



## Board Report

File #: 2017-0302, File Type: Federal Legislation / State Legislation (Position)

Agenda Number: 24

..Meeting\_Body

**REVISED**  
**EXECUTIVE MANAGEMENT COMMITTEE**  
**MAY 18, 2017**

**SUBJECT: STATE LEGISLATION**

**ACTION: ADOPT STAFF RECOMMENDED POSITIONS**

### **RECOMMENDATION**

ADOPT staff recommended positions:

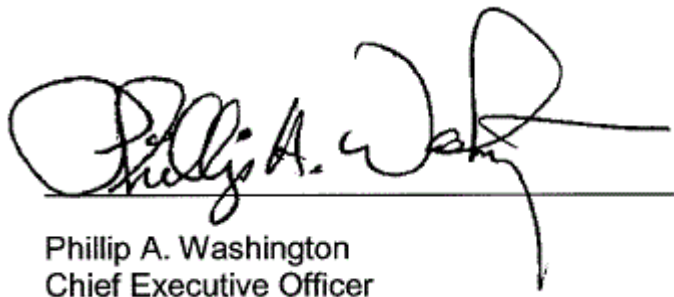
- A. **SB 268 (Mendoza)** - Los Angeles County Metropolitan Transportation Authority **OPPOSE**
- B. **SB 775 (Wieckowski)** - California Global Warming Solutions Act of 2006: Market-Based Compliance Mechanisms **WORK WITH AUTHOR**
- C. **SB 657 (Bates)** - California Public Records Act: Reverse Public Records Actions **OPPOSE**
- D. **AB 1479 (Bonta)** - Public Records: Custodian of Records: Civil Penalties **OPPOSE**
- E. **AB 302 (Gipson)** - South Coast Air Quality Management District: Fleets **WORK WITH AUTHOR**

### **ATTACHMENTS**

Attachment A - SB 268 (Mendoza) Legislative Analysis  
~~Attachment B - SB 775 (Wieckowski) Legislative Analysis~~  
~~Attachment C - SB 657 (Bates) Legislative Analysis~~  
Attachment D - AB 1479 (Bonta) Legislative Analysis  
~~Attachment E - AB 302 (Gipson) Legislative Analysis~~

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Phillip A. Washington  
Chief Executive Officer

**BILL:** SENATE BILL 268  
AS AMENDED MAY 1, 2017

**AUTHOR:** SENATOR TONY MENDOZA (D-ARTESIA)

**SUBJECT:** LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION  
AUTHORITY BOARD COMPOSITION

**STATUS:** SENATE APPROPRIATIONS COMMITTEE

**ACTION:** OPPOSE

**RECOMMENDATION**

Staff recommends that the Board of Directors adopt an OPPOSE position on Senate Bill 268 (Mendoza).

**ISSUE**

Senator Tony Mendoza has recently amended Senate Bill 268, which would make substantial changes to the Metro Board of Directors governance structure.

Specifically the bill would:

- Delete the requirement for Metro to submit a plan to the Legislature for revising the composition of the authority, if the number of members of the Board of Supervisors is increased, within 60 days of the increase;
- Add the county auditor as a non-voting member;
- Reduce the members of the Board of Supervisors from 5 to 2 members;
- Require that one Supervisor represent the largest population in the unincorporated area of the County of Los Angeles;
- Delete the appointment of two public members;
- Require the Mayor of the City of Los Angeles to appoint five members of the City Council who represent contiguous clusters of 3 council districts;
- Require the City Council to determine the contiguity;
- Remove the City Selection Committee's authority to shorten the term-limits to ensure staggered terms;
- Remove the mechanism that exists in current law for transferring the City of Los Angeles appointment to the City Selection Committee should the population of the City of Los Angeles change drastically; and
- Impose a state-mandated local program.

## **DISCUSSION**

The structure of the Board of Directors was originally negotiated at the local level by local stakeholders. The Board has long maintained that there should be no changes to the Board unless there is a locally derived consensus to do so. We are concerned that legislation on this subject, without such a consensus, is not productive and will not further the agency's goals of improving mobility for the 10 million residents of Los Angeles County.

During the 2015-2016 Legislative Session, Senator Mendoza introduced three unique proposals to restructure Metro's Board, SB 1472, SB 1379 and SB 522. Pursuant to Board Direction, Metro advocated in opposition to the measures and the measures did not achieve passage. The impetus behind last year's effort was in opposition to Measure M and to change composition of the Board to achieve greater representation for the cities outside of the City of Los Angeles. The author has also stated that the intent of this restructuring is to reallocate Measure M despite Measure M being approved by 71% of the voters.

SB 268 represents yet another attempt to restructure the Metro Board of Directors without any significant discussion with local stakeholders. While Senator Mendoza has conducted meetings with certain local representatives, that process has not been open, transparent and inclusive. We remain concerned that as with last year's attempts to mandate a Board structure from Sacramento rather than through a bottoms-up, consensus driven process, this bill would only perpetuate conflicts rather than seek compromise.

SB 268 could have serious unintended consequences. Since only two of the County Board of Supervisors would be represented on the board, people who live in the unincorporated areas of the three unrepresented Supervisorial districts would be completely unrepresented on our Board. Additionally, the cities in those 3 Supervisorial Districts would only have one vote on the Board while under the current structure they are represented by both their corridor representative and the County Supervisor.

The proposal would designate the County Auditor as a non-voting appointee. Staff finds this to be duplicative and unnecessary. Metro has an independent Inspector General and is required to maintain an independent procurement department, all of which is unique to transportation agencies in California. Metro is subject to multiple audit requirements including annual independent audits, independent audits of sales tax expenditures, and regular audits by the federal government.

Staff recommends that the Board adopt a formal OPPOSE position on the measure SB 268 (Mendoza).

## **DETERMINATION OF SAFETY IMPACT**

There is no determined safety impact due to the enactment of the proposed legislation.

## **FINANCIAL IMPACT**

The estimated financial impact has yet to be determined.

## **ALTERNATIVES CONSIDERED**

Adopting a support position on the bill would be counter to the Board approved position as outlined in the 2017 State Legislative Program goals that direct staff to oppose any legislation that seeks to restructure the Board of Directors. The staff recommended position on this measure supports the Board's policy to maintain the locally-derived process for determining the board governance structure.

## **NEXT STEPS**

Should the Board decide to adopt an OPPOSE position on this measure; staff will communicate the Board's position to the author and work vigorously oppose the bill and future iterations of the measure by the author. Staff will continue to keep the Board informed as this issue is addressed throughout the legislative session.

**BILL:** ASSEMBLY BILL 1479

**AUTHOR:** ASSEMBLYMEMBER ROB BONTA (D- ALAMEDA)

**SUBJECT:** PUBLIC RECORDS: CUSTODIAN OF RECORDS: CIVIL PENALTIES

**STATUS:** ASSEMBLY APPROPRIATIONS COMMITTEE  
HEARING SCHEDULED: MAY 10, 2017

**ACTION:** OPPOSE

**RECOMMENDATION**

Staff recommends that the Board of Directors adopt an OPPOSE position on Assembly Bill 1479 (Bonta).

**ISSUE**

Assemblymember Rob Bonta has recently amended Assembly Bill 1479, which would make substantial changes to the California Public Records Act related to civil penalties.

Specifically the bill would:

- Require public agencies to designate a person or office to act as the agency's custodian of records who is responsible for responding to any request made pursuant to the California Public Records Act and any inquiry from the public about a decision by the agency to deny a request for records; and
- Authorize a court that finds that an agency or the custodian improperly withheld from a member of the public, public records which were clearly subject to public disclosure, unreasonably delayed providing the contents of a record subject to disclosure in whole or in part, assessed an unreasonable or unauthorized fee upon a requester, or otherwise did not act in good faith to comply with these provisions, to assess a civil penalty against the agency in an amount not less than \$1,000, nor more \$5,000.

**DISCUSSION**

This bill was recently amended and, in its current form, aims to impose a civil penalty on public agencies that act in response to California Public Records Act requests. The bill classifies that in the event that an "unreasonable delay" occurs in responding to CPRA requests, penalties should be assessed. These provisions could cause an increase in costs relative to how Metro process public records requests. The County of Los Angeles and the League of California Cities oppose the bill.

Due to the nature of some records requests, a significant amount of staff time and resources may be required to prepare the request, review the contents of the request and respond to the requestor. The civil penalties as outlined in the proposed in the bill would be assessed if the court finds that the agency: (1) improperly withheld a public record that was clearly subject to disclosure, (2) unreasonably delayed providing the contents of a record subject to disclosure in whole or in part, (3) assessed an unreasonable or unauthorized fee upon a requester. Or (4) otherwise did not act in good faith to comply with the PRA.

Supporters of the measure argue that public agencies have impeded the public's right to public information. Opposition to the measure cite that authorizing the courts to assess civil penalties does not rightly address the author's intent of expanding access to public records, it incentivizes individuals to seek damages in the event that they believe their records request was, in fact, delayed.

LA Metro, as an agency aims to be transparent and responsive in adhering to the provisions of the PRA. Metro receives a voluminous number of public records each year, and each request is evaluated thoroughly. Staff has concerns with the potential civil actions and associated civil penalties that would be assessed should this measure go into law as currently drafted. Staff has additional concerns with the statute's lack of clarity relating to the definition of an "unreasonable delay." Under existing law, public agencies are required to comply with strict provisions under the PRA. The PRA also provides the ability for the public to seek a court opinion and litigation under specific circumstances.

Staff recommends that the Board adopt an OPPOSE position on AB 1479 (Bonta).

### **DETERMINATION OF SAFETY IMPACT**

There is no determined safety impact due to the enactment of the proposed legislation.

### **FINANCIAL IMPACT**

The estimated financial impact has yet to be determined.

### **ALTERNATIVES CONSIDERED**

Adopting a support position on the bill would be counter to balancing the need to protect individual privacy rights and agency goals related to transparency in meeting California Public Records Act requirements.

### **NEXT STEPS**

Should the Board decide to adopt an OPPOSE position on this measure; staff will communicate the Board's position to the author and work to oppose the measure. Staff will continue to keep the Board informed as this issue is addressed throughout the legislative session.