

STAFF REPORT

DATE: March 28, 2022
TO: Sacramento Regional Transit Board of Directors
FROM: Shelly Valenton, VP, Integrated Services and Strategic Initiatives/
Chief of Staff
Olga Sanchez-Ochoa, General Counsel
SUBJ: VOTING TO SUPPORT AB 2015 (COOLEY), AN ACT TO AMEND
THE SACRAMENTO REGIONAL TRANSIT DISTRICT'S
ENABLING ACT

RECOMMENDATION

Adopt the Attached Resolution.

RESULT OF RECOMMENDED ACTION

If the Board unanimously votes to support AB 2015 (Cooley) Assembly Member Ken Cooley (AD 8), will move forward with AB 2015 and move it through the California State Legislature for approval.

FISCAL IMPACT

None as a result of this action.

DISCUSSION

On February 14, 2022, Assembly Member Ken Cooley introduced to the California State Assembly AB 2015, which is a legislative measure that will make clarifying amendments to several sections of SacRT's Enabling Act found at Cal. PUC Sec. 102000 – 102700. The current proposed changes in AB 2015 are changes that the General Manager/CEO of SacRT is authorized to request the Legislature to make since the changes provide for more efficient operating practices. The General Manager/CEO was delegated such authority by the Board in Resolution No. 97-06-2875. While the GM has the authority, Assembly Member Cooley has asked that the Board unanimously express support for the AB 2015 before moving it forward through the Legislature.

AB 2015 makes the following changes to SacRT's Enabling Act:

Cal. PUC Sec. 102100.3(a) is modified to clarify language that is ambiguous related to how board members are appointed to the Board. Currently 102100.3(a) reads: "Each member entity shall be entitled to make one appointment to the Board." This language conflicts with language in 102100.2 which states that the Board will have 4 members appointed by the City of Sacramento and 3 members appointed by the County of

Sacramento. AB 2015 modifies 102100.3(a) to read: “Each member entity that is annexed after the initial formation of the district as set out in Section 102100.2 shall be entitled to make one appointment to the Board.” This clarifies the inconsistency between 102100.2 and 102100.3(a) and reflects the current board composition.

Cal. PUC Sec. 102100.8 contains language that is now obsolete because the City of Elk Grove has annexed into the District as of July 2021. AB 2015 repeals Sec. 102100.8, which currently reads as follows: “Execution of the agreement provided in subdivision (b) of Section 102100.3 by the district and the City of Elk Grove shall be a complete defense in any action or proceeding of any kind to enforce or compel compliance with Resolution Number 99-1044 adopted by the Sacramento County Board of Supervisors or Resolution Numbers LAFC 1205, LAFC 1207, or LAFC 1208, adopted by the Sacramento Local Agency Formation Commission, to the extent the enforcement action is related to the enforcement of the Mitigation Monitoring Reporting Program Mitigation Measure Number 2 pertaining to the district.” If AB 2015 is approved, that provision will be stricken from SacRT’ Enabling Act.

Cal. PUC Sec. 102105.2(c) contains language that is inconsistent with statutory voting requirements imposed on the Board when approving certain actions, including making an emergency declaration, which requires a supermajority vote. The current language reads: “**All** [*emphasis added*] official acts of the board shall require the affirmative vote of a majority of all the members on the board.” However, since there are instances under statute that require the Board to approve an action by a supermajority vote, 102105.2(c) is inconsistent with other provisions of the law. AB 2015 will correct this inconsistency by modifying 102105.2(c) as follows: “All official acts of the board shall require the affirmative vote of a majority of all members of the board, unless a higher threshold is required by law.”

Cal. PUC 102222 authorizes SacRT to conduct informal solicitations for the purchase of supplies, equipment and materials that cost between \$3,000 and \$100,000. For purchases that exceed \$100,000, a formal solicitation must be conducted. To increase business efficiencies and streamline the procurement process, staff believes that it would be beneficial to increase that amount to \$125,000. This amount is based on the increase in the consumer price index (CPI) since the cap was last increased by the Legislature.

Cal. PUC 102430 authorizes SacRT to establish a retirement system pursuant to a collective bargaining agreement between SacRT and the labor organization/union that represents SacRT employees. Section 102430 also authorizes SacRT to establish trust accounts to hold the pension funds. AB 2015 would amend 102430 to also clarify that SacRT employees and Board members can be appointed to the Retirement Boards that govern the plan(s). Since 2004-2005, when the current retirement board structure was established, SacRT employees and SacRT governing Board members have been appointed by both SacRT and the unions to serve on the retirement boards. However, questions have been raised whether allowing employees and Board members to serve on the retirement boards violates Cal. Gov. Code Sec. 1099’s restriction against individuals holding incompatible offices. It is established under case law that an individual can serve on two different bodies where there could be an incompatible office issue under 1099, if there is express statutory authority allowing an individual to hold both offices. AB

2015 would make clear that SacRT employees and Board members can be appointed to and serve on any one of the SacRT Retirement Boards without triggering a 1099 violation.

In addition to the above-described changes to SacRT's Enabling Act, SacRT intended to add language to AB 2015 that incorporated changes to the SacRT Board structure as approved by the Board at its February 14, 2022 meeting. Unfortunately, while a majority of the Board approved the proposed changes, the approval was not unanimous. Because the support was not unanimous, Assembly Member Cooley has advised SacRT staff and the SacRT Board Chair that he will not incorporate any of those proposed changes, unless the Board reconsiders and is able to achieve unanimity as to the board composition changes. Consequently, at this time, the February 14, 2022 changes will not be incorporated into AB 2015.

Staff recommends that the Board approve the attached Resolution unanimously expressing support for AB 2015, as amended on March 16, 2022, and described hereinabove.

RESOLUTION NO. 2022-03-033

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

March 28, 2022

VOTING TO SUPPORT AB 2015 (COOLEY), AN ACT TO AMEND THE SACRAMENTO REGIONAL TRANSIT DISTRICT'S ENABLING ACT

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

THAT, the Board hereby unanimously declares that it is in support of AB 2015 (Cooley), an Act to Amend the Sacramento Regional Transit District's Enabling Act, as described in the foregoing Staff Report; and

THAT, the Board hereby authorizes the General Manager/CEO to inform the California State Legislature of the Board of Directors' support for AB 2015 and advocate in support for approval of the measure by the California State Legislature and the Governor of California.

STEVE MILLER, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Tabetha Smith, Assistant Secretary