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AB-709 Sacramento Regional Transit District. (2017-2018)

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Date Published: 09/19/2018 09:00 PM

Assembly Bill No. 709

CHAPTER 522

An act to amend Sections 102013, 102018, 102050, 102051, 102105.1, 102107, 102160, 102206, 102260, 102281, 102282, 102310, and 102351 of, to repeal Sections 102336, 102353, and 102354 of, and to repeal and add Section 102352 of, the Public Utilities Code, relating to transportation.

[Approved by Governor September 19, 2018. Filed with Secretary of State September 19, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 709, McCarty. Sacramento Regional Transit District.

Existing law provides for the creation of the Sacramento Regional Transit District, with specified powers and duties relative to the provision of public transit services. Existing law describes the authorized boundaries of the district. Existing law provides for the district to be governed by a board of directors and provides for a weighted voting procedure. Existing law authorizes the board of directors of the district to adopt a retail transactions and use tax ordinance, subject to the approval of $\frac{2}{3}$ of the electors at a special election. Existing law requires the district's retail transactions and use tax ordinance to provide for rates of $\frac{1}{4}$ or $\frac{1}{2}$ of 1% and requires that the ordinance be operative on the first day of the first calendar quarter commencing less than 180 days after adoption of the ordinance.

This bill would revise and recast these and other related provisions. The bill would modify the description of the authorized boundaries of the district and provide that the district is a rapid transit district, as defined. The bill would specify that certain property and facilities used by the district are transit works and facilities, and constitute public works for the purposes of the Public Contract Code. The bill would modify the definition of a quorum as applied to meetings of the board. The bill would authorize the district to publish ordinances on its Internet Web site as an alternative to newspaper publication. The bill would authorize the board secretary to be a district employee appointed by the board.

The bill would authorize a public agency to contract with the district to provide transit facilities and services for the public agency. The bill would provide that laws, or rules or regulations, of this state inconsistent with the laws, or rules and regulations, of the United States, shall not apply to the acquisition, construction, maintenance, or operation of transit facilities funded by the United States, to the extent of the inconsistency, if that inconsistency may result in a loss of federal funding. The bill would modify the district's powers to impose a retail transactions and use tax by ordinance to authorize rates in increments of $\frac{1}{8}$ of 1% and would require that the ordinance be operative on the first day of the first calendar quarter commencing more than 150 days after adoption of the ordinance. The bill would require the district to provide to the California Department of Tax and Fee Administration, within 45 days of the approval of the ordinance by the voters, a complete alphabetical list of all streets within the affected unincorporated area under its jurisdiction, maintain that list on its Internet Web site, and provide a legal description and a map or plat, as specified. The bill would make other related changes.

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

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

SECTION 1. Section 102013 of the Public Utilities Code is amended to read:

102013. "Transit works" or "transit facilities" means any or all real and personal property, equipment, rights, or interests owned, or to be acquired, or used, by the district for transit service or purposes, including transit operations, maintenance, or administration. "Transit works" or "transit facilities" are public works for the purposes of the Public Contract Code.

SEC. 2. Section 102018 of the Public Utilities Code is amended to read:

102018. "System" means all transit works and transit facilities owned or held, or to be owned or held, or used, by the district for transit purposes.

SEC. 3. Section 102050 of the Public Utilities Code is amended to read:

102050. The Sacramento Regional Transit District may be formed pursuant to this chapter to carry out the purposes of this part. The district is hereby designated a rapid transit district. The district shall be a public corporation for those purposes.

SEC. 4. Section 102051 of the Public Utilities Code is amended to read:

102051. The district may comprise the Cities of Citrus Heights, Elk Grove, Davis, Folsom, Rancho Cordova, Roseville, Sacramento, West Sacramento, and Woodland, and the following described territory of the Counties of Sacramento and Yolo, to the extent the territory is not included in the above-mentioned cities:

(a) The territory of the County of Sacramento that may be included in the district is the same area as the urban service area of the County of Sacramento, as adopted and as hereafter amended.

(b) The unincorporated territory of the County of Yolo that may be included is described as follows:

(1) Beginning at the northeast corner of Sec. 36, T. 9 N., R. 3 E., M.D.B. & M.; thence north $\frac{1}{2}$ mile along the west line of Sec. 30, T. 9 N., R. 4 E., to the west $\frac{1}{4}$ corner of Sec. 30; thence east $\frac{1}{2}$ mile to the center of Sec. 30; thence north $\frac{1}{8}$ mile, more or less, to the north line of Swamp Land Survey No. 970, the point being on the centerline of Tule Lake Road; thence northeasterly along the north line of Swamp Land Survey No. 970 to the centerline of the Sacramento River; thence easterly and southerly down and along the Sacramento River to the south line of Swamp Land Survey No. 815; thence northwesterly along the south line of Swamp Land Survey No. 815 to its southwest corner; thence northeasterly along the west line of Swamp Land Survey No. 815 to a point where it is intersected by the quarter section line running east and west through Sec. 30, T. 8 N., R. 4 E.; thence west $\frac{3}{4}$ mile, more or less, to the east $\frac{1}{4}$ corner of Sec. 25, T. 8 N., R. 3 E.; thence north $5\frac{1}{2}$ miles, more or less, to the point of beginning.

(2) Beginning at the intersection of State Highway Route 113 and the Yolo County line southern boundary; thence easterly along the Yolo County line southern boundary to the Davis City Limits; thence meandering along the Davis City Limits to Russell Boulevard; thence westerly along Russell Boulevard to Route 113; thence southerly along Route 113 to the point of beginning.

For purposes of this section, any reference to an avenue, boulevard, highway, railroad, road, or street includes the right-of-way thereof.

SEC. 5. Section 102105.1 of the Public Utilities Code is amended to read:

102105.1. In acting on any item, the following weighted voting procedure shall apply:

(a) There shall be a total of 100 votes.

(b) The presence of members eligible to cast a majority of the 100 votes shall constitute a quorum for the transaction of business at a noticed meeting. In all other cases, a majority of the members of the board shall constitute a quorum.

(c) Except as otherwise provided in this section, and notwithstanding any other provision of law, all official acts of the board shall require the affirmative vote of members casting a majority of the 100 votes. Any statute, including this part, that requires a vote of the board shall be interpreted to require a tally of the votes, rather than a tally of the members of the board. A statute requiring the

affirmative vote of the majority or a greater number of members of the board, including, but not limited to, Section 1245.240 of the Code of Civil Procedure, shall be interpreted as requiring a tally of the votes cast by members, rather than a tally of members.

(d) Each board member shall have the number of votes determined by the following formula; however, each voting entity represented on the board shall have at least one vote, and providing that there shall be no fractional votes:

(1) Each member entity is entitled to five votes as a membership incentive; however, the total number of incentive votes shall not exceed 30. If the number of member entities exceeds six, the 30 incentive votes shall be divided equally among the member entities.

(2) The remaining votes shall be divided among all voting entities in proportion to each entity's financial contribution to the district. The calculation of each voting entity's financial contribution shall include all of the following:

(A) Funds allocated to the district pursuant to the Mills-Alquist-Deddeh Act, also known as the Transportation Development Act (Chapter 4 (commencing with Section 99200) of Part 11 of Division 10), or any successor thereto, as computed by the applicable transportation planning agency for the voting entity.

(B) Funds provided to the district by the voting entity pursuant to an agreement of the type described in subdivision (b) of Section 102100.3.

(C) Other local funds made available to the district by the voting entity for the operation of public transit service.

(D) The federal formula grant funds attributable to the voting entity shall be determined by multiplying the amount described in paragraph (8) of subdivision (b) of Section 102205 by the voting entity's proportionate share of the total population of all voting entities, which shall be determined by using the population statistics described in paragraph (10) of subdivision (b) of Section 102205.

(E) Any adjustment expressly provided for in an agreement entered into between the district and any voting entity whereby the district receives or disburses any of the funds described in subparagraphs (A) to (D), inclusive, including, but not limited to, fund exchange or fund swap agreements.

(3) The total number of votes for each voting entity shall be the sum of the votes allocated in paragraphs (1) and (2).

(4) If the division set forth in paragraphs (1) to (3), inclusive, results in fractional votes, the number of votes allocated shall be rounded in the following manner:

(A) Each fractional vote that is 0.6 or greater shall be rounded up to the nearest whole number, and each fractional vote that is less than 0.6 shall be rounded down to the nearest whole number.

(B) If the sum total of the votes so rounded is greater than 100, the excess vote or votes shall be taken one each from the voting entity or entities with the greatest number of total votes, in descending order of the number of votes, until the sum total is 100. If two or more voting entities have the same number of votes, the vote reduction among those entities shall be done by lot.

(C) If the sum total of the votes so rounded is less than 100, one vote shall be added to the total of the voting entity or entities with the greatest number of total votes, in descending order of the number of votes, until the sum total is 100. If two or more voting entities have the same number of votes, the extra votes shall be allocated by lot among those entities.

(5) The determination of financial contribution and the apportionment of votes shall be approved by the board at the board meeting at which the budget is adopted. The new voting apportionment shall be effective on July 1 of each year or as soon thereafter as the budget is adopted.

(6) At the time the apportionment is approved, the following calculation shall be done for each voting entity: the total number of votes allocated to the voting entity shall be divided by the total number of appointments the voting entity is entitled to make under Sections 102100.2 and 102100.3, regardless of whether those appointments have been made. If the result is greater than 15 votes per appointment, the voting entity shall be entitled to appoint an additional member to the board, effective July 1. Notwithstanding Section 102100.5, the legislative body of the voting entity making its appointment under this provision shall give written notification to the secretary of the board within 30 days of approval of the allocation. A member so appointed shall be subject to the same restrictions and shall have the same powers, when serving on the board, as any other member.

(7) For any voting entity that has appointed more than one member to the board, the total votes allocated to that voting entity shall be divided equally among the board members or alternates representing that entity who are present and voting. Where an equal division would result in fractional votes, the votes shall be divided to the nearest whole number among all members representing the voting entity who are present and voting, with the remaining votes being allocated, one vote each, to the

members representing the voting entity in order of seniority, as measured by years of consecutive service on the board. If two or more members have served for the same length of time, the extra vote or votes shall be allocated between those members by lot.

(8) If a city or county becomes a voting entity or ceases to be a voting entity after the annual allocation called for in this subdivision has taken place, the board shall approve a new allocation, applying the financial contribution data used for the most recent allocation and considering what the new voting entity would have contributed, had it been part of the district when the preceding allocation took place. If necessary, the financial contribution of a newly incorporated entity may be estimated using population figures from the applicable local agency formation commission.

(9) If, during the course of the fiscal year, the financial data used to calculate the financial contribution of any voting entity differs by more than 10 percent from the amount that will actually be provided during the fiscal year by that entity, the board may call for a new allocation to be conducted and any allocation so called for shall be approved by the board. The allocation shall proceed in the manner described in paragraphs (1) to (4), inclusive, but the calculation in paragraph (2) shall be done with reference to the financial contribution actually provided to the district during the fiscal year (except as otherwise provided in paragraph (8)), to the extent that contribution is known.

SEC. 6. Section 102107 of the Public Utilities Code is amended to read:

102107. (a) 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. The enacting clause of all ordinances shall be as follows:

“The board of directors of the Sacramento Regional Transit District do ordain as follows:”

(b) All ordinances shall be signed by the chairman of the board or the chairman pro tempore 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 in the district or on the district’s Internet Web site. An order entered in the minutes of the board that the ordinance has been duly published is prima facie proof of such publication.

SEC. 7. Section 102160 of the Public Utilities Code is amended to read:

102160. The officers of the district shall consist of the members of the board, and the chair, chair pro tem, and secretary, who shall be selected from the members of the board, except that the secretary may alternatively be an employee of the district appointed by the board. The board may also hire and appoint a general manager, a legal counsel, a controller, a treasurer, and such other officers, assistants, and deputies as the board may deem necessary.

SEC. 8. Section 102206 of the Public Utilities Code is amended to read:

102206. The district shall also submit to the legislative body of each voting entity with its tentative or proposed budget a draft of the vote allocation called for by Section 102105.1. A legislative body may include with its comments to the district on the budget comments concerning the proposed vote allocation, and the board shall consider those comments prior to adopting the budget.

SEC. 9. Section 102260 of the Public Utilities Code is amended to read:

102260. The district shall adopt and maintain a general transit plan for the district. The district may designate one of the transit plans it is otherwise required to prepare as the general transit plan.

SEC. 10. Section 102281 of the Public Utilities Code is amended to read:

102281. The district may provide charter bus service, special school service, and other service to the extent permitted under federal law.

SEC. 11. Section 102282 of the Public Utilities Code is amended to read:

102282. The board may contract with a public agency or person to provide transit facilities and services for the district. A public agency may contract with the district to provide transit facilities and services for the public agency.

SEC. 12. Section 102310 of the Public Utilities Code is amended to read:

102310. The district 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, and 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 such transit facilities in accordance with any legislation which 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 such transit facilities. The district may do any and all things necessary in order to avail itself of such 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. Laws, or rules or regulations, of this state inconsistent with the laws, or rules and regulations, of the United States, shall not apply to the acquisition, construction, maintenance, or operation of transit facilities funded by the United States, to the extent of the inconsistency, if that inconsistency may result in a loss of federal funding.

SEC. 13. Section 102336 of the Public Utilities Code is repealed.

SEC. 14. Section 102351 of the Public Utilities Code is amended to read:

102351. The retail transactions and use tax ordinance shall provide for a rate of one-eighth of 1 percent or a multiple thereof. The ordinance shall provide for the tax to be imposed within the boundaries of the district, as defined in Section 102052.5. The ordinance shall be subject to voter approval by the electors in those designated boundaries consistent with Section 102350.

SEC. 15. Section 102352 of the Public Utilities Code is repealed.

SEC. 16. Section 102352 is added to the Public Utilities Code, to read:

102352. (a) Any transactions and use tax ordinance adopted pursuant to this article shall be operative on the first day of the first calendar quarter commencing more than 150 days after adoption of the ordinance.

(b) (1) Prior to the operative date of the ordinance, the district shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of the ordinance. The costs to be covered by the contract may also include services of the types described in Section 7272 of the Revenue and Taxation Code for preparatory work up to the operative date of the ordinance. Any disputes as to the amount of the costs shall be resolved in the same manner as provided in that section.

(2) Notwithstanding Section 7272 of the Revenue and Taxation Code, the maximum amount of preparatory costs incurred may exceed those costs as described in paragraph (1) if the increased amount reflects necessary preparatory costs.

(c) Within 45 days from the date the ordinance is approved by the voters, the district shall provide the California Department of Tax and Fee Administration with a complete alphabetical list of all streets within the affected unincorporated area under the jurisdiction of the district pursuant to Section 102052.2, which shall include beginning and ending street numbers, and shall maintain that list on its Internet Web site. The district shall also provide a legal description and a map or plat, that both describe the boundaries of the applicable unincorporated territory within the district pursuant to Section 102052.2.

SEC. 17. Section 102353 of the Public Utilities Code is repealed.

SEC. 18. Section 102354 of the Public Utilities Code is repealed.