



STAFF REPORT

DATE: December 13, 2021

TO: Sacramento Regional Transit Board of Directors

FROM: Olga Sanchez-Ochoa, General Counsel
Shelly Valenton, VP, Integrated Services and Strategic Initiatives /
Chief of Staff

SUBJ: BOARD COMPOSITION

RECOMMENDATION

No Recommendation - For Information Only.

RESULT OF RECOMMENDED ACTION

N/A – Information Only

FISCAL IMPACT

N/A

DISCUSSION

On September 23, 2021, Governor Gavin Newsom signed AB 1196 (Cooley), which changed the voting structure for SacRT's governing Board of Directors. AB 1196 will take effect January 1, 2022 and will change the current voting structure from a weighted voting structure to a one member, one vote structure. Consequently, beginning January 1st, Sacramento County will have three total votes, the City of Sacramento will have four total votes and the cities of Citrus Heights, Elk Grove, Folsom and Rancho Cordova will each have one vote on all matters before the Board. Some member entities have asked SacRT staff how their jurisdiction can increase their number of seats on the Board to increase their representation. Under the current weighted voting system, the County of Sacramento has a total of 32 votes and the City of Sacramento has 28 votes. However, after January 1, 2022, the County will have three votes, one vote per member, and the City of Sacramento will have four votes, one vote for each City representative appointed to the Board. The County has raised concerns about its decrease in voting power as a result of the implementation of AB 1196, while the City of Sacramento's voting power will increase in proportion to its current strength under weighted voting, creating an inequitable distribution of votes. Additionally, during annexation discussions with the City of Elk Grove, the City of Elk Grove requested that SacRT increase its seat allocation from one seat to two. SacRT's Enabling Act did not provide a methodology to make that increase happen and SacRT committed to examine the issue and present to the SacRT Board, for their consideration, taking legislation to the Legislature to provide Elk Grove

with more representation on the Board if that was found to be feasible. Elk Grove's population is almost double that of Folsom, Citrus Heights and Rancho Cordova's and Elk Grove believes it should have two seats on the Board.

Based on those considerations, staff brings this information item to the Board for discussion. The composition of SacRT's Board is set out in state law. Specifically, California Public Utilities Code Sections 102100.1 - 102107 sets out the Board's composition, the way Board seats are allocated and if and how representation can be increased or decreased.

SacRT's Enabling Act at Cal. PUC Sec. 102100.2 establishes that the initial SacRT Board would consist of four members appointed by the City Council of the City of Sacramento and three members appointed by the County Board of Supervisors for the County of Sacramento. Cal. PUC Sec. 102100.3 states that each additional member entity will be entitled to make one appointment to the Board. Thus, the cities of Citrus Heights, Elk Grove, Folsom and Rancho Cordova each have one seat on the Board. Cal. PUC Sec. 102100.5 states that after the initial Board, the City of Sacramento and County may voluntarily reduce the number of Board members it appoints to the Board, from their allotted four and three seats, so long as each entity appoints at least one member to the Board. Finally, no more frequently than every two years, the appointing entities may mutually agree to reapportion the seats on the Board, but the apportionment will be "determined by the gross cost of service without regard to income or revenues of the district, within their respective boundaries."

With weighted voting, Cal. PUC Sec. 102105.1 authorized an increase in the number of seats apportioned to member entities if their total entitlement to votes climbed to 16 votes. However, with the adoption of AB 1196, Cal. PUC Sec. 102105.1 was repealed. Consequently, as of January 1, 2022, there will be only two ways to modify the seat allocation: (1) the City of Sacramento and Sacramento County may voluntarily reduce the number of members they appoint to the Board, but their empty seats cannot be reallocated; or (2) the member entities can come together and reallocate seats based on the gross cost of service within their respective boundaries.

Back in 2005, the Board grappled with the issue of equity in Board representation and voting. Member entities on the Board were concerned about the contract entities on the Board and the apparent equal weight of their vote to the vote of contract entities. SacRT adopted a voting structure that only allowed contract entities to vote on issues of "regional concern". The result was a lack of full engagement by contract entities since they could only vote on some items before the Board. In an attempt to find a path forward that would provide equity in voting, the Board formed a subcommittee to review the Board structure and develop a voting structure that encouraged full engagement by all members of the Board but provided greater power to entities that were fully annexed into the District. Reapportionment under Cal PUC Sec. 102100.7, which would reallocate seats on the Board based on the gross cost of service within each jurisdiction, was considered but determined to not be a viable solution because it would likely exacerbate the inequity on the Board by giving more voting strength to jurisdictions receiving more service than they contributed, while providing less representation to jurisdictions that received less service than they contributed. The result of the Board's Ad Hoc subcommittee's efforts was the development of legislation that would change the District's voting structure from a one

member, one vote system, to the weighted voting system to which the Board has become accustomed. AB 2137 (Niello) was adopted in 2006 and took effect in 2007. Because every jurisdiction on the Board is currently a full member entity, a one member, one vote system is consistent with best practices followed by other Boards throughout California. However, because two entities on the Board have more than one representative on the Board, the issue of equitable representation has arisen once again among those jurisdictions with only one seat on the Board.

At this point, staff sees three options for the Board to change its composition to impact voting power:

1. The Board could opt to do nothing and maintain the current Board structure; or
2. Ask the City of Sacramento and/or County of Sacramento to reduce the number of appointments each entity makes to the Board pursuant to Cal. PUC Sec. 102100.5. This requires the voting entity to determine, effective July 1 of each year, how many members to appoint for the upcoming fiscal year, and submit a written notification to the secretary of the board not more than 60 days and not less than 15 days prior to July 1; or
3. Convene a Board Ad Hoc subcommittee, similar to what the Board did in 2005, to discuss possible changes to SacRT's Enabling Act to authorize a different Board composition and/or to discuss whether there should be a seat re-allocation based on the gross cost of service within each jurisdiction's boundaries as allowed under Cal. PUC Sec. 102100.7. The latter option will likely not address the issue of inequity raised by several Board members.