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**AB-2196 Santa Clara Valley Transportation Authority.** (2015-2016)

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**Assembly Bill No. 2196****CHAPTER 381**

An act to amend Section 20301 of the Public Contract Code, and to amend Sections 100001.5, 100011, 100013, 100014, 100014.1, 100017, 100018, 100020, 100022, 100030, 100031, 100055, 100055.1, 100055.2, 100055.3, 100060, 100060.2, 100061, 100062.1, 100070, 100071, 100082, 100090, 100100, 100110, 100111, 100112, 100113, 100114, 100115, 100115.5, 100120, 100121, 100124, 100125, 100126, 100130, 100130.5, 100131, 100132, 100133, 100153, 100155, 100160, 100160.1, 100160.2, 100160.5, 100161, 100162, 100163, 100164, 100165, 100167, 100168, 100169, 100170, 100171, 100250, 100252, 100253, 100254, 100302, 100303, 100304, 100305, 100307, 100308, 100350, 100351, 100370, 100371, 100372, 100380, 100381, 100400, 100401, 100403, 100404, 100407, 100409, 100410, 100411, 100450, 100451, 100460, 100461, 100462, 100463, 100470, 100471, 100482, 100483, 100490, 100491, 100492, 100500, 100600, 100601, 100601.5, 100602, 100602.11, 100602.14, 100603, 100605, 100606, 100609, 100610, 100612, 100613, 100618, and 100619 of, to amend the headings of Article 1 (commencing with Section 100060), Article 2 (commencing with Section 100070), and Article 5 (commencing with Section 100100) of Chapter 4 of Part 12 of Division 10 of, to amend the headings of Chapter 4 (commencing with Section 100060) and Chapter 5 (commencing with Section 100110) of Part 12 of Division 10 of, to repeal Sections 100032, 100306, and 100309 of, and to repeal Article 2 (commencing with Section 100040) of Chapter 3 of Part 12 of Division 10 of, the Public Utilities Code, relating to transportation.

[ Approved by Governor September 16, 2016. Filed with Secretary of State September 16, 2016. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2196, Low. Santa Clara Valley Transportation Authority.

Existing law creates the Santa Clara Valley Transportation Authority with various powers and duties relative to transportation projects and services and the operation of public transit in the County of Santa Clara. Existing law authorizes the authority, among other things, with the approval of the Department of Transportation, to provide funding for the repair and maintenance of state highways within the boundaries of the authority.

This bill would revise numerous statutes related to the Santa Clara Valley Transportation Authority to change references from "authority" to the Santa Clara Valley Transportation Authority and various other references of "authority" or "district" to the VTA. The bill would make other nonsubstantive changes in these statutes and repeal obsolete provisions. The bill would also authorize the board of directors of the VTA to include mayors of cities within the county, as specified.

Existing law requires contracts of the Santa Clara Valley Transportation Authority for the purchase of supplies, equipment, and materials to be let to the lowest responsible bidder or to the bidder who submits a proposal that provides best value, as defined, if

the amount of the contract exceeds \$100,000 and requires the authority to obtain a minimum of 3 quotations for those contracts between \$2,500 and \$100,000.

This bill would instead impose those bidding requirements with respect to the authority's contracts for the purchase of supplies, equipment, and materials if the amount of the contract exceeds \$150,000 and would require a minimum of 3 quotations for those contracts between \$3,500 and \$150,000.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### **SECTION 1.** Section 20301 of the Public Contract Code is amended to read:

**20301.** (a) The purchase of all supplies, equipment, and materials, when the expenditure required exceeds one hundred fifty thousand dollars (\$150,000), shall be by contract let to the lowest responsible bidder, or, in the authority's discretion, to the responsible bidder who submitted a proposal that provides the best value to the authority on the basis of the factors identified in the solicitation. "Best value" means the overall combination of quality, price, and other elements of a proposal that, when considered together, provide the greatest overall benefit in response to the requirements described in the solicitation documents.

(b) To the extent practicable, the authority shall obtain a minimum of three quotations, either written or oral, that permit prices and terms to be compared whenever the expected expenditure required for the purchase of supplies, equipment, or materials exceeds three thousand five hundred dollars (\$3,500), but does not exceed one hundred fifty thousand dollars (\$150,000).

(c) Notice requesting bids shall be published at least once in a newspaper of general circulation and on the authority's procurement Internet Web site, which publication shall be made at least 10 days before the bids are received. The board may reject any and all bids and readvertise at its discretion.

(d) This section applies solely to the procurement of supplies, equipment, and materials, and shall not apply to construction contracts.

### **SEC. 2.** Section 100001.5 of the Public Utilities Code is amended to read:

#### **100001.5.** The Legislature hereby finds and declares:

(a) Since the formation of the Santa Clara Valley Transportation Authority, unprecedented growth has occurred in the San Francisco Bay area and in Santa Clara County in particular. It has become apparent that additional measures are required in order to deal more effectively with the resultant serious traffic congestion and to foster the development of trade and the movement of people in and around the Santa Clara Valley and throughout the entire bay area.

(b) Transit and other modes of transportation are inextricably intertwined, and improvement and maintenance of the road and highway structure in conjunction and coordination with transit improvements are essential to optimize the ability of the Santa Clara Valley Transportation Authority to deal more effectively with serious traffic congestion.

(c) The Santa Clara Valley Transportation Authority, having been designated as the Congestion Management Agency for Santa Clara County, and already authorized to construct and improve state and local highways pursuant to Section 100115.5, is uniquely positioned to implement programs to achieve the goal of a balanced approach to solving transportation problems.

(d) This goal is best achieved in Santa Clara County by vesting in the Santa Clara Valley Transportation Authority the ability to plan, design, construct, maintain, and repair road and highway improvements, as well as bicycle, pedestrian, and other transportation facilities, under the conditions set forth in this part.

### **SEC. 3.** Section 100011 of the Public Utilities Code is amended to read:

**100011.** "VTA" means the Santa Clara Valley Transportation Authority.

### **SEC. 4.** Section 100013 of the Public Utilities Code is amended to read:

**100013.** "Transit works" or "transit facilities" means any or all real and personal property, equipment, rights, or interests owned or to be acquired by the VTA for transit service or purposes.

### **SEC. 5.** Section 100014 of the Public Utilities Code is amended to read:

**100014.** "Board of directors" and "board" means the board of directors of the VTA.

**SEC. 6.** Section 100014.1 of the Public Utilities Code is amended to read:

**100014.1.** “Director” means a member of the board of directors of the VTA.

**SEC. 7.** Section 100017 of the Public Utilities Code is amended to read:

**100017.** “System” means all transit works and transit facilities owned or held or to be owned or held by the VTA for transit purposes.

**SEC. 8.** Section 100018 of the Public Utilities Code is amended to read:

**100018.** “Revenues” means all rates, fares, tolls, rentals, or other income and revenue actually received or receivable by or for the account of the VTA from the operation of the system, including, without limiting the generality of the foregoing, interest allowed on any moneys or securities and any profits derived from the sale of any securities and any consideration in any way derived from any properties owned, operated, or at any time maintained by the VTA.

**SEC. 9.** Section 100020 of the Public Utilities Code is amended to read:

**100020.** “Establish” includes establish, construct, complete, acquire, extend, or reroute. It does not, however, include the maintenance and operation of any existing system acquired by the VTA.

**SEC. 10.** Section 100022 of the Public Utilities Code is amended to read:

**100022.** “Transportation works” or “transportation facilities” means any or all real and personal property, rights, or interests owned or to be acquired by the VTA to facilitate the passage of vehicles or pedestrians exclusive of transit works and transit facilities.

**SEC. 11.** Section 100030 of the Public Utilities Code is amended to read:

**100030.** The Legislature recognizes the formation of the Santa Clara Valley Transportation Authority and it may exercise the powers herein granted.

**SEC. 12.** Section 100031 of the Public Utilities Code is amended to read:

**100031.** The boundaries of the VTA shall include all incorporated and unincorporated territory lying within the County of Santa Clara.

**SEC. 13.** Section 100032 of the Public Utilities Code is repealed.

**SEC. 14.** Article 2 (commencing with Section 100040) of Chapter 3 of Part 12 of Division 10 of the Public Utilities Code is repealed.

**SEC. 15.** Section 100055 of the Public Utilities Code is amended to read:

**100055.** Notwithstanding any other provision of this act, before the VTA may establish any transit service or system that may at any time divert, lessen, or compete for the patronage or revenues of any existing system, the VTA shall give a written notice to the public utility that is operating the existing system. The written notice shall describe the transit service or system which the VTA proposes to establish and shall state the time that the VTA proposes to establish that service or system.

**SEC. 16.** Section 100055.1 of the Public Utilities Code is amended to read:

**100055.1.** The VTA shall not establish the proposed service or system, or maintain and operate the service or system until it has completed the purchase of the existing system or any part thereof.

**SEC. 17.** Section 100055.2 of the Public Utilities Code is amended to read:

**100055.2.** Subject to Section 100351, the purchase price to be paid for the existing system, or any portion thereof to be purchased, shall be the reproduction cost new, including going concern value, at the date upon which the VTA commences negotiations for the purchase of the existing system, or the portion of the existing system, less depreciation, including wear, tear, and obsolescence, if any.

**SEC. 18.** Section 100055.3 of the Public Utilities Code is amended to read:

**100055.3.** The VTA and public utility operating the existing system may agree upon the purchase price or they may agree that the purchase price is to be established by arbitration and upon the method of naming arbitrators and the method of conducting such arbitration.

**SEC. 19.** The heading of Chapter 4 (commencing with Section 100060) of Part 12 of Division 10 of the Public Utilities Code is amended to read:

**CHAPTER 4. Government of VTA**

**SEC. 20.** The heading of Article 1 (commencing with Section 100060) of Chapter 4 of Part 12 of Division 10 of the Public Utilities Code is amended to read:

**Article 1. Board of Directors**

**SEC. 21.** Section 100060 of the Public Utilities Code is amended to read:

**100060.** (a) The government of the VTA shall be vested in a board of directors which shall consist of 12 members, as follows:

(1) Two representatives of the county and one alternate who shall be members of the board of supervisors of the county, appointed by the board of supervisors.

(2) Five representatives of the City of San Jose and one alternate who shall be city council members or the mayor of the City of San Jose, appointed by the city council.

(3) Five city council members or mayors selected from among the city councils and mayors of all of the cities in the county, other than the City of San Jose, as provided by agreements among those cities. The agreements may provide for the appointment of alternates, who shall be city council members or mayors, for those city representatives.

(b) An alternate may vote in the place of a director represented by that alternate if the director is absent.

(c) To the extent possible, the appointing powers shall appoint individuals who have expertise, experience, or knowledge relative to transportation issues.

**SEC. 22.** Section 100060.2 of the Public Utilities Code is amended to read:

**100060.2.** Except as otherwise provided, the term of office for each director shall be two years and until the appointment and qualification of his or her successor. A successor shall be appointed not later than 30 days immediately upon the expiration of a director's term. A vacancy exists whenever a director ceases to hold office on the city council or board of supervisors from which he or she was appointed. Any vacancy shall, within 60 days of its occurrence, be filled for the balance of the term by the body that made the original appointment.

**SEC. 23.** Section 100061 of the Public Utilities Code is amended to read:

**100061.** The board of directors shall annually elect a chairperson who shall preside at all meetings. The board of directors shall also annually elect a vice chairperson, who, in the event of the chairperson's absence or inability to act, shall act as chairperson, and, while so acting, shall have all of the power and obligations of the chairperson.

**SEC. 24.** Section 100062.1 of the Public Utilities Code is amended to read:

**100062.1.** (a) No ordinance, except an urgency 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. The enacting clause of all ordinances shall be as follows:

"The Board of Directors of the Santa Clara Valley Transportation Authority ordains as follows:"

(b) All ordinances shall be signed by the chairperson of the board or the vice chairperson and attested by the secretary. Before the expiration of 15 days after the passage of an ordinance, it shall be published once in a newspaper of general circulation within the boundaries of the VTA as provided by law for ordinances adopted by counties. An order entered in the minutes of the board that the ordinance has been duly published is prima facie proof of publication.

(c) Urgency ordinances shall be adopted in the same manner as provided by law for the adoption of urgency ordinances by counties.

**SEC. 25.** The heading of Article 2 (commencing with Section 100070) of Chapter 4 of Part 12 of Division 10 of the Public Utilities Code is amended to read:

**Article 2. Powers and Duties of Board of Directors**

**SEC. 26.** Section 100070 of the Public Utilities Code is amended to read:

**100070.** The board of directors is the legislative body of the VTA and shall determine all questions of VTA policy.

**SEC. 27.** Section 100071 of the Public Utilities Code is amended to read:

**100071.** It shall be the duty of the board of directors and it shall have the power to:

- (a) Determine the transit facilities to be acquired and constructed by the VTA, the manner of operation, and the means to finance them.
- (b) Adopt an annual budget for the VTA that provides for the compensation of its officers and employees.
- (c) Fix rates, rentals, charges, and classifications of transit service operated by the VTA.
- (d) Adopt an administrative code that prescribes the powers and duties of VTA officers, the method of appointment of VTA employees, and the methods, procedures, and systems for the operation and management of the VTA.
- (e) Adopt rules and regulations governing the use of transit facilities owned or operated by the VTA.
- (f) Cause a postaudit of the financial transactions and records of the VTA to be made at least annually by a certified public accountant or public accountant.
- (g) Adopt reasonable rules and regulations providing for the administration of employer-employee relations.
- (h) Do any and all things necessary to carry out the purposes of this part.

**SEC. 28.** Section 100082 of the Public Utilities Code is amended to read:

**100082.** The advisory committees shall provide advice to the board of directors on matters of VTA policy and shall have additional duties as provided by the board of directors.

**SEC. 29.** Section 100090 of the Public Utilities Code is amended to read:

**100090.** The officers of the VTA shall consist of the members of the board of directors, the chairperson and vice chairperson of the board, a secretary, a general manager, a general counsel, and any other officers that the board deems necessary and provides for by ordinance or resolution. The general manager and general counsel shall be appointed and may be removed by the affirmative votes of a majority of the board.

**SEC. 30.** The heading of Article 5 (commencing with Section 100100) of Chapter 4 of Part 12 of Division 10 of the Public Utilities Code is amended to read:

**Article 5. General Manager**

**SEC. 31.** Section 100100 of the Public Utilities Code is amended to read:

**100100.** The power and duties of the general manager are all of the following:

- (a) To head the administrative branch of the VTA and to be responsible to the board of directors for the proper administration of all affairs of the VTA.
- (b) To appoint, supervise, suspend, or remove VTA officers other than the members of the board and officers appointed by the board.
- (c) To supervise and direct the preparation of the annual budget for the board and be responsible for its administration after its adoption.
- (d) To formulate and present to the board plans for transit and other transportation facilities within the boundaries of the VTA and the means to finance them.
- (e) To supervise the planning, acquisition, construction, maintenance, and operation of the transit facilities of the VTA and other transportation facilities within the boundaries of the VTA, as needed.

(f) To attend all meetings of the board.

(g) To prepare and submit to the board as soon as practicable after the end of each fiscal year a complete report of the finances and administrative activities of the VTA for the preceding year.

(h) To perform other and additional duties as the board may require.

**SEC. 32.** The heading of Chapter 5 (commencing with Section 100110) of Part 12 of Division 10 of the Public Utilities Code is amended to read:

**CHAPTER 5. Powers and Functions of VTA**

**SEC. 33.** Section 100110 of the Public Utilities Code is amended to read:

**100110.** The VTA has perpetual succession and may adopt a seal and alter it at its pleasure.

**SEC. 34.** Section 100111 of the Public Utilities Code is amended to read:

**100111.** The VTA may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

**SEC. 35.** Section 100112 of the Public Utilities Code is amended to read:

**100112.** All claims for money or damages against the VTA are governed by Division 3.6 (commencing with Section 810) of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

**SEC. 36.** Section 100113 of the Public Utilities Code is amended to read:

**100113.** (a) The VTA shall not levy any tax pursuant to Section 100250 unless approved by the electors voting on the measure in accordance with Article XIII C of the California Constitution at a special election called for that purpose by the board of directors.

(b) Whenever a bond election is held to authorize incurring bonded indebtedness pursuant to Section 100400, the ordinance calling the election shall include a statement of the tax or taxes to be levied or continued to be levied and used, to the extent those taxes are required to pay principal of and interest on the bonds as the same become due, to provide any sinking fund payments required therefor, or to create or maintain any reserve fund required therefor. A vote in favor of the issuance of the bonds shall authorize the board to levy and collect such taxes. The ordinance levying the taxes shall not be repealed until all bonds payable from the revenues derived from the taxes have been fully paid or provision has been made for their payment in full.

**SEC. 37.** Section 100114 of the Public Utilities Code is amended to read:

**100114.** Except as otherwise provided in this part, VTA elections shall be called, held, and conducted as provided by the Uniform District Election Law.

**SEC. 38.** Section 100115 of the Public Utilities Code is amended to read:

**100115.** The VTA may exercise any and all powers granted by any other law that, by its terms, is applicable to transit districts generally, to public agencies generally, or to any classification of districts or public agencies that includes an entity of the type provided for in this part, but the VTA shall not exercise any power contrary to an express provision of this part.

**SEC. 39.** Section 100115.5 of the Public Utilities Code is amended to read:

**100115.5.** (a) The VTA may administer and implement any adopted countywide transportation expenditure plan funded in an amount greater than 50 percent from revenues derived from a retail transaction and use tax, if so designated in the plan or if the VTA and the entity that imposes the tax have entered into an agreement that so provides. The VTA may exercise those powers necessary to carry out this purpose.

(b) The VTA may do any and all things necessary to ensure the completion of any projects established in a plan as set forth in subdivision (a). These projects may include, but are not limited to, all of the following:

(1) The construction and improvement of state highways.

(2) The construction, maintenance, and improvement of local roads, streets, and county highways.

(3) The construction, improvement, and operation of public transit systems, including paratransit services.

(4) The construction and improvement of bicycle and other transportation facilities.

(c) The VTA shall consult with and coordinate any actions for administering and implementing a plan as set forth in subdivision (a) with the cities in the county, the board of supervisors, and the Department of Transportation.

(d) Nothing in this section shall vary the terms of the cooperative agreement dated July 1, 1999, between the VTA and the County of Santa Clara for the construction of transportation projects utilizing local transaction and use tax revenues derived from Santa Clara County general tax Measure B approved by the voters in November 1996. If any of the provisions of this section conflict with the provisions of that cooperative agreement, the provisions of the cooperative agreement shall take precedence.

**SEC. 40.** Section 100120 of the Public Utilities Code is amended to read:

**100120.** The VTA may make contracts and enter into stipulations of any nature whatsoever, either in connection with eminent domain proceedings or otherwise, including, without limiting the generality of the foregoing, contracts and stipulations to indemnify and save harmless, to employ labor, and to do all acts necessary and convenient for the full exercise of the powers granted in this part.

**SEC. 41.** Section 100121 of the Public Utilities Code is amended to read:

**100121.** The VTA may contract with any department or agency of the United States of America, with any public agency or with any person upon terms and conditions as the board finds is for the best interest of the VTA.

**SEC. 42.** Section 100124 of the Public Utilities Code is amended to read:

**100124.** The VTA may insure against any accident or destruction of the system or any part thereof. The VTA may insure against loss of revenues from any cause whatsoever. It may provide, in the proceedings authorizing the issuance of any bonds, for the carrying of insurance in an amount and of a character as may be specified and for the payment of premiums thereon. The VTA may also provide insurance as provided in Part 6 (commencing with Section 989) of Division 3.6 of Title 1 of the Government Code.

**SEC. 43.** Section 100125 of the Public Utilities Code is amended to read:

**100125.** The VTA may contract for the services of independent contractors.

**SEC. 44.** Section 100126 of the Public Utilities Code is amended to read:

**100126.** The Santa Clara County Transit District, which was established with the approval of the voters in 1972, shall continue as an entity under the control of its governing board as reorganized pursuant to the amendments to this part by statutes that were enacted in 1994. Nothing in the act that added this section during the second year of the 1993–94 Regular Session shall be construed to alter, impair, or terminate existing contracts between the district and other parties, including, but not limited to, funding agreements, grants, labor agreements, agreements entered into pursuant to Section 13(c) of the Federal Transit Act and its antecedents, bonds, notes, equipment trust certificates, or other obligations of the district. All rights and powers of the district shall continue in full force and effect and no affirmation, adoption, or assumption by the board of directors is required for that continuation. The VTA shall become the successor to certain county contracts as provided by agreement between the county and the VTA.

**SEC. 45.** Section 100130 of the Public Utilities Code is amended to read:

**100130.** The VTA may take by grant, purchase, devise, or lease, or condemn in proceedings under eminent domain, or otherwise acquire, and hold and enjoy, real and personal property of every kind within or without the boundaries of the VTA necessary to the full or convenient exercise of its powers. The board may lease, mortgage, sell, or otherwise dispose of any real or personal property within or without the boundaries of the VTA necessary to the full or convenient exercise of its powers.

**SEC. 46.** Section 100130.5 of the Public Utilities Code is amended to read:

**100130.5.** (a) The VTA may take by gift, or take or convey by grant, purchase, devise, or lease, and hold and enjoy, real and personal property of every kind within or without the boundaries of the VTA necessary for, incidental to, or convenient for, transit-oriented joint development projects that meet the definition and requirement set forth in subdivision (b).

(b) (1) For purposes of this section, a transit-oriented joint development project is a commercial, residential, or mixed-use development that is undertaken in connection with existing, planned, or proposed transit facilities and is located  $\frac{1}{4}$  mile or less from the external boundaries of that facility.

(2) Any transit-oriented joint development project created under this section shall comply with the land use and zoning regulations of the city, county, or city and county in which the project is located.

(c) Notwithstanding Sections 53090 and 53091 of the Government Code or any other provision of law, the authority granted under this section is subject to the land use and zoning regulations of the city, county, or city and county jurisdiction in which the transit-oriented joint development is located, in accordance with the Planning and Zoning Law (Title 7 (commencing with Section 65000) of the Government Code), relating to zoning.

**SEC. 47.** Section 100131 of the Public Utilities Code is amended to read:

**100131.** (a) The VTA may exercise the right of eminent domain to take any property necessary or convenient to the exercise of the powers granted in this part. The VTA, in exercising this power, shall in addition to the damages for the taking, injury, or destruction of property, also pay the cost, exclusive of betterment and with credit for salvage value, of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables, or poles of any public utility that are required to be moved to a new location.

(b) No taking or acquisition by the VTA that would involve the abandonment, removal, relocation, or use of the property of a railroad corporation, as defined in Section 230, shall be permitted, unless the Public Utilities Commission, after a hearing, shall find and determine that the public interest and necessity require the abandonment, removal, relocation, or use of that property and that the taking or acquisition will not unreasonably impair the ability of the railroad corporation involved to provide safe, adequate, economical, and efficient service.

**SEC. 48.** Section 100132 of the Public Utilities Code is amended to read:

**100132.** The Public Utilities Commission of the state shall have and exercise power and jurisdiction to fix just compensation to be paid for the taking of any property of a public utility in eminent domain proceedings brought by the VTA. The VTA may commence and maintain the eminent domain proceedings in the Public Utilities Commission or the superior court at its option.

**SEC. 49.** Section 100133 of the Public Utilities Code is amended to read:

**100133.** The VTA is entitled to the benefit of any reservation or grant, in all cases, where any right has been reserved or granted to any public agency to construct or maintain roads, highways, or other crossings over any public or private lands.

**SEC. 50.** Section 100153 of the Public Utilities Code is amended to read:

**100153.** (a) If a contract for CMGC services is entered into pursuant to this article and includes preconstruction services by the construction manager, the VTA shall enter into a written contract with the construction manager for preconstruction services, under which the VTA shall pay the construction manager a fee for preconstruction services in an amount agreed upon by the VTA and the construction manager. The preconstruction services contract may include fees for services to be performed during the contract period. The VTA shall not request or obtain a fixed price or a guaranteed maximum price for the construction contract from the construction manager or enter into a construction contract with the construction manager until after the VTA has entered into a services contract. A preconstruction services contract shall provide for the subsequent negotiation for construction of all or any discrete phase or phases of the project and shall provide for the VTA to own the design plans and other preconstruction services work product.

(b) A contract for construction services shall be awarded after the plans have been sufficiently developed and either a fixed price or a guaranteed maximum price has been successfully negotiated. In the event that a fixed price or a guaranteed maximum price is not negotiated, the VTA may award the contract for construction services utilizing any other procurement method authorized by law.

(c) The construction manager shall perform not less than 30 percent of the work covered by the fixed price or guaranteed maximum price agreement reached. Work that is not performed directly by the construction manager shall be bid to subcontractors pursuant to Section 6955 of the Public Contract Code.

**SEC. 51.** Section 100155 of the Public Utilities Code is amended to read:

**100155.** (a) Upon completion of a project using the CMGC project delivery method, the VTA shall prepare a progress report to the board of directors. The progress report shall include, but shall not be limited to, all of the following information:



(1) A description of the project.

(2) The entity that was awarded the project.

(3) The estimated and actual costs of the project.

(4) The estimated and actual schedule for project completion.

(5) A description of any written protests concerning any aspect of the solicitation, bid, proposal, or award of the project, including, but not limited to, the resolution of the protests.

(6) An assessment of the prequalification process and criteria utilized under this article.

(7) A description of the method used to evaluate the bid or proposal, including the weighting of each factor and an assessment of the impact of this requirement on a project.

(8) A description of any challenges or unexpected problems that arose during the construction of the project and a description of the solutions that were considered and ultimately implemented to address those challenges and problems.

(9) Recommendations to improve the CMCG project delivery method authorized under this article.

(b) The progress report shall be made available on the VTA's Internet Web site.

**SEC. 52.** Section 100160 of the Public Utilities Code is amended to read:

**100160.** The VTA may provide transit service for the transportation of passengers and their incidental baggage by any means.

**SEC. 53.** Section 100160.1 of the Public Utilities Code is amended to read:

**100160.1.** The VTA may provide facilities, including streets and highways, for the movement of vehicles, bicycles, and pedestrians. All installations in state highways shall be developed and implemented with the concurrence and under the oversight of the Department of Transportation. The installation shall conform to requirements and regulations established by the Department of Transportation.

**SEC. 54.** Section 100160.2 of the Public Utilities Code is amended to read:

**100160.2.** The VTA may enter into agreements with any city within the boundaries of the VTA or with the County of Santa Clara to improve a street, road, highway, or expressway under the jurisdiction of the city or county. This section does not apply to highways under the jurisdiction of the state, unless specifically permitted elsewhere in statute.

**SEC. 55.** Section 100160.5 of the Public Utilities Code is amended to read:

**100160.5.** The VTA may operate charter bus service subject to the following limitations:

(a) No bus equipment that is designed solely for charter service shall be purchased. A bus equipped with a toilet or underfloor baggage compartment shall be deemed charter equipment.

(b) The board shall hold a public hearing prior to adopting a charter rate schedule or any amendment thereof. Notice of the hearing shall be mailed to each charter-party carrier operating within the district at least 30 days prior to the hearing. The notice shall include the proposed charter rate schedule. At the close of the public hearing the board may adopt charter rate schedules that shall not be less than the average for the three largest private charter-party carriers operating similar service within the boundaries of the VTA.

(c) Charter service shall originate and terminate within the area served by the VTA unless a private charter-party carrier requests the VTA to provide service beyond the area served by the VTA.

**SEC. 56.** Section 100161 of the Public Utilities Code is amended to read:

**100161.** (a) The VTA may acquire, construct, own, operate, control, or use rights-of-way, rail lines, buslines, stations, platforms, switches, yards, terminals, and any and all facilities necessary or convenient for transit service within or partly without the boundaries of the VTA, underground, upon, or above the ground and under, upon, or over public streets or other public ways or waterways, together with all physical structures, including parking lots and day care centers and related child care facilities, that are necessary or convenient for the access of persons or vehicles thereto. The VTA may acquire any interest in or rights to use or the joint use of any or all of those facilities.

(b) The VTA may acquire, construct, and provide for repair and maintenance of any and all facilities necessary or convenient for vehicular and pedestrian transportation, within or partly without the boundaries of the VTA, underground, upon, or above the ground, together with all physical structures, including parking lots and soundwalls, that are necessary or convenient therefor. In this connection, the VTA may exercise any power with respect to highways granted to counties under Article 1 (commencing with Section 760) of Chapter 4 of Division 1 of the Streets and Highways Code in connection with any project included in the countywide transportation plan and an adopted regional transportation plan, but shall not usurp or impinge upon the powers and responsibilities granted to the county with regard to county highways. Highway and other transportation expenditures shall be consistent with adopted regional transportation plans and programs.

(c) VTA installations in freeways shall be subject to the approval of the Department of Transportation. Installations in other state highways shall be subject to Article 2 (commencing with Section 670) of Chapter 3 of Division 1 of the Streets and Highways Code. Installations in county highways and city streets shall be subject to similar encroachment permits.

(d) The VTA shall not use any state transportation funds, including, but not limited to, moneys in the State Highway Account, or the Transportation Planning and Development Account, in the State Transportation Fund, and passenger rail and clean air bond act money to acquire, construct, or operate day care centers and related child care facilities.

**SEC. 57.** Section 100162 of the Public Utilities Code is amended to read:

**100162.** The VTA may lease or contract for the use of its transit facilities, or any portion thereof, to any operator, and may provide for subleases by an operator upon terms and conditions as it deems in the public interest. The word "operator" as used in this section means any public agency or any person.

**SEC. 58.** Section 100163 of the Public Utilities Code is amended to read:

**100163.** The board may contract with any public agency or person to provide transit or transportation facilities and services for the VTA.

**SEC. 59.** Section 100164 of the Public Utilities Code is amended to read:

**100164.** (a) The VTA may construct and operate or acquire and operate transit works and facilities and may construct, acquire, and provide for repair and maintenance of transportation facilities, in, under, upon, over, across, or along any state or public highway or any stream, bay, or watercourse, or over any of the lands that are the property of the state, to the same extent that the rights and privileges appertaining thereto are granted to municipalities within the state.

(b) (1) Notwithstanding subdivision (a), and subject to the approval of the Department of Transportation, the VTA may provide funding for the repair and maintenance of state highways within the boundaries of the VTA.

(2) The VTA shall not directly, or indirectly, except by providing funding pursuant to paragraph (1), repair or maintain any state highway.

**SEC. 60.** Section 100165 of the Public Utilities Code is amended to read:

**100165.** The VTA may enter into agreements for the joint use of any property and rights by the VTA and any public agency or public utility operating transit facilities; may enter into agreements with any public agency or public utility operating any transit facilities, and wholly or partially within or without the boundaries of the VTA, for the joint use of any property of the VTA or of the public agency or public utility, or the establishment of through routes, joint fares, transfer of passengers, or pooling arrangements.

**SEC. 61.** Section 100167 of the Public Utilities Code is amended to read:

**100167.** The VTA shall be subject to the provisions of Division 14.8 (commencing with Section 34500) of the Vehicle Code with respect to operation of buses and to the rules and regulations enforceable by the State of California Highway Patrol pursuant to that chapter regulating the safe operation of buses.

**SEC. 62.** Section 100168 of the Public Utilities Code is amended to read:

**100168.** The VTA shall be subject to the regulations of the Public Utilities Commission relating to safety appliances and procedures, and the commission shall inspect all work done pursuant to this part and may make further additions or changes necessary for the purpose of safety to employees and the general public. The commission shall enforce the provisions of this section.

**SEC. 63.** Section 100169 of the Public Utilities Code is amended to read:

**100169.** The VTA and any one or more school districts located within its boundaries may enter into agreements pursuant to which school transportation equipment may be used for transit purposes within the VTA's boundaries during any time that the equipment is not actually required for school purposes.

**SEC. 64.** Section 100170 of the Public Utilities Code is amended to read:

**100170.** The VTA may accept, without limitation by any other provisions of this part requiring approval of indebtedness, contributions, grants, or loans from any public agency or the United States or any department, instrumentality, or agency thereof, for the purpose of financing the acquisition, construction, maintenance, or operation of transit facilities, or the acquisition and construction of transportation facilities. The VTA may enter into contracts and cooperate with, and accept cooperation from, any public agency or the United States, or agency thereof, in the acquisition, construction, maintenance, or operation, and in financing the acquisition, construction, maintenance, or operation of any transit facilities or in the acquisition and construction of any transportation facilities in accordance with any legislation that Congress or the Legislature of the State of California may have heretofore adopted or may hereafter adopt, under which aid, assistance, and cooperation may be furnished by the United States or any public agency in the acquisition, construction, maintenance, and operation of any transit or transportation facilities. The VTA may do any and all things necessary in order to avail itself of aid, assistance, and cooperation under any federal or state legislation now or hereafter enacted. Any evidence of indebtedness issued under this section shall constitute a negotiable instrument.

**SEC. 65.** Section 100171 of the Public Utilities Code is amended to read:

**100171.** The VTA may obtain temporary transfers of funds in accordance with the last paragraph of Section 6 of Article XVI of the California Constitution.

**SEC. 66.** Section 100250 of the Public Utilities Code is amended to read:

**100250.** A retail transactions and use tax ordinance may be adopted by the board of directors in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if the electors voting on the measure vote in accordance with Article XIII C of the California Constitution to authorize its enactment at a special election called for that purpose by the board of directors.

**SEC. 67.** Section 100252 of the Public Utilities Code is amended to read:

**100252.** The VTA may contract with the State Board of Equalization for its service in the preparations necessary to administer a transaction and use tax ordinance. The costs to be covered by the contract are to be for services of the types described in Section 7272 of the Revenue and Taxation Code for preparatory work up to the date of the adoption of the ordinance. Any disputes as to the amount of the costs shall be resolved in the same manner as provided in that section.

**SEC. 68.** Section 100253 of the Public Utilities Code is amended to read:

**100253.** Prior to the operative date of the transaction and use tax ordinance, the VTA shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance.

**SEC. 69.** Section 100254 of the Public Utilities Code is amended to read:

**100254.** If the VTA shall not have contracted with the State Board of Equalization prior to the operative date of its transaction and use tax ordinance, it shall nevertheless so contract, and, in that case, the operative date shall be the first day of the first calendar quarter following the execution of the contract.

**SEC. 70.** Section 100302 of the Public Utilities Code is amended to read:

**100302.** Whenever a majority of the employees employed by the VTA in a unit appropriate for collective bargaining indicate a desire to be represented by a labor organization and upon determining, as provided in Section 100301, that said labor organization represents at least a majority of the employees in the appropriate unit, the board and the accredited representative of employees shall bargain in good faith and make all reasonable efforts to reach agreement on the terms of a written contract governing wages, hours, and working conditions.

**SEC. 71.** Section 100303 of the Public Utilities Code is amended to read:

**100303.** (a) A contract or agreement shall not be made with any labor organization, association, group, or individual that denies membership on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code. However, the organization may preclude from membership any individual who advocates the overthrow of the government by force or violence.

(b) The VTA shall not discriminate with regard to employment against any person on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code.

**SEC. 72.** Section 100304 of the Public Utilities Code is amended to read:

**100304.** If, after a reasonable period of time, representatives of the VTA and the accredited representatives of the employees fail to reach agreement on the terms of a written contract governing wages, hours, pensions, and working conditions or the interpretation or application of the terms of an existing contract, either party may request mediation services of the State Conciliation Service.

**SEC. 73.** Section 100305 of the Public Utilities Code is amended to read:

**100305.** If, after a reasonable period of time, representatives of the VTA and the accredited representatives of the employees fail to reach agreement either on the terms of a written contract governing wages, hours, pensions, and working conditions or the interpretation or application of the terms of an existing contract, upon the agreement of both the VTA and the representatives of the employees, the dispute may be submitted to an arbitration board and the decision of the majority of the arbitration board shall be final and binding. The arbitration board shall be composed of two representatives of the district and two representatives of the labor organization, and they shall endeavor to agree upon the selection of a fifth member. If they are unable to agree, the names of five persons experienced in labor arbitration shall be obtained from the State Conciliation Service. The labor organization and the VTA shall, alternately, strike a name from the list so supplied, and the name remaining after the labor organization and the VTA have stricken four names, shall be designated as the fifth arbitrator and chairman of the board of arbitration. The labor organization and the VTA shall determine by lot who shall first strike a name from the list. The decision of a majority of the arbitration board shall be final and binding upon the parties thereto. Each party shall be responsible for the expense of the presentation of its case. All other expenses of arbitration shall be borne equally by the parties and said expenses may include the making of a verbatim record of the proceedings and transcript of that record.

**SEC. 74.** Section 100306 of the Public Utilities Code is repealed.

**SEC. 75.** Section 100307 of the Public Utilities Code is amended to read:

**100307.** (a) Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code is not applicable to the VTA.

(b) The amendments to this section made at the 1995–96 Regular Session are not intended to modify, and shall not have the effect of modifying, an existing bargaining unit determination made by the Department of Industrial Relations pursuant to Section 100301.

**SEC. 76.** Section 100308 of the Public Utilities Code is amended to read:

**100308.** County employees and employees of the Santa Clara County Congestion Management Agency who, on a date or dates determined by the board of directors, terminate their employment and immediately thereafter become employees of the VTA, shall transfer to the VTA, and the VTA shall assume liability for, all of their accrued and unused vacation, sick leave, personal leave, compensating time off, STO balances, and days of accrued service in accordance with the records of their former employer in lieu of any payment by the former employer for those balances. Those employees who were covered by a county or congestion management agency pension plan shall be entitled to the same or equivalent rights, options, privileges, benefits, obligations, accrued service, and status under the pension plan of the VTA.

**SEC. 77.** Section 100309 of the Public Utilities Code is repealed.

**SEC. 78.** Section 100350 of the Public Utilities Code is amended to read:

**100350.** (a) Whenever the VTA acquires existing facilities from a publicly or privately owned utility, either in proceedings by eminent domain or otherwise, to the extent necessary for operation of facilities, all of the employees of the public utility whose duties pertain to the facilities acquired who have been employed by said utility for at least 75 days shall be appointed to comparable positions in the VTA without examination and these employees shall be given sick leave, seniority, and vacation credits in accordance with the records of the acquired public utility. No employee of any acquired public utility shall suffer any worsening of wages, seniority, pension, vacation, or other benefits by reason of the acquisition.

(b) Whenever the VTA acquires existing facilities from a publicly or privately owned utility, either in proceedings in eminent domain or otherwise, the VTA shall assume and observe all existing labor contracts.

(c) The provisions of this section apply only to those officers or supervisory employees of the acquired utility as shall be designated by the board.

**SEC. 79.** Section 100351 of the Public Utilities Code is amended to read:

**100351.** Whenever the VTA acquires existing facilities from a publicly or privately owned utility, either in proceedings in eminent domain or otherwise, that has a pension plan in operation, members and beneficiaries of the pension plan shall continue to have the rights, privileges, benefits, obligations, and status with respect to the established system. The outstanding obligations and liabilities of the public utility by reason of the pension plan shall be considered and taken into account and allowance made therefor in the purchase price of the public utility. The persons entitled to pension benefits as provided for in this section and the benefits that are provided shall be specified in the agreement or order by which any public utility is acquired by the VTA.

**SEC. 80.** Section 100370 of the Public Utilities Code is amended to read:

**100370.** The board may establish a retirement system for the officers and employees of the VTA and provide for the payment of annuities, pensions, retirement allowances, disability payments, and death benefits or any of them. The adoption, terms, and conditions of any retirement system covering employees of the VTA in a bargaining unit represented by a labor organization shall be pursuant to a collective bargaining agreement between the labor organization and the VTA. For purposes of this section, "officers" does not include members of the board of directors.

**SEC. 81.** Section 100371 of the Public Utilities Code is amended to read:

**100371.** The board may contract with the board of administration of the Public Employees' Retirement System and enter all or any portion of its employees under that system if no employees of the VTA in a bargaining unit that is represented by a labor organization are included in the contract except as authorized by a collective bargaining agreement.

**SEC. 82.** Section 100372 of the Public Utilities Code is amended to read:

**100372.** All persons receiving pension benefits from an acquired public utility and all persons entitled to pension benefits under any pension plan of the acquired public utility may become members or receive pensions under a pension plan established by the VTA by mutual agreement of the persons and the VTA. The agreement may provide for the waiver of all rights, privileges, benefits, and status with respect to the pension plan of the acquired public utility.

**SEC. 83.** Section 100380 of the Public Utilities Code is amended to read:

**100380.** The VTA shall take the steps as may be necessary to obtain coverage for the VTA and its employees under Title 2 of the Federal Social Security Act, as amended, and the related provisions of the Federal Contributions Act, as amended.

**SEC. 84.** Section 100381 of the Public Utilities Code is amended to read:

**100381.** The VTA shall take the steps as may be necessary to obtain coverage for the VTA and its employees under the workers' compensation, unemployment compensation disability, and unemployment insurance laws of the State of California.

**SEC. 85.** Section 100400 of the Public Utilities Code is amended to read:

**100400.** Whenever the board deems it necessary for the VTA to incur a bonded indebtedness for the acquisition, construction, or repair of any or all improvements, works, property, or facilities, authorized by this part or necessary or convenient for the carrying out of the powers of the VTA, or for any other purpose authorized by this part, the board shall, by ordinance, adopted by a vote of two-thirds of all members of the board, so declare and call an election to be held within the boundaries of the VTA for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of bonds of the VTA, if the total amount of bonds issued and outstanding pursuant to this article do not exceed 15 percent of the assessed value of the

taxable property of the VTA as shown by the last equalized assessment roll of the County of Santa Clara. The ordinance shall state:

(a) The purposes for which the proposed debt is to be incurred, which may include all costs and estimated costs incidental to or connected with the accomplishment of those purposes, including, without limitation, engineering, inspection, legal, fiscal agents, financial consultant, and other fees; bond and other reserve funds; working capital; bond interest estimated to accrue during the construction period and for a period not to exceed three years thereafter; and expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(b) The estimated cost of accomplishing those purposes.

(c) The amount of the principal of the indebtedness.

(d) The maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed 50 years from the date thereof or the date of each series thereof.

(e) The maximum rate of interest to be paid, which shall not exceed 7 percent per annum.

(f) The proposition to be submitted to the voters, which may include one or more purposes.

(g) The date of the election.

(h) The manner of holding the election and the procedure for voting for or against the measure.

(i) The ordinance may also contain a statement that the retail transaction and use tax mentioned in Article 9 (commencing with Section 100250) of Chapter 5, or a stated portion thereof, shall be levied, or continued to be levied, and used to the extent required to pay principal of and interest on the bonds as they become due, to provide for any sinking fund payments required therefor, or to create or maintain any reserve fund required therefor.

(j) The ordinance may also contain any other matters authorized by this part or any other law.

**SEC. 86.** Section 100401 of the Public Utilities Code is amended to read:

**100401.** Notice of holding of the election shall be given by publishing, pursuant to Section 6066 of the Government Code, the ordinance calling the election in at least one newspaper published within the boundaries of the VTA. No other notice of the election need be given. Except as otherwise provided in the ordinance, the election shall be conducted as other district elections.

**SEC. 87.** Section 100403 of the Public Utilities Code is amended to read:

**100403.** If a majority of the electors voting on the proposition vote for it, then the board may, by resolution, at a time or times as it deems proper, issue bonds of the VTA for the whole or any part of the amount of the indebtedness so authorized and may from time to time, by resolution, provide for the issuance of amounts as the necessity thereof may appear, until the full amount of the bonds authorized shall have been issued. The full amount of bonds may be divided into two or more series and different dates and different dates of payment fixed for the bonds of each series. A bond need not mature on an anniversary of its date. The maximum term the bonds of any series shall run before maturity shall not exceed 50 years from the date of each series respectively. In the resolution or resolutions, the board shall prescribe the form of the bonds, including, without limitation, registered bonds and coupon bonds, and the form of any coupons to be attached thereto, the registration, conversion, and exchange privileges, if any, pertaining thereto, and fix the time when the whole or any part of the principal shall become due and payable.

**SEC. 88.** Section 100404 of the Public Utilities Code is amended to read:

**100404.** The bonds shall bear interest at a rate or rates not exceeding 7 percent per annum, payable semiannually, except that the first interest payable on the bonds or any series thereof may be for any period not exceeding one year as determined by the board. In the resolution or resolutions providing for the issuance of the bonds, the board may also provide for call and redemption of the bonds prior to maturity at times and prices and upon other terms as it may specify, but no bond shall be subject to call or redemption prior to maturity unless it contains a recital to that effect or unless a statement to that effect is printed thereon. The denomination or denominations of the bonds shall be stated in the resolution providing for their issuance, but shall not be less than one thousand dollars (\$1,000). The principal of and interest on the bonds shall be payable in lawful money of the United States at the office of the treasurer of the VTA or at another other place or places as may be designated, or at either place or places at the option of the holders of the bonds. The bonds, or the series thereof, shall be dated and numbered consecutively and shall be signed by the chairman of the board and the treasurer, countersigned by the secretary and the official seal of the VTA attached. The interest coupons of the bonds shall be signed by the treasurer. All signatures, countersignatures, and the seal may

be printed, lithographed, or mechanically reproduced, except that one of the signatures or countersignatures on the bonds shall be manually affixed. If any officer whose signature or countersignature appears on bonds or coupons ceases to be an officer before the delivery of the bonds, his signature is as effective as if he had remained in office.

**SEC. 89.** Section 100407 of the Public Utilities Code is amended to read:

**100407.** All accrued interest and premiums received on the sale of bonds shall be placed in the fund to be used for the payment of principal of and interest on the bonds and the remainder of the proceeds of the bonds shall be placed in the treasury to the credit of the proper improvement fund and applied exclusively to the purposes for which the debt was incurred, which purposes shall be in conformity with an approved general transit plan or element thereof then in effect. When those purposes have been accomplished any moneys remaining in the improvement fund (a) shall be transferred to the fund to be used for the payment of principal of and interest on the bonds, or (b) shall be placed in a fund to be used for the purchase of outstanding bonds of the VTA from time to time in the open market at prices and in a manner, either at public or private sale or otherwise, as the board may determine. Bonds so purchased shall be canceled immediately.

**SEC. 90.** Section 100409 of the Public Utilities Code is amended to read:

**100409.** Whenever the board deems that the expenditure of money for the purposes for which the bonds were authorized by the voters is impractical or unwise, it may, by ordinance adopted by a vote of two-thirds of all members of the board, so declare and call an election to be held within the boundaries of the VTA for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of the bonds for some other purposes or, in the case where bonds have been sold, the proposition to use the proceeds for some other purposes. The procedure, so far as applicable, shall be the same as when a bond proposition is originally submitted.

**SEC. 91.** Section 100410 of the Public Utilities Code is amended to read:

**100410.** The board may provide for the issuance, sale, or exchange of refunding bonds to redeem or retire any bonds issued by the VTA upon the terms, at the times, and in the manner which it determines. Refunding bonds may be issued in a principal amount sufficient to pay all or any part of the principal of outstanding bonds, the interest thereon, and the premiums, if any, due upon call and redemption thereof prior to maturity and all expenses of the refunding. The provisions of this article for issuance and sale of bonds apply to the issuance and sale of the refunding bonds, except that (a) no election need be called or held for the purpose of authorizing the issuance of refunding bonds, and (b) when refunding bonds are to be exchanged for outstanding bonds, the method of exchange shall be as determined by the board.

**SEC. 92.** Section 100411 of the Public Utilities Code is amended to read:

**100411.** The provisions of Article 4 (commencing with Section 53500) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code are applicable to the VTA.

**SEC. 93.** Section 100450 of the Public Utilities Code is amended to read:

**100450.** The VTA may issue bonds, payable from revenue of any facility or enterprise to be acquired or constructed by the VTA, in the manner provided by the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code), all of the provisions of which are applicable to the VTA, except that these bonds may be paid, in whole or in part, from revenues made available under Article 9 (commencing with Section 100250) of Chapter 5 and, in that case, the bonds may be issued without an election if the resolution authorizing the bonds provides that the retail transactions and use tax shall continue to be imposed under that Article 9 until the bonds are fully paid or provision has been made for their payment in full.

**SEC. 94.** Section 100451 of the Public Utilities Code is amended to read:

**100451.** The VTA is a local agency within the meaning of the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code). The term "enterprise" as used in the Revenue Bond Law of 1941 shall, for all purposes of this part, include the system or any or all transit facilities and all additions, extensions, and improvements thereto authorized to be acquired, constructed, or completed by the VTA. The VTA may issue revenue bonds under the Revenue Bond Law of 1941, for any one or more transit facilities authorized to be acquired, constructed, or completed by the VTA or, in the alternative, may issue revenue bonds under the Revenue Bond Law of 1941, for the acquisition, construction, and completion of any one of those transit facilities. Nothing in this article shall prevent the VTA from availing itself of, or making use of, any procedure provided in this part for the issuance of bonds of any type or character for any of the transit facilities authorized hereunder, and all proceedings may be carried on simultaneously or, in the alternative, as the board may determine.

**SEC. 95.** Section 100460 of the Public Utilities Code is amended to read:

**100460.** The VTA shall have power to purchase transit equipment such as cars, trolley buses, and motor buses, or rolling equipment; and may execute agreements, leases, and equipment trust certificates in the forms customarily used by private corporations engaged in the transit business appropriate to effect the purchase and leasing of transit equipment and may dispose of the equipment trust certificates upon terms and conditions as the board may deem appropriate. Payment for the equipment, or rentals therefor, may be made in installments, and the deferred installments may be evidenced by equipment trust certificates payable from any source or sources of funds specified in certificates that are or will be legally available to the VTA. Title to the equipment shall not rest in the VTA until the equipment trust certificates are paid.

**SEC. 96.** Section 100461 of the Public Utilities Code is amended to read:

**100461.** The agreement to purchase or lease may direct the vendor or lessor to sell and assign or lease the rolling equipment to a bank or trust company duly authorized to transact business in the State of California as trustee, for the benefit and security of the equipment trust certificates and may direct the trustee to deliver the rolling equipment to one or more designated officers of the VTA and may authorize the VTA to execute and deliver simultaneously therewith an installment purchase agreement or a lease of the equipment to the VTA.

**SEC. 97.** Section 100462 of the Public Utilities Code is amended to read:

**100462.** The agreements and leases shall be duly acknowledged before a person authorized by law to take acknowledgments of deeds and in the form required for acknowledgment of deeds. These agreements, leases, and equipment trust certificates shall be authorized by resolution of the VTA and shall contain covenants, conditions, and provisions that may be deemed necessary or appropriate to ensure the payment of the equipment trust certificates from legally available sources of funds specified in the certificates.

**SEC. 98.** Section 100463 of the Public Utilities Code is amended to read:

**100463.** The covenants, conditions, and provisions of the agreements, leases, and equipment trust certificates shall not conflict with any of the provisions of any trust agreement securing the payment of bonds, notes, or certificates of the VTA.

**SEC. 99.** Section 100470 of the Public Utilities Code is amended to read:

**100470.** The Improvement Act of 1911, the Municipal Improvement Act of 1913, and the Improvement Bond Act of 1915 are applicable to the VTA.

**SEC. 100.** Section 100471 of the Public Utilities Code is amended to read:

**100471.** The provisions of Chapter 1 (commencing with Section 99000) of Part 11 of Division 10 of the Public Utilities Code are applicable to the VTA.

**SEC. 101.** Section 100482 of the Public Utilities Code is amended to read:

**100482.** The VTA may borrow money in accordance with the provisions of Article 7 (commencing with Section 53820), or of Article 7.6 (commencing with Section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

**SEC. 102.** Section 100483 of the Public Utilities Code is amended to read:

**100483.** The VTA may borrow money in anticipation of the sale of bonds that have been authorized to be issued, but have not been sold and delivered, and may issue negotiable bond anticipation notes therefor and may renew the same from time to time, but the maximum maturity of those notes, including the renewals thereof, shall not exceed five years from the date of delivery of the original notes. The notes may be paid from any moneys of the VTA available therefor and not otherwise pledged. If not previously otherwise paid, the notes shall be paid from the proceeds of the next sale of the bonds of the VTA in anticipation of which they were issued. The notes shall not be issued in any amount in excess of the aggregate amount of bonds that the VTA has been authorized to issue, less the amount of any bonds of that authorized issue previously sold, and also less the amount of other bond anticipation notes therefor issued and then outstanding. The notes shall be issued and sold in the same manner as the bonds. The notes and the resolution or resolutions authorizing them may contain any provisions, conditions, or limitations that a resolution of the VTA authorizing the issuance of bonds may contain.



**SEC. 103.** Section 100490 of the Public Utilities Code is amended to read:

**100490.** The VTA may bring an action to determine the validity of any of its bonds, equipment trust certificates, warrants, notes, or other evidences of indebtedness pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

**SEC. 104.** Section 100491 of the Public Utilities Code is amended to read:

**100491.** All bonds and other evidences of indebtedness issued by the VTA under the provisions of this part, and the interest thereon, are free and exempt from all taxation within the State of California, except for transfer, franchise, inheritance, and estate taxes.

**SEC. 105.** Section 100492 of the Public Utilities Code is amended to read:

**100492.** Notwithstanding any other provisions of this part or any other law, the provisions of all ordinances, resolutions, and other proceedings in the issuance by the VTA of any bonds, bonds with a pledge of revenues, bonds for improvement districts, revenue bonds, equipment trust certificates, notes, or any and all evidences of indebtedness or liability shall constitute a contract between the VTA and the holders of the bonds, equipment trust certificates, notes, or evidences of indebtedness or liability and the provisions thereof shall be enforceable against the VTA, or any or all of its successors or assigns, by mandamus or any other appropriate suit, action, or proceeding in law or in equity in any court of competent jurisdiction. Nothing contained in this part or in any other law shall be held to relieve the VTA or the territory included within it from any bonded or other debt or liability contracted by the VTA. Upon dissolution of the VTA or upon withdrawal of territory therefrom, the property formerly included within it or withdrawn therefrom shall continue to be liable for the payment of all bonded and other indebtedness or liabilities outstanding at the time of the dissolution or withdrawal the same as if the VTA had not been so dissolved or the territory withdrawn therefrom, and it shall be the duty of the successors or assigns to provide for the payment of the bonded and other indebtedness and liabilities. Except as may be otherwise provided in the proceedings for the authorization, issuance, and sale of any revenue bonds, bonds secured by a pledge of revenues or bonds for improvement districts secured by a pledge of revenues, revenues of any kind or nature derived from any revenue-producing improvements, works, facilities, or property owned, operated, or controlled by the VTA shall be pledged, charged, assigned, and have a lien thereon for the payment of the bonds as long as they are outstanding, regardless of any change in ownership, operation, or control of the revenue-producing improvements, works, facilities, or property and it shall, in the later event or events, be the duty of the successors or assigns to continue to maintain and operate the revenue-producing improvements, works, facilities, or property as long as bonds are outstanding.

**SEC. 106.** Section 100500 of the Public Utilities Code is amended to read:

**100500.** The VTA may be dissolved pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

**SEC. 107.** Section 100600 of the Public Utilities Code is amended to read:

**100600.** The Legislature finds and declares that:

(a) It is necessary and in the best interest of the citizens of the state to authorize the VTA to levy special benefit assessments for needed public rail rapid transit facilities and services on the property that benefits from those facilities and services.

(b) The rail rapid transit facilities and services provide special benefits to parcels of land, and improvements thereon, in the vicinity of rail rapid transit stations, and provide general benefits to the community at large. The Board of Directors of the VTA shall be the conclusive judge of the proportion of special and general benefits produced by the facilities and of the distribution of the special benefits among parcels of property within the benefit assessment district.

**SEC. 108.** Section 100601 of the Public Utilities Code is amended to read:

**100601.** (a) Whenever the board finds that property adjacent to, or in the vicinity of, one or more rail transit stations, or proposed rail transit stations, of the VTA receives or will receive special benefit by reason of the location or operation of one or more of those rail transit stations, the board may, by resolution adopted by a two-thirds vote of its members, provide for notice and hearing on its intention to establish one or more special benefit districts and levy a special benefit assessment on real property therein for the purpose of financing, in whole or in part, the acquisition, construction, development, joint development, operation, maintenance, or repair of one or more rail transit stations and rail transit related facilities located within the benefit district.

(b) In connection with the levy of a special benefit assessment, the board shall comply with the notice, protest, and hearing procedures set forth in Section 53753 of the Government Code.

(c) The resolution may provide that the proposed benefit district will contain separate zones, which may consist of either contiguous or noncontiguous areas of land within the boundaries of the VTA. The proposed benefit district and each proposed zone, if any, therein shall be an area adjacent to, or in the vicinity of, one or more rail transit stations or proposed rail transit stations. The boundaries of the benefit district and of each zone, if any, therein shall be drawn so as to reflect, as accurately as possible, the areas in which special benefits are conferred by reason of the proximity and operation of one or more rail transit stations.

(d) A notice stating the time and place of the hearing, and setting forth the boundaries and purpose of the proposed benefit district, shall be published prior to the time fixed for the hearing pursuant to Section 6066 of the Government Code.

(e) For purposes of this chapter, "benefit district" means a special benefit assessment district established pursuant to this chapter, the area of which shall not lie more than one-half mile from the center point of any rail transit station or proposed rail transit station.

(f) For purposes of this chapter, "transit related facilities" means land, buildings, and equipment, or any interest therein, whether or not the operation thereof produces revenue, which has, as its primary purpose, the operation of the rail transit system or the providing of services to the passengers of the rail transit system, but does not mean any land, buildings, or equipment, or interest therein, which is used primarily for the production of revenue not arising from the operation of the rail transit system.

**SEC. 109.** Section 100601.5 of the Public Utilities Code is amended to read:

**100601.5.** (a) The resolution shall state, as appropriate, the maximum and minimum rate of assessment, the amount of the special benefit assessment and the purposes for which it is to be levied, the estimated cost of accomplishing the purposes, and the dates or approximate intervals at which the assessment shall be levied. The resolution shall also state that the exterior boundaries of the benefit district are set forth on a map on file with the secretary of the VTA, which map shall govern for all purposes as to the extent of the benefit district and zones, if any, therein and that the area set forth on the map shall thereupon constitute and be known as "Benefit District No. \_\_\_\_ of the Santa Clara Valley Transportation Authority," or as "Benefit Zone \_\_\_\_ of the Benefit District No. \_\_\_\_ of the Santa Clara Valley Transportation Authority," as designated by the board.

(b) A copy of the resolution shall be included with the notice given pursuant to Section 53753 of the Government Code.

**SEC. 110.** Section 100602 of the Public Utilities Code is amended to read:

**100602.** (a) In determining the amount of a special benefit assessment, the board shall measure the benefit to real property in the benefit district or zones therein according to the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution.

(b) The special benefit assessment constitutes a charge imposed on particular real property for a VTA project of direct benefit to that property, and does not constitute ad valorem taxes or any other form of general tax levy applying a given rate to the assessed valuation of all taxable property within the boundaries of the VTA.

(c) The VTA shall possess all powers necessary for, incidental to, or convenient for, the collection, enforcement, administration, or distribution of the special benefit assessment in accordance with California law.

(d) The revenue from a special benefit assessment, which is imposed pursuant to this chapter, or from bonds secured by the special benefit assessment, for the purpose of financing a rail transit station or rail transit related facility located within the benefit district, shall be used only for financing of the facility for which it was levied, and that revenue shall not be used for any other purpose or the payment of any other expense of the VTA, including, but not limited to, transit, transportation, or operating expense.

**SEC. 111.** Section 100602.11 of the Public Utilities Code is amended to read:

**100602.11.** At the time and place provided in the notice or at any time and place to which the hearing is adjourned, the board or its appointed hearing officer shall hear all of the following:

(a) The petition for exclusion or reduction.

(b) All evidence or proofs that may be introduced by or on behalf of the petitioners.

(c) All objections to the petition that may be presented in writing by any person, including the VTA.

(d) All evidence or proofs that may be introduced in support of objections to the petition.

**SEC. 112.** Section 100602.14 of the Public Utilities Code is amended to read:

**100602.14.** The board, after the hearing on an exclusion or reduction petition, shall order one of the following by resolution:

(a) In the case of an exclusion petition, order the exclusion of all or any part of the real property described in the petition upon its finding that the property will not be benefited by the operations of the VTA in the vicinity of the benefit district.

(b) In the case of a reduction petition, order a change in the benefit assessment to all or any portion of the real property described in the petition to provide that it not exceed the amount of benefit derived by the operations of the VTA in the vicinity of the benefit district.

(c) Confirm the assessment on the real property subject to the petition as correctly reflecting the amount of benefit to the real property.

**SEC. 113.** Section 100603 of the Public Utilities Code is amended to read:

**100603.** (a) Following formation of the benefit district or concurrently therewith, if the board deems it necessary to incur a bonded indebtedness for the acquisition, construction, development, joint development, completion, operation, maintenance, or repair of one or more rail transit stations and related rail transit facilities located within the benefit district, the board may provide, by resolution, that the bonded indebtedness shall be payable from special benefit assessments levied within the benefit district. The resolution shall be adopted by a two-thirds vote of the members of the board, and shall declare and state all of the following:

(1) That the board intends to incur an indebtedness, by the issuance of bonds of the VTA, for the benefit district which the board has formed, or intends to form, within a portion of the boundaries of the VTA.

(2) The purposes for which the proposed debt is to be incurred, which may include all costs and estimated costs necessary or convenient for, incidental to, or connected with, the accomplishment of the purposes, including, without limitation, engineering, inspection, legal, fiscal agent, financial consultant, bond and other reserve funds, working capital, bond interest estimated to accrue during the construction period, if any, and for a period not exceeding three years thereafter, and the expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(3) The estimated cost of accomplishing the purposes and the amount of the principal of the indebtedness to be incurred.

(4) That a general description of the benefit district and of each zone, if any, therein and maps showing the exterior boundaries thereof are on file with the secretary of the VTA and available for inspection by any interested person.

(5) That special benefit assessments for the payment of the bonds, and the interest thereon, have been, or are proposed to be levied in the benefit district or zones therein in accordance with the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution.

(6) The extent to which, if at all, all or a portion of the revenues of the VTA are to be used to pay the principal of, interest on, and sinking fund payments for, the bonds, including the establishment and maintenance of any reserve fund therefor.

(7) The time and place set for hearing on the proposed issuance of the bonds.

(8) That, prior to levying a special benefit assessment, the board shall comply with the notice, protest, and hearing procedures set forth in Section 53753 of the Government Code.

(9) The maximum term the proposed bonds shall run before maturity, which shall not exceed 40 years from the date of the bonds or any series thereof.

(10) The maximum rate or rates of interest to be paid, which shall not exceed 12 percent per annum.

(11) That the pledge of special benefit assessment revenues to the bonds authorized by this section has priority over the use of any of those revenues for pay-as-you-go financing, except to the extent that this priority is expressly restricted by any of the VTA's agreements with bondholders.

(b) The notice stating the time and place of the hearing on the proposed issuance of bonds shall be published prior to the time fixed for the hearing pursuant to Section 6066 of the Government Code.

**SEC. 114.** Section 100605 of the Public Utilities Code is amended to read:

**100605.** (a) Special benefit assessments for the payment of the principal of, and interest on, bonds issued for a benefit district or zone shall be levied in the benefit district or zone at rates that are sufficient in the aggregate, together with revenues already collected and available, to pay the principal of, and interest on, all bonds the VTA issued for the benefit district or zone. Other revenues of the VTA shall be used for the payment of the principal of, and interest on, the bonds only to the extent set forth in any agreement of the VTA for the benefit of bondholders.

(b) Special benefit assessments in the benefit district and zones, if any, therein shall be calculated in accordance with the requirements set forth in Section 4 of Article XIII D of the California Constitution.

**SEC. 115.** Section 100606 of the Public Utilities Code is amended to read:

**100606.** (a) The bonds issued pursuant to this chapter shall bear interest at a rate or rates not exceeding 12 percent per annum, payable semiannually, except that the first interest payable on the bonds or any series thereof may be for any period not to exceed one year as determined by the board.

(b) In the resolution or resolutions providing for the issuance of bonds, the board may also provide for call and redemption of the bonds prior to maturity at times and prices and upon any other terms that it may specify. However, no bond is subject to call or redemption prior to maturity unless the bond contains a recital to that effect. The denomination or denominations of bonds shall be stated in the resolution providing for their issuance, but shall not be less than five thousand dollars (\$5,000). The principal of, and interest on, the bonds shall be payable in lawful money of the United States at the office of the treasurer of the VTA or at any other place or places that may be designated by the board, or at either place or places at the option of the holders of the bonds. The bonds shall be dated, numbered consecutively, signed by the board chairperson and chief financial officer, and countersigned by the secretary and shall have the official seal of the VTA attached. The interest coupons of the bonds shall be signed by the chief financial officer. The seal and all signatures and countersignatures may be printed, lithographed, or mechanically reproduced, except that one signature or countersignature shall be manually affixed.

(c) If an officer, whose signature or countersignature appears on the bonds or coupons, leaves office for any reason prior to the delivery of the bonds, the officer's signature is as effective as if the officer had remained in office.

**SEC. 116.** Section 100609 of the Public Utilities Code is amended to read:

**100609.** (a) All accrued interest and premiums received on the sale of bonds issued by the VTA pursuant to this chapter shall be placed in the fund to be used for the payment of principal of, and interest on, those bonds. The remainder of the proceeds received on the sale of the bonds shall be placed in the treasury to secure those bonds or for the purposes for which the debt was incurred.

(b) When the purposes for which the debt was incurred have been accomplished, any money remaining shall be either (a) transferred to the fund to be used for the payment of principal of, and interest on, the bonds or (b) placed in a fund to be used for the purchase of those outstanding bonds of the VTA, from time to time, in the open market at the prices and in the manner, either at public or private sale or otherwise, that the board determines. Bonds so purchased shall be canceled immediately.

**SEC. 117.** Section 100610 of the Public Utilities Code is amended to read:

**100610.** (a) The board may provide for the issuance, sale, or exchange of refunding bonds to redeem or retire any bonds issued by the VTA under this chapter upon the terms, at the times, and in the manner that it determines. Refunding bonds may be issued in a principal amount sufficient to pay all, or any part, of the principal of the outstanding bonds issued under this chapter, the interest thereon, and the premiums, if any, due upon call and redemption thereof prior to maturity and all expenses of the refunding.

(b) The provisions of this chapter, for the issuance and sale of bonds apply to the issuance and sale of refunding bonds, except that, when refunding bonds are to be exchanged for outstanding bonds, the method of exchange shall be as determined by the board.

**SEC. 118.** Section 100612 of the Public Utilities Code is amended to read:

**100612.** The board may change the purposes for which any proposed debt is to be incurred, the estimated cost, the amount of bonded debt to be incurred, or the boundaries of the benefit district or zones, if any, therein or one or all of those matters, except that the board shall not change the boundaries of the benefit district or zones to include any territory which will not, in its judgment, be benefited by the VTA action.

**SEC. 119.** Section 100613 of the Public Utilities Code is amended to read:

**100613.** (a) The board shall not change the purposes, the estimated cost, the boundaries of the benefit district or zones, if any, therein, or the amount of bonded debt to be incurred until after it gives notice of its intention to do so, stating each proposed change in the purpose and stating, if applicable, that the exterior boundaries of the benefit district or zones proposed to be changed are set forth on a map on file with the secretary of the VTA. The notice shall also specify the time and the place set for hearing.

(b) The notice shall be published prior to the time set for the hearing pursuant to Section 6066 of the Government Code.

(c) The notice shall also be mailed at least 30 days prior to the hearing to all owners of real property affected by the proposed change whose names and addresses appear on the last equalized assessment roll or are otherwise known to the board of supervisors of the county in which the benefit district is located or to the VTA. Any proposed increases to a special benefit assessment shall not be made unless all notice, protest, and hearing procedures set forth in Section 53753 of the Government Code have been followed.

**SEC. 120.** Section 100618 of the Public Utilities Code is amended to read:

**100618.** In the event of conflict with any other law, the provisions of this chapter shall prevail with respect to benefit districts within the boundaries of the VTA.

**SEC. 121.** Section 100619 of the Public Utilities Code is amended to read:

**100619.** Notwithstanding any other provision of this chapter, the VTA shall not pledge any portion of its general fund revenues to pay any part of any bonded indebtedness incurred under this chapter unless required by provisions of the California Constitution.