ON LOW-INCOME RIDERS

The Fare Transformation plan includes a new charge for obtaining a CharlieCard. In Spring 2021, the MBTA proposed charging \$5 for a CharlieCard, more than double the cost of a single ride on rapid transit today.

In addition, the plan would require each rider to have their own CharlieCard, meaning groups of family members or friends could not pay for multiple fares with one card by passing it back through subway fare gates or tapping multiple times on a bus.³⁷

Charging for a CharlieCard—whatever the fee—will be a significant barrier to low-income people, especially less-frequent riders who may not keep their CharlieCard with them at all times. For low-income families, the cost of riding will increase proportionately to family size, creating an additional burden.

What is a public private partnership?

In The Public Interest (ITPI), the research and policy center on privatization and responsible contracting, provides a useful definition of P3s:

"Traditionally, infrastructure projects are built with public debt raised through tax-exempt bonds ... Engineers and architects design the project (some public and some private), construction companies (always private) build it, public agencies run it and maintain it, and public finance offices manage the money by paying off the debt over the life of the asset. Traditional procurement for infrastructure is typically referred to as design bid build (DBB), where the governmental entity does everything except for the construction work; or design build (DB), where a private entity designs and builds the asset, but the governmental entity finances it, operates it, and provides maintenance services. The term "public-private partnership" has become an imprecise catch-all that can capture the traditional procurement described above, but is now typically used to describe a project that privatizes all five activities in the process....This is also referred to as a "full P3" or DBFOM [Design, Build, Finance, Operate, Maintain]. Note that there are other variations between traditional procurement and a full privatization P3, such as a design, build, finance (DBF) and others."³⁸

The Fare Transformation P3 is what ITPI calls a "full P3"—the design, build, finance, operation and maintenance are carried out by the private partner—not the MBTA.

THE BAKER/POLITO ADMINISTRATION PUSHED PRIVATIZATION AT THE T

Governor Baker and Lieutenant Governor Polito have ultimate influence at the MBTA because it falls under their executive branch authority: the MBTA is part of the Massachusetts Department of Transportation, and the Governor appoints the Secretary of Transportation, DOT Board members and most of the members of the MBTA Board.

Governor Baker has a long track record of supporting privatization, with harsh consequences for the public good. He is the former executive director of the Pioneer institute, a [pro-privatization think tank](#) that remains influential in his administration.³⁹ During his time in government, Baker has been a driving force in privatizing a number of public hospitals, and a failed effort to

expand public funding of charter schools.⁴⁰ Baker benefits from the financial support of some of the most powerful corporate executives and billionaires in the state, who share his pro-privatization agenda even while they benefit from public services like the MBTA.⁴¹ He also benefits from millions in “dark money” from unknown donors.⁴²

Baker’s record includes a number of efforts to privatize aspects of the MBTA. In 2015, the Baker/Polito administration made the MBTA vulnerable to privatization by pushing through a three-year waiver for the Authority from the Taxpayer Protection Act (TPA, also known as the “Pacheco Law”), which protects against privatization deals that are bad for workers and the public, by requiring proof that outsourcing would provide both less expensive and higher- or equal-quality services. The Administration also established the Fiscal and Management Control Board, the new group charged with overseeing MBTA efforts to “reduc[e] barriers to public-private partnerships.”⁴³ Since the TPA waiver expired, the Baker/Polito administration has continued to push P3s at the MBTA by putting forward legislative language to facilitate the controversial deals.⁴⁴

Privatization efforts were met with strong public opposition, which defeated proposals to privatize bus operation and maintenance.⁴⁵ However, the administration was able to push through the privatization of money counting and a parts warehouse, the subject of a highly critical audit from the Inspector General’s office that found higher costs and poor oversight.⁴⁶

One of the projects approved under the Pacheco waiver was the fare transformation contract, meaning it advanced without the careful analysis the TPA requires.⁴⁷

CUBIC TRANSPORTATION SYSTEMS HAS A TROUBLING TRACK RECORD ON FARE COLLECTION

Cubic, the corporation that will be responsible for most of the work of the Fare Transformation contract, is a defense and transportation technology corporation with annual revenues of about \$1.5 billion. Transportation related products and services accounted for more than half (57%) of Cubic’s business in 2020.⁴⁸ In addition to automated fare collections systems, Cubic Transportation Systems sells toll revenue collection, congestion charging, and

passenger information collection systems. Cubic's business model relies on the privatization of public transit, and on the role of fares as a major source of public transit revenue.

Cubic Transportation Systems' track record reveals a history of problems, including overcharging riders, ballooning contract costs, implementation delays, and data privacy questions.

Riders overcharged for transit services

In many of the cities with Cubic fare payment systems, fare collection systems have repeatedly overcharged passengers.

- In late 2019 and early 2020, New York City Metropolitan Transit Authority (MTA) riders reported being double charged when entering the subway using OMNY on their mobile devices.⁴⁹ Complaints have continued into 2021: when one online forum user complained, "My credit card is constantly getting charged several times for a single ride on the New York City subway's OMNY payment system," hundreds of others responded they had the same question.⁵⁰ These riders may have little recourse for some double charges, as OMNY's terms of service state the "MTA is not responsible if your fare is charged to a card or through a smart device that you did not intend to use."⁵¹
- In Chicago, multiple class action lawsuits were brought against Cubic with claims that riders were not properly credited funds on their fare cards,⁵² were double charged,⁵³ or were charged fees for "phantom rides."⁵⁴ These cases were eventually dismissed after mutual agreement of the parties (likely after a settlement), and in one case, the death of the plaintiff.
- In the Bay Area, a variety of glitches with the fare card resulted in 38,000 calls to Cubic's customer service hotline in a single month. The New York Times reported that "Poor functioning or overcharging are common complaints."⁵⁵
- In Atlanta, investigative reporters found a "known software glitch" that had been overcharging express bus riders for three years without being addressed.⁵⁶
- Systems in London, Brisbane and other cities have also reported problems with overcharging on Cubic systems.⁵⁷

"Cubic Transportation Systems' track record reveals a history of problems, including overcharging riders, ballooning contract costs, implementation delays, and data privacy questions."

Troubled roll outs

Two of Cubic's most recent fare collection contracts had troubled roll outs that included a range of problems with technology, delays and escalating costs.

- In Vancouver, the Compass card rollout for TransLink took two years longer than planned and nearly doubled in cost, from \$100 million to \$194 million.⁵⁸ Rollout problems included fare gates that were making errors and couldn't read cards quickly enough, as well as new bus equipment's inability to accommodate TransLink's multi-zone pricing.
 - When reporters requested correspondence between Cubic and TransLink, Cubic opposed the release due to worries of its brand reputation. After official intervention, the documents were released, and showed that TransLink had "expressed concern for some time" over validator problems and considered them a Cubic "Project Work Defect."⁵⁹
 - When the Cubic system could not handle multi-zone bus fares, TransLink was forced to change its bus fare structure.⁶⁰ The transit authority also undertook a PR campaign to warn riders to "tap your card, not your wallet," because the Cubic system could charge multiple debit or credit cards for each rider.⁶¹
- In Chicago, the rollout of the Ventra card was so troubled that then-Mayor Rahm Emanuel told the press he was "frustrated ... that the company did not live up to their expectation." He continued, "We're going to hold [Cubic's] feet to the fire because they're not going to get a payment until it does work." Problems included "poor customer service, activation issues, card-reading problems and overcharged cards."⁶²

Data use and collection concerns

Cubic systems have raised privacy, surveillance and data safety concerns in a number of cities.

- In New York, privacy advocates warn that the OMNY system collects data including smartphone device identifiers and location, exit and entry points, payment information and billing address, and can retain the data for an "indefinite period." The privacy agreement even specifies that OMNY may collect additional, unspecified information.⁶³ Observers have warned that OMNY data could be used by immigration enforcement or police, or be sold to make a profit.⁶⁴
- Privacy can also be endangered when data is not secure.
 - In London, the Oyster card system was hacked in 2019, compromising about 1200 individual accounts.⁶⁵

- In San Francisco, hackers infected the Municipal Transportation Agency computer system, demanding a 100 bitcoin ransom and forcing the shutdown of ticketing machines, although authorities said customer payment systems were not hacked.⁶⁶

Concerns magnified by private equity takeover

Cubic was previously a public company, traded on the New York Stock Exchange. In 2021, it was purchased by two private equity firms, Veritas Capital and Evergreen Coast Capital Corporation (an affiliate of Elliott Investment Management), for \$3 billion.⁶⁷ Private equity firms use investor money or debt to take ownership of other companies, using a number of strategies to extract resources before eventually reselling.⁶⁸ Cubic's takeover by Veritas and Evergreen raises concern that corner cutting and understaffing will worsen performance problems and delays for riders using Cubic systems.⁶⁹

THE FARE TRANSFORMATION CONTRACT WASTES HUNDREDS OF MILLIONS OF PUBLIC MONEY

We estimate that the Fare Transformation contract **includes \$372 million in unnecessary costs, corporate overhead and profit**. Details of that estimate follow.

Corporate profits and overhead

By definition, private enterprises are in business to make a profit and maximize value for their shareholders. They also have their own overhead costs like executive and administrative salaries, taxes, advertising, insurance and more. Adding in corporate profit and overhead costs means that any outsourcing deal builds in expenses that public delivery does not, as well as raising the risk that the goal of maximizing profit could lead to corner cutting, sacrificing safety, service or good jobs.⁷⁰

While the Fare Transformation contract does not specify or guarantee a profit level to Cubic or John Laing, we estimate that the MBTA will pay **up to \$288 million in profit and corporate overhead** to Cubic and John Laing.

Of the full contract value, \$700 million is meant to pay for the work of system construction, operation and maintenance. MBTA payments are made to the special purpose vehicle (SPV), a corporate entity called BostonOpCo, formed by Cubic and John Laing to undertake this contract.

- Of the \$700 million, Cubic will receive \$596 million in payment for its work on the system.⁷¹
 - Based on its historical gross profit margin, we estimate Cubic will make \$184 million toward profit and overhead from that income.⁷²
- The \$104 million remaining with BostonOpCo after payment to Cubic will also likely go toward overhead and profits. BostonOpCo is itself a subsidiary of BostonHoldCo, which in turn is owned 90% by John Laing and 10% by Cubic, so any profits would likely be split accordingly.⁷³

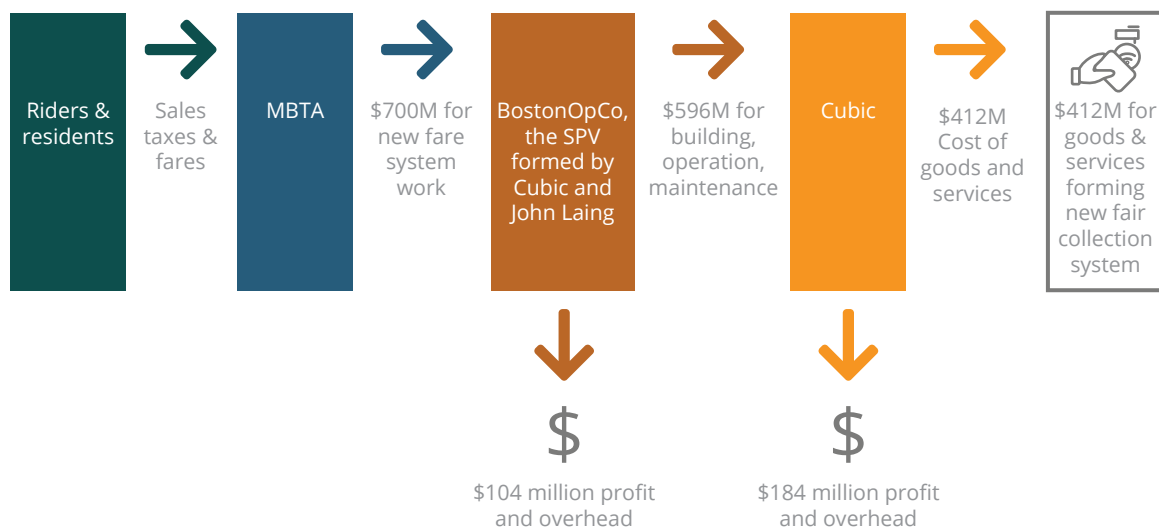


Figure 6. Flow of funds for system construction, operation and maintenance. Cubic costs of goods and services, profit and overhead are estimates.

A padded contract?

While the Fare Transformation contract does not specify the profit margin to the contractors, it does provide some information on how the MBTA's payments will be spent.⁷⁴ A number of planned expenditures, in addition to the \$700 million discussed above, have questionable public benefits, raising the issue of why they were included in the contract at all. These include:

- **\$20 million** in income taxes. The MBTA, as a government entity, does not pay income tax. With this privatized approach, the MBTA shoulders millions of the private partners' income tax liability. This is in addition to any overhead costs paid by the MBTA as part of the \$700 million construction, operation and maintenance discussed above.

- **\$19 million** to the “Special Purpose Vehicle,” (SPV) the corporate entity formed by Cubic and John Laing to undertake this contract. The contract financing agreement provides no detailed information as to how this money will be spent, how it contributes to the MBTA goals, or what percentage may be profit.

Financing costs

The Fare Transformation privatization contract leaves it up to the private partners to raise the initial funds for the capital costs covered in the contract—the money it will take to design and build the system. The private partners are responsible for taking out debt and plan to pay it back using the MBTA’s one-time “milestone” payment and “availability payments” over several years. The costs of financing are largely hidden from public view because they will appear as general operating costs on the MBTA’s budget.⁷⁵

According to previously undisclosed analysis by the MBTA, the contract includes \$171 million in financing costs.⁷⁶ This figure represents 28.6% of total capital costs of \$598 million. The remainder of the capital costs—\$426 million—goes toward the design and build of the system including private overhead and profit costs described above (but not including operating and maintenance costs).

While public finance creates significant costs for the MBTA, private financing can be even more expensive, because typically that financing includes payments to both equity investors and other lenders. Municipal bonds can have relatively low interest rates because they are low risk to the investor and are often tax-exempt. Private financing does not necessarily have that benefit.

In the case of the Fare Transformation contract financial model, financing costs are higher than necessary. We estimate that the **MBTA could have saved about \$45 million** if it had financed the cost of Fare Transformation by issuing its own bonds.

According to our analysis of the Fare Transformation contract and other MBTA documents, the \$171 million in financing costs under the current contract likely includes

- \$28 million in returns to equity investors, with 90% of equity provided by John Laing and 10% by Cubic.

"[T]he MBTA could have saved about \$45 million if it had financed the cost of Fare Transformation by issuing its own bonds."

- They expect to nearly double this investment, a return equivalent to a 7.49% annual return over the 13-year initial contract period.⁷⁷
- This rate of return is substantially higher than the 4% and 5% interest rates the MBTA would likely have paid on public bonds issued for the same purpose, based on historical rates and its strong credit rating.⁷⁸
- \$100 million in other interest payments and financing costs.
- \$34 million in fees to end an interest rate swap deal. Cubic/John Laing, via the SPV, entered into an interest rate swap deal as part of the original financing plan, before the Fare Transformation Contract was renegotiated. When the new financing plan was put in place, they ended the old swap deal, which had a termination fee of \$34.4 million. That termination fee was wrapped into the cost of the new contract, effectively passing the cost on to the MBTA.
- \$8 million to cover interest rate fluctuations between the contract approval and financial close.

Rather than turning to private financing, the MBTA could have issued its own public bonds to finance the project, which would have eliminated some of these costs and still allowed the T to raise the money to build the system. We estimate if the MBTA had issued bonds to raise the funds to carry out the construction of the new fare collection system, the **MBTA could have saved about \$45 million** compared to costs of financing privately through this P3.⁷⁹



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PART 3

THE PATH TO A FAIR FARE POLICY

It is possible to make the T more affordable for low-income riders and stop the transfer of hundreds of millions of dollars to corporate privatizers.

- The legislature should require, and the MBTA should put in place, a reduced fare for low-income riders.
- Voters and the legislature should vote yes on new, progressive sources of revenue, including the Fair Share Amendment, to provide more equitable funding for the T and other public goods.
- The MBTA and legislature should exit the Fare Transformation contract and ensure enhanced transparency and oversight of “public private partnerships” (P3s).

More detail on each of these proposals is offered below.

THE MBTA NEEDS A LOW-INCOME FARE

The first step to address MBTA budget inequity is to institute a reduced fare for low-income riders. If structured in line with existing reduced fare programs at the MBTA, a low-income fare would lower the cost of riding for people enrolled in a federal or state benefit program, like Supplemental Nutrition Assistance (SNAP) or MassHealth.

Low-income communities and communities of color have been calling for a reduced, means-tested fare for years. Sixteen of the nation’s fifty larger transit systems, including New York, Miami, Los Angeles, and Seattle already have reduced fares for low-income adult riders.⁸⁰

Here in Massachusetts, the main obstacles to the low-income fare are Governor Baker and Lieutenant Governor Polito, who have blocked legislation and refused to ensure the MBTA advances affordability. Our next Governor can ensure the MBTA advances an equitable fare policy, including relief for low-income riders on all modes of transit.

The MBTA has estimated that this program would save low-income riders \$28-47 million per year.⁸¹ **A household purchasing two monthly LinkPasses would save \$120 a month** (See Table 3 for a list of current full and reduced fares at the T). Returning fare money to low-income households

would blunt the worst regressive aspects of MBTA funding, by lessening the burden on people with few resources. A low-income fare would have community-wide benefits, as it is likely to result in increased spending on needed goods and services, benefiting the household and increasing the circulation of money in the local economy. For comparison, a program providing about 2000 low-income households in Chelsea with a guaranteed income of \$200-400 per month found that 73.3 percent of spending “occurred at places where food is the primary product: grocery stores, wholesale clubs, markets & convenience stores, and restaurants.”⁸²

	Full Fare, One Way	Reduced Fare, One Way
Subway	\$2.40	\$1.10
Local Bus	\$1.70	\$0.85
Express Bus	\$4.25	\$2.10
Commuter Rail	\$2.40 to \$13.25	\$1.10 to \$6.50
Ferry	\$3.70 to \$9.75	\$1.85 to \$4.85
Monthly LinkPass	\$90	\$30

Table 2. Full and Reduced MBTA Fares. Reduced fares are currently available to people over age 65, people with disabilities, and low-income youth ages 18-25.⁸³

The Massachusetts Legislature and the MBTA Board should take action to advance low-income fares.

- ***The Massachusetts Legislature must move quickly to pass H.3526, An Act Relative to Low-Income Fares, which will direct the MBTA to start a discounted fare program, as well as open a path for the Commonwealth's Regional Transit Authorities to institute reduced-fare programs or fare-free systems.***⁸⁴
 - In 2020, our senators and representatives passed nearly-identical language that would have both required a low-income fare program and provided the means to fund it (with a per-ride public transit access fee on rideshare companies).

- But the Baker/Polito administration vetoed the affordability measures, leaving low-income riders in the lurch in the middle of the pandemic.⁸⁵
- Initial funding for low-income fares at the MBTA, as well as reduced or free-fare programs at the RTAs, could be provided from the more than \$2 billion in American Rescue Plan Funds remaining after December 2021 budgeting legislation, with long term funding provided by new progressive forms of revenue.
- Legislators should demonstrate their ongoing support for a low-income fare by passing the bill in ample time to override another veto by the Baker/Polito Administration.
- ***The new MBTA board must approve plans for low-income fare by the end of the calendar year and fully fund low-income fares in the next annual budget.***
 - At one of their last meetings, the FMCB moved the MBTA a step closer to a low-income fare program by requiring staff to draw up detailed plans for how a pilot program could be carried out by October and present a final plan by the end of the year.⁸⁶
 - However, the Baker/Polito administration delayed the appointment of the new board, and the low-income fare was not included on the agenda for their first meeting in October as the FMCB has directed.⁸⁷
 - The new MBTA Board must listen to the public and ensure the adoption of a low-income fare program.

MASSACHUSETTS NEEDS NEW PROGRESSIVE REVENUES

To fix the lopsided MBTA budget, Massachusetts voters and legislators alike must pass new, progressive revenues. Our next governor should prioritize the development of a fairer, more sustainable tax base to fund public goods including the MBTA and our 15 Regional Transit Authorities. Public transit benefits us all—so every individual and corporation should contribute to it, in proportion with their prosperity.

Pass the Fair Share Amendment

Currently, Massachusetts has an upside-down tax system: the people who have the least pay the largest share of their income in taxes. Taxpayers in the top 1% income bracket pay only 6.8% of their income in taxes, while those in the bottom 20% pay 10%.⁸⁸ Black and Latinx taxpayers tend to be in the income groups paying a higher portion of their income in taxes, meaning the upside-down tax system exacerbates racial inequity.⁸⁹

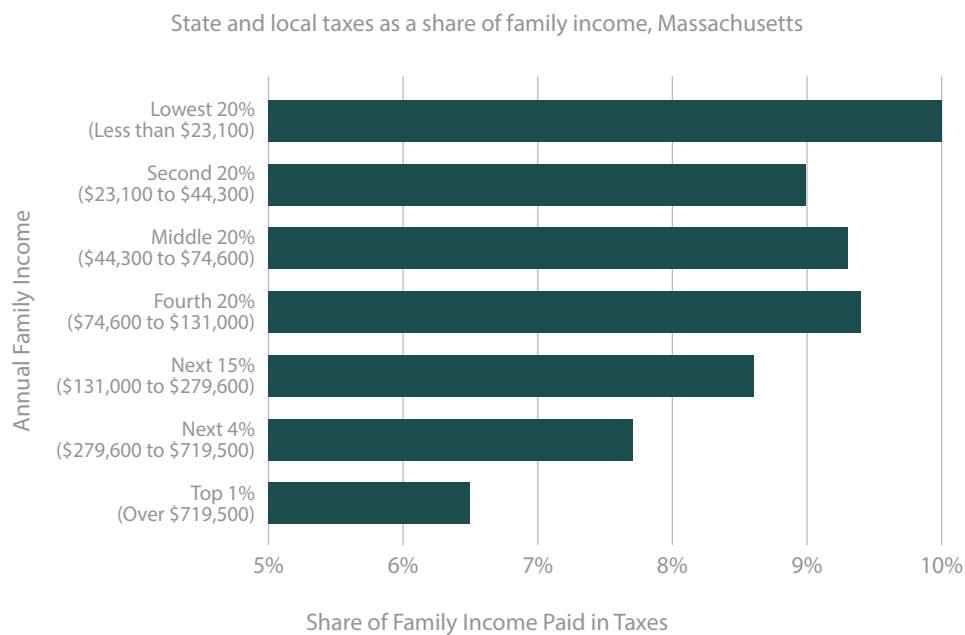


Figure 7. Massachusetts has an upside-down tax system: the people who have the least pay the largest share of their income in taxes.

Currently, Massachusetts' income tax is 5%. The Fair Share Amendment would add an additional tax of four percentage points on the portion of a person's annual income above \$1 million.

The Fair Share Amendment will be on the ballot in November 2022. **A yes vote on Fair Share will raise about \$2 billion per year** to fund our public transit systems and other needed public goods and services.

Restore the corporate tax rate

Like wealthy individuals, profitable corporations should pay their fair share in income taxes. In 2008, the State legislature took a step backward by decreasing the corporate income tax, ultimately depriving the public of hundreds of millions in tax revenues each year.

Prosperous corporations can afford to contribute more. According to the corporate trade association Council on State Taxation, in Fiscal Year 2020 Massachusetts ranked among the six states with the lowest share of taxes paid by business, with businesses paying only 3.6% of state and local taxes.⁹⁰ Nationwide, corporate profits surged in the second quarter of 2021, and

continued to grow in the third quarter.⁹¹ Profitable businesses here in Massachusetts should contribute more to the public services necessary to a broad recovery.

The Massachusetts Legislature should **pass H.2969/S.1839 An Act relative to restoring corporate tax rates**.⁹² Restoring the pre-2009 corporate tax rate of 9.5% (from the current 8% rate) could generate \$375-\$500 million annually from profitable businesses.⁹³

Close the corporate tax loophole on off-shored income

Multinational corporations operating in Massachusetts and elsewhere use complex accounting maneuvers to lower their tax liability by making it seem that some profits were made in off-shore tax havens. The Federal Government has passed legislation that makes some of these profits—known as “Global Intangible Low-Taxed Income”—or GILTI—subject to taxation.

Several other states already tax a portion of GILTI. Massachusetts could raise \$350-450 million/year by **passing H.2826/S.1812 An Act to Close Corporate Tax Loopholes and Create Progressive Revenue**.⁹⁴

END THE FARE TRANSFORMATION P3 AND ESTABLISH SPECIAL OVERSIGHT FOR PROPOSED PRIVATIZATION AND P3 CONTRACTS

The MBTA should do everything in its power to end the wasteful and delayed P3 with Cubic and John Laing.

Special oversight for privatization and P3 deals can protect from corner cutting and needless costs that threaten riders and workers, while increasing inequality in Massachusetts. Public sector jobs in the Commonwealth are more likely than private sector jobs to provide a family-sustaining income, helping to counter growing economic inequality. Jobs in the public sector are especially important to Latinx, Black and Asian American workers, for whom having a public sector job means they are more likely to earn a living wage and own a home. Public sector workers of all racial and ethnic groups are more likely than private sector workers to live in the same community for more than a decade, meaning public jobs help stabilize our neighborhoods and increase civic participation. The strengths of public sector jobs are in large part due to public sector unions, which increase wages, and other labor protections.⁹⁵

While the MBTA is once again subject to the Taxpayer Protection Act, the Authority should establish even stronger policies to protect public sector jobs and services. Before the Board votes on any P3 or other privatization contract that would cause the loss of MBTA jobs or cost more than \$500,000, the MBTA should convene a special committee, including the labor member and rider members of the MBTA Board and representatives appointed by each union with members potentially affected by the proposed privatization, to oversee the review and make a recommendation regarding the proposed privatization contract.

The MBTA should produce and make public a thorough analysis of the potential contract, including:

- wage rates to be paid under the contract and the contractor's plan for provision of employee health insurance;
- the costs of regular MBTA employees providing the subject services in the most cost-efficient manner;
- the costs of public financing using methods available to the MBTA, if the proposed contract includes private financing;
- possible loss of employment or income in the MBTA region;
- possible impacts on social services in the MBTA region;
- possible impacts on any vulnerable or disadvantaged population in the MBTA region;
- possible economic impacts on local businesses;
- any possible loss or increase in tax revenue for the Commonwealth or cities within the MBTA service area; and
- any environmental impacts that may result from the privatization contract, including any upgrades or possible degradation.

The commission should hold public meetings throughout the service area, including at least one formal hearing, and should allow for 30 days of public comment, as well as review by the state auditor. No privatization or P3 contract should be signed without the approval of the special commission and the State Auditor.

"While the MBTA is once again subject to the Taxpayer Protection Act, the Authority should establish even stronger policies to protect public sector jobs and services."

No privatization or P3 contract should:

- Extend more than five years.
- Result in the loss of employment for any MBTA worker.
- Be approved without non-discrimination and equal opportunity policies in place.



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CONCLUSION

The MBTA system is a public good that serves all of us in the greater Boston region, with benefits including mobility, pollution and traffic reduction, and economic growth. Despite the shared benefit, the burden of funding the T lies more heavily on riders with the least. At the same time, a controversial new “P3” project has added hundreds of millions of dollars to the costs of fare collection.

We must change who pays for the T, and how. The fares the T relies on for about a third of its budget are a highly regressive source of funding, especially during the pandemic when low-income riders have remained on the T in greater numbers than higher-income people.

We need a low-income fare to decrease the burden on riders who can least afford the T. A low-income fare would put millions of dollars back into the pockets of low-income riders each year, providing a needed boost to household budgets and local economies.

At the same time, wealthy individuals and corporations should contribute more to the MBTA. **Voters should approve the Fair Share Amendment** on the November 2022 ballot, which would generate about \$2 billion for transportation and education uses, including public transit. The Massachusetts Legislature should also **restore the corporate income tax** to its pre-2008 level and **close the loophole on corporate off-shored income**. These two corporate tax measures could together raise up to \$950 million in revenue which could be directed to the MBTA.

We must stop corporate profiteering off our public goods. The MBTA should do all it can to exit the wasteful Fare Transformation contract with Cubic and John Laing. Privatization and P3 contracts must be thoroughly and transparently analyzed, taking into account a range of factors related to the public good.

With these changes, we can ensure the MBTA’s fare policies are as fair as possible.

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