



METROPOLITAN
TRANSPORTATION
COMMISSION

Agenda Item 3a

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Memorandum

TO: Legislation Committee

DATE: May 4, 2012

FR: Executive Director

W. I. 1131

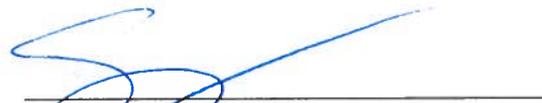
RE: SB 1149 (DeSaulnier): Bay Area Regional Commission

Background

This memo is a brief general description of SB 1149, a bill that seeks to make fundamental changes to regional governance in the Bay Area, and has been in print for only a few days. A detailed analysis of SB 1149 will be available at the May 23rd Commission meeting. A letter to Senator DeSaulnier from Chair Tissier is attached and it expresses our concerns with the abbreviated process for discussion that was given to this major piece of legislation.

SB 1149 would establish a new regional agency called the Bay Area Regional Commission (BARC). The new agency would be governed by 15 directly elected commissioners beginning in 2014. The BARC would effectively control the budgets and activities of the Association of Bay Area Governments (ABAG), the Bay Area Air Quality Management District (BAAQMD), the Bay Conservation and Development Commission (BCDC), the Bay Area Toll Authority (BATA), the Metropolitan Transportation Commission (MTC) and any joint powers authority of which MTC is a member. These existing regional agencies would each become a division of BARC in order to “integrate the management of the commission with that of the regional entities.”

The bill is set for its first policy committee hearing next week, although as of this writing it is uncertain whether the bill will be heard in the Senate Transportation or Local Government Committee.



Steve Heminger

Enclosure
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May 4, 2012

Adrienne J. Tissier, Chair
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and Urban Development

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Ann Flemer
Deputy Executive Director, Policy

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Deputy Executive Director, Operations

The Honorable Mark DeSaulnier
Chairman, Senate Transportation and Housing Committee
State Capitol
Sacramento, CA 95814

RE: Senate Bill 1149

Dear Senator DeSaulnier:

On May 1st, you amended Senate Bill 1149, a so-called "spot bill" that contained no substantive legislative provisions. Your amendment added 350 lines of new text that would constitute – in the words of the press release you issued – the most comprehensive change in regional governance "since the Metropolitan Transportation Commission (MTC) was created in 1970." The bill is now set for hearing next week.

As a former board member of three of the four regional agencies referenced in SB 1149, you are well aware that these agency boards typically meet only monthly, in some cases less frequently than that. Thus, by rushing this legislation to its first policy committee hearing in the State Senate only a few business days after these substantive amendments were in print, you have effectively foreclosed any meaningful opportunity for consultation and comment by the very agencies that would be most profoundly affected by the bill. I might add that MTC has been attempting to schedule a meeting with you for more than a month on another of your bills concerning our agency, and your office has not provided us any dates on which to do so. This is a poor way to conduct the public's business.

I enclose a preliminary analysis of just one of a host of serious policy and procedural questions raised by SB 1149: whether the legislation constitutes an unlawful or unconstitutional impairment of the Bay Area Toll Authority's toll-setting responsibilities that could subject the State of California to large damage claims in litigation brought by bondholders, lenders or other creditors. It is extremely unfortunate that none of these issues will be given adequate attention or public review by the time of the committee hearing next week.

May 4, 2012

I strongly urge you to withdraw SB 1149 from the committee hearing docket and provide the affected regional agencies, Bay Area local governments, and other private sector stakeholders who have a vital interest in your legislation with adequate time to review its complex provisions and consult with you on a productive path forward. I know we share a common objective of improving the efficiency and effectiveness of the Bay Area's regional public institutions. In my view, our shared objective is best obtained in an atmosphere of mutual respect and proper deliberation. Regrettably, the hasty amendment and hearing schedule of SB 1149 has not met that test.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adrienne J. Tissier', written in a cursive style.

Adrienne J. Tissier
Chair

Enclosure

Cc: Members, Senate Transportation and Housing Committee
Members, Senate Governance and Finance Committee
Members, Bay Area Senate Delegation
Senate President pro Tem Darrell Steinberg
Board Chairs, ABAG, BCDC, BAAQMD
Commission