



Senate Bill 827 (Glazer) BART Office of the Inspector General

BART Board of Directors
March 23, 2023



SB 827 Background and Key Legislative Dates

Feb. 17	Bill introduced
Feb. 20	Memo and bill summary provided to Board
March 1	Bill referred to Senate Transportation and Judiciary Committees; hearing dates pending
March 9	Bill presented to Board as Informational Item
March 20	Bill may be acted upon/amended
March 23	Bill presented to Board for action
April 28	Policy committee deadline for fiscal bills
May 19	Fiscal committee deadline to report bills to the Floor
June 2	House of Origin Deadline
July 14	Policy committee deadline in second house
Sept. 1	Fiscal committee deadline in second house
Sept. 8	Last day to amend on the Floor
Sept. 14	Last day for each house to pass bills
Oct. 14	Last day for Governor to sign or veto bills

Policy Committee Hearings

Senate Transportation

2nd and 4th Tuesdays at 1:30PM
March 28, April 11, April 25

Senate Judiciary

Every Tuesday at 1:30PM

Bill Summary

Authority of the BART Inspector General (IG)

- The District Act is amended to clarify the BART IG is vested with the full authority to exercise all responsibility for maintaining a full scope, independent, and objective audit and investigation program.

IG Access to District and Third-Party Documents and Other Property

- The IG shall have access and authority to examine all records, files, documents, accounts, reports, correspondence, or other property of the District and any third-party entities that perform work for the District.
- The IG shall have the authority to enter any District office or facility and access, examine, and reproduce, during regular business hours, any materials needed for an audit or investigation.
- Any officer or employee of the District or third-party entity in possession of or with access to documents shall permit access to and examination of them upon request of the IG or their designee.

Bill Summary

Handling of Documents and Other Property

- The IG may gain access to confidential records or property that are obtained in connection with any audit, evaluation, investigation, or review unless a law specifically refers to and precludes the IG from accessing, examining, and reproducing.
- Information or documents obtained in connection with any audit, evaluation, investigation, or review conducted by the IG are subject to any limitations on release of the information or documents as may apply to an employee or officer of the District or external entity. Providing confidential information that is subject to a privilege shall not be construed as waiving that privilege.
- The IG shall not destroy any materials used to support a completed audit sooner than three years after the audit report is made public.
- All books, papers, records, and correspondence of the OIG pertaining to its work are public records and shall be filed at any of the regularly maintained offices of the IG, except for specified instances.

Bill Summary

Misdemeanor Charges for Obstructing the Work of IG

New language makes it a misdemeanor, punishable by imprisonment in a county jail not exceeding six months, or a fine not exceeding \$1,000, or both, to do any of the following:

- Fail or refuse to permit the examination of, access to, or reproduction of any information requested by the IG or in any way interfere with an examination.
- Interfere, intend to deceive or defraud, or obstruct the IG in the performance of an audit, evaluation, investigation, or review.
- Manipulate, correct, alter, or change records, documents, accounts, reports, or correspondence before or during any audit, evaluation, investigation, or review.
- Distribute, reproduce, release, or fail to safeguard confidential draft documents exchanged between the IG and the entity subject to the audit, evaluation, investigation, or review before the release of a final report and without the IG's express permission.

Staff Recommendation: *Support if Amended*

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- Aligns the duties and responsibilities of the OIG with similar accountability offices in the state.
- Supports the audit and investigation functions of the OIG and clarifies authority to conduct independent oversight of BART's programs and operations.
- Addresses challenges identified by the OIG regarding access to information and independence necessary to conduct work according to professional standards.

Issues to address through amendments

- Concerns with the creation of a new criminal penalty. Amendments shall seek to lessen or remove proposed misdemeanor penalty, while ensuring the work of the OIG is not obstructed.
- Potential conflicts between the OIG and other audit and oversight entities within the District. Amendments shall seek to clarify the OIG is not to interfere with the original jurisdiction nor unduly influence or undermine the independence of other audit and oversight entities within the District.