

STAFF REPORT

DATE: June 12, 2023
TO: Sacramento Regional Transit Board of Directors
FROM: Jamie Adelman, VP, Procurement, Real Estate and Special Projects
SUBJ: ADOPT THE AMENDED AND RESTATED TITLE V ORDINANCE NO. 2023-06-001, "PROVIDING A SPECIAL CLAIMS PROCEDURE" OF SACRT'S ADMINISTRATIVE CODE AND RESCIND ORDINANCE NO. 21-12-01

RECOMMENDATION

Adopt the Ordinance.

RESULT OF RECOMMENDED ACTION

Would adopt recommended changes to Title V of the SacRT Administrative Code.

FISCAL IMPACT

Some minimal cost savings, as a result of not having to prepare or incur additional documentation, support, and administrative expenses associated with bringing settlement items to closed session and would increase operational efficiency by allowing settlement offers to be processed more quickly.

DISCUSSION

At the May 8, 2023, meeting, the Board of Directors waived the First Reading of Ordinance 2023-06-001, Amending and Restating Title V, Providing A Special Claims Procedure, of the SacRT Administrative Code.

California Government Code Sections 935.4 and 949 provide that a public entity, by Ordinance or Resolution, may authorize an employee of the public entity to allow, compromise, or settle claims on behalf of the Board if the amount to be paid pursuant to the allowance, compromise or settlement exceeds fifty thousand dollars (\$50,000).

In December 1998, the Board authorized the General Manager/CEO (GM/CEO) to reject or settle claims up to the amount of \$50,000. In 2006, the Board adopted Title V to the SacRT Administrative Code, delegating authority to the General Manager/CEO to settle claims up to \$100,000. On March 8, 2021, the Board granted the GM/CEO, through the adoption of Resolution No. 21-03-0015, the authority to reject most offers to settle a claim presented to SacRT by a claimant or plaintiff, even if the amount to settle exceeds the GM/CEO's settlement authority, unless it related to a California Code of Civil Procedure

§ 998 Offer to Compromise, and increased the GM/CEO's authority to accept, reject, compromise, or settle general liability claims of any type for an amount up to \$150,000.

The SacRT Risk team performed a comprehensive review of Title V and has identified several areas where improvements can be made to improve claim processing. It was noted that Title V did not provide guidance on several areas including, but not limited to, tort claims, tort litigation, workers compensation claims, and employment law claims. To improve staff efficiency and to be as nimble as possible when attempting to settle all claims, including general liability, contract and employment, Staff is seeking an increase to the GM/CEO's settlement authority from \$150,000 to \$350,000.

In reviewing the claim settlements over the past five years, calendar years 2019 through 2023 year to date, we have seen a significant increase in cases that could be settled by the GM/CEO if the authority were increased to \$350,000. In 2022, the number of settled cases was double the total number settled in 2019 through 2021 combined. We expect to see an increase over the 2022 caseload in the current calendar year. Further, there are numerous claims reserved between \$150,000 and \$350,000. With the consistently increasing cost of medical services, staff anticipates the value of claims continue to increase, making a \$150,000 settlement authority at the GM/CEO level insufficient to allow the timely settlement of claims. Having a higher GM/CEO limit will make the Risk Department agile in mediation and settlement situations by having the ability to settle and offer expedited payment to the claimant, rather than having to wait for the next available board meeting to hold a closed session to discuss the claim and seek approval.

Staff has also included amendments that will delegate authority to the GM/CEO to accept or reject California Code of Civil Procedure § 998 offers (within the GM/CEO's authority limits), accept or deny liability in a claim, accept or deny a late claim, waive the five year statute of limitations on a case, authority to seek or not seek subrogation on a claim, and authority to settle any workers compensation claim that was calculated/valued by SacRT's third party Workers Compensation Administrator based on statutory formulas .

The goal of the SacRT Risk Department is to protect District assets, settle claims quickly, and settle at minimal cost to SacRT. Approving the suggested amendments to Title V will provide staff with greater flexibility to handle tort claims, tort litigation, employment claims, and workers compensation claims.

ORDINANCE 2023-06-001

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

June 12, 2023

**AMENDING AND RESTATING TITLE V,
PROVIDING A SPECIAL CLAIMS PROCEDURE,
OF THE SACRT ADMINISTRATIVE CODE**

THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT DO ORDAIN AS FOLLOWS:

SECTION 1:

This Ordinance is adopted pursuant to the authority set forth in Public Utilities Code section 102121(d). This Section authorizes the SacRT Board of Directors to adopt an Administrative Code prescribing the powers and duties of District officers. Public Utilities Code section 102107 provides, in part, that: No ordinance shall be passed by the Board on the day of its introduction, nor within three days thereafter, nor at any time other than at a regular or adjourned regular meeting.

SECTION 2:

Ordinance No. 21-12-01, Ordinance No. 06-02-01, Resolution 98-12-3249, and Resolution No. 21-03-0015 are hereby repealed.

SECTION 3:

Title V of the Administrative Code is hereby amended and restated. Title V of the Administrative Code of Sacramento Regional Transit District shall read as follows:

TITLE V – CLAIMS PROCEDURE

**Article I
Claims**

§5.101 Authority

This title is enacted pursuant to Section 935 of the California Government Code.

§5.102 Claims Required

All claims against the Sacramento Regional Transit District (“SacRT”) for money or damages which are excepted by Section 905 of the Government Code from the provision of Division 3.6 of the Government Code (Sec. 810 et seq.), and which are not governed

by any other statutes or regulations expressly relating thereto, shall be governed by the procedure prescribed in this Article.

Unless otherwise provided by this Title, the manner and timing of the presentation and consideration of claims filed pursuant to this Title shall be as provided in Part 3 of Division 3.6 of Title I of the Government Code (Sec. 900 et seq.) as those provisions now exist or may hereafter be amended.

Pursuant to Chapter 5 of Part 3 of Division 3.6 of Title I of the Government Code (Sec. 930 et seq.) written agreements entered into by or on behalf of SacRT may provide that all claims arising out of or related to the agreement must be presented not later than six months after the accrual of the cause of action, and such claims shall be governed by the provisions of this section.

§5.103 Form of Claim

All Claims shall be made in writing and verified by the claimant or by their guardian, conservator, executor or administrator. No claim may be filed on behalf of a class of person unless verified by every member of that class. In addition, all claims shall contain the information required by California Government Code Section 910.

§5.104 Claim Prerequisite to Suit

In accordance with California Government Code Sections 935(b) and 945.6, all claims shall be presented as provided in this section and acted upon by SacRT prior to the filing of any action on such claim; and no such action may be maintained by a person who has not complied with the requirements of this Title.

§5.105 Late Filing

The late filing of claims governed by this Title will be subject to the procedures set forth in those provisions of the Government Code referred to in subsection (e) of Government Code Section 935 and **§5.206(C) below**.

§5.106 Suit

Any action brought against SacRT upon any claim or demand shall conform to the requirements of Sections 940-949 of the California Government Code. Any action brought against any employee of SacRT shall conform to the requirements of Sections 950-951.

**Article II
Settlement Authority**

§5.201 Purpose

The purpose of this Article is to establish appropriate authorities, at varying staff and Board levels, to administer and settle claims. A summary is attached as Attachment 1 to this Title.

§5.202

Definitions

The following capitalized words and phrases whenever used in this Article must be construed as defined below:

- A. BOARD means the Board of Directors of the Sacramento Regional Transit District.
- B. DISTRICT or SACRT means the Sacramento Regional Transit District.
- C. GENERAL COUNSEL means the General Counsel of Sacramento Regional Transit District or their designee acting pursuant to a delegation.
- D. GENERAL MANAGER means the General Manager/CEO of Sacramento Regional Transit District or their designee acting pursuant to a delegation.
- E. LITIGATION ATTORNEY means the Litigation Attorney in the Risk Management Department.
- F. RISK ANALYST means the tort claims Risk Analyst in the Risk Management Department.
- G. RISK MANAGER means the Risk Manager in the Risk Management Department.
- H. TORT CLAIMS means all tort, personal injury, and property damage claims.
- I. TORT LITIGATION means all tort, personal injury, and property damage lawsuits.
- J. WORKERS' COMPENSATION CLAIMS ADMINISTRATOR means the workers' compensation third party administrator that Sacramento Regional Transit District retains to administer workers' compensation claims.

§5.203

Policy

In accordance with California Code of Civil Procedure 116.540, California Government Code Sections 935.4 and 949 and California Public Utilities Code Sections 102121, 102180, 102201 and 102202, the BOARD delegates to the GENERAL MANAGER, LITIGATION ATTORNEY, RISK MANAGER, RISK ANALYST, and the DISTRICT's WORKERS' COMPENSATION CLAIMS ADMINISTRATOR the authority and duties to act upon and settle all aspects of TORT CLAIMS and TORT LITIGATION brought against the DISTRICT and/or its employees in connection with the course and scope of their employment with the DISTRICT pursuant to the Government Claims Act (California Government Code Section 810 et. seq.), not excepted by Government Code Section 905, and workers' compensation claims and lawsuits subject to the provisions set forth below.

§5.204

Board Authority

- A. Tort Claims (Excluding Workers' Compensation): The approval of the BOARD shall be required for any allowance, compromise, or settlement of a TORT CLAIM in excess of \$350,000 as recommended by the RISK MANAGER with the concurrence of the GENERAL MANAGER and LITIGATION ATTORNEY. However, the BOARD's decision to approve or deny the allowance, compromise, or settlement is not contingent upon the recommendation of the RISK MANAGER or the concurrence of the GENERAL MANAGER and LITIGATION ATTORNEY.
- B. Tort Litigation (Excluding Workers' Compensation): The approval of the BOARD shall be required for any allowance, compromise, or settlement of a tort lawsuit in excess of \$350,000 as recommended by the LITIGATION ATTORNEY, with the concurrence of the RISK MANAGER and GENERAL MANAGER. The BOARD's decision to approve or deny the allowance, compromise or settlement is not contingent upon the recommendation of the LITIGATION ATTORNEY or the concurrence of the RISK MANAGER and GENERAL MANAGER.
- C. Tort Claims and Litigation Involving More than One Party Arising from a Single Accident/Occurrence (Aggregate Cases): Individual claims/lawsuits that arise from a single accident/occurrence whose settlements exceed \$350,000 each must be approved by the BOARD. BOARD approval is not required for individual claims/lawsuits whose settlements are less than \$350,000 each, even if the aggregate of the claims/lawsuits exceed said amount. However, if the aggregate of the claims/lawsuits does exceed said amount, the GENERAL MANAGER shall inform the BOARD upon the conclusion of the settlements of the claims/lawsuits.

Property damage settlements will be processed as separate matters even if injury claims arise from the same accident/occurrence. Thus, it will not be required to add the amount of a property damage settlement to a personal injury settlement in determining the settlement authority thresholds contained in Sections 5.204-5.206 herein.

- D. Employment Law Claims: BOARD approval is required for all employment law claim settlement amounts that exceed the authority delegated to the General MANAGER pursuant to Section 5.205(D) herein.
- E. Workers' Compensation: BOARD approval is required for any Workers' Compensation settlement amounts that exceed the authority delegated to the GENERAL MANAGER pursuant to Section 5.205(E) herein.

§5.205

General Manager's Authority

- A. Tort Claims (Excluding Workers' Compensation): The GENERAL MANAGER, with the concurrence of the RISK MANAGER and LITIGATION ATTORNEY, shall approve any

allowance, compromise, or settlement of a tort claim which exceeds \$150,000, but does not exceed \$350,000.

- B. Tort Litigation (Excluding Workers' Compensation): The GENERAL MANAGER, with the concurrence of the RISK MANAGER and LITIGATION ATTORNEY, shall approve any compromise or settlement of a lawsuit which exceeds \$150,000, but does not exceed \$350,000.
- C. Tort Claims and Litigation Involving More than One Party Arising from a Single Accident/Occurrence (Aggregate Cases): Individual claims whose individual settlement amount is each \$150,000 or greater shall be approved by the GENERAL MANAGER with the concurrence of the RISK MANAGER and LITIGATION ATTORNEY. GENERAL MANAGER approval is not required for individual claims whose settlements are less than \$150,000 each, even if the aggregate of the claims exceed said amount. However, if the aggregate of the claims does exceed said amount, the RISK MANAGER and LITIGATION ATTORNEY shall inform the GENERAL MANGER upon the conclusion of the settlements of the claim or lawsuit.

Property damage settlements will be processed as separate matters even if injury claims arise from the same accident/occurrence. Thus, it will not be required to add the amount of a property damage settlement to a personal injury settlement in determining the settlement authority thresholds contained in Sections 5.204-5.206 herein.

- D. Employment Law Claims: The GENERAL MANAGER, , shall approve any allowance, compromise, or settlement of an employment claim which does not exceed \$350,000.
- E. Workers' Compensation: The GENERAL MANAGER has the authority to accept any compromise or settlement of a workers' compensation claim/lawsuit up to the amount of the statutory entitlement as determined by the WORKER'S COMPENSATION CLAIMS ADMINISTRATOR.
- F. California Code of Civil Procedure Section 998 Offers to Compromise: The GENERAL MANAGER has the authority to accept or reject all such Offers to Compromise up to \$350,000. The GENERAL MANAGER also has the authority to instruct the LITIGATION ATTORNEY to serve an Offer to Compromise if the amount exceeds \$150,000 but does not exceed \$350,000. In any litigated matter other than a personal injury or property damage tort claim, the GENERAL MANAGER has the authority to instruct the GENERAL COUNSEL to serve an Offer to Compromise in any amount up to \$350,000.
- G. Liability Admissions and/or Agreements: In all Unlimited Jurisdiction cases, the GENERAL MANAGER has the authority to instruct the LITIGATION ATTORNEY or the

GENERAL COUNSEL to admit liability and/or to enter into agreements with co-defendants to proportional liability amongst the named defendants.

- H. Waiver of the 5 Year Statute of Limitations to Bring an Action to Trial: With the recommendation of the LITIGATION ATTORNEY, the GENERAL MANAGER has the authority to waive the five (5) year statute of limitations in which a party must bring an action to trial after a suit is filed, pursuant to California Code of Civil Procedure Section 583.310.
- I. Motion for New Trial: If the LITIGATION ATTORNEY recommends moving for a new trial, this recommendation is to be discussed with the GENERAL MANAGER, who will make the final decision.
- J. Waiver of Costs: The decision to waive costs that exceed \$150,000 shall be made by the GENERAL MANAGER after discussing the matter with the LITIGATION ATTORNEY.
- K. Small Claims: The GENERAL MANAGER is authorized to appoint staff, pursuant to the California Code of Civil Procedure Section 116.540, to represent the DISTRICT in Small Claims courts of the counties the DISTRICT serves. These staff representatives will be empowered to institute, prosecute, and defend claims on behalf of the DISTRICT.
- L. Subrogation: The LITIGATION ATTORNEY has the authority to decide whether or not to file a complaint or cross-complaint for subrogation. However, if filing against another entity, the LITIGATION ATTORNEY must first discuss the matter with the GENERAL MANAGER, who has the authority to veto the LITIGATION ATTORNEY's decision.

§5.206

Litigation Attorney's Authority

The LITIGATION ATTORNEY's authority described herein below only applies to personal injury and property damage tort claims and excludes all other claims filed against SACRT, including but not limited to, employment claims, contract claims, and settlements of administrative citations and/or fines.

- A. Tort Litigation (Excluding Workers' Compensation): The LITIGATION ATTORNEY shall have the authority to compromise a tort lawsuit if the settlement does not exceed \$150,000.
- B. Tort Litigation Involving More than One Party Arising from a Single Accident/Occurrence (Aggregate Cases): Individual lawsuits whose individual settlement amount is \$150,000 or below shall be approved by the LITIGATION ATTORNEY. However, if the aggregate of the lawsuits does exceed said amount, the LITIGATION ATTORNEY shall inform the GENERAL MANAGER upon the conclusion of the settlements of the lawsuits.

Property damage settlements will be processed as separate matters even if injury claims arise from the same accident/occurrence. Thus, it will not be required to add the amount of a property damage settlement to a personal injury settlement in determining the settlement authority thresholds contained in Sections 5-204-5.206 herein.

- C. Application for Leave to Present a Late Claim (pursuant to California Government Code Sections 911.4 and 911.6): The acceptance or rejection of an application to file late claim is delegated by the BOARD and shall be made by the LITIGATION ATTORNEY after discussing the application with the RISK MANAGER and assigned RISK ANALYST.
- D. California Code of Civil Procedure Section 998 Offers to Compromise: The LITIGATION ATTORNEY has the authority to accept or reject all such Offers to Compromise that do not exceed \$150,000 and has the authority to serve such an Offer to Compromise in an amount that does not exceed \$150,000.
- E. Liability Admissions and/or Agreements: In all Limited Jurisdiction cases, the LITIGATION ATTORNEY has the authority to admit liability and/or to enter into agreements with co-defendants to proportion liability amongst the named defendants after discussing the admission and/or split with the RISK MANAGER and assigned RISK ANALYST.
- F. Waiver of a Jury: The decision to waive a jury in any litigated case is to be made by the LITIGATION ATTORNEY after discussing the matter with the RISK MANAGER and assigned RISK ANALYST.
- G. Post-Trial Motions: If, after discussing the matter with the RISK MANAGER and assigned RISK ANALYST, the LITIGATION ATTORNEY is of the opinion that the DISTRICT should move for a new trial, the LITIGATION ATTORNEY is to discuss this recommendation with the GENERAL MANAGER, who will make the final determination. All other post-trial motions shall be decided by the LITIGATION ATTORNEY after discussing them with the RISK MANAGER and assigned RISK ANALYST.
- H. Waiver of Costs: The LITIGATION ATTORNEY has the authority to agree to waive costs provided that the costs do not exceed \$150,000. If costs exceed \$150,000, the decision to waive costs shall be made by the GENERAL MANAGER.
- I. Subrogation: The LITIGATION ATTORNEY has the authority to decide whether or not to file a complaint or cross-complaint for subrogation. However, if filing against another public entity, the LITIGATION ATTORNEY must first discuss the matter with the GENERAL MANAGER, who has the authority to veto the LITIGATION ATTORNEY's decision.

If a subrogation complaint or cross-complaint was filed, the LITIGATION ATTORNEY has the authority to settle the case regardless of the amount of the settlement.

§5.207

Risk Manager's Authority

The RISK MANAGER's authority described herein below only applies to workers' compensation claims and personal injury and property damage tort claims and excludes all other claims filed against SACRT, including but not limited to, employment claims, contract claims, and settlements of administrative citations and/or fines.

- A. Tort Claims (Excluding Workers' Compensation): The RISK MANAGER, or his/her designee, has the authority to act upon a written claim which is required to be presented in accordance with the Government Claims Act that is not excepted by Government Code Section 905. The claim may be determined to be insufficient, untimely, allowed, allowed in part, or rejected. If the claim is considered rejected, the RISK MANAGER, with the concurrence of the assigned RISK ANALYST, shall determine if, and when, notice of said rejection is given. All other written notices shall be pursuant to the applicable Government Code sections.

The RISK MANAGER, or their designee, may approve any allowance, compromise or settlement of a tort claim which does not exceed \$100,000.

- B. Workers' Compensation: The RISK MANAGER, who is responsible for managing the DISTRICT's Worker's Compensation Claims Program, has the authority to compromise or settle a workers' compensation claim or litigation against the DISTRICT, which does not exceed \$100,000, concurrent with the WORKERS' COMPENSATION CLAIMS ADMINISTRATOR and LITIGATION ATTORNEY.
- C. Subrogation: The RISK MANAGER has the authority to decide when to pursue subrogation claims against other parties and authority to settle the subrogation claim regardless of the amount. However, if filing against another public entity, the RISK MANAGER must first discuss the matter with the GENERAL MANAGER, who has the authority to veto the RISK MANAGER's decision.

§5.208

Risk Analyst's Authority

The RISK ANALYST's authority described herein below only applies to workers' compensation claims and personal injury and property damage tort claims and excludes all other claims filed against SACRT, including but not limited to, employment claims, contract claims, and settlements of administrative citations and/or fines.

- A. Claims: The RISK ANALYST has the authority to compromise or settle a workers' compensation claim or tort claim against the DISTRICT, which does not exceed \$25,000, with the concurrence of the RISK MANAGER.

- B. Subrogation: The RISK ANALYST has the authority to decide when to pursue subrogation for damages arising from a workers' compensation claim with the concurrence of the RISK MANAGER.

§5.209 Workers' Compensation Claims Administrator Authority

The WORKERS' COMPENSATION CLAIMS ADMINISTRATOR has the authority to compromise or settle a workers' compensation claim or litigation against the DISTRICT, which does not exceed \$5,000, with the concurrence of the RISK ANALYST.

§5.210 Treasurer Controller Duties Regarding Settlements

The Treasurer-Controller of the DISTRICT shall cause a warrant to be issued upon the treasury of the DISTRICT in the following circumstances:

- A. Upon approval by the BOARD, as specified in Section 5.204, above.
- B. Upon the written order of the GENERAL MANAGER, or his/her designee, for allowances, compromises, or settlements within the GENERAL MANAGER's authority, as specified in Section 5.205 above.
- C. Upon the written order of the LITIGATION ATTORNEY, or his/her designee, for allowances, compromises, or settlements within the LITIGATION ATTORNEY's authority, as specified in Section 5.206 above.
- D. Upon the written order of the RISK MANAGER, or his/her designee, for allowances, compromises, or settlements within the RISK MANAGER's authority, as specified in Section 5.207 above.

**Article III
Effective Date**

§5.301 No Reinstatement or Revival

Nothing in this section revives or reinstates any cause of action which, on the effective date of the ordinance codified in this section, is barred by either: (1) failure to comply with an applicable statute, regulation, or ordinance requiring the presentation of a claim; or (2) failure to commence an action thereon within the period prescribed by an applicable statute of limitations.

§5.302 Effective Date; Retroactivity

This Title shall be effective upon adoption. Subject to Section 5.301 of this Article, as of the effective date of this Title, the provisions of this Title shall be applicable to any claim described in this Title which is not otherwise time-barred. If the application of the time periods established by this article would extinguish an existing claim which is not

otherwise time-barred, then the date by which that claim must be presented to SacRT shall be the sooner of:

- (i) The date any applicable claims period would have expired; or
- (ii) Six months after the effective date of this Title for claims described in the first sentence of Government Code Section 911.2 or one year after the effective date of this Title for claims described in the second sentence of that Section. Nothing in this Title shall be construed to extend the time for presentation of any claim which time was established by statute, ordinance, or other law in effect prior to the adoption of this Title.

ATTACHMENT 1 – AUTHORITY LEVELS OF APPROVAL

Authorized Position	Authority Level	Authority Type
Board of Directors	>350,000K	Tort Claims; Tort Litigation; Employment Law Claims; Workers' Compensation
General Manager	Up to \$350,000	Tort Claims; Tort Litigation; Employment Law Claims; Workers' Compensation Claims*; Offers to Compromise; Liability Admissions and/or Agreements; Waiver of 5-year SOL; Motion for New Trial; Waiver of Costs; Small Claims; Subrogation
Litigation Attorney	Up to \$150,000	Tort Litigation; Application for Leave to Present a Late Claim; Offers to Compromise; Liability Admissions and/or Agreements; Waiver of Jury; Post-Trial Motions; Waiver of Costs; Subrogation
Risk Manager	Up to \$100,000	Tort Claims; Workers' Compensation Claims; Subrogation
Risk Analyst	Up to \$25,000	Tort Claims; Workers' Compensation Claims; Subrogation
Workers' Compensation Claims Administrator	Up to \$5,000	Workers' Compensation Claims

* The GENERAL MANAGER has the authority to accept any compromise or settlement of a workers' compensation claim/lawsuit up to the amount of the statutory entitlement as determined by the WORKER'S COMPENSATION CLAIMS ADMINISTRATOR.

SECTION 4:

This Ordinance shall become effective immediately upon its enactment.

SECTION 5:

Within 15 calendar days after adoption, the SacRT Secretary is hereby directed to publish this Ordinance, in full, in a newspaper of general circulation published within SacRT's activated boundaries or on SacRT's Internet Website as authorized under California Public Utilities Code section 102107.

Passed and adopted at a regular meeting of the Sacramento Regional Transit District on this 12th day of June 2023 by the following vote:

AYES/YES:

NOES:

ABSTAIN:

ABSENT

PATRICK KENNEDY, Chair

ATTEST:

HENRY LI, Secretary

By: _____
Tabetha Smith, Assistant Secretary