

# REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
3	02/10/14	Open	Action	02/04/14

Subject: Delegating Authority to the General Manager/CEO to Enter Into a Reimbursement Agreement with the California Transit Association

## ISSUE

Whether to delegate authority to the General Manager/CEO to enter into a Reimbursement Agreement with the California Transit Association (CTA).

## RECOMMENDED ACTION

Adopt Resolution No. 14-02-\_\_\_\_\_ Delegating Authority to the General Manager/CEO to Enter into a Reimbursement Agreement with the California Transit Association.

## FISCAL IMPACT

RT is incurring significant costs in litigating the Section 13(c)/PEPRA issue which resulted in RT's loss of federal funding eligibility in 2013 and jeopardized the federal funding of most other transit districts in California as well. This agreement would reimburse RT for a portion of its costs related to that litigation.

## DISCUSSION

In September of 2012, the California Legislature enacted the Public Employees Pension Reform Act of 2013 ("PEPRA"), which restructured public pensions and imposed certain requirements on public agencies, such as RT, and affecting their pension systems. In reviewing RT's eligibility for several pending federal grant applications, the United States Department of Labor ("USDOL") preliminarily concluded that PEPRA precluded compliance with a legal requirement imposed on grant recipients such as RT by Section 13(c) of the Federal Transit Act. As a result, USDOL withheld approval of RT's grant funds throughout 2013, culminating in its final determination on September 4, 2013 that it could not certify RT's eligibility for federal funding because RT's obligations under PEPRA made it non-compliant with Section 13(c).

USDOL was poised to make similar determinations on pending grant applications from many other California transit agencies.

With over \$1 billion in federal transit funds for California transit agencies at risk, the Legislature enacted urgency legislation on September 27, 2013 to temporarily exempt California transit employees from PEPRA. This legislation, Assembly Bill 1222 (Dickinson/Bloom), was signed by Governor Brown on October 4, 2013. However, while this temporary exemption allowed the release of federal transit funds, the underlying dispute over the effect of PEPRA on Section 13(c) compliance remains an open question. Accordingly, AB 1222 made the duration of this exemption contingent on the outcome of federal court litigation reviewing USDOL's determination regarding PEPRA and its interplay with the grant obligations of Section 13(c). Absent a court

Approved:

Presented:

Final 02/05/14

General Manager/CEO

Chief Counsel

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ruling setting aside the USDOL determination, the temporary AB 1222 exemption expires by its own terms on January 1, 2015.

Consistent with AB 1222, RT and the State of California filed a lawsuit in the United States District Court in Sacramento challenging USDOL’s denial of certification of California transit grants based on the alleged impacts of PEPR. This case, *State of California, et al. v. US Department of Labor et al.*, U.S. District Court, Eastern District of California, Sacramento Division, Case No. 2:13-CV-02069-KLM-DAD, was file on October 4, 2013.

The California Transit Association acknowledges the significance of the litigation and its impact on its member transit agencies and has agreed to reimburse RT for a portion of the litigation expenses incurred by RT pertaining to this case.

Staff recommends the Board delegate authority to the General Manager/CEO to enter a Reimbursement Agreement with the California Transit Association to reimburse RT for litigation expenses incurred in the pursuit of *State of California, et al. v. US Department of Labor et al.*

RESOLUTION NO. 14-02-\_\_\_\_\_

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

February 10, 2014

**DELEGATING AUTHORITY TO THE GENERAL MANAGER/CEO TO ENTER INTO A REIMBURSEMENT AGREEMENT WITH THE CALIFORNIA TRANSIT ASSOCIATION**

WHEREAS, the United States Department of Labor (“USDOL”) determined provisions of the Public Employees’ Pension Reform Act of 2013 (“PEPRA”) preclude compliance with Section 13(c) of the Federal Transit Act, adversely affecting the release of federal transit grants to California transit agencies, including RT; and

WHEREAS, the California Legislature enacted Assembly Bill 1222 (Chap. 527 Statutes of 2013) (“AB 1222”), which creates a temporary exemption from PEPRA for transit employees allowing the release of federal transit funds to affected California transit agencies; and

WHEREAS, the duration of the exemption created by AB 1222 is contingent on the outcome of litigation reviewing USDOL’s determination regarding PEPRA; and

WHEREAS, RT and the State of California have initiated litigation in Federal court against the USDOL regarding Section 13(c)/PEPRA issues arising from the USDOL’s denial of certification of certain transit grants (State of California, et al. v. US Department of Labor et al., US District Court, Eastern District of CA, Sacramento Division, Case No. 2:13-CV-02069-KJM-DAD); and

WHEREAS, RT is incurring significant costs in pursuing this litigation; and

WHEREAS, the California Transit Association acknowledges that the outcome of this litigation impacts and is of great concern to CTA’s member transit agencies and desires to reimburse RT for a portion of its legal expenses RT incurred pertaining to this litigation.

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

THAT, the General Manager/CEO is hereby authorized to negotiate, enter, and execute an agreement with the California Transit Association for the reimbursement of a portion of RT’s litigation expenses arising out of its Section 13(c)/PEPRA litigation.

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PHILLIP R. SERNA, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: \_\_\_\_\_  
Cindy Brooks, Assistant Secretary