

# **San Francisco Bay Area Rapid Transit District**

2150 Webster Street, P. O. Box 12688, Oakland, CA 94604-2688



## **BOARD MEETING AGENDA**

**The Board Meeting will be held in person with an option for public participation via teleconference. Please note that attachments have been added under Item 7-A.**

**Thursday, May 11, 2023**

**2:00 PM**

**BART Board Room, 2150 Webster Street, 1st Floor, Oakland, CA 94612.**

**Zoom Link: <https://us06web.zoom.us/j/82868156800>**

### **Board of Directors**

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SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT  
2150 Webster Street, P.O. Box 12688, Oakland, CA 94604-2688

BOARD MEETING AGENDA

May 11, 2023

2:00 p.m.

A regular meeting of the Board of Directors will be held at 2:00 p.m. on Thursday, May 11, 2023, in the BART Board Room, 2150 Webster Street, 1st Floor, Oakland, California 94612.

Please note that this meeting will be held in person in the BART Board Room, 2150 Webster Street, 1st Floor, Oakland, California 94612 with an option for public participation via teleconference. Face masks are strongly recommended on BART property, including the BART Board Room.

You may watch the Board Meeting live or archived at <https://bart.gov/boardtv>

Presentation and agenda materials will be available via Legistar at <https://bart.legistar.com>

You may attend the Board Meeting in person or join the Board Meeting via Zoom by calling 833-548-0282 and entering access code 828 6815 6800; logging in to Zoom.com and entering access code 828 6815 6800; or typing the following Zoom link into your web browser:

<https://us06web.zoom.us/j/82868156800>

Members of the public may address the Board of Directors regarding any matter on this agenda. If you wish to discuss a matter that is not on the agenda during a regular meeting, you may do so under Public Comment.

If you wish to make a public comment:

- 1) Submit written comments via email to [board.meeting@bart.gov](mailto:board.meeting@bart.gov), using “public comment” as the subject line. Your comment will be provided to the Board and will become a permanent part of the file. Please submit your comments as far in advance as possible. Emailed comments must be received before 4:00 p.m. on May 10, 2023, in order to be included in the record.
- 2) Complete a “Request to Address the Board of Directors” form (available at the entrance to the Board Room) and give it to the District Secretary before the Item is considered by the Board.
- 3) Call 833-548-0282, enter access code 828 6815 6800, dial \*9 to raise your hand when you wish to speak, and dial \*6 to unmute when you are requested to speak; log in to Zoom.com, enter access code 828 6815 6800, and use the raise hand feature; or join the Board Meeting via the Zoom link (<https://us06web.zoom.us/j/82868156800>) and use the raise hand feature.

Public comment is limited to three (3) minutes per person.

Any action requiring more than a majority vote for passage will be so noted.

Items placed under “consent calendar” are considered routine and will be received, enacted, approved, or adopted by one motion unless a request for removal for discussion or explanation is received from a Director or from a member of the audience.

Please refrain from wearing scented products (perfume, cologne, after-shave, etc.) to these meetings, as there may be people in attendance susceptible to environmental illnesses.

BART provides services/accommodations upon request to persons with disabilities and individuals who are limited English proficient who wish to address BART Board matters. A request must be made within one and five days in advance of Board meetings, depending on the service requested. Please contact the Office of the District Secretary at 510-464-6083 for information.

Rules governing the participation of the public at meetings of the Board of Directors and Standing Committees are available for review on the District's website (<http://www.bart.gov/about/bod>).

Meeting notices and agendas are available at [bart.legistar.com](http://bart.legistar.com); via email (<https://cloud.info.bart.gov/signup>); or via regular mail upon request submitted to the District Secretary.

Complete agenda packets (in PDF format) are generally available for review at [bart.legistar.com](http://bart.legistar.com) no later than 48 hours in advance of the meeting.

Please submit your requests to the District Secretary via email to [BoardofDirectors@bart.gov](mailto:BoardofDirectors@bart.gov); in person or U.S. mail at 2150 Webster Street, 10th Floor, Oakland, California 94612; or telephone at 510-464-6083.

April B. A. Quintanilla  
District Secretary

## Regular Meeting of the

BOARD OF DIRECTORS

The purpose of the Board Meeting is to consider and take such action as the Board may desire in connection with:

1. CALL TO ORDER

- A. Roll Call.
- B. Pledge of Allegiance.
- C. Introduction of Special Guests.

2. REPORT OF THE BOARD PRESIDENT3. BOARD COMMITTEE REPORTS

(An opportunity for Committee Chairpersons to report out on the activities of Board Committees that have met since the last Board Meeting.)

4. CONSENT CALENDAR

- A. Award of Invitation for Bid No. 9117, Insulator and Coverboard Assembly Parts.

*Board requested to authorize.*

**Attachments:** [Award of Invitation for Bid No. 9117, Insulator and Coverboard Assembly Parts - EDD](#)

- B. Procurement with Engage Communication, Inc for Serial Servers.

*Board requested to authorize.*

**Attachments:** [Procurement with Engage Communication, Inc for Serial Servers - EDD](#)

- C. Appointments to BART Safety, Reliability and Traffic Relief Program (Measure RR) Bond Oversight Committee.

*Board requested to appoint.*

**Attachments:** [Appointments to BART Safety, Reliability and Traffic Relief Program \(Measure RR\) Bond Oversight Committee - EDD](#)



- D. Compensation and Benefits for Inspector General.

*Board requested to authorize.*

**Attachments:** [Compensation and Benefits for Inspector General - Memo](#)

5. GENERAL MANAGER'S REPORT

- A. Report of Activities, including Updates of Operational, Administrative, and Roll Call for Introductions Items.

6. PUBLIC COMMENT

(An opportunity for members of the public to address the Board of Directors on matters under their jurisdiction and not on the agenda. Public comment is limited to three (3) minutes per person.)

7. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS - PART I

Director Saltzman, Chairperson

- A. Transit Financial Stability: Update on Short-Term and Long-Term Strategies.  
*For information.*

**Attachments:** [Transit Financial Stability Update on Short-Term and Long-Term Strategies - Memo](#)  
[Transit Financial Stability Update on Short-Term and Long-Term Strategies - Presentation](#)

8. ADMINISTRATION ITEMS

Director Dufty, Chairperson

- A. Briefing on Other Post-Employment Benefits (Retiree Medical) and Pension Liabilities.  
*For information.*

**Attachments:** [Briefing on Other Post-Employment Benefits \(Retiree Medical\) and Pension Liabilities - Memo](#)  
[Briefing on Other Post-Employment Benefits \(Retiree Medical\) and Pension Liabilities - Presentation](#)

- B. Rail Service Plan, Fiscal Year 2024 and Fiscal Year 2025 Operating and Capital Sources and Uses.  
*For information.*

**Attachments:** [Rail Service Plan, Fiscal Year 2024 and Fiscal Year 2025 Operating and Capital Sources and Uses - Memo](#)  
[Rail Service Plan, Fiscal Year 2024 and Fiscal Year 2025 Operating and Capital Sources and Uses - Presentation](#)

9. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS - PART II

Director Saltzman, Chairperson

- A. (CONTINUED from April 27, 2023 Board Meeting)  
Legislation for Consideration.  
*Board requested to authorize.*

**Attachments:** [Legislation for Consideration - Memo](#)  
[Legislation for Consideration - Bill Packet](#)  
[Legislation for Consideration - Presentation](#)

10. ENGINEERING AND OPERATIONS ITEMS

Director Foley, Chairperson

NO ITEMS.

11. CONTROLLER-TREASURER'S REPORT

- A. Quarterly Report of the Controller-Treasurer for the Quarter Ending December 31, 2022.  
*For information.*

**Attachments:** [Quarterly Report of the Controller-Treasurer for the Quarter Ending December 31, 2022 - Memo](#)  
[Quarterly Report of the Controller-Treasurer for the Quarter Ending December 31, 2022 - Presentation](#)

12. BOARD MATTERS

- A. Board Member Reports.

(Board member reports as required by Government Code Section 53232.3(d) are available through the Office of the District Secretary. An opportunity for Board members to report on their District activities and observations since the last Board Meeting.)

- B. Roll Call for Introductions.

(An opportunity for Board members to introduce a matter for consideration at a future Committee or Board Meeting or to request District staff to prepare items or reports.)

C. In Memoriam.

(An opportunity for Board members to introduce individuals to be commemorated.)



## EXECUTIVE DECISION DOCUMENT

|  |   |   |  |  |
|--|---|---|--|--|
| <b>GENERAL MANAGER APPROVAL:</b> <div style="float: right; text-align: right;"> <small>DocuSigned by:</small><br/> <br/> <small>47000790F2D7463...</small> </div>  |   | <b>GENERAL MANAGER ACTION REQ'D:</b><br>Approve and Send to Board   |  |  |
| <b>DATE:</b> 4/10/2023      5/4/2023   |   | <b>BOARD INITIATED ITEM:</b> No   |  |  |
| <b>Originator/Prepared by:</b> Linda Lee<br><b>Dept:</b> Strategic Engineering<br><div style="text-align: right;"> <small>DocuSigned by:</small><br/> <br/> <small>9FA454A5AF83469...</small> </div> <b>Signature/Date:</b><br><div style="text-align: right;">4/28/2023</div> | <b>General Counsel</b><br><div style="text-align: right;"> <small>DocuSigned by:</small><br/> <br/> <small>F8FD7B3A73E74E8...</small> </div> <b>Signature/Date:</b><br><div style="text-align: right;">5/1/2023 [ ]</div> | <b>Controller/Treasurer</b><br><div style="text-align: right;"> <small>DocuSigned by:</small><br/> <br/> <small>EE11C8CEEEA04FD...</small> </div> <b>Signature/Date:</b><br><div style="text-align: right;">4/28/2023 [ ]</div> | <b>District Secretary</b><br><br><div style="text-align: right;">[ ]</div> | <b>BARC</b><br><div style="text-align: right;"> <small>DocuSigned by:</small><br/> <br/> <small>8128A2EB2F014F3...</small> </div> <b>Signature/Date:</b><br><div style="text-align: right;">5/1/2023 [ ]</div> |

### Authorize the General Manager to Award IFB 9117 for Insulator and Coverboard Assembly Parts

#### PURPOSE:

To obtain Board Authorization for the General Manager to award Invitation for Bid (IFB) No. 9117 to Mance & Associates, Inc., of Santa Clara, California, in the amount of \$1,097,377 (includes all applicable taxes) for the purchase of insulator and coverboard assembly parts.

#### DISCUSSION:

This Contract is for the procurement of insulator and coverboard assembly parts to be installed as part of the K Line Interlocking Replacement Project (Project). The Project will remove and replace the existing insulator and coverboard assembly parts that were installed as part of the initial BART system construction in the 1960s and 1970s. The existing infrastructure is showing signs of significant wear and needs replacement. This work will help ensure the long-term safety and reliability of the system and support increasing ridership.

A notice requesting Bids was published on September 15, 2022. On the same day, this solicitation was uploaded onto the BART Vendor Portal. Correspondence was sent to four (4) prospective bidders inviting them to view the solicitation on the Vendor Portal. A total of twelve (12) prospective Bidders downloaded the solicitation. Bids were opened on February 14, 2023, and two (2) Bids were received.

| <b>BIDDER</b>            | <b>Unit Price</b> | <b>GRAND TOTAL</b><br><b>(Includes all applicable taxes)</b> |
|--------------------------|-------------------|--|
| Mance & Associates, Inc. | \$990,860         | \$1,097,377  |
| LB Foster                | \$2,955,975       | \$3,273,742  |
|                          |                   |  |
| Engineer's Estimate      | \$1,203,428       | \$1,332,797  |

After review by District staff, the lowest Bid submitted by Mance & Associates, Inc., was deemed responsive to the solicitation. Furthermore, a review of Mance & Associates, Inc.'s license, business experience, and financial capabilities has resulted in a determination that Mance & Associates, Inc. is a responsible Bidder. Staff has also determined that Mance & Associates, Inc.'s total Bid price of \$1,097,377 is fair and reasonable based on the Engineer's Estimate.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 7% Local Small Business Prime Preference for this Contract for Small Businesses certified by the California Department of General Services and verified as Local (i.e., located in Alameda, Contra Costa, or San Francisco counties) by the District. The lowest responsive Bidder, Mance & Associates., is not a certified Local Small Business and, therefore, is not eligible for the 7% Small Business Prime Preference but is still the lowest responsive Bidder.

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability Percentages for this Contract are 2.2% for Minority Business Enterprises (MBEs) and 1.1% for Women Business Enterprises (WBEs). The Bidder, Mance & Associates, will not be subcontracting any portion of the Work and therefore, the provisions of the District's Non-Discrimination Program for Subcontracting do not apply.

#### **CAPITAL FISCAL IMPACT:**

Funding in the amount of \$1,097,377 for IFB No. 9117 is included in the total project budget for 15CQ008 – K Line Interlocking Replacement Project.

The table below lists funding assigned to the referenced project and is included to track funding history against spending authority. Funds needed to meet this request will be expended from the following sources:

| <b>Proposed Funding</b>        |                      |
|--------------------------------|----------------------|
| F/G 802A - 2017 Measure RR GOB | \$536,640            |
| F/G 802B - 2019 Measure RR GOB | 6,004,901            |
| F/G 802C - 2020 Measure RR GOB | 4,801,510            |
| F/G 802D - 2020 Measure RR GOB | 120,832,036          |
| <b>TOTAL</b>                   | <b>\$132,175,087</b> |

As of March 24, 2023, \$132,175,087 is the total budget for this project. BART has expended \$13,809,808, committed \$9,523,027, and reserved \$3,771,709 to date. This action will commit \$1,097,377, leaving an available fund balance of \$103,973,166 in these fund sources for this project.

The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation.

This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves.

**ALTERNATIVE:**

The Board may elect to reject the Bid and re-advertise the work of this Contract. There is no assurance that re-advertising will increase the number of bidders or result in any lower Bids. Failure to proceed with the Contract would delay the interlocking replacement, which may affect the reliability of the system and cause train delays.

**RECOMMENDATION:**

It is recommended that the Board adopt the following motion:

**MOTION:**

The General Manager is authorized to award IFB No. 9117 for the procurement of insulator and coverboard assembly parts to Mance & Associates, Inc., of Santa Clara, California for the amount of \$1,097,377 (includes all applicable taxes), pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedures.

Authorize the General Manager to Award IFB 9117 for Insulator and Coverboard Assembly Parts



## EXECUTIVE DECISION DOCUMENT

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|---|---|---|---|---|
| <b>GENERAL MANAGER APPROVAL:</b> <div style="float: right; border: 1px solid black; padding: 2px;"> <small>DocuSigned by:</small><br/> <i>Michael Jones</i><br/> <small>47000790F2D7463...</small> </div>   |   | <b>GENERAL MANAGER ACTION REQ'D:</b><br>N/A   |   |   |
| <b>DATE:</b> 4/19/2023      5/4/2023  |   | <b>BOARD INITIATED ITEM:</b> No   |   |   |
| <b>Originator/Prepared by:</b> Christopher-Loy Contreras<br><b>Dept:</b> Strategic Engineering<br><div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small><br/> <i>Michael Gerbracht</i><br/> <small>09289FE4E24436...</small> </div> <b>Signature/Date:</b> 5/1/2023 | <b>General Counsel</b><br><div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small><br/> <i>Jana Belan</i><br/> <small>F8FD7B3A73E74E8...</small> </div> <b>Signature/Date:</b> 5/1/2023 | <b>Controller/Treasurer</b><br><div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small><br/> <i>Chris Gan</i><br/> <small>EE11C8CEEEA04FD...</small> </div> <b>Signature/Date:</b> 5/1/2023 | <b>District Secretary</b><br><div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small><br/> <i>Shane Edwards</i><br/> <small>8128A2EB2F014F3...</small> </div> <b>Signature/Date:</b> 5/1/2023 | <b>BARC</b><br><div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small><br/> <i>Shane Edwards</i><br/> <small>8128A2EB2F014F3...</small> </div> <b>Signature/Date:</b> 5/1/2023 |

### PURCHASE OF SERIAL SERVERS

#### PURPOSE:

To obtain Board authorization for the General Manager to purchase 24 units of serial servers from Engage Communication, Inc in the amount of \$108,682.

#### DISCUSSION:

The serial server is one of the major components of the communications network which allow devices to communicate on a modernized network utilizing newer technology. This purchase is for the procurement of 24 units of serial servers to be installed as part of the Net.com State of Good Repair Project. The Project is for replacement of the obsolete train control communications network for the Castro Valley / Pleasanton Line. The scope includes installing new and modern components in Lake Merritt Annex building and in train control rooms and huts. This new network will provide greater reliability and maintainability of the train control system.

BART project staff requested and received quotes from three separate vendors in March 2023. The table below lists the responsive vendors as well as their total amount quoted for 24 units of serial servers.



| Vendor               | Location      | Price Quoted |
|----------------------|---------------|--------------|
| Goldfield Telecom    | Goldfield, IA | \$119,708    |
| Engage Communication | Aptos, CA     | \$108,682    |
| ACG Systems          | Annapolis, MD | \$119,070    |
| Engineering Estimate |               | \$110,000    |

Pursuant to the District’s Disadvantaged Business Enterprise (“DBE”) Program, the Office of Civil Rights has determined that as an informal purchase, the DBE Program does not apply to this purchase; therefore, no DBE participation goal was set for this procurement.

#### **FISCAL IMPACT:**

Funding of \$108,682 for the purchase of 24 Engage Serial Servers for the District’s L- Line is included in the total Project Budget for FMS #20LT006 – Net.Com State of Good Repair.

The table below lists funding assigned to the referenced project and is included to track funding history against spending authority. Funds needed to meet this request will be expended from the following sources:

| Fund Group | Fund Description   | Amount      |
|------------|--|-------------|
| FTA        | F/G 3017/3605/3614- Federal Transit Administration       | \$1,015,196 |
| BART       | F/G 8526/8529/8533/8536 - Capital Improvement Allocation | \$1,553,799 |
|            | TOTAL  | \$2,568,995 |

As of 04/20/2023, \$2,568,995 is the total budget for this project. BART has expended \$1,662,793, committed \$118,626, and reserved \$54,061 to date. This action will commit \$108,682, leaving an available fund balance of \$624,833 in the fund sources for this project.

The office of Controller/Treasurer certifies that funds are currently available to meet this

obligation.

This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves.

**ALTERNATIVES:**

The Board can elect not to approve award of the contract, which would prevent or delay replacement of the obsolete train control communications network on the Castro Valley / Pleasanton Line. This could pose a risk of disruption to revenue services due to low reliability of the aging infrastructure and unavailability of replacement network hardware.

**Recommendations:**

It is recommended that the Board adopt the motion:

**Motion:**

The General Manager is authorized to purchase 24 units of serial servers from Engage Communication in an amount of \$108,682.



## EXECUTIVE DECISION DOCUMENT

|  |  |  |  |  |
|--|--|--|--|--|
| <b>GENERAL MANAGER APPROVAL:</b> <div style="float: right; border: 1px solid black; padding: 2px;"> <small>DocuSigned by:</small><br/> <i>Michael Jones</i><br/> <small>47000790F2D7463...</small> </div>  |  | <b>GENERAL MANAGER ACTION REQ'D:</b><br>N/A  |  |  |
| <b>DATE:</b> 4/21/2023      5/4/2023   |  | <b>BOARD INITIATED ITEM:</b> No  |  |  |
| <b>Originator/Prepared by:</b> Linton Johnson<br><b>Dept:</b> Office of External Affairs<br><div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small><br/> <i>Linton Johnson</i><br/> <small>5BE06A7FEED0452...</small> </div> <b>Signature/Date:</b><br><div style="text-align: right;">5/1/2023</div> | <b>General Counsel</b><br><div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small><br/> <i>Jana Belan</i><br/> <small>F8FD7B3A73E74E8...</small> </div> <div style="text-align: right;">5/1/2023 [ ]</div> | <b>Controller/Treasurer</b><br><div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small><br/> <i>Chris Gan</i><br/> <small>EE11C8CEEEA04FD...</small> </div> <div style="text-align: right;">5/3/2023 [ ]</div> | <b>District Secretary</b><br><div style="text-align: right;">[ ]</div> | <b>BARC</b><br><div style="border: 1px solid black; padding: 2px; margin-top: 10px;"> <small>DocuSigned by:</small><br/> <i>Shane Edwards</i><br/> <small>8128A2EB2F014F3...</small> </div> <div style="text-align: right;">5/3/2023 [ ]</div> |

### Authorization to Appoint (1) New Member and Re-Appoint (4) Sitting Members to Measure RR Bond Oversight Committee

#### PURPOSE:

To appoint one newly nominated Measure RR Bond Oversight Committee candidate, Janey Qian Wang, Ph.D., to the Committee and reappoint four sitting Committee members to two-year terms beginning July 1, 2023 and ending June 30, 2025.

#### DISCUSSION:

On June 9, 2016, the BART Board of Directors passed Resolution 5321, which placed Measure RR, a \$3.5 billion BART Safety, Reliability, and Traffic Relief bond on the November 8, 2016 ballot.

Section 11 of the Resolution called for the establishment of a Bond Oversight Committee, which would consist of seven members appointed to two-year terms and eligible to serve for up to six years in total. The resolution specified that members be recruited from the following organizations:

- American Society of Civil Engineers (ASCE - 1 member)
- Institute of Electrical and Electronic Engineers (IEEE - 1 member)
- American Institute of Certified Public Accountants (AICPA - 1 member)
- Association of Budgeting and Financial Management (ABFM - 1 member)
- Project Management Institute (PMI - 1 member)
- League of Women Voters (LWV - 2 members)

On June 30, 2023, three Committee members will become ineligible for reappointment as they will have served six years on the Committee, which is the maximum a member may serve according to Resolution 5321 (Service Limit). The ineligible Committee members were those recruited from ASCE, IEEE and ABFM.

In September 2022, BART staff began recruiting to replace the members who reached their Service Limit. Between December 2022 and January 2023, ASCE put forward one of its members for consideration and IEEE put forward two. In March 2022, staff conducted panel interviews with all three candidates, however, none received a passing score. BART staff members have re-opened the recruitment with ASCE and IEEE. Staff hopes to present two more candidates to the Board to fill the ASCE and IEEE seats before the first meeting of the new term, which is scheduled for September 15, 2023.

In March 2023, BART staff conducted a panel interview with Janey Qian Wang, Ph.D., whom the ABFM recommended for a seat on the Committee. Dr. Wang received a passing score.

Dr. Wang is a BART rider who commutes from Walnut Creek to her job as an associate professor at San Francisco State University. Her research focuses on local fiscal policies, debt administration, and public and non-profit finance. Dr. Wang has consulted for the World Bank in Washington, DC and has either authored, peer-reviewed or presented her work in more than 50 different publications and conferences including a presentation in 2016 called “The Impact of Public Transit Expenditure on City Scaling in China” at the American Society for Public Administration in Seattle, WA. She earned her Ph.D. from Indiana University Bloomington in Public Affairs. She also graduated from the Renmin University of China with a master’s in accounting and a bachelor's in economics. Her full resume and application are attached with personal information redacted.

#### **FISCAL IMPACT:**

Each of the seven Committee members is eligible for a \$15 per meeting Clipper card reimbursement for transportation expenses. The Committee typically meets once per quarter.

#### **ALTERNATIVES:**

The Board could reject some or all of the applicants and direct staff to re-open the application process.

#### **RECOMMENDATION:**

Appoint one new member to the Bond Oversight Committee and reappoint four sitting

members eligible for reappointment to the July 1, 2023 to June 30, 2025 term.

**MOTION:**

That the BART Board of Directors appoints the following individuals to the July 1, 2023 to June 30, 2025 term of the Measure RR Bond Oversight Committee while staff continues to seek new members to complete the necessary composition of the seven member committee:

1. Catherine Newman, Ph.D.
2. Vinit Shrawagi
3. Cindy Simon Rosenthal, Ph.D.
4. Sonja Stewart
5. Janey Qian Wang, Ph.D.



# San Francisco Bay Area Rapid Transit District (BART) Safety, Reliability and Traffic Relief Program

## Application for Appointment to Bond Oversight Committee

Please complete this form and other requested documents and return to:

Linton Johnson, Strategic Programs Manager, 2150 Webster St, BHQ-1058D, Oakland, CA 94612. Please send your signed application and resume and/or bio no later than January 31, 2023

Applicant Name:

Home Address:

County of Residence:

Home Phone:

Work Phone:

Fax:

Email Address:

Occupation:

Employer:

Nominating Organization:

Seat Applying for (Check One):

☐ Expertise in Electrical Engineering

☐ Expertise in Civil Engineering

☐ Expertise in Public Finance/Project Management

☐ Expertise in Budgeting/Financial Management

☐ Representing League of Women Voters

☐ Expertise in Accounting/Auditing

Willing to be Alternate?

☐ Yes ☐ No

Summary of Qualifications for Appointment: (Please attach resume including education and business and/or professional experience.)

Summary of Reasons for Applying:

Ethnicity (Optional):

Gender (Optional): ☐ Male ☐ Female

Please note that the Bond Oversight Committee members shall be private citizens who are neither elected officials nor public employees from any agency that either oversees or benefits from the proceeds of Measure RR.

List any government agency of which you are an elected official:

Are you, your spouse, domestic partner or dependent child(ren) a BART employee or official, or an owner, employee or consultant to a BART contractor?

☐ Yes ☐ No

Will you refrain from participating in or interfering in the selection process of any vendor hired to execute bond funded projects?

☐ Yes ☐ No

Please note that you will be asked to file a Conflict of Interest disclosure statement if you are appointed to the Committee (California Government Code Section 81000 et seq.). Membership shall be restricted to individuals without financial interest in any Measure RR project. "Financial Interest" is defined by California Government Code Section 87103.

Date:

Signature:

Jane Wang

## (JANEY) QIAN WANG, Ph.D.

Office Phone: [REDACTED] [REDACTED]

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### EDUCATION

**Indiana University Bloomington**

**Bloomington, IN**

Ph.D., Public Affairs, School of Public and Environmental Affairs, 2009

Dissertation Title: “Redistributive Budget, Intergovernmental Transfers and Fiscal Institutions”

Years attended: 2004 – 2009

**Renmin University of China**

**Beijing, China**

Master in Accounting, School of Business, 2002

Years attended: 1999 – 2002

**Renmin University of China**

**Beijing, China**

Bachelor in Economics, Department of Commodity Science, 1999

Years attended: 1995 – 1999

### PROFESSIONAL POSITIONS

**Associate Professor**, Public Administration Program, School of Public Affairs & Civic Engagement, San Francisco State University, San Francisco, CA (August 2016-present)

**Assistant Professor**, Public Administration Program, School of Public Affairs & Civic Engagement, San Francisco State University, San Francisco, CA (August 2009 – 2016)

**Adjunct Instructor**, School of Public and Environmental Affairs, Indiana University at Bloomington (2005 – 2009)

**Short Term Consultant**, Development Research Group, The World Bank, Washington, D.C. (May 2006 – February 2007)

### Grants and Contracts

2017-2018. San Francisco’s Office of Economic and Workforce Development (OEWD)—Nonprofit Sector Study. (\$45,000) Co-Investigator with Jennifer Shea and Carol Silverman

2014. Urban Infrastructure Investment and Economic Growth in China. Funded by the Lincoln Institute of Land Policy. (\$29,300) Co-Principal Investigator with John Mikesell and Jerry Zhao

2011- 2013. Managing Mission & Revenue Diversification in Complex Policy and Funding Environments: A Study of Nonprofit Housing Organizations. Funded by the Advancing Knowledge in Human Services Philanthropy and Nonprofit Organizations Project. (\$24,991; October 2011 – September 2013). Co-Principal Investigator with Jennifer Shea.

2010. California Debt and Investment Advisory Commission, “Public Financing Options: Trends and Future Prospects in Long-Term Financing.” Principal Investigator. (\$30,552; Funded March 2010).

### HONORS & AWARDS

2012. Provost’s Research Time Awards.

2010, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 & 2020. Faculty Travel Award.

2008 - 2009. Starr Fellowship, Indiana University.

2006. Michael Curro Student Paper Award, Association for Budgeting and Financial Management (ABFM).

2004 - 2007. School of Public and Environmental Affairs Graduate Scholarship, Indiana University.

## **PROFESSIONAL ACHIEVEMENT AND GROWTH**

### **Research and Publications**

#### **Peer-reviewed Publications**

2016. The Pedagogical Design Factors that Enhance Learning in Hybrid Courses: A Contribution to Design-Based Instructional Theory. *Journal of Public Affairs Education*, 22(3), (with Jennifer Shea and M. Ernita Joaquin, co-author)

2015. Revenue Diversification in Housing Nonprofits: Impact of State Funding Environments. 45(3). *Nonprofit & Voluntary Sector Quarterly*. (with Jennifer Shea, co-author).

2015. The Impact of Transportation Investment on Economic Growth in China. *Journal of the Transportation Research Board*. No. 2531 on pages 9-16. (with John Mikesell, Jerry Zhao and Yang He, co-author).

2015. Determinants of Debt Burdens: Evidence from California Counties. *Public Finance and Management* 15 (2). (with Kenneth A. Kriz, co-author).

2012. Who Pays and Who Benefits? -- The Impact of State Tax and Expenditure Limits on Tax Progressivity and Redistributive Spending. *Journal of Public Budgeting, Accounting, & Financial Management* 24 (4) Winter.

2012. Land Taxation in China: Assessment of Prospects for Politically and Economically Sustainable Reform. *Annals of Economics and Finance* (November): 13 (2). (with Nitikin, Denis, Chunli Shen, and Heng-fu Zou, co-authors)

2012. Water Service Delivery Reform in China: Safeguarding the Interests of the Poor. *Annals of Economics and Finance* (November): 13 (2). (with Nitikin, Denis, Chunli Shen, and Heng-fu Zou, co-authors)

2010. State Government Debt Management: The Forgotten Tool in the Financial Manager Triage Bag. *Municipal Finance Journal* (Spring): 31 (1). (with Johnson, Craig, Sharon N. Kioko, co-authors)

2009. Local Governments Tax Effort in China: An Analysis of Provincial Tax Performance. *Region & Development* (November). (with Chunli Shen and Heng-fu Zou, co-authors)

#### **Report**

2019. San Francisco's Nonprofit Sector 2019 Final Report, for San Francisco Office of Economic and Workforce Development (OEWD). (with Jennifer Shea and Carol Silverman, co-authors).

#### **Peer-reviewed Proceedings**

2008. "The Impact of Intergovernmental Transfer on State and Local Governments' Tax Progressivity and Redistributive Expenditure Policy." National Tax Association, Proceedings of the 101st Annual Conference on Taxation.



### Peer-reviewed Conference Presentations

2021. “Engaging Citizens in Local Government Budgeting during Covid-19 Pandemic” *Western Social Science Association (WSSA)*, Apr 16-18 virtual.
2019. “Innovative Teaching Strategies for Public Budgeting and Financial Management” *Network of Schools of Public Policy, Affairs, and Administration (NASPAA)*, October 16-19, Los Angeles, CA
2018. “Determinants of Multilateral Support on Infrastructure Public-Private Partnerships: An Empirical Analysis of 45 Countries in One Belt One Road” *Association for Budgeting and Financial Management (ABFM)*, October 4-6, Denver, CO. (with Jerry Zhao and Yang He, co-author).
2018. “Determinants of Multilateral Support on Infrastructure PPP: New Evidence” *The 7<sup>th</sup> International Conference for Public Affairs in China*, June 29-July 1<sup>st</sup>, Xi’an China.
2016. “An Analysis of Economic Growth and Roadway Development in China.” *International Forum on Public Finance and Governance*, June 17-19, Chengdu, China. (with John Mikesell, Jerry Zhao and Yang He, co-authors).
2016. “Evaluation of Tax Administration under Sharing Economy.” *8th Sino-US International Conference for Public Administration*, June 14-16. Renmin University of China, Beijing, China (with John Mikesell co-authors).
2016. “The Sharing Economy: Understanding the Conundrums for Public Administration and Service.” *American Society for Public Administration (ASPA)*. March 17-22 Seattle, WA. (with Sheldon Gen, M Ernita Joaquin, co-authors).
2016. “The Impact of Public Transit Expenditure on City Scaling in China.” *American Society for Public Administration (ASPA)*. March 17-22 Seattle, WA. (with Jerry Zhao, David Guo and Yang He, co-authors).
2015. “Explore the Relationship between Urban Transportation Investment and Economic Growth in China.” *Western Economic Association International (WEAI)*, June 28-July 2, Honolulu, HI (with John Mikesell, Jerry Zhao and Yang He, co-authors).
2015. “The Reverse Relationship between Economic Growth and Urban Transportation Investment in China.” *Urban Affairs Association (UAA)*, April 8-11, Miami, FL (with John Mikesell, Jerry Zhao and Yang He, co-authors).
2013. “‘Crowding out’ or ‘Crowding in’?---An Analysis of Private Contributions and Government Grants in Housing Nonprofits.” *Association for Budgeting and Financial Management (ABFM)*, October 2-5, Washington, DC. (with Jennifer Shea, co-author).
2013. “Forecasting Debt Burdens for California Counties: A Vector-Autoregressive approach.” *American Society for Public Administration (ASPA)*, March 13 – 19, New Orleans LA (with Kenneth Kriz, co-author).
2012. “What is So Difficult and Magical about Passing a Budget on Time? The Report Card of State Governments.” *Association for Budgeting and Financial Management (ABFM)*, October 10-14, New York, NY (with Lu, Elaine, co-author).

2011. "Forecasting the Debt Burden of California Counties." *Association for Budgeting and Financial Management (ABFM)*, October 15-17, Washington, DC (with Kenneth Kriz, co-author).
2011. "Trends and Future Prospects in Debt Financing of California Counties." *Western Political Science Association (WPSA)*, April 21-23, San Antonio, TX (with Albert C. Hyde, co-author).
2010. "Capitalization of the quality of school districts in house prices A Test of Tiebout model using school choice programs." *32rd Annual Association for Public Policy Analysis and Management (APPAM)*, November 4-6, Boston, MA (with Lanlan Xu, co-author).
2010. "A Quantitative Analysis of the Long-Term Financing in California." *Association for Budgeting and Financial Management (ABFM)*, October 7-9, Omaha, NE (with Albert C. Hyde, co-author).
2010. "A Qualitative Analysis of the Long-Term Financing in California." *Western Social Science Association (WSSA)*, April 14-17, Reno, NV (with Albert C. Hyde, co-author).
2009. "Who Pays and Who Benefits? ----The Impact of State Fiscal Institutions on Tax Progressivity and Redistributive Spending" *31st Annual Association for Public Policy Analysis and Management (APPAM)*, November 5-7, Washington, DC.
2009. "The Tax and Expenditure Incidence of State Fiscal Institutions." *Association for Budgeting and Financial Management (ABFM)*, September 24-26, Washington, D.C.
2008. "Sub-national Government Decision-making on Redistributive Tax and Expenditure Policy." *101st Annual Conference on Taxation, National Tax Association (NTA)*, November 20-22, Philadelphia, PA.
2008. "Sub-national Government Decision-making on Redistributive Tax and Expenditure Policy." *Association for Budgeting and Financial Management (ABFM)*, October 23-25, Chicago, IL.
2007. "An Empirical Analysis of the Effect of State Bond Banks on Borrowing Cost for Municipal Bond Issuance." *Association for Budgeting and Financial Management (ABFM)*, October 25-27, Washington D.C.
2006. "An Analysis of Provincial Tax Performance in China." *Association for Budgeting and Financial Management (ABFM)*, October 19-21, Atlanta, GA.
2006. "Tax Effort of Local Governments in China." *Western Social Science Association (WSSA)*, April 19-22, Phoenix, AZ.

### Invited Works

2014. International Symposium on Urban Land Use, Transport, Environment, and Finance. July 12-13, 2014. Lincoln Institute of Land Policy, Beijing, China.
2014. International Symposium of Tax Policy—Local Tax Policy Reform in China. July 11, 2014. Central University of Finance and Economics, Beijing, China.
2013. "Revenue Diversification in Complex Policy and Funding Environments: A Study of Nonprofit Housing Organizations." June 27, 2013, Sun Yat-sen University, Guangzhou, China.
2013. "2SLS Research Method in Nonprofit Housing Sector." June 19, 2013, Central University of Finance and Economics, Beijing, China.
2012. Managing Mission & Revenue Diversification in Complex Policy and Funding Environments: A Study of Nonprofit Housing Organizations. Research progress report presented at the

*Advancing Knowledge Scholars Program Second Scholar Workshop*, November 12- 13, Indianapolis, IN (with Jennifer Shea, co-investigator).

2010. “US Taxation System and California Fiscal Crisis.” June 1, 2010, Renmin University, Beijing, China.

### **Non Peer-reviewed Publications in Chinese**

2003. “Accounting Study of the Right to Use Public Land.” *Accounting Times*, (April): No.10.

2003. “Financial Report Disclosure of the Right to Use Public Land.” *Accounting Times*, (May): No.12.

2003. “Improve the Accounting Standard of the Right to Use Public Land.” *Accounting Times*, (May): No.14.

2002. “Accounting Research of ESO.” *21 Century Investment* (January).

2000. “The Development of Budget Accounting under the Government Purchase.” *Budget Management and Accounting*, (December): P26-28.

### **Work Submitted, or Under Review**

Federal Assistance and Local Actions: Have California Municipalities Maintained Their Fiscal Health During the COVID-19 Pandemic? Under Review. *Municipal Finance Journal* (With Rui Sun, co-authors)

### **Research Experience**

Research Assistant, Project: “Revenue Structure of Governments in China and Background of Guangdong Province.” Funded by Lincoln Institute of Land Policy, January 2008 - August 2008.

Research Analyst and Co-author, Project: “Fiscal Decentralization and the Challenge of Hard Budget Constraints: Decentralization in China.” Development Research Group, The World Bank, June 2006 - February 2007.

Research Analyst, Project: “The Process of China’s Reform of Intergovernmental Fiscal Relations and Lessons Learned.” Development Research Group, The World Bank, October 2006.

## **CONTRIBUTIONS TO CAMPUS AND COMMUNITY**

### **Campus Service**

#### **San Francisco State University**

- Member, University Academic Assessment Advisory Committee (2013-2015)
- Speaker, the second annual Academic Technology (AT) Summer Institute about online teaching and learning strategies using iLearn assignments/forums, June 1, 2011.
- Speaker, “Fiscal Decentralization in China”, SFSU Confucius Institute, October 24, 2012
- Judge, 2013 CSU Student Research Competition, March 1, 2013
- Advisor, Chinese American Faculty & Staff Association (CAFSA) (2014-2015)
- Professional Development Council (2017-2018)
- Graduate Council (2020-2022)

### **College of Health and Social Science, San Francisco State University**

- Member, CHSS Election Committee (2012-2015)
- Co-Chair, CHSS Election Committee (2013-2014)
- Chair, CHSS Election Committee (2014-2015)
- CHSS Leave with Pay Committee for Fall 2021

### **PACE**

- Member, Retention, Tenure & Promotion Committee, spring 2020- present
- Budget Committee Fall 2014-2017
- Member, School of Public Affairs and Civic Engagement Search Committee (3 searches), Fall 2017

### **Public Administration Program, San Francisco State University**

- Graduate Program Coordinator, Jan 2019-May 2022
- Admissions Committee, Fall 2009 – present
- Assessment Committee, Fall 2009 – present
- Advisor, fall 2009– present
- Faculty advisor for Pi Alpha Alpha honor society, 2011-present
- Internship Coordinator, Spring 2019-Spring 2022
- International Coordinator, Department of Public Administration, San Francisco State University, 2010 – Present
- Special Lectures to Visiting Delegations, Fall 2009 – Present
- Faculty Search Committee, Spring 2009 & Fall 2011/Winter 2012

### **Professional Memberships and Service**

#### **Association for Budgeting and Financial Management (ABFM)**

- Member

#### **American Society for Public Administration (ASPA)**

- Member

#### **National Tax Association (NTA)**

- Member

#### **China-American Association for Public Affairs (CAAPA)**

- Chief Information Officer- Board member (2015-Present)
- Editor (2014-2015)
- Associate Editor (2010 – 2014)

### **Manuscript Reviewer**

- *World Development Journal*
- *Journal of Transport and Land Use*
- *Journal of Public Budgeting, Accounting and Financial Management*

- *Land Use Policy*
- *Public Budgeting & Finance*
- *Journal of Policy Analysis and Management*
- *Public Administration Review*
- *Nonprofit & Voluntary Sector Quarterly*
- *State and Local Government Review*

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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## MEMORANDUM

**TO:** Board of Directors **DATE:** May 5, 2023  
**FROM:** President Li  
**SUBJECT:** Compensation and Benefits for Inspector General

On May 2, 2023, the Governor appointed Claudette Biemeret as the BART Inspector General and announced that the Inspector General's salary would be \$220,000 per year. The following proposed motion sets the terms of Ms. Biemeret's employment, including base salary of \$220,000 per year and benefits afforded non-represented management employees generally.

Motion:

That the Board approve the following terms of employment for Claudette Biemeret: Service for a term of four years commencing on May 2, 2023, subject to termination as set forth in California Public Utilities Code Section 28840(b); base salary of \$220,000 per year; and benefits afforded non-represented management employees and retirees.

## SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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### MEMORANDUM

**TO:** Board of Directors

**DATE:** May 4, 2023

**FROM:** General Manager

**SUBJECT:** Transit Financial Stability: Update on Short-Term and Long-Term Strategies

On May 11, 2023, the Board of Directors will receive an update on short and long-term strategies being implemented to address the financial stability of BART and transit operators throughout the region and state.

The presentation from BART staff, the California Transit Association, and the Metropolitan Transportation Commission is attached.

DocuSigned by:  
*Michael Jones*  
47000790F2D7463...

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Robert M. Powers

#### Attachments

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff



# ➤ Transit Financial Stability: Update on Short-Term and Long-Term Strategies

May 11, 2023



# Presentation Overview

- BART's Fiscal Cliff Advocacy
- Statewide Approach to Addressing Transit Operations Funding Shortfall (California Transit Association)
- Region's State Budget Request for Transit Funding & Update on Recent Polling (Metropolitan Transportation Commission)

# BART Activities Since Previous Advocacy Update

- February 8** BART staff provide public comment at Assembly Budget Committee hearing reviewing the Governor's budget proposal
- February 27** BART staff provide public comment at joint hearing of the Assembly and Senate Transportation Committees on transit's operating funding shortfall
- March 15** BART staff provide public comment at Assembly Budget Subcommittee 3 hearing on transit operations funding
- April 18** President Li participates in press conference and rally supporting a resolution from San Francisco Board of Supervisors to Governor and State Legislature requesting transit operations funding
- April 26** Director Dufty participates in Senator Wiener press conference for operations funding in Sacramento
- April 27** BART advocates provide public comment at Senate Budget Subcommittee 5 hearing on transit operations funding



# Committees and Regional Working Groups

|   |  |
|---|--|
| <b>General Managers Weekly Coordination</b><br><i>Bob Powers</i>                              | <ul style="list-style-type: none"> <li>10 agencies including large and small operators; Meets weekly to coordinate on transit network management business case, funding priorities, transit recovery efforts, etc.</li> </ul>            |
| <b>CTA Executive Committee</b><br><i>Rodd Lee</i>   | <ul style="list-style-type: none"> <li>25 members; Meets monthly and is responsible for setting policy and directing Association staff</li> </ul>  |
| <b>CTA Transit Operations Funding Subcommittee</b><br><i>Amanda Cruz</i>                      | <ul style="list-style-type: none"> <li>15 members representing CTA membership statewide; Meets bi-monthly to inform Association's efforts to secure dedicated operations funding in the State Budget</li> </ul>                          |
| <b>Bay Area Transit Government Affairs Team</b><br><i>Amanda Cruz &amp; Alex Walker</i>       | <ul style="list-style-type: none"> <li>Meets weekly with a focus on regional coordination; MTC participates every other week</li> <li>Membership includes large and small operators</li> </ul>   |
| <b>Transit Survive &amp; Thrive "Backbone" group (Bay Area-focused)</b><br><i>Alex Walker</i> | <ul style="list-style-type: none"> <li>Meets weekly; Consists of four transit agency representatives (BART, SFMTA, AC Transit, and WETA), MTC, SPUR, Bay Area Council, Silicon Valley Leadership Group, and transit advocates</li> </ul> |



# Approach to Addressing Transit Operations Funding Shortfall

May 11, 2023

CaliforniaTransit  
Association



# State Budget Development Timeline

Michael Pimentel

*Executive Director*

California Transit Association

# Timeline

- **January 10:** Governor releases proposed FY 2023-24 state budget
- **February – May:** Budget subcommittees hold hearings on proposed FY 2023-24 state budget
- **May 15:** Governor releases “May Revise” of proposed FY 2023-24 state budget / may not matter from a revenue projection standpoint
- **May - July:** Budget subcommittees/budget committees hold hearings on “May Revise,” budget adjustments, approve FY 2023-24 state budget
- **July 1:** Start of FY 2023-24
- **July – September:** Continued action on main budget bill and trailer bills

CaliforniaTransit  
Association



# Organizing Structure for Budget Advocacy – Transit Ops. Funding

Michael Pimentel

*Executive Director*

California Transit Association



# Association's Subcommittee

- **Goals**

- Define budget request (funding source, distribution mechanism, etc.)
- Advise on strategy, tactics, negotiations
- Ensure coordination across regions-agencies/stakeholders

- **Composition**

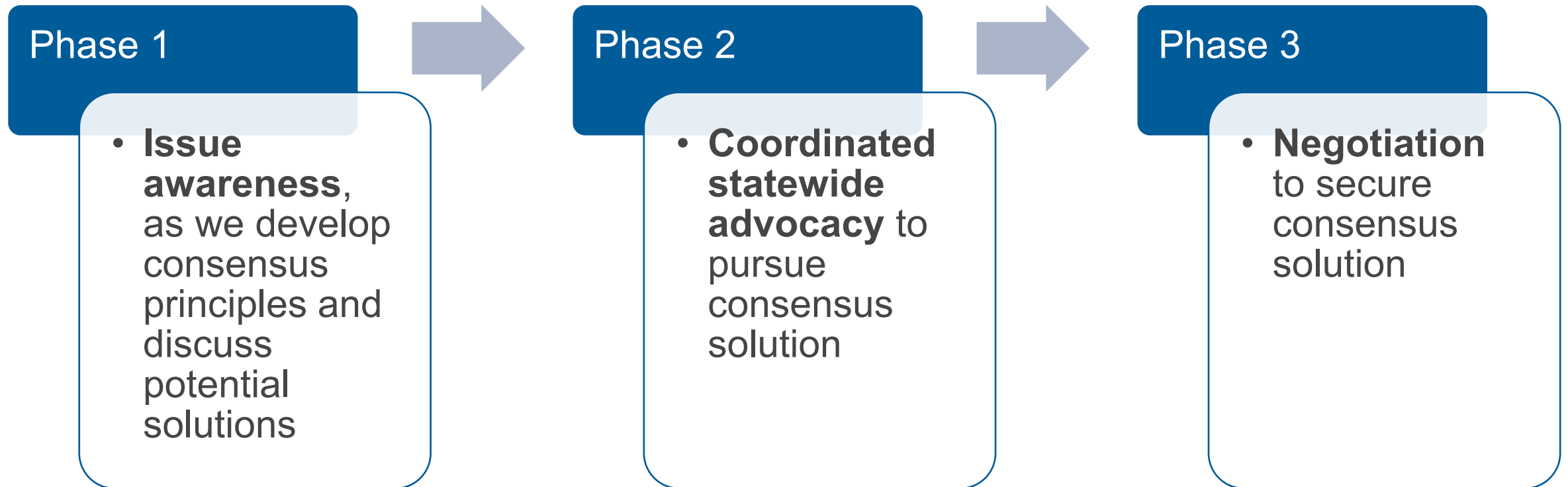
- 15 members total – Chaired by Sharon Cooney (San Diego MTS)
- All members appointed by Executive Committee Chair Karen King
- All members sourced via survey from Executive Committee and/or State Legislative Committee
- Establishes geographic and modal balance



# Subcommittee Roster

| Name                  | Title  | Organization  |
|-----------------------|--|---|
| Sharon Cooney         | CEO <b>(Chair)</b>   | San Diego Metropolitan Transit System                           |
| Beverly Greene        | Executive Director of External Affairs, Marketing & Communications <b>(Vice Chair)</b> | Alameda - Contra Costa Transit District (AC Transit)            |
| Kate Breen            | Director of Government Affairs   | San Francisco Municipal Transportation Agency                   |
| Amanda Cruz           | Director of Government and Community Relations   | San Francisco Bay Area Rapid Transit District                   |
| Adam Barth            | CEO  | Stanislaus Regional Transit Authority                           |
| Alex Davis            | Senior Manager, Government Relations   | Metrolink   |
| Devon Ryan            | Government and Community Affairs Officer   | Peninsula Corridor Joint Powers Board (Caltrain)                |
| Georgia Gann Dohrmann | Assistant Director, Legislation  | Metropolitan Transportation Commission                          |
| Jerry Estrada         | General Manager  | Santa Barbara MTD   |
| Jim Lawson            | Chief of External Affairs  | Santa Clara Valley Transportation Authority                     |
| Kate Miller           | Executive Director   | Napa Valley Transportation Authority                            |
| Kristin Jacinto       | Manager, State and Federal Relations   | Orange County Transportation Authority                          |
| Michael Turner        | Executive Officer, Government Relations  | Los Angeles County Metropolitan Transportation Authority        |
| Michelle Overmeyer    | Director of Planning and Innovation  | Monterey-Salinas Transit  |
| Seamus Murphy         | Executive Director   | San Francisco Bay Area Water Emergency Transportation Authority |

# Phased Approach



# Phase 1: Issue Awareness

*Timeline:* November 2022 – March/April 2023

*Tactics:*

- Meetings with Administration, key legislators, and stakeholders
- Activation of legislative champions
- Standing meetings with policy & budget committee staff
- Earned media
- Limited digital advocacy campaign

## **Role of Subcommittee:**

- 1) Share information
- 2) Review survey results
- 3) Establish consensus principles, solution
- 4) Provide oversight on strategy, tactics

# Issue Awareness in Practice

STATE CAPITOL  
P.O. BOX 943989  
SACRAMENTO, CA 95833-8915

## California Legislature

### Assembly Transportation Committee and Senate Transportation Committee Joint Informational Hearing Short Term Crisis and Long Term Transformation: How to Bring Back and Build Transit Ridership in California

February 27, 2023  
3:00 pm or upon adjournment of session  
1021 O Street, Room 1100

#### Agenda

- I. Opening Remarks
  - Assembly Member, Laura Friedman, Chair, Assembly Transportation Committee
  - Senator Lena A. Gonzalez, Chair, Senate Transportation Committee
- II. Overview
  - Brian Taylor, Director, Institute of Transportation Studies, UCLA
  - Chad Edison, Chief Deputy Secretary for Rail and Transit, California State Transportation Agency
  - Michael Pimentel, Executive Director, California Transit Association
- III. Local and Operator Perspective
  - Michael Turner, Deputy Executive Officer, Los Angeles County Metropolitan Transportation Authority
  - Rebecca Long, Director of Legislation and Public Affairs, Metropolitan Transportation Commission/Association of Bay Area Governments
  - Alex Clifford, Chief Executive Officer, San Joaquin Regional Transit District
- IV. Stakeholder Perspective
  - Colin Parent, Vice Mayor, City of La Mesa, and Executive Director/General Counsel, Circulate San Diego
  - James Lindsay, International Vice-President, Amalgamated Transit Union
  - Emily Loper, Vice President of Public Policy, Bay Area Council
  - Annie Lee, Managing Director of Policy, Chinese for Affirmative Action, co-founder of Stop AAPI Hate
- V. Public Comment



# Issue Awareness in Practice *(Cont.)*

- Standing Meetings with Consultants for Transportation, Budget Committees (2/10, 2/15, 2/22, 3/2, 3/8, 3/15; 3/22; 3/29; 4/12; 4/26; Ongoing)
- Meeting with Asm. Budget Sub. 3 Chair Steve Bennett (2/22)
- Meeting with Asm. Speaker Anthony Rendon (2/24) [Staff]
- Meeting with Sen. Transpo. Committee Chair Lena Gonzalez (3/1)
- Meeting with Asm. Budget Committee Chair Phil Ting (3/7)
- Meeting with Governor's Office (4/10)

# Issue Awareness in Practice (Cont.)

## ISSUE 2: TRANSIT OPERATIONS FUNDING SHORTFALLS

This item will discuss the transit operators "fiscal cliff" and what role the state budget should play in providing funding for transit operations who are facing funding shortfalls due to ridership declines.

### PANEL

- Michael Pimentel, Executive Director, California Transit Association
- Frank Jimenez, Senior Fiscal and Policy Analyst, Legislative Analyst's Office
- Mark Tollefson, Undersecretary, CalSTA
- Carlos Quant, Deputy Secretary, Budget and Fiscal Policy, CalSTA
- Steve Wells, Budget Analyst, Department of Finance

### BACKGROUND

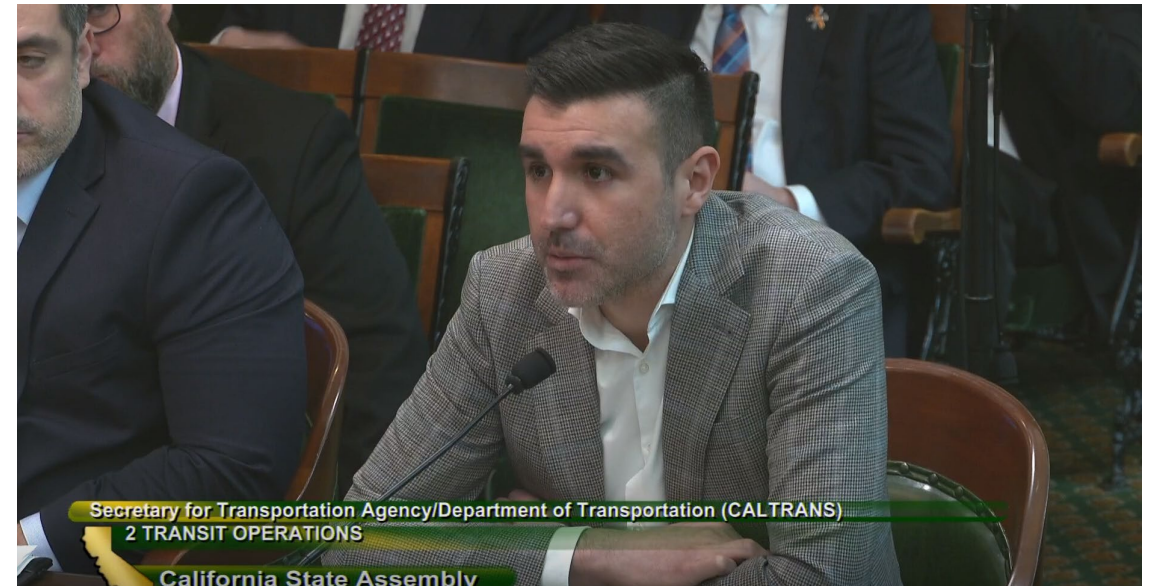
On February 27, 2023, the Assembly and Senate Transportation Committees held a joint hearing on "Short Term Crisis Long Term Transformation: How to Bring Back and Build Transit Ridership in California." The hearing focused on the state of public transportation in California and how the state can partner with transit operators to both rebuild and transform the state's transit systems. A copy of their background paper can be found at: [Transit Info Hearing Background Paper FINAL on Letterhead \(002\).pdf \(ca.gov\)](#).

Transit operators nationally and in California were struggling with declining ridership prior to the COVID-19 pandemic. The pandemic exacerbated the problem, causing serious operating and financial challenges. With federal relief funding for transit being exhausted, many operators are facing an immediate fiscal crisis mainly due to revenue losses at the farebox. The goal of this item is to discuss what role, if any, the State budget should play in helping transit operations with their funding shortfalls.

### STAFF COMMENTS

The State's climate goals are intertwined with the success of public transit systems. To meet the state's climate goals and to develop more integrated, livable communities, the state must have a robust, efficient, and reliable public transit network. Transit also serves as a major component of the state's goal to reach carbon neutrality by 2045.

State investments in our public transit systems have centered on funding capital projects, not operations. If the state were to prioritize funding for operators, this would be a significant



Secretary for Transportation Agency/Department of Transportation (CALTRANS)  
2 TRANSIT OPERATIONS

California State Assembly



# Issue Awareness in Practice (Cont.)



## Protect Our Progress From Program Cuts *(Highlights of Progress to Protect)*

### RESOURCES & ENVIRONMENT

- Multi-year Climate Package:
- Funding to address sea level rise.
  - Investments in wildfire prevention activities.
  - Funding to assist communities and protect ecosystems impacted by drought.
- Clean Energy investments to ensure a future of reliability and affordability.
- Support for equitable transition to zero-emission vehicles.

### TRANSPORTATION AND HOUSING

- Transportation Infrastructure Investments, including:
- Transit and intercity rail.
  - Ports and Good Movement
  - Grade Separations.
- Affordable Housing Support.
- Homelessness Reduction investments.



## Protect Our Progress by Developing Options for Making More Progress once Economy Rebounds

### HEALTH & HUMAN SERVICES

- Reduce Deductibles/Copays in Covered California.
- Improve Health Equity and Racial Justice in Public Health.
- End the Epidemics of HIV, HepC, and STIs.
- Complete efforts to expand CalWORKs to ensure No Child In Deep Poverty.
- Expand CA Food Assistance to all ages.

### HOUSING AND TRANSPORTATION

- Establish multi-year commitment to combat homelessness.
- Develop CA Dream For All first time homebuyer program into self-sustained, revolving, ongoing program.
- Develop options to support ongoing local transit operations.

# Issue Awareness in Practice (Cont.)



PROTECT OUR

*Progress*



Step #2:

*Detailed Senate Budget Plan*

(APRIL 26, 2023)

SENATOR  
**Toni G. Atkins**  
President pro Tempore

SENATOR  
**Nancy Skinner**  
Chair, Committee on Budget and Fiscal Review

SENATOR  
**John Laird**  
Chair, Subcommittee 1

SENATOR  
**Josh Becker**  
Chair, Subcommittee 2

SENATOR  
**Caroline Menjivar**  
Chair, Subcommittee 3

SENATOR  
**Stephen C. Padilla**  
Chair, Subcommittee 4

SENATOR  
**Maria Elena Durazo**  
Chair, Subcommittee 5

EVOLUTION OF BUDGET DEVELOPMENT

- Step #1: Senate Key Values ..... Released in March
- Step #2: Detailed Senate Budget Plan .....Included**
- Step #3: Senate/Legislature Version ..... Late May
- Step #4: Final Version.....Mid June

TRANSPORTATION

Approval of Key Governor's Proposals:

- Approves proposal to continue funding for homeless encampment clean up on state highways.
- Approves proposal to equip all uniformed California Highway Patrol employees with body worn cameras.

Changes to Key Governor's Proposals:

- Rejects proposed delays in the Ports and Goods Movement Package.
- Rejects the \$2.5 billion proposed reductions of the Transportation Infrastructure Package, including \$1 billion in 2023-24 and \$1.5 billion in 2024-25.

Key New Senate Proposals:

- Sets expectation of working with stakeholders, Assembly, and the Administration in establishing local flexibility opportunities with various transportation funding streams to assist transit agencies with operations expenses. This will be paired with reform and accountability measures and will serve as a bridge until additional long-term operations funding can be established. Critical infrastructure projects will be identified and protected in these discussions.



# Phase 2: Coordinated Statewide Advocacy

*Timeline:* April 2023 – September 2023

*Tactics:*

- Building and activation of legislative and stakeholder coalitions
- Continued meetings with Administration, key legislators, and stakeholders
- Continued standing meetings with policy & budget committee staff
- Earned media & coordinated public affairs program
- Heightened digital advocacy campaign

## **Role of Subcommittee:**

- 1) Share information
- 2) Steer coalition
- 3) Provide oversight on strategy, tactics

# Coordinated Statewide Advocacy in Practice

CaliforniaTransit  
Association

IMMEDIATE RELEASE  
April 25, 2023

CONTACT  
Michael Pimentel  
Executive Director  
California Transit Association  
Email: [michael@caltransit.org](mailto:michael@caltransit.org)

**\*\*PRESS RELEASE\*\***

## California Transit Association Unveils Budget Blueprint to Address Pandemic-Induced Transit Operating Deficits

*Requests \$5.15 billion over the next 5 fiscal years to maintain services and meet California's environmental, mobility, and equity goals*

(Sacramento, CA) – Today, the California Transit Association unveiled its 2023 budget request to address California transit agencies' pandemic-induced operating deficits and support the state's environmental and equity objectives.

"Public transportation in California faces existential threats, including slow ridership recovery, a widening workforce gap, and an impending fiscal cliff as federal emergency funds run out before ridership has recovered," said Senator Wiener (D-San Francisco). "Millions of Californians rely on public transportation to go about their lives, and transit is essential to reduce traffic congestion and air pollution. We must not abandon public transportation, and California needs to step up and throw our transit systems a stopgap lifeline."

As transit agencies rebound from the long-lasting impact of the COVID-19 pandemic on commute patterns, ridership, and capital and operations costs, the budget request asks state leadership to provide \$5.15 billion in funding from Fiscal Years 2023-24 to 2027-28 for transit operations pulled from a collection of state funding sources that have historically supported transit capital and operations. The budget request would deliver \$1.213 billion in funding for transit operations in Fiscal Year 2023-24 alone. The funding, which would be applied to an estimated \$6 billion statewide funding need, will allow the industry to continue day-to-day operations without having to reduce services or increase fares, while also acknowledging California transit agencies' commitment to improving the rider experience by addressing the issues of safety and cleanliness on systems.

"As we look ahead, the challenges facing California transit agencies are significant, but we cannot allow the lasting impacts of the pandemic to undermine our public transit network. Instead, we must focus on securing funding that allows agencies to preserve, maintain, and eventually expand their services, and support the transformation of our industry into one that is cleaner and more adaptable," said Michael Pimentel, Executive Director of the California Transit Association. "At the same time, we are also committed to playing active roles in broader societal efforts to address climate change and structural inequality."

Since its founding in 1965, the California Transit Association has served as the leading advocacy organization and champion for public transit in California. In recent years, the Association has successfully advanced policy, regulatory and funding measures that are supporting the industry's transition to zero-emission vehicles (ZEV). A [recently released report](#) by UCLA's Institute of

CaliforniaTransit  
Association

Connecting us.

April 25, 2023

The Honorable Gavin Newsom  
Governor, State of California

The Honorable Toni G. Atkins  
Senate President Pro Tempore  
California State Senate

The Honorable Anthony Rendon  
Speaker of the Assembly  
California State Assembly

The Honorable Nancy Skinner  
Chair, Senate Budget Committee  
California State Senate

The Honorable Phil Y. Ting  
Chair, Assembly Budget Committee  
California State Assembly

## RE: California Transit Association's Funding Request and Policy Recommendations to Address Near-Term Operating Deficits

Dear Governor Newsom, Pro Tempore Atkins, Speaker Rendon, Senator Skinner, and Assemblymember Ting:

On behalf of the California Transit Association, I write to you to today to share our state funding request and policy recommendations to address the near-term operating deficits faced by California transit agencies. Our recommendations were unanimously approved by the Association's leadership in the week of April 16, following months of discussion between our members from across the state and shaped by our engagement with decision makers in Sacramento. With the state itself facing a difficult budget outlook for Fiscal Year 2023-24, our recommendations consciously internalize your message to limit (to the extent possible) new impacts to the state's General Fund and tackle impediments to the long-term financial and operational sustainability of our industry. As public transportation is at the center of the state's strategy for combatting climate change and vital to the mobility of the most vulnerable Californians, we intend for our recommendations to provide actionable guidance to the Legislature and Newsom Administration for addressing in 2023 the near-term needs of California transit agencies and the communities they serve, and to set the stage for a larger discussion about state support for transit operations, potential reforms to long-standing transit funding programs and formulas, and strategies to retain and rebuild riders. We thank you for your continued engagement with us, and for your demonstrated support for public transportation throughout your careers and in this pivotal moment.

### Funding Request

As we presented at the Assembly Budget Subcommittee #3 hearing on March 15, [the Association estimates, through surveys of our member agencies, that California transit agencies statewide require at least \\$6 billion from FY 2023-24 to FY 2027-28](#) to address

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[caltransit.org](http://caltransit.org)

# Coordinated Statewide Advocacy in Practice (Cont.)

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## A \$5 billion ask for California public transit



Commuters quickly jump on the Metro bus at the Norwalk Green Line Station in Norwalk on April 3, 2023. Photo by Pablo Uzueta, CalMatters

From CalMatters' state Capitol reporter Sameea Kamal

Now we know the price tag to keep California public transit agencies from going over a "fiscal cliff" — \$5.15 billion over five years.

As part of a budget proposal being unveiled today in the state Senate, transit agency officials and their supporters in the Legislature are seeking "bridge funding" for transit systems throughout the state, some of whom are struggling to recover ridership after the pandemic.

The proposal is being championed by Sen. [Scott Wiener](#), a Democrat from San Francisco, who said that without the state cash, BART and other big-city transit systems will have to make drastic service cuts.

The California Transit Association, which says the plan was created by 15 member agencies, says the \$5.15 billion over five years for transit operations can come from a mix of funding sources that already support transit:

**San Francisco Chronicle** American building company + Follow

## 'This is an emergency': BART, Muni, state transit agencies to ask California for \$5 billion bailout

Story by Ricardo Cano • Tuesday



A BART train leaves the Walnut Creek station as snow covers Mount Diablo in February. © Noah Berger, Special to The Chronicle

Fare-dependent BART and Bay Area transit agencies are staring down yawning "fiscal cliffs" amid stagnant ridership and little hope that they'll see a quick return to 2019-level crowds.

So they're turning to California for help and hoping lawmakers will get on board with an ambitious subsidy that would replace the federal relief sustaining transit service across the state. Their high-stakes proposal to avoid "doomsday" service cuts would give BART, Muni and California's transit agencies a \$5.15 billion bailout — more than \$1 billion annually for five years.

## Additional Coverage:

- CBS News
- The Center Square
- Daily Californian
- Local News Matters
- The San Francisco Standard
- SF Gate



# Coordinated Statewide Advocacy in Practice (Cont.)



**\*\*MEDIA ADVISORY\*\***

April 26th, 2023

Contact: Erik Mebust, [erik.mebust@sen.ca.gov](mailto:erik.mebust@sen.ca.gov) (916) 995-0692

## **Senator Wiener, Transit Advocates, Business Leaders Call For Additional State Funding To Save California's Public Transportation**

**SACRAMENTO** – On Wednesday, April 26th, 2023, Senator Scott Wiener (D-San Francisco), transit agency leaders, business leaders, and transportation advocates will hold a press conference calling on Governor Newsom and leaders in the Legislature to provide additional state funding in this year's budget to avert massive service cuts to public transportation across California.

### **Who:**

- Senator Scott Wiener (D-San Francisco)
- California Transit Association
- SF Transit Riders
- LA Metro
- Bay Area Council
- SFMTA
- BART
- Survive & Thrive Coalition
- MTC
- Others TBD

**What:** Press conference announcing budget request to avert major service cuts to public transportation across California

**When:** Wednesday, April 26th, 12pm

**Where:** Courtyard of [1020 N St. Sacramento, CA 95814](#) (please arrive early to clear security)

The event will be livestreamed [here](#).

Read more about the transit fiscal cliff here:

[Why California public transit is at a pivotal moment](#) - by CalMatters's Sameea Kamal



# Coordinated Statewide Advocacy in Practice (Cont.)

Subcommittee No. 5

April 27, 2023

## DISCUSSION

### 0521 CALIFORNIA STATE TRANSPORTATION AGENCY

#### Issue 20: Transit Operations

**Background.** Transit agencies across the state are reporting an impending fiscal crisis—based on current ridership, service levels, and cost trends, transit agencies expect to face budget shortfalls in the tens of millions of dollars in 2023-24, growing to hundreds of millions of dollars in 2024-25 and thereafter. For example, BART projects annual deficits of \$140 million by 2026-27; Caltrain anticipates a budget shortfall of \$25 million in 2024 and \$49 million in 2025; and LA Metro expects a budget gap of \$400 million in 2025 and \$1 billion in 2026.

These budget shortfalls are in large part due to the COVID pandemic, which decimated transit ridership. Transit ridership was already on the decline prior to the pandemic, but the pandemic accelerated these trends—transit ridership plunged 50 percent to as much as 94 percent in California at the onset of the pandemic in 2020. Though ridership has increased in recent months, it still remains lower than prior to the pandemic: in the Pacific region of the United States, ridership is about 67 percent of pre-pandemic levels. Transit ridership levels continue to be lag due to several factors, including changes in work patterns, rise in safety and security concerns, and service level changes due to a workforce shortage.

These lagging ridership levels have affected different transit agencies differently. For example, some smaller transit agencies that mainly operate bus routes have been able to respond to such changes in demand, by changing or eliminating bus routes to better serve the riders and lower service costs. Other transit agencies have not been able to change service levels as easily, particularly fixed rail systems that cannot change routes and have high fixed operating costs.

Transit agencies have been able to continue operating despite lower ridership levels for the last several years due to federal funding. In March 2020, Congress passed and the President signed into law the Coronavirus Aid, Relief and Economic Security (CARES) Act, which provided \$25 billion in direct operational relief to transit agencies. The Coronavirus Response and Relief Supplemental Appropriations Act of 2021 provided an additional \$14 billion in transit relief and the American Rescue Plan in March of 2021 provided \$30.5 billion more. However, transit agencies are now facing budget problems as they run out of these funds.

Transit is integral to the state's climate goals, specifically in reducing vehicle miles traveled and emissions from a carbon-intensive transportation system. In addition, transit is important to ensure mobility for all, particularly to those who do not have other transportation options. The state currently provides funding for transit through several programs, including the State Transit Assistance, Transit Intercity Rail and Capital Program, and the Low Carbon Transit Operations Program. As the Legislature considers options to support transit agencies in their fiscal crises, it will be important to assesses these existing state funding programs for transit, and whether they can be amenable to support operations; the extent of the budget shortfalls, specifically how much is needed, and for how long; as well as what type of reforms agencies will implement to improve ridership and ensure the viability of transit services in the long-term.

**Staff Recommendation.** Hold Open.



CaliforniaTransit  
Association



# Details of Budget Request

Michael Pimentel

*Executive Director*

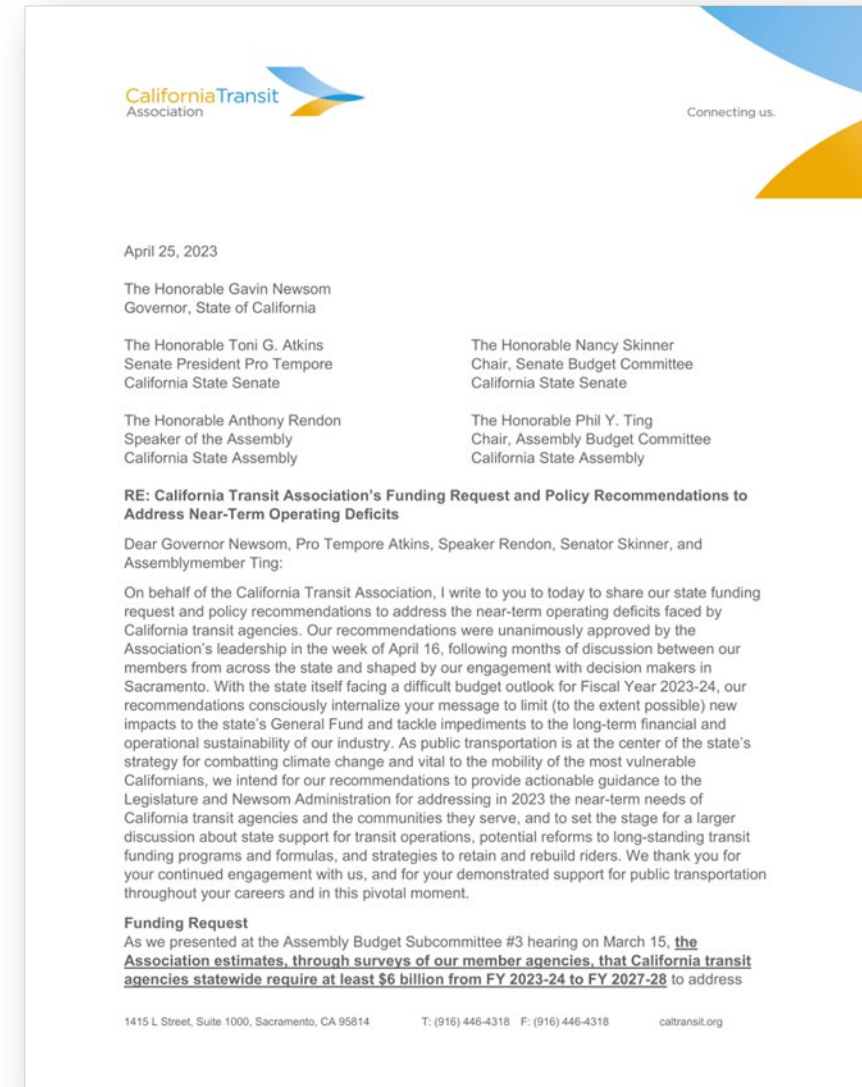
California Transit Association





# Association Budget Request

- Association has requested **\$5.15 billion** in transit ops. funding
- Transit agencies statewide need **more than \$6 billion** over the next five fiscal years



# Association Budget Request: Main Elements

- Additional Appropriation of Revenue from Sales Tax on Diesel Fuel
  - Agencies receive 80% of revenue generated normally, this would direct full balance of revenue generated
  - Would provide \$1.36 billion over 5 years
- Additional Appropriation of Unallocated Cap and Trade Revenue
  - Would use unallocated Cap and Trade revenue
  - Would provide \$2.5 billion over 5 years



# Association Budget Request: Main Elements *(Cont.)*

- Conversion of Transit Capital Funding to Transit Operations Funding
  - \$1.3 billion will be available in FYs 2026-27 and 2027-28 for capital projects
  - Would convert \$300 million of available amount to fund operations
- Flexibility to Use Transit Capital Funding for Operations
  - Proposed TIRCP funding reduction from \$4 billion to \$2 billion
  - Would maintain \$4 billion investment and allow agencies to flex funds for operations

# Reforms Necessary Component of Discussion

- Need to demonstrate commitment to reforming transit operations, accountability metrics
  - *Operations:* Engaging productively on key reform efforts, including:
    - AB 761 (Friedman) Transit Transformation Task Force
    - AB 1377 (Friedman) HHAP
    - SB 434 (Min) Street Harassment
  - *Operations:* Using standing committees and task forces to ideate additional reform ideas

# Reforms Necessary Component of Discussion (Cont.)

- Need to demonstrate commitment to reforming transit operations, accountability metrics
  - *Accountability Metrics: Pursuing two tracks to reform*
    - Short-term: Extended statutory relief
    - Short-term: Identification of preferred long-term solutions
    - Long-term: Participation in AB 761 process
  - *Accountability Metrics: Reporting*

# Questions?

## Contact Information:

Michael Pimentel  
*Executive Director*  
*California Transit Association*  
[michael@caltransit.org](mailto:michael@caltransit.org)  
916-446-4656 x1034



# MTC's State Budget Request for Transit Funding & Update on Recent Polling

**Presentation to San Francisco Bay Area Rapid Transit District**

May 11, 2023



# Overview



MTC State Budget Transit Operating  
Funding Request and Policy Principles




Highlights of March 2023  
Public Opinion Poll



Photo: Jim Mauer





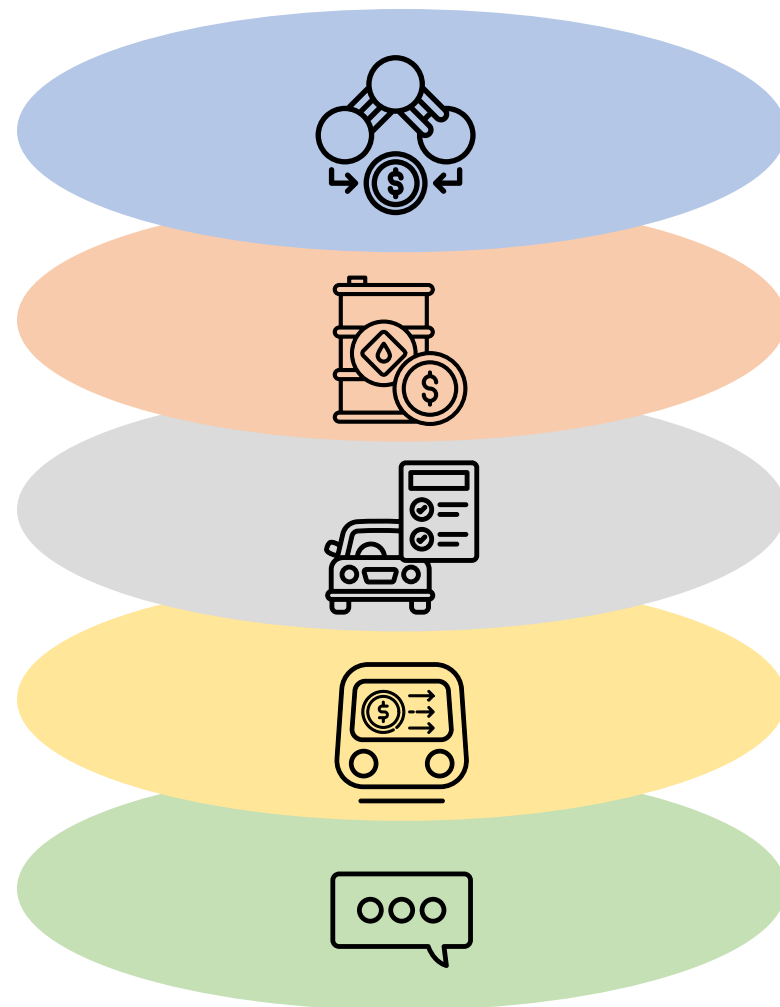
# **MTC State Budget Transit Operating Funding Request and Policy Principles**

Photo: Joey Kotfica



# Key Concepts Guiding the Ask

- Seek **new funding for transit operations** by primarily shifting existing sources that minimize impact on the state's General Fund.
- Demonstrate that transit has “**skin in the game**” by staying neutral on flex options from transit capital funds to operating.
- Prioritize “Survive” funding and seek “Thrive” investment in **rider-focused transit enhancements**.
- Provide a **menu of options** to give Legislature more flexibility to weigh pros and cons and select preferred approach.
- Offer recommendations for how state can encourage improvements to **transit service**.





# Menu of Funding Sources Considered

| Menu Item       | NEW Transit Operating Source                                 | CTA Committee Approved? | Five-Year Maximum Amount Statewide | Who Controls Now? / Percent of Fund Source |
|-----------------|--|-------------------------|------------------------------------|--|
| 1               | Cap and Trade Discretionary Funds                            | Yes                     | \$2.5 billion                      | Legislature/33%                            |
| 2               | Temporary Shift of SHOPP (federal highway) Funds             | No                      | \$2.3 billion                      | Caltrans SHOPP/14%                         |
| 3               | Diesel Sales Tax Shift (2.5% portion)                        | Yes                     | \$1.3 billion                      | General Fund /100%                         |
| 4               | Increase TIF Vehicle Registration Charge                     | No                      | \$1.3 billion                      | NA –Tax Increase                           |
| <b>Subtotal</b> |  |                         | <b>\$7.4 billion</b>               |  |
|                 |  |                         |                                    |  |
|                 | <b>FLEX Existing Transit Capital Funds</b>                   |                         |                                    |  |
| 5               | LCTOP Redirection or make more flexible                      | Yes                     | \$1 billion *                      | STA Formula/100%                           |
| 6               | STA – State of Good Repair                                   | Yes                     | \$0.6 billion *                    | STA Formula/100%                           |
| 7               | TIRCP General Fund Augmentation—pending budget appropriation | Yes                     | \$1 billion                        | MTC/ 25%                                   |
| 8               | TIRCP (Future grant cycle)                                   | Yes                     | \$0.3 billion                      | CalSTA/ 25%                                |
| <b>Subtotal</b> |  |                         | <b>\$2.9 billion</b>               |  |

# Recommended Temporary Funding Sources for Transit to “Survive and Thrive”

- **Bottom Line:** These funding options total \$7.4 billion statewide, giving the Legislature meaningful options to address public transit’s needs at scale.
- **Cap and Trade:** Amount is just 1/3 of discretionary C&T and still allows Governor’s investment in ZEV and an estimated \$300M for other priorities.
- **SHOPP:** A temporary redirection of federal highway funds still supports a **19% increase** for highway maintenance thanks to boost from federal Infrastructure bill. State is currently on track to achieve highway performance targets.
- **Diesel Sales Tax:** About 80% of this tax is dedicated to transit already. Shifting 100% would be straightforward but would cost General Fund about \$280M/year.
- **TIF:** Proposed temporary rate increase takes a progressive approach, exempting 40% of lowest value cars; charging at most \$35 for vehicles valued over \$60,000.

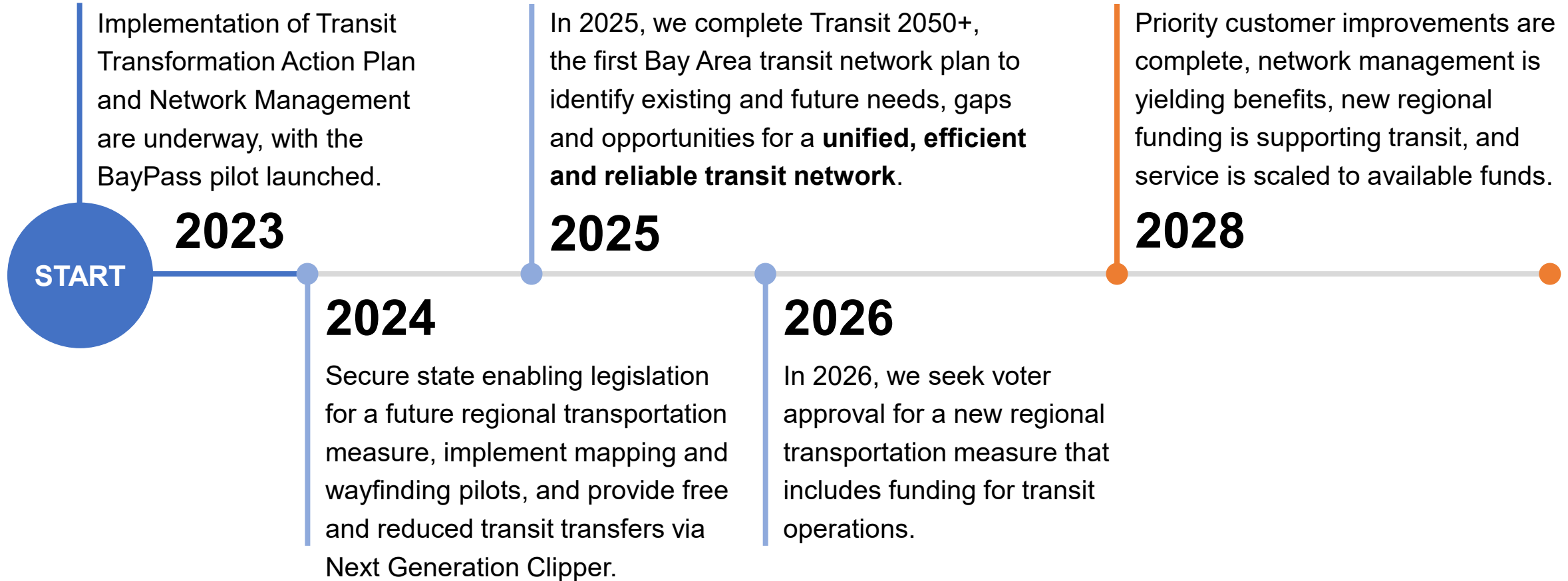
# MTC Neutral on Transit Fund Shift Options

- Items 5–8 have been endorsed by California Transit Association and have potential to benefit transit agencies outside Bay Area.
- Bay Area operators are already using Items 5 & 6 for transit operations given short-term allowance so continuing that allowance is helpful but will not alleviate the region's fiscal cliff.
- Shifting TIRCP (whether future “regular” TIRCP or proposed General Fund augmentation) puts at risk funding plans included in our **Major Project Advancement Policy** for priority projects in the pipeline that plan to use TIRCP to secure (or retain) **billions of \$ in federal funds**, such as BART to Silicon Valley Phase II, BART Core Capacity, the Portal, Valley Link, Zero Emission Bus Fleets & Facilities for SFMTA & AC Transit and more).

# Support Inclusion of Accountability Provisions to Help Transit Thrive

- The state has a strong interest in encouraging transit ridership and legislators have indicated an interest in establishing new rules in exchange for transit recovery funds.
- New accountability policies should address rider priorities, such as:
  - ✓ **Safety**
    - Require use of best practices and regular reporting to state on efforts to keep riders safe.
  - ✓ **Convenience**
    - Agencies should regularly evaluate and adjust their service routes and/or schedules to align with/maximize ridership demand.
    - Large agencies, particularly those serving longer routes, should provide reliable real-time transit information & offer Wi-Fi service.
  - ✓ **Speed**
    - State could require bus operators to track travel time changes to identify good candidates for transit priority projects to bypass traffic and offer a competitive travel time.

# The Path to a Financially Sustainable Business Model



# Next Steps

## State Budget Calendar

- May 10: Governor releases May Revision of the budget
- May–June: Budget hearings and negotiations
- June 15: Legislature must adopt budget
- Post-June – September: Subsequent budget bills may be adopted reflecting tax receipts since deadline postponed.

## Planned Bay Area “Survive & Thrive” Coalition Actions

- Organize a 3rd coalition sign-on letter in early May
- Meetings with Legislature and Administration through April–May
- Sustained communications effort (social media campaign #2)

# MTC Transit & Transportation Survey



- Survey of 9-County Bay Area registered voters
- Conducted March 14-23, 2023
- 1,800 total responses
- Overall margin of error  $\pm 2.31$  percentage points at the 95% confidence interval
- Conducted via a hybrid methodology using live telephone interviews and email/text invitations to an online survey.
- Available in English, Spanish, and Chinese
- Telephone interviews were conducted by trained, professional interviewers using landlines and mobile phones.

Please note that due to rounding, some percentages may not add up to exactly 100%.

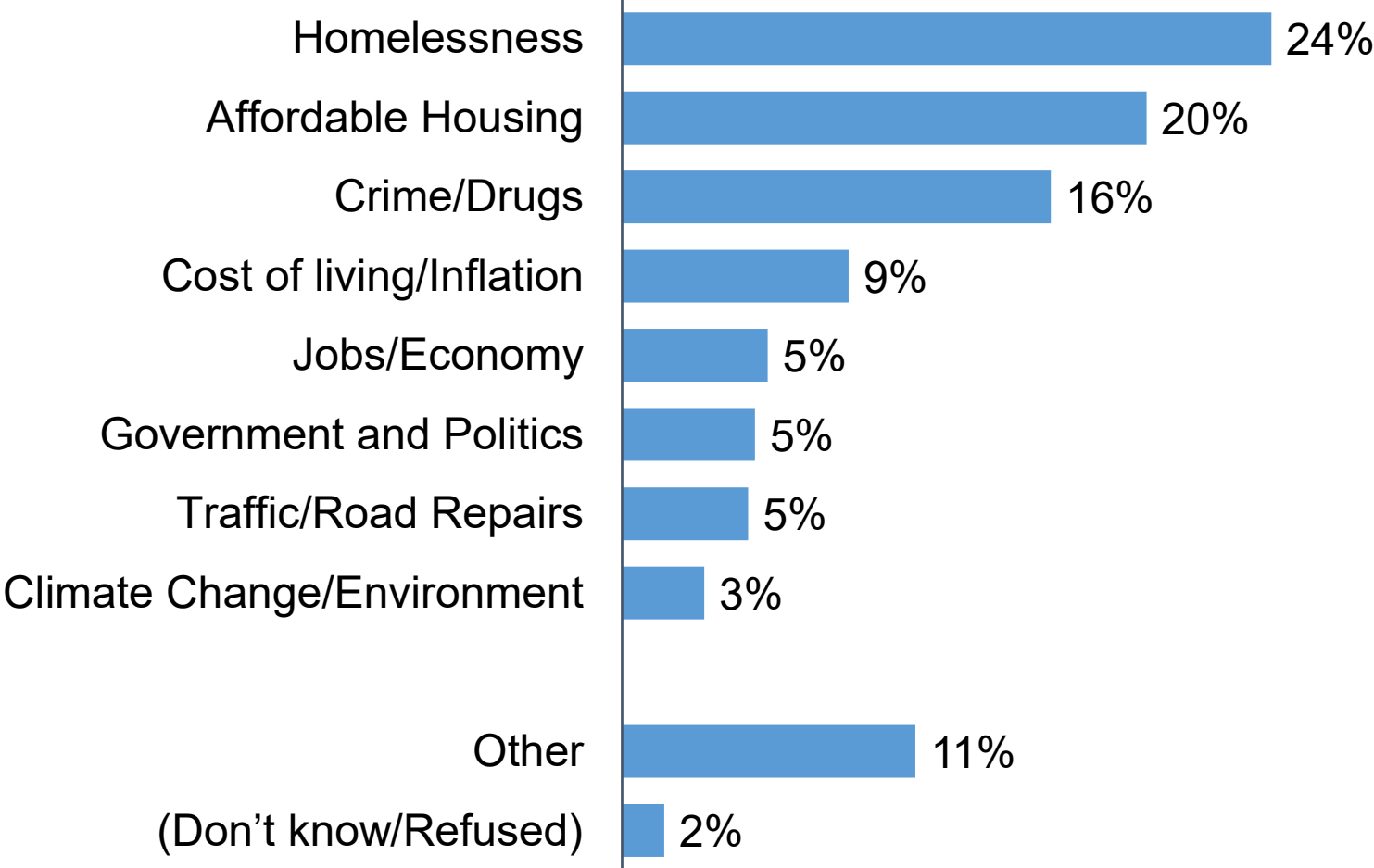
# Revenue Measure Questions

- The poll included two questions to test initial reactions to potential regional ballot measures, but it was **not designed as an in-depth viability** poll.
- Voters each heard one version of a housing bond measure and one version of a transportation tax measure with the order randomized.
- The poll is reflective of attitudes **today**, more than 18 months before the November 2024 election and years away from 2026.
- Factors that could significantly impact future measures include:
  - ✓ Legislation to revise AB-195 (Obernolte), such as SB 532 (Wiener);
  - ✓ The Taxpayer Protection November 2024 proposition;
  - ✓ The overall economy and issue environment; and,
  - ✓ A potential measure to lower the vote threshold for affordable housing bonds.



# Most Important Problem

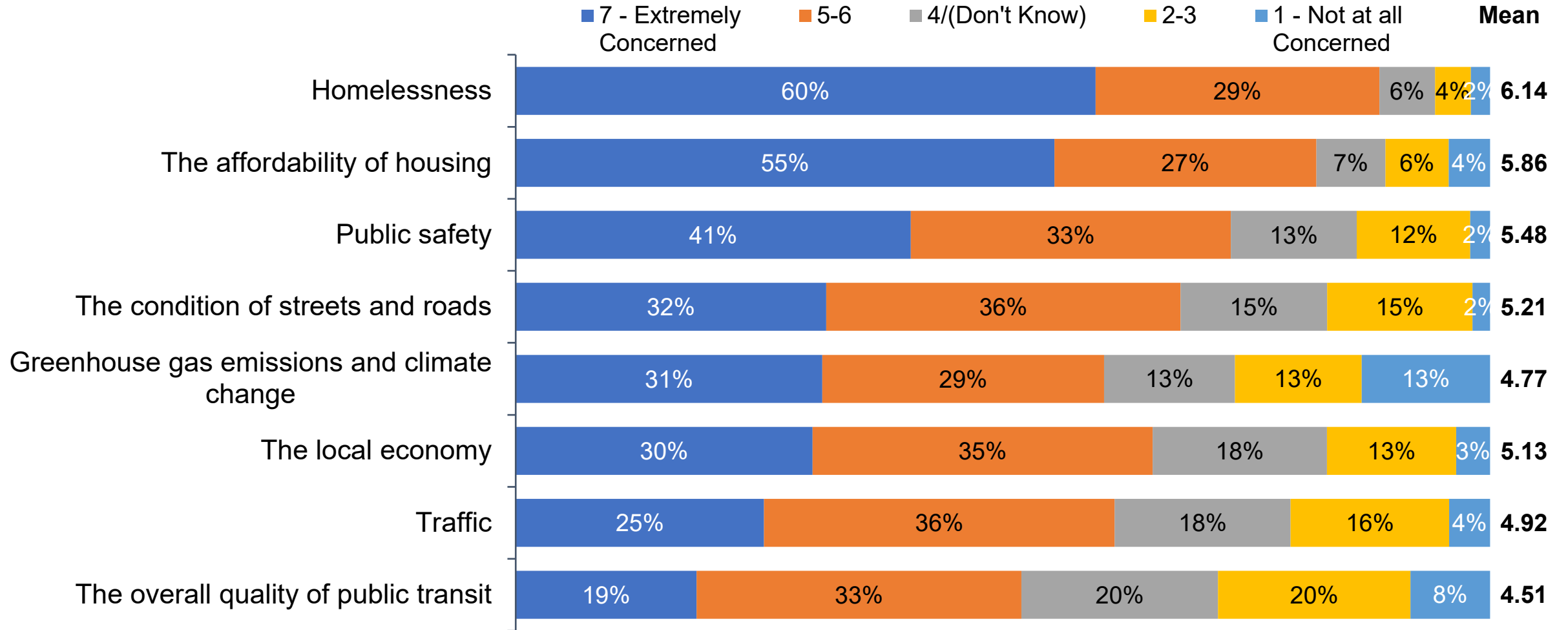
*Homelessness and housing affordability are the most commonly mentioned problems facing the Bay Area.*



| 2019 (Pre-COVID) | %  |
|------------------|----|
| Housing          | 34 |
| Traffic/Roads    | 18 |
| Homelessness     | 13 |
| Cost of living   | 7  |
| Crime            | 2  |

# Issue Concern – Open Question

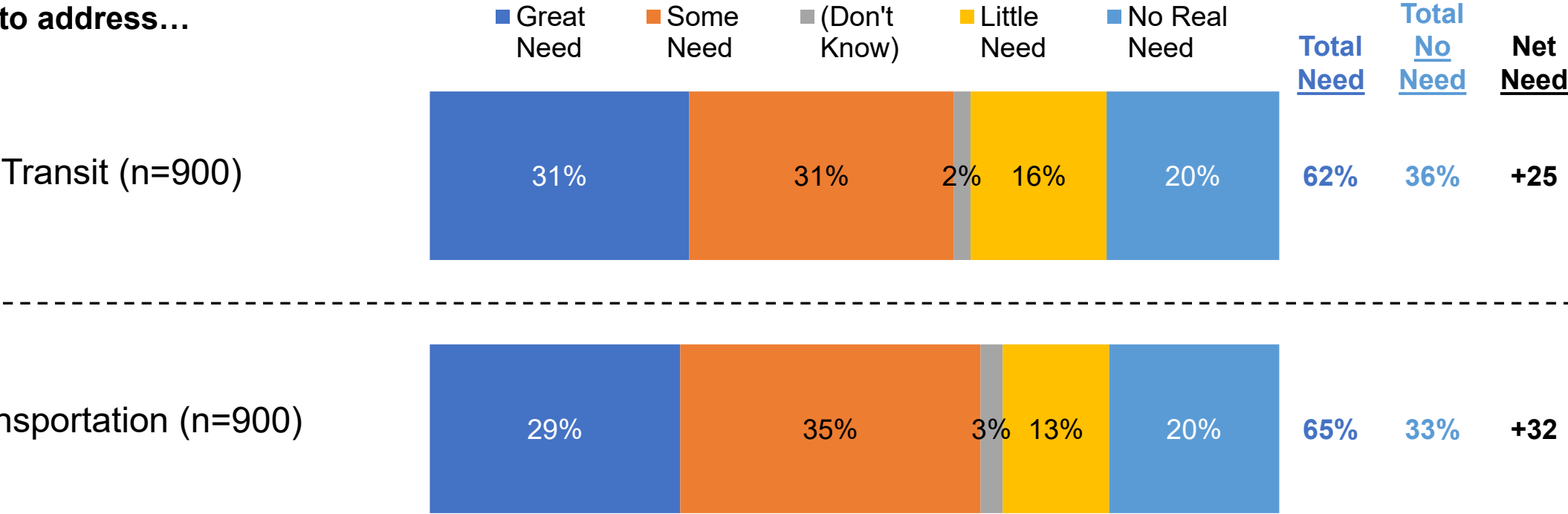
*Voters rate a number of issues as concerning - with high intensity about homelessness, housing and safety.*



# Perception of Need

*Just under two-thirds of voters see a need for additional funding to address transit/transportation*

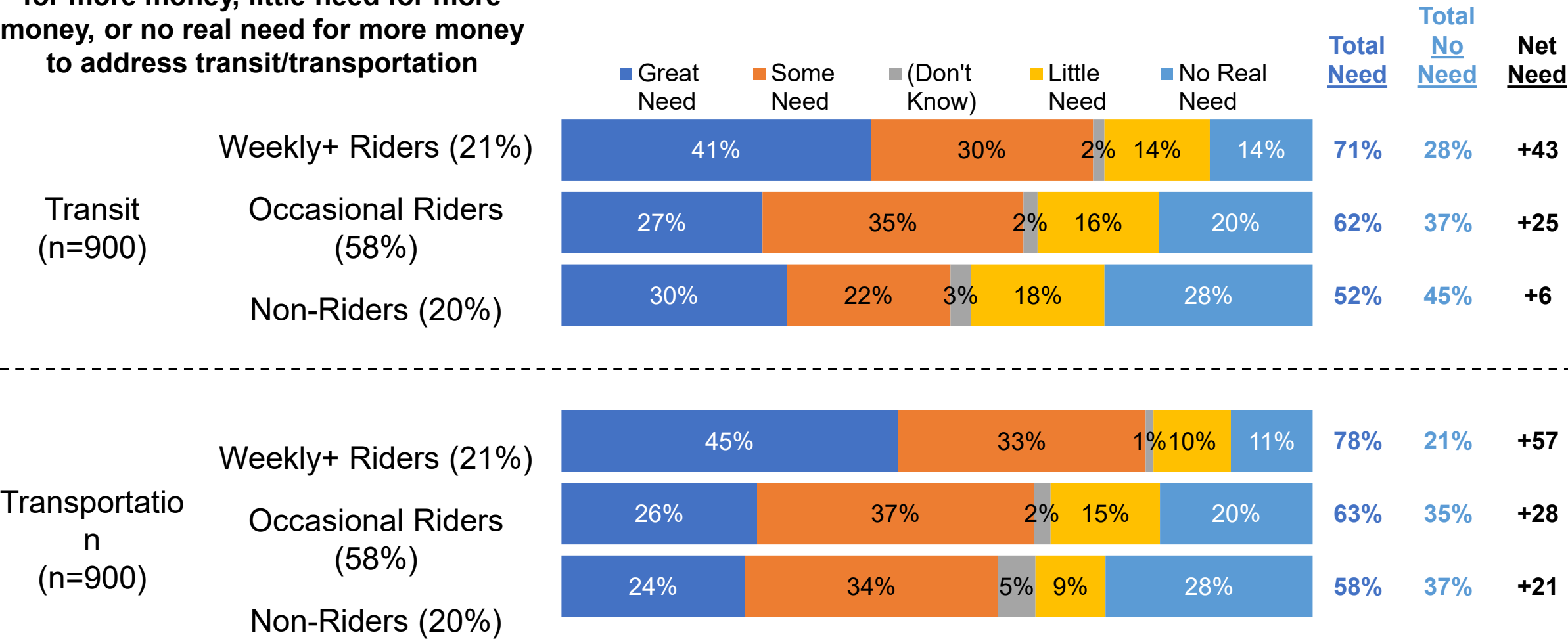
Please tell me if you think there is a great need for more money, some need for more money, little need for more money, or no real need for more money to address...



Q13. Please tell me if you think there is a great need for more money, some need for more money, little need for more money, or no real need for more money to address [transit/transportation]?

# Perception of Need by Ridership

Please tell me if you think there is a great need for more money, some need for more money, little need for more money, or no real need for more money to address transit/transportation

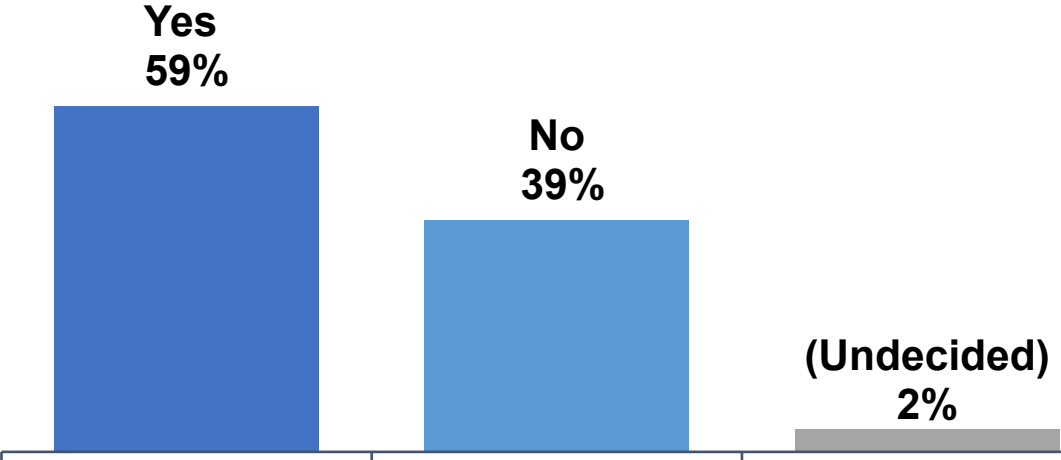


# Potential Transit/Transportation Tax

*Both transportation measures have strong majority support, but fall short of two-thirds.*

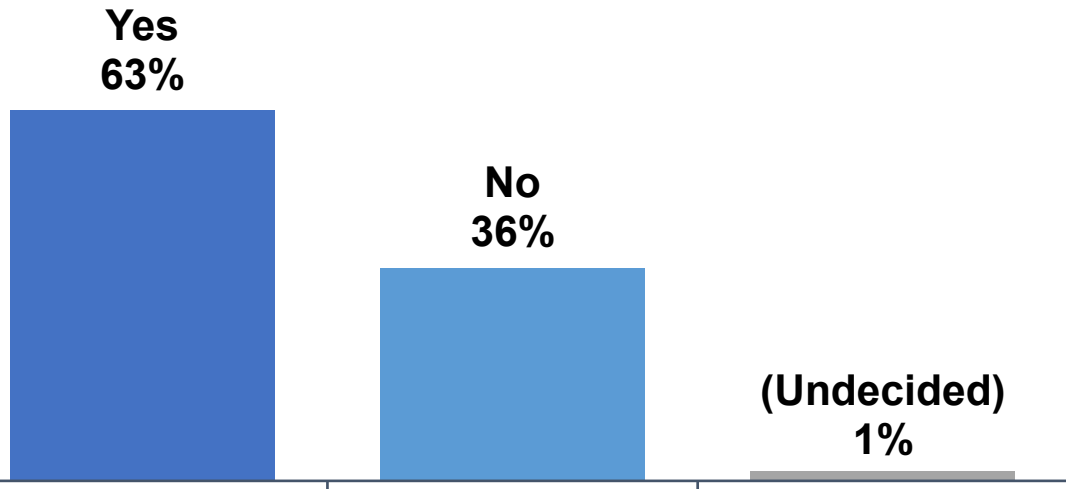
## Transit Only

To address the Bay Area’s transportation needs, reduce greenhouse gases and decrease traffic congestion by: providing reliable, affordable and connected BART, train, ferry, and bus service; improving access to public transit for seniors and persons with disabilities; reducing transit wait times; and improving rider safety; shall the measure enacting a half-cent sales tax for 30 years generating at least \$816,000,000 annually, subject to oversight and audits, be adopted? **(69 words)**



## Transit + Transportation

To address the Bay Area’s transportation needs, reduce greenhouse gases and decrease traffic congestion by: providing reliable, affordable and connected BART, train, ferry, and bus service; improving pedestrian, bike and transit rider safety; repairing potholes; adding carpool lanes; and protecting transportation networks from sea level rise; shall the measure enacting a half-cent sales tax for 30 years generating at least \$816,000,000 annually, subject to oversight and audits, be adopted? **(70 words)**



# Overall Key Findings

- Overall mood in the Bay Area continues to be fairly pessimistic with **homelessness**, **housing affordability** and **safety** topping voter concerns.
- Over two-thirds of voters think more money is needed to address **housing**. The tested measures fall short given the current threshold and wording requirements.
- There is widespread belief that **transit is important** for the Bay Area and that a high-quality public transportation system benefits all. Our current system does **not** receive **high ratings**.
- Just under two-thirds perceive a need for **transportation** funding. The tested measures **fall short** of the super-majority threshold.
- More than a third consider themselves at least monthly transit riders, **only 6% are daily riders**. Nearly 40% of all voters say they are **commuting less frequently** than pre-Covid.
- There is widespread willingness to increase transit usage, however, **convenience**, **speed** and **safety** are significant barriers.

An aerial photograph of San Francisco, California, featuring the Golden Gate Bridge in the background, a coastal town with numerous buildings in the foreground, and a large body of water. The image is slightly faded to serve as a background for the title.

# Questions & Discussion

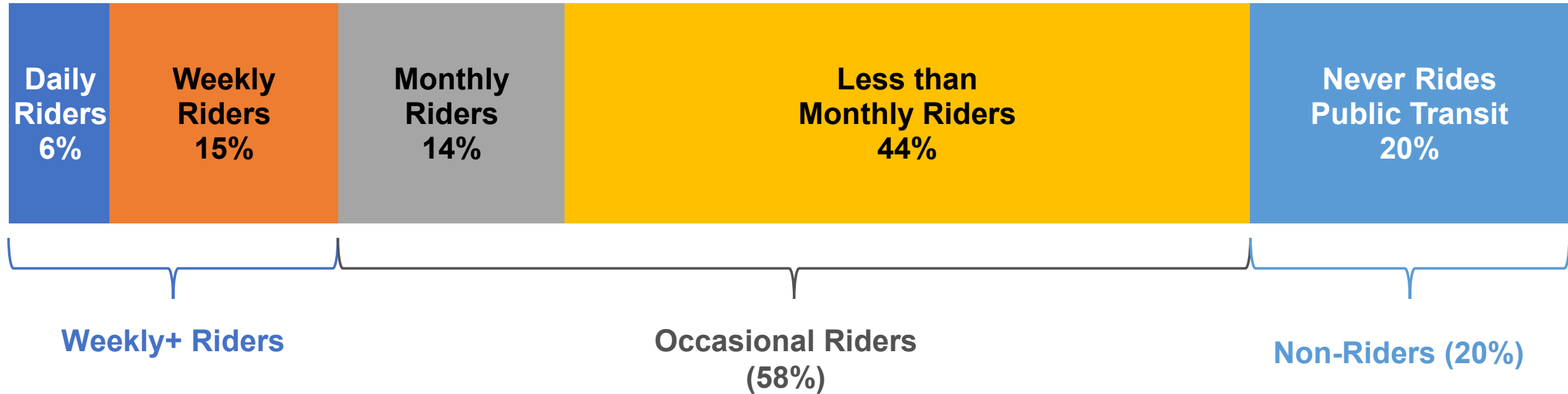


An aerial photograph of San Francisco, California, featuring the Golden Gate Bridge in the background, a coastal town with numerous buildings in the foreground, and a body of water. The image is slightly faded to serve as a background for the title.

# Supplemental Polling Information



# Current Public Transit Usage



**Daily Riders:** Rides any public transit service 5+ times a week

**Weekly Riders:** Rides any public transit service at least once a week

**Monthly Riders:** Rides any public transit service at least once a month

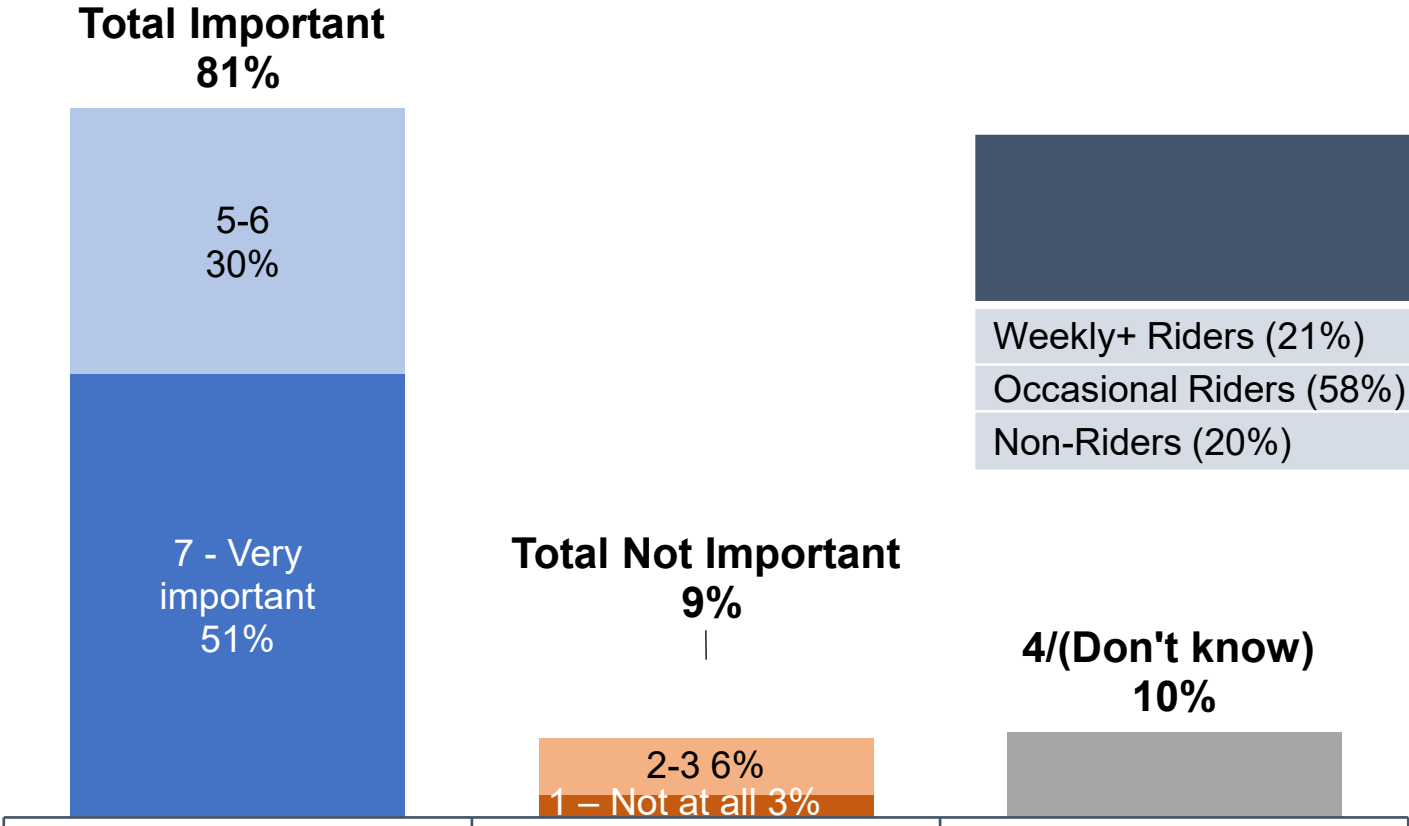
**Less than Monthly Riders:** Rides any public transit service less than monthly

**Never Rides:** Never rides on any public transit service

# Importance of Public Transit

Although most don't use transit regularly, there is widespread belief that **public transit is important**.

Question: How important would you say public transit is for the Bay Area?



|                         | 7 - Very Important | 5 - 6 | Total Important | Total Not Important |
|-------------------------|--------------------|-------|-----------------|---------------------|
| Weekly+ Riders (21%)    | 71%                | 26%   | 96%             | 1%                  |
| Occasional Riders (58%) | 48%                | 32%   | 80%             | 9%                  |
| Non-Riders (20%)        | 37%                | 32%   | 69%             | 17%                 |

# Transit Investment Attitudes

We need to maintain the public transit service we have to make sure it is there for people who depend on it.

**87%**

Having high-quality, reliable public transit in the Bay Area benefits everyone, even people who don't ride it.

**79%**

We need to invest in real improvements to our public transit system to make it a better option for more people in the Bay Area instead of driving.

**74%**

We need to reduce public transit service now that that fewer people are using it by cutting routes, reducing frequency, and shortening service hours.

**10%**

Having high-quality, reliable public transit in the Bay Area really only benefits those who ride it.

**18%**

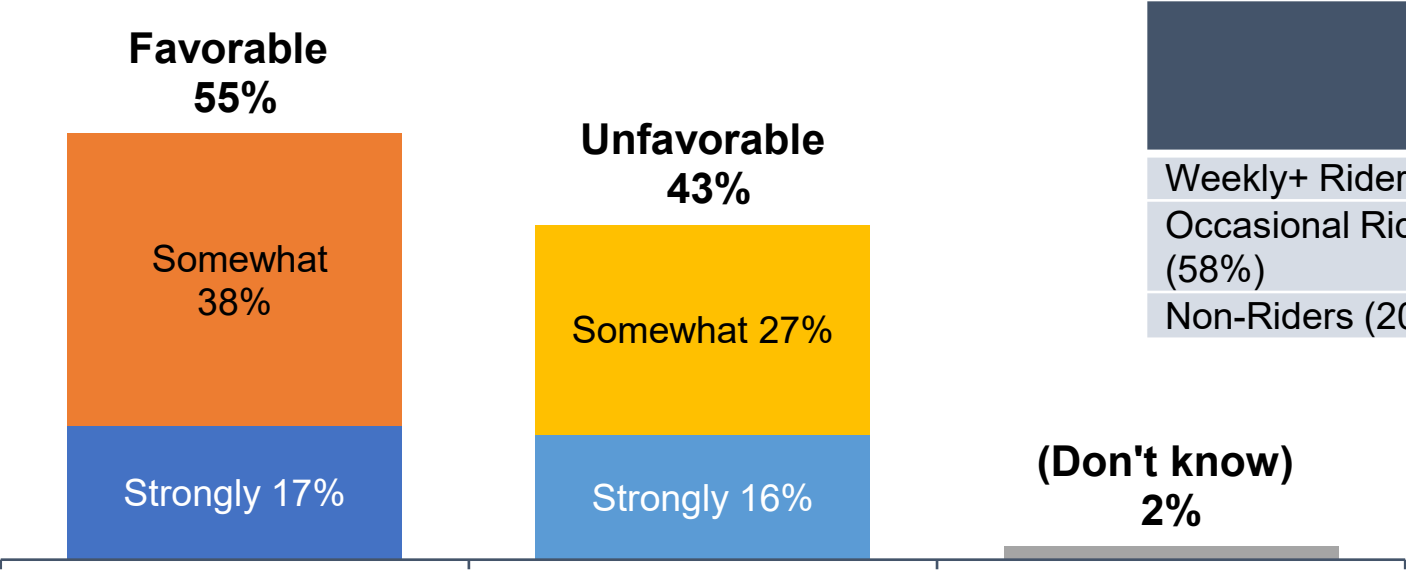
We should stop trying to improve a transit system that only a few residents use, and focus investments on other improvements that help people get around.

**22%**

# Public Transit Favorability

Overall opinions of Bay Area public transit are mixed, but those who use it have generally positive opinions.

In general, would you say you have a strongly favorable, somewhat favorable, somewhat unfavorable, or strongly unfavorable opinion of public transit in the Bay Area?

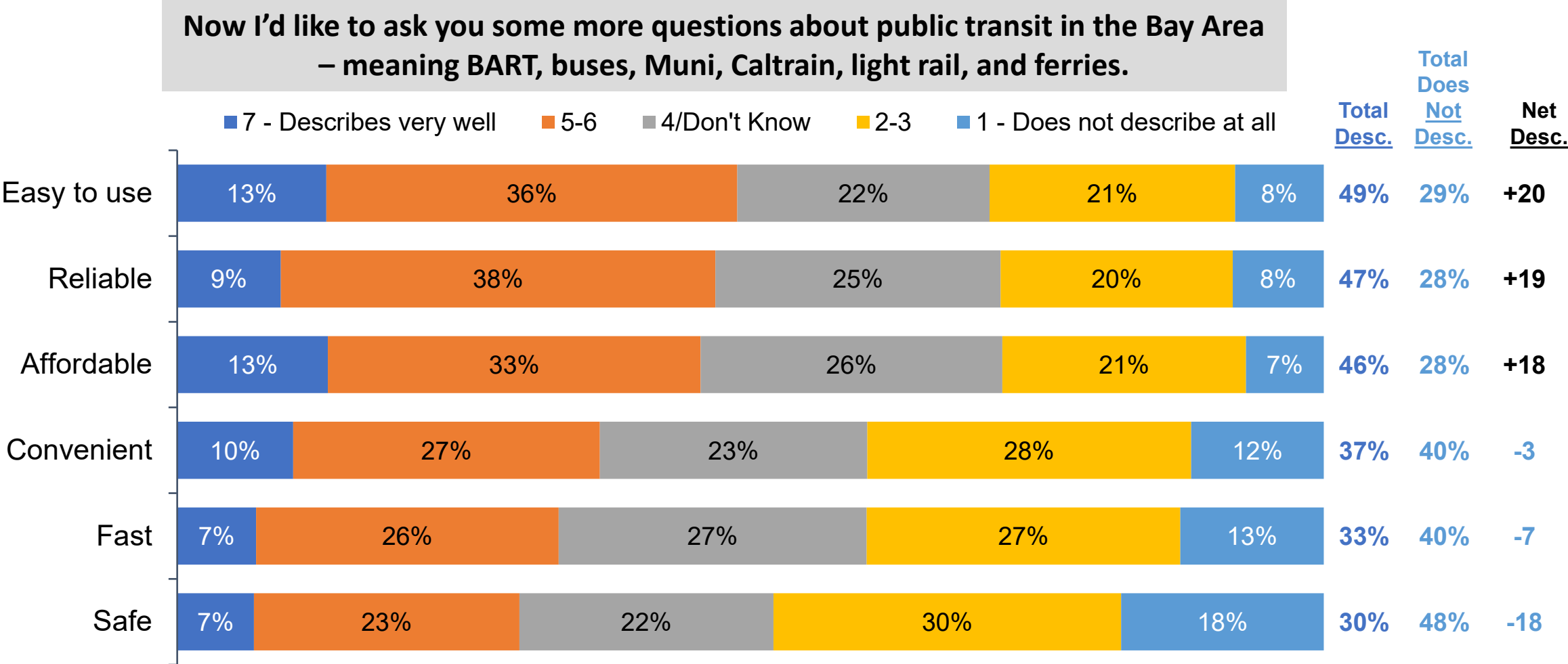


|                         | Strongly Favorable | Somewhat Favorable | Total Favorable | Total Unfavorable |
|-------------------------|--------------------|--------------------|-----------------|-------------------|
| Weekly+ Riders (21%)    | 33%                | 40%                | 73%             | 26%               |
| Occasional Riders (58%) | 12%                | 40%                | 52%             | 47%               |
| Non-Riders (20%)        | 15%                | 31%                | 46%             | 50%               |

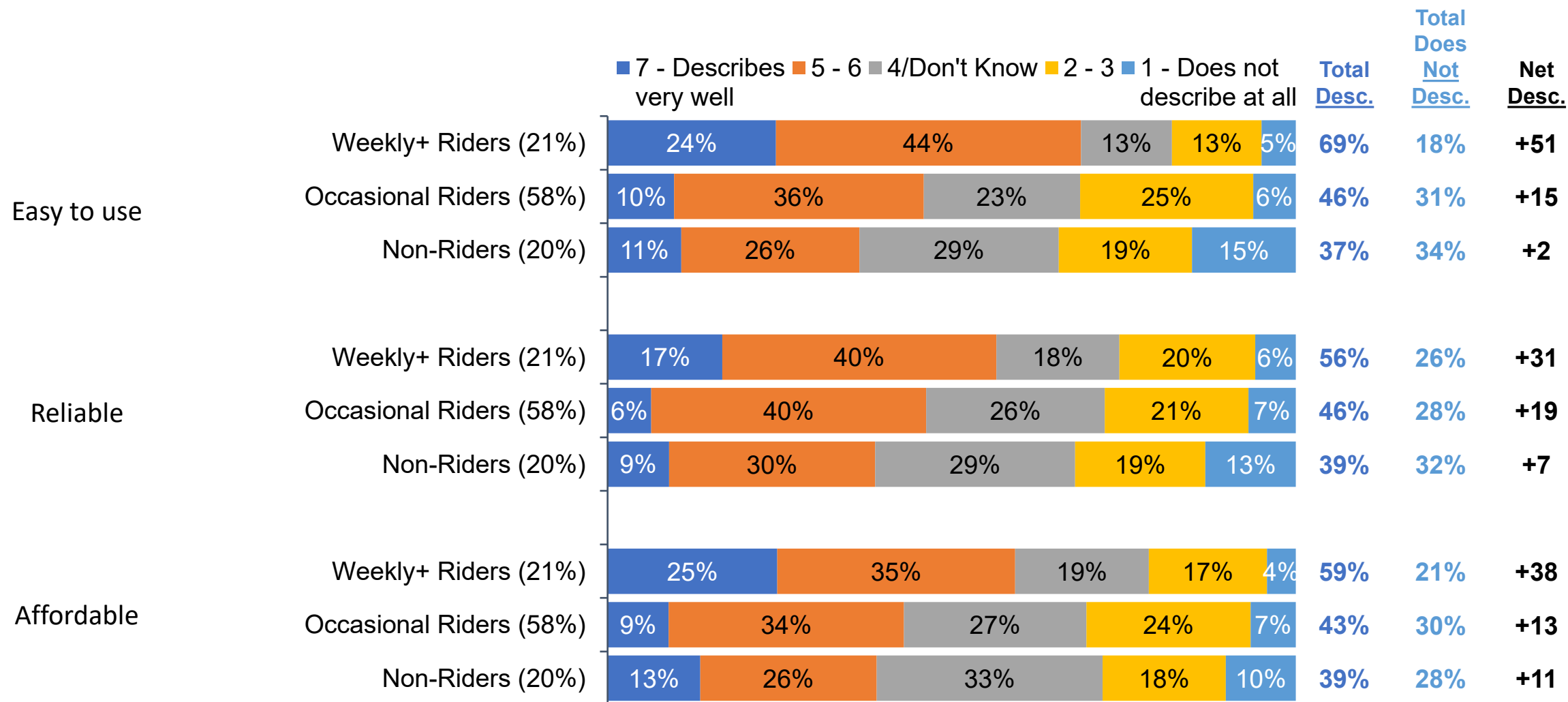


# Public Transit Attributes

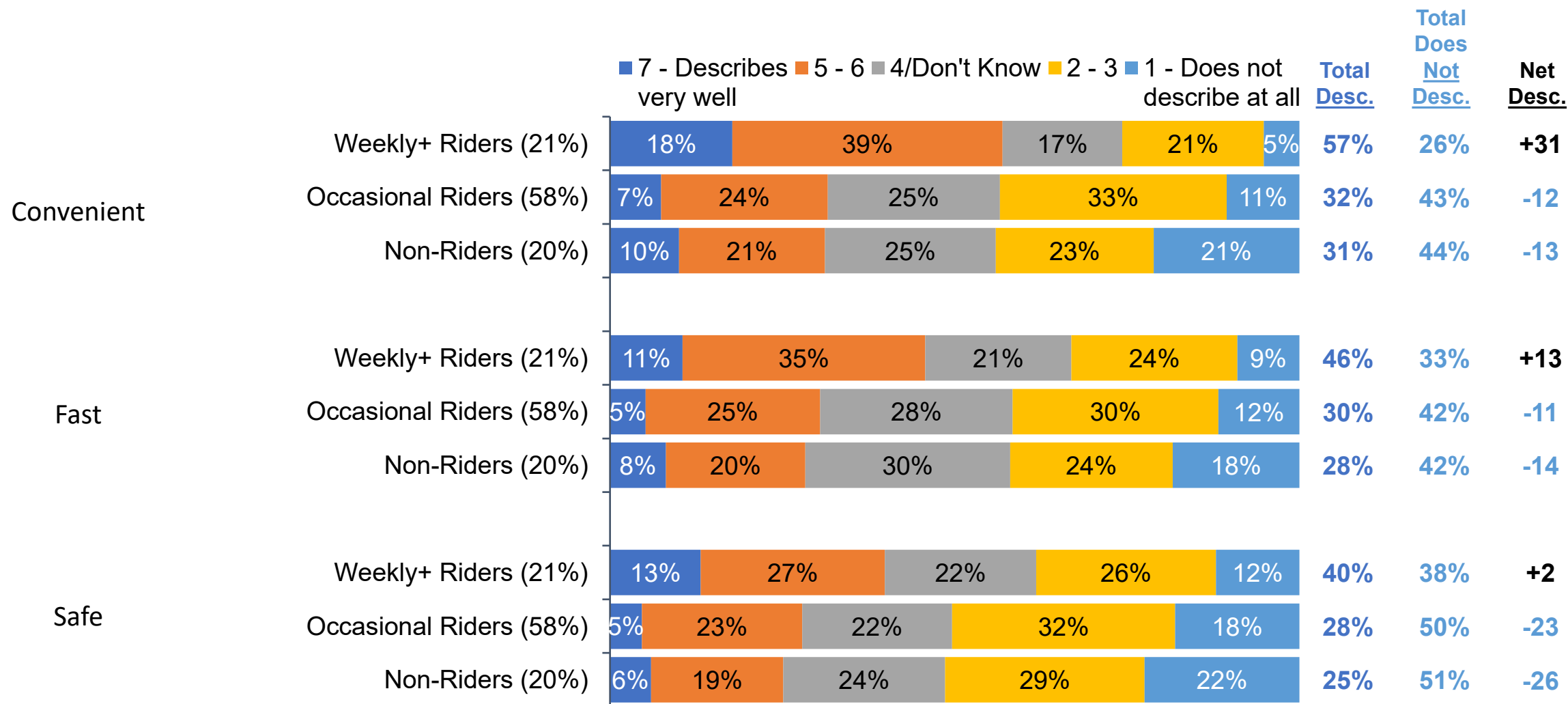
Bay Area public transit receives net positive ratings on ease of use, reliability, and affordability.



# Transit Attributes by Ridership

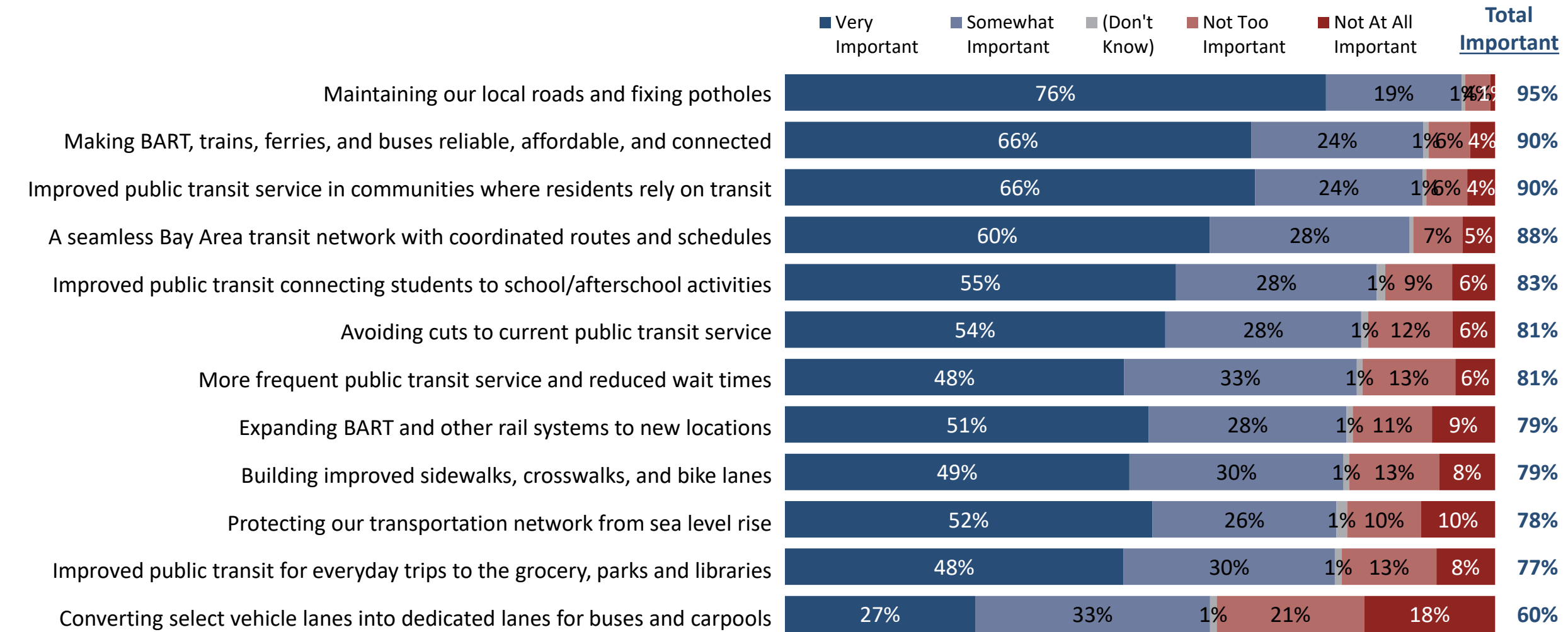


# Transit Attributes by Ridership



# Transportation Investments

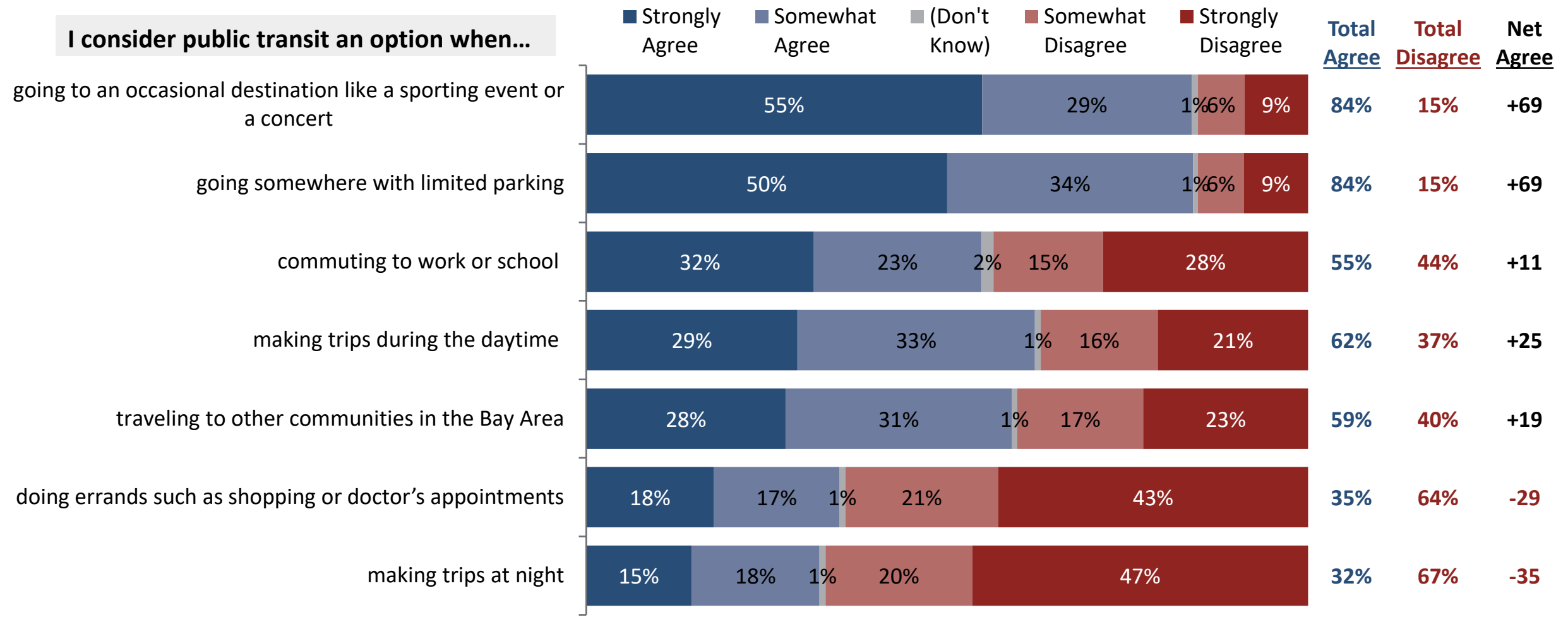
*Voters are supportive of many of the transit improvements tested, but above all want roads to be maintained.*





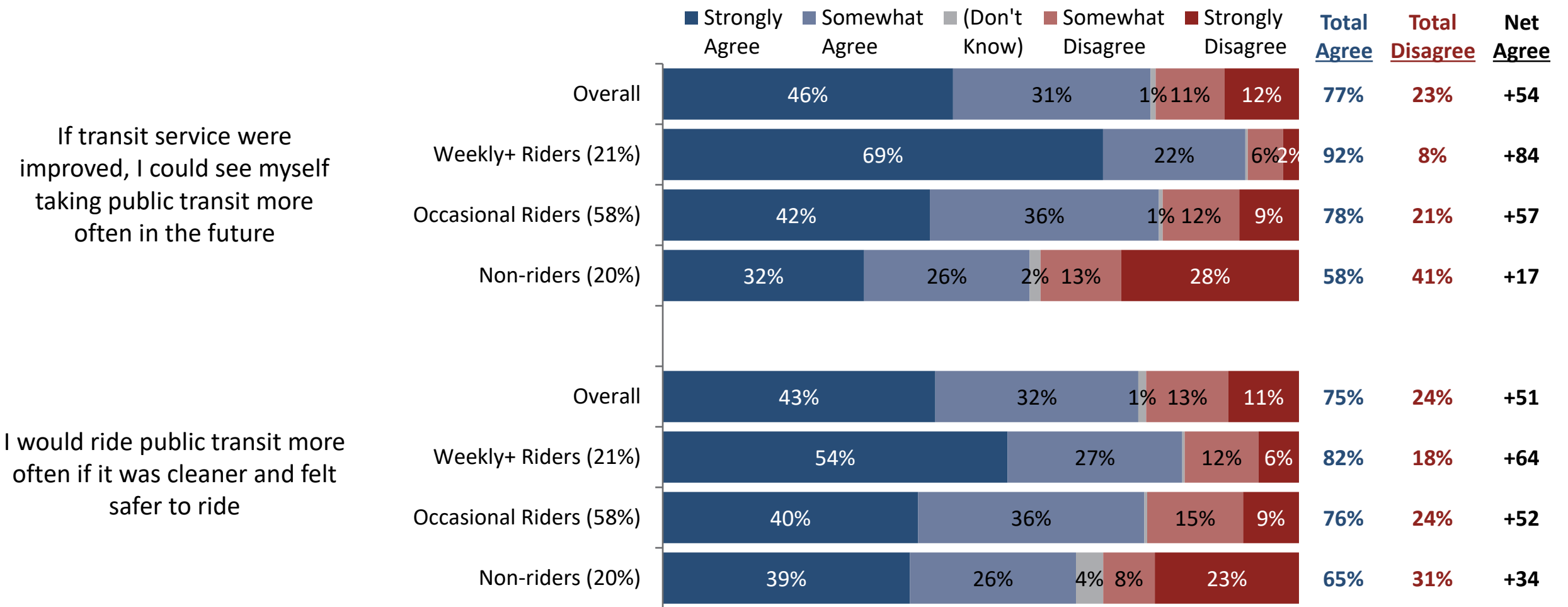
# Public Transit Scenarios

Most say they *consider* transit in many circumstances.



# Transit Usage

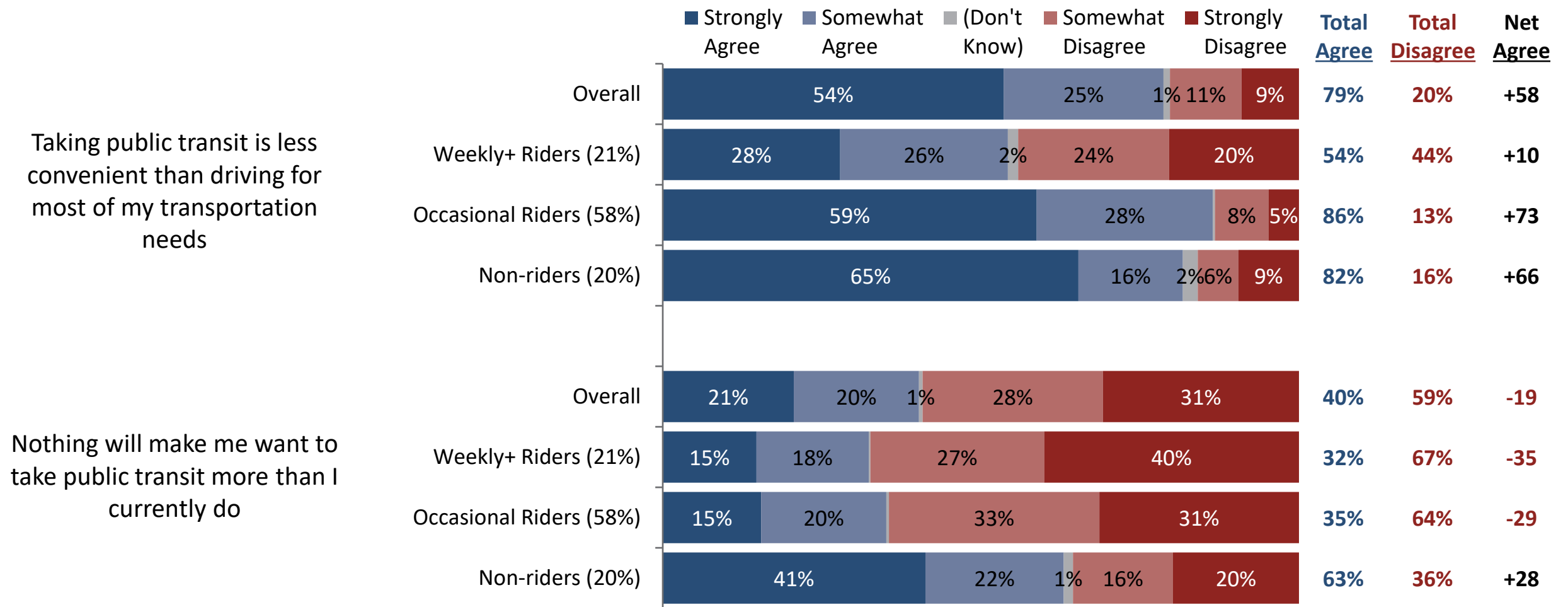
*Most say that if transit was improved they would use it more frequently.*



Q43-46. Please tell me whether you strongly agree, somewhat agree, somewhat disagree, or strongly disagree with each of the following statements.

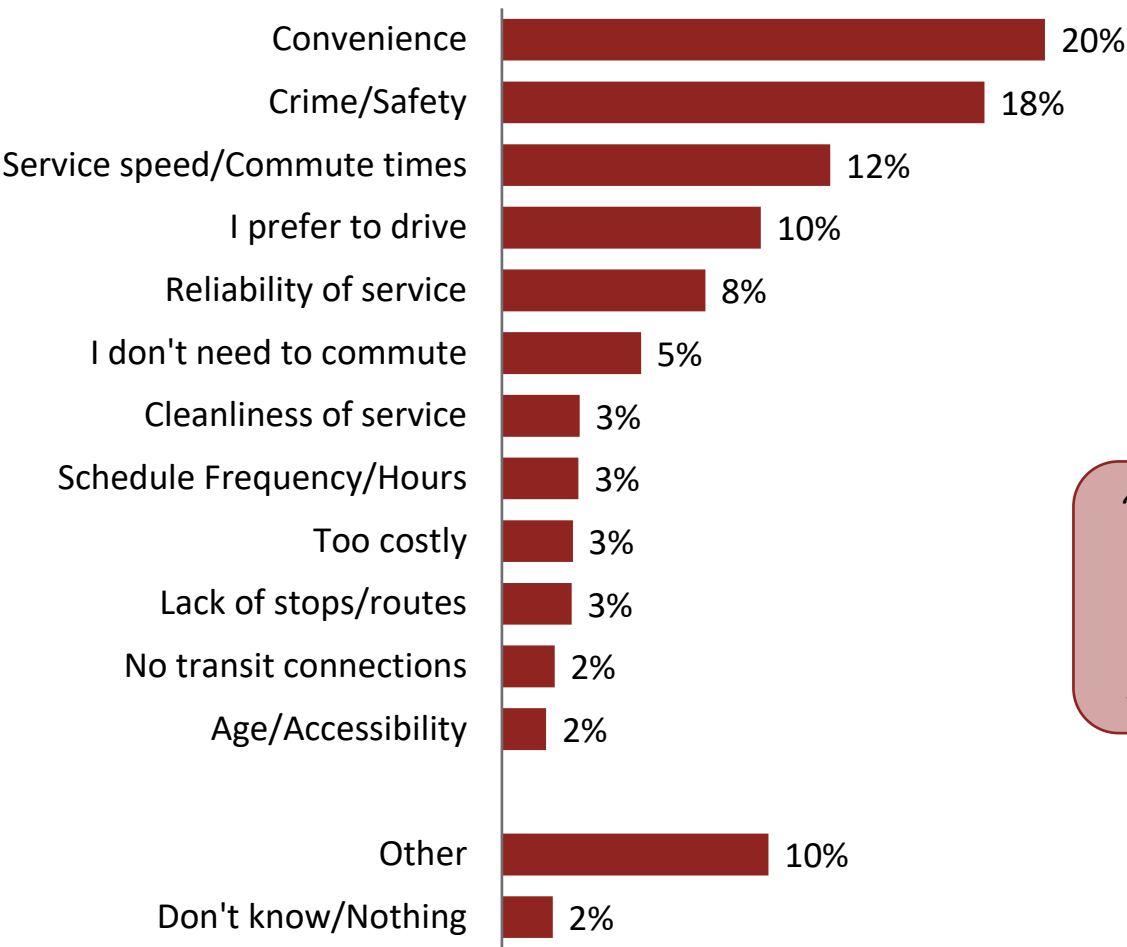
# Transit Usage Hesitancy

Some non-riders are adamantly anti-transit for their own usage, but many are very open. Convenience is a significant factor.



# Barriers to Public Transportation

Convenience, speed and safety are significant barriers for many to using transit.



*"I have to walk out of my neighborhood to get to it and hope its on time and I could already be [at my destination] in the time it takes for all that."*

*"I have to drive my car to get to [public transportation]. It means that I could just drive since I'd already be in my car."*

*"It seems dangerous at night, not frequent enough bus service so can't go where I want to go unless I want to spend a lot of time waiting."*

*"Lack of safety especially at night. As a mid-30s woman it's really hard to feel confident and comfortable taking the bus anytime"*

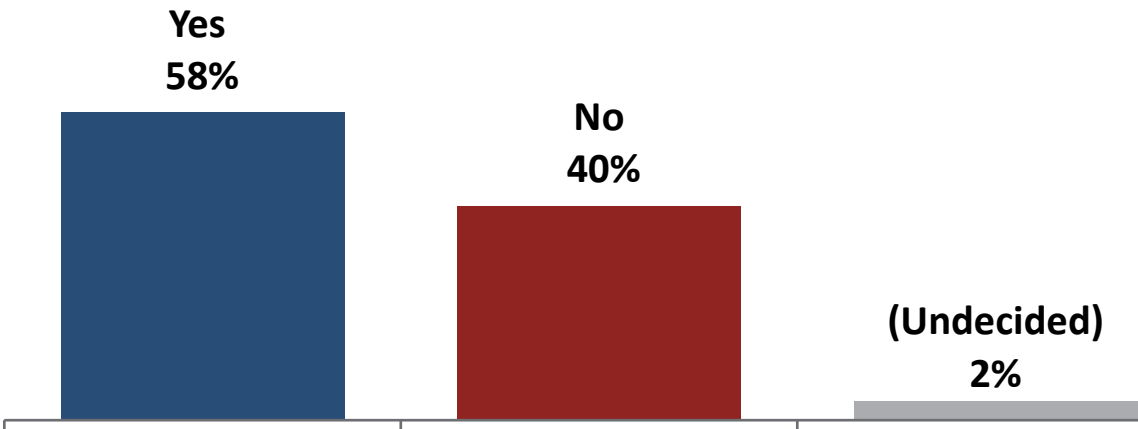
*"Usually it takes longer or just as long as driving."*

# Potential Housing Bond

*Support for a housing bond is above 55% both with and without including the estimated levy.*

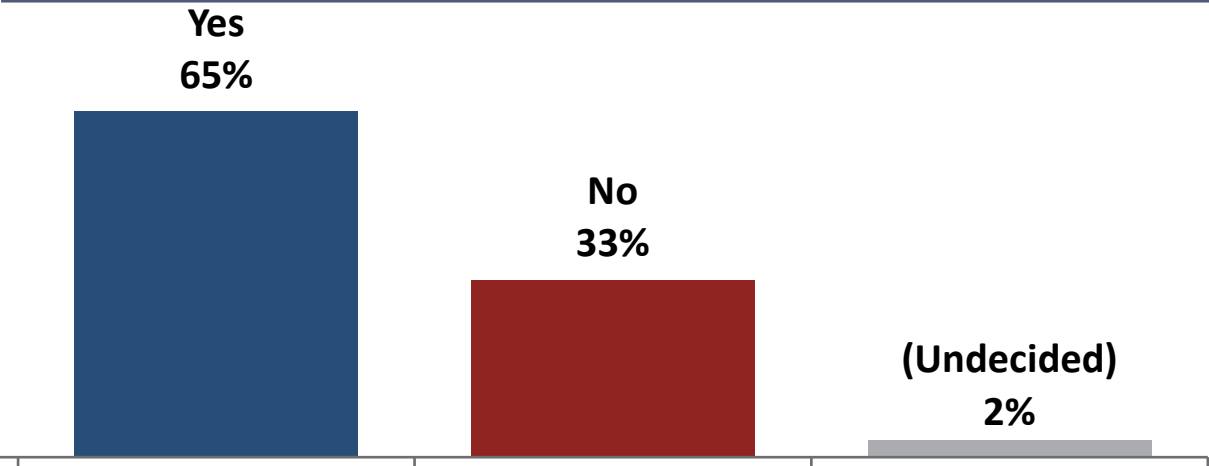
## Full Detail

To address housing affordability/homelessness by providing: stable housing for homeless children/families; housing with mental health/substance abuse services; and local housing that is affordable for vulnerable people including seniors, veterans, and persons with disabilities; shall the measure by the Bay Area Housing Finance Authority issuing up to \$10,000,000,000 in general obligation bonds with an estimated levy of 35 cents/\$1,000 of assessed value (generating \$670,000,000 annually) while bonds are outstanding, subject to oversight and audits, be adopted? **(75 words)**



## Excluding AB195 Required Detail

To address housing affordability/homelessness by providing: stable housing for homeless children/families; housing with mental health/substance abuse services; and local housing that is affordable for vulnerable people including seniors, veterans, and persons with disabilities; shall the measure by the Bay Area Housing Finance Authority issuing up to \$10,000,000,000 in general obligation bonds, subject to oversight and audits, be adopted? **(57 words)**



**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

**MEMORANDUM**

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**TO:** Board of Directors

**DATE:** May 5, 2023

**FROM:** General Manager

**SUBJECT:** Briefing on Other Post-Employment Benefits (Retiree Medical) and Pension Liabilities

At the May 11, 2023, BART Board meeting, the District's actuaries from Foster and Foster (formerly Bartel Associates), Doug Pryor, Senior Consulting Actuary and Mary Beth Redding, Senior Consulting Actuary will provide an informational update on Other Post-Employment Benefits (Retiree Medical) and Pension Liabilities. An overview presentation is attached.

If you have any questions, please contact Diane Iwata, Manager of Benefits, at (510) 464-6207 or via email at [diwata@bart.gov](mailto:diwata@bart.gov).

DocuSigned by:

*Michael Jones*

47000790F2D7463  
Robert M. Powers

# BRIEFING ON OTHER POST EMPLOYMENT BENEFITS (RETIREE MEDICAL) AND PENSION LIABILITIES

DOUG PRYOR, SENIOR CONSULTING ACTUARY  
MARY BETH REDDING, SENIOR CONSULTING ACTUARY

MAY 11, 2023



**FOSTER & FOSTER**  
ACTUARIES AND CONSULTANTS

# Retiree Medical

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# Retiree Medical Plan - Background

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- Benefits
  - Retire directly from BART
  - Retiree medical premium (up to cap) paid by BART
  - Same formula as for active employees
  - Retirees must enroll in Medicare Part B at age 65
  - Retirees pay a portion of the monthly premium
  - Benefit percentage schedule (based on required BART years of service) applies to employees hired after 2014-2015
- Retiree medical benefits set by BART with employee groups
- Average monthly benefit approximately \$750

# Retiree Medical Plan - Background

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## ■ Trust

- Initiated in 2004/05
- OPEB trusts becoming more common in California but not required
- Approximate 60%/40% equity/fixed income
- Plan is funded according to bargaining agreement
- Closed period – fully funded in 2034
  - 11 years remaining in 2023/34
  - Entire Unfunded Accrued Liability to be fully funded in 2034
  - Contributions will become much more volatile as 2034 approaches

# Retiree Medical Plan – Funded Status

In Millions

|   | June 30,<br>2020 | June 30,<br>2021 | June 30,<br>2022 |
|---|------------------|------------------|------------------|
| Actuarial Accrued Liability<br>(value of benefits “earned” in the past) | \$581.7          | \$632.4          | \$677.5          |
| Trust Assets  | <u>389.1</u>     | <u>501.3</u>     | <u>450.0</u>     |
| Unfunded Accrued Liability  | 192.6            | 131.1            | 227.5            |
| Normal cost<br>(value of benefits “earned” during the year)             | 26.7             | 24.3             | 25.6             |

# Retiree Medical Plan - Changes

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- Assets
  - 23.4% return for 2020/21 vs. 6% expected
  - -12.9% return for 2021/22 vs. 6% expected
    - Approximately \$95 million below expected

# Retiree Medical Plan – Contributions

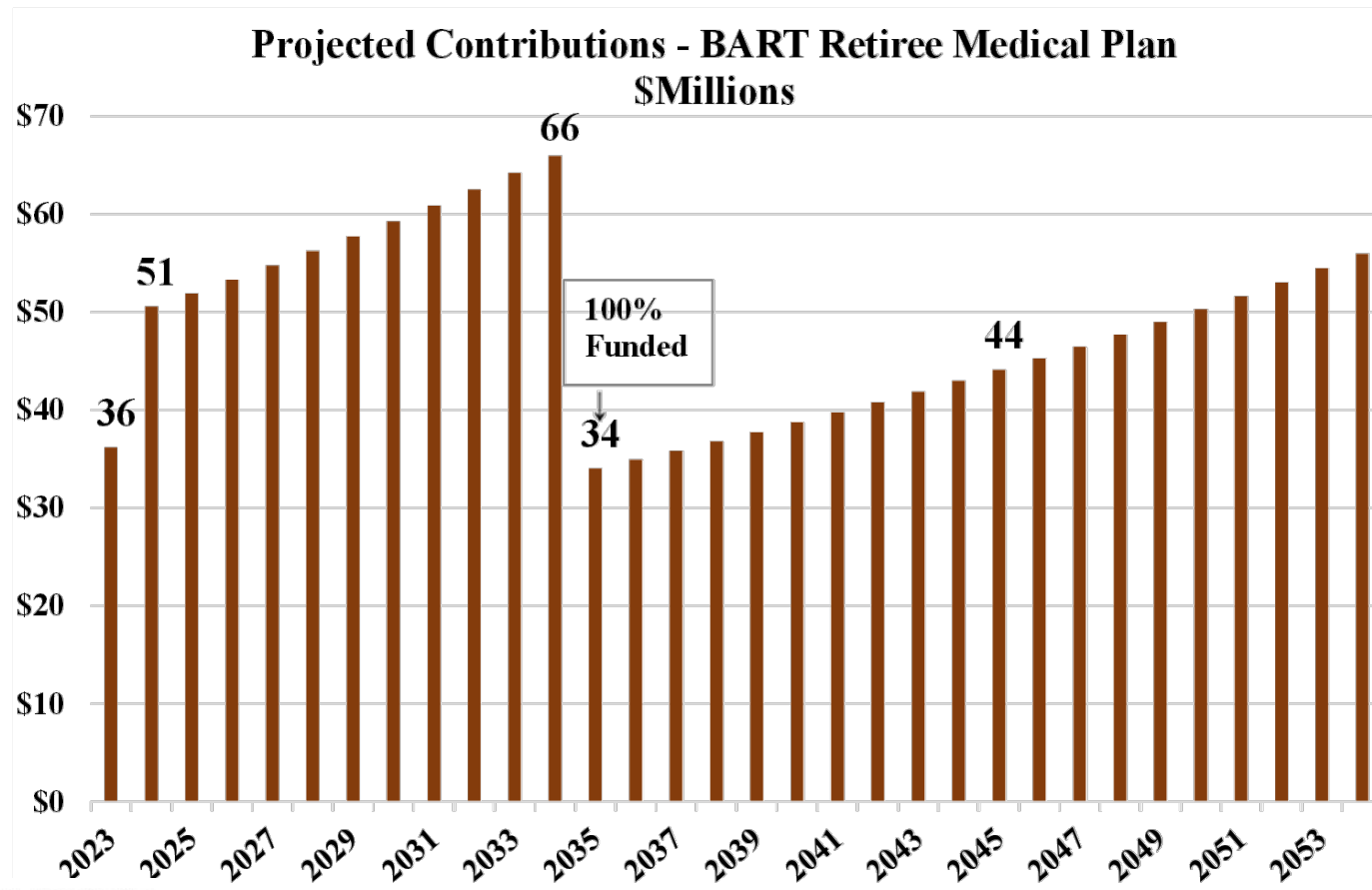
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In Millions

|                             | June 30, 2020<br>2021/22 | June 30, 2021<br>2022/23 | June 30, 2022<br>2023/24 |
|-----------------------------|--------------------------|--------------------------|--------------------------|
| Normal Cost                 | \$26.7                   | \$24.3                   | \$25.6                   |
| Unfunded Liability Payment* | <u>17.3</u>              | <u>11.9</u>              | <u>25.0</u>              |
| Total Contribution          | 44.0                     | 36.2                     | 50.6                     |

\* CBAs specify Unfunded Accrued Liability to be paid off by 6/30/34

# Retiree Medical Plan – Projected Contributions



# CalPERS Pension

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# CalPERS Pension Plans - Background

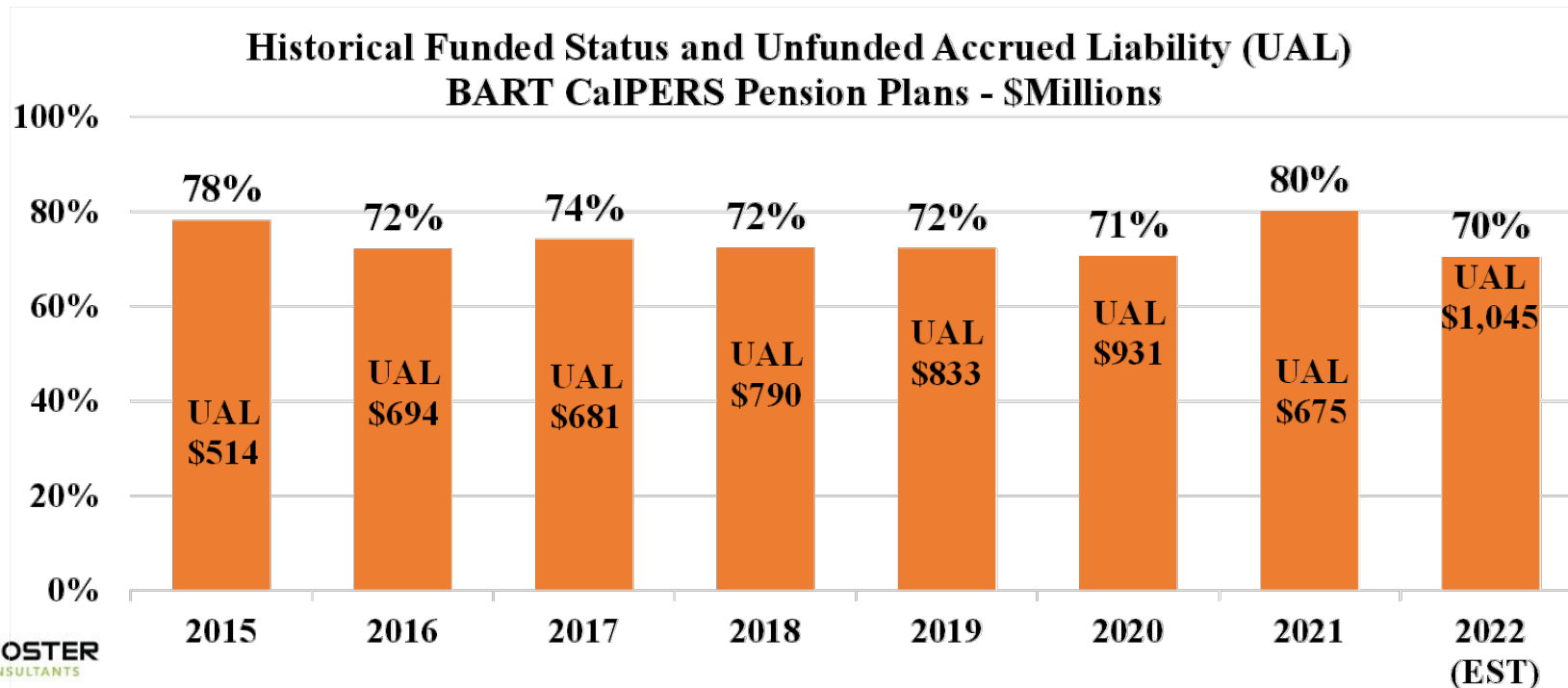
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- Pension benefits provided through CalPERS
  - Benefits cannot be changed
  - CalPERS invests the pension funds
  - CalPERS calculates each year's required contributions
    - ❑ BART must pay as required
    - ❑ Employees are also required by CalPERS to pay a portion of their cost
  - Currently, no major policy changes expected
- BART has negotiated with its bargaining units for employees to pay a portion of BART's required payment ("cost-sharing")



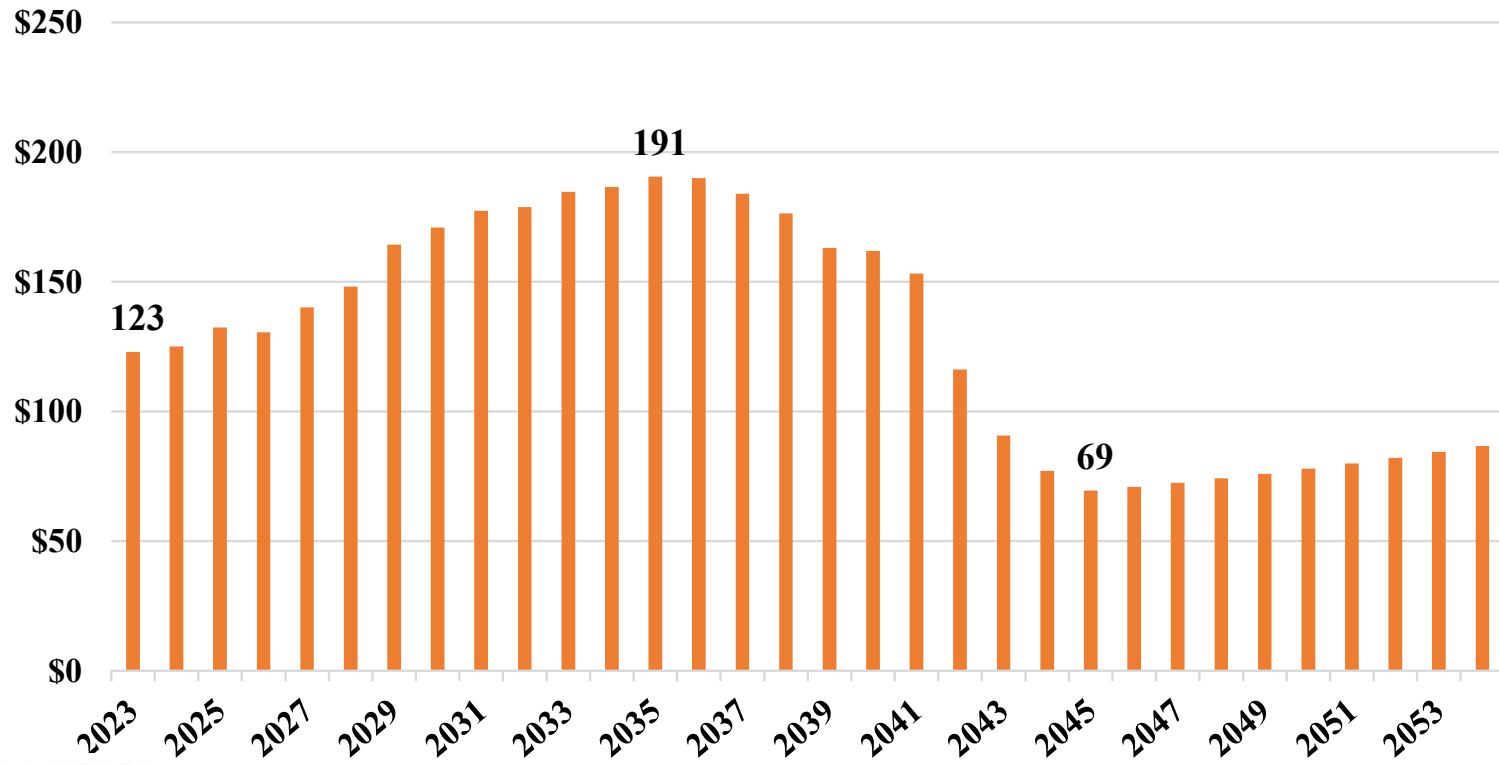
# CalPERS Pension Plans – Historical Funded Status

- Changes in funded status primarily due to CalPERS investment return
  - FY20-21: 23.1% vs 7% expected, FY21-22: -7.5% vs 6.8% expected
  - Current CalPERS investment allocation: higher risk than previously
- Discount rate 7.5% in 2015. Lowered gradually to 6.8% at 6/30/2021



# CalPERS Pension Plans – Projected Contributions

**Projected Contributions - BART CalPERS Pension Plans**  
**\$Millions**



# CalPERS Pension Plans and Section 115 Trust

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- The District established a Section 115 Pension Trust to help provide funding flexibility and to help mitigate budget impact of projected future increases in required contributions
  - Trust may only be used for pension contributions
  - Employer decides when/if to add money or withdraw funds
  - Trusts becoming common in California but not required
- March 2023 balance is \$38.2 million
  - Funding began in August 2020
  - \$40 million contributed
  - Investment loss due to recent market conditions

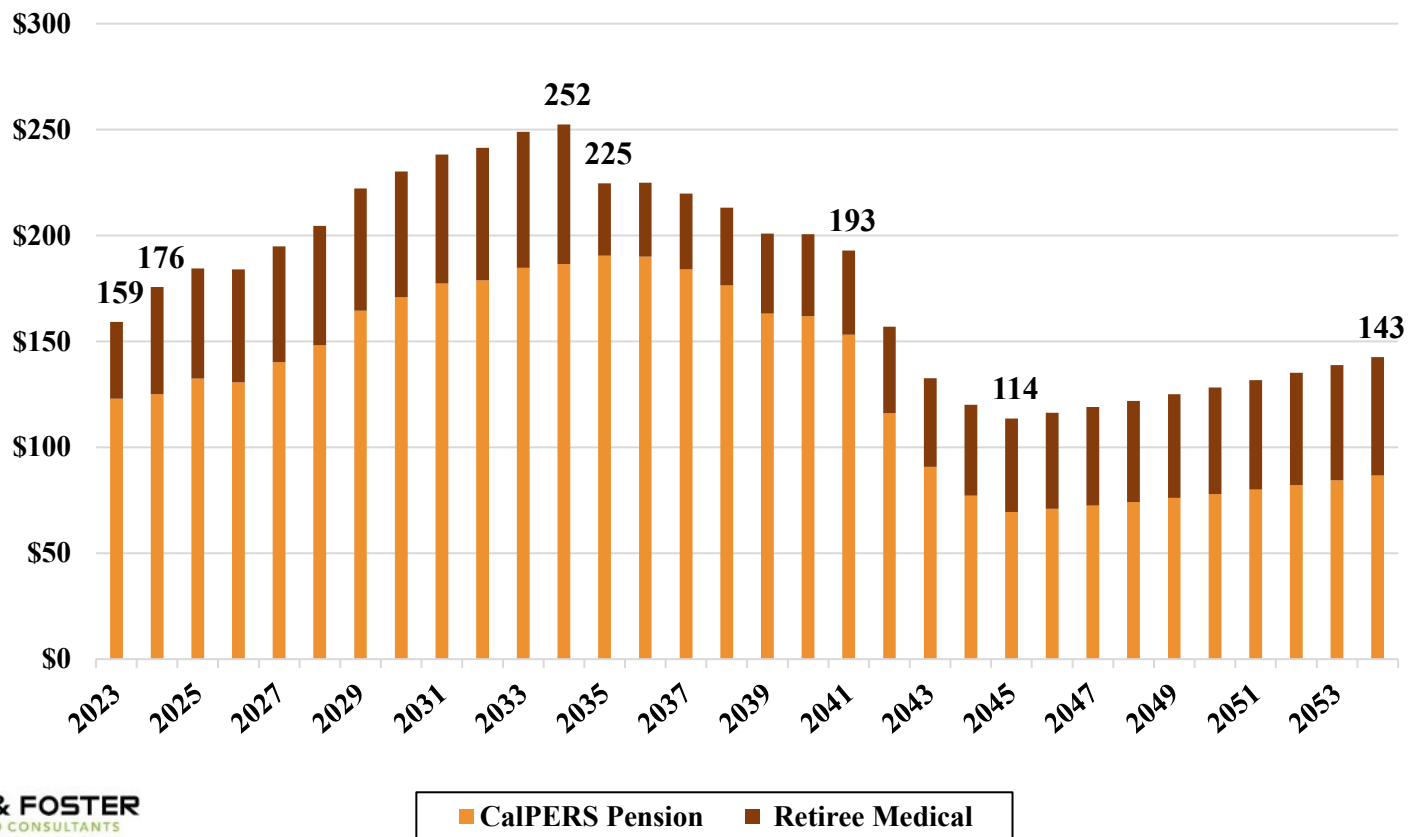
# BART's CalPERS Plans – Comparison to Other Agencies

| Plan   | Date                | Discount Rate | Funded Ratio |
|--|---------------------|---------------|--------------|
| BART Miscellaneous   | 6/30/2021           | 6.80%         | 82%          |
| BART Safety  | 6/30/2021           | 6.80%         | 65%          |
| CalPERS Public Agency Miscellaneous (Total)  | 6/30/2021           | 6.80%         | 84%          |
| CalPERS Public Agency Safety (total)   | 6/30/2021           | 6.80%         | 81%          |
| CalSTRS (State Teachers) DB Plan   | 6/30/2021           | 7.00%         | 82%          |
| CalPERS - State Employees  | 6/30/2021           | 6.80%         | 81%          |
| Alameda County Employees' Ret. Ass'n.  | 12/31/2021          | 7.00%         | 93%          |
| Contra Costa County Employees' Ret. Ass'n.   | 12/31/2021          | 6.75%         | 101%         |
| San Francisco Employees' Ret. System   | 7/1/2021            | 7.20%         | 112%         |
| National Average (NASRA study of 126 large state & city plans - median discount rate, dollar-weighted average funded status) | FY 2021 (Oct. 2022) | 7.00%         | 89%          |

Note: All funded statuses use market value of assets

# Combined Plans Projected Contributions

**Projected Contributions - CalPERS Pension & Retiree Medical Plans**  
\$Millions



# Questions?

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**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

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**MEMORANDUM**

**TO:** Board of Directors **DATE:** May 5, 2023

**FROM:** Robert M. Powers, General Manager

**SUBJECT:** Rail Service Plan, Fiscal Year 2024 and Fiscal Year 2025 Operating and Capital Sources and Uses

At the May 11, 2023 BART Board of Director's meeting, the District's "Rail Service Plan, Fiscal Year 2024 and Fiscal Year 2025 Operating and Capital Sources and Uses" will be presented as an information item.

If you have any questions about this presentation, please contact Pamela Herhold, Assistant General Manager, Performance & Budget, at [pherhol@bart.gov](mailto:pherhol@bart.gov), or (510) 464-6168.

DocuSigned by:

*Michael Jones*

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Robert M. Powers

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff



# Rail Service Plan FY24 & FY25 Operating and Capital Sources and Uses

BART Board of Directors

May 11, 2023



# Agenda

## **Rail Service Plan**

- September Service Plan
- Timed Transfers

## **FY24 & FY25 Operating Sources & Uses**

- Major Changes
- Operating Budget Sources and Uses
- Net Result & Projected Deficits
- Revised Five-Year Outlook & Fiscal Runway
- Next Steps & Calendar

## **FY24 & FY25 Capital Sources & Uses**

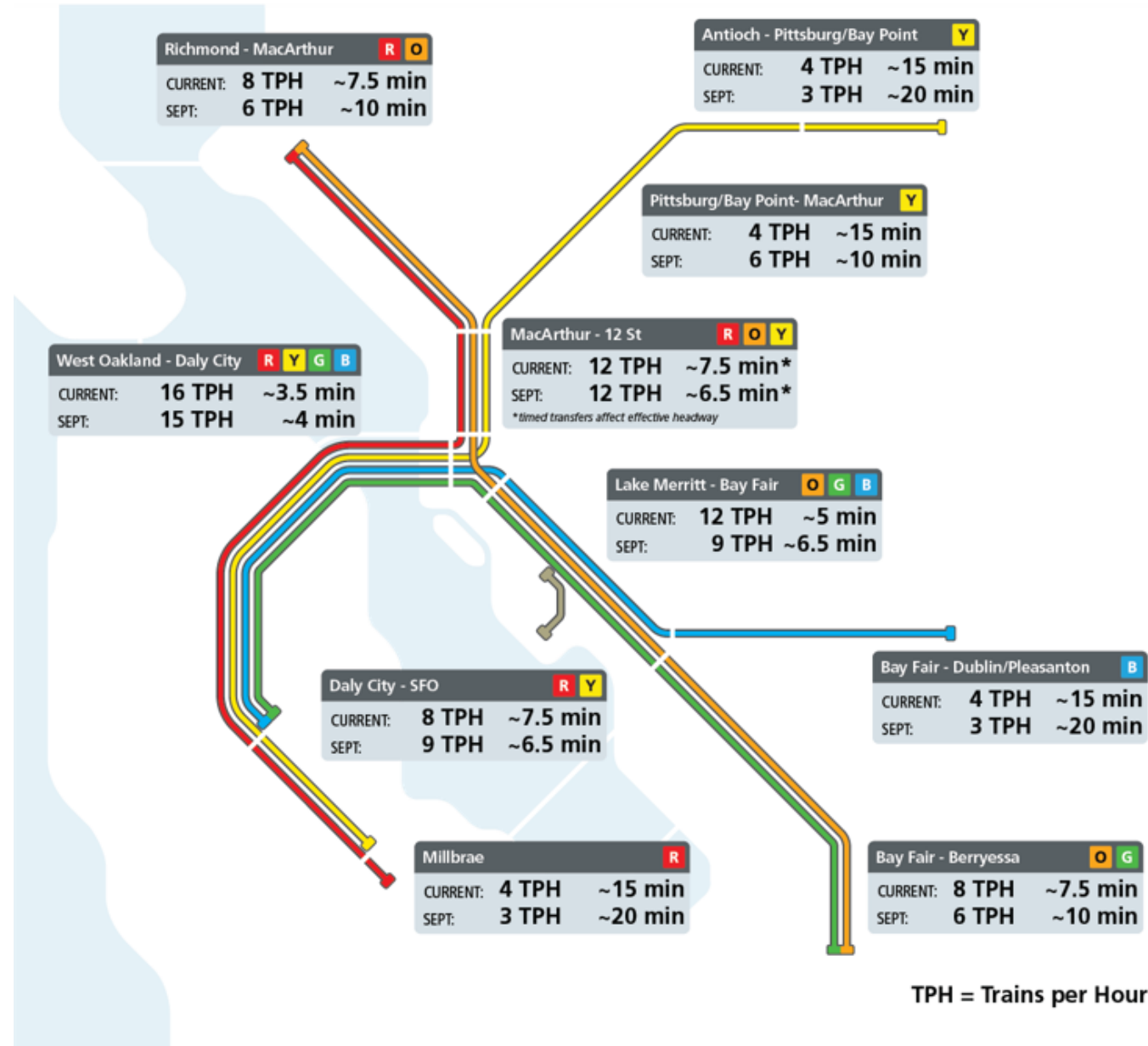
- Capital Sources & Uses



# Rail Service Plan

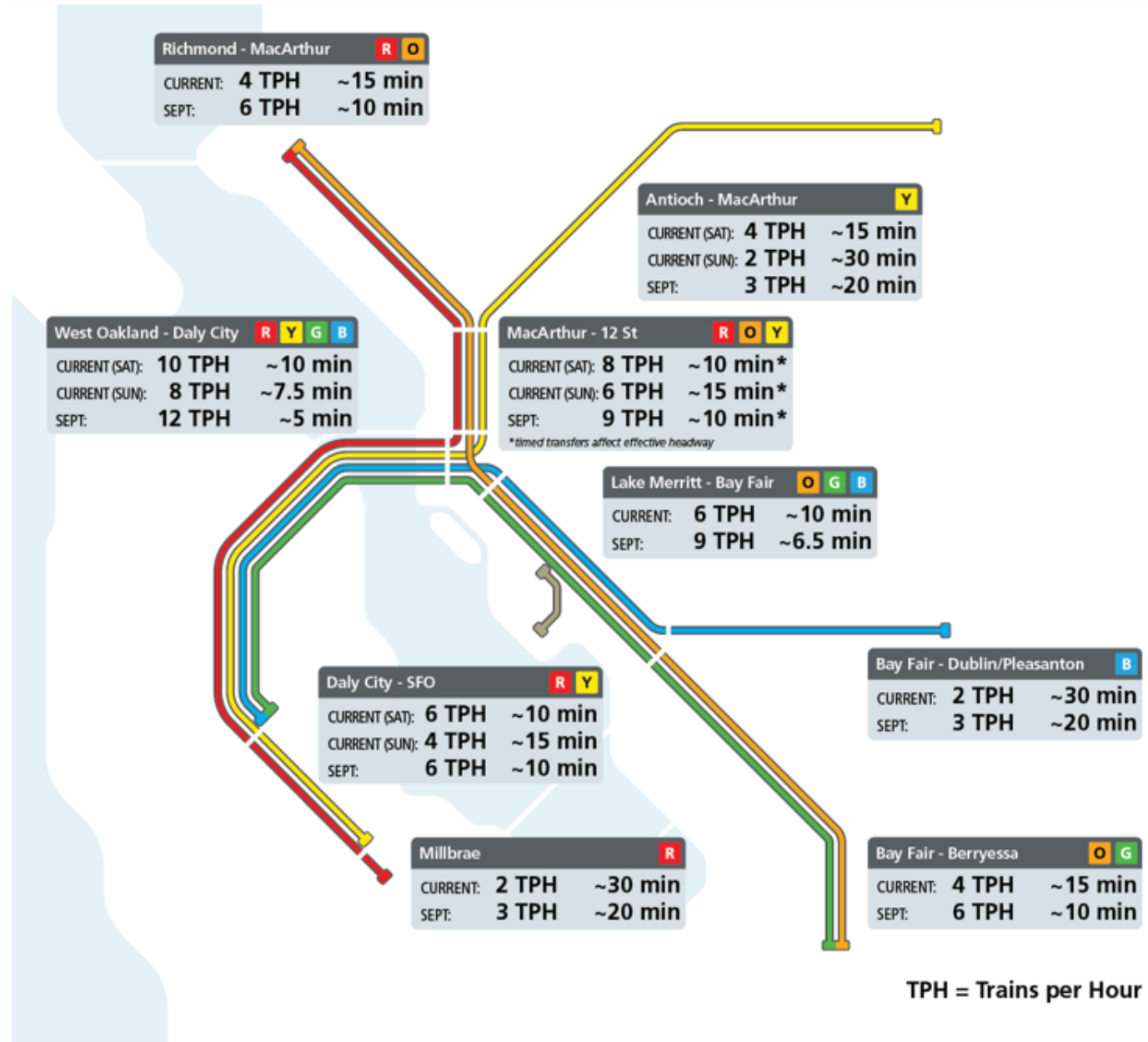
# September: Weekday Daytime 5-Line Service

- All-day, 7-day base service of 3 TPH
- Increases Yellow line service to 6 TPH on weekdays



# September: Weekend Daytime 5-Line Service

- 3 TPH per line all-day on weekends





# September: Evening 3-Line Service

- 3-lines at 3 TPH is a 50% improvement throughout the system



# We'll help our riders become experts at timed transfers

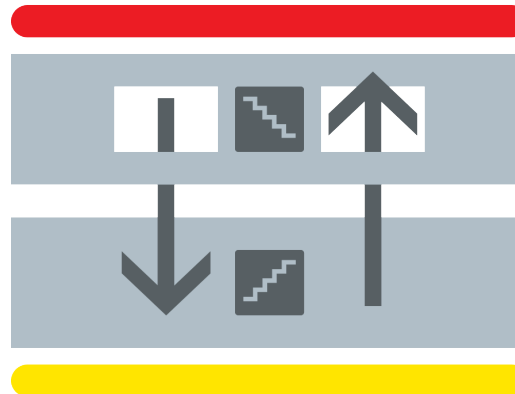
- Educate riders on how to make a smart transfer
- Notify of transfer opportunities – on platforms and via trip planners
- Push location-specific strategies – posters, announcements, videos

| Lake Merritt Service |   |
|----------------------|---|
| <b>O</b>             | <b>Orange Line</b><br>Richmond - Berryessa/North San Jose until 12am<br><b>1</b> Platform 1 to Berryessa/North San Jose<br><b>2</b> Platform 2 to Richmond<br>For Antioch, board here and transfer to <b>Y</b> at 19 St - Oakland                   |
| <b>G</b>             | <b>Green Line</b><br>Daly City - Berryessa/North San Jose until 9pm<br><b>1</b> Platform 1 to Berryessa/North San Jose<br><b>2</b> Platform 2 to Daly City<br>For SFO Airport/Millbrae, board here and transfer to <b>R</b> <b>Y</b> at Balboa Park |
| <b>B</b>             | <b>Blue Line</b><br>Daly City - Dublin/Pleasanton until 12am<br><b>1</b> Platform 1 to Dublin/Pleasanton<br><b>2</b> Platform 2 to Daly City<br>For SFO Airport/Millbrae, board here and transfer to <b>R</b> <b>Y</b> at Balboa Park               |

## Cross Platform (19 St - Oakland, Bay Fair, MacArthur)



## Multi Platform (12 St - Oakland, MacArthur)



## Same Platform (Balboa Park, Bay Fair)





# ► FY24 & FY25 Operating Sources and Uses

# FY24 & FY25 Sources & Uses

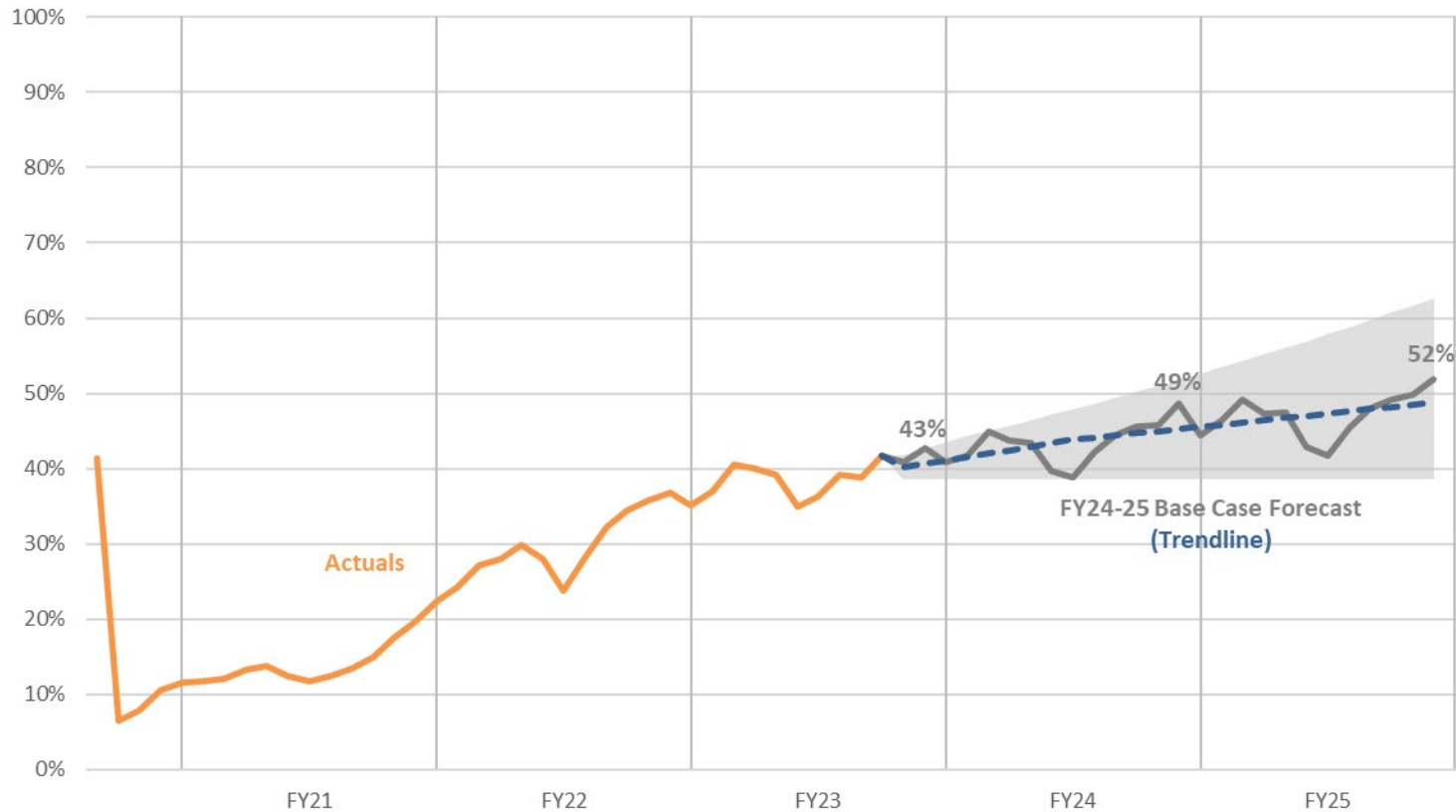
## Major changes since Preliminary Budget (released 3/31):

- Revisions to operating revenues (sales tax)
- Office of the Inspector General (OIG) budget updated
- Vacancy rates adjusted to 6% for operating, 18% for capital
- Some capital positions removed, additional shifting to operating budget
- Increased Retiree Health Benefits Trust (RHBT) contributions (~\$13-14M/year)
- Increased workers compensation and federally-mandated drug testing costs (~\$1.3M)
- Increased traction power estimates (\$2.5M/year)
- \$10M FY24 allocation for employee-facing facilities removed



# FY24 & FY25 Ridership Outlook

% of Pre-Pandemic Expectations:  
Actuals and FY24-25 Budget Forecast



- FY23 Ridership 12% below budget as of April 30
- Return-to-office has largely flattened; no longer forecast to be major driver in ridership growth
- Mode shift to transit and continued growth in non-work trips are modest drivers
- Exaggerated seasonality, observed in post-pandemic patterns, applied to forecast
- Average Weekday Forecast:
  - End of FY23: ~165,000
  - End of FY24: ~185,000
  - End of FY25: ~195,000

# FY24 & FY25 Operating Revenue

| Operating Revenue                | FY23         |              |                     |             | FY24         |              |                    |           | FY25         |              |                    |           |
|----------------------------------|--------------|--------------|---------------------|-------------|--------------|--------------|--------------------|-----------|--------------|--------------|--------------------|-----------|
| (\$Millions)                     | Adopted      | Forecast     | Adopted to Forecast |             | Prelim       | Proposed     | Prelim to Proposed |           | Prelim       | Proposed     | Prelim to Proposed |           |
|                                  |              |              | \$                  | %           |              |              | \$                 | %         |              |              | \$                 | %         |
| Rail Passenger Revenue           | 222.1        | 188.9        | (33.2)              | -15%        | 224.7        | 225.0        | 0.2                | 0%        | 254.1        | 254.4        | 0.3                | 0%        |
| ADA Passenger Revenue            | 0.5          | 0.5          | 0.0                 | 0%          | 0.5          | 0.5          | 0.0                | 0%        | 0.5          | 0.5          | 0.0                | 0%        |
| Parking Revenue                  | 13.1         | 14.0         | 0.9                 | 7%          | 14.4         | 14.8         | 0.5                | 3%        | 14.3         | 14.9         | 0.7                | 5%        |
| Other Operating Revenue          | 19.4         | 26.5         | 7.0                 | 36%         | 23.9         | 23.9         | 0.0                | 0%        | 22.8         | 22.8         | 0.0                | 0%        |
| <b>Total - Operating Revenue</b> | <b>255.2</b> | <b>229.9</b> | <b>(25.3)</b>       | <b>-10%</b> | <b>263.5</b> | <b>264.2</b> | <b>0.7</b>         | <b>0%</b> | <b>291.6</b> | <b>292.5</b> | <b>0.9</b>         | <b>0%</b> |

- Rail Passenger Revenue includes a two-step CPI-based fare increase: 5.5% increases effective July 1, 2024 and July 1, 2025
- FY23 fare revenue projected to be ~\$30-35M (14-16%) below budget
- FY24 proposed operating revenue budget reflects a 16% increase over FY23 YE estimate; FY25 budget reflects a further 11% increase over FY24 budget
- Fare and parking revenue estimates assume base case ridership forecast
- Advertising revenue estimates reflect revised OUTFRONT contract and base case ridership
- Other operating revenue composed mostly of ground lease, telecom / digital railway, concessions

# FY24 & FY25 Financial Assistance

| Financial Assistance                   | FY23         |              |                     |           | FY24         |              |                    |           | FY25         |              |                    |           |
|--|--------------|--------------|---------------------|-----------|--------------|--------------|--------------------|-----------|--------------|--------------|--------------------|-----------|
| (\$Millions)                           | Adopted      | Forecast     | Adopted to Forecast |           | Prelim       | Proposed     | Prelim to Proposed |           | Prelim       | Proposed     | Prelim to Proposed |           |
|  |              |              | \$                  | %         |              |              | \$                 | %         |              |              | \$                 | %         |
| Sales Tax Proceeds                     | 299.0        | 324.1        | 25.1                | 8%        | 311.5        | 319.8        | 8.3                | 3%        | 318.7        | 327.2        | 8.5                | 3%        |
| Property Tax Proceeds                  | 58.0         | 58.0         | 0.0                 | 0%        | 61.2         | 61.2         | 0.0                | 0%        | 64.3         | 64.3         | 0.0                | 0%        |
| VTA Financial Assistance               | 32.7         | 35.0         | 2.4                 | 7%        | 34.9         | 34.7         | (0.2)              | -1%       | 35.0         | 34.8         | (0.2)              | -1%       |
| MTC Financial Assistance Clipper Start | 0.3          | 0.2          | (0.1)               | -25%      | 0.5          | 0.5          | 0.0                | 0%        | 1.2          | 1.2          | 0.0                | 0%        |
| Local & Other Assistance               | 9.1          | 15.2         | 6.1                 | 67%       | 10.6         | 12.7         | 2.1                | 20%       | 10.8         | 13.6         | 2.8                | 26%       |
| State Transit Assistance               | 22.7         | 34.9         | 12.1                | 53%       | 23.5         | 23.5         | 0.0                | 0%        | 23.2         | 23.2         | 0.0                | 0%        |
| Low Carbon Transit Operations Program  | 10.3         | 10.3         | 0.0                 | 0%        | 10.3         | 10.3         | 0.0                | 0%        | 10.3         | 10.3         | 0.0                | 0%        |
| Low Carbon Fuel Standard Program       | 16.6         | 5.0          | (11.6)              | -70%      | 6.5          | 6.5          | 0.0                | 0%        | 6.4          | 6.4          | 0.0                | 0%        |
| <b>Total - Financial Assistance</b>    | <b>448.6</b> | <b>482.7</b> | <b>34.1</b>         | <b>8%</b> | <b>459.0</b> | <b>469.2</b> | <b>10.2</b>        | <b>2%</b> | <b>469.9</b> | <b>480.9</b> | <b>11.0</b>        | <b>2%</b> |

- Sales tax FY23 year-end estimate is ~\$25M (8%) above FY23 budget; lower growth projected for FY24 and FY25 due to economic uncertainty (inflation outlook, economic climate, fossil fuel prices)
- State Transit Assistance expected to decrease in FY24 due to \$15M planned fund swap with MTC and partial effects of hold harmless expiration; FY25 has full year effect of hold harmless expiration.
- Small decrease in VTA assistance reflects forecast increases in SVBX fare revenue

# FY24 & FY25 Operating Revenue & Financial Assistance

| Regular Revenues                       | FY23         |              |                     |             | FY24         |              |                    |           | FY25         |              |                    |           |
|--|--------------|--------------|---------------------|-------------|--------------|--------------|--------------------|-----------|--------------|--------------|--------------------|-----------|
| (\$Millions)                           | Adopted      | Forecast     | Adopted to Forecast |             | Prelim       | Proposed     | Prelim to Proposed |           | Prelim       | Proposed     | Prelim to Proposed |           |
|  |              |              | \$                  | %           |              |              | \$                 | %         |              |              | \$                 | %         |
| Rail Passenger Revenue                 | 222.1        | 188.9        | (33.2)              | -15%        | 224.7        | 225.0        | 0.2                | 0%        | 254.1        | 254.4        | 0.3                | 0%        |
| ADA Passenger Revenue                  | 0.5          | 0.5          | 0.0                 | 0%          | 0.5          | 0.5          | 0.0                | 0%        | 0.5          | 0.5          | 0.0                | 0%        |
| Parking Revenue                        | 13.1         | 14.0         | 0.9                 | 7%          | 14.4         | 14.8         | 0.5                | 3%        | 14.3         | 14.9         | 0.7                | 5%        |
| Other Operating Revenue                | 19.4         | 26.5         | 7.0                 | 36%         | 23.9         | 23.9         | 0.0                | 0%        | 22.8         | 22.8         | 0.0                | 0%        |
| <b>Subtotal - Operating Revenue</b>    | <b>255.2</b> | <b>229.9</b> | <b>(25.3)</b>       | <b>-10%</b> | <b>263.5</b> | <b>264.2</b> | <b>0.7</b>         | <b>0%</b> | <b>291.6</b> | <b>292.5</b> | <b>0.9</b>         | <b>0%</b> |
| Sales Tax Proceeds                     | 299.0        | 324.1        | 25.1                | 8%          | 311.5        | 319.8        | 8.3                | 3%        | 318.7        | 327.2        | 8.5                | 3%        |
| Property Tax Proceeds                  | 58.0         | 58.0         | 0.0                 | 0%          | 61.2         | 61.2         | 0.0                | 0%        | 64.3         | 64.3         | 0.0                | 0%        |
| VTA Financial Assistance               | 32.7         | 35.2         | 2.6                 | 8%          | 34.9         | 34.7         | (0.2)              | -1%       | 35.0         | 34.8         | (0.2)              | -1%       |
| MTC Financial Assistance Clipper Start | 0.3          | 0.2          | (0.1)               | -25%        | 0.5          | 0.5          | 0.0                | 0%        | 1.2          | 1.2          | 0.0                | 0%        |
| Local & Other Assistance               | 9.1          | 15.2         | 6.1                 | 67%         | 10.6         | 12.7         | 2.1                | 20%       | 10.8         | 13.6         | 2.8                | 26%       |
| State Transit Assistance               | 22.7         | 34.9         | 12.1                | 53%         | 23.5         | 23.5         | 0.0                | 0%        | 23.2         | 23.2         | 0.0                | 0%        |
| Low Carbon Transit Operations Program  | 10.3         | 10.3         | 0.0                 | 0%          | 10.3         | 10.3         | 0.0                | 0%        | 10.3         | 10.3         | 0.0                | 0%        |
| Low Carbon Fuel Standard Program       | 16.6         | 5.0          | (11.6)              | -70%        | 6.5          | 6.5          | 0.0                | 0%        | 6.4          | 6.4          | 0.0                | 0%        |
| <b>Subtotal - Financial Assistance</b> | <b>448.6</b> | <b>482.9</b> | <b>34.3</b>         | <b>8%</b>   | <b>459.0</b> | <b>469.2</b> | <b>10.2</b>        | <b>2%</b> | <b>469.9</b> | <b>480.9</b> | <b>11.0</b>        | <b>2%</b> |
| <b>Total – Regular Revenues</b>        | <b>703.8</b> | <b>712.8</b> | <b>9.0</b>          | <b>1%</b>   | <b>722.5</b> | <b>733.4</b> | <b>10.9</b>        | <b>2%</b> | <b>761.6</b> | <b>773.5</b> | <b>11.9</b>        | <b>2%</b> |

- Total regular operating revenue sources (excluding federal assistance) increase 3% in FY24 and 5% in FY25
- Sales tax remains largest single regular revenue source
- Strong sales tax revenues and higher-than-expected State Transit Assistance in FY23 offset below budget ridership revenue

# FY24 & FY25 Labor Expense

| Labor & Benefits                           | FY23         |              |                     |            | FY24         |              |                    |           | FY25         |              |                    |           |
|--|--------------|--------------|---------------------|------------|--------------|--------------|--------------------|-----------|--------------|--------------|--------------------|-----------|
| (\$Millions)                               | Adopted      | Forecast     | Adopted to Forecast |            | Prelim       | Proposed     | Prelim to Proposed |           | Prelim       | Proposed     | Prelim to Proposed |           |
|  |              |              | \$                  | %          |              |              | \$                 | %         |              |              | \$                 | %         |
| Wages                                      | 482.2        | 452.9        | (29.4)              | -6%        | 521.4        | 514.7        | (6.7)              | -1%       | 558.6        | 542.8        | (15.9)             | -3%       |
| Capital Reimbursement Wages                | (146.6)      | (93.1)       | 53.6                | 37%        | (142.6)      | (129.3)      | 13.4               | -9%       | (151.9)      | (134.9)      | 16.9               | -11%      |
| <b>Subtotal - Net (Operating) Wages</b>    | <b>335.6</b> | <b>359.8</b> | <b>24.2</b>         | <b>7%</b>  | <b>378.8</b> | <b>385.5</b> | <b>6.6</b>         | <b>2%</b> | <b>406.7</b> | <b>407.8</b> | <b>1.1</b>         | <b>0%</b> |
| Overtime                                   | 70.8         | 90.1         | 19.3                | 27%        | 76.8         | 76.8         | 0.0                | 0%        | 79.8         | 79.8         | 0.0                | 0%        |
| Capital Overtime                           | (22.4)       | (25.0)       | (2.6)               | -12%       | (23.9)       | (23.9)       | 0.0                | 0%        | (24.8)       | (24.8)       | 0.0                | 0%        |
| <b>Subtotal - Net (Operating) Overtime</b> | <b>48.4</b>  | <b>65.1</b>  | <b>16.7</b>         | <b>34%</b> | <b>52.9</b>  | <b>52.9</b>  | <b>0.0</b>         | <b>0%</b> | <b>55.0</b>  | <b>55.0</b>  | <b>0.0</b>         | <b>0%</b> |
| CalPERS Pension                            | 128.0        | 119.8        | (8.1)               | -6%        | 136.3        | 135.5        | (0.8)              | -1%       | 137.6        | 135.7        | (1.9)              | -1%       |
| Other Retirement Benefits                  | 14.4         | 15.0         | 0.5                 | 3%         | 13.4         | 13.2         | (0.2)              | -1%       | 14.0         | 13.6         | (0.4)              | -3%       |
| Active Employee Medical Insurance          | 89.5         | 79.3         | (10.1)              | -11%       | 86.1         | 84.8         | (1.4)              | -2%       | 87.9         | 85.1         | (2.8)              | -3%       |
| Retiree Medical                            | 50.7         | 36.2         | (14.4)              | -29%       | 37.2         | 50.6         | 13.4               | 36%       | 38.1         | 51.9         | 13.8               | 36%       |
| Implied Retiree Medical Subsidy            | (5.0)        | (6.0)        | 1.0                 | 19%        | (6.3)        | (5.7)        | 0.6                | -10%      | (6.8)        | (6.4)        | 0.4                | -6%       |
| Workers' Compensation                      | 17.2         | 17.2         | 0.0                 | 0%         | 20.7         | 20.7         | 0.0                | 0%        | 20.7         | 20.7         | 0.0                | 0%        |
| Other Fringe                               | 23.1         | 23.3         | 0.2                 | 1%         | 22.6         | 22.3         | (0.3)              | -1%       | 23.7         | 23.0         | (0.7)              | -3%       |
| Capital Fringe                             | (73.7)       | (62.3)       | 11.4                | 15%        | (68.2)       | (63.8)       | 4.4                | -6%       | (70.3)       | (64.3)       | 5.9                | -8%       |
| <b>Subtotal - Net (Operating) Fringe</b>   | <b>244.1</b> | <b>222.6</b> | <b>(21.5)</b>       | <b>-9%</b> | <b>241.7</b> | <b>257.5</b> | <b>15.8</b>        | <b>7%</b> | <b>245.0</b> | <b>259.3</b> | <b>14.3</b>        | <b>6%</b> |
| Other Labor                                | 4.0          | 4.8          | 0.7                 | 18%        | 4.0          | 4.0          | 0.0                | 0%        | 4.0          | 4.0          | 0.0                | 0%        |
| <b>Total Labor</b>                         | <b>632.2</b> | <b>652.3</b> | <b>20.1</b>         | <b>3%</b>  | <b>677.5</b> | <b>699.9</b> | <b>22.4</b>        | <b>3%</b> | <b>710.8</b> | <b>726.2</b> | <b>15.4</b>        | <b>2%</b> |

- FY23 labor spending is trending above budget; driven by wage increases, high overtime, low vacancy rate, and capital under-recovery; partially offset by benefit savings (pension, medical insurance, and retiree medical)
- FY24 vacancy rates adjusted: 6% for operating, 18% for capital; operating further decreases to 5% in FY25

# FY23 to FY24 Budgeted FTE Changes

| FY23 to FY24 FTE Summary      |              |                          |               |
|-------------------------------|--------------|--------------------------|---------------|
|                               | Operating    | Capital/<br>Reimbursable | Total         |
| FY23 Adopted Budget           | 3,494        | 1,092                    | 4,586         |
| <i>FY23 to FY24 Changes</i>   |              |                          |               |
| Abolished Positions           | -            | (24.00)                  | (24.00)       |
| Funding Conversions           | 33.75        | (33.75)                  | -             |
| Midyear Additions/Adjustments | 11.00        | 6.00                     | 17.00         |
| New Positions                 | 4.00         | -                        | 4.00          |
| <i>Total Changes</i>          | <i>48.75</i> | <i>(51.75)</i>           | <i>(3.00)</i> |
| <b>FY24 Proposed Budget</b>   | <b>3,543</b> | <b>1,040</b>             | <b>4,583</b>  |

- Additional 2.5 FTEs converted from capital to operating funding
- Selected capital positions abolished in accordance with project timing
- 4 new positions added to Office of the Inspector General

# FY24 & FY25 Non-Labor Expense

| Non-Labor                         | FY23         |              |                     |            | FY24         |              |                    |           | FY25         |              |                    |           |
|-----------------------------------|--------------|--------------|---------------------|------------|--------------|--------------|--------------------|-----------|--------------|--------------|--------------------|-----------|
| (\$Millions)                      | Adopted      | Forecast     | Adopted to Forecast |            | Prelim       | Proposed     | Prelim to Proposed |           | Prelim       | Proposed     | Prelim to Proposed |           |
|                                   |              |              | \$                  | %          |              |              | \$                 | %         |              |              | \$                 | %         |
| Clipper, Ticket Sales & Bank Fees | 8.0          | 7.4          | (0.6)               | -7%        | 10.1         | 10.1         | 0.0                | 0%        | 8.9          | 8.9          | 0.0                | 0%        |
| Insurance                         | 9.6          | 9.5          | (0.2)               | -2%        | 9.9          | 9.9          | 0.0                | 0%        | 9.9          | 9.9          | 0.0                | 0%        |
| Materials & Supplies              | 49.4         | 43.0         | (6.4)               | -13%       | 48.5         | 49.9         | 1.4                | 3%        | 48.5         | 49.8         | 1.3                | 3%        |
| Professional & Technical Fees     | 48.3         | 41.1         | (7.2)               | -15%       | 51.3         | 51.3         | 0.0                | 0%        | 51.0         | 51.1         | 0.1                | 0%        |
| Repairs & Maintenance             | 10.2         | 9.2          | (0.9)               | -9%        | 11.7         | 11.7         | 0.0                | 0%        | 11.7         | 11.7         | 0.0                | 0%        |
| Rent                              | 4.8          | 5.3          | 0.5                 | 9%         | 4.7          | 4.7          | 0.0                | 0%        | 4.7          | 4.7          | 0.0                | 0%        |
| Power                             | 52.7         | 65.7         | 13.0                | 25%        | 56.5         | 59.0         | 2.5                | 4%        | 58.2         | 60.7         | 2.5                | 4%        |
| ADA Paratransit                   | 16.7         | 16.7         | 0.0                 | 0%         | 19.8         | 18.8         | (1.0)              | -5%       | 20.4         | 20.4         | 0.0                | 0%        |
| Purchased Transportation          | 12.7         | 6.8          | (5.9)               | -47%       | 7.9          | 7.9          | 0.0                | 0%        | 8.5          | 8.5          | 0.0                | 0%        |
| Utilities                         | 8.6          | 8.1          | (0.5)               | -5%        | 9.0          | 9.0          | 0.0                | 0%        | 9.1          | 9.1          | 0.0                | 0%        |
| Other Miscellaneous               | 6.8          | 3.5          | (3.3)               | -48%       | 4.6          | 5.1          | 0.5                | 12%       | 6.8          | 7.4          | 0.5                | 8%        |
| <b>Total - Non-Labor</b>          | <b>227.8</b> | <b>216.3</b> | <b>(11.5)</b>       | <b>-5%</b> | <b>234.0</b> | <b>237.5</b> | <b>3.4</b>         | <b>1%</b> | <b>237.8</b> | <b>242.2</b> | <b>4.4</b>         | <b>2%</b> |

- FY23 forecast adjusts Power projections to account for January & February actuals
- FY24 & FY25 Power budget adjusted up to account for continued winter energy cost increases
- Forecast and budget include planned savings of \$5.5M in payments to other operators beginning in FY23

# FY24 & FY25 Debt Service & Allocations

| Debt Service & Allocations                        | FY23         |              |                     |            | FY24         |              |                    |            | FY25         |              |                    |           |
|---|--------------|--------------|---------------------|------------|--------------|--------------|--------------------|------------|--------------|--------------|--------------------|-----------|
| (\$Millions)                                      | Adopted      | Forecast     | Adopted to Forecast |            | Prelim       | Proposed     | Prelim to Proposed |            | Prelim       | Proposed     | Prelim to Proposed |           |
|   |              |              | \$                  | %          |              |              | \$                 | %          |              |              | \$                 | %         |
| Debt Service                                      | 59.9         | 59.9         | 0.0                 | 0%         | 60.1         | 60.1         | 0.0                | 0%         | 60.2         | 60.2         | 0.0                | 0%        |
| Capital Reinvestment                              | 36.5         | 36.5         | 0.0                 | 0%         | 34.2         | 34.4         | 0.3                | 1%         | 34.2         | 34.2         | 0.0                | 0%        |
| Priority Capital Projects/<br>Programs            | 33.0         | 33.0         | 0.0                 | 0%         | 50.0         | 50.0         | 0.0                | 0%         | 51.0         | 51.0         | 0.0                | 0%        |
| Sustainability                                    | 6.4          | 6.4          | 0.0                 | 0%         | 0.0          | 0.0          | 0.0                | -          | 0.0          | 0.0          | 0.0                | -         |
| Other   | 11.6         | 11.6         | 0.0                 | 0%         | 11.6         | 1.6          | (10.0)             | -86%       | 1.6          | 1.6          | 0.0                | 0%        |
| Pension   | 10.0         | 0.0          | (10.0)              | -100%      | 0.0          | 0.0          | 0.0                | -          | 0.0          | 0.0          | 0.0                | -         |
| <b>Total - Debt Service &amp;<br/>Allocations</b> | <b>157.4</b> | <b>147.4</b> | <b>(10.0)</b>       | <b>-6%</b> | <b>155.9</b> | <b>146.2</b> | <b>(9.7)</b>       | <b>-6%</b> | <b>146.9</b> | <b>146.9</b> | <b>0.0</b>         | <b>0%</b> |

- District does not plan to make pension allocation contribution in FY23
- Sustainability and pension allocations eliminated in FY24 & FY25
- FY24 \$10M allocation for employee-facing facilities removed since Preliminary Budget



# FY24 & FY25 Total Expense

| Total Expense                                    | FY23           |                |                     |            | FY24           |                |                    |            | FY25           |                |                    |           |
|--|----------------|----------------|---------------------|------------|----------------|----------------|--------------------|------------|----------------|----------------|--------------------|-----------|
| (\$Millions)                                     | Adopted        | Forecast       | Adopted to Forecast |            | Prelim         | Proposed       | Prelim to Proposed |            | Prelim         | Proposed       | Prelim to Proposed |           |
|  |                |                | \$                  | %          |                |                | \$                 | %          |                |                | \$                 | %         |
| Net Wages  | 339.6          | 364.6          | 24.9                | 7%         | 382.9          | 389.5          | 6.6                | 2%         | 410.8          | 411.9          | 1.1                | 0%        |
| Net Overtime                                     | 48.4           | 65.1           | 16.7                | 34%        | 52.9           | 52.9           | 0.0                | 0%         | 55.0           | 55.0           | 0.0                | 0%        |
| Net Fringe                                       | 244.1          | 222.6          | (21.5)              | -9%        | 241.7          | 257.5          | 15.8               | 7%         | 245.0          | 259.3          | 14.3               | 6%        |
| <b>Subtotal - Labor</b>                          | <b>632.2</b>   | <b>652.3</b>   | <b>20.1</b>         | <b>3%</b>  | <b>677.5</b>   | <b>699.9</b>   | <b>22.4</b>        | <b>3%</b>  | <b>710.8</b>   | <b>726.2</b>   | <b>15.4</b>        | <b>2%</b> |
| ADA Paratransit                                  | 16.7           | 16.7           | 0.0                 | 0%         | 19.8           | 18.8           | (1.0)              | -5%        | 20.4           | 20.4           | 0.0                | 0%        |
| Purchased Transportation                         | 12.7           | 6.8            | (5.9)               | -47%       | 7.9            | 7.9            | 0.0                | 0%         | 8.5            | 8.5            | 0.0                | 0%        |
| Power  | 52.7           | 65.7           | 13.0                | 25%        | 56.5           | 59.0           | 2.5                | 4%         | 58.2           | 60.7           | 2.5                | 4%        |
| Other Non-Labor                                  | 145.7          | 127.1          | (18.5)              | -13%       | 149.8          | 151.8          | 2.0                | 1%         | 150.6          | 152.5          | 1.9                | 1%        |
| <b>Subtotal - Non-Labor</b>                      | <b>227.8</b>   | <b>216.3</b>   | <b>(11.5)</b>       | <b>-5%</b> | <b>234.0</b>   | <b>237.5</b>   | <b>3.4</b>         | <b>1%</b>  | <b>237.8</b>   | <b>242.2</b>   | <b>4.4</b>         | <b>2%</b> |
| Debt Service                                     | 59.9           | 59.9           | 0.0                 | 0%         | 60.1           | 60.1           | 0.0                | 0%         | 60.2           | 60.2           | 0.0                | 0%        |
| Allocations                                      | 97.5           | 87.5           | (10.0)              | -10%       | 95.8           | 86.0           | (9.7)              | -10%       | 86.8           | 86.8           | 0.0                | 0%        |
| <b>Subtotal - Debt Service &amp; Allocations</b> | <b>157.4</b>   | <b>147.4</b>   | <b>(10.0)</b>       | <b>-6%</b> | <b>155.9</b>   | <b>146.2</b>   | <b>(9.7)</b>       | <b>-6%</b> | <b>146.9</b>   | <b>146.9</b>   | <b>0.0</b>         | <b>0%</b> |
| <b>Total - Uses</b>                              | <b>1,017.4</b> | <b>1,016.0</b> | <b>(1.4)</b>        | <b>0%</b>  | <b>1,067.4</b> | <b>1,083.6</b> | <b>16.1</b>        | <b>2%</b>  | <b>1,095.5</b> | <b>1,115.3</b> | <b>19.8</b>        | <b>2%</b> |

- FY23 overall expense projection is nearly on budget, despite significant variances
  - Labor spending is over budget
  - Non-labor and debt service/allocations below budget, partially due to management actions
- FY24 & FY25 expenses have increased by approx. 2% since Preliminary Budget

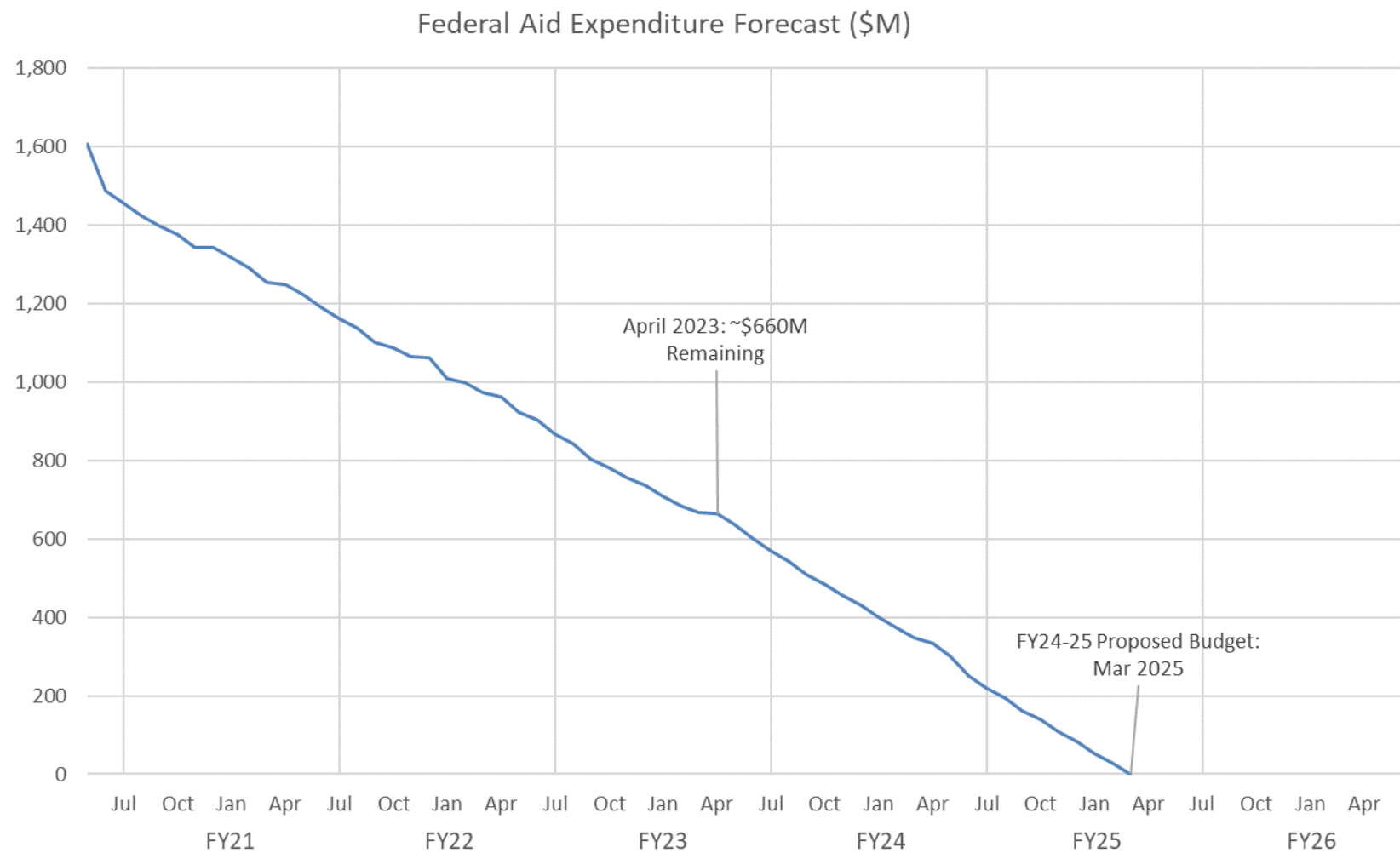
# FY24 & FY25 Net Result

| Net Result                                     | FY23           |                |                     |           | FY24           |                |                    |           | FY25           |                |                    |            |
|--|----------------|----------------|---------------------|-----------|----------------|----------------|--------------------|-----------|----------------|----------------|--------------------|------------|
| (\$Millions)                                   | Adopted        | Forecast       | Adopted to Forecast |           | Prelim         | Proposed       | Prelim to Proposed |           | Prelim         | Proposed       | Prelim to Proposed |            |
|  |                |                | \$                  | %         |                |                | \$                 | %         |                |                | \$                 | %          |
| Operating Revenue                              | 255.2          | 229.9          | (25.3)              | -10%      | 263.5          | 264.2          | 0.7                | 0%        | 291.6          | 292.5          | 0.9                | 0%         |
| Financial Assistance                           | 448.6          | 482.7          | 34.1                | 8%        | 459.0          | 469.2          | 10.2               | 2%        | 469.9          | 480.9          | 11.0               | 2%         |
| <b>Subtotal - Regular Revenues</b>             | <b>703.8</b>   | <b>712.6</b>   | <b>8.8</b>          | <b>1%</b> | <b>722.5</b>   | <b>733.4</b>   | <b>10.9</b>        | <b>2%</b> | <b>761.6</b>   | <b>773.5</b>   | <b>11.9</b>        | <b>2%</b>  |
| Labor & Fringe                                 | 632.2          | 652.3          | 20.1                | 3%        | 677.5          | 699.9          | 22.4               | 3%        | 710.8          | 726.2          | 15.4               | 2%         |
| Non-Labor                                      | 227.8          | 216.3          | (11.5)              | -5%       | 234.0          | 237.5          | 3.4                | 1%        | 237.8          | 242.2          | 4.4                | 2%         |
| Debt Service & Allocations                     | 157.4          | 147.4          | (10.0)              | -6%       | 155.9          | 146.2          | (9.8)              | -6%       | 146.9          | 146.9          | 0.0                | 0%         |
| <b>Subtotal - Uses</b>                         | <b>1,017.4</b> | <b>1,016.0</b> | <b>(1.4)</b>        | <b>0%</b> | <b>1,067.4</b> | <b>1,083.6</b> | <b>16.1</b>        | <b>2%</b> | <b>1,095.5</b> | <b>1,115.3</b> | <b>19.8</b>        | <b>2%</b>  |
| Net Result Before Federal Emergency Assistance | (313.6)        | (303.4)        | 10.2                | 3%        | (344.9)        | (350.2)        | (5.3)              | -2%       | (333.9)        | (341.8)        | (7.9)              | -2%        |
| Federal Emergency Funding                      | 313.6          | 303.4          | (10.2)              | -3%       | 344.9          | 350.2          | 5.3                | 2%        | 255.9          | 250.2          | (5.8)              | -2%        |
| <b>Deficit</b>                                 | <b>0.0</b>     | <b>0.0</b>     | <b>0.0</b>          | <b>-</b>  | <b>0.0</b>     | <b>0.0</b>     | <b>0.0</b>         | <b>-</b>  | <b>(78.0)</b>  | <b>(91.6)</b>  | <b>(13.7)</b>      | <b>18%</b> |

# Five-Year Projection

| (\$M)                         | FY24         | FY25         | FY26         | FY27         | FY28         |
|-------------------------------|--------------|--------------|--------------|--------------|--------------|
| Operating Revenues            | 264          | 293          | 318          | 349          | 393          |
| Financial Assistance          | 469          | 481          | 496          | 512          | 532          |
| <b>Total Regular Revenues</b> | <b>733</b>   | <b>773</b>   | <b>815</b>   | <b>861</b>   | <b>925</b>   |
| Operating Expense             | 937          | 968          | 977          | 1,005        | 1,114        |
| Debt Service & Allocations    | 146          | 147          | 150          | 153          | 153          |
| <b>Total Uses</b>             | <b>1,084</b> | <b>1,115</b> | <b>1,127</b> | <b>1,158</b> | <b>1,267</b> |
| <b>Operating Result</b>       | <b>(350)</b> | <b>(342)</b> | <b>(313)</b> | <b>(297)</b> | <b>(342)</b> |
| Total Federal Assistance      | 350          | 250          | 0            | 0            | 0            |
| <b>Total Net Result</b>       | <b>0</b>     | <b>(92)</b>  | <b>(313)</b> | <b>(297)</b> | <b>(342)</b> |

# BART's Fiscal Runway



- Federal funding projected to cover deficits until March 2025
- FY24-25 Proposed Budget currently shows a \$92M deficit for FY25



# ► FY24 & FY25 Capital Sources and Uses

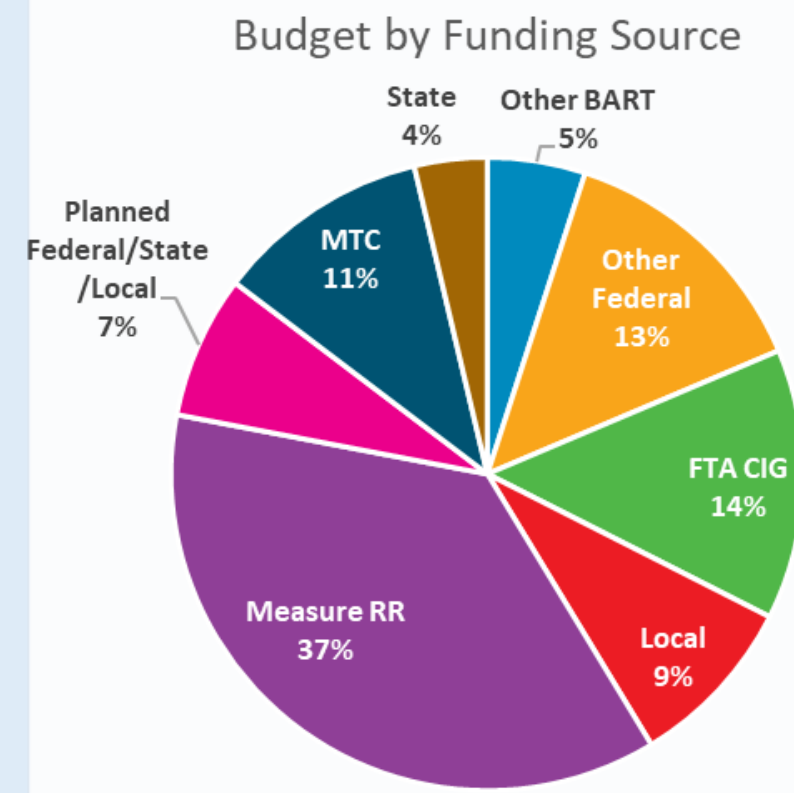
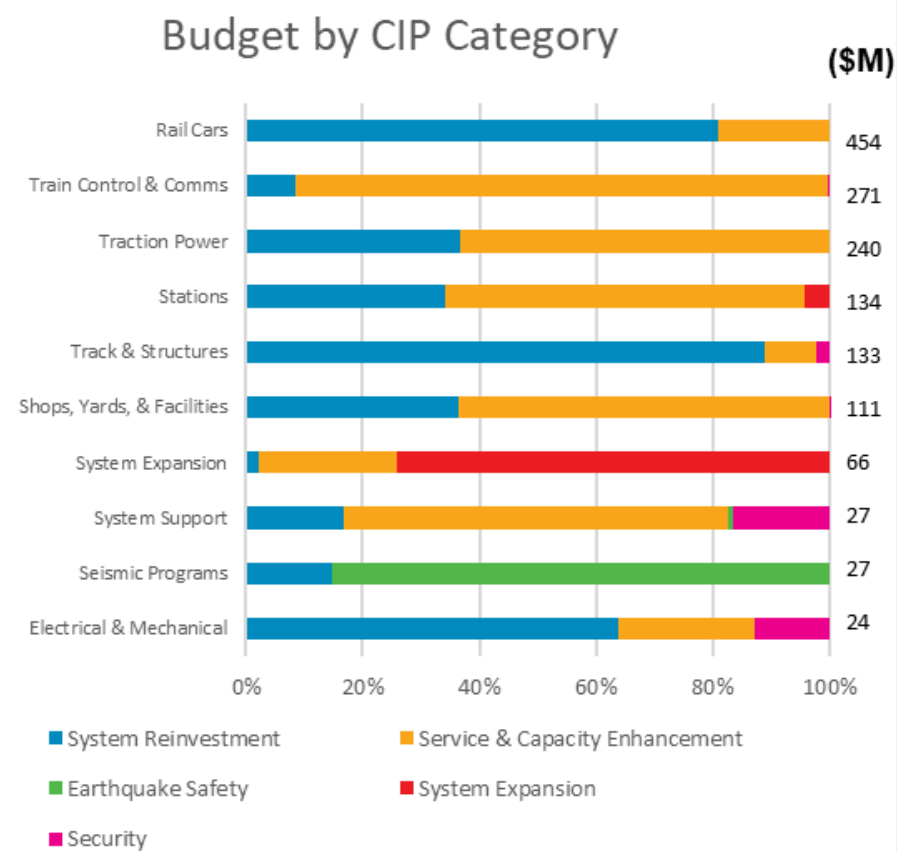
# FY24 & FY25 Capital Budget

- Staying the course with continued investments in:
  - System Renewal, grounded in Measure RR bond program and leveraging external funds
  - Core Capacity Program, including critical implementation of new Communications-based Train Control System and new Traction Power substations to support more frequent service and reduced crowding
  - Fleet of the Future Rail Cars Procurement, including full replacement of 669 car legacy fleet and expansion cars to support Core Capacity Program and Silicon Valley extension
- Launching Next Generation Fare Gates pilot and implementation



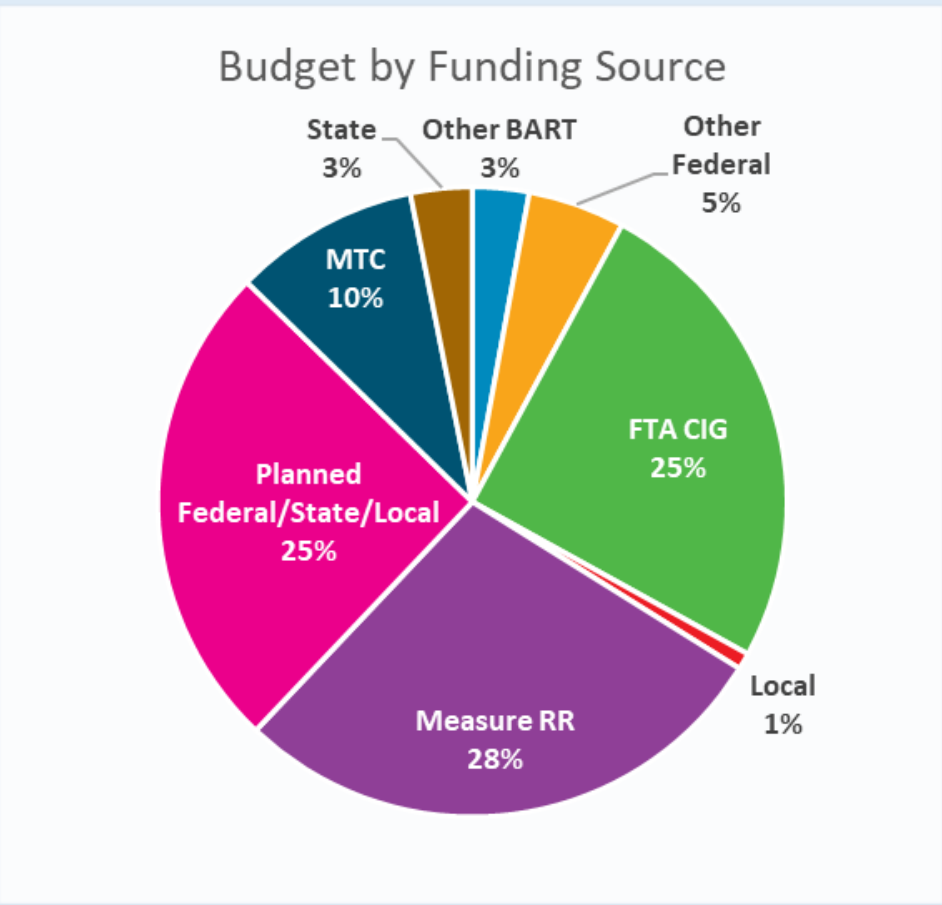
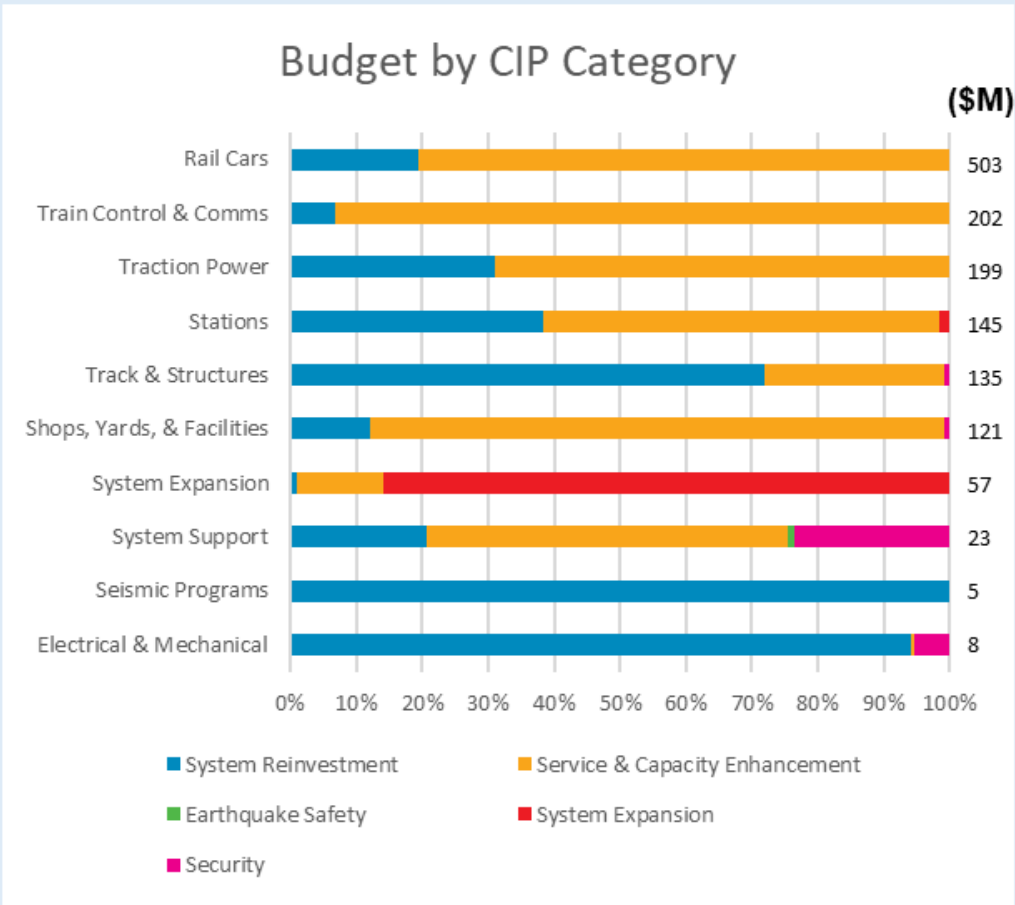
# FY24 Capital Sources & Uses

**FY24 Budget**  
**\$1,487,655,092**



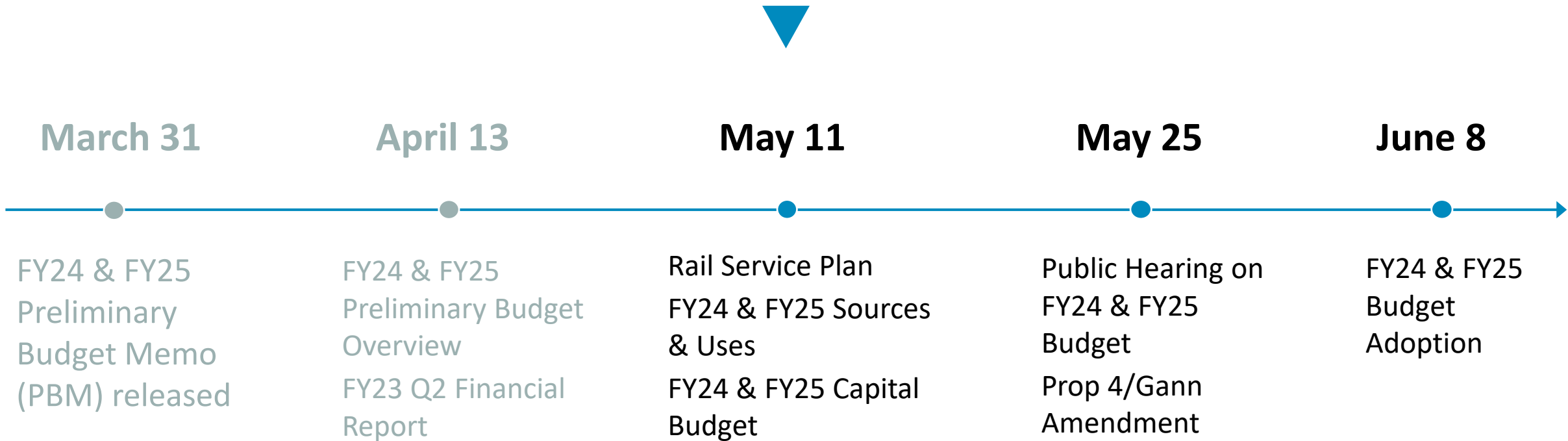
# FY25 Capital Sources & Uses

**FY25 Budget**  
**\$1,397,573,885**





# Timeline and Next Steps



# Discussion

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

## MEMORANDUM

**TO:** Board of Directors

**DATE:** May 4, 2023

**FROM:** General Manager

**SUBJECT:** Legislation for Consideration

At the May 11, 2023, Board of Directors meeting, staff will present state and federal legislation for your consideration.

The new legislation presented has a nexus to BART policies or programs and aligns with the Board's adopted Legislative Advocacy Program for 2023.

Attached are staff's analyses and text for each bill. Following the staff presentation, a request will be made of the Board to consider passing the draft motions shown below.

### LEGISLATION FOR CONSIDERATION AND ACTION

#### SUPPORT

ACA 1 (Aguilar-Curry)

Local government financing: affordable housing and public infrastructure: voter approval

AB 719 (Boerner Horvath)

Medi-Cal benefits

AB 1377 (Friedman)

Homeless Housing, Assistance and Prevention program: Round 3

SB 434 (Min)

Transit operators: street harassment survey

S. 24 (Feinstein)/H.R. 516 (Lieu)

Fighting Homelessness Through Services and Housing Act

#### SUPPORT AND SEEK AMENDMENTS

AB 930 (Friedman)

Local government: Reinvestment in Infrastructure for a Sustainable and Equitable California (RISE) Districts

If you have any questions, please contact Rodd Lee, Assistant General Manager of External Affairs, at (510) 464-6235.

DocuSigned by:

*Michael Jones*

47000790F2D7463...

Robert M. Powers

#### Attachments

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff

#### DRAFT MOTIONS:

- 1) The Board of Directors supports ACA 1, AB 719, AB 1377, SB 434, S. 24, and H.R. 516.
- 2) The Board of Directors supports and will seek amendments to AB 930.

## ACA 1 (Aguiar-Curry) Analysis and Recommendation

**TITLE:** Local government financing: affordable housing and public infrastructure: voter approval

**AUTHORS:** Aguiar-Curry (D-Winters), Berman (D-Menlo Park), Haney (D-San Francisco), Wiener (D-San Francisco)

**CO-AUTHORS:** Addis (D-Morro Bay), Arambula (D-Fresno), Grayson (D-Concord), Rivas (D-Hollister), Santiago (D-Los Angeles), Ward (D-San Diego), Wood (D-Santa Rosa)

**SPONSORS:** California Professional Firefighters, Housing California, State Building and Construction Trades Council, and California Labor Federation

**RECOMMENDATION:** Support

**BACKGROUND:** The California Constitution requires a two-thirds vote at the local level for both general obligation (GO) bonds and special taxes. However, current law specifies that local school districts must only achieve 55 percent voter approval for school bonds to fund construction, reconstruction, rehabilitation, replacement of school facilities, furnishing of schools, or the acquisition or lease of real property. From 2001 to 2013, over 2,200 local revenue measures have been placed before voters concerning school, city, county, or special district taxes or bonds. Of these, school bonds with a 55 percent threshold have been the most successful, with four out of every five passing. In contrast, just half of measures requiring a two-thirds vote succeeded. A 55 percent voter threshold for special taxes could make a dramatic difference in the number of measures that could pass, as nearly 80 percent of two-thirds supermajority measures garnered more than 55 percent of “yes” votes.

This constitutional amendment is a re-introduction of ACA 1 that was introduced in 2019 and 2021. BART supported the constitutional amendment in both of those years. In 2019, ACA 1 passed its assigned policy and fiscal committees in the Assembly but never received a floor vote. In 2021, the bill was assigned to the Assembly Committees on Local Government and Appropriations, but it did not receive a hearing.

**PURPOSE:** Assembly Constitutional Amendment (ACA) 1 will lower the necessary vote threshold from a two-thirds supermajority to 55 percent to approve local GO bonds and special taxes for affordable housing and public infrastructure projects. It will also exempt from the Constitution’s requirement that the maximum amount of tax on a property’s value not exceed 1 percent of the total value of the property bond debt incurred by a city, county, or special district for the following purposes:

- The construction, reconstruction, rehabilitation, or replacement of public infrastructure, as defined.
- The construction, reconstruction, rehabilitation, or replacement of affordable housing or permanent supportive housing, as defined, for persons at risk of chronic homelessness.
- The acquisition or lease of real property for public infrastructure, affordable housing, or permanent supportive housing, as defined, for persons at risk of chronic homelessness.

This measure gives local governments a more realistic financing option to fund an increase in the supply of affordable housing and to address the numerous local public infrastructure challenges cities, counties, and special districts are facing.

**DISTRICT IMPACT:** Cities, counties, and special districts face numerous challenges to securing funding for important infrastructure projects. ACA 1 defines “public infrastructure” to include improvements to transit, streets, and highways. If passed by the Legislature and approved by voters in a statewide election, this constitutional amendment would allow for the District and other agencies to more successfully pass GO bonds and special taxes.

**KNOWN SUPPORT/OPPOSITION:** In addition to the labor focused co-sponsors, additional support includes many cities and local governments, water districts, health districts, Community Service Districts, and other special districts. Opposition includes the Howard Jarvis Taxpayers Association and other tax focused organizations.

**STATUS:** Introduced, pending referral.

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

**Assembly Constitutional Amendment****No. 1****Introduced by Assembly Members Aguiar-Curry, Berman, and Haney**

(Principal coauthor: Senator Wiener)

**(Coauthors: Assembly Members Addis, Arambula, Grayson, Robert Rivas, Santiago, Ward, and Wood)**

December 5, 2022

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Assembly Constitutional Amendment No. 1—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 1 and 4 of Article XIII A thereof, by amending Section 2 of, and by adding Section 2.5 to, Article XIII C thereof, by amending Section 3 of Article XIII D thereof, and by amending Section 18 of Article XVI thereof, relating to local finance.

## LEGISLATIVE COUNSEL'S DIGEST

ACA 1, as introduced, Aguiar-Curry. Local government financing: affordable housing and public infrastructure: voter approval.

(1) The California Constitution prohibits the ad valorem tax rate on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions.

This measure would create an additional exception to the 1% limit that would authorize a city, county, city and county, or special district to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing, or the acquisition or lease of real property for those purposes, if the proposition proposing that tax is approved by 55% of the voters of the city, county, or city and county, as applicable, and the proposition

**ACA 1**

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includes specified accountability requirements. The measure would specify that these provisions apply to any city, county, city and county, or special district measure imposing an ad valorem tax to pay the interest and redemption charges on bonded indebtedness for these purposes that is submitted at the same election as this measure.

(2) The California Constitution conditions the imposition of a special tax by a local government upon the approval of  $\frac{2}{3}$  of the voters of the local government voting on that tax, and prohibits these entities from imposing an ad valorem tax on real property or a transactions or sales tax on the sale of real property.

This measure would authorize a local government to impose, extend, or increase a sales and use tax or transactions and use tax imposed in accordance with specified law or a parcel tax, as defined, for the purposes of funding the construction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing if the proposition proposing that tax is approved by 55% of its voters voting on the proposition and the proposition includes specified accountability requirements. This measure would also make conforming changes to related provisions. The measure would specify that these provisions apply to any local measure imposing, extending, or increasing a sales and use tax, transactions and use tax, or parcel tax for these purposes that is submitted at the same election as this measure.

(3) The California Constitution prohibits specified local government agencies from incurring any indebtedness exceeding in any year the income and revenue provided in that year, without the assent of  $\frac{2}{3}$  of the voters and subject to other conditions. In the case of a school district, community college district, or county office of education, the California Constitution permits a proposition for the incurrence of indebtedness in the form of general obligation bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, to be adopted upon the approval of 55% of the voters of the district or county, as appropriate, voting on the proposition at an election.

This measure would expressly prohibit a special district, other than a board of education or school district, from incurring any indebtedness or liability exceeding any applicable statutory limit, as prescribed by the statutes governing the special district. The measure would also similarly require the approval of 55% of the voters of the city, county, city and county, or special district, as applicable, to incur bonded

indebtedness, exceeding in any year the income and revenue provided in that year, that is in the form of general obligation bonds issued to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing projects, if the proposition proposing that bond includes specified accountability requirements. The measure would specify that this 55% threshold applies to any proposition for the incurrence of indebtedness by a city, county, city and county, or special district for these purposes that is submitted at the same election as this measure.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the  
2 Legislature of the State of California at its 2023–24 Regular  
3 Session commencing on the fifth day of December 2022, two-thirds  
4 of the membership of each house concurring, hereby proposes to  
5 the people of the State of California, that the Constitution of the  
6 State be amended as follows:

7 First—That Section 1 of Article XIII A thereof is amended to  
8 read:

9 SECTION 1. (a) The maximum amount of any ad valorem  
10 tax on real property shall not exceed ~~One 1 percent (1%)~~ of the  
11 full cash value of ~~such~~ *that* property. ~~The one percent (1%) tax to~~  
12 *1 percent tax shall* be collected by the counties and apportioned  
13 according to law to the districts within the counties.

14 (b) The limitation provided for in subdivision (a) shall not apply  
15 to ad valorem taxes or special assessments to pay the interest and  
16 redemption charges on any of the following:

17 (1) Indebtedness approved by the voters ~~prior to~~ *before* July 1,  
18 1978.

19 (2) Bonded indebtedness ~~for~~ *to fund* the acquisition or  
20 improvement of real property approved on or after July 1, 1978,  
21 by two-thirds of the votes cast by the voters voting on the  
22 proposition.

23 (3) Bonded indebtedness incurred by a school district,  
24 community college district, or county office of education for the  
25 construction, reconstruction, rehabilitation, or replacement of  
26 school facilities, including the furnishing and equipping of school  
27 facilities, or the acquisition or lease of real property for school  
28 facilities, approved by 55 percent of the voters of the district or



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1 county, as appropriate, voting on the proposition on or after the  
 2 effective date of the measure adding this paragraph. November 8,  
 3 2000. This paragraph shall apply only if the proposition approved  
 4 by the voters and resulting in the bonded indebtedness includes  
 5 all of the following accountability requirements:

6 (A) A requirement that the proceeds from the sale of the bonds  
 7 be used only for the purposes specified in ~~Article XIII A, Section~~  
 8 ~~1(b)(3)~~; *this paragraph*, and not for any other purpose, including  
 9 teacher and administrator salaries and other school operating  
 10 expenses.

11 (B) A list of the specific school facilities projects to be funded  
 12 and certification that the school district board, community college  
 13 board, or county office of education has evaluated safety, class  
 14 size reduction, and information technology needs in developing  
 15 that list.

16 (C) A requirement that the school district board, community  
 17 college board, or county office of education conduct an annual,  
 18 independent performance audit to ensure that the funds have been  
 19 expended only on the specific projects listed.

20 (D) A requirement that the school district board, community  
 21 college board, or county office of education conduct an annual,  
 22 independent financial audit of the proceeds from the sale of the  
 23 bonds until all of those proceeds have been expended for the school  
 24 facilities projects.

25 (4) (A) *Bonded indebtedness incurred by a city, county, city*  
 26 *and county, or special district for the construction, reconstruction,*  
 27 *rehabilitation, or replacement of public infrastructure, affordable*  
 28 *housing, or permanent supportive housing for persons at risk of*  
 29 *chronic homelessness, including persons with mental illness, or*  
 30 *the acquisition or lease of real property for public infrastructure,*  
 31 *affordable housing, or permanent supportive housing for persons*  
 32 *at risk of chronic homelessness, including persons with mental*  
 33 *illness, approved by 55 percent of the voters of the city, county,*  
 34 *city and county, or special district, as appropriate, voting on the*  
 35 *proposition on or after the effective date of the measure adding*  
 36 *this paragraph. This paragraph shall apply only if the proposition*  
 37 *approved by the voters and resulting in the bonded indebtedness*  
 38 *includes all of the following accountability requirements:*

39 (i) *A requirement that the proceeds from the sale of the bonds*  
 40 *be used only for the purposes specified in this paragraph, and not*

1 *for any other purpose, including city, county, city and county, or*  
2 *special district employee salaries and other operating expenses.*

3 *(ii) A list of the specific projects to be funded, and a certification*  
4 *that the city, county, city and county, or special district has*  
5 *evaluated alternative funding sources.*

6 *(iii) A requirement that the city, county, city and county, or*  
7 *special district conduct an annual, independent performance audit*  
8 *to ensure that the funds have been expended only on the specific*  
9 *projects listed.*

10 *(iv) A requirement that the city, county, city and county, or*  
11 *special district conduct an annual, independent financial audit of*  
12 *the proceeds from the sale of the bonds until all of those proceeds*  
13 *have been expended for the public infrastructure or affordable*  
14 *housing projects, as applicable.*

15 *(v) A requirement that the city, county, city and county, or*  
16 *special district post the audits required by clauses (iii) and (iv) in*  
17 *a manner that is easily accessible to the public.*

18 *(vi) A requirement that the city, county, city and county, or*  
19 *special district appoint a citizens' oversight committee to ensure*  
20 *that bond proceeds are expended only for the purposes described*  
21 *in the measure approved by the voters.*

22 *(B) For purposes of this paragraph:*

23 *(i) "Affordable housing" shall include housing developments,*  
24 *or portions of housing developments, that provide workforce*  
25 *housing affordable to households earning up to 150 percent of*  
26 *countywide median income, and housing developments, or portions*  
27 *of housing developments, that provide housing affordable to lower,*  
28 *low-, or very low income households, as those terms are defined*  
29 *in state law.*

30 *(ii) "At risk of chronic homelessness" includes, but is not limited*  
31 *to, persons who are at high risk of long-term or intermittent*  
32 *homelessness, including persons with mental illness exiting*  
33 *institutionalized settings, including, but not limited to, jail and*  
34 *mental health facilities, who were homeless prior to admission,*  
35 *transition age youth experiencing homelessness or with significant*  
36 *barriers to housing stability, and others, as defined in program*  
37 *guidelines.*

38 *(iii) "Permanent supportive housing" means housing with no*  
39 *limit on length of stay, that is occupied by the target population,*  
40 *and that is linked to onsite or offsite services that assist residents*

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1 *in retaining the housing, improving their health status, and*  
2 *maximizing their ability to live and, when possible, work in the*  
3 *community. “Permanent supportive housing” includes associated*  
4 *facilities, if those facilities are used to provide services to housing*  
5 *residents.*  
6 *(iv) “Public infrastructure” shall include, but is not limited to,*  
7 *projects that provide any of the following:*  
8 *(I) Water or protect water quality.*  
9 *(II) Sanitary sewer.*  
10 *(III) Treatment of wastewater or reduction of pollution from*  
11 *stormwater runoff.*  
12 *(IV) Protection of property from impacts of sea level rise.*  
13 *(V) Parks and recreation facilities.*  
14 *(VI) Open space.*  
15 *(VII) Improvements to transit and streets and highways.*  
16 *(VIII) Flood control.*  
17 *(IX) Broadband internet access service expansion in*  
18 *underserved areas.*  
19 *(X) Local hospital construction.*  
20 *(XI) Public safety buildings or facilities, equipment related to*  
21 *fire suppression, emergency response equipment, or interoperable*  
22 *communications equipment for direct and exclusive use by fire,*  
23 *emergency response, police, or sheriff personnel.*  
24 *(XII) Public library facilities.*  
25 *(v) “Special district” has the same meaning as provided in*  
26 *subdivision (c) of Section 1 of Article XIII C and specifically*  
27 *includes a transit district, except that “special district” does not*  
28 *include a school district, redevelopment agency, or successor*  
29 *agency to a dissolved redevelopment agency.*  
30 *(C) This paragraph shall apply to any city, county, city and*  
31 *county, or special district measure imposing an ad valorem tax to*  
32 *pay the interest and redemption charges on bonded indebtedness*  
33 *for those purposes described in this paragraph that is submitted*  
34 *at the same election as the measure adding this paragraph.*  
35 *(c) (1) Notwithstanding any other provisions of law or of this*  
36 *Constitution, a school—districts, district, community college*  
37 *districts, and district, or county—office of education may*  
38 *levy a—55 percent 55-percent vote ad valorem tax pursuant to*  
39 *paragraph (3) of subdivision (b).*

(2) Notwithstanding any other provisions of law or this Constitution, a city, county, city and county, or special district may levy a 55-percent vote ad valorem tax pursuant to paragraph (4) of subdivision (b).

Second—That Section 4 of Article XIII A thereof is amended to read:

~~Section 4. Cities, Counties and special districts;~~

SEC. 4. Except as provided by Section 2.5 of Article XIII C, a city, county, or special district, by a two-thirds vote of the qualified electors of such district, its voters voting on the proposition, may impose special taxes on such district, a special tax within that city, county, or special district, except an ad valorem taxes tax on real property or a transaction transactions tax or sales tax on the sale of real property within such City, County that city, county, or special district.

Third—That Section 2 of Article XIII C thereof is amended to read:

SEC. 2. ~~Local Government Tax Limitation.~~ Notwithstanding any other provision of this Constitution:

(a) ~~All taxes~~ Any tax imposed by any a local government shall be deemed to be is either a general taxes tax or a special taxes. Special purpose districts tax. A special district or agencies, agency, including a school districts, shall have no power district, has no authority to levy a general taxes tax.

(b) ~~No~~ A local government may not impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall is not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to before the effective date of this article, shall may continue to be imposed only if that general tax is approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years

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~~of the effective date of this article~~ *no later than November 6, 1996,*  
and in compliance with subdivision (b).

(d) ~~No~~ *Except as provided by Section 2.5,* a local government may *not* impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax ~~shall~~ *is not be* deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

Fourth—That Section 2.5 is added to Article XIII C thereof, to read:

SEC. 2.5. (a) The imposition, extension, or increase of a sales and use tax imposed in accordance with the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) or a successor law, a transactions and use tax imposed in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code) or a successor law, or a parcel tax imposed by a local government for the purpose of funding the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing for persons at risk of chronic homelessness, including persons with mental illness, or the acquisition or lease of real property for public infrastructure, affordable housing, or permanent supportive housing for persons at risk of chronic homelessness, including persons with mental illness, is subject to approval by 55 percent of the voters in the local government voting on the proposition, if both of the following conditions are met:

(1) The proposition is approved by a majority vote of the membership of the governing board of the local government.

(2) The proposition contains all of the following accountability requirements:

(A) A requirement that the proceeds of the tax only be used for the purposes specified in the proposition, and not for any other purpose, including general employee salaries and other operating expenses of the local government.

(B) A list of the specific projects that are to be funded by the tax, and a certification that the local government has evaluated alternative funding sources.

1 (C) A requirement that the local government conduct an annual,  
2 independent performance audit to ensure that the proceeds of the  
3 special tax have been expended only on the specific projects listed  
4 in the proposition.

5 (D) A requirement that the local government conduct an annual,  
6 independent financial audit of the proceeds from the tax during  
7 the lifetime of that tax.

8 (E) A requirement that the local government post the audits  
9 required by subparagraphs (C) and (D) in a manner that is easily  
10 accessible to the public.

11 (F) A requirement that the local government appoint a citizens'  
12 oversight committee to ensure the proceeds of the special tax are  
13 expended only for the purposes described in the measure approved  
14 by the voters.

15 (b) For purposes of this section, the following terms have the  
16 following meanings:

17 (1) "Affordable housing" shall include housing developments,  
18 or portions of housing developments, that provide workforce  
19 housing affordable to households earning up to 150 percent of  
20 countywide median income, and housing developments, or portions  
21 of housing developments, that provide housing affordable to lower,  
22 low-, or very low income households, as those terms are defined  
23 in state law.

24 (2) "At risk of chronic homelessness" includes, but is not limited  
25 to, persons who are at high risk of long-term or intermittent  
26 homelessness, including persons with mental illness exiting  
27 institutionalized settings, including, but not limited to, jail and  
28 mental health facilities, who were homeless prior to admission,  
29 transition age youth experiencing homelessness or with significant  
30 barriers to housing stability, and others, as defined in program  
31 guidelines.

32 (3) "Permanent supportive housing" means housing with no  
33 limit on length of stay, that is occupied by the target population,  
34 and that is linked to onsite or offsite services that assist residents  
35 in retaining the housing, improving their health status, and  
36 maximizing their ability to live and, when possible, work in the  
37 community. "Permanent supportive housing" includes associated  
38 facilities, if those facilities are used to provide services to housing  
39 residents.

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(4) “Public infrastructure” shall include, but is not limited to, the projects that provide any of the following:

- (A) Water or protect water quality.
- (B) Sanitary sewer.
- (C) Treatment of wastewater or reduction of pollution from stormwater runoff.
- (D) Protection of property from impacts of sea level rise.
- (E) Parks and recreation facilities.
- (F) Open space.
- (G) Improvements to transit and streets and highways.
- (H) Flood control.
- (I) Broadband internet access service expansion in underserved areas.
- (J) Local hospital construction.
- (K) Public safety buildings or facilities, equipment related to fire suppression, emergency response equipment, or interoperable communications equipment for direct and exclusive use by fire, emergency response, police, or sheriff personnel.
- (L) Public library facilities.

(c) This section shall apply to any local measure imposing, extending, or increasing a sales and use tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, a transactions and use tax imposed in accordance with the Transactions and Use Tax Law, or a parcel tax imposed by a local government for those purposes described in subdivision (a) that is submitted at the same election as the measure adding this section.

Fifth—That Section 3 of Article XIII D thereof is amended to read:

~~SEC. 3. Property Taxes, Assessments, Fees and Charges Limited.~~ (a) *No (a) An agency shall not assess a tax, assessment, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:*

(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.

(2) Any special tax receiving a two-thirds vote pursuant to Section 4 of Article ~~XIII A~~ *XIII A or receiving a 55-percent approval pursuant to Section 2.5 of Article XIII C.*

(3) Assessments as provided by this article.

(4) Fees or charges for ~~property-related~~ *property-related* services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service ~~shall are not be~~ deemed charges or fees imposed as an incident of property ownership.

Sixth—That Section 18 of Article XVI thereof is amended to read:

SEC. 18. (a) ~~No~~ A county, city, town, township, board of education, or school district, shall *not* incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for ~~such~~ *that* year, without the assent of two-thirds of the voters of the public entity voting at an election to be held for that purpose, except that with respect to any such public entity ~~which~~ *that* is authorized to incur indebtedness for public school purposes, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the purpose of repairing, ~~reconstructing~~ *reconstructing*, or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the voters of the public entity voting on the proposition at ~~such~~ *the* election; nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and to provide for a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the indebtedness. *A special district, other than a board of education or school district, shall not incur any indebtedness or liability exceeding any applicable statutory limit, as prescribed by the statutes governing the special district as they currently read or may thereafter be amended by the Legislature.*

(b) (1) Notwithstanding subdivision (a), ~~on or after the effective date of the measure adding this subdivision, in the case of any school district, community college district, or county office of education, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, purposes described in paragraph (3) or (4) of subdivision (b) of Section 1~~



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1 of Article XIII A shall be adopted upon the approval of 55 percent  
 2 of the voters of the ~~district or county~~, school district, community  
 3 college district, county office of education, city, county, city and  
 4 county, or other special district, as appropriate, voting on the  
 5 proposition at an election. This subdivision shall apply ~~only~~ to a  
 6 proposition for the incurrence of indebtedness in the form of  
 7 general obligation bonds for the purposes specified in this  
 8 subdivision *only* if the proposition meets all of the accountability  
 9 requirements of paragraph (3) or (4) of subdivision ~~(b)~~ (b), as  
 10 appropriate, of Section 1 of Article XIII A.

11 (2) *The amendments made to this subdivision by the measure*  
 12 *adding this paragraph shall apply to any proposition for the*  
 13 *incurrence of indebtedness in the form of general obligation bonds*  
 14 *pursuant to this subdivision for the purposes described in*  
 15 *paragraph (4) of subdivision (b) of Section 1 of Article XIII A that*  
 16 *is submitted at the same election as the measure adding this*  
 17 *paragraph.*

18 (c) When two or more propositions for incurring any  
 19 indebtedness or liability are submitted at the same election, the  
 20 votes cast for and against each proposition shall be counted  
 21 separately, and ~~when~~ if two-thirds or a majority or 55 percent of  
 22 the voters, as the case may be, voting on any one of those  
 23 propositions, vote in favor thereof, the proposition shall be deemed  
 24 adopted.

O

## AB 719 (Boerner Horvath) Analysis and Recommendation

**TITLE:** Medi-Cal benefits

**AUTHORS:** Boerner Horvath (D-Encinitas)

**SPONSORS:** California Transit Association, San Diego Metropolitan Transit System

**RECOMMENDATION:** Support

**BACKGROUND:** The Medi-Cal program, which is administered by the State Department of Health Care Services (DHCS), provides health benefits to qualified low-income individuals. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. The program establishes a schedule of benefits, including fee-for-service rates for nonmedical (NMT) and nonemergency (NEMT) transportation for a beneficiary to obtain covered Medi-Cal services. Nonmedical transportation is required to be provided by the beneficiary's managed care plan or by the department for a Medi-Cal fee-for-service beneficiary. NMT is defined as round trip transportation by passenger car, taxicab, or any other form of public or private conveyance in order to obtain covered Medi-Cal services; NEMT is defined as an ambulance, litter van, or wheelchair van services provided when a beneficiary's medical and physical condition precludes them from using NMT. There currently is no requirement to reimburse public transit operators for NMT or NEMT trips, so these operators are often left with little recourse to recoup costs.

To meet requirements of the Americans with Disabilities Act (ADA), BART and AC Transit established East Bay Paratransit. East Bay Paratransit is a public transit service for people who are unable to use regular buses or trains, like those operated by AC Transit and BART, because of a disability or a disabling health condition. East Bay Paratransit transports riders from their origin to their destination in vans equipped with a wheelchair lift. ADA paratransit is designed as a direct substitute for regular bus or BART service. Therefore, East Bay Paratransit service is only available near operating bus and train lines. Specifically, paratransit service is available within 3/4 of a mile of an AC Transit bus route or within 3/4 of a mile of a BART station during the same hours that buses and trains are running on those routes.

**PURPOSE:** Assembly Bill (AB) 719 seeks to correct the issue of reimbursement for public transit operators by requiring managed care plans, under the direction of DHCS, to contract with public transit operators for the purpose of establishing reimbursement rates for NMT or NEMT trips provided by a public transit operator. The bill would require the reimbursement rates set by the managed care plan to be based on the department's fee-for-service rates for nonmedical and nonemergency medical transportation service.

**DISTRICT IMPACT:** According to the California Transit Association (CTA), a co-sponsor of the bill, public transit operators provide both NMT and NEMT to Medi-Cal managed care plan enrollees to access medically necessary covered services, such as travel to appointments, picking up drug prescriptions that cannot be mailed, or picking up medical supplies. Currently, East Bay Paratransit trips are reimbursed at the rate of \$4 to \$7 per trip. With a cost of \$103 per trip per person, that translates to a farebox recovery of only 3.9% to 6.8%. It is estimated that 45% of East Bay Paratransit trips in 2022 were for medical purposes.

**KNOWN SUPPORT/OPPOSITION:** California Transit Association (Co-Sponsor), San Diego Metropolitan Transit System (Co-Sponsor), Access Services, California Association for Coordinated Transportation (CALACT), Gold Coast Transit District. No opposition on file.

**STATUS:** Passed the Assembly Committee on Health (11-0) on April 11 and referred to the Assembly Committee on Appropriations. Hearing set for April 26.

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

**ASSEMBLY BILL****No. 719****Introduced by Assembly Member Boerner Horvath**

February 13, 2023

An act to amend Section 14132 of the Welfare and Institutions Code, relating to Medi-Cal.

## LEGISLATIVE COUNSEL'S DIGEST

AB 719, as introduced, Boerner Horvath. Medi-Cal benefits.

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law establishes a schedule of benefits under the Medi-Cal program, including nonmedical transportation for a beneficiary to obtain covered Medi-Cal services. Existing law requires nonmedical transportation to be provided by the beneficiary's managed care plan or by the department for a Medi-Cal fee-for-service beneficiary.

This bill would require the department to require managed care plans to contract with public transit operators for the purpose of establishing reimbursement rates for nonmedical and nonemergency medical transportation trips provided by a public transit operator. The bill would require the rates reimbursed by the managed care plan to the public transit operator to be based on the department's fee-for-service rates for nonmedical and nonemergency medical transportation service.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, respiratory care, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) (1) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy, and occupational therapy, are covered subject to utilization controls.

(2) For a Medi-Cal fee-for-service beneficiary, emergency services and care that are necessary for the treatment of an emergency medical condition and medical care directly related to the emergency medical condition. This paragraph does not change the obligation of Medi-Cal managed care plans to provide emergency services and care. For the purposes of this paragraph, “emergency services and care” and “emergency medical condition” have the same meanings as those terms are defined in Section 1317.1 of the Health and Safety Code.

(c) Nursing facility services, subacute care services, and services provided by any category of intermediate care facility for the developmentally disabled, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Respiratory care, physical therapy, occupational therapy, speech therapy, and audiology services for patients in nursing facilities and any category of intermediate care facility for persons with developmental disabilities are covered subject to utilization controls.

(d) (1) Purchase of prescribed drugs is covered subject to the Medi-Cal List of Contract Drugs and utilization controls.

1 (2) Purchase of drugs used to treat erectile dysfunction or any  
2 off-label uses of those drugs are covered only to the extent that  
3 federal financial participation is available.

4 (3) (A) To the extent required by federal law, the purchase of  
5 outpatient prescribed drugs, for which the prescription is executed  
6 by a prescriber in written, nonelectronic form on or after April 1,  
7 2008, is covered only when executed on a tamper resistant  
8 prescription form. The implementation of this paragraph shall  
9 conform to the guidance issued by the federal Centers for Medicare  
10 and Medicaid Services, but shall not conflict with state statutes on  
11 the characteristics of tamper resistant prescriptions for controlled  
12 substances, including Section 11162.1 of the Health and Safety  
13 Code. The department shall provide providers and beneficiaries  
14 with as much flexibility in implementing these rules as allowed  
15 by the federal government. The department shall notify and consult  
16 with appropriate stakeholders in implementing, interpreting, or  
17 making specific this paragraph.

18 (B) Notwithstanding Chapter 3.5 (commencing with Section  
19 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
20 the department may take the actions specified in subparagraph (A)  
21 by means of a provider bulletin or notice, policy letter, or other  
22 similar instructions without taking regulatory action.

23 (4) (A) (i) For the purposes of this paragraph, nonlegend has  
24 the same meaning as defined in subdivision (a) of Section  
25 14105.45.

26 (ii) Nonlegend acetaminophen-containing products, including  
27 children's acetaminophen-containing products, selected by the  
28 department are covered benefits.

29 (iii) Nonlegend cough and cold products selected by the  
30 department are covered benefits.

31 (B) Notwithstanding Chapter 3.5 (commencing with Section  
32 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
33 the department may take the actions specified in subparagraph (A)  
34 by means of a provider bulletin or notice, policy letter, or other  
35 similar instruction without taking regulatory action.

36 (e) Outpatient dialysis services and home hemodialysis services,  
37 including physician services, medical supplies, drugs, and  
38 equipment required for dialysis, are covered, subject to utilization  
39 controls.

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(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetist services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and x-ray services are covered, subject to utilization controls. This subdivision does not require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable x-ray services in a nursing facility or any category of intermediate care facility for the developmentally disabled.

(g) Blood and blood derivatives are covered.

(h) (1) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses that are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions that preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's California Children's Services program.

(2) For persons 21 years of age or older, the services specified in paragraph (1) shall be provided subject to the following conditions:

(A) Periodontal treatment is not a benefit.

(B) Endodontic therapy is not a benefit except for vital pulpotomy.

(C) Laboratory processed crowns are not a benefit.

(D) Removable prosthetics shall be a benefit only for patients as a requirement for employment.

(E) The director may, by regulation, provide for the provision of fixed artificial dentures that are necessary for medical conditions that preclude the use of removable dental prostheses.

(F) Notwithstanding the conditions specified in subparagraphs (A) to (E), inclusive, the department may approve services for persons with special medical disorders subject to utilization review.

(3) Paragraph (2) shall become inoperative on July 1, 1995.

1 (i) Medical transportation is covered, subject to utilization  
2 controls.

3 (j) Home health care services are covered, subject to utilization  
4 controls.

5 (k) (1) Prosthetic and orthotic devices and eyeglasses are  
6 covered, subject to utilization controls. Utilization controls shall  
7 allow replacement of prosthetic and orthotic devices and eyeglasses  
8 necessary because of loss or destruction due to circumstances  
9 beyond the beneficiary's control. Frame styles for eyeglasses  
10 replaced pursuant to this subdivision shall not change more than  
11 once every two years, unless the department so directs.

12 (2) Orthopedic and conventional shoes are covered when  
13 provided by a prosthetic and orthotic supplier on the prescription  
14 of a physician and when at least one of the shoes will be attached  
15 to a prosthesis or brace, subject to utilization controls. Modification  
16 of stock conventional or orthopedic shoes when medically indicated  
17 is covered, subject to utilization controls. If there is a clearly  
18 established medical need that cannot be satisfied by the  
19 modification of stock conventional or orthopedic shoes,  
20 custom-made orthopedic shoes are covered, subject to utilization  
21 controls.

22 (3) Therapeutic shoes and inserts are covered when provided  
23 to a beneficiary with a diagnosis of diabetes, subject to utilization  
24 controls, to the extent that federal financial participation is  
25 available.

26 (l) Hearing aids are covered, subject to utilization controls.  
27 Utilization controls shall allow replacement of hearing aids  
28 necessary because of loss or destruction due to circumstances  
29 beyond the beneficiary's control.

30 (m) Durable medical equipment and medical supplies are  
31 covered, subject to utilization controls. The utilization controls  
32 shall allow the replacement of durable medical equipment and  
33 medical supplies when necessary because of loss or destruction  
34 due to circumstances beyond the beneficiary's control. The  
35 utilization controls shall allow authorization of durable medical  
36 equipment needed to assist a disabled beneficiary in caring for a  
37 child for whom the disabled beneficiary is a parent, stepparent,  
38 foster parent, or legal guardian, subject to the availability of federal  
39 financial participation. The department shall adopt emergency  
40 regulations to define and establish criteria for assistive durable

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1 medical equipment in accordance with the rulemaking provisions  
2 of the Administrative Procedure Act (Chapter 3.5 (commencing  
3 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
4 Government Code).

5 (n) Family planning services are covered, subject to utilization  
6 controls. However, for Medi-Cal managed care plans, utilization  
7 controls shall be subject to Section 1367.25 of the Health and  
8 Safety Code.

9 (o) Inpatient intensive rehabilitation hospital services, including  
10 respiratory rehabilitation services, in a general acute care hospital  
11 are covered, subject to utilization controls, when either of the  
12 following criteria are met:

13 (1) A patient with a permanent disability or severe impairment  
14 requires an inpatient intensive rehabilitation hospital program as  
15 described in Section 14064 to develop function beyond the limited  
16 amount that would occur in the normal course of recovery.

17 (2) A patient with a chronic or progressive disease requires an  
18 inpatient intensive rehabilitation hospital program as described in  
19 Section 14064 to maintain the patient's present functional level as  
20 long as possible.

21 (p) (1) Adult day health care is covered in accordance with  
22 Chapter 8.7 (commencing with Section 14520).

23 (2) Commencing 30 days after the effective date of the act that  
24 added this paragraph, and notwithstanding the number of days  
25 previously approved through a treatment authorization request,  
26 adult day health care is covered for a maximum of three days per  
27 week.

28 (3) As provided in accordance with paragraph (4), adult day  
29 health care is covered for a maximum of five days per week.

30 (4) As of the date that the director makes the declaration  
31 described in subdivision (g) of Section 14525.1, paragraph (2)  
32 shall become inoperative and paragraph (3) shall become operative.

33 (q) (1) Application of fluoride, or other appropriate fluoride  
34 treatment as defined by the department, and other prophylaxis  
35 treatment for children 17 years of age and under are covered.

36 (2) All dental hygiene services provided by a registered dental  
37 hygienist, registered dental hygienist in extended functions, and  
38 registered dental hygienist in alternative practice licensed pursuant  
39 to Sections 1753, 1917, 1918, and 1922 of the Business and  
40 Professions Code may be covered as long as they are within the



1 scope of Denti-Cal benefits and they are necessary services  
2 provided by a registered dental hygienist, registered dental  
3 hygienist in extended functions, or registered dental hygienist in  
4 alternative practice.

5 (r) (1) Paramedic services performed by a city, county, or  
6 special district, or pursuant to a contract with a city, county, or  
7 special district, and pursuant to a program established under former  
8 Article 3 (commencing with Section 1480) of Chapter 2.5 of  
9 Division 2 of the Health and Safety Code by a paramedic certified  
10 pursuant to that article, and consisting of defibrillation and those  
11 services specified in subdivision (3) of former Section 1482 of the  
12 article.

13 (2) A provider enrolled under this subdivision shall satisfy all  
14 applicable statutory and regulatory requirements for becoming a  
15 Medi-Cal provider.

16 (3) This subdivision shall be implemented only to the extent  
17 funding is available under Section 14106.6.

18 (s) (1) In-home medical care services are covered when  
19 medically appropriate and subject to utilization controls, for a  
20 beneficiary who would otherwise require care for an extended  
21 period of time in an acute care hospital at a cost higher than  
22 in-home medical care services. The director shall have the authority  
23 under this section to contract with organizations qualified to  
24 provide in-home medical care services to those persons. These  
25 services may be provided to a patient placed in a shared or  
26 congregate living arrangement, if a home setting is not medically  
27 appropriate or available to the beneficiary.

28 (2) As used in this subdivision, "in-home medical care service"  
29 includes utility bills directly attributable to continuous, 24-hour  
30 operation of life-sustaining medical equipment, to the extent that  
31 federal financial participation is available.

32 (3) As used in this subdivision, in-home medical care services  
33 include, but are not limited to:

34 (A) Level-of-care and cost-of-care evaluations.

35 (B) Expenses, directly attributable to home care activities, for  
36 materials.

37 (C) Physician fees for home visits.

38 (D) Expenses directly attributable to home care activities for  
39 shelter and modification to shelter.

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- 1 (E) Expenses directly attributable to additional costs of special  
2 diets, including tube feeding.
- 3 (F) Medically related personal services.
- 4 (G) Home nursing education.
- 5 (H) Emergency maintenance repair.
- 6 (I) Home health agency personnel benefits that permit coverage  
7 of care during periods when regular personnel are on vacation or  
8 using sick leave.
- 9 (J) All services needed to maintain antiseptic conditions at stoma  
10 or shunt sites on the body.
- 11 (K) Emergency and nonemergency medical transportation.
- 12 (L) Medical supplies.
- 13 (M) Medical equipment, including, but not limited to, scales,  
14 gurneys, and equipment racks suitable for paralyzed patients.
- 15 (N) Utility use directly attributable to the requirements of home  
16 care activities that are in addition to normal utility use.
- 17 (O) Special drugs and medications.
- 18 (P) Home health agency supervision of visiting staff that is  
19 medically necessary, but not included in the home health agency  
20 rate.
- 21 (Q) Therapy services.
- 22 (R) Household appliances and household utensil costs directly  
23 attributable to home care activities.
- 24 (S) Modification of medical equipment for home use.
- 25 (T) Training and orientation for use of life-support systems,  
26 including, but not limited to, support of respiratory functions.
- 27 (U) Respiratory care practitioner services as defined in Sections  
28 3702 and 3703 of the Business and Professions Code, subject to  
29 prescription by a physician and surgeon.
- 30 (4) A beneficiary receiving in-home medical care services is  
31 entitled to the full range of services within the Medi-Cal scope of  
32 benefits as defined by this section, subject to medical necessity  
33 and applicable utilization control. Services provided pursuant to  
34 this subdivision, which are not otherwise included in the Medi-Cal  
35 schedule of benefits, shall be available only to the extent that  
36 federal financial participation for these services is available in  
37 accordance with a home- and community-based services waiver.
- 38 (t) Home- and community-based services approved by the  
39 United States Department of Health and Human Services are  
40 covered to the extent that federal financial participation is available

1 for those services under the state plan or waivers granted in  
2 accordance with Section 1315 or 1396n of Title 42 of the United  
3 States Code. The director may seek waivers for any or all home-  
4 and community-based services approvable under Section 1315 or  
5 1396n of Title 42 of the United States Code. Coverage for those  
6 services shall be limited by the terms, conditions, and duration of  
7 the federal waivers.

8 (u) Comprehensive perinatal services, as provided through an  
9 agreement with a health care provider designated in Section  
10 14134.5 and meeting the standards developed by the department  
11 pursuant to Section 14134.5, subject to utilization controls.

12 The department shall seek any federal waivers necessary to  
13 implement the provisions of this subdivision. The provisions for  
14 which appropriate federal waivers cannot be obtained shall not be  
15 implemented. Provisions for which waivers are obtained or for  
16 which waivers are not required shall be implemented  
17 notwithstanding any inability to obtain federal waivers for the  
18 other provisions. No provision of this subdivision shall be  
19 implemented unless matching funds from Subchapter XIX  
20 (commencing with Section 1396) of Chapter 7 of Title 42 of the  
21 United States Code are available.

22 (v) Early and periodic screening, diagnosis, and treatment for  
23 any individual under 21 years of age is covered, consistent with  
24 the requirements of Subchapter XIX (commencing with Section  
25 1396) of Chapter 7 of Title 42 of the United States Code.

26 (w) Hospice service that is Medicare-certified hospice service  
27 is covered, subject to utilization controls. Coverage shall be  
28 available only to the extent that no additional net program costs  
29 are incurred.

30 (x) When a claim for treatment provided to a beneficiary  
31 includes both services that are authorized and reimbursable under  
32 this chapter and services that are not reimbursable under this  
33 chapter, that portion of the claim for the treatment and services  
34 authorized and reimbursable under this chapter shall be payable.

35 (y) Home- and community-based services approved by the  
36 United States Department of Health and Human Services for a  
37 beneficiary with a diagnosis of Acquired Immune Deficiency  
38 Syndrome (AIDS) or AIDS-related complex, who requires  
39 intermediate care or a higher level of care.

1 Services provided pursuant to a waiver obtained from the  
2 Secretary of the United States Department of Health and Human  
3 Services pursuant to this subdivision, and that are not otherwise  
4 included in the Medi-Cal schedule of benefits, shall be available  
5 only to the extent that federal financial participation for these  
6 services is available in accordance with the waiver, and subject to  
7 the terms, conditions, and duration of the waiver. These services  
8 shall be provided to a beneficiary in accordance with the client's  
9 needs as identified in the plan of care, and subject to medical  
10 necessity and applicable utilization control.

11 The director may, under this section, contract with organizations  
12 qualified to provide, directly or by subcontract, services provided  
13 for in this subdivision to an eligible beneficiary. Contracts or  
14 agreements entered into pursuant to this division shall not be  
15 subject to the Public Contract Code.

16 (z) Respiratory care when provided in organized health care  
17 systems as defined in Section 3701 of the Business and Professions  
18 Code, and as an in-home medical service as outlined in subdivision  
19 (s).

20 (aa) (1) There is hereby established in the department a program  
21 to provide comprehensive clinical family planning services to any  
22 person who has a family income at or below 200 percent of the  
23 federal poverty level, as revised annually, and who is eligible to  
24 receive these services pursuant to the waiver identified in paragraph  
25 (2). This program shall be known as the Family Planning, Access,  
26 Care, and Treatment (Family PACT) Program.

27 (2) The department shall seek a waiver in accordance with  
28 Section 1315 of Title 42 of the United States Code, or a state plan  
29 amendment adopted in accordance with Section  
30 1396a(a)(10)(A)(ii)(XXI) of Title 42 of the United States Code,  
31 which was added to Section 1396a of Title 42 of the United States  
32 Code by Section 2303(a)(2) of the federal Patient Protection and  
33 Affordable Care Act (PPACA) (Public Law 111-148), for a  
34 program to provide comprehensive clinical family planning  
35 services as described in paragraph (8). Under the waiver, the  
36 program shall be operated only in accordance with the waiver and  
37 the statutes and regulations in paragraph (4) and subject to the  
38 terms, conditions, and duration of the waiver. Under the state plan  
39 amendment, which shall replace the waiver and shall be known as  
40 the Family PACT successor state plan amendment, the program

1 shall be operated only in accordance with this subdivision and the  
2 statutes and regulations in paragraph (4). The state shall use the  
3 standards and processes imposed by the state on January 1, 2007,  
4 including the application of an eligibility discount factor to the  
5 extent required by the federal Centers for Medicare and Medicaid  
6 Services, for purposes of determining eligibility as permitted under  
7 Section 1396a(a)(10)(A)(ii)(XXI) of Title 42 of the United States  
8 Code. To the extent that federal financial participation is available,  
9 the program shall continue to conduct education, outreach,  
10 enrollment, service delivery, and evaluation services as specified  
11 under the waiver. The services shall be provided under the program  
12 only if the waiver and, when applicable, the successor state plan  
13 amendment are approved by the federal Centers for Medicare and  
14 Medicaid Services and only to the extent that federal financial  
15 participation is available for the services. This section does not  
16 prohibit the department from seeking the Family PACT successor  
17 state plan amendment during the operation of the waiver.

18 (3) Solely for the purposes of the waiver or Family PACT  
19 successor state plan amendment and notwithstanding any other  
20 law, the collection and use of an individual's social security number  
21 shall be necessary only to the extent required by federal law.

22 (4) Sections 14105.3 to 14105.39, inclusive, 14107.11, 24005,  
23 and 24013, and any regulations adopted under these statutes shall  
24 apply to the program provided for under this subdivision. No other  
25 law under the Medi-Cal program or the State-Only Family Planning  
26 Program shall apply to the program provided for under this  
27 subdivision.

28 (5) Notwithstanding Chapter 3.5 (commencing with Section  
29 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
30 the department may implement, without taking regulatory action,  
31 the provisions of the waiver after its approval by the federal Centers  
32 for Medicare and Medicaid Services and the provisions of this  
33 section by means of an all-county letter or similar instruction to  
34 providers. Thereafter, the department shall adopt regulations to  
35 implement this section and the approved waiver in accordance  
36 with the requirements of Chapter 3.5 (commencing with Section  
37 11340) of Part 1 of Division 3 of Title 2 of the Government Code.  
38 Beginning six months after the effective date of the act adding this  
39 subdivision, the department shall provide a status report to the

1 Legislature on a semiannual basis until regulations have been  
2 adopted.

3 (6) If the Department of Finance determines that the program  
4 operated under the authority of the waiver described in paragraph  
5 (2) or the Family PACT successor state plan amendment is no  
6 longer cost effective, this subdivision shall become inoperative on  
7 the first day of the first month following the issuance of a 30-day  
8 notification of that determination in writing by the Department of  
9 Finance to the chairperson in each house that considers  
10 appropriations, the chairpersons of the committees, and the  
11 appropriate subcommittees in each house that considers the State  
12 Budget, and the Chairperson of the Joint Legislative Budget  
13 Committee.

14 (7) If this subdivision ceases to be operative, all persons who  
15 have received or are eligible to receive comprehensive clinical  
16 family planning services pursuant to the waiver described in  
17 paragraph (2) shall receive family planning services under the  
18 Medi-Cal program pursuant to subdivision (n) if they are otherwise  
19 eligible for Medi-Cal with no share of cost, or shall receive  
20 comprehensive clinical family planning services under the program  
21 established in Division 24 (commencing with Section 24000) either  
22 if they are eligible for Medi-Cal with a share of cost or if they are  
23 otherwise eligible under Section 24003.

24 (8) For purposes of this subdivision, “comprehensive clinical  
25 family planning services” means the process of establishing  
26 objectives for the number and spacing of children, and selecting  
27 the means by which those objectives may be achieved. These  
28 means include a broad range of acceptable and effective methods  
29 and services to limit or enhance fertility, including contraceptive  
30 methods, federal Food and Drug Administration-approved  
31 contraceptive drugs, devices, and supplies, natural family planning,  
32 abstinence methods, and basic, limited fertility management.  
33 Comprehensive clinical family planning services include, but are  
34 not limited to, preconception counseling, maternal and fetal health  
35 counseling, general reproductive health care, including diagnosis  
36 and treatment of infections and conditions, including cancer, that  
37 threaten reproductive capability, medical family planning treatment  
38 and procedures, including supplies and followup, and  
39 informational, counseling, and educational services.  
40 Comprehensive clinical family planning services shall not include

1 abortion, pregnancy testing solely for the purposes of referral for  
2 abortion or services ancillary to abortions, or pregnancy care that  
3 is not incident to the diagnosis of pregnancy. Comprehensive  
4 clinical family planning services shall be subject to utilization  
5 control and include all of the following:

6 (A) Family planning related services and male and female  
7 sterilization. Family planning services for men and women shall  
8 include emergency services and services for complications directly  
9 related to the contraceptive method, federal Food and Drug  
10 Administration-approved contraceptive drugs, devices, and  
11 supplies, and followup, consultation, and referral services, as  
12 indicated, which may require treatment authorization requests.

13 (B) All United States Department of Agriculture, federal Food  
14 and Drug Administration-approved contraceptive drugs, devices,  
15 and supplies that are in keeping with current standards of practice  
16 and from which the individual may choose.

17 (C) Culturally and linguistically appropriate health education  
18 and counseling services, including informed consent, that include  
19 all of the following:

20 (i) Psychosocial and medical aspects of contraception.

21 (ii) Sexuality.

22 (iii) Fertility.

23 (iv) Pregnancy.

24 (v) Parenthood.

25 (vi) Infertility.

26 (vii) Reproductive health care.

27 (viii) Preconception and nutrition counseling.

28 (ix) Prevention and treatment of sexually transmitted infection.

29 (x) Use of contraceptive methods, federal Food and Drug  
30 Administration-approved contraceptive drugs, devices, and  
31 supplies.

32 (xi) Possible contraceptive consequences and followup.

33 (xii) Interpersonal communication and negotiation of  
34 relationships to assist individuals and couples in effective  
35 contraceptive method use and planning families.

36 (D) A comprehensive health history, updated at the next periodic  
37 visit (between 11 and 24 months after initial examination) that  
38 includes a complete obstetrical history, gynecological history,  
39 contraceptive history, personal medical history, health risk factors,

1 and family health history, including genetic or hereditary  
2 conditions.

3 (E) A complete physical examination on initial and subsequent  
4 periodic visits.

5 (F) Services, drugs, devices, and supplies deemed by the federal  
6 Centers for Medicare and Medicaid Services to be appropriate for  
7 inclusion in the program.

8 (G) (i) Home test kits for sexually transmitted diseases,  
9 including any laboratory costs of processing the kit, that are  
10 deemed medically necessary or appropriate and ordered directly  
11 by an enrolled Medi-Cal or Family PACT clinician or furnished  
12 through a standing order for patient use based on clinical guidelines  
13 and individual patient health needs.

14 (ii) For purposes of this subparagraph, “home test kit” means a  
15 product used for a test recommended by the federal Centers for  
16 Disease Control and Prevention guidelines or the United States  
17 Preventive Services Task Force that has been CLIA-waived,  
18 FDA-cleared or -approved, or developed by a laboratory in  
19 accordance with established regulations and quality standards, to  
20 allow individuals to self-collect specimens for STDs, including  
21 HIV, remotely at a location outside of a clinical setting.

22 (iii) Reimbursement under this subparagraph shall be contingent  
23 upon the addition of codes specific to home test kits in the Current  
24 Procedural Terminology or Healthcare Common Procedure Coding  
25 System to comply with Health Insurance Portability and  
26 Accountability Act requirements. The home test kit shall be sent  
27 by the enrolled Family PACT provider to a Medi-Cal-enrolled  
28 laboratory with fee based on Medicare Clinical Diagnostic  
29 Laboratory Tests Payment System Final Rule.

30 (9) In order to maximize the availability of federal financial  
31 participation under this subdivision, the director shall have the  
32 discretion to implement the Family PACT successor state plan  
33 amendment retroactively to July 1, 2010.

34 (ab) (1) Purchase of prescribed enteral nutrition products is  
35 covered, subject to the Medi-Cal list of enteral nutrition products  
36 and utilization controls.

37 (2) Purchase of enteral nutrition products is limited to those  
38 products to be administered through a feeding tube, including, but  
39 not limited to, a gastric, nasogastric, or jejunostomy tube. A



1 beneficiary under the Early and Periodic Screening, Diagnostic,  
2 and Treatment Program shall be exempt from this paragraph.

3 (3) Notwithstanding paragraph (2), the department may deem  
4 an enteral nutrition product, not administered through a feeding  
5 tube, including, but not limited to, a gastric, nasogastric, or  
6 jejunostomy tube, a benefit for patients with diagnoses, including,  
7 but not limited to, malabsorption and inborn errors of metabolism,  
8 if the product has been shown to be neither investigational nor  
9 experimental when used as part of a therapeutic regimen to prevent  
10 serious disability or death.

11 (4) Notwithstanding Chapter 3.5 (commencing with Section  
12 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
13 the department may implement the amendments to this subdivision  
14 made by the act that added this paragraph by means of all-county  
15 letters, provider bulletins, or similar instructions, without taking  
16 regulatory action.

17 (5) The amendments made to this subdivision by the act that  
18 added this paragraph shall be implemented June 1, 2011, or on the  
19 first day of the first calendar month following 60 days after the  
20 date the department secures all necessary federal approvals to  
21 implement this section, whichever is later.

22 (ac) Diabetic testing supplies are covered when provided by a  
23 pharmacy, subject to utilization controls.

24 (ad) (1) Nonmedical transportation is covered, subject to  
25 utilization controls and permissible time and distance standards,  
26 for a beneficiary to obtain covered Medi-Cal services.

27 (2) (A) (i) Nonmedical transportation includes, at a minimum,  
28 round trip transportation for a beneficiary to obtain covered  
29 Medi-Cal services by passenger car, taxicab, or any other form of  
30 public or private conveyance, and mileage reimbursement when  
31 conveyance is in a private vehicle arranged by the beneficiary and  
32 not through a transportation broker, bus passes, taxi vouchers, or  
33 train tickets.

34 (ii) Nonmedical transportation does not include the  
35 transportation of a sick, injured, invalid, convalescent, infirm, or  
36 otherwise incapacitated beneficiary by ambulance, litter van, or  
37 wheelchair van licensed, operated, and equipped in accordance  
38 with state and local statutes, ordinances, or regulations.

39 (B) (i) Nonmedical transportation shall be provided for a  
40 beneficiary who can attest in a manner to be specified by the

1 department that other currently available resources have been  
2 reasonably exhausted. For a beneficiary enrolled in a managed  
3 care plan, nonmedical transportation shall be provided by the  
4 beneficiary's managed care plan. For a Medi-Cal fee-for-service  
5 beneficiary, the department shall provide nonmedical transportation  
6 when those services are not available to the beneficiary under  
7 Sections 14132.44 and 14132.47.

8 *(ii) The department shall require managed care plans to contract*  
9 *with public transit operators for the purpose of establishing*  
10 *reimbursement rates for nonmedical and nonemergency medical*  
11 *transportation trips provided by a public transit operator.*

12 *(iii) Rates reimbursed by the managed care plan to the public*  
13 *transit operator shall be based on the department's fee-for-service*  
14 *rates for nonmedical and nonemergency medical transportation*  
15 *service.*

16 (3) Nonmedical transportation shall be provided in a form and  
17 manner that is accessible, in terms of physical and geographic  
18 accessibility, for the beneficiary and consistent with applicable  
19 state and federal disability rights laws.

20 (4) It is the intent of the Legislature in enacting this subdivision  
21 to affirm the requirement under Section 431.53 of Title 42 of the  
22 Code of Federal Regulations, in which the department is required  
23 to provide necessary transportation, including nonmedical  
24 transportation, for recipients to and from covered services. This  
25 subdivision shall not be interpreted to add a new benefit to the  
26 Medi-Cal program.

27 (5) The department shall seek any federal approvals that may  
28 be required to implement this subdivision, including, but not  
29 limited to, approval of revisions to the existing state plan that the  
30 department determines are necessary to implement this subdivision.

31 (6) This subdivision shall be implemented only to the extent  
32 that federal financial participation is available and not otherwise  
33 jeopardized and any necessary federal approvals have been  
34 obtained.

35 (7) Prior to the effective date of any necessary federal approvals,  
36 nonmedical transportation was not a Medi-Cal managed care  
37 benefit with the exception of when provided as an Early and  
38 Periodic Screening, Diagnostic, and Treatment service.

39 (8) Notwithstanding Chapter 3.5 (commencing with Section  
40 11340) of Part 1 of Division 3 of Title 2 of the Government Code,

1 the department, without taking any further regulatory action, shall  
2 implement, interpret, or make specific this subdivision by means  
3 of all-county letters, plan letters, plan or provider bulletins, or  
4 similar instructions until the time regulations are adopted. By July  
5 1, 2018, the department shall adopt regulations in accordance with  
6 the requirements of Chapter 3.5 (commencing with Section 11340)  
7 of Part 1 of Division 3 of Title 2 of the Government Code.  
8 Commencing January 1, 2018, and notwithstanding Section  
9 10231.5 of the Government Code, the department shall provide a  
10 status report to the Legislature on a semiannual basis, in  
11 compliance with Section 9795 of the Government Code, until  
12 regulations have been adopted.

13 (9) This subdivision shall not be implemented until July 1, 2017.

14 (ae) (1) No sooner than January 1, 2022, Rapid Whole Genome  
15 Sequencing, including individual sequencing, trio sequencing for  
16 a parent or parents and their baby, and ultra-rapid sequencing, is  
17 a covered benefit for any Medi-Cal beneficiary who is one year  
18 of age or younger and is receiving inpatient hospital services in  
19 an intensive care unit.

20 (2) Notwithstanding Chapter 3.5 (commencing with Section  
21 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
22 the department, without taking any further regulatory action, shall  
23 implement, interpret, or make specific this subdivision by means  
24 of all-county letters, plan letters, plan or provider bulletins, or  
25 similar instructions until the time regulations are adopted.

26 (3) This subdivision shall be implemented only to the extent  
27 that any necessary federal approvals are obtained, and federal  
28 financial participation is available and not otherwise jeopardized.

29 (af) (1) Home test kits for sexually transmitted diseases that  
30 are deemed medically necessary or appropriate and ordered directly  
31 by an enrolled Medi-Cal clinician or furnished through a standing  
32 order for patient use based on clinical guidelines and individual  
33 patient health needs.

34 (2) For purposes of this subdivision, “home test kit” means a  
35 product used for a test recommended by the federal Centers for  
36 Disease Control and Prevention guidelines or the United States  
37 Preventive Services Task Force that has been CLIA-waived,  
38 FDA-cleared or -approved, or developed by a laboratory in  
39 accordance with established regulations and quality standards, to

1 allow individuals to self-collect specimens for STDs, including  
2 HIV, remotely at a location outside of a clinical setting.

3 (3) Reimbursement under this subparagraph shall be contingent  
4 upon the addition of codes specific to home test kits in the Current  
5 Procedural Terminology or Healthcare Common Procedure Coding  
6 System to comply with Health Insurance Portability and  
7 Accountability Act requirements. The home test kit shall be sent  
8 by the enrolled Medi-Cal provider to a Medi-Cal-enrolled  
9 laboratory with fee based on Medicare Clinical Diagnostic  
10 Laboratory Tests Payment System Final Rule.

11 (4) This subdivision shall be implemented only to the extent  
12 that federal financial participation is available and not otherwise  
13 jeopardized, and any necessary federal approvals have been  
14 obtained.

15 (5) Notwithstanding Chapter 3.5 (commencing with Section  
16 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
17 the State Department of Health Care Services may implement this  
18 subdivision by means of all-county letters, plan letters, plan or  
19 provider bulletins, or similar instructions, without taking any  
20 further regulatory action.

21 (ag) (1) Violence prevention services are covered, subject to  
22 medical necessity and utilization controls.

23 (2) Notwithstanding Chapter 3.5 (commencing with Section  
24 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
25 the department, without taking any further regulatory action, may  
26 implement, interpret, or make specific this subdivision by means  
27 of all-county letters, plan letters, plan or provider bulletins, or  
28 similar instructions until the time regulations are adopted.

29 (3) This subdivision shall be implemented only to the extent  
30 that any necessary federal approvals are obtained, and federal  
31 financial participation is available and not otherwise jeopardized.

32 (4) The department shall post on its internet website the date  
33 upon which violence prevention services may be provided and  
34 billed pursuant to this subdivision.

35 (5) “Violence prevention services” means evidence-based,  
36 trauma-informed, and culturally responsive preventive services  
37 provided to reduce the incidence of violent injury or reinjury,

- 1 trauma, and related harms and promote trauma recovery,
- 2 stabilization, and improved health outcomes.

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## AB 1377 (Friedman) Analysis and Recommendation

**TITLE:** Homeless Housing, Assistance, and Prevention program: Round 3

**AUTHOR:** Friedman (D-Glendale)

**CO-AUTHORS:** Carrillo (D-Los Angeles), Kalra (D-San Jose)

**SPONSOR:** Los Angeles County Metropolitan Transportation Authority (LA Metro)

**RECOMMENDATION:** Support

**BACKGROUND:** The Homeless Housing, Assistance, and Prevention (HHAP) program was created to distribute state funds to address homelessness by providing jurisdictions with one-time grant funds to support regional coordination and expand or develop local capacity to address their immediate homelessness challenges. The program is informed by a best-practices framework focused on moving homeless individuals and families into permanent housing and supporting efforts to keep them stably housed. Funding has been allocated to continuums of care, cities, counties, and tribes in 4 rounds so far. The program is administered by the Interagency Council on Homelessness.

Beginning with Round 3, the program requires applicants to provide specified information for all rounds of program allocations through a data collection, reporting, performance monitoring, and accountability framework, as established by the council. This includes data on the applicant's progress towards meeting their outcome goals, to be submitted annually. If the applicant has not made significant progress towards those goals, they must submit a description of barriers and possible solutions as well as accept technical assistance from the council.

**PURPOSE:** Assembly Bill (AB) 1377 would require HHAP program funding recipients to provide data and a narrative summary of specific and quantifiable steps that they have taken to improve the delivery of housing and services to people experiencing homelessness or at risk of homelessness, on transit facilities owned and operated by transit districts that operate in their jurisdiction. This new accountability would ensure that funding recipients take action to reduce homelessness on transit.

**DISTRICT IMPACT:** AB 1377 would require HHAP program funding recipients located within BART's service area to share data and a narrative summary as to actions they have taken to improve homelessness on transit facilities owned and operated by BART. BART is not authorized to apply for HHAP funds and allocates already limited operating funds to cost-sharing agreements with cities and counties, local law enforcement, and nonprofit agencies to ensure unhoused populations are being served. AB 1337 would place further pressure on funding recipients to describe the steps taken to address homelessness and related quality of life issues impacting the District.

**KNOWN SUPPORT/OPPOSITION:** In addition to the sponsor, support on file includes the Central City Association of Los Angeles.

**STATUS:** Passed the Assembly Committee on Housing and Community Development (8-0) on April 12 and referred to the Assembly Committee on Appropriations. Hearing set for April 26.

AMENDED IN ASSEMBLY APRIL 13, 2023

AMENDED IN ASSEMBLY MARCH 9, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

## ASSEMBLY BILL

**No. 1377**

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**Introduced by Assembly Member Friedman**  
*(Coauthors: Assembly Members Wendy Carrillo and Kalra)*

February 17, 2023

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An act to amend Section 50223 of the Health and Safety Code, relating to homelessness.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1377, as amended, Friedman. Homeless Housing, Assistance, and Prevention Program: Round 3.

Existing law establishes, among various other programs intended to address homelessness in this state, the Homeless Housing, Assistance, and Prevention program for the purpose of providing jurisdictions with one-time grant funds to support regional coordination and expand or develop local capacity to address their immediate homelessness challenges informed by a best-practices framework focused on moving homeless individuals and families into permanent housing and supporting the efforts of those individuals and families to maintain their permanent housing. Existing law provides for the allocation of funding under the program among continuums of care, cities, counties, and tribes in 4 rounds, which are to be administered by the Interagency Council on Homelessness.

Existing law, beginning with round 3 of the program, requires applicants to provide specified information for all rounds of program allocations through a data collection, reporting, performance monitoring,

**AB 1377**

— 2 —

and accountability framework, as established by the council. This includes data on the applicant's progress towards meeting their outcome goals, to be submitted annually, for each year of the program, and other information if the applicant has not made significant progress towards those goals.

This bill would also require data and a narrative summary of specific and quantifiable steps that the applicant has taken to improve the delivery of housing and services to people experiencing homelessness or at risk of homelessness, on transit ~~properties that operate facilities owned and operated by a transit district, as defined, in their jurisdiction.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 50223 of the Health and Safety Code is  
2 amended to read:

3 50223. (a) Beginning with round 3 of the program, in addition  
4 to the data required under Sections 50221 and 50222, applicants  
5 shall provide the following information for all rounds of program  
6 allocations through a data collection, reporting, performance  
7 monitoring, and accountability framework, as established by the  
8 council:

9 (1) (A) Data on the applicant's progress towards meeting their  
10 outcome goals, which shall be submitted annually on December  
11 31 of each year through the duration of the program.

12 (B) If the applicant has not made significant progress toward  
13 their outcome goals, the applicant shall submit a description of  
14 barriers and possible solutions to those barriers.

15 (C) Applicants that do not demonstrate significant progress  
16 towards meeting outcome goals shall accept technical assistance  
17 from the council and may also be required to limit the allowable  
18 uses of these program funds, as determined by the council.

19 (D) Data and a narrative summary of specific and quantifiable  
20 steps that the applicant has taken to improve the delivery of housing  
21 and services to people experiencing homelessness or at risk of  
22 homelessness, on transit ~~properties that operate facilities owned~~  
23 *and operated by a transit district, as defined by Section 99213 of*  
24 *the Public Utilities Code*, in their jurisdiction.



1 (2) (A) A quarterly fiscal report of program funds expended  
2 and obligated in each allowable budget category approved in their  
3 application for program funds.

4 (B) If the applicant has not made significant progress toward  
5 their outcome goals, then the applicant shall report on their  
6 outcome goals in their quarterly report.

7 (3) The council shall compile and post a statewide report that  
8 aggregates each applicant's outcome goals into a single statewide  
9 set of metrics.

10 (b) No later than October 1, 2026, each recipient that receives  
11 a round 3 program allocation shall submit to the council a final  
12 report in a format provided by the council, as well as detailed uses  
13 of all program funds.

14 (c) No later than October 1, 2027, each recipient that receives  
15 a round 4 program allocation shall submit to the council a final  
16 report in a format provided by the council, as well as detailed uses  
17 of all program funds.

## SB 434 (Min) Analysis and Recommendation

**TITLE:** Transit operators: street harassment survey

**AUTHORS:** Min (D-Irvine)

**CO-AUTHOR:** Haney (D-San Francisco)

**SPONSOR:** Stop AAPI Hate

**RECOMMENDATION:** Support

**BACKGROUND:** The Unruh Civil Rights Act requires public agencies, including transit districts, to provide each person full and equal accommodations, advantages, facilities, privileges, or services regardless of factors such as sex, race, color, religion, disability, medical condition, sexual orientation, citizenship, among others. Despite this legal protection, women and other vulnerable communities are often unable to access public transit safely due to street harassment, which can include unwanted sexual and racialized comments and slurs, whistling, leering, and other intimidating actions.

Since its official launch on March 19, 2020, the Stop AAPI Hate coalition has received over 9,000 reports of hate incidents against Asian Americans and Pacific Islanders from across the country. Almost 50 percent of incidents took place at public venues, including streets, parks, and on transit. To that end, last year Senator Min authored Senate Bill (SB) 1161, which required the Mineta Transportation Institute at San Jose State University (MTI), to develop and make available on its website by December 31, 2023, a survey to allow for consistency in the collection of data to inform efforts to improve rider safety and reduce street harassment on transit. The BART Board of Directors voted to support SB 1161 on June 9, 2022, and it passed the Legislature and was signed into law by Governor Newsom later that year. BART was selected to be a pilot agency for the draft survey to test length and clarity, and the pilot on our trains recently concluded.

**PURPOSE:** SB 434 seeks to address the issue of street harassment on public transit by requiring the top ten public transit operators by ridership, upon appropriation of funds by the Legislature, to collect and publish survey data and conduct outreach activities for the purpose of informing their efforts to improve the safety of riders and reduce street harassment on transit. It would also require transit operators, by December 31, 2024, to publish the survey data on their websites and notify the Governor and Legislature of its publication.

**DISTRICT IMPACT:** According to preliminary analysis by the California Transit Association (CTA), the ten transit operators subject to the bill would be LA Metro, San Francisco Municipal Railway (Muni), BART, San Diego Metropolitan Transit System, Alameda-Contra Costa Transit (AC Transit), Orange County Transportation Authority (OCTA), Long Beach Transit, Santa Clara Valley Transportation Authority (VTA), Sacramento Regional Transit, and the Los Angeles Department of Transportation.

BART, along with these other agencies, would be required to collect survey data from its riders and to conduct focus groups paying special attention to underrepresented populations. Transit operators would be able to use the survey developed by MTI or their own surveys. After the data is collected, transit operators would be required, by December 31, 2024, to publish the survey data on their websites and inform the Governor and Legislature of its publication. Additionally, if an operator has collected data or conducted outreach activities required by the bill in the last five years before the effective date of the bill, they are deemed to be in compliance with its requirements. As BART has conducted its Not One More Girl campaign, the argument can be made that the District has satisfied the bill's requirements.

**KNOWN SUPPORT/OPPOSITION:** Supporters include numerous equity and racial and social justice organizations located throughout the state. No opposition currently on file.

**STATUS:** Passed the Senate Committee on Transportation (14-0) on March 29. On April 17, it was heard in the Senate Committee on Appropriations and placed on the suspense file.

AMENDED IN SENATE MARCH 16, 2023

## SENATE BILL

**No. 434**

**Introduced by Senator Min**  
(Coauthor: Assembly Member Haney)

February 13, 2023

An act to add Section 99178 to the Public Utilities Code, relating to transportation.

### LEGISLATIVE COUNSEL'S DIGEST

SB 434, as amended, Min. Transit operators: street harassment survey.

Existing law creates various transit districts throughout the state, with specified powers and duties relative to providing public transit service. Existing law provides various provisions applicable to all public transit and transit districts. Existing law requires the Mineta Transportation Institute at San Jose State University to, on or before December 31, 2023, develop and make available on its internet website a survey for the purpose of promoting consistency in the collection of specified survey data to inform efforts to improve the safety of riders and reduce street harassment on public transit.

This bill would require a transit operator, as defined, upon ~~allocation~~ *appropriation* of ~~certain~~ funds by the Legislature, to collect *and publish* specified survey data for the purpose of informing efforts to improve the safety of riders and reduce street harassment on public transit on or before ~~June 30~~, *December 31*, 2024. The bill would require a transit operator to conduct outreach activities with subpopulations of riders who are underrepresented in surveys and impacted by street harassment to gain insight into the perspectives of these riders based on their experiences. *The bill would authorize a transit operator to collect survey data in multiple languages to reach limited-English-proficient riders*

*impacted by street harassment, as provided. The bill would require a transit operator to publish and make publicly available on its internet website the survey data collected pursuant to these provisions and promptly notify the Governor and the Legislature of publication of the survey data. The bill would provide that specified information collected by a transit operator in the 5 years before the effective date of this bill is deemed to be survey data collected by the transit operator for purposes of the bill, and that specified outreach activity conducted by a transit operator in the 5 years before the effective date of this bill is deemed to be outreach activities conducted by the transit operator for purposes of the bill. To the extent the bill imposes additional duties on a local agency, the bill would impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Public transportation ensures that each person may enjoy
- 4 the freedom of movement. Providing a safe journey for women
- 5 and other vulnerable communities will increase ridership
- 6 throughout the public transit system.
- 7 (b) The State of California encourages transit operators to
- 8 recognize a definition of rider safety that acknowledges safety is
- 9 not merely the freedom from physical harm but also the freedom
- 10 to take public transit without street harassment.
- 11 (c) Street harassment on public transit diminishes ridership
- 12 growth, undermines riders' safety, hurts all riders, and can reinforce
- 13 social inequality and economic hardship throughout a rider's
- 14 lifetime.
- 15 (d) Women and girls, particularly those of color and those in
- 16 the LGBTQ+ communities, are often the targets of street

1 harassment on public transit. Such harassment includes unwanted  
2 sexual and racialized comments and slurs, whistling, leering, and  
3 other intimidating actions. According to a 2019 statewide study  
4 by the University of California, San Diego Center on Gender  
5 Equity and Health, 77 percent of women experience sexual  
6 harassment in a public space, including 29 percent on mass transit.  
7 Furthermore, women who identify as lesbian or bisexual are more  
8 likely to report experiencing sexual harassment than straight  
9 women.

10 (e) A 2019 bay area study by Alliance for Girls found that girls,  
11 including transgender girls, cisgender girls, and nonconforming  
12 youth, in the Cities of San Francisco, San Jose, and Oakland  
13 expressed feeling unsafe on public transportation due to the daily  
14 harassment they experience on buses and trains on their way to  
15 and from school.

16 (f) LGBTQ riders face elevated risk of harassment and  
17 discrimination on transit systems, according to a 2018 report by  
18 the Movement Advancement Project. Additionally, 2017 data from  
19 the Center for American Progress found that 11 percent of  
20 transgender people and 9 percent of LGBT people with disabilities  
21 avoided public transportation due to fear of discrimination.

22 (g) According to a 2019 report by the Los Angeles Metropolitan  
23 Transportation Authority, safety is the primary barrier to riding  
24 transit for women. Fear of harassment leads to behavioral  
25 adjustments and precautions by women riders, including leaving  
26 a bus or train mid-trip to avoid harassment, avoiding travel in the  
27 evening, avoiding certain settings such as crowded buses, and not  
28 walking alone.

29 (h) Low-income women face even greater barriers to movement,  
30 including safety concerns, poor walking environments, lower  
31 access to driver's licenses, and transit inefficiencies such as long  
32 travel times and infrequent service. Unlike more affluent women,  
33 low-income women have fewer private transportation options.

34 (i) Women of color on public transit experience even more  
35 threats to their safety. According to the Los Angeles Department  
36 of Transportation, women of color report feeling more unsafe on  
37 public transportation than women who identify as white.

38 (j) Data collected by the Stop AAPI Hate coalition finds that  
39 nearly 40 percent of the nationwide acts of hate against Asian  
40 Americans and Pacific Islanders happen in California, and hate

1 incidents involving women make up nearly two-thirds of all reports  
2 in the state. Most of these hate incidents involve verbal harassment  
3 and occur in public spaces, including public transit.

4 (k) Though they experience higher levels of harassment, women  
5 of color are also more dependent on public transit. According to  
6 the Center for American Progress, women of color experience a  
7 persistent gender wage gap in conjunction with racial bias in the  
8 workplace, which leaves them perpetually underpaid. Without the  
9 economic means for private transportation options, women of color  
10 are more likely to be dependent on public transportation.

11 (l) Riders significantly underreport instances of street  
12 harassment. Research published by the University of California,  
13 Los Angeles Lewis Center for Regional Policy Studies finds that  
14 only 10 percent of people who experienced or observed sexual  
15 harassment on transit reported the incident. Research collected by  
16 the Mineta Transportation Institute at San Jose State University  
17 finds that street harassment is underreported globally as women  
18 are often embarrassed and reluctant to report when public culture  
19 puts the blame on the victims of harassment.

20 (m) The Legislature affirms that protecting transit riders' safety,  
21 combating street harassment that could be experienced in transit  
22 journeys, and ensuring equal access to transportation are public  
23 policy priorities.

24 (n) Public transit operators may attract new riders by taking  
25 steps to enhance rider safety and to combat street harassment.  
26 When riders feel safe waiting at transit stops and riding transit,  
27 they may increasingly use public transit. In turn, the growing  
28 ridership helps to enable the public transit system to thrive.

29 SEC. 2. Section 99178 is added to the Public Utilities Code,  
30 immediately following Section 99177, to read:

31 99178. (a) ~~For the purpose~~ *purposes* of this section, the  
32 ~~following definitions apply:~~ *terms "street harassment," "survey*  
33 *data," and "transit operator" have the same meanings as defined*  
34 *in Section 99177.*

35 (1) ~~"Street harassment" means words, gestures, or actions~~  
36 ~~directed at a specific person in a public place, without the consent~~  
37 ~~of that person, because of a characteristic listed or defined in~~  
38 ~~Section 11135 of the Government Code, that the person experiences~~  
39 ~~as intimidating, alarming, terrorizing, or threatening to their safety.~~

For the purposes of this section, street harassment because of age shall include any chronological age.

(2) “Survey data” means information regarding public transit riders and their experiences using public transit, including, but not limited to, demographic information about riders and information about their experiences with safety, including, but not limited to, street harassment.

(3) “Transit operator” means the 10 transit operators, as defined in Section 99210, with the most unlinked passenger trips in 2019 in the state, according to the National Transit Database.

(b) (1) On or before June 30, December 31, 2024, a transit operator shall, upon allocation appropriation of funds by the Legislature from the Public Transportation Account, Legislature, collect and publish survey data data, in accordance with this section, to the extent feasible with the funding it receives to implement this section, for the purpose of informing their efforts to improve the safety of riders and reduce street harassment on public transit.

(2) The

(c) A transit operator shall collect, at a minimum, the information described in paragraph (2) of subdivision (b) of Section 99177. The

(d) A transit operator may, but is not required to, use the survey made available pursuant to Section 99177 and may ask additional questions beyond those in the survey.

(e)

(e) A transit operator shall conduct outreach activities with subpopulations of riders who are underrepresented in surveys and impacted by street harassment to gain insight into the perspectives of these riders based on their experiences. These activities Activities may include focus groups, participatory workshops, or other methods of engaging riders. Subpopulations may include, but are not limited to, women riders, non-English-speaking riders, LGBTQ+ riders, and riders with disabilities.

(f) A transit operator may collect survey data in multiple languages to reach limited-English-proficient riders impacted by street harassment. The languages may be determined by existing data on riders or the top non-English languages used by limited-English-proficient persons in the community served by the



1 *transit operator according to the most recent American Community*  
 2 *Survey by the United States Census Bureau.*

3 *(g) (1) A transit operator shall publish and make publicly*  
 4 *available on its internet website all survey data collected pursuant*  
 5 *to this section, including the information described in paragraph*  
 6 *(2) of subdivision (b) of Section 99177, as required by subdivision*  
 7 *(c).*

8 *(2) Notwithstanding paragraph (1), a transit operator shall not*  
 9 *publish any personally identifiable information.*

10 *(3) A transit operator shall promptly notify the Governor and*  
 11 *the Legislature of the publication of the survey data.*

12 ~~(d)~~

13 *(h) Notwithstanding anything in this section to the contrary,*  
 14 *any information described in paragraph (2) of subdivision (b) of*  
 15 *Section 99177 collected by a transit operator in the five years*  
 16 *before the effective date of this section shall be deemed to be*  
 17 *survey data collected by the transit operator pursuant to this section.*  
 18 *section, and any outreach activities conducted by a transit operator*  
 19 *to collect that information in the five years before the effective*  
 20 *date of this section shall be deemed to have been conducted by the*  
 21 *transit operator pursuant to this section.*

22 ~~(e)~~

23 *(i) Nothing in this section shall be construed to create new or*  
 24 *additional liability for a transit operator for failing to respond to*  
 25 *an incident of street harassment.*

26 SEC. 3. If the Commission on State Mandates determines that  
 27 this act contains costs mandated by the state, reimbursement to  
 28 local agencies and school districts for those costs shall be made  
 29 pursuant to Part 7 (commencing with Section 17500) of Division  
 30 4 of Title 2 of the Government Code.

## S. 24 (Feinstein) and H.R. 516 (Lieu) Analysis and Recommendation

**TITLE:** The Fighting Homelessness Through Services and Housing Act

**AUTHORS:** Sen. Dianne Feinstein (D-CA), Rep. Ted Lieu (D-CA)

**CO-SPONSORS:** Sens. Padilla (D-CA), Klobuchar (D-MN), Bennet (D-CO), Shaheen (D-NH), Blumenthal (D-CT); Reps. Kamlager-Dove (D-CA), Garcia (D-CA), Swalwell (D-CA), Moskowitz (D-CA)

**RECOMMENDATION:** Support

**BACKGROUND:** Homelessness on the BART system is a major impediment to ridership recovery. Efforts to make BART directly eligible for homelessness funding from the federal and state governments have so far been unsuccessful. On the state level, BART is considering at its April 27, 2023, meeting supporting Assembly Bill 1377 (Friedman), which would require jurisdictions that receive state Homeless Housing, Assistance and Prevention funds to report on actions that they have taken to address homelessness on transit properties located in their jurisdictions. Cities, counties, and continuums of care are continually looking for additional funding for programs to address homelessness. BART previously supported a similar bill, S. 923 (Feinstein), in 2019.

**PURPOSE:** The Fighting Homelessness Through Services and Housing Act:

- Authorizes \$1 billion annually for five years, for a total of \$5 billion, to fund supportive housing models that provide comprehensive services and intensive case management.
- Requires a 25 percent match for services and housing from non-federal funds.
- Allows grants to be used for any combination of operations and capital building costs, as long as housing and services requirements are fulfilled.
- Funds would be available for both planning and implementation grants.
- Requires grantees to track outcomes and report on housing stability and improvements in health and wellbeing, including education of children.

Grant eligibility and requirements:

- Grants may go to local governmental entities, such as cities, counties, regional collaboratives and tribal governments.
- Services must address issues including mental health; substance use disorders; disabling or other chronic health conditions; educational and job training/employment outcomes; and life skills classes.
- Intensive case management must be provided with a ratio of no greater than 1 case manager to every 20 people served.

**DISTRICT IMPACT:** This infusion of federal funds into programs in the jurisdictions that BART serves would allow for more robust partnerships to address homelessness on the system and in areas around BART properties. While the District, as a regional government body, would be eligible to apply for grants, given the level of services that the District would need to provide in order to receive a grant, it would more likely support applications by the jurisdictions in which it operates.

**KNOWN SUPPORT/OPPOSITION:** None on file.

**STATUS:** S. 24 is referred to the Senate Committee on Health, Education, Labor and Pensions. No hearing date set. H.R. 516 is referred to the House Committee on Financial Services. No hearing date set.

118TH CONGRESS  
1ST SESSION

# S. 24

To fight homelessness in the United States by authorizing a grant program within the Health Resources and Services Administration for housing programs that offer comprehensive services and intensive case management for homeless individuals and families.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 23 (legislative day, JANUARY 3), 2023

Mrs. FEINSTEIN (for herself, Mr. PADILLA, Ms. KLOBUCHAR, and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To fight homelessness in the United States by authorizing a grant program within the Health Resources and Services Administration for housing programs that offer comprehensive services and intensive case management for homeless individuals and families.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fighting Homelessness  
5 Through Services and Housing Act”.

1 **SEC. 2. ESTABLISHMENT OF GRANT PROGRAM.**

2 (a) IN GENERAL.—The Administrator of the Health  
3 Resources and Services Administration (referred to in this  
4 section as the “Administrator”), in consultation with the  
5 working group established under subsection (b), shall es-  
6 tablish a grant program to award competitive grants to  
7 eligible entities for the planning and implementation of  
8 programs to address homelessness.

9 (b) WORKING GROUP.—The Administrator shall es-  
10 tablish an interagency working group to provide advice to  
11 the Administrator in carrying out the program under sub-  
12 section (a). The working group shall include representa-  
13 tives from the United States Interagency Council on  
14 Homelessness, Department of Education, Department of  
15 Health and Human Services, Department of Housing and  
16 Urban Development, Department of Labor, Department  
17 of Transportation, Department of Veterans Affairs, De-  
18 partment of Agriculture, Department of the Treasury, De-  
19 partment of Justice, and Bureau of Indian Affairs.

20 (c) TYPES OF GRANTS.—

21 (1) IMPLEMENTATION GRANTS.—

22 (A) IN GENERAL.—Under the program  
23 under subsection (a), the Administrator shall  
24 award 5-year implementation grants to eligible  
25 entities to assist such entities in carrying out  
26 activities, and paying capital building costs, as-

sociated with the provision of housing and services to homeless individuals and families, including homeless children and youths (as defined by section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), or those at risk of becoming homeless.

(B) AMOUNT.—The amount awarded to an entity under a grant under this paragraph shall not exceed \$25,000,000.

(C) MATCHING REQUIREMENT.—With respect to the costs of the activities to be carried out by an entity under a grant under this paragraph, the entity shall make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that equals 25 percent of the amount of the grant.

(2) PLANNING GRANTS.—

(A) IN GENERAL.—Under the program under subsection (a), the Administrator shall award 1-year planning grants to eligible entities to assist such entities in developing comprehensive plans to address homelessness in the communities and regions served by such entities or to enhance the effectiveness of existing pro-

1           grams that serve homeless individuals and fami-  
2           lies, including homeless children and youths (as  
3           defined by section 725 of the McKinney-Vento  
4           Homeless Assistance Act (42 U.S.C. 11434a)),  
5           or those at risk of becoming homeless.

6                   (B) AMOUNT.—The amount awarded to an  
7           entity under a grant under this paragraph shall  
8           not exceed \$100,000, and such amount shall  
9           not be subject to any matching requirement.

10          (d) ELIGIBILITY.—

11                   (1) IN GENERAL.—To be eligible to receive a  
12          grant under the program under subsection (a), an  
13          entity shall—

14                           (A) be a governmental entity (at the coun-  
15                           ty, city, regional, or locality level), Indian tribe,  
16                           or tribal organization;

17                           (B) demonstrate that the capacity of the  
18                           entity for providing services under the grant in-  
19                           cludes the ability to address mental health, sub-  
20                           stance use disorder and recovery services, dis-  
21                           abling or other chronic health conditions, edu-  
22                           cational and job training or employment out-  
23                           comes, and life skills needs (including financial  
24                           literacy); and

1 (C) submit to the Administrator an appli-  
2 cation that includes an assurance that, in car-  
3 rying out activities under the grant, the entity  
4 will—

5 (i) ensure stable housing, intensive  
6 case management, and comprehensive serv-  
7 ices that include, at minimum, mental  
8 health, substance use disorder treatment  
9 and recovery services, education and job  
10 training, age-appropriate services for chil-  
11 dren, and life skills training (such as fi-  
12 nancial literacy training);

13 (ii) coordinate with the population to  
14 be served by the entity to ensure that sup-  
15 portive services are tailored to meet the  
16 specific and actual needs of the individuals  
17 and families served;

18 (iii) coordinate with local law enforce-  
19 ment, courts (including specialized courts),  
20 probation, and other public services agen-  
21 cies to conduct outreach and better iden-  
22 tify at-risk or homeless populations that  
23 would benefit from services offered by the  
24 entity;

1 (iv) follow trauma-informed best prac-  
2 tices to address the needs of the popu-  
3 lations to be served;

4 (v) provide services under the grant  
5 on-site or in-home as appropriate;

6 (vi) provide assistance in addressing  
7 the transportation needs of individuals for  
8 services provided under the grant off-site;  
9 and

10 (vii) comply with additional require-  
11 ments, if the entity intends to serve fami-  
12 lies with children under the grant, to en-  
13 sure—

14 (I) that services include chil-  
15 dren's behavioral and mental health  
16 services, early childhood education,  
17 regular and age-appropriate children's  
18 programming and activities, child  
19 health, development, and nutrition  
20 screening (including coordination of  
21 medical and well-child services), and  
22 parenting classes and support pro-  
23 grams;

24 (II) in conditions where family  
25 housing is provided in a central facil-



1                   ity and not in mixed units in a com-  
2                   mercial building, that a safe space for  
3                   play and age-appropriate activities is  
4                   available on-site and has regular  
5                   hours of operation; and

6                   (III) that the entity has in place  
7                   protocol for staff training and best  
8                   practices to identify and prevent child  
9                   trafficking, abuse, and neglect.

10               (2) CASE MANAGEMENT.—An entity receiving a  
11               grant under this section shall ensure that case man-  
12               agement provided by the entity under the grant does  
13               not exceed a ratio of 1 caseworker to 20 cases.

14               (3) PARTNERSHIPS.—An entity may enter into  
15               a partnership with more than one provider that may  
16               include a local health agency, non-profit service pro-  
17               viders, medical and mental health providers, housing  
18               providers, and other service providers as necessary.

19               (e) OVERSIGHT REQUIREMENTS.—

20               (1) ANNUAL REPORTS.—Not later than 1 year  
21               after the date on which a grant is received by an en-  
22               tity under subsection (a), and annually thereafter  
23               for the term of the grant, such entity shall submit  
24               to the Administrator a report on the activities car-  
25               ried out under the grant. Such report shall include,

1 with respect to activities carried out under the grant  
2 in the community served, measures of outcomes re-  
3 lating to—

4 (A) whether individuals and families who  
5 are served continued to have housing and did  
6 not experience intermittent periods of homeless-  
7 ness;

8 (B) whether individuals and families who  
9 are served see improvements in their physical  
10 and mental health, have access to a specific pri-  
11 mary care provider, promptly receive any need-  
12 ed health care, and have a health care plan that  
13 meets their individual needs (including access to  
14 mental health and substance use treatment as  
15 applicable, and family-based treatment models);

16 (C) whether children who are served are  
17 enrolled in school, attend regularly, and are re-  
18 ceiving services to meet their educational needs;

19 (D) whether children who are served have  
20 access to trauma-informed mental health care  
21 and screening for any mental and behavioral  
22 health needs, as well as other services to meet  
23 their needs, as appropriate;

24 (E) how grant funds are used; and

1 (F) other matters determined appropriate  
2 by the Administrator.

3 (2) RULE OF CONSTRUCTION.—Nothing in this  
4 subsection shall be construed to condition the receipt  
5 of future housing and other services by individuals  
6 under the grant on the outcomes detailed in the re-  
7 ports submitted under paragraph (1).

8 (f) DEFINITION.—In this section, the terms “Indian  
9 tribe” and “tribal organization” have the meanings given  
10 such terms in section 4 of the Indian Self-Determination  
11 and Education Assistance Act (25 U.S.C. 5304) and shall  
12 include tribally designated housing entities (as defined in  
13 section 4(22) of the Native American Housing Assistance  
14 and Self-Determination Act of 1996 (25 U.S.C.  
15 4103(22))) and entities that serve Native Hawaiians (as  
16 defined in section 338K(c) of the Public Health Service  
17 Act (42 U.S.C. 254s(c))).

18 (g) AUTHORIZATION OF APPROPRIATIONS.—There is  
19 authorized to be appropriated to carry out this section,  
20 \$1,000,000,000 for each of fiscal years 2023 through  
21 2028, of which—

22 (1) not less than 5 percent of such funds shall  
23 be awarded to Indian tribes and tribal organizations;

24 (2) \$5,000,000 shall be made available for plan-  
25 ning grants under subsection (c)(2); and

10

- 1 (3) the remainder shall be made available for
- 2 implementation grants under subsection (c)(1).

○

## AB 930 (Friedman) Analysis and Recommendation

**TITLE:** Local government: Reinvestment in Infrastructure for a Sustainable and Equitable California (RISE) Districts

**AUTHORS:** Friedman (D-Glendale)

**SPONSORS:** CivicWell, Council of Infill Builders, San Francisco Bay Area Planning and Urban Research Association (SPUR)

**RECOMMENDATION:** Support and Seek Amendments

**BACKGROUND:** Redevelopment agencies (RDAs) were first created by the Legislature in 1945, with the purpose of eliminating blight in an area through development. These agencies relied on federal funding until 1952; that year, voters approved Proposition 18 to add Article XVI, Section 16 to the California Constitution, which authorizes funding for redevelopment by means of a self-financing schedule that pays for the redevelopment project with a tax increment derived from any increase in the assessed value of property within the redevelopment project area. Generally, property tax increment financing involves a local government forming a tax increment financing district to issue bonds and use the bond proceeds to pay project costs within the boundaries of a specified project area. To repay the bonds, the district captures increased property tax revenues that are generated when projects financed by the bonds increase assessed property values within the project area.

In 2011, facing a severe budget shortfall, then-Governor Jerry Brown proposed eliminating RDAs in order to deliver more property taxes to other local agencies. Ultimately, the Legislature approved, and the Governor signed two measures: Assembly Bill, First Extraordinary Session (ABX1) 26 (Blumenfield) and ABX1 27 (Blumenfield), that together dissolved RDAs as they existed at the time and created a voluntary redevelopment program on a smaller scale. In response, the California Redevelopment Association (CRA) and the League of California Cities, along with other parties, filed suit challenging the two measures. The Supreme Court denied the petition for peremptory writ of mandate with respect to ABX1 26. However, the Court did grant CRA's petition with respect to ABX1 27. The California Supreme Court in *California Redevelopment Association v. Matosantos* upheld the Legislature's power to dissolve all RDAs and as a result all RDAs were required to dissolve as of February 1, 2012.

After the 2011 *Matosantos* decision, legislators enacted several measures creating new tax increment financing tools to pay for local economic development. Current law allows certain local agencies to form a community revitalization authority within a community revitalization and investment area and authorizes the authority to provide for low-income and moderate-income housing, and issuance of bonds. A community revitalization and investment plan can provide for the division of taxes within the plan area.

**PURPOSE:** Assembly Bill (AB) 930 would allow the legislative bodies of two or more cities or counties to jointly form a Reinvestment in Infrastructure for a Sustainable and Equitable California district (RISE district). The bill would authorize a special district to join a RISE district, by means of a resolution passed by its governing board. It would also require the Office of Planning and Research (OPR) to develop standards for the formation of RISE districts no later than November 30, 2025. The bill would provide for the establishment of a governing board of a RISE district with representatives of each participating local government. The RISE district's governing board would be required to prepare and adopt a RISE development plan that includes an identification of any intended source of revenue for financing a project or projects within the boundaries of the district and an identification of any tools or authority needed to implement the RISE development plan.

At least 50% of the total funding received by the district would be required to be spent on infill supportive infrastructure, and at least 30% of the total funds would be required to be spent on residential units that are restricted to persons and families of low or moderate income. For purposes of this bill, “infill supportive infrastructure” includes utilities upgrades, environmental cleanup, pedestrian and bicycle improvements, and transit facilities and investments. All projects that receive funding from a RISE district must either be located within one-half mile of public transit, or at least 75% of the development site must adjoin parcels that are developed with urban uses. Rise development plans are subject to public hearings, OPR review, and other periodic reviews.

Once funded by the Legislature, the Governor’s Office of Business and Economic Development (GO-Biz) would establish the RISE Revolving Loan Fund. The purpose of the fund is to provide RISE districts with initial startup funding for projects contained within the RISE district’s certified RISE development plan. RISE district funded projects must comply with specified wage and labor standards, including a requirement that all construction workers be paid at least the general prevailing rate of wages. The bill would require the Labor Commissioner to enforce the obligation to pay prevailing wages; however, these labor standards would not apply to a project that is entirely financed by private sources.

**DISTRICT IMPACT:** AB 930 would create a new financing tool for local governments and special districts to increase investment in infrastructure and transit-oriented infill development projects. The bill supports BART’s Transit Oriented Development Policy and goals by investing in housing and infrastructure that is not auto dependent. Staff are recommending a Support and Seek Amendments position to engage with the author and sponsors on the following provisions.

#### **Ability of Special Districts to Form a RISE District**

A previous version of the bill included the ability for two or more special districts or transit agencies to jointly form a RISE district. However, subsequent amendments removed special districts and transit agencies from the list, leaving just cities and counties, with the ability of a special district to join a RISE district already formed, by means of a resolution passed by its governing board. Staff recommend requesting an amendment to allow BART, by way of its status as a special district or a transit district, to be empowered as an entity to partner with a city or county to form a RISE district.

#### **Clarifying Definition of “Transit Facilities and Investments”**

The bill includes language that at least 50% of total funds received by a RISE district be spent on “infill supportive infrastructure,” which includes “transit facilities and investments.” Staff recommend requesting an amendment to clarify that transit facilities include intercity and commuter rail, to ensure that Link21 projects are included.

#### **Clarifying Definitions of “Transit” and “Public Transit”**

Several provisions of the bill refer to proximity to or otherwise access to “transit” or “public transit” when defining areas to be prioritized for the formation of RISE districts. Currently, there is no provision in any definitions of these terms to include possible future planned stations. Staff recommend requesting an amendment to clarify that the definition of transit for purposes of this legislation include both existing and planned stations, to accommodate for future stations as part of the Link21 project.

#### **Exempting Certain Actions from CEQA**

A previous version of the bill exempted certain actions pertaining to RISE districts from the California Environmental Quality Act (CEQA). These included the creation of a RISE district and the acquisition and disposal of real property by a RISE district. Staff recommend requesting an amendment to restore these exemptions, to avoid potential delays to the formation and operation of a RISE district.

**KNOWN SUPPORT/OPPOSITION:** In addition to the sponsors, support on file includes East Bay YIMBY, Grow the Richmond, How to ADU, Monterey County, Mountain View YIMBY, Napa-Solano for

Everyone, Northern Neighbors, Peninsula for Everyone, People for Housing Orange County, Progress Noe Valley, San Francisco YIMBY, San Luis Obispo YIMBY, Santa Cruz YIMBY, Santa Rosa YIMBY, Streets for All, South Bay YIMBY, Southside Forward, Streets for People, Sonoma Land Trust, Southern California Association of Governments, Urban Environmentalists, Ventura County YIMBY, and YIMBY Action.

Opponents include the Howard Jarvis Taxpayers Association. The State Building & Construction Trades Council of California has an Oppose Unless Amended position, with their concerns focusing on the labor provisions in the bill.

**STATUS:** Passed the Assembly Committee on Jobs, Economic Development, and the Economy (4-0) on April 25 and is currently under consideration by the Assembly Committee on Appropriations.

AMENDED IN ASSEMBLY APRIL 26, 2023

AMENDED IN ASSEMBLY APRIL 11, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

## ASSEMBLY BILL

**No. 930**

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**Introduced by Assembly Member Friedman**

February 14, 2023

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An act to amend Section 53993 of, to add Article 16 (commencing with Section 12100.170) to Chapter 1.6 of Part 2 of Division 3 of Title 2 of, and to add Division 7 (commencing with Section 62400) to Title 6 of, the Government Code, relating to local government.

### LEGISLATIVE COUNSEL'S DIGEST

AB 930, as amended, Friedman. Local government: Reinvestment in Infrastructure for a Sustainable and Equitable California (RISE) districts.

Existing law authorizes certain local agencies to form a community revitalization authority within a community revitalization and investment area, as defined, and authorizes an authority to, among other things, provide for low- and moderate-income housing and issue bonds, as provided. Existing law authorizes a community revitalization and investment plan to provide for the division of taxes within the plan area.

This bill would authorize the legislative bodies of 2 or more cities or counties to jointly form a Reinvestment in Infrastructure for a Sustainable and Equitable California district (RISE district) in accordance with specified procedures. The bill would authorize a special district to join a RISE district, by resolution, as specified. The bill would require the Office of Planning and Research (OPR) to develop standards for the formation of RISE districts no later than November 30, 2025.



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The bill would provide for the establishment of a governing board of a RISE district with representatives of each participating local government.

After the formation of a RISE district, the bill would require that district's governing board to prepare, or cause to be prepared, and adopt a RISE development plan that includes an identification of any intended source of revenue for financing a project or projects within the boundaries of the district and an identification of any tools or authority needed to implement the RISE development plan, as provided. The bill would require the standards developed by OPR to require a RISE development plan to provide that at least ~~50 percent~~ 50% of the total funding received by the district be spent on infill supportive infrastructure, as specified, and to provide that at least ~~20 percent~~ 30% of the total ~~number of funds received by the district be~~ *that are* restricted to persons and families of low or moderate income, as specified. *The bill would require all projects that receive funding from a RISE district to either be located within 1/2 mile of public transit or at least 75% of the site of the development to adjoin parcels that are developed with urban uses.* The bill would require the RISE district to consider adoption of the RISE development plan at 3 public hearings that take place at least 30 days apart and to provide specified notice to land owners within the RISE district, as specified. The bill, after the RISE development plan is adopted, would require the governing board to submit the RISE development plan to OPR for review. The bill would require OPR to review the plan within 90 days and make a determination as to whether the plan complies with all applicable planning standards and other requirements under state law. The bill would deem the plan to be in effect as of the date that OPR approves the plan. The bill would require a RISE district to review the RISE development plan at least annually and make any amendments that are necessary and appropriate and would require the preparation of an annual independent financial audit. The bill would require a RISE district, every 15 years, at the public hearing held for ~~after~~ adopting the annual report, to consider whether the property owners and residents within the plan area wish to propose amendments to the RISE development plan, as specified.

This bill would authorize a RISE district to utilize various sources of revenue for district ~~purposes~~ *purposes*, including the division of property tax revenues, local sales and use taxes, ~~the portion of the state sales and~~

~~tax revenues that flow into the General Fund that is attributable to new development within the RISE district, and transient occupancy taxes.~~

This bill would also, upon appropriation by the Legislature, require the Governor's Office of Business and Economic Development to establish the RISE Revolving Loan Fund. The bill would provide that the purpose of the fund is to provide RISE districts with initial startup funding for projects contained within the RISE district's certified RISE development plan. The bill would require the office to establish the RISE District Revolving Loan Program and would require the office to award loans to RISE districts in an amount deemed necessary to fund the initial projects of the RISE district, as provided in the district's RISE development plan, as specified.

This bill would require a RISE district funded project to comply with specified wage and labor standards. The bill would require a development proponent to certify to the RISE district that certain wage and labor standards will be met, including a requirement that all construction workers be paid at least the general prevailing rate of wages, as specified. The bill would require the Labor Commissioner to enforce the obligation to pay prevailing wages. The bill would specify that these labor standards do not apply to a project that is privately financed in its entirety. By expanding the crime of perjury, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 16 (commencing with Section 12100.170)  
2 is added to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the  
3 Government Code, to read:

4

5 Article 16. RISE Revolving Loan Fund

6

7 12100.170. (a) "Fund" means the RISE Revolving Loan Fund.

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(b) ~~“Go-Biz”~~ “*GO-Biz*” means the Governor’s Office of Business and Economic Development.

(c) “Program” means the RISE District Revolving Loan Program established pursuant to Section 12100.172.

(d) “RISE District” means a RISE district established pursuant to Division 7 (commencing with Section 62400) of Title 6 that has adopted a RISE development plan certified pursuant to Section 62412.

12100.171. (a) Upon appropriation by the Legislature, ~~Go-Biz~~ *GO-Biz* shall establish the RISE Revolving Loan Fund.

(b) The purpose of the fund is to provide RISE districts with initial startup funding for projects contained within the RISE district’s certified RISE development plan.

(c) Moneys in the fund shall be made available to ~~Go-Biz~~ *GO-Biz* for purposes of awarding loans pursuant to Section 12100.172.

(d) All interest, dividends, and pecuniary gains from investments or deposits of moneys in the fund shall accrue to the fund, notwithstanding Section 16305.7 of the Government Code. There shall be paid into the fund all of the following:

(1) Any moneys appropriated and made available by the Legislature for the purposes of the fund.

(2) Any moneys that ~~Go-Biz~~ *GO-Biz* receives in repayment of loans made from the fund, including any interest on loans made from the fund.

(3) Any other moneys that may be made available to ~~the department~~ *GO-Biz* for the purposes of this chapter from any other source.

12100.172. (a) Upon appropriation by the Legislature, ~~Go-Biz~~ *GO-Biz* shall establish the RISE District Revolving Loan Program pursuant to this article.

(b) ~~Go-Biz~~ *GO-Biz* shall award startup loans to RISE districts based on the following criteria:

(1) ~~Go-Biz~~ *GO-Biz* shall award loans to a RISE district in an amount deemed necessary to fund the initial projects of the RISE district, as provided in the district’s RISE development plan.

(2) ~~Go-Biz~~ *GO-Biz* shall review applications on a noncompetitive basis.

1 12100.173. (a) ~~Go-Biz~~ *GO-Biz* shall establish standard terms  
2 that apply uniformly to all loans awarded pursuant to Section  
3 12100.172, including interest rates and repayment terms.

4 (b) Loan terms shall ensure the continued existence of RISE  
5 districts and facilitate RISE districts to establish long terms funding  
6 sources otherwise authorized by Division 7 (commencing with  
7 Section 62400) of Title 6.

8 (c) ~~(1) Go-Biz~~ *GO-Biz* shall adopt regulations as necessary or  
9 appropriate to carry out the purposes of this article.

10 ~~(2) Chapter 3.5 (commencing with Section 11340) of Part 1~~  
11 ~~does not apply to any standard, criterion, procedure, determination,~~  
12 ~~rule, notice, or guideline established or issued by Go-Biz.~~

13 SEC. 2. Section 53993 of the Government Code is amended  
14 to read:

15 53993. (a) Notwithstanding any other law, except as provided  
16 in subdivision (b), for the purpose of any law authorizing the  
17 division of taxes levied upon taxable property, including, but not  
18 limited to, Sections 53369.30, 53396, 53398.30, 53398.75, 62005,  
19 and 62420, no revenues derived from the imposition of a property  
20 tax rate approved by the voters pursuant to subdivision (b) of  
21 Section 1 of Article XIII A of the California Constitution and levied  
22 in addition to the property tax rate limited by subdivision (a) of  
23 Section 1 of Article XIII A of the California Constitution shall be  
24 divided.

25 (b) Subdivision (a) shall not apply to the allocation of property  
26 taxes pursuant to Part 1.85 (commencing with Section 34170) of  
27 Division 24 of the Health and Safety Code.

28 SEC. 3. Division 7 (commencing with Section 62400) is added  
29 to Title 6 of the Government Code, to read:

30  
31 DIVISION 7. REINVESTMENT IN INFRASTRUCTURE  
32 FOR A SUSTAINABLE AND EQUITABLE CALIFORNIA  
33 DISTRICTS

34  
35 CHAPTER 1. GENERAL PROVISIONS

36  
37 62400. For purposes of this division:

38 (a) "Affected taxing entity" means any governmental taxing  
39 agency which levied or had levied on its behalf a property tax on  
40 all or a portion of the property located in the proposed RISE district

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1 in the fiscal year prior to the designation of the RISE district, but  
2 not including any county office of education, school district, or  
3 community college district. An “affected taxing entity” may include  
4 a special district if the special district is providing any portion of  
5 the funding included in the RISE development plan adopted  
6 pursuant to Section 62410. For the purposes of this section, “special  
7 district” means an agency of the state formed for the performance  
8 of governmental or proprietary functions within limited geographic  
9 boundaries, and shall not include a school district or community  
10 college district.

11 (b) “Governing board” means the governing board of an agency  
12 established pursuant to Section 62407.

13 (c) “Legislative body” means the legislative body of a  
14 participating local government.

15 (d) “Local government” includes, but is not limited to, a city,  
16 county, special district, affordable housing finance agency, or  
17 transit agency.

18 (e) “Location-efficient area” means an area that has access to  
19 transit and uses compact design to facilitate pedestrian access to  
20 transit, thereby linking people to a range of services, amenities,  
21 and employment centers. Location-efficient areas include a mix  
22 of uses, offer comfortable and convenient transit service to increase  
23 the number of viable transportation options available to residents  
24 to commute to work, school, or other destinations, and are  
25 consistent with sustainable communities strategies to reduce vehicle  
26 miles travelled.

27 (f) “Office” means the Office of Planning and Research.

28 (g) “Participating local government” means a local government  
29 that proposes or agrees to jointly form a RISE district in accordance  
30 with this chapter or that is added as a participating local  
31 government pursuant to subdivision (d) of Section 62406.

32 (h) “Persons and families of low or moderate income” means  
33 the same as defined in Section 50093 of the Health and Safety  
34 Code.

35 (i) “Reinvestment in Infrastructure for a Sustainable and  
36 Equitable California district” or “RISE district” means a regional,  
37 joint governance district formed pursuant to this chapter by two  
38 or more local governments.

39 (j) “Sustainable and equitable development” means a  
40 development project that reduces disparities in urban, suburban,

1 and rural communities and reduces vehicle miles traveled by  
 2 supporting residents, specifically those that have been historically  
 3 underserved and neglected, by providing for a range of affordable  
 4 housing and transportation options, efficient access to a variety of  
 5 jobs and services, and clean air quality. Sustainable and equitable  
 6 developments are diverse and incorporate community input, values  
 7 of inclusion, equal access to housing, opportunity, and diversity  
 8 in our communities ensuring that all people, regardless of race,  
 9 ethnicity, family status, or disability, have a range of choices for  
 10 where to live now and in the future.

11 (k) “Sustainable communities strategy” means a sustainable  
 12 communities strategy adopted pursuant to Section 65080.

13 62401. No later than November 30, 2025, the office shall  
 14 develop standards for the formation of RISE districts. The standards  
 15 shall comply with the following requirements:

16 (a) The standards shall be consistent with the requirements of  
 17 this division.

18 (b) The standards shall encourage *sustainable and* equitable  
 19 development in location-efficient areas adjacent to public transit  
 20 investments, including passenger rail and frequent bus service, in  
 21 order to refocus growth toward city and community centers while  
 22 reducing greenhouse gas emissions, per capita vehicle miles  
 23 traveled, and reinforcing community resilience.

24 (c) The standards shall require a RISE development plan to  
 25 comply with all of the following:

26 (1) The RISE development plan shall require that at least 50  
 27 percent of the total funds received by the district be spent on infill  
 28 supportive infrastructure. For purposes of this paragraph,  
 29 “supportive infrastructure” includes utilities upgrades,  
 30 environmental cleanup, pedestrian and bicycle improvements,  
 31 transit facilities and investments, ~~gap financing for mixed-use~~  
 32 ~~development where housing comprises at least two-thirds of the~~  
 33 ~~development~~, and housing infrastructure that is an integral part of,  
 34 or necessary to facilitate, new infill housing or mixed-use  
 35 development within a RISE district.

36 (2) (A) The RISE development plan shall require that at least  
 37 ~~20~~ 30 percent of the total ~~number of funds received by the district~~  
 38 ~~shall be spent on~~ residential units created within the district ~~be~~  
 39 ~~that are~~ restricted to persons and families of low or moderate  
 40 income with an affordable sales price or an affordable rent, as

defined in Section 50052.5 or 50053 of the Health and Safety Code, for 55 years for units that are rented, unless a local ordinance or the terms of a federal, state, or local grant, tax credit, or other project financing requires, as a condition of the development of residential units, that the development include a certain percentage of units that are affordable to, and occupied by, low-income, lower income, very low income, or extremely low income households for a term that exceeds 55 years for rental housing units and 45 years for owner-occupied units.

(B) RISE districts shall provide financing for affordable housing and provide annual reporting to *the office to demonstrate progress to meet the affordable housing requirements*; *requirements in subparagraph (A)*.

(C) *A RISE district may finance mixed-income housing developments, but may finance only those units in such a development that constitute affordable housing.*

(3) The RISE development plan shall require that any remaining percentage of funding not otherwise allocated pursuant to the standards established in the section be used for any lawful purpose that supports sustainable and equitable development.

(4) The RISE development plan shall give first priority for occupancy of housing funded through the RISE development plan pursuant to the following:

(A) First, to income-qualified households displaced from the district through no fault of their own.

(B) Second, to households with a member or members employed within two miles of the district.

(C) Third, to households with an extended family member living within two miles of the district.

(5) (A) *The RISE development plan shall require all projects receiving funds from the district comply with at least one of the following:*

(i) *The development is located within one-half mile of public transit.*

(ii) *At least 75 percent of the perimeter of the site of the development adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.*

1 (B) For the purposes of this paragraph, “public transit” means  
 2 a major transit stop as defined in Section 21155 of the Public  
 3 Resources Code.

4 62402. In addition to the powers granted to an enhanced  
 5 infrastructure financing district pursuant to Chapter 2.99  
 6 (commencing with Section 53398.50) of Part 1 of Division 2 of  
 7 Title 5, a RISE district has the power to do all of the following  
 8 within the territorial jurisdiction of the district:

9 (a) Fund the ~~planning, acquisition,~~ *acquisition* and construction  
 10 of housing, infill supportive infrastructure, and any other project  
 11 otherwise permitted under a RISE development plan *with an*  
 12 *estimated useful life of 15 years or longer* that is certified pursuant  
 13 to Section 62412.

14 (b) *The planning and design work that is directly related to the*  
 15 *purchase, construction, expansion, or rehabilitation of the property*  
 16 *described in subdivision (a).*

17 ~~(b)~~  
 18 (c) Establish and impose any of the revenue generating activities  
 19 eligible to be included in a RISE development plan pursuant to  
 20 Section 62410.

21 ~~(c)~~  
 22 (d) Apply for and receive grants from federal and state agencies.

23 ~~(d)~~  
 24 (e) Solicit and accept gifts, fees, grants, and allocations from  
 25 public and private entities.

26 ~~(e)~~  
 27 (f) Incur general obligation bonded indebtedness for the  
 28 acquisition or improvement of real property or for funding or  
 29 refunding of any outstanding indebtedness, subject to any  
 30 applicable constitutional requirements.

31 ~~(f)~~  
 32 (g) Receive and manage a dedicated revenue source.

33 ~~(g)~~  
 34 (h) Deposit or invest moneys of the district in banks or financial  
 35 institutions in the state in accordance with state law.

36 ~~(h)~~  
 37 (i) Sue and be sued, except as otherwise provided by law, in all  
 38 actions and proceedings, in all courts and tribunals of competent  
 39 jurisdiction.

40 ~~(i)~~



1 (j) Engage counsel and other professional services.

2 ~~(j)~~

3 (k) Enter into and perform all necessary contracts.

4 ~~(k)~~

5 (l) Enter into joint powers agreements pursuant to the Joint  
6 Exercise of Powers Act (Chapter 5 (commencing with Section  
7 6500) of Division 7 of Title 1).

8 ~~(l)~~

9 (m) Hire staff, define their qualifications and duties, and provide  
10 a schedule of compensation for the performance of their duties.

11 ~~(m)~~

12 (n) Use interim or temporary staff provided by local agencies  
13 that are members of the district. A person who performs duties as  
14 interim or temporary staff shall not be considered an employee of  
15 the district.

16 62402.1. *Notwithstanding any other provision of this title, a*  
17 *district shall not do either of the following:*

18 (a) *Finance services of any kind.*

19 (b) *Use the proceeds of bonds issued to finance the costs of*  
20 *maintenance or ongoing operations of any kind.*

21 62403. (a) *It is the intent of the Legislature that the creation*  
22 *of RISE districts should not ordinarily lead to the removal of*  
23 *existing dwelling units. If, however, any dwelling units are*  
24 *proposed to be removed or destroyed in the course of public works*  
25 *construction within the area of the district or private development*  
26 *within the area of the district that is subject to a written agreement*  
27 *with the district, or that is financed in whole or in part by the*  
28 *district, then the RISE development plan adopted pursuant to*  
29 *Section 62410 shall contain provisions to do all of the following:*

30 (1) *If the dwelling units to be removed or destroyed are or were*  
31 *inhabited by persons or families of very low, low, or moderate*  
32 *income at any time within the five years prior to establishment of*  
33 *the RISE district, the district shall cause or require the construction*  
34 *or rehabilitation of an equal number of replacement dwelling units,*  
35 *within one-half mile of the location of the units to be removed or*  
36 *destroyed, that have an equal or greater number of bedrooms as*  
37 *those removed or destroyed units within two years of the removal*  
38 *or destruction of the dwelling units. The replacement dwelling*  
39 *units shall be available for rent or sale to persons or families of*  
40 *very low, low, or moderate income at affordable rent or at*

1 *affordable housing cost to persons in the same or a lower income*  
2 *category as the persons displaced from, or who last occupied, the*  
3 *removed or destroyed dwelling units.*

4 *(2) If the dwelling units to be removed or destroyed were not*  
5 *inhabited by persons or families of very low, low, or moderate*  
6 *income within the period of time specified in paragraph (1), the*  
7 *district shall cause or require the construction or rehabilitation,*  
8 *within one-half mile of the location of the units to be removed or*  
9 *destroyed, of at least one unit, but not less than 25 percent of the*  
10 *total dwelling units removed or destroyed, within two years of the*  
11 *removal or destruction of the dwelling units. The units constructed*  
12 *or rehabilitated pursuant to this paragraph shall be of equivalent*  
13 *size and type to the units to be removed or destroyed. An equal*  
14 *percentage of the replacement dwelling units constructed or*  
15 *rehabilitated pursuant to this paragraph shall be available for*  
16 *rent or sale at affordable rent or affordable housing cost to*  
17 *extremely low income households and very low income households.*

18 *(3) Comply with all relocation assistance requirements of*  
19 *Chapter 16 (commencing with Section 7260) of Division 7 of Title*  
20 *1 for persons displaced from dwelling units by any public works*  
21 *construction within the area of the district or private development*  
22 *within the area of the district that is subject to a written agreement*  
23 *with the district or that is financed in whole or in part by the*  
24 *district as a result of the RISE development plan adopted pursuant*  
25 *to Chapter 3 (commencing with Section 62410). The displacement*  
26 *of any persons from a dwelling unit as a result of the plan shall*  
27 *be deemed to be the result of public action.*

28 *(4) Ensure that the removal or destruction of any dwelling units*  
29 *occupied by persons or families of very low, low, or moderate*  
30 *income does not occur unless and until there has been full*  
31 *compliance with the relocation assistance requirements of this*  
32 *section and Chapter 16 (commencing with Section 7260) of*  
33 *Division 7 of Title 1.*

34 *(5) (A) The district shall require, by recorded covenants or*  
35 *restrictions, that all dwelling units constructed or rehabilitated*  
36 *pursuant to this section remain available at affordable rent or*  
37 *housing cost to, and occupied by, persons and families of the same*  
38 *income categories as required by paragraph (1) or (2), as*  
39 *applicable, for the longest feasible time, but for not less than 55*  
40 *years for rental units and 45 years for owner-occupied units.*

(B) *The district may permit sales of owner-occupied units prior to the expiration of the 45-year period for a price in excess of that otherwise permitted under this paragraph pursuant to an adopted program that protects the district's investment of moneys in the unit or units, including, but not limited to, an equity sharing program, not in conflict with another public funding source or law, which establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy. For purposes of this subparagraph, the terms of the equity sharing program shall be consistent with the provisions of paragraph (2) of subdivision (c) of Section 65915, provided, however, that the program shall require any amounts recaptured by the district to be used within five years for any of the affordable housing purposes described in Section 34176.1 of the Health and Safety Code.*

*(b) For purposes of this section:*

*(1) "Affordable housing cost" means the same as defined in Section 50052.5 of the Health and Safety Code.*

*(2) "Affordable rent" means the same as defined in Section 50053 of the Health and Safety Code*

*(3) "Extremely low income household" means the same as defined in Section 50106 of the Health and Safety Code.*

*(4) "Persons or families of very low, low, or moderate income" means the same as defined in Section 50093 of the Health and Safety Code.*

*(5) "Very low income household" means the same as defined in Section 50105 of the Health and Safety Code.*

*62404. A city or county that created a redevelopment agency, as defined in Section 33003 of the Health and Safety Code, shall neither initiate the creation of a RISE district, nor participate in the governance or financing of a RISE district, until all of the following has occurred:*

*(a) The successor agency for the former redevelopment agency created by the city or county has received a finding of completion, as specified in Section 34179.7 of the Health and Safety Code.*

*(b) The city or county certifies to the Department of Finance and to the RISE district that no former redevelopment agency assets that are the subject of litigation involving the state, if the city or county, the successor agency, or the designated local authority are a named plaintiff, have been or will be used to benefit*

1 *any efforts of a RISE district formed under this title, unless the*  
 2 *litigation and all possible appeals have been resolved in a court*  
 3 *of law. The city or county shall provide this certification to the*  
 4 *Department of Finance within 10 days of its legislative body's*  
 5 *action to participate in a RISE district pursuant to Section 62406,*  
 6 *or of its legislative body's action to form a RISE district pursuant*  
 7 *to Section 62405.*

8 *(c) The office of the Controller has completed its review as*  
 9 *specified in Section 34167.5 of the Health and Safety Code.*

10 *(d) The successor agency and the entity that created the former*  
 11 *redevelopment agency have complied with all of the office of the*  
 12 *Controller's findings and orders stemming from the reviews as*  
 13 *specified in subdivision (c).*

14  
 15 CHAPTER 2. RISE DISTRICT FORMATION AND GOVERNING  
 16 BOARD  
 17

18 62405. (a) ~~The~~ *After the office develops standards pursuant*  
 19 *to Section 62401, the legislative bodies of two or more cities,*  
 20 *counties, or a combination of cities and counties may jointly form*  
 21 *a RISE district pursuant to this division for the purpose of planning,*  
 22 *financing, and facilitating supportive infrastructure to spur*  
 23 *equitable development comprised of affordable housing and*  
 24 *economic development in location-efficient areas that meet goals*  
 25 *set out in an adopted sustainable communities strategy for*  
 26 *sustainable, walkable development that reduces carbon emissions*  
 27 *and vehicle miles traveled.*

28 (b) A special district may join a RISE district, by resolution,  
 29 initiated by a city, county, or a combination of cities and counties.

30 62406. (a) The formation of a RISE district shall be by  
 31 enactment of an ordinance or resolution of each participating city  
 32 and county which shall each be substantially similar.

33 (b) The ordinance or resolution of a participating city or county  
 34 shall include, at minimum, all of the following provisions:

35 (1) A statement of the purpose for which the RISE district is  
 36 proposed, including any specific project that the participating local  
 37 governments propose to plan, finance, or facilitate.

38 (2) Provision for the method by which the purpose of the RISE  
 39 district will be accomplished.

(3) A description of the boundaries of the RISE district. This may be accomplished by reference to a map on file in the office of the clerk of the city or in the office of the recorder of the county, as applicable.

(4) Establishment of a governing board in accordance with Section 62407.

(c) (1) The boundaries of a RISE district may include all or any portion of the territory within the jurisdiction of the participating local governments.

(2) A RISE district may include areas which are not contiguous.

(d) After the formation of a RISE district, a local government may be added as a participating local government by enactment of an ordinance or resolution by a majority of the current participating local governments and subsequent enactment of an ordinance or resolution by the new participating local government that complies with the requirements of this section.

62407. (a) A RISE district shall have a membership consisting of one of the following, as appropriate:

(1) If a district has two or more participating local governments, the district's governing board membership shall consist of a majority of members from the legislative bodies of the participating local governments, and a minimum of two members of the public chosen by the legislative bodies of the participating local governments. A legislative body of a participating local government may appoint one of its members to be an alternate member of the legislative body who may serve and vote in place of a member who is absent or disqualifies themselves from participating in a meeting of the district. The appointment of the public members shall be subject to the provisions of Sections 54970 and 54972.

(2) If a district has more than three participating affected taxing entities, the legislative bodies of the taxing entities may, upon agreement by all participating affected taxing entities, appoint only one member and one alternate member of their respective legislative bodies to the RISE district, and a minimum of two members of the public chosen by the legislative bodies of the participating entities. The appointment of the public members shall be subject to the provisions of Sections 54970 and 54972.

(3) For purposes of this subdivision, "legislative body" may include a directly elected mayor of a charter city who is not a

1 member of the city's legislative body under the city's adopted  
2 charter.

3 (b) The legislative body shall ensure the RISE district is  
4 established at the same time that it adopts an ordinance or  
5 resolution pursuant to Section 62406.

6 (c) Members of the district established pursuant to this division  
7 shall not receive compensation, but may receive reimbursement  
8 for actual and necessary expenses incurred in the performance of  
9 official duties pursuant to Article 2.3 (commencing with Section  
10 53232) of Chapter 2 of Part 1 of Division 2 of Title 5.

11 (d) Members of the district are subject to Article 2.4  
12 (commencing with Section 53234) of Chapter 2 of Part 1 of  
13 Division 2 of Title 5.

14 (e) The RISE district created pursuant to this division shall be  
15 a local public agency subject to the Ralph M. Brown Act (Chapter  
16 9 (commencing with Section 54950) of Part 1 of Division 2 of  
17 Title 5), the California Public Records Act (Division 10  
18 (commencing with Section 7920.000) of Title 1), and the Political  
19 Reform Act of 1974 (Title 9 (commencing with Section 81000)).

20 (f) Notwithstanding any other law, any member of the legislative  
21 body of a participating local government who serves as a member  
22 of the district pursuant to this section may also serve as a member  
23 of the governing body of an agency or entity formed pursuant to  
24 an agreement for the joint exercise of power that the participating  
25 local government has entered into in accordance with the Joint  
26 Exercise of Powers Act (Chapter 5 (commencing with Section  
27 6500) of Division 7 of Title 1).

28 62408. An enhanced infrastructure financing district that  
29 otherwise meets the criteria of this division may form or expand  
30 into a RISE district.

### 31 32 CHAPTER 3. RISE DEVELOPMENT PLAN 33

34 62410. (a) After the RISE district is formed, the governing  
35 board shall prepare, or cause to be prepared, and adopt a RISE  
36 development plan, in accordance with this article, in order to meet  
37 both of the following objectives:

38 (1) Ensure that the RISE district is consistent with priority  
39 development areas in an adopted sustainable communities strategy,  
40 any applicable planning standards, and other requirements under

1 state law, including those standards developed by the office  
 2 pursuant to Section 62401. The applicable metropolitan planning  
 3 organization shall make a finding that the RISE district complies  
 4 with this paragraph.

5 (2) Planning for and financing supportive infrastructure,  
 6 affordable housing, and equitable development near transit in  
 7 location-efficient areas in order to refocus growth toward infill  
 8 areas while reducing greenhouse gas emissions and reinforcing  
 9 community resilience.

10 (b) The RISE development plan shall include all of the  
 11 following:

12 (1) Identification of any intended source of revenue for financing  
 13 a project or projects within the boundaries of the RISE district.  
 14 Permissible sources of revenue may include, but are not limited  
 15 to, the following:

16 (A) Investments of state resources, as requested by the district.

17 (B) The division of property tax revenues, excluding revenues  
 18 dedicated to paying off the obligations of former redevelopment  
 19 agencies or other obligations, and revenues dedicated to school  
 20 districts, in accordance with Section 62420.

21 (C) Local sales and use taxes in accordance with Section 62421.

22 (D) Transient occupancy taxes imposed by a city or county in  
 23 accordance with Chapter 1 (commencing with Section 7280) of  
 24 Part 1.7 of Division 2 of the Revenue and Taxation Code.

25 (E) Tax increment bonds described in Article 5 (commencing  
 26 with Section 62425).

27 (F) Any other revenues that may be lawfully used.

28 (2) Identification of any tools or authority needed to implement  
 29 the RISE development plan, including, but not limited to, ~~the~~  
 30 ~~following: the authority to purchase, bank, and assemble parcels~~  
 31 ~~of real property.~~

32 ~~(A) The authority to purchase, bank, and assemble parcels of~~  
 33 ~~real property.~~

34 ~~(B) A right of first refusal for real property sold within the~~  
 35 ~~jurisdictional boundaries of the district.~~

36 (3) A financing section that contains all of the following  
 37 information:

38 (A) A projection of the amount of tax revenues expected to be  
 39 received by the RISE district in each year during which the RISE  
 40 district will receive tax revenues, including an estimate of the

1 amount of tax revenues attributable to each affected taxing entity  
2 for each year.

3 (B) A plan for financing the housing or infill supportive  
4 infrastructure projects to be assisted by the RISE district, including  
5 a detailed description of any intention to incur debt.

6 (C) A statement of the total number of dollars of taxes that may  
7 be allocated to the RISE district pursuant to the plan.

8 (D) An analysis of the costs to the city or county of providing  
9 facilities and services to the area of the RISE district while the  
10 area is being developed and after the area is developed. The plan  
11 shall also include an analysis of the tax, fee, charge, and other  
12 revenues expected to be received by the city or county as a result  
13 of expected development in the area of the RISE district.

14 (E) An analysis of the projected fiscal impact of the RISE district  
15 and the associated development upon each affected taxing entity.

16 62410.1. (a) (1) The RISE development plan shall be sent to  
17 each owner of land within the RISE district and to each affected  
18 taxing entity together with any report required by the California  
19 Environmental Quality Act (Division 13 (commencing with Section  
20 21000) of the Public Resources Code) that pertains to the proposed  
21 RISE district projects, and shall be made available for public  
22 inspection. The report shall also be sent to each participating local  
23 government.

24 (2) As an alternative to mailing documents pursuant to paragraph  
25 (1), and providing the additional 10-day mailed notices, pursuant  
26 to subdivision (i) of Section 62410.2, for both the initial meeting  
27 required by subdivision (b) of Section 62410.2, and for the first  
28 scheduled public hearing on the plan, the RISE district may mail  
29 a notice to each landowner, resident, and affected taxing entity at  
30 least 40 days prior to the first scheduled public hearing on the  
31 RISE development plan, held pursuant to paragraph (2) of  
32 subdivision (a) of Section 62410.2. This notice shall include all  
33 of the following:

34 (A) A summary of the RISE development plan including all  
35 required information listed in paragraph (1) of subdivision (c) of  
36 Section 62410.2.

37 (B) The internet website where the applicable documents,  
38 including those described in paragraph (1), will be made available  
39 for public viewing or inspection.



1 (C) A designated contact person to receive and process any  
2 requests for a mailed packet of all materials.

3 (D) The location, date, and time of both the meeting to be held  
4 in accordance with subdivision (b) of Section 62410.2 and the first  
5 scheduled public hearing in accordance with paragraph (2) of  
6 subdivision (a) of Section 62410.2.

7 (3) In addition to a notice provided by paragraph (2), the RISE  
8 district shall provide notices for the second and third public hearing  
9 on the plan, as described in paragraph (3) of subdivision (a) of  
10 Section 62410.2, in accordance with subdivision (i) of Section  
11 62410.2.

12 (b) The RISE district shall consult with each affected taxing  
13 entity, and, at the request of any affected taxing entity, shall meet  
14 with representatives of an affected taxing entity. Any affected  
15 taxing entity may suggest revisions to the plan.

16 62410.2. (a) (1) The RISE district shall consider adoption of  
17 the RISE development plan at three public hearings that shall take  
18 place at least 30 days apart. In addition to the notice given pursuant  
19 to Section 62410.1, the RISE district shall give notice of each  
20 public hearing in accordance with subdivision (i).

21 (2) At the first public hearing, the RISE district shall hear all  
22 written and oral comments, but take no action.

23 (3) At the second public hearing, the RISE district shall consider  
24 any additional written and oral comments and take action to modify  
25 or reject the RISE development plan. If the RISE development  
26 plan is not rejected at the second public hearing, then the RISE  
27 district shall conduct a protest proceeding at the third public hearing  
28 to consider whether the landowners and residents within the RISE  
29 development plan area wish to present oral or written protests  
30 against the adoption of the RISE development plan.

31 (b) The draft RISE development plan shall be made available  
32 to the public and to each landowner within the area on a designated  
33 internet website and at a meeting held at least 30 days before the  
34 first public hearing. The purposes of the meeting shall be to allow  
35 the staff of the RISE district to present the draft RISE development  
36 plan, answer questions about the plan, and consider comments  
37 about the plan.

38 (c) (1) The RISE district shall give notice of the meeting  
39 required by subdivision (b) and the public hearings required by

1 subdivision (a) in accordance with subdivision (i). The notice shall  
2 do all of the following, as applicable:

3 (A) Describe specifically the boundaries of the proposed area.

4 (B) Describe the purpose of the RISE development plan.

5 (C) State the day, hour, and place when and where any and all  
6 persons having any comments on the proposed RISE development  
7 plan may appear to provide written or oral comments to the RISE  
8 district.

9 (D) Notice of the second public hearing shall include a summary  
10 of the changes made to the RISE development plan as a result of  
11 the oral and written testimony received at or before the public  
12 hearing and shall identify a location accessible to the public where  
13 the RISE development plan proposed to be presented at the second  
14 public hearing can be reviewed.

15 (E) Notice of the third public hearing to consider any written  
16 or oral protests shall contain a copy of the RISE development plan,  
17 and shall inform the landowner and resident of their right to submit  
18 an oral or written protest before the close of the public hearing.  
19 The protest may state that the landowner or resident objects to the  
20 RISE district taking action to implement the RISE development  
21 plan.

22 (2) At the third public hearing, the RISE district shall consider  
23 all written and oral protests received before the close of the public  
24 hearing along with the recommendations, if any, of affected taxing  
25 entities, and shall terminate the proceedings or adopt the RISE  
26 development plan subject to confirmation by the voters at an  
27 election called for that purpose. The RISE district shall terminate  
28 the proceedings if there is a majority protest. A majority protest  
29 exists if protests have been filed representing over 50 percent of  
30 the combined number of landowners and residents in the area who  
31 are at least 18 years of age. An election shall be called if between  
32 25 percent and 50 percent of the combined number of landowners  
33 and residents in the area who are at least 18 years of age file a  
34 protest.

35 (d) An election required pursuant to paragraph (2) of subdivision  
36 (c) shall be held within 90 days of the public hearing and may be  
37 held by mail-in ballot. The RISE district shall adopt, at a duly  
38 noticed public hearing, procedures for this election.

39 (e) If a majority of the landowners and residents vote against  
40 the RISE development plan, then the RISE district shall not take

1 any further action to implement the proposed RISE development  
2 plan. The RISE district shall not propose a new or revised RISE  
3 development plan to the affected landowners and residents for at  
4 least one year following the date of an election in which the RISE  
5 development plan was rejected.

6 (f) At the hour set in the notices required by subdivision (a), the  
7 RISE district shall consider all written and oral comments.

8 (g) If less than 25 percent of the combined number of  
9 landowners and residents in the area who are at least 18 years of  
10 age file a protest, the RISE district may adopt the RISE  
11 development plan at the conclusion of the third public hearing by  
12 resolution. The resolution adopting the RISE development plan  
13 shall be subject to referendum as prescribed by law.

14 (h) The RISE district shall consider and adopt an amendment  
15 or amendments to a RISE development plan in accordance with  
16 the provisions of this section.

17 (i) The RISE district shall post notice of each meeting or public  
18 hearing required by this section in an easily identifiable and  
19 accessible location on the RISE district's internet website and shall  
20 mail a written notice of the meeting or public hearing to each  
21 landowner, each resident, and each taxing entity at least 10 days  
22 before the meeting or public hearing. A public finance authority  
23 may meet the mailed notice requirements of this subdivision for  
24 the meeting held pursuant to subdivision (b) and the first public  
25 hearing on the proposed RISE development plan if it has mailed  
26 a notice in compliance with paragraph (2) of subdivision (a) of  
27 Section 62410.1.

28 (1) Notice of the first public hearing shall also be published not  
29 less than once a week for four successive weeks before the first  
30 public hearing in a newspaper of general circulation published in  
31 the county in which the area lies. The notice shall state that the  
32 RISE district will be used to plan, finance, and facilitate supportive  
33 infrastructure, briefly describe any proposed projects or  
34 development, briefly describe the proposed financial arrangements,  
35 including the proposed commitment of incremental tax revenue,  
36 describe the boundaries of the RISE district, and state the day,  
37 hour, and place when and where any persons having any objections  
38 to the proposed RISE development plan, or the regularity of any  
39 of the prior proceedings, may appear before the RISE district and  
40 object to the adoption of the proposed plan by the RISE district.

(2) Notice of the second public hearing shall also be published not less than 10 days before the second public hearing in a newspaper of general circulation in the county in which the area lies. The notice shall state that the district will be used to plan, finance, and facilitate supportive infrastructure, briefly describe any proposed projects or development, briefly describe the proposed financial arrangements, describe the boundaries of the proposed RISE district, and state the day, hour, and place when and where any persons having any objections to the proposed RISE development plan, or the regularity of any of the prior proceedings, may appear before the RISE district and object to the adoption of the proposed plan by the RISE district.

(3) Notice of the third public hearing shall also be published not less than 10 days prior to the third public hearing in a newspaper of general circulation in the county in which the area lies. The notice shall state that the RISE district will be used to plan, finance, and facilitate supportive infrastructure, briefly describe any proposed projects or development, briefly describe the proposed financial arrangements, describe the boundaries of the proposed RISE district, and state the day, hour, and place when and where any persons having any objections to the proposed RISE development plan, or the regularity of any of the prior proceedings, may appear before the RISE district and object to the adoption of the proposed plan by the RISE district.

62410.3. (a) (1) At the conclusion of the hearings pursuant to Section 62410.2, the RISE district may adopt a resolution proposing adoption of the RISE development plan, as modified, or it may adopt a resolution abandoning the proceedings. If the proceedings are abandoned, then the RISE district shall cease to exist by operation of this section with no further action required of the RISE district or the participating local governments and the participating local governments may not enact a resolution of intention to establish a RISE district that includes the same geographic area within one year of the date of the resolution abandoning the proceedings.

(2) If the RISE district adopts the RISE development plan, it shall then forward the plan to the Office of Planning and Research for review pursuant to Section 62412.

(b) The RISE development plan shall specify if the RISE district will be funded solely through the district's share of tax increment,

1 governmental or private loans, grants, bonds, assessments, fees,  
2 or some combination thereof. However, the RISE district shall not  
3 issue bonds or levy assessments or fees that may be included in  
4 the RISE development plan before one or more of the following  
5 occurs:

6 (1) The adoption of a resolution meeting the requirements of  
7 Section 62425 to issue bonds to finance the RISE development  
8 plan.

9 (2) Compliance with the procedures required in subdivision (e)  
10 of Section 62420, to levy assessments or fees to finance the RISE  
11 development plan.

12 (c) In addition, A RISE district may expend up to 10 percent of  
13 any accrued tax increment in the first two years of the effective  
14 date of the RISE district on planning and dissemination of  
15 information to the residents within the district's boundaries about  
16 the RISE development plan and planned activities to be funded by  
17 the district.

18 62410.4. (a) (1) The RISE district shall review the RISE  
19 development plan at least annually and make any amendments that  
20 are necessary and appropriate and shall require the preparation of  
21 an annual independent financial audit paid for from revenues of  
22 the RISE district.

23 (A) Amendments to an approved RISE development plan,  
24 including proposals to plan, finance, and facilitate supportive  
25 infrastructure and additional eligible projects, as specified in this  
26 division, may be approved by a majority vote of the governing  
27 board at a public hearing held following the provision of a 30-day  
28 mailed notice describing the proposed changes to all property  
29 owners, residents, and affected taxing entities.

30 (B) Amendments that propose any of the following shall be  
31 adopted in accordance with all notices and hearing requirements  
32 for the affected landowners and residents within the proposed  
33 additional territory applicable to an initial proposed RISE  
34 development plan:

35 (i) Addition of new territory or project areas to a plan.

36 (ii) Increase of the limit of the total number of dollars in local  
37 taxes allocated to the plan.

38 (iii) Approval of a project or development that was not proposed  
39 to be financed or assisted by the district in the approved plan.

(2) A RISE district shall adopt an annual report on or before June 30 of each year after holding a public hearing. Written copies of the draft report shall be made available to the public 30 days before the public hearing. The RISE district shall cause the draft report to be posted in an easily identifiable and accessible location on the RISE district's internet website and shall mail a written notice of the availability of the draft report on the internet website to each owner of land and each resident within the area covered by the RISE development plan and to each participating local government. The notice shall be mailed by first-class mail, but may be addressed to "occupant."

(3) The annual report shall contain all of the following:

(A) A description of the projects undertaken in the fiscal year, including any rehabilitation of structures, and a comparison of the progress expected to be made on those projects compared to the actual progress.

(B) A chart comparing the actual revenues and expenses, including administrative costs, of the RISE district to the budgeted revenues and expenses.

(C) The amount of tax increment revenues received.

(D) An assessment of the status regarding completion of the RISE district's projects.

(E) The amount of revenues expended to assist private businesses.

(4) If the RISE district fails to provide the annual report required by paragraph (3), the RISE district shall not spend any funds received pursuant to a resolution adopted pursuant to this chapter until the RISE district has provided the report.

(b) Every 15 years, at the public hearing held pursuant to paragraph (2) of subdivision (a) and after adopting the annual report, the RISE district shall consider whether the property owners and residents within the plan area wish to propose amendments to the RISE development plan. The RISE district may consider and adopt amendments to the plan at the conclusion of the public hearing. After considering any amendments to the plan, the RISE district shall conduct a protest proceeding to consider whether the property owners or residents within the plan area wish to present oral or written protests against the RISE district undertaking new projects. Notice of this proceeding shall be included in the written notice of the hearing on the annual report and shall inform the

1 property owner and resident of their right to submit proposed  
2 amendments to the plan, or an oral or written protest to prohibit  
3 new projects under the plan, before the close of the public hearing.  
4 The protest may state that the property owner or resident objects  
5 to the RISE district taking action to implement new projects under  
6 the plan on and after the date of the election described in  
7 subdivision (c). The RISE district shall consider all written and  
8 oral protests received prior to the close of the public hearing.

9 (c) Except as provided in subdivision (e), if there is a majority  
10 protest, the RISE district shall not take any further action to  
11 implement new projects under the RISE development plan on and  
12 after the date the existence of a majority protest is determined. If  
13 between 25 percent and 50 percent of the property owners and  
14 residents file protests, then the RISE district shall call an election  
15 of the property owners and residents in the area covered by the  
16 plan, and shall not initiate or authorize any new projects until the  
17 election is held. A majority protest exists if protests have been  
18 filed representing over 50 percent of the combined number of  
19 property owners and residents, at least 18 years of age or older, in  
20 the area.

21 (d) An election required pursuant to subdivision (c) shall be  
22 held within 90 days of the public hearing and may be held by  
23 mail-in ballot. The RISE district shall adopt, at a duly noticed  
24 public hearing, procedures for holding this election.

25 (e) If a majority of the property owners and residents vote  
26 against the plan, then the RISE district shall not take any further  
27 action to implement new projects under the plan on and after the  
28 date of the election held pursuant to subdivision (b). This section  
29 shall not be interpreted to prohibit a RISE district from doing either  
30 of the following:

31 (1) In fulfilling its obligations to repay all outstanding bonded  
32 indebtedness, fulfill all contractual obligations to third parties, or  
33 take all actions necessary so that the interest on any outstanding  
34 bonded indebtedness is excluded from gross income for federal  
35 income tax purposes.

36 (2) Expending bond proceeds and other revenues to complete  
37 any previously approved project or contractual obligation.

38 62410.5. (a) Except as otherwise provided in this chapter, the  
39 provisions of law regulating elections of the local agency that calls  
40 an election pursuant to this chapter, insofar as they may be

1 applicable, shall govern all elections conducted pursuant to this  
2 chapter. Except as provided in subdivision (b), there shall be  
3 prepared and included in the ballot material provided to each voter,  
4 an impartial analysis pursuant to Section 9160 or 9280 of the  
5 Elections Code, arguments and rebuttals, if any, pursuant to  
6 Sections 9162 to 9167, inclusive, and Section 9190 of the Elections  
7 Code or pursuant to Sections 9281 to 9287, inclusive, and Section  
8 9295 of the Elections Code.

9 (b) If the vote is to be by the landowners of the RISE district,  
10 analysis and arguments may be waived with the unanimous consent  
11 of all the landowners and shall be so stated in the order for the  
12 election.

13 (c) (1) If the election is to be conducted by mail ballot, the  
14 election official conducting the election shall provide ballots and  
15 election materials pursuant to subdivision (d) of Section 53326  
16 and Section 53327, together with all supplies and instructions  
17 necessary for the use and return of the ballot.

18 (2) The identification envelope for return of mail ballots used  
19 in landowner elections shall contain the following:

20 (A) The name of the landowner.

21 (B) The address of the landowner.

22 (C) A declaration, under penalty of perjury, stating that the voter  
23 is the owner of record or the authorized representative of the  
24 landowner entitled to vote and is the person whose name appears  
25 on the identification envelope.

26 (D) The printed name and signature of the voter.

27 (E) The address of the voter.

28 (F) The date of signing and place of execution of the declaration  
29 pursuant to paragraph (3).

30 (G) A notice that the envelope contains an official ballot and is  
31 to be opened only by the canvassing board.

32 62411. (a) The RISE district shall not enact a resolution  
33 proposing formation of the district and providing for the division  
34 of taxes of any affected taxing entity pursuant to Chapter 4  
35 (commencing with Section 62420) unless a resolution approving  
36 the plan has been adopted by the governing body of each affected  
37 taxing entity that is proposed to be subject to division of taxes  
38 pursuant to Chapter 4 (commencing with Section 62420) and has  
39 been filed with the legislative body at or prior to the time of the  
40 hearing.



(b) Nothing in this section shall be construed to prevent a RISE district from amending its RISE development plan and adopting a resolution proposing formation of the RISE district without allocation of the tax revenues of any affected taxing entity that has not approved the RISE development plan by resolution of the governing body of the affected taxing entity.

(c) If after the date of district formation, an affected taxing entity adopts a resolution approving the RISE district plan and to participate in the division of taxes used to finance a RISE district, the division of taxes shall be based upon the last equalized assessment roll that is used for the district pursuant to paragraph (2) of subdivision (a) of Section 62420.

62412. (a) After adopting a RISE development plan pursuant to this chapter, the governing board shall submit that plan, along with all supporting documents, to the office for review.

(b) (1) The office shall review any RISE development plan received pursuant to this section and, within 90 days of that receipt, determine, and certify in writing to the governing board, either of the following, as applicable:

(A) The RISE development plan complies with all applicable planning standards and other requirements under state law, including those standards developed by the office pursuant to Section 62401.

(B) The RISE development plan does not comply with the planning standards and requirements described in subparagraph (A). If the office finds that the RISE development plan does not comply with those standards and requirements, the office shall provide the governing board with a written identification of which portions of the plan are not in compliance.

(2) A RISE development plan shall be deemed to be in effect as of the date of the office's approval pursuant to subparagraph (A) of paragraph (1).

62413. (a) A RISE district shall prepare an annual expenditure plan that identifies and describes the operations and eligible projects undertaken by the district. The expenditure plan shall be, after public review and hearing, adopted by the governing body of the district and subject to review and revision at least annually.

(b) A RISE district shall also prepare and adopt an annual operating budget and capital improvement budget. The annual operating budget and capital improvement budget shall be, after

1 public review and hearing, adopted by the governing body of the  
2 district and subject to review and revision at least annually.

3 (c) A RISE district shall provide for regular audits of its accounts  
4 and records, as specified in Section 62410.4, maintain accounting  
5 records, and report accounting transactions in accordance with  
6 generally accepted accounting principles adopted by the  
7 Governmental Accounting Standards Board of the Financial  
8 Accounting Foundation for both public reporting purposes and for  
9 reporting of activities to the Controller.

10 (d) A RISE district shall provide for annual financial reports  
11 and make copies of the annual financial reports available to the  
12 public.

#### 13 CHAPTER 4. DIVISION OF TAXES

14  
15  
16 62420. (a) Any RISE development plan may contain a  
17 provision that taxes, if any, levied upon taxable property in the  
18 area included within the RISE district each year by or for the  
19 benefit of the State of California, or any affected taxing entity after  
20 the effective date of the ordinance or resolution adopted pursuant  
21 to Section 62406 to create the district, shall be divided, subject to  
22 the provisions of Section 53993, as follows:

23 (1) That portion of the taxes that would be produced by the rate  
24 upon which the tax is levied each year by or for each of the affected  
25 taxing entities upon the total sum of the assessed value of the  
26 taxable property in the district as shown upon the assessment roll  
27 used in connection with the taxation of the property by the affected  
28 taxing entity, last equalized prior to the effective date of the  
29 resolution adopted pursuant to Section 62406 to create the RISE  
30 district, shall be allocated to, and when collected shall be paid to,  
31 the respective affected taxing entities as taxes by or for the affected  
32 taxing entities on all other property are paid.

33 (2) That portion of the levied taxes each year specified in the  
34 adopted RISE development plan for the city or county and each  
35 affected taxing entity that has agreed to participate pursuant to  
36 Section 62411 in excess of the amount specified in paragraph (1)  
37 shall be allocated to, and when collected shall be paid into a special  
38 fund of the RISE district for all lawful purposes of the RISE  
39 district. Unless and until the total assessed valuation of the taxable  
40 property in a district exceeds the total assessed value of the taxable

1 property in the district as shown by the last equalized assessment  
2 roll referred to in paragraph (1), all of the taxes levied and collected  
3 upon the taxable property in the RISE district shall be paid to the  
4 respective affected taxing entities. When the RISE district ceases  
5 to exist pursuant to the adopted RISE development plan, all moneys  
6 thereafter received from taxes upon the taxable property in the  
7 RISE district shall be paid to the respective affected taxing entities  
8 as taxes on all other property are paid.

9 (b) Notwithstanding subdivision (a), where any RISE district  
10 boundaries overlap with the boundaries of any former  
11 redevelopment project area, any debt or obligation of a district  
12 shall be subordinate to any and all enforceable obligations of the  
13 former redevelopment agency, as approved by the Oversight Board  
14 and the Department of Finance. For the purposes of this chapter,  
15 the division of taxes allocated to the RISE district pursuant to  
16 subdivision (a) shall not include any taxes required to be deposited  
17 by the county auditor-controller into the Redevelopment Property  
18 Tax Trust Fund created pursuant to subdivision (b) of Section  
19 34170.5 of the Health and Safety Code.

20 (c) (1) The legislative body of the city or county forming the  
21 RISE district may choose to dedicate any portion of its net available  
22 revenue to the RISE district through the RISE development plan  
23 described in Section 62410.

24 (2) For the purposes of this subdivision, “net available revenue”  
25 means periodic distributions to the city or county from the  
26 Redevelopment Property Tax Trust Fund, created pursuant to  
27 Section 34170.5 of the Health and Safety Code, that are available  
28 to the city or county after all preexisting legal commitments and  
29 statutory obligations funded from that revenue are made pursuant  
30 to Part 1.85 (commencing with Section 34170) of Division 24 of  
31 the Health and Safety Code. “Net available revenue” shall not  
32 include any funds deposited by the county auditor-controller into  
33 the Redevelopment Property Tax Trust Fund or funds remaining  
34 in the Redevelopment Property Tax Trust Fund prior to distribution.  
35 Net available revenues shall not include any moneys payable to a  
36 school district that maintains kindergarten and grades 1 to 12,  
37 inclusive, community college districts, county office of education,  
38 or to the Educational Revenue Augmentation Fund, pursuant to  
39 paragraph (4) of subdivision (a) of Section 34183 of the Health  
40 and Safety Code.

(d) (1) That portion of any ad valorem property tax revenue annually allocated to a city or county pursuant to Section 97.70 of the Revenue and Taxation Code that is specified in the adopted RISE development plan for the city or county that has agreed to participate pursuant to Section 64211, and that corresponds to the increase in the assessed valuation of taxable property shall be allocated to, and, when collected, shall be apportioned to, a special fund of the RISE district for all lawful purposes of the district.

(2) When the RISE district ceases to exist, the revenues described in this subdivision shall be allocated to, and, when collected, shall be apportioned to, the respective city or county.

(e) This section shall not be construed to prevent a RISE district from utilizing revenues from any of the following sources to support its activities provided that the applicable voter approval has been obtained, and the RISE development plan has been approved pursuant to Section 62410:

(1) The Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code).

(2) The Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code).

(3) The Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code).

(4) The Landscaping and Lighting Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code).

(5) The Vehicle Parking District Law of 1943 (Part 1 (commencing with Section 31500) of Division 18 of the Streets and Highways Code).

(6) The Parking District Law of 1951 (Part 4 (commencing with Section 35100) of Division 18 of the Streets and Highways Code).

(7) The Park and Playground Act of 1909 (Chapter 7 (commencing with Section 38000) of Part 2 of Division 3 of Title 4 of this code).

(8) The Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of this title).

(9) The Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54703) of Part 1 of Division 2 of this title).

(10) The so-called facilities benefit assessment levied by the charter city of San Diego or any substantially similar assessment levied for the same purpose by any other charter city pursuant to any ordinance or charter provision.

62420.1. (a) The portion of taxes required to be allocated pursuant to paragraph (2) of subdivision (a) of Section 62420 shall be allocated and paid into a special fund held in trust for the ~~agency~~ *RISE district* by the county auditor or officer responsible for the payment of taxes into the funds of the affected taxing entities pursuant to the procedure contained in this section.

(b) Not later than October 1 of each year, for each RISE development project for which the RISE development plan provides for the division of taxes pursuant to Section 62420, the RISE district shall file, with the county auditor or officer described in subdivision (a), a statement of indebtedness consistent with subdivision (c), and a reconciliation statement consistent with subdivision (d). All statements required to be filed by this subdivision shall be certified by the chief financial officer of the RISE district.

(c) (1) For each RISE development project for which a statement of indebtedness is required to be filed, the statement of indebtedness shall contain all of the following:

(A) For each loan, advance, or indebtedness incurred or entered into, all of the following information:

(i) The date the loan, advance, or indebtedness was incurred or entered into.

(ii) The principal amount, term, purpose, interest rate, and total interest of each loan, advance, or indebtedness.

(iii) The principal amount and interest due in the fiscal year in which the statement of indebtedness is filed for each loan, advance, or indebtedness.

(iv) The total amount of principal and interest remaining to be paid for each loan, advance, or indebtedness.

(B) The sum of the amounts determined under clause (iii) of subparagraph (A).

(C) The sum of the amounts determined under clause (iv) of subparagraph (A).

1 (D) The available revenues as of the end of the previous year,  
2 as determined pursuant to paragraph (10) of subdivision (d).

3 (2) The RISE district may estimate the amount of principal or  
4 interest, the interest rate, or term of any loan, advance, or  
5 indebtedness if the nature of the loan, advance, or indebtedness is  
6 such that the amount of principal or interest, the interest rate or  
7 term cannot be precisely determined. The RISE district may list  
8 on a statement of indebtedness any loan, advance, or indebtedness  
9 incurred or entered into on or before the date the statement is filed.

10 (d) For each RISE district project for which a reconciliation  
11 statement is required to be filed, the reconciliation statement shall  
12 contain all of the following:

13 (1) A list of all loans, advances, and indebtedness listed on the  
14 previous year's statement of indebtedness.

15 (2) A list of all loans, advances, and indebtedness, not listed on  
16 the previous year's statement of indebtedness, but incurred or  
17 entered into in the previous year and paid in whole or in part from  
18 revenue received by the RISE district pursuant to Section 62420.  
19 This listing may aggregate loans, advances, and indebtedness  
20 incurred or entered into in the previous year for a particular  
21 purpose, including relocation expenses, administrative expenses,  
22 consultant expenses, or property management expenses, into a  
23 single item in the listing.

24 (3) For each loan, advance, or indebtedness described in  
25 paragraph (1) or (2), all of the following information:

26 (A) The total amount of principal and interest remaining to be  
27 paid as of the later of the beginning of the previous year or the  
28 date the loan, advance, or indebtedness was incurred or entered  
29 into.

30 (B) Any increases or additions to the loan, advance, or  
31 indebtedness occurring during the previous year.

32 (C) The amount paid on the loan, advance, or indebtedness in  
33 the previous year from revenue received by the RISE district  
34 pursuant to Section 62420.

35 (D) The amount paid on the loan, advance, or indebtedness in  
36 the previous year from revenue other than revenue received by the  
37 RISE district pursuant to Section 62420.

38 (E) The total amount of principal and interest remaining to be  
39 paid as of the end of the previous fiscal year.

1 (4) The available revenues of the RISE district as of the  
2 beginning of the previous fiscal year.

3 (5) The amount of revenue received by the RISE district in the  
4 previous fiscal year pursuant to Section 62420.

5 (6) The amount of available revenue received by the RISE  
6 district in the previous fiscal year from any source other than  
7 pursuant to Section 62420.

8 (7) The sum of the amounts specified in subparagraph (D) of  
9 paragraph (3), to the extent that the amounts are not included as  
10 available revenues pursuant to paragraph (6).

11 (8) The sum of the amounts specified in paragraphs (4), (5), (6),  
12 and (7).

13 (9) The sum of the amounts specified in subparagraphs (C) and  
14 (D) of paragraph (3).

15 (10) The amount determined by subtracting the amount  
16 determined under paragraph (9) from the amount determined under  
17 paragraph (8). The amount determined pursuant to this paragraph  
18 shall be the available revenues as of the end of the previous fiscal  
19 year.

20 (e) For the purposes of this section, available revenues shall  
21 include all cash or cash equivalents held by the RISE district that  
22 were received by the RISE district pursuant to Section 62420 and  
23 all cash or cash equivalents held by the RISE district that are  
24 irrevocably pledged or restricted to payment of a loan, advance,  
25 or indebtedness that the RISE district has listed on a statement of  
26 indebtedness.

27 (f) The county auditor or officer shall, at the same time or times  
28 as the payment of taxes into the funds of the affected taxing entities  
29 of the county, allocate and pay the portion of taxes provided by  
30 paragraph (2) of subdivision (a) of Section 62420 to a special trust  
31 fund established for each RISE district. The amount allocated and  
32 paid shall not exceed the amount determined pursuant to  
33 subparagraph (C) of paragraph (1) of subdivision (c), minus the  
34 amount determined pursuant to subparagraph (D) of paragraph (1)  
35 of subdivision (c).

36 (g) (1) The statement of indebtedness constitutes prima facie  
37 evidence of the loans, advances, or indebtedness of the RISE  
38 district.

39 (2) (A) If the county auditor or other officer disputes the amount  
40 of loans, advances, or indebtedness as shown on the statement of

1 indebtedness, the county auditor or other officer shall, within 30  
2 days after receipt of the statement, give written notice to the RISE  
3 district thereof.

4 (B) The RISE district shall, within 30 days after receipt of notice  
5 pursuant to subparagraph (A), submit any further information it  
6 deems appropriate to substantiate the amount of any loans,  
7 advances, or indebtedness which has been disputed. If the county  
8 auditor or other officer still disputes the amount of loans, advances,  
9 or indebtedness, final written notice of that dispute shall be given  
10 to the RISE district, and the amount disputed may be withheld  
11 from allocation and payment to the RISE district as otherwise  
12 required by subdivision (h). In that event, the auditor or other  
13 officer shall bring an action in the superior court in declaratory  
14 relief to determine the matter not later than 90 days after the date  
15 of the final notice.

16 (3) In any court action brought pursuant to this section, the issue  
17 shall involve only the amount of loans, advances, or indebtedness,  
18 and not the validity of any contract or debt instrument or any  
19 expenditures pursuant thereto. Payments to a trustee under a bond  
20 resolution or indenture of any kind or payments to a public agency  
21 in connection with payments by that public agency pursuant to a  
22 lease or bond issue shall not be disputed in any action under this  
23 section. The matter shall be set for trial at the earliest possible date  
24 and shall take precedence over all other cases except older matters  
25 of the same character. Unless an action is brought within the time  
26 provided for herein, the auditor or other officer shall allocate and  
27 pay the amount shown on the statement of indebtedness as provided  
28 in subdivision (h).

29 (h) This section does not deny a remedy against the RISE district  
30 otherwise provided by law.

31 (i) The Controller shall prescribe a uniform form for a statement  
32 of indebtedness and reconciliation. These forms shall be consistent  
33 with this section. In preparing these forms, the Controller shall  
34 obtain the input of county auditors, agencies, and organizations of  
35 county auditors and agencies.

36 (j) For the purposes of this section, a fiscal year shall be a year  
37 that begins on July 1 and ends the following June 30.

38 62420.2. The county auditor shall, after deducting its  
39 administrative costs for activities performed pursuant to this chapter  
40 and Section 95.3 of the Revenue and Taxation Code, allocate the



1 funds deposited in a special trust fund established for a RISE  
2 district pursuant to subdivision (f) of Section 62420.1 and shall  
3 distribute those taxes in the same manner and at the same time or  
4 times as the payment of taxes into the funds of the affected taxing  
5 entities of the county. The amounts in the fund shall be transferred  
6 to the RISE district and available to the RISE district for any  
7 purpose authorized in the RISE development plan.

8 62421. (a) (1) At any time before or after the adoption of the  
9 RISE development plan, a city, county, or city and county may  
10 adopt a resolution to allocate tax revenues of that entity to the  
11 district, including revenues derived from local sales and use taxes  
12 imposed pursuant to the Bradley-Burns Uniform Local Sales and  
13 Use Tax Law (Part 1.5 (commencing with Section 7200) of  
14 Division 2 of the Revenue and Taxation Code) or transactions and  
15 use taxes imposed in accordance with the Transactions and Use  
16 Tax Law (Part 1.6 (commencing with Section 7251) of Division  
17 2 of the Revenue and Taxation Code).

18 (2) If the RISE development plan proposes to allocate tax  
19 revenues of that entity to the district that are derived from the local  
20 sales and use taxes imposed pursuant to the Bradley-Burns Uniform  
21 Local Sales and Use Tax Law (Part 1.5 (commencing with Section  
22 7200) of Division 2 of the Revenue and Taxation Code), the city,  
23 county, or city and county has received the consent of any impacted  
24 transportation agency that receives tax revenues derived from that  
25 any tax adopted pursuant to that law, and has ensured that existing  
26 or planned transportation operations and capital projects will not  
27 be negatively impacted.

28 (b) The RISE district shall ensure that the requirements of this  
29 article are met every 15 years.

30 (c) The use of the revenues derived from the local sales and use  
31 taxes imposed under the Bradley-Burns Uniform Local Sales and  
32 Use Tax Law (Part 1.5 (commencing with Section 7200) of  
33 Division 2 of the Revenue and Taxation Code) or transactions and  
34 use taxes imposed in accordance with the Transactions and Use  
35 Tax Law (Part 1.6 (commencing with Section 7251) of Division  
36 2 of the Revenue and Taxation Code) pursuant to the RISE  
37 development plan is consistent with the purposes for which that  
38 tax is imposed.

39 (d) The RISE district shall require, by recorded covenants or  
40 restrictions, that affordable housing units financed pursuant to this

1 section remain available at affordable housing costs to, and  
2 occupied by, very low income households, persons and families  
3 of low income, or persons and families of low or moderate income  
4 for the following, as applicable:

5 (1) Fifty-five years for units that are rented, unless a local  
6 ordinance or the terms of a federal, state, or local grant, tax credit,  
7 or other project financing requires, as a condition of the  
8 development of residential units, that the development include a  
9 certain percentage of units that are affordable to, and occupied by,  
10 low-income, lower income, very low income, or extremely low  
11 income households for a term that exceeds 55 years for rental  
12 housing units.

13 (2) Forty-five years for owner-occupied units.

14 (e) A RISE district shall not adopt an ordinance terminating a  
15 RISE district created pursuant to this section if the district has not  
16 complied with its affordable housing obligations.

17  
18 CHAPTER 5. TAX INCREMENT BONDS  
19

20 62425. A RISE district may, by majority vote, issue bonds  
21 pursuant to this chapter by adopting a resolution that includes all  
22 of the following:

23 (a) A description of the facilities or developments to be financed  
24 with the proceeds of the proposed bond issue.

25 (b) The estimated cost of the facilities or developments, the  
26 estimated cost of preparing and issuing the bonds, and the principal  
27 amount of the bond issuance.

28 (c) The maximum interest rate and discount on the bond  
29 issuance.

30 (d) A determination of the amount of tax revenue available or  
31 estimated to be available, for the payment of the principal of, and  
32 interest on, the bonds.

33 (e) A finding that the amount necessary to pay the principal of,  
34 and interest on, the bond issuance will be less than, or equal to,  
35 the amount determined pursuant to subdivision (d).

36 (f) The issuance of the bonds in one or more series.

37 (g) The principal amount of the bonds that shall be consistent  
38 with the amount specified in subdivision (b).

39 (h) The date the bonds will bear.

40 (i) The date of maturity of the bonds.

- 1 (j) The denomination of the bonds.
- 2 (k) The form of the bonds.
- 3 (l) The manner of execution of the bonds.
- 4 (m) The medium of payment in which the bonds are payable.
- 5 (n) The place or manner of payment and any requirements for
- 6 registration of the bonds.

7 (o) The terms of call or redemption, with or without premium.

8 62426. The RISE district may, by majority vote, provide for  
9 refunding of bonds issued pursuant to this chapter. However,  
10 refunding bonds shall not be issued if the total net interest cost to  
11 maturity on the refunding bonds plus the principal amount of the  
12 refunding bonds exceeds the total net interest cost to maturity on  
13 the bonds to be refunded. The RISE district may not extend the  
14 time to maturity of the bonds.

15 62427. The RISE district or any person executing the bonds  
16 shall not be personally liable on the bonds by reason of their  
17 issuance. The bonds and other obligations of a district issued  
18 pursuant to this chapter are not a debt of the city, county, or state  
19 or of any of its political subdivisions, other than the district, and  
20 none of those entities, other than the district, shall be liable on the  
21 bonds and the bonds or obligations shall be payable exclusively  
22 from funds or properties of the district. The bonds shall contain a  
23 statement to this effect on their face. The bonds do not constitute  
24 an indebtedness within the meaning of any constitutional or  
25 statutory debt limitation.

26 62428. The bonds may be sold at discount not to exceed 5  
27 percent of par at public sale. At least five days prior to the sale,  
28 notice shall be published, pursuant to Section 6061, in a newspaper  
29 of general circulation and in a financial newspaper published in  
30 the City and County of San Francisco and in the City of Los  
31 Angeles. The bonds may be sold at not less than par to the federal  
32 government at private sale without any public advertisement.

33 62429. If any member of the RISE district whose signature  
34 appears on bonds ceases to be a member of the RISE district before  
35 delivery of the bonds, their signature is as effective as if they had  
36 remained in office. Bonds issued pursuant to this chapter are fully  
37 negotiable.

38 62430. Upon the approval of its governing board, a city, county,  
39 or special district that contains territory within the boundaries of  
40 a district, may loan moneys to the district to fund those activities

described in the RISE development plan approved and adopted pursuant to Section 62410. Moneys loaned pursuant to this provision may be repaid at an interest rate that does not exceed the Local Agency Investment Fund rate that is in effect on the date that the loan is approved by the governing board. Notwithstanding any other provision of law it is the intent of the Legislature that any loan issued to a RISE district by a governmental entity shall be repaid fully unless agreed to otherwise between the district and the governmental entity.

62431. (a) Commencing in the calendar year in which a district has allocated a cumulative total of more than one million dollars (\$1,000,000) in property tax increment revenues under this division, including any proceeds of a debt issuance, and each year thereafter, the district shall contract for an independent audit conducted in accordance with generally accepted governmental auditing standards.

(b) Upon the request of the Governor or the Legislature, the Bureau of State Audits shall be authorized to conduct financial and performance audits of RISE districts. The results of the audits shall be provided to the district, the Controller, the Director of Finance, and the Joint Legislative Budget Committee.

#### CHAPTER 6. LABOR STANDARDS

62435. Except as provided in Sections 62437 and 62438, a project financed with RISE district funds shall meet all of the following labor standards:

(a) The development proponent shall require in contracts with construction contractors, and shall certify to the RISE district, that the standards specified in this section will be met in project construction.

(b) A development that is not in its entirety a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code and receives financing from a RISE district shall be subject to all of the following:

(1) All construction workers employed in the execution of the development shall be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that

1 apprentices registered in programs approved by the Chief of the  
2 Division of Apprenticeship Standards may be paid at least the  
3 applicable apprentice prevailing rate.

4 (2) The development proponent shall ensure that the prevailing  
5 wage requirement is included in all contracts for the performance  
6 of the work for those portions of the development that are not a  
7 public work.

8 (3) All contractors and subcontractors for those portions of the  
9 development that are not a public work shall comply with both of  
10 the following:

11 (A) Pay to all construction workers employed in the execution  
12 of the work at least the general prevailing rate of per diem wages,  
13 except that apprentices registered in programs approved by the  
14 Chief of the Division of Apprenticeship Standards may be paid at  
15 least the applicable apprentice prevailing rate.

16 (B) Maintain and verify payroll records pursuant to Section  
17 1776 of the Labor Code and make those records available for  
18 inspection and copying as provided in that section. This  
19 subparagraph does not apply if all contractors and subcontractors  
20 performing work on the development are subject to a project labor  
21 agreement that requires the payment of prevailing wages to all  
22 construction workers employed in the execution of the development  
23 and provides for enforcement of that obligation through an  
24 arbitration procedure. For purposes of this subparagraph, “project  
25 labor agreement” has the same meaning as set forth in paragraph  
26 (1) of subdivision (b) of Section 2500 of the Public Contract Code.

27 (c) (1) The obligation of the contractors and subcontractors to  
28 pay prevailing wages pursuant to this section may be enforced by  
29 any of the following:

30 (A) The Labor Commissioner through the issuance of a civil  
31 wage and penalty assessment pursuant to Section 1741 of the Labor  
32 Code, which may be reviewed pursuant to Section 1742 of the  
33 Labor Code, within 18 months after the completion of the  
34 development.

35 (B) An underpaid worker through an administrative complaint  
36 or civil action.

37 (C) A joint labor-management committee through a civil action  
38 under Section 1771.2 of the Labor Code.

39 (2) If a civil wage and penalty assessment is issued pursuant to  
40 this section, the contractor, subcontractor, and surety on a bond or

1 bonds issued to secure the payment of wages covered by the  
2 assessment shall be liable for liquidated damages pursuant to  
3 Section 1742.1 of the Labor Code.

4 (3) This subdivision does not apply if all contractors and  
5 subcontractors performing work on the development are subject  
6 to a project labor agreement that requires the payment of prevailing  
7 wages to all construction workers employed in the execution of  
8 the development and provides for enforcement of that obligation  
9 through an arbitration procedure. For purposes of this subdivision,  
10 “project labor agreement” has the same meaning as set forth in  
11 paragraph (1) of subdivision (b) of Section 2500 of the Public  
12 Contract Code.

13 (d) Notwithstanding subdivision (c) of Section 1773.1 of the  
14 Labor Code, the requirement that employer payments not reduce  
15 the obligation to pay the hourly straight time or overtime wages  
16 found to be prevailing does not apply to those portions of  
17 development that are not a public work if otherwise provided in a  
18 bona fide collective bargaining agreement covering the worker.

19 (e) The requirement of this section to pay at least the general  
20 prevailing rate of per diem wages does not preclude use of an  
21 alternative workweek schedule adopted pursuant to Section 511  
22 or 514 of the Labor Code.

23 62436. Except as provided in Sections 62437 and 62438, a  
24 development of 50 or more housing units financed by a RISE  
25 district shall, in addition to the requirements of Section 62435,  
26 meet all of the following labor standards:

27 (a) The development proponent shall require in contracts with  
28 construction contractors and shall certify to the RISE district that  
29 each contractor of any tier who will employ construction craft  
30 employees or will let subcontracts for at least 1,000 hours shall  
31 satisfy the requirements in subdivisions (b) and (c). A construction  
32 contractor is deemed in compliance with subdivisions (b) and (c)  
33 if it is signatory to a valid collective bargaining agreement that  
34 requires utilization of registered apprentices and expenditures on  
35 health care for employees and dependents.

36 (b) A contractor with construction craft employees shall either  
37 participate in an apprenticeship program approved by the State of  
38 California Division of Apprenticeship Standards pursuant to  
39 Section 3075 of the Labor Code, or request the dispatch of  
40 apprentices from a state-approved apprenticeship program under

1 the terms and conditions set forth in Section 1777.5 of the Labor  
2 Code. A contractor without construction craft employees shall  
3 show a contractual obligation that its subcontractors comply with  
4 this subdivision.

5 (c) Each contractor with construction craft employees shall  
6 make health care expenditures for each employee in an amount  
7 per hour worked on the development equivalent to at least the  
8 hourly pro rata cost of a Covered California Platinum level plan  
9 for two 40-year-old adults and two dependents 0 to 14 years of  
10 age for the Covered California rating area in which the  
11 development is located. A contractor without construction craft  
12 employees shall show a contractual obligation that its  
13 subcontractors comply with this subdivision. Qualifying  
14 expenditures shall be credited toward compliance with prevailing  
15 wage payment requirements set forth in Section 62435.

16 (d) (1) The development proponent shall provide to the RISE  
17 district, on a monthly basis while its construction contracts on the  
18 development are being performed, a report demonstrating  
19 compliance with subdivisions (b) and (c). The reports shall be  
20 considered public records under the California Public Records Act  
21 (Division 10 (commencing with Section 7920.000) of Title 1), and  
22 shall be open to public inspection.

23 (2) A development proponent that fails to provide the monthly  
24 report shall be subject to a civil penalty for each month for which  
25 the report has not been provided, in the amount of 10 percent of  
26 the dollar value of construction work performed by that contractor  
27 on the development in the month in question, up to a maximum  
28 of ten thousand dollars (\$10,000). Any contractor or subcontractor  
29 that fails to comply with subdivision (b) or (c) shall be subject to  
30 a civil penalty of two hundred dollars (\$200) per day for each  
31 worker employed in contravention of subdivision (b) or (c).

32 (3) Penalties may be assessed by the Labor Commissioner within  
33 18 months of completion of the development using the procedures  
34 for issuance of civil wage and penalty assessments specified in  
35 Section 1741 of the Labor Code, and may be reviewed pursuant  
36 to Section 1742 of the Labor Code. Penalties shall be deposited in  
37 the State Public Works Enforcement Fund established pursuant to  
38 Section 1771.3 of the Labor Code.

39 (e) Each construction contractor shall maintain and verify payroll  
40 records pursuant to Section 1776 of the Labor Code. Each

1 construction contractor shall submit payroll records directly to the  
2 Labor Commissioner at least monthly in a format prescribed by  
3 the Labor Commissioner in accordance with subparagraph (A) of  
4 paragraph (3) of subdivision (a) of Section 1771.4 of the Labor  
5 Code. The records shall include a statement of fringe benefits.  
6 Upon request by a joint labor-management cooperation committee  
7 established pursuant to the Federal Labor Management Cooperation  
8 Act of 1978 (29 U.S.C. Sec. 175a), the records shall be provided  
9 pursuant to subdivision (e) of Section 1776 of the Labor Code.

10 (f) All construction contractors shall report any change in  
11 apprenticeship program participation or health care expenditures  
12 to the RISE district within 10 business days, and shall reflect those  
13 changes on the monthly report. The reports shall be considered  
14 public records pursuant to the California Public Records Act  
15 (Division 10 (commencing with Section 7920.000) of Title 1) and  
16 shall be open to public inspection.

17 (g) A joint labor-management cooperation committee established  
18 pursuant to the Federal Labor Management Cooperation Act of  
19 1978 (29 U.S.C. Sec. 175a) shall have standing to sue a  
20 construction contractor for failure to make health care expenditures  
21 pursuant to subdivision (c) in accordance with Section 218.7 or  
22 218.8 of the Labor Code.

23 62437. Notwithstanding Sections 62435 and 62436, a proponent  
24 of an infrastructure projects financed with RISE district funds shall  
25 certify to the RISE district that either of the following is true:

26 (a) The entirety of the infrastructure project is a public work  
27 for purposes of Chapter 1 (commencing with Section 1720) of Part  
28 7 of Division 2 of the Labor Code.

29 (b) The infrastructure project is not in its entirety a public work  
30 for which prevailing wages must be paid under Article 1  
31 (commencing with Section 1720) of Chapter 1 of Part 7 of Division  
32 2 of the Labor Code, but all construction workers employed on  
33 construction of the development will be paid at least the general  
34 prevailing rate of per diem wages for the type of work and  
35 geographic area, as determined by the Director of Industrial  
36 Relations pursuant to Sections 1773 and 1773.9 of the Labor Code,  
37 except that apprentices registered in programs approved by the  
38 Chief of the Division of Apprenticeship Standards may be paid at  
39 least the applicable apprentice prevailing rate. If the infrastructure



1 project is subject to this paragraph, then for those portions of the  
2 project that are not a public work all of the following shall apply:

3 (1) The prevailing wage requirement is included in all contracts  
4 for the performance of all construction work.

5 (2) All contractors and subcontractors shall pay to all  
6 construction workers employed in the execution of the work at  
7 least the general prevailing rate of per diem wages, except that  
8 apprentices registered in programs approved by the Chief of the  
9 Division of Apprenticeship Standards may be paid at least the  
10 applicable apprentice prevailing rate.

11 (3) Except as provided in paragraph (5), all contractors and  
12 subcontractors shall maintain and verify payroll records pursuant  
13 to Section 1776 of the Labor Code and make those records  
14 available for inspection and copying as provided therein.

15 (4) Except as provided in paragraph (5), the obligation of the  
16 contractors and subcontractors to pay prevailing wages may be  
17 enforced by the Labor Commissioner through the issuance of a  
18 civil wage and penalty assessment pursuant to Section 1741 of the  
19 Labor Code, which may be reviewed pursuant to Section 1742 of  
20 the Labor Code, within 18 months after the completion of the  
21 development, or by an underpaid worker through an administrative  
22 complaint or civil action, or by a joint labor-management  
23 committee through a civil action under Section 1771.2 of the Labor  
24 Code. If a civil wage and penalty assessment is issued, the  
25 contractor, subcontractor, and surety on a bond or bonds issued to  
26 secure the payment of wages covered by the assessment shall be  
27 liable for liquidated damages pursuant to Section 1742.1 of the  
28 Labor Code.

29 (5) Paragraphs (3) and (4) shall not apply if all contractors and  
30 subcontractors performing work on the infrastructure are subject  
31 to a project labor agreement that requires the payment of prevailing  
32 wages to all construction workers employed in the execution of  
33 the development and provides for enforcement of that obligation  
34 through an arbitration procedure. For purposes of this clause,  
35 “project labor agreement” has the same meaning as set forth in  
36 paragraph (1) of subdivision (b) of Section 2500 of the Public  
37 Contract Code.

38 (6) Notwithstanding subdivision (c) of Section 1773.1 of the  
39 Labor Code, the requirement that employer payments not reduce  
40 the obligation to pay the hourly straight time or overtime wages

1 found to be prevailing shall not apply if otherwise provided in a  
2 bona fide collective bargaining agreement covering the worker.  
3 The requirement to pay at least the general prevailing rate of per  
4 diem wages does not preclude use of an alternative workweek  
5 schedule adopted pursuant to Section 511 or 514 of the Labor  
6 Code.

7 62438. (a) Notwithstanding Sections 62435 and 62436, the  
8 proponent of an infrastructure project financed with RISE district  
9 funds shall certify to the RISE district that a skilled and trained  
10 workforce will be used to perform all construction work on the  
11 infrastructure.

12 (1) For purposes of this subdivision, “skilled and trained  
13 workforce” has the same meaning as provided in Chapter 2.9  
14 (commencing with Section 2600) of Part 1 of Division 2 of the  
15 Public Contract Code.

16 (2) If the developer has certified that a skilled and trained  
17 workforce will be used to construct all work on infrastructure and  
18 the application is approved, all of the following shall apply:

19 (A) The RISE district shall require in all contracts for the  
20 performance of work that every contractor and subcontractor at  
21 every tier will individually use a skilled and trained workforce to  
22 construct the development.

23 (B) Every contractor and subcontractor shall use a skilled and  
24 trained workforce to construct the development.

25 (C) Except as provided in subparagraph (D), the contractor shall  
26 provide to the RISE district, on a monthly basis while the  
27 infrastructure is being constructed, a report demonstrating  
28 compliance with Chapter 2.9 (commencing with Section 2600) of  
29 Part 1 of Division 2 of the Public Contract Code. A monthly report  
30 provided to the RISE district pursuant to this subparagraph shall  
31 be a public record under the California Public Records Act  
32 (Division 10 (commencing with Section 7920.000) of Title 1), and  
33 shall be open to public inspection. A developer that fails to provide  
34 a monthly report demonstrating compliance with Chapter 2.9  
35 (commencing with Section 2600) of Part 1 of Division 2 of the  
36 Public Contract Code shall be subject to a civil penalty of ten  
37 thousand dollars (\$10,000) per month for each month for which  
38 the report has not been provided. Any contractor or subcontractor  
39 that fails to use a skilled and trained workforce shall be subject to  
40 a civil penalty of two hundred dollars (\$200) per day for each

1 worker employed in contravention of the skilled and trained  
2 workforce requirement. Penalties may be assessed by the Labor  
3 Commissioner within 18 months of completion of the development  
4 using the same procedures for issuance of civil wage and penalty  
5 assessments pursuant to Section 1741 of the Labor Code, and may  
6 be reviewed pursuant to the same procedures in Section 1742 of  
7 the Labor Code. Penalties shall be paid to the State Public Works  
8 Enforcement Fund.

9 (D) Subparagraph (C) shall not apply if all contractors and  
10 subcontractors performing work on the development are subject  
11 to a project labor agreement that requires compliance with the  
12 skilled and trained workforce requirement and provides for  
13 enforcement of that obligation through an arbitration procedure.  
14 For purposes of this subparagraph, “project labor agreement” has  
15 the same meaning as set forth in paragraph (1) of subdivision (b)  
16 of Section 2500 of the Public Contract Code.

17 (3) Notwithstanding subparagraph (B) of paragraph (2), a  
18 contractor or subcontractor shall not be in violation of the  
19 apprenticeship graduation requirements of subdivision (d) of  
20 Section 2601 of the Public Contract Code to the extent that all of  
21 the following requirements are satisfied:

22 (A) All contractors and subcontractors performing work on the  
23 development are subject to a project labor agreement that includes  
24 the local building and construction trades council as a party, that  
25 requires compliance with the apprenticeship graduation  
26 requirements, and that provides for enforcement of that obligation  
27 through an arbitration procedure.

28 (B) The project labor agreement requires the contractor or  
29 subcontractor to request the dispatch of workers for the project  
30 through a hiring hall or referral procedure.

31 (C) The contractor or subcontractor is unable to obtain sufficient  
32 workers to meet the apprenticeship graduation percentage  
33 requirement within 48 hours of its request, Saturdays, Sundays,  
34 and holidays excepted.

35 (b) Notwithstanding subdivision (a), a contract or subcontract  
36 may be awarded without a requirement for the use of a skilled and  
37 trained workforce to the extent that all of the following  
38 requirements are satisfied:

39 (1) At least seven days before issuing any invitation to prequalify  
40 or bid solicitation for the project, the developer sends a notice of

1 the invitation or solicitation that describes the project to the  
2 following entities within the jurisdiction of the proposed project  
3 site:

4 (A) Any bona fide labor organization representing workers in  
5 the building and construction trades who may perform work  
6 necessary to complete the project.

7 (B) Any organization representing contractors that may perform  
8 work necessary to complete the project.

9 (2) The RISE district or developer seeks bids containing an  
10 enforceable commitment that all contractors and subcontractors  
11 at every tier will use a skilled and trained workforce to perform  
12 work on the project that falls within an apprenticeable occupation  
13 in the building and construction trades.

14 (3) For the purpose of establishing a bidder pool of eligible  
15 contractors and subcontractors, the developer establishes a process  
16 to prequalify prime contractors and subcontractors that agree to  
17 meet skilled and trained workforce requirements.

18 (4) The bidding process for the project includes, but is not  
19 limited to, all of the following requirements:

20 (A) The prime contractor shall be required to list all  
21 subcontractors that will perform work in an amount in excess of  
22 one-half of 1 percent of the prime contractor's total bid.

23 (B) The RISE district or developer shall only accept bids from  
24 prime contractors that have been prequalified.

25 (C) If the RISE district or developer receives at least two bids  
26 from prequalified prime contractors, a skilled and trained workforce  
27 must be used by all contractors and subcontractors, except as  
28 provided in subparagraph (D).

29 (D) If the RISE district or developer receives fewer than two  
30 bids from prequalified prime contractors, the contract may be rebid  
31 and awarded without the skilled and trained workforce requirement  
32 applying to the prime contractor's scope of work.

33 (E) Prime contractors shall request bids from subcontractors on  
34 the prequalified list and shall only accept bids and list  
35 subcontractors from the prequalified list. If the prime contractor  
36 receives bids from at least two subcontractors in each tier listed  
37 on the prequalified list, the prime contractor shall require that the  
38 contract for that tier or scope of work will require a skilled and  
39 trained workforce.

1 (F) If the prime contractor fails to receive at least two bids from  
2 subcontractors listed on the prequalified list in any tier, the prime  
3 contractor may rebid that scope of work. The prime contractor  
4 need not require that a skilled and trained workforce be used for  
5 that scope of work and may list subcontractors for that scope of  
6 work that do not appear on the prequalified list.

7 (5) The RISE district shall establish minimum requirements for  
8 prequalification of prime contractors and subcontractors that are,  
9 to the maximum extent possible, quantifiable and objective. Only  
10 criterion, and minimum thresholds for any criterion, that are  
11 reasonably necessary to ensure that any bidder awarded a project  
12 can successfully complete the proposed scope shall be used by the  
13 developer. The developer shall not impose any obstacles to  
14 prequalification that go beyond what is commercially reasonable  
15 and customary.

16 (6) The RISE district and or developer shall, within 24 hours  
17 of a request by a labor organization that represents workers in the  
18 geographic area of the project, provide all of the following  
19 information to the labor organization:

20 (A) The names and Contractors State License Board numbers  
21 of the prime contractors and subcontractors that have prequalified.

22 (B) The names and Contractors State License Board numbers  
23 of the prime contractors that have submitted bids and their  
24 respective listed subcontractors.

25 (C) The names and Contractors State License Board numbers  
26 of the prime contractor that was awarded the work and its listed  
27 subcontractors.

28 (7) An interested party, including a labor organization that  
29 represents workers in the geographic area of the project, may bring  
30 an action for injunctive relief against a developer or prime  
31 contractor that is proceeding with a project in violation of the  
32 bidding requirements of this subdivision applicable to developers  
33 and prime contractors. The court in such an action may issue  
34 injunctive relief to halt work on the project and to require  
35 compliance with the requirements of this section. The prevailing  
36 plaintiff in such an action shall be entitled to recover its reasonable  
37 attorney's fees and costs.

38 62439. Notwithstanding any other provision of this chapter,  
39 this chapter shall not apply to a project that is privately financed  
40 in its entirety.

1 SEC. 4. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

O



▶ Legislation for Consideration  
BART Board of Directors  
May 11, 2023

# 2023 State Legislative Calendar At-a-Glance

- May 19 – Last day for fiscal committees to hear bills introduced in their house
- June 2 – House of origin deadline
- June 15 – Budget Bill must be passed by midnight
- July 14 – Last day for policy committees to meet
- July 14 to August 14 – Summer Recess
- September 1 – Last day for fiscal committees to meet
- September 8 – Last day to amend bills on the Floor
- September 14 – Last day for each house to pass bills
- October 14 – Last day for the Governor to sign or veto bills



# State Legislation to *SUPPORT*

## **ACA 1 (Aguiar-Curry) – Local government financing: affordable housing and public infrastructure: voter approval**

- Reduces the vote threshold to pass a general obligation bond or special tax from two-thirds to 55% if it is for public infrastructure, affordable housing, or permanent supportive housing, as defined.
- Legislative passage would place a constitutional amendment on the ballot to be approved by voters at a future statewide election.

## **AB 719 (Boerner Horvath) – Medi-Cal benefits**

- Requires managed health care plans, under the direction of the Department of Health Care Services, to establish reimbursement rates for nonmedical and nonemergency medical trips provided by public transit operators.
- Would allow for higher reimbursement of certain paratransit trips provided by operators, including East Bay Paratransit.

# State Legislation to *SUPPORT*(Continued)

## **AB 1377 (Friedman) – Homeless Housing, Assistance and Prevention program: Round 3**

- Requires cities, counties and continuums of care that receive state Homeless Housing, Assistance and Prevention (HHAP) program funding to provide data and a narrative summary of specific and quantifiable steps that they have taken to improve the delivery of housing and services to people experiencing or at risk of experiencing homelessness on facilities owned and operated by transit districts in their jurisdictions.
- Creates an expectation that HHAP funding recipients address homelessness on transit facilities located in their jurisdictions.

# State Legislation to *SUPPORT*(Continued)

## **SB 434 (Min) – Transit operators: street harassment survey**

- Requires the state's top ten public transit operators by ridership, upon appropriations of funds by the Legislature, to collect survey data and conduct outreach activities for the purpose of informing efforts to improve the safety of riders and reduce street harassment on transit.
- “Street harassment” is defined as words, gestures or actions directed at a specific person in a public place, without the consent of that person, because of a characteristic such as sex, race, national origin, physical or mental disability, etc., that the person experiences as intimidating, terrorizing or otherwise threatening to their safety.
- Last year, Senator Min authored SB 1161, which required the Mineta Transportation Institute (MTI) at San Jose State University to develop and make available by December 31, 2023, a survey to allow for consistency in the collection of data to inform efforts to improve the safety of riders and reduce street harassment on transit.
- BART supported SB 1161, which passed the Legislature and was signed by the Governor.
- BART was selected to pilot the draft survey with riders and will be providing input on survey length and clarity to MTI.

# Federal Legislation to *SUPPORT*

## **S. 24 (Feinstein) and H.R. 516 (Lieu) – The Fighting Homelessness Through Services and Housing Act**

- Authorizes \$1 billion annually for five years, for a total of \$5 billion, for grants to local government entities to fund supportive housing models that provide comprehensive services and intensive case management.
- Grants would require a 25 percent match for services and housing from non-federal funds.
- Grants could be used for any combination of operations and capital building costs, as long as housing and services requirements are fulfilled.
- Services must address issues including mental health, substance use disorders, educational and job training opportunities, and life skills classes.
- Intensive case management must be provided with a ratio of no greater than 1 case manager to every 20 people served.
- Requires grant recipients to track outcomes and report on housing stability and improvements in health and wellbeing of those served.

# State Legislation to *SUPPORT AND SEEK AMENDMENTS*

## **AB 930 (Friedman) – Local government: Reinvestment in Infrastructure for a Sustainable and Equitable California (RISE) Districts**

- Authorizes two or more cities or counties to jointly form a RISE district, which a special district's governing body could vote to join, as a new tool for localities to use for the purpose of planning, financing, and facilitating development.
- Recent amendments removed special districts and transit agencies from the entities that are eligible to partner with cities and counties to form a RISE district, instead providing that the governing board of a special district can vote to join a RISE district.
- Staff recommend a Support and Seek Amendments position, seeking amendments to:
  - Restore the ability of transit districts to form RISE districts along with cities and counties.
  - Clarify language that “transit facilities and investments,” defined as part of “infill supportive structure,” include intercity and commuter rail.
  - Clarify that RISE districts can be formed around existing or planned future transit stations.
  - Restore exemptions from the California Environmental Quality Act (CEQA) for certain actions taken in the formation and operation of RISE districts.

# Additional State Legislation of Interest (For Information Only)

## OPEN MEETINGS

### **AB 557 (Hart) – Open meetings: local agencies: teleconferences**

- Amends the Brown Act by eliminating the January 1, 2024, sunset date on provisions of law authorizing a local agency's legislative body to use teleconferencing for a public meeting without having to post agendas at each teleconference location, identify each teleconference location in the notice and agenda, make each teleconference location accessible to the public, and require at least a quorum of the body to participate from within the agency's jurisdiction during a proclaimed state of emergency.

### **SB 537 (Becker) – Open meetings: local agencies: teleconferences**

- Amends the Brown Act to authorize an eligible legislative body, defined as a board, commission, or advisory body of a multijurisdictional, cross-county, or local agency, the members of which are appointed, to use teleconferencing until January 1, 2028, without having to make each teleconference location publicly accessible.
- Would expand the circumstances of "just cause" as currently defined under AB 2449 to include the need to participate remotely because of an immunocompromised child, parent, grandchild, sibling, spouse, or domestic partner.

# Additional State Legislation of Interest (Continued)

## TRANSIT/PUBLIC INFRASTRUCTURE

### **AB 463 (Hart) – Electricity: prioritization of service: public transit vehicles**

- Requires a utility's wildfire mitigation plan to include protocols to mitigate effects on public transit vehicle electric charging during public safety power shutoffs (PSPS).
- Sponsored by the California Transit Association and AC Transit.

### **AB 761 (Friedman) – Transit Transformation Task Force**

- Requires the Transportation Secretary to convene the Transit Transformation Task Force, with specified representation from operators and other stakeholders, to recommend to the Legislature ways to increase transit ridership and identify new options for state revenue sources, among other topics.

### **AB 819 (Bryan) – Crimes: public transportation: fare evasion**

- Would no longer categorize as a misdemeanor a third or subsequent violation, by an adult, of evading fare payment. Would remove the potential of imprisonment in a county jail for up to 90 days and make violations punishable only by a fine of up to \$400.

### **AB 1525 (Bonta) – Transportation Agency: allocations for projects in priority communities**

- Requires at least 60% of funds allocated for California Transportation Agency, Caltrans, or California Transportation Commission projects to be awarded to projects in “priority populations,” as defined.

# Additional State Legislation of Interest (Continued)

## HOUSING

### **AB 281 (Grayson) – Planning and zoning: housing: postentitlement phase permits**

- Requires special districts to respond, within specified timeframes, to applications from housing development projects for any additional information that may be required to begin the process of reviewing the application for service or approval.

### **AB 480 (Ting) – Surplus land**

- Changes the penalty provisions of the Surplus Land Act and makes procedural changes to noticing requirements when local agencies are disposing of “surplus land” and “exempt surplus land.”

### **AB 529 (Gabriel) – Adaptive reuse projects**

- Adds conversion or redevelopment of commercial properties to the list of specified pro-housing local policies; Requires the Department of Housing and Community Development (HCD) to develop revisions to the state building code for adaptive reuse development projects.

### **AB 1449 (Alvarez) – Affordable housing: California Environmental Quality Act: exemption**

- Exempts from the California Environmental Quality Act (CEQA), until January 1, 2033, certain actions taken by a public agency related to affordable housing projects, if certain requirements are met.



# Additional State Legislation of Interest (Continued)

## **AB 1319 (Wicks) – Bay Area Housing Finance Authority: housing revenue**

- Modifies how the Bay Area Housing Finance Authority (BAHFA) may collect and expend revenues; clarifies BAHFA may place more than one measure on a ballot, issue revenue bonds, and acquire, develop, and dispose of real property; Exempts certain actions taken by BAHFA from CEQA.

## **SB 4 (Wiener) – Planning and zoning: housing development: higher education institutions and religious institutions**

- Requires housing development to be by-right, upon request of an applicant for streamlined approval, on land owned by an independent institution of higher education or religious institution.

## **SB 423 (Wiener) – Land use: streamlined housing approvals: multifamily housing developments**

- Eliminates the January 1, 2026, sunset of SB 35 (Wiener, 2017), which subjects local governments to project streamlining if they fail to adopt a compliant housing element as determined by HCD; Adopts labor standards for prevailing wage set in AB 2011 (Wicks, 2022).

## **SB 747 (Caballero) – Land use: economic development: surplus land**

- Makes numerous changes to the Surplus Lands Act, including expanding the definition of “exempt surplus land” to include land used for joint developments by a transit operator and another public agency.
- Redefines the term “agency’s use” to include use for transit or transit-oriented development.

# Additional State Legislation of Interest (Continued)

## MISCELLANEOUS

### **AB 518 (Wicks) – Paid family leave**

- Expands paid family leave to allow an individual to take off work to care for a designated person with whom they have the equivalent of a family relationship, if they are not related by blood.

### **SB 2 (Portantino) – Firearms**

- Restructures several provisions of law related to carrying concealed firearms in response to the 2022 US Supreme Court decision *New York State Rifle and Pistol Association v. Bruen*.

### **SB 328 (Dodd) – Political Reform Act of 1974: contribution limits**

- Applies existing contribution limits for state legislative candidates to those seeking office as a member of a school district, community college district, or other special district governing board.

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

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**INTER-OFFICE COMMUNICATION**

**TO:** Board of Directors

**Date:** May 5, 2023

**FROM:** Interim Controller-Treasurer

**SUBJECT: QUARTERLY REPORT OF THE CONTROLLER-TREASURER**

Attached is the Quarterly Report of the Controller-Treasurer for the quarter ending December 31, 2022, which will be presented to the Board on May 11, 2023.

Please feel free to call me at 510-464-6070 with any questions you may have.



Chris Gan



# Controller-Treasurer's Quarterly Report Period Ending December 31, 2022



BART Board of Directors  
May 11, 2023

# Controller-Treasurer's Quarterly Report

## Period Ending December 31, 2022

- The District currently provides benefits to employees which include, but are not limited to:
  - **Retirement Pension Plan** managed by the California Public Employee Retirement System (CalPERS) and funded by contributions from the District and its employees. CalPERS is the largest pension plan in the United States with assets of approximately \$400 billion.
    - ✓ The District established a Section 115 Trust for prefunding the District's pension obligation on February 5, 2020.
  - **Retiree Medical Benefits** coverage funded by a Trust established by the District in 2005.
    - a. Invested in a combination of stocks, bonds, REIT & cash,
    - b. Benchmark 6.5%,
    - c. Quarterly Report to the Unions
  - **Survivor Benefits** of active and retired employees funded by the employees (\$15/month).
    - ✓ The Trust was established on May 18, 2020.
  - **Life Insurance** for retired employees.
  - The District also accrues liabilities through Property & Casualty insurance and workers compensation claims and maintains the required reserves related to its self-funded insurance programs for worker's compensation and general liability based on an annual actuarial study.

# Controller-Treasurer's Quarterly Report

## Period Ending December 31, 2022

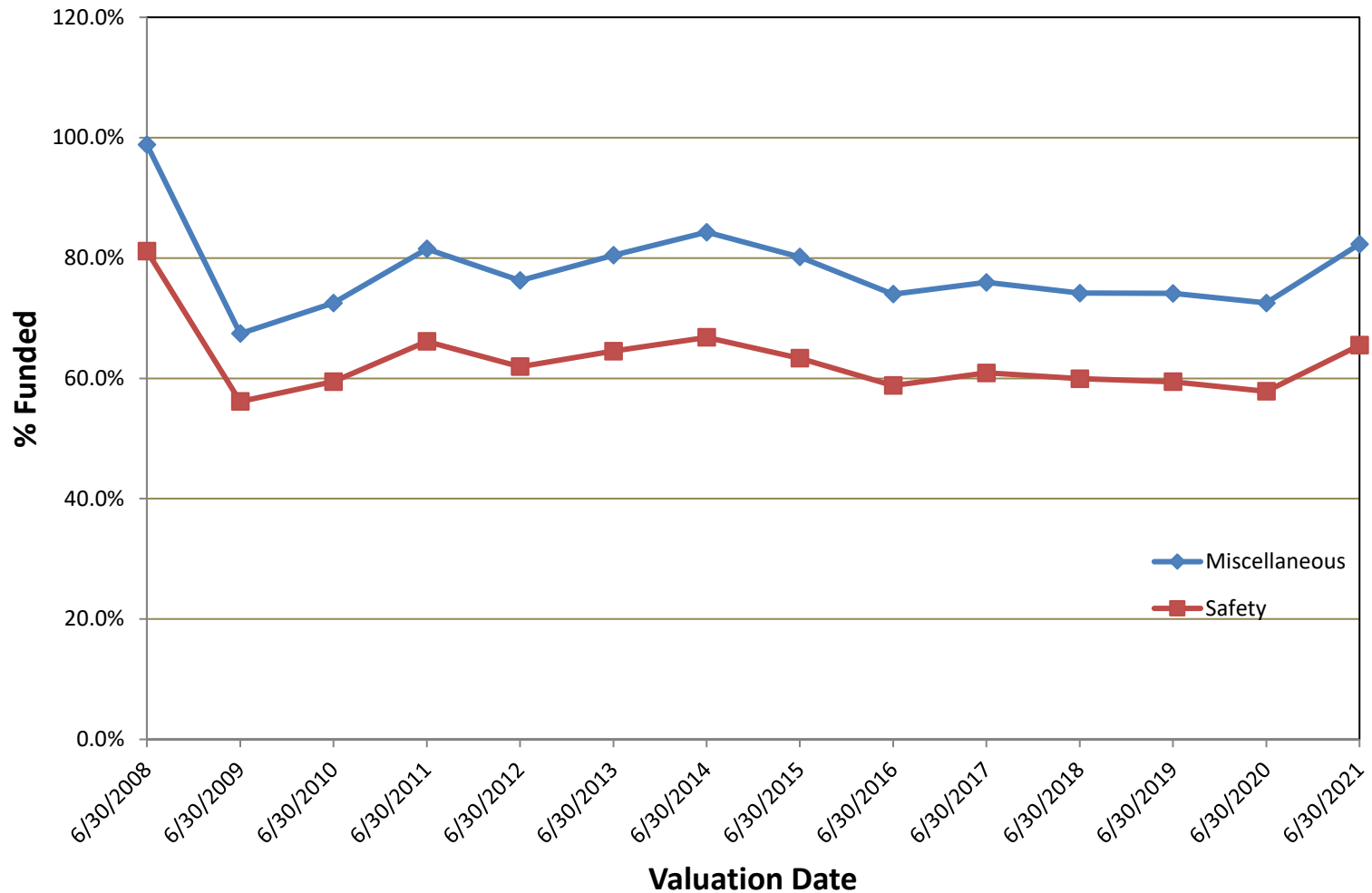
### Funding Summary of Pension Benefit Obligations

|  | <u>Report Date</u> | <u>Market Value of<br/>Assets</u> | <u>Total Liability</u>         | <u>Unfunded Liability</u>    | <u>% Funded</u> |
|--|--------------------|-----------------------------------|--------------------------------|------------------------------|-----------------|
| <b>Funds Managed by CALPERS</b>            |                    |                                   |                                |                              |                 |
| Miscellaneous Employees                    | 6/30/2021          | \$ 2,428,597,412                  | \$ 2,949,517,562               | \$ 520,920,150               | 82.3%           |
| Safety Employees                           | 6/30/2021          | \$ 292,270,831                    | \$ 446,325,701                 | \$ 154,054,870               | 65.5%           |
| Section 115 Pension Trust                  | 12/31/2022         | <u>\$ 37,358,915</u>              |                                | <u>\$ (37,358,915)</u>       |                 |
| <b>Total - Pension Benefit Obligations</b> |                    | <u><u>\$ 2,758,227,158</u></u>    | <u><u>\$ 3,395,843,263</u></u> | <u><u>\$ 637,616,105</u></u> |                 |

# Controller-Treasurer's Quarterly Report

## Period Ending December 31, 2022

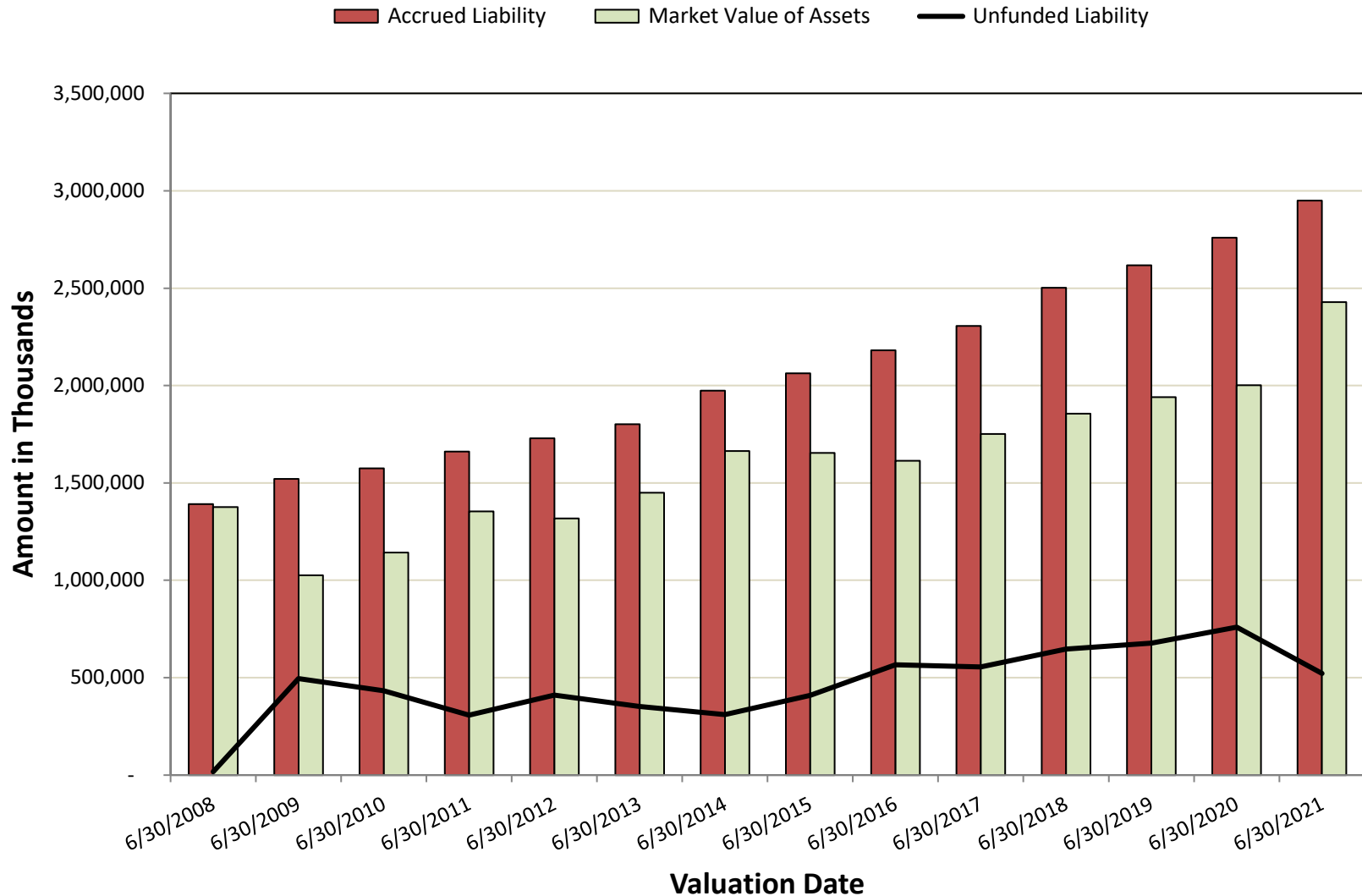
### CALPERS Pension Plan Funding Progress



# Controller-Treasurer's Quarterly Report

## Period Ending December 31, 2022

### CALPERS Miscellaneous Pension Plan Funding Progress

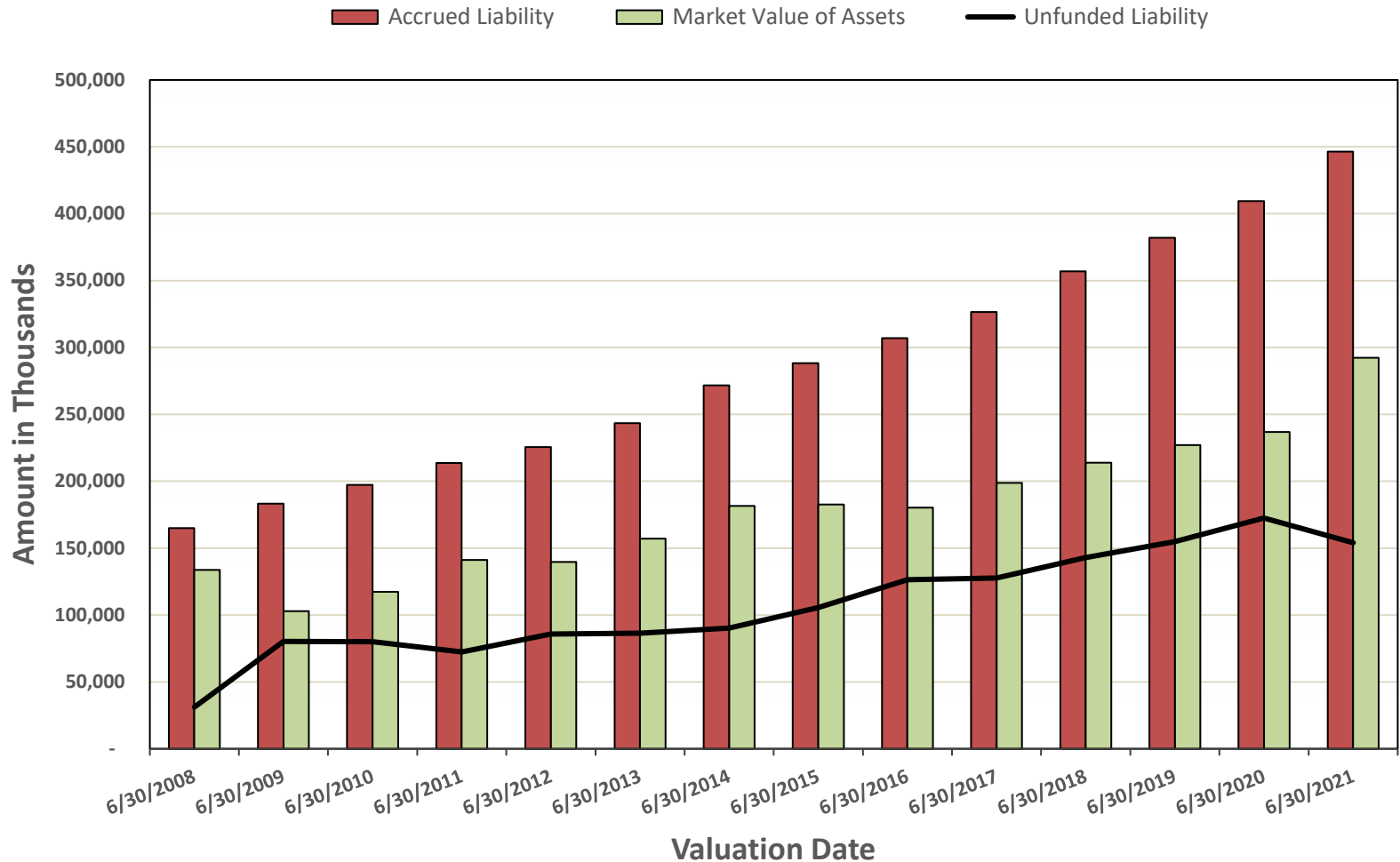




# Controller-Treasurer's Quarterly Report

## Period Ending December 31, 2022

### CALPERS Safety Pension Plan Funding Progress



## Controller-Treasurer's Quarterly Report

### Period Ending December 31, 2022

#### Funding Summary of Other Post Employment Benefit Obligations

|                                       | <u>Report Date</u> | <u>Market Value of<br/>Assets</u> | <u>Total Liability</u> | <u>Unfunded<br/>Liability</u> | <u>% Funded</u> |
|---------------------------------------|--------------------|-----------------------------------|------------------------|-------------------------------|-----------------|
| <b>Retiree Health Benefits</b>        | 6/30/2022          | \$ 450,028,000                    | \$ 677,530,000         | \$ 227,502,000                | 66.4%           |
| <b>Other Post Employment Benefits</b> |                    |                                   |                        |                               |                 |
| <b>Life Insurance</b>                 | 6/30/2022          | \$ -                              | \$ 45,887,000          | \$ 45,887,000                 | 0.0%            |
| <b>Survivors Benefits</b>             | 6/30/2022          | \$ 9,489,000                      | \$ 21,030,000          | \$ 11,541,000                 | 45.1%           |

# Controller-Treasurer's Quarterly Report

## Period Ending December 31, 2022

### Funding Progress Retiree Health Benefits Plan



## Controller-Treasurer's Quarterly Report

### Period Ending December 31, 2022

### Summary of Trust Assets for Other Post Employment Benefits

#### Quarterly Change

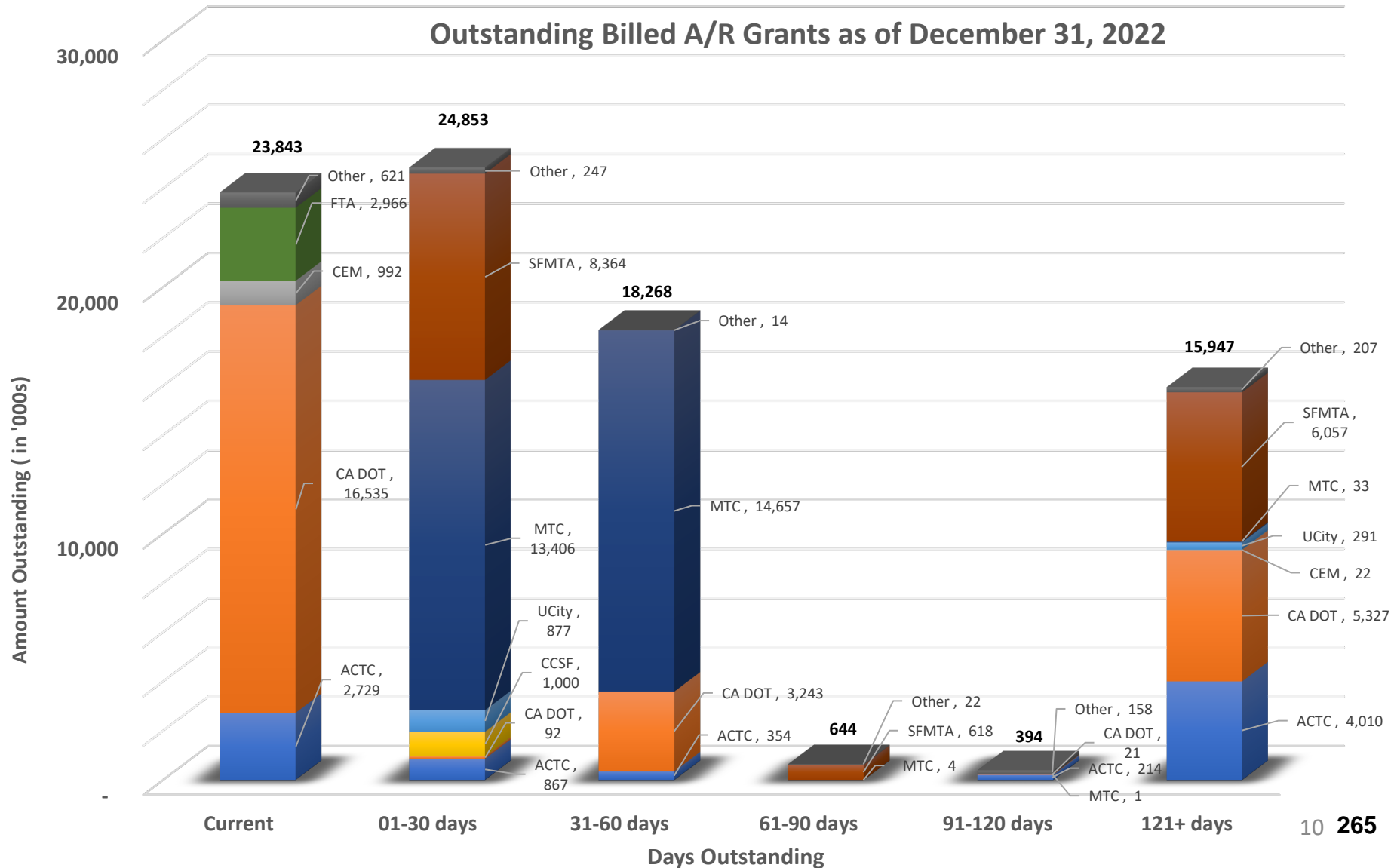
|                              | Net Assets<br>September 30, 2022 | Contributions       | Expenses              | Gain (Loss)          | Net Assets<br>December 31, 2022 | Inception to-date<br>Return |
|------------------------------|----------------------------------|---------------------|-----------------------|----------------------|---------------------------------|-----------------------------|
| Retiree Health Benefit Trust | \$ 431,691,614                   | \$ 9,757,462        | \$ (7,888,868)        | \$ 22,979,693        | \$ 456,539,901                  | 6.5%                        |
| Section 115 Pension Trust    | 36,803,870                       |                     |                       | 555,045              | 37,358,915                      | -2.6%                       |
| Survivors Benefit Trust      | 9,166,403                        | 202,120             | (103,434)             | 447,055              | 9,712,144                       | 1.9%                        |
|                              | <hr/>                            | <hr/>               | <hr/>                 | <hr/>                | <hr/>                           |                             |
| Total                        | <u>\$ 477,661,887</u>            | <u>\$ 9,959,582</u> | <u>\$ (7,992,302)</u> | <u>\$ 23,981,793</u> | <u>\$ 503,610,960</u>           |                             |

# Controller-Treasurer's Quarterly Report

## Period Ending December 31, 2022

### Accounts Receivable

- The status of receivables from our funding partners is shown in the chart below. The amount outstanding is \$83,949,000 as of December 31, 2022.



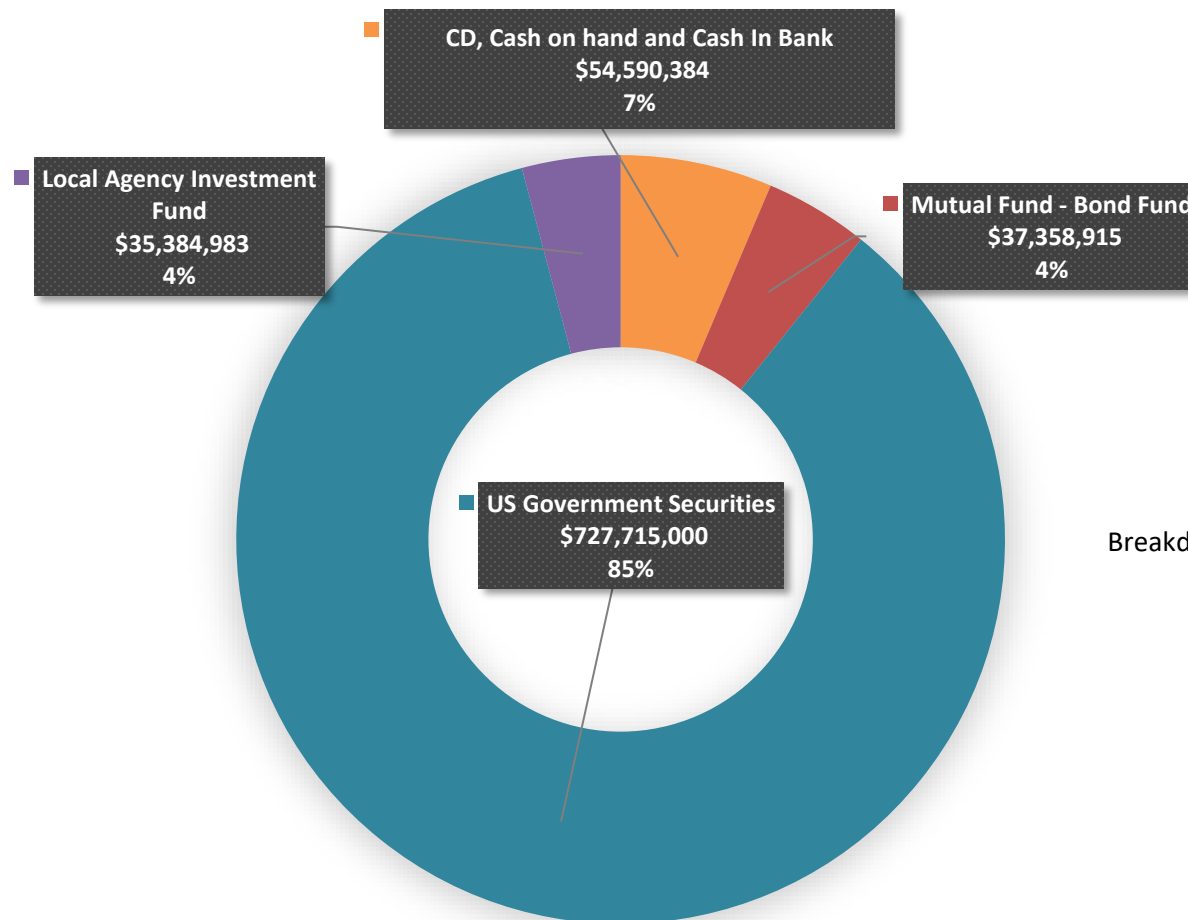
# Controller-Treasurer's Quarterly Report

## Period Ending December 31, 2022

### Cash and Investments

#### DISTRICT FINANCES

The District's cash and investments for the General Fund and Working Capital Fund as of the end of the quarter is \$855,049,282. Weighted average return on our Investments in the current quarter is 4.07% compared to 2.92% reported in the previous quarter. The yield on Local Agency Investment Fund for the quarter is 2.07%.



#### Breakdown of US Government Securities

- US Treasury
- Federal Home Loan Bank
- Federal Farm Credit Bank

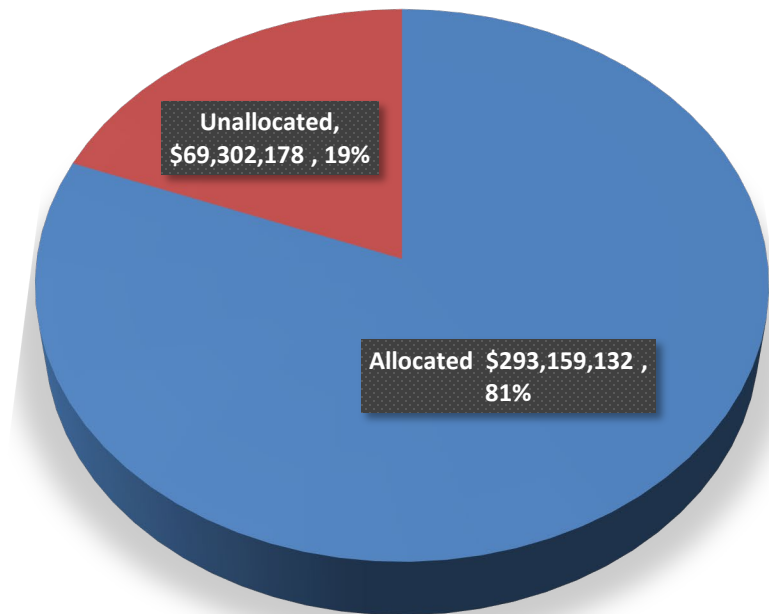
# Controller-Treasurer's Quarterly Report

## Period Ending December 31, 2022

### Breakdown of Cash and Investments

|              | December 31, 2022     |                       |                       |
|--------------|-----------------------|-----------------------|-----------------------|
|              | General Fund          | Capital Fund          | Total                 |
| Restricted   | \$ 18,872,736         | \$ 21,026,092         | \$ 39,898,828         |
| Unrestricted | \$ 473,715,236        | \$ 341,435,218        | \$ 815,150,454        |
|              | <b>\$ 492,587,972</b> | <b>\$ 362,461,310</b> | <b>\$ 855,049,282</b> |

**Capital Fund**



# Controller-Treasurer's Quarterly Report

## Period Ending December 31, 2022

### *Summary of Outstanding Bonds*

|  | Authorized       | Issued                         | 09-30-2022                     | Issuance           | Payments           | 12/31/2022                    | Annual Debt Service          | Property Tax Assessments *** |
|--|------------------|--------------------------------|--------------------------------|--------------------|--------------------|-------------------------------|------------------------------|------------------------------|
| <b>Sales Tax Revenue Bonds **</b>          |                  | \$ 984,260,000                 | \$ 626,070,000                 | \$ -               |                    | \$ 626,070,000                | \$ 59,919,129                |                              |
| <b>Measure AA General Obligation Bonds</b> | \$ 980,000,000   | \$ 980,000,000                 | \$ 628,865,000                 | \$ -               |                    | \$ 628,865,000                | \$ 54,655,344                | \$5.30/\$100,000             |
| <b>Measure RR General Obligation Bonds</b> | \$ 3,500,000,000 | \$ 2,060,000,000               | \$ 1,855,420,000               |                    |                    | \$1,855,420,000               | \$ 84,679,275                | \$8.70/\$100,000             |
| <b>Total</b>                               |                  | <u><b>\$ 4,024,260,000</b></u> | <u><b>\$ 3,110,355,000</b></u> | <u><b>\$ -</b></u> | <u><b>\$ -</b></u> | <u><b>\$3,110,355,000</b></u> | <u><b>\$ 199,253,748</b></u> |                              |

\*\* Sales Tax Revenue Bonds with outstanding balances.

\*\*\* Net of Cash Available for Debt Service collected from prior year's assessment.



# Controller-Treasurer's Quarterly Report

## Period Ending December 31, 2022

### Operating and Other Reserves

#### Quarterly Changes

|   |     | October 2022 - December 2022 |                      |                        |                       |
|---|-----|------------------------------|----------------------|------------------------|-----------------------|
|   |     | Sept. 30, 2022               | Additions            | Usage                  | Gain (Loss)           |
| Operating Reserve                                     | (1) | \$ 53,708,182                |                      |                        |                       |
| Insurance Calamity Reserve                            | (2) | 9,000,000                    |                      |                        |                       |
| Operating Reserve - Economic Uncertainty              |     |                              |                      |                        |                       |
| General Reserve for Economic Uncertainty              | (3) | 25,345,543                   |                      |                        |                       |
| From Federal Assistance - ARP                         | (3) | 346,982,531                  | 95,528,828           | (67,153,752)           |                       |
| Operating Reserve - Fiscal Stability - Pension        | (4) | 36,803,870                   |                      |                        | 555,045               |
| Operating Reserve - Low Carbon Fuel Standards Credits | (5) | 18,498,668                   |                      |                        |                       |
| Working Capital Reserve Fund                          | (6) | 84,356,820                   |                      |                        | 609,967               |
| Operating Reserve - eBART Operations                  | (7) | 5,390,000                    |                      |                        |                       |
| Total   |     | <u>\$ 580,085,614</u>        | <u>\$ 95,528,828</u> | <u>\$ (67,153,752)</u> | <u>\$ 1,165,012</u>   |
|   |     |                              |                      |                        | <u>\$ 609,625,702</u> |

(1) Cumulative balance of operating reserves per "Financial Stability Policy" approved by the Board.

(2) This reserve was set aside in the 1960s to cover catastrophic losses associated with District property damage, public liability and workers' compensation claims.

(3) Operating reserve set aside due to uncertain economic conditions.

(4) Amount set aside in FY18, FY19, FY20, FY21, and FY22 for pension contribution or for prefunding of the District's pension obligation. A Section 115 Pension Trust has been created for this reserve.

(5) Portion of proceeds from sale of Low Carbon Fuel Standards credits sold set aside to support operations per "Low Carbon Fuel Standard Policy" approved by the Board in July 2017.

(6) Working capital fund.

(7) FY21 year end operating allocation for eBART non-labor operating cost.