



**SACRAMENTO REGIONAL TRANSIT DISTRICT  
SB 1561 OVERSIGHT COMMITTEE MEETING  
A G E N D A**

**Friday, April 10, 2009  
9:00 A.M. – 11:00 A.M.  
REGIONAL TRANSIT AUDITORIUM  
1400 29TH STREET, SACRAMENTO  
(29th Street Light Rail Station/Bus 30, 36, 38, 50E, 67, 68)**

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**ROLL CALL** — Michael Ault, Tim Brown, Linda Budge, Christina DeMoss-Giffin, Ryan Loofbourow, Susan Stieber

**BUSINESS**

1. Information: Introduction of Committee Members and Staff
2. Information: Background and History of SB 1561 (Loneragan)
3. Information: Adopted Bylaws Review and Discussion (Syren)
4. Action: Nominate and Elect Chair and Vice Chair
5. Information: Review and evaluate staff recommended prohibition guidelines order (Sakauye)
6. Information: Discuss Training Program (Sakauye)
7. Calendar: Schedule of future meetings

**PUBLIC ADDRESSES COMMITTEE ON MATTERS NOT ON THE AGENDA\***

**ADJOURN**

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\*NOTICE TO THE PUBLIC

Sacramento Regional Transit District encourages participation in the meetings of this Committee. At each open meeting, members of the public shall be provided with an opportunity to directly address the Committee on items of interest to the public that are within the subject matter jurisdiction of the Committee. Please fill out a speaker card and give it to the RT Staff if you wish to address the Committee.

This agenda may be amended up to 72 hours prior to the meeting being held. An agenda, in final form, is located by the front door of Regional Transit's building at 1400 – 29<sup>th</sup> Street.

Any person(s) requiring accessible formats of the agenda or assisted listening devices/sign language interpreters should contact the Senior Administrative Assistant of the Sacramento Regional Transit District at 916/556-0449 or TDD 916/483-4327 at least 72 business hours in advance of the Committee Meeting.

Copies of staff reports or other written documentation relating to each item of business referred to on the agenda are on file with the Chief Operating Officer of the Sacramento Regional Transit District and are available for public inspection at 1400 29<sup>th</sup> Street, Sacramento, CA. Any person who has questions concerning any agenda item, may call the Senior Administrative Assistant of the Sacramento Regional Transit District at 916/556-0449 to make inquiry.

## SUMMARY - Senate Bill 1561 (Steinberg)

Over the last year, RT has worked with our state lobbyist, Senator Darrell Steinberg and legislative staff on legislation establishing a three-year transit rider exclusion pilot program. On September 28, Governor Schwarzenegger signed and enacted Senate Bill 1561<sup>1</sup> (Steinberg) authorizing additional transit security measures to curb passenger misconduct and reduce nuisance behavior.

Users of public transit have identified passenger misconduct as one of the major issues that impacts the quality of their commute and influences their continued use of bus and light rail service. Beginning January 2009, the law permits the Sacramento Regional Transit District and the Fresno Area Express to exclude<sup>2</sup> passengers whose actions impact the safety and security of passengers and RT's light rail and bus operators.

The newly enacted law is a result of several task force meetings convened at RT's headquarters by Senator Steinberg focused on obtaining consensus from stakeholders through comprehensive discussions related to public safety, transportation, law enforcement, mental health and homelessness.

RT plans to implement the new exclusion rules targeting nuisance behavior by February 2009 after the development of guidelines and advance notice has been given to riders.

In summary, the law authorizes RT to issue a prohibition order to any person cited for committing one or more prohibited acts under various circumstances and prohibiting the person subject to the order from entering RT property, facilities, or vehicles for specified periods of time up to one year. The law establishes notice requirements providing opportunities for administrative review of prohibition orders and establishment of an advisory committee to ensure that transit personnel charged with issuance and enforcement of prohibition orders receive training. The law provides for reasonable notice to transit district riders and requires RT to provide an annual report to the Legislature. The law revises, until January 1, 2012, the authority of all of the persons designated by the RT board to incorporate additional procedures relating to arrest and issuance of citations. Transit prohibition orders can be issued to a person cited from the list of banned behavior at least three times within 60 days. Prohibited riders face a ban lasting up to 30 days or longer<sup>3</sup>. The list of banned behavior includes infractions committed in or on an RT vehicle, bus stop, or station of the transit district, assaulting bus drivers, urinating in public, spraying graffiti and loitering at bus stops.

RT has been involved in several security improvements over the past year. RT Police Services will head an implementation team involving RT's Legal, Community & Governmental Affairs and Marketing departments to ensure the proper development of the new security measures. Below is a list of actions RT will work on prior to a January/February 2009 implementation.

- Develop comprehensive public information campaign to include signage (interior car cards) for buses and light rail vehicles advising and reminding riders of what is acceptable behavior while riding the bus or train
- Develop oversight procedures to monitor appeals process and exclusions
- Design and ordering of exclusion notices
- Training of RT police, transit officers and transit supervisors on exclusion procedures

The enactment of SB 1561 will assist RT's endeavors to provide total quality customer service and sustain increasing ridership levels. Prevention is key in crime reduction and SB 1561 is an excellent preventative tool to provide better transit. The law is a reasonable approach to dealing with passenger misconduct and a good first step that will work to provide an excellent framework for implementation of a future statewide transit security measure in the 2009-2010 legislative session to provide additional effective solutions to address transit passenger misconduct and protect public transit customers in the Sacramento region and throughout the state.

<sup>1</sup> Chapter 528 Statutes of 2008

<sup>2</sup> for a limited time

<sup>3</sup> for chronic offenders and more serious offenses



Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
22	12/08/08	Open	Action	11/19/08

Subject: Approving Adoption of the Bylaws of the Transit Security Advisory Committee (TSAC) and Approving the Delegation of Authority to the General Manager/CEO to Appoint Members to the TSAC.

**ISSUE**

Whether or not to approve the adoption of bylaws for the Transit Security Advisory Committee (TSAC) and approving the delegation of authority to the General Manager/CEO to appoint members to the TSAC as a part of the implementation of Senate Bill 1561 (S.B. 1561).

**RECOMMENDED ACTION**

Adopt Resolution No. 08-12-\_\_\_\_\_, Approving Adoption of the Bylaws of the Transit Security Advisory Committee (TSAC) and Approving the Delegation of Authority by the Board of Directors to the General Manager/CEO to Appoint Members to the TSAC.

**FISCAL IMPACT**

There is no fiscal impact associated with this action. TSAC members are not compensated for their time or expenses and staff support will be provided by existing RT staff.

**DISCUSSION**

S.B. 1561 (Chapter 528, Statutes of 2008) provides RT with limited authority to issue prohibition orders excluding certain violators from using RT's service or being on RT property for specified violations of law. This bill grants this authority to RT for a three year trial period; the authority sunsets at the end of 2011 in the absence of subsequent legislative action.

As part of the implementation of S.B. 1561, the bill requires the formation of an advisory committee with specific membership requirements and responsibilities enumerated in the law. These requirements are summarized as follows:

1. The purpose of the advisory committee is to evaluate the procedures for the issuance of prohibition orders and recommending a course of training for personnel charged with the issuance and enforcement of those orders.
2. Provide reasonable notification to riders that persons engaged in disorderly conduct may be subject to a prohibition order.
3. The committee needs to be composed of at least five members with at least one of the members with experience working with individuals with psychiatric, developmental, or other disabilities, and at least one of the members who is a youth advocate.

Approved:

*Michael R. Wiley*  
 General Manager/CEO

Presented:

*[Signature]*  
 Chief Operating Officer



# REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
22	12/08/08	Open	Action	11/19/08

Subject: Approving Adoption of the Bylaws of the Transit Security Advisory Committee (TSAC) and Approving the Delegation of Authority to the General Manager/CEO to Appoint Members to the TSAC.

4. The committee will provide recommendations, in consultation with the county mental health director, regarding the type and extent of training that should be undertaken for issuance and enforcement of prohibition orders with a particular emphasis on training designed to assist those individuals in identifying and interacting with persons who are homeless or have psychiatric, developmental, or other disabilities.
5. Identifying services or programs to which those who are homeless or have psychiatric, developmental, or other disabilities can be referred.
6. Monitoring the issuance of prohibition orders to ensure compliance with Section 51 of the Civil Code.
7. Provide the Board of Directors and the Legislature with an annual report summarizing the number of prohibition orders issued during the proceeding year, including the number of citations by category, the number of exclusion orders appealed, the appeals granted, the reasons appeals were granted, and any other relevant information directly related to those prohibition orders.

Staff has drafted bylaws to establish the TSAC committee and is requesting that the Board approve these bylaws. In addition, the Board is asked to delegate authority to the General Manager/CEO to make appointments to the committee consistent with the membership requirements contained in the law.

RESOLUTION No. 08-12- 0172

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

December 8, 2008

**APPROVING ADOPTION OF THE BYLAWS OF THE TRANSIT SECURITY  
ADVISORY COMMITTEE (TSAC) AND APPROVING THE DELEGATION OF  
AUTHORITY BY THE BOARD OF DIRECTORS TO THE GENERAL MANAGER/CEO  
TO APPOINT MEMBERS TO THE TSAC**

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE  
SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:


THAT, the Bylaws of the Transit Security Advisory Committee (TSAC), as set forth  
in Exhibit A, are hereby approved.

THAT, the Board of Directors hereby delegates authority to the General  
Manager/CEO to make the appointment of members to the TSAC, as set forth in the  
Bylaws, and as required by Public Utilities Code Section 99172.

  
ROBERTA MACGLASHAN, Chair

ATTEST:

MICHAEL R. WILEY, Secretary

By:   
Cindy Brooks, Assistant Secretary

## Exhibit A

### Sacramento Regional Transit District (RT)

### SB 1561 Implementation Advisory Committee

#### BYLAWS

##### ARTICLE I – NAME

The name of this committee shall be TRANSIT SECURITY ADVISORY COMMITTEE, "TSAC".

##### ARTICLE II – OBJECT

This committee shall serve to provide recommendations to the RT Board of Directors and RT staff. The purpose of the committee is to evaluate the procedures for and issuance of prohibition orders and recommend a course of training for personnel charged with issuance and enforcement of prohibition orders.

Specifically, in accordance with Section 99172 of the Public Utilities Code, the TSAC shall:

1. Provide recommendations, in consultation with the County Mental Health Director, regarding the type and extent of training that should be undertaken by individuals with responsibility for issuance and enforcement of prohibition orders, with an emphasis on training designed to assist in identifying and interacting with persons who are homeless or who have psychiatric, developmental, or other disabilities;
2. Identify, in consultation with the County Mental Health Director, services and programs to which persons who are homeless or who have psychiatric, developmental, or other disabilities may be referred by transit district personnel prior to or in conjunction with issuance of a prohibition order;
3. Monitor the issuance of prohibition orders to assist RT in ensuring compliance with Section 51 of the Civil Code; and
4. Provide RT's Board of Directors and the California State Legislature with an annual report summarizing the number of prohibition orders issued by RT during the proceeding year, including, but not limited to, the types and numbers of citations by category, and the number of exclusion orders appealed, the appeals granted, the reasons granted, and other relevant information directly related to those orders.



## ARTICLE III – MEMBERS

Section 1. Maximum Membership. The membership of this Committee shall be composed of no less than five (5) and no greater than seven (7) representatives. Each member shall be appointed by the RT General Manager/CEO.

Section 2. Membership Representation.

Representation will be composed of the following categories:

- A. Mental Health Representative: At least one (1) member with experience working with individuals with psychiatric, developmental, or other disabilities.
- B. Youth Advocates Representative: At least one (1) member with experience as a youth advocate within the Sacramento region.
- C. At-Large Representatives: There shall be three (3) to five (5) representatives, preferably users of the RT system.

Section 3. Resignations. Any member may resign by filing a written resignation with the General Manager/CEO.

Section 4. Term of Membership. The term of each member shall be three (3) years.

Terms shall begin on January 1, 2009 and end on December 31, 2012. Members may be considered for re-appointment if the term of Section 99172 of the Public Utilities Code is extended. RT's General Manager/CEO will establish a nomination and appointment process.

Section 5. Removal of Members. RT's General Manager/CEO may remove any member of the TSAC with or without cause.

Section 6. Appointment of Vacancies. In the event of a vacancy, the RT General Manager/CEO shall appoint a replacement member to fill the term of the vacancy.

## ARTICLE IV – OFFICERS

Section 1. Officers and Duties. The officers of the TSAC shall be a Chair and a Vice Chair. These officers shall perform the duties prescribed by these Bylaws and by the parliamentary authority adopted by the TSAC. The officers may serve as liaisons to the RT Board of Directors.

- A. Chair. The TSAC shall elect from its membership a Chair who shall preside at all meetings of the TSAC. The Chair or his or her designee shall act as the primary spokesperson for the TSAC and will perform such other duties applicable to the office as prescribed by the parliamentary authority adopted by the TSAC.

- B. Vice Chair. The Committee shall elect from its membership a Vice Chair who, in the absence or inability of the Chair to serve, shall have all of the powers of the Chair and shall perform all of those duties. The Vice Chair will perform such other duties from time to time as may be requested by the Chair.

Section 2. Nomination Procedure. At the first regular Committee meeting, a Chair and Vice Chair shall be selected. It shall be the duty of this Committee to nominate candidates who are members of the TSAC for the officers of Chair and Vice Chair.

Section 3. Election of Officers. The Chair and Vice Chair shall be elected by majority vote to serve for one (1) year. Those elected may serve beyond one (1) year if successors have not been elected.

Section 4. Removal. The Chair or Vice Chair can be removed from office upon a vote of two-thirds of the TSAC. The removal vote shall be by secret ballot.

#### ARTICE V – MEETINGS

Section 1. Committee Meetings. Regular meetings will be held as frequently as necessary to achieve the objectives set forth in Section II above, but in no event shall the committee hold less than 4 regular meetings in a calendar year. Notice of the times and locations of the meetings will be set by the RT staff liaison at least 72 hours prior to the meeting.

Section 2. Special Meetings. Special meetings may be called at any time by the Chair or by a majority of the TSAC members. RT staff will provide written notice required for all special meetings, with such notice posted at least 24 hours before the meeting. Only those matters identified by the notice may be discussed by the Committee at a special meeting.

Section 3. Meetings Open to the Public. All regular and special meetings of the TSAC shall be conducted in accordance with the requirements of the Ralph M. Brown Act (Government Code §54950 et seq.). Meeting agendas shall be posted by RT staff in a public place and distributed to all members at least 72 hours before the meeting for regular meetings and 24 hours before the meeting for special meetings.

Section 4. Quorum. A majority of the members then appointed to the TSAC shall constitute a quorum for the purposes of conducting business.

Section 5. Voting. Each member of the TSAC has a single vote.

Section 6. Actions. All actions of the TSAC shall be by motion passed by a majority of the members present and voting.

Section 7. Adjournment. The TSAC may adjourn any meeting to a time and place specified in the motion of adjournment, but not beyond the next regular meeting, if any.



## ARTICLE VIII – LIAISON WITH RT

There shall be an ongoing liaison between RT staff and the TSAC. The RT General Manager/CEO shall designate an RT staff person to serve as liaison. The staff liaison shall prepare meeting notices, agendas, and minutes as required. RT staff shall provide information, technical assistance, and facilitation assistance during all TSAC meetings. The RT staff liaison shall serve as the custodian of records.

## ARTICLE IX – PARLIAMENTARY AUTHORITY

The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the TSAC in all cases to which they are applicable and in which they are not inconsistent with these Bylaws and any special rules of order the TSAC may adopt.

## ARTICLE X – AMENDMENT OF BYLAWS

These Bylaws may be amended or repealed at any time by majority vote of the RT Board of Directors after consultation with, or by recommendation of, the TSAC.

## ARTICLE XI – TERM OF COUNCIL

The TSAC shall remain in existence until discharged by action of the RT Board of Directors or the sunset of Section 99172 of the Public Utilities Code.

## **SRTD ADMINISTRATIVE RULES**

### **Issuance and Processing of Exclusions**

The following Administrative Rules (Rules) shall govern the issuance and processing of prohibition orders by Sacramento Regional Transit District (RT), in accordance with RT's Administrative Code, Title XII, and Public Utilities Code (PUC) §99171.

Nothing in these Rules or the existence of these Rules shall prevent RT from taking any lawful steps to protect its employees, passengers and the RT Transit System. Specifically, nothing in these Rules affects the right of RT or law enforcement to request the immediate departure of any person posing a safety threat to system users, RT personnel or any other persons, or is in violation of any provision of criminal law or RT's administrative rules or procedures. Further, nothing in these Rules affects the right of law enforcement to accomplish the forceful removal of any person posing an imminent threat, so long as the law authorizes such action.

#### **A. DEFINITIONS.**

As used in these Rules, the following terms shall mean:

Business Day. The term "business day" shall mean Monday through Friday, with the exception of RT Holidays: Christmas Day, New Years Day, Martin Luther King Jr.'s birthday, Thanksgiving Day, Labor Day, Memorial Day and Independence Day. When the last business day of any time period set forth in these Rules falls on an RT Holiday, an additional day shall be added to any time provisions set forth in these Rules by virtue of the holiday, excluding all weekend days.

Calendar Day. The term "calendar day" shall include all week days. However, when a calendar day falls on the following holidays: Christmas Day, New Years Day, Martin Luther King Jr.'s birthday, Thanksgiving Day, Labor Day, Memorial Day and Independence Day an additional day shall be added to any time provisions set forth in these Rules by virtue of the holiday.

Exclusion Administrator. The term "Exclusion Administrator" shall include all RT employees appointed by the General Manager to conduct an initial review of a Prohibition Order issued pursuant to these Rules.

Exclusion Officer. The term "Exclusion Officer" includes all RT employees or agents authorized to issue Prohibition Orders under these Rules, including but not limited to, RT Transit Officers, Transit Officer Supervisors, Transportation Supervisors, or a sworn peace officer.

Transit Dependent. The term "Transit Dependent" means a person who has no independent source of transportation and relies solely on public transit for trips of

necessity, including but not limited to, travel to and from medical or legal appointments, school or training classes, places of employment, or obtaining food, clothing and necessary household items.

Transit System. The term "Transit System" shall include the property, vehicles, equipment and improvements of whatever nature, owned, leased, maintained, controlled or operated by RT to provide mass transportation for passengers or to provide for the movement of people, and includes any RT vehicle, bus stop, light rail station, parking facility, light rail vehicle, trackway and RT right of way.

## **B. ISSUANCE OF PROHIBITION ORDER.**

### **1. Authority for Prohibition Order**

RT may exclude an individual from any or all parts of the RT Transit System, as permitted by Public Utilities Code ("PUC") §99171 or other applicable law. In accordance with this authority, a person subject to a prohibition order may not during the period of exclusion, enter or remain upon any part of the RT Transit System from which the person is excluded, except as permitted by the terms of the prohibition order or by applicable law.

A Notice of Prohibition Order may be issued by any authorized person that has received training from RT, as required by PUC §99171 and Title XII of RT's Administrative Code; including, but not limited to, law enforcement officers, RT Transit Officers/Supervisors, and RT Transportation Supervisors (collectively "exclusion officers").

### **2. Designation of Violations Eligible for Prohibition Order.**

The violations eligible for a Prohibition Order and the corresponding length of exclusion is established by PUC §99171. A Prohibition Order may be issued to any person who:

- (A) On at least three (3) separate occasions within a period of sixty (60) consecutive days, is cited for an infraction committed in or on the Transit System for any act that constitutes a violation of any of the following:
  - (1) *Public Utilities Code §99170(a)(2)* - Interfering with the operator or operation of a transit vehicle, or impedes the safe boarding or alighting of passengers.
  - (2) *Public Utilities Code §99170(a)(5)* – Committing any act or engaging in any behavior that may, with reasonable foreseeability, cause harm or injury to any person or property.
  - (3) *Penal Code §640(b)(6)* - Willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior.
  - (4) *Penal Code §640(b)(7)* – Carrying an explosive or acid, flammable liquid, or toxic or hazardous material in a public transit facility or vehicle.



(5) *Penal Code §640(b)(8)* – Urinating or defecating in a system facility or vehicle, except in a lavatory. (This section does not apply to a person who cannot comply with this section as the result of a disability, age or medical condition.).

(6) *Penal Code §640(b)(9)* – Willfully blocking the free movement of another person in a system facility or vehicle.

(7) *Penal Code §640.5(a)(1)* – Defacing with graffiti or other inscribed material the interior or exterior of the facilities or vehicles of a public transportation system.

**OR**

- (B) The person is arrested or convicted for a misdemeanor or felony committed in a vehicle, bus stop, or light rail station of the transit district for acts involving violence, threats of violence, lewd or lascivious behavior, or possession for sale of a controlled substance.

**OR**

- (C) The person is convicted of a violation of one of the following offenses:
- (1) *Health and Safety Code §11532(a)* – Loitering in a public place in a manner and under circumstances manifesting an intent to engage in drug-related activity.
  - (2) *Penal Code §653.22 (a)* – Loitering in a public place with the intent to commit prostitution.

**3. Length and Scope of Exclusions**

The length of any Prohibition Order shall be no greater than those permitted under PUC §99171(a)(2).

- (A) If issued pursuant to section 2.(A) above, the period of exclusion shall be:
- (1) For a period not to exceed thirty (30) days for the first prohibition order,
  - (2) For a period not to exceed 90 days for the second prohibition order issued within a rolling one year period; and
  - (3) For a period not to exceed 180 days for a third or subsequent prohibition order issued within a rolling one year.
- (B) If issued pursuant to section 2.(B)or(C) above, the period of exclusion shall be:
- (1) Thirty (30) days if issued pursuant to an arrest.

- (2) Upon conviction of a misdemeanor, the Prohibition Order may be extended for an additional period not to exceed a total of 180 days when added to the initial period of exclusion.
- (3) Upon conviction of a felony, the Prohibition Order may be extended for a period not to exceed one year, when added to the initial period of exclusion.

A Notice of Prohibition Order shall identify the violation supporting the exclusion and must state the length of exclusion. No person is permitted to vary the length of exclusion, except:

- a. In accordance with the findings of the Exclusion Administrator or the Hearing Officer. The Exclusion Administrator or the Hearing Officer may vary the length or scope of exclusion in accordance with his or her authority.
- b. In response to changed conditions. The Exclusion Administrator or the Hearing Officer may modify a prohibition order.
- c. In response to a finding by the Exclusion Administrator or the Hearing Officer, that exclusion is not warranted or does not comport with RT policy. The Exclusion Administrator or the Hearing Officer may invalidate or modify a prohibition order, based upon a review of all the facts and circumstances, as provided in these Rules.

#### **4. Enforcement Requirements**

##### **a. Sufficiency of Facts and Cause for Citation or Exclusion**

All citations and exclusions issued for prohibited conduct must be based upon probable cause. In determining whether there is enough evidence to justify a prohibition order or citation, peace officers and exclusion officers may rely upon facts resulting from their own personal observations or reliable facts provided by witnesses or others.

##### **b. Notice of Exclusion**

Every person alleged to have engaged in conduct prohibited by PUC §99171(a)(1)(A)-(C) and sought to be excluded for such a violation(s), shall be issued a Notice of Prohibition Order. The Notice of Prohibition Order to be used for exclusions is incorporated by reference and attached hereto as Exhibit A.

The exclusion officer alleging the violation shall complete the Notice of Prohibition Order in its entirety and must provide a copy of the notice to the individual sought to be excluded.

In order to be deemed valid, the Notice of Prohibition Order must accurately denote the violating conduct and reference the applicable provision or statute that was violated, in accordance with PUC §99171(a).

The Notice of Prohibition Order may be issued to the person sought to be excluded contemporaneously with the course of conduct supporting the exclusion or at some time period after the violating conduct has occurred. When the Notice of Prohibition Order is issued to the person sought to be excluded at some time period after the violating conduct has occurred, the Notice of Prohibition Order must be personally served upon the person sought to be excluded as set forth in PUC §99171 (b)(2)(A)-(C). Service may be accomplished by in-person delivery, registered mail, overnight delivery (with confirmation of delivery) or any other means agreed to by RT and the person being served.

At no time may a Notice of Prohibition Order be served to a person sought to be excluded more than six (6) months after the violating conduct has occurred, unless agreed to in writing by the person being served.

Service of the Notice of Prohibition Order shall be deemed to be complete on one of the following dates:

- (1) On the date of delivery, if delivered in person.
- (2) On the date of confirmed delivery, for any delivery by mail.
- (3) For any alternative method of service, as provided in writing specifying the alternative method.

Proof of service shall be filed with the RT Exclusion Administrator.

## **5. Multiple Penalties**

An exclusion will not be issued for the same act or omission committed by a single person during a single interaction. However, multiple citations, or a citation and a prohibition order, may be issued to a single person who during a single interaction engages in multiple acts or omissions that constitute violations of RT's Administrative Code or those acts delineated in PUC §99171(a)(1)(A)-(C). The issuance of a citation or Notice of Prohibition Order to a person shall not prevent the arrest, prosecution or conviction of that person for violation of criminal laws for the same or different act or omission.

## **6. Stay of Prohibition Order.**

In accordance with PUC 99171(b)(6), all prohibition orders will be subject to an automatic stay of ten (10) calendar days following the date of service. Thus, exclusions will not take effect until the eleventh (11th) calendar day following the date of issuance, or if review has been requested, the date on which the Exclusion Administrator or Hearing Officer's final order takes effect in accordance with review process set forth in these Rules, but no less than eleven (11) calendar days after service of the final order.



## C. REVIEW AND APPEAL PROCEDURES

### 1. Initial Review of Notices of Prohibition Order

Every Prohibition Order issued by an exclusion officer shall be subject to the review of an RT Exclusion Administrator. An Exclusion Administrator shall review each Notice of Prohibition Order to determine whether (a) the Notice of Prohibition Order is filled out completely and in a manner that permits a determination of validity; (b) whether the Notice of Prohibition Order conforms to these Rules, (c) whether the sufficiency of the narrative support submitted by the issuing officer warrants further review, and (d) whether the exclusion has been issued to a person not eligible for a complete exclusion under the circumstances outlined in Section 9 of these Rules.

An initial review may be requested by the person issued a Notice of Prohibition Order within ten (10) days after personal service to an RT Exclusion Administrator. The request may be made by telephone **(916)556-0165**, in writing to **P.O. Box 2110, Sacramento, CA 95812-2110**, or in person at: **1400 29<sup>th</sup> Street, Sacramento, CA**.

The RT Exclusion Administrator shall determine the following:

- a. Whether the prohibition order meets the requirements of subdivision (a) of PUC §99171; and
- b. Unless the person has been convicted of the offense or offenses, whether the offense or offenses for which the person was cited or arrested are proven by a preponderance of the evidence.

If the Exclusion Administrator determines, based on the initial review, that the prohibition order is not adequately supported or that extenuating circumstances make dismissal of the Prohibition Order appropriate in the interests of justice, the Exclusion Administrator shall cancel the notice. The Exclusion Administrator shall cancel a prohibition order if it determines that the person did not understand the nature and extent of his or her actions or did not have the ability to control his or her actions. The cancellation of a Prohibition Order shall be effective immediately and the excluded person may continue to use the RT Transit System subject all rules and regulations regarding its use.

However, if the Exclusion Administrator determines that the Prohibition Order is valid, either in whole or in part, the Exclusion Administrator shall issue a written statement to that effect and may include any modification to the period or scope of the Prohibition Order.

If the Exclusion Administrator determines that the person is dependent upon the transit system for trips of necessity, including, but not limited to, travel to or from medical or legal appointments, school or training classes, places of employment, or obtaining food, clothing, and necessary household items, the Exclusion Administrator shall modify the Prohibition Order to reasonably allow for those trips under the

conditions established by the Exclusion Administrator. Any person entitled to such a modification of the prohibition order shall remain subject to all applicable laws, rules and regulations regarding the use of the Transit System, including but not limited to, providing proof of fare payment.

The burden of proof to establish the conditions for cancellation or modification, as provided above, is on the party seeking the cancellation or modification. The party seeking to establish the qualifying circumstances must do so by a preponderance of the evidence.

The Exclusion Administrator shall serve the results of the initial review to the person contesting the notice by personal service. This decision shall become final after the expiration of ten (10) days after service, unless the person is dissatisfied with the results of the initial review and requests an administrative hearing within the ten (10) days. The excluded individual shall be entitled to further review in the form of a hearing as provided below.

## **2. Right to an Appeal Hearing following the Initial Review.**

Every person issued a Notice of Prohibition Order is entitled to a hearing as a matter of right. The purpose of the hearing is: (a) to review and determine whether the evidentiary basis for issuance of the prohibition order is sufficient as a matter of law; (b) to determine whether the length and scope of the exclusion is commensurate with the nature of the violation; (c) to render a finding on whether it is more probable than not that the individual engaged in conduct justifying the exclusion; (d) consider any mitigating and aggravating factors relevant to the scope and length of the exclusion; (e) and issue a final decision to sustain, modify, or set aside a Notice of Prohibition Order. All persons receiving a prohibition order shall receive notice of their right to a hearing on the Notice of Prohibition Order.

## **3. Initiation of Hearing Proceedings**

An individual who has received a Notice of Prohibition Order following an initial review, must contact RT by 5:00 p.m. no later than the tenth (10th) calendar day following service of the Exclusion Administrator's decision in order to request a hearing. The Exclusion Administrator may be reached as follows:

By phone at: (916) 556-0165;

In writing to: P.O. Box 2110, Sacramento, CA 95812-2110

Or in person at: 1400 29<sup>th</sup> Street, Sacramento, CA

The request may be made by phone, in writing or in-person, but must be received by the Exclusion Administrator by the tenth (10th) calendar day following the date of personal service of the Exclusion Administrator's decision. An individual requesting a hearing need not demonstrate cause for the hearing, and the Exclusion Administrator shall immediately forward a copy of the Notice of Prohibition Order and any supporting documentation to the designated Hearing Officer.

The Hearing Officer, or his/her designee, will contact the individual by phone or mail to schedule a hearing within three (3) business days of receipt of the Notice of Exclusion. The Hearing Officer shall provide notice to the exclusion officer that issued the Notice of Prohibition Order of the date and time of the hearing in accordance with the Hearing Officer's procedures for issuing such notice.

The person requesting the hearing shall have the choice of a hearing by mail or in person. An in-person hearing shall be conducted at a location selected by the Hearing Officer, within the boundaries of the RT.

#### **4. Scheduling of Hearings**

- a. **Hearing Date:** Each hearing shall be scheduled directly with the Hearing Officer or his/her designee within thirty (30) calendar days of the request. To the extent possible, the Hearing Officer shall make every attempt to schedule each hearing at a time that is convenient for appearance by the excluded individual, RT, and any witnesses, including exclusion officers. All hearings shall be scheduled on a weekday, Monday through Friday, during normal business hours.
- b. **Continuance:** The Hearing Officer may grant one continuance, on its own motion or the motion of one of the Parties, of no more than seven (7) calendar days. The Hearing Officer has the sole discretion to grant or deny a continuance. Further, the Hearing Officer has the discretion to impose a stay, pending the later hearing date.

#### **5. Treatment of Evidence**

In conducting a hearing and reaching a decision, the Hearing Officer may rely upon any evidence that a reasonable person would rely upon in making an important decision or conducting personal business. Hearsay is admissible, except where its admission would offend due process. The Hearing Officer shall have the authority to compel testimony or evidence deemed necessary; in the Hearing Officer's sole discretion, to a fair decision. The Hearing Officer may receive testimony concerning the interpretation of the RT Code or Administrative Rules from any RT representative.

The notice of prohibition order shall be prima facie evidence of the violation or violations pursuant to PUC 99171(a) establishing a rebuttable presumption affecting the burden of producing evidence. The person who issued the notice of prohibition order shall not be required to participate in an administrative hearing, unless their participation has been requested by the person requesting the hearing no less than five (5) calendar days prior to the hearing. Requests for such participation shall be made to the Hearing Officer by telephone, in writing or in person through the Exclusion Administrator.



## **6. Statement of Rights by Hearing Officer**

The Hearing Officer shall advise all parties, through written correspondence or personally when parties appear for the hearing, of the following rights:

- Hearings shall be informal and shall be conducted so as to facilitate the parties' ability to present their respective positions to the Hearing Officer. RT shall present its reasons for the exclusion first, and then the person contesting the exclusion shall present his or her reasons in support of rescission or modification of the exclusion.
- The Hearing Officer may question the parties and witnesses, and shall review all evidence submitted by the parties.
- The hearing shall be electronically recorded.
- An aggrieved party has the right to seek Administrative Mandamus from the Sacramento County Superior Court.
- A party has the right to representation by an attorney at their sole cost.
- RT has the burden of proof, based upon a presentation of substantial evidence, to establish that it is more probable than not that the conduct justifying the exclusion occurred and that no factors are present to nevertheless warrant setting aside the exclusion.

## **7. Length and Scope of Exclusions**

The length and scope of prohibition order shall be determined in light of all the facts and circumstances giving rise to the exclusion. After consideration of the evidence presented, the Hearing Officer may sustain the exclusion, modify the exclusion or set aside the exclusion. The Hearing Officer shall make a finding on whether it is more probable than not that the excluded individual engaged in the conduct supporting the exclusion. In addition, the Hearing Officer shall consider any mitigating or aggravating factors in determining the appropriate scope and length of the exclusion, that the Hearing Officer determines relevant, in his or her sole discretion.

If the Hearing Officer determines that the exclusion will be sustained but the scope or length of the exclusion is not commensurate with the seriousness of the violation, the Hearing Officer may modify the exclusion. An order modifying the exclusion should discuss the Hearing Officer's basis for the modification of the exclusion, including a discussion of findings related to the factors listed above.

## **8. Final Order by the Hearing Officer**

Within five (5) business days following the conclusion of a hearing, the Hearing Officer shall issue a final Order setting forth all findings and a decision on the exclusion, unless issuance of a final order within five (5) business days is not practicable. If a final order cannot be issued within five (5) business days of the hearing, the Hearing Officer shall extend the stay on the exclusion until the final order

is effective. The Hearing Officer's decision following the administrative hearing shall be delivered by personal service.

The Final Order shall set forth the findings of the Hearing Officer and the basis for such findings. If the Final Order sustains or modifies the Notice of Exclusion, the Final Order shall clearly set forth the period of exclusion, including the exact starting and ending date. The Final Order shall notify the person excluded of the right to seek judicial review with the Sacramento Superior Court within 90 days of delivery by personal service. The Final Order shall be effective ten (10) days after personal service.

## **9. Circumstances Affecting the Applicability of Exclusions**

If the Hearing Officer determines that RT has established that the violation was more probable than not, and that consideration of the factors justifies sustaining the exclusion, the Hearing Officer must nevertheless modify or set aside the exclusion in the circumstances defined below. Any person asserting the right to a qualified prohibition order on the basis of the factors set forth below shall have the burden of establishing their applicability by a preponderance of the evidence.

### **a. Exclusions Issued to Disabled Persons**

An individual with a disability shall not be issued a complete exclusion from the RT Transit System unless the person engaged in violent, seriously disruptive or criminal conduct, or in conduct posing a serious threat to the safety of others or to the operation of the transit system. Absent such a finding, if a Hearing Officer determines that a violation was more probable than not, the Hearing Officer shall order a qualified prohibition order to permit an individual with a disability to use the system for trips of necessity (e.g., travel to and from medical and legal appointments, school or training classes, places of employment, obtaining food, clothing and necessary household items, or for accessing any critical services.).

### **b. Exclusions Issued to Transit Dependent Persons**

A transit dependent person shall not be issued a complete exclusion from RT's Transit System unless the person engaged in violent, seriously disruptive, or criminal conduct, or in conduct posing a serious threat to the safety of others or to the operation of the transit system. Absent such a finding, if a Hearing Officer determines that a violation was more probable than not, the Hearing Officer shall order a qualified prohibition order to permit a transit dependent person to use the system for trips of necessity (e.g., travel to and from medical and legal appointments, school or training classes, places of employment, obtaining food, clothing and necessary household items, or for accessing any critical services.).

### **c. Exclusions Issued Based Upon Expressive Conduct or Exercise of Religious Opinion**

A person issued a Notice of Exclusion for conduct determined to be expressive conduct protected by the First Amendment to the U.S. Constitution, shall not be excluded on the basis of such conduct. If the Hearing Officer finds that a violation was more probable than not, but also finds that the conduct involved expressive conduct or the expression of a religious opinion, the Notice of Prohibition Order shall be set aside, unless the Hearing Officer also finds that the effect of the conduct endangered public safety, disrupted service, or interfered with transit operations. For the purposes of this paragraph, the parameters of the free expression and religious protections afforded under this paragraph shall be coextensive with constitutional guarantees.

#### **10. Treatment of Persons Who Do Not Provide a Mailing Address**

If a person issued a Notice of Prohibition Order cannot, or will not, provide a mailing address at the time of issuance by an exclusion officer, a Notice Letter from an Exclusion Administrator, correspondence from the Hearing Officer, and any other documents concerning the Prohibition Order, shall be made available for pick-up at RT's administrative offices: **provide address**. If at any time during the pendency of a hearing, an excluded individual, or his or her representative, designates an address for mailing, any correspondence or documents produced subsequent to the date of the request shall be mailed to the address designated by the individual. If an individual is represented by counsel in the exclusion proceedings, all written materials shall be provided to the individual's attorney, at the attorney's mailing address.

An excluded individual without a mailing address may personally appear at the RT administrative offices, to request a hearing, or any other process to which the individual is entitled.

#### **11. Effect of Failure to Provide an Address.**

When a person receiving a Notice of Prohibition Order is not able, or refuses, to provide a mailing address at the time of issuance, the Notice of Prohibition Order shall set forth the procedure for picking up any letters, notices or orders produced by an Exclusion Administrator or Hearing Officer, in a manner that is consistent with these Rules.

#### **12. Appointment of Hearing Officer**

The General Manager shall appoint one or more Hearing Officer(s) based on the individuals qualifications, training and objectivity. Hearing Officers may be RT employees or agents, however, the Hearing Officers continued service, performance, evaluation, compensation, and benefits, as applicable, shall not be directly or indirectly linked to his or her findings related to the number of prohibition orders upheld by the Hearing Officer.

#### **D. WRIT OF ADMINISTRATIVE MANDAMUS**

All decisions issued by the Hearing Officer shall be subject to judicial review by the Sacramento Superior Court as provided by Code of Civil Procedure §1094.6. Judicial review must be filed within 90 calendar days of the delivery of the decision of the Hearing Officer by personal service.

Any judicial review proceedings shall not stay the effective date of the Prohibition Order, unless so ordered by a Judge of the Superior Court.

Any and all costs, fees or other expenses related to judicial review shall be born by each party, unless otherwise ordered by the Superior Court.

#### **E. REQUEST FOR REFUND OF FARE MEDIA.**

A person issued a prohibition order under PUC §99171(a) may, within ten (10) calendar days of the date the order goes into effect, request a refund for any prepaid fare media rendered unusable in whole or in part by the prohibition order. The request for refund should be made in writing to the Exclusion Administrator.

If there is a balance of useable fare media of one or more days following the period of the prohibition order, the refund shall be prorated based on the number of days the fare media will be unusable. The issuance of any refund shall be subject to the surrender of the fare media.

## When Can We Exclude Per SB 1561?

On at least [three separate occasions within a period of 60 consecutive days](#), the person is cited for an infraction committed in or on a vehicle, bus stop, or light rail station of the transit district for any act that is a violation of:

99170(a)(2) PUC - Interfere with the operator or operation of a transit vehicle, or impede the safe boarding or alighting of passengers.

99170(a)(5) PUC - Commit any act or engage in any behavior that may, with reasonable foresee ability, cause harm or injury to any person or property.

640(b)(6) PC- Willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior.

640(b)(7) PC- Carrying an explosive or acid, flammable liquid, or toxic or hazardous material in a public transit facility or vehicle.

640(b)(8) PC- Urinating or defecating in a system facility or vehicle, except in a lavatory. However, this paragraph shall not apply to a person who cannot comply with this paragraph as a result of a disability, age, or a medical condition.

640(b)(9)(A) PC - Willfully blocking the free movement of another person in a system facility or vehicle.

640.5(a) (1) PC - Any person who defaces with graffiti or other inscribed material the interior or exterior of the facilities or vehicles of a....

### OR

(B) The person is [arrested or convicted for a misdemeanor or felony](#) committed in or on a vehicle, bus stop, or light rail station of the transit district for acts involving violence, threats of violence, lewd or lascivious behavior, or possession for sale or sale of a controlled substance.

### OR

(C) The person is [convicted](#) of a violation of:

11532(a) H&S - It is unlawful for any person to loiter...intent to engage in drug-related activity...

### OR

653.22 PC - (a) It is unlawful for any person to loiter in any public place with the intent to commit prostitution...





# Senate Bill 1561 Training Outline

## DRAFT 04-03-09

- PURPOSE
- HISTORY
- LAW
  - Legislative Intent (Author's Concerns)
- IMPLEMENTATION TIMELINE
- COMMITTEE
- CITATION PROCESS
  - Who can cite
- TRACKING AND DOCUMENTATION
- APPEAL PROCESS
- REPORT BACK TO THE BOARD AND LEGISLATURE
- DEALING WITH THE HOMELESS AND MENTALLY ILL
- YOUTH ISSUES