



**SANTA CRUZ METROPOLITAN TRANSIT DISTRICT (METRO)
BOARD OF DIRECTORS MEETING MINUTES*
JANUARY 28, 2022 – 9:00 AM
MEETING HELD VIA TELECONFERENCE**

A regular meeting of the Board of Directors of the Santa Cruz Metropolitan Transit District (METRO) convened on Friday, January 28, 2022, via teleconference.

The Board Meeting Agenda Packet can be found online at www.SCMTD.com. *Minutes are “summary” minutes, not verbatim minutes. Audio recordings Board meeting open sessions are available to the public upon request.

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- 1 **CALLED TO ORDER** at 9:04 AM by Board Chair Lind.
- 2 **SWEAR IN NEW DIRECTORS: Interim CEO Crummié swore in new and returning Directors Downing, Henderson, Kalantari-Johnson, Koenig, Parker, and Northcutt**
- 3 **ROLL CALL:** The following Directors were **present** via teleconference, representing a quorum:

Director Rebecca Downing	County of Santa Cruz
Direct Jimmy Dutra	City of Watsonville
Director Shebreh Kalantari-Johnson	City of Santa Cruz
Director Manu Koenig	County of Santa Cruz
Director Donna Lind	City of Scotts Valley
Director Bruce McPherson	County of Santa Cruz
Director Donna Meyers	City of Santa Cruz
Director Larry Pageler	County of Santa Cruz
Director Ari Parker	City of Watsonville
Director Kristen Petersen	City of Capitola
Director Mike Rotkin	County of Santa Cruz
Ex-Officio Director Dan Henderson	UC Santa Cruz
Ex-Officio Director Alta Northcutt	Cabrillo College

Additional METRO staff:

Dawn Crummié
Julie Sherman

Interim CEO/GM
General Counsel

- 4 **ANNOUNCEMENTS**
Today’s meeting is being broadcast by Community Television of Santa Cruz County.

5 BOARD OFFICERS AND COMMITTEE ASSIGNMENTS

Chair Lind introduced her 2022 Officers, Committees, Santa Cruz County Regional Transportation Commission (SCCRTC), and Santa Cruz Civic Improvement Corporation (SCCIC) slate as presented in the board agenda (pages 5C.1 – 5C.8). In addition, Chair Lind recommended Director Parker fill a vacant slot as a SCCRTC alternate. She then welcomed additional input from the Board members.

Director Koenig nominated the following directors to his slate: Director Dutra as Vice Chair; Directors Petersen, Rotkin and Parker as SCCRTC representatives; and Directors Kalantari-Johnson, Pageler, and Lind as SCCRTC alternates.

Discussion ensued on the importance of having more representation from south county on the slate. Director Dutra voiced that he would like to represent south county as Vice Chair if Director McPherson is agreeable to that suggestion.

Ex-Officio Director Northcutt thanked the Board for the opportunity to serve on SCCRTC and Chair Lind thanked her for her service. Director Dutra thanked Director Northcutt as well and welcomed the new directors to the Board.

ACTION: MOTION TO APPROVE THE NOMINATION SLATES PUT FORTH FOR CONSIDERATION AT THE FEBRUARY 25, 2022 BOARD MEETING

MOTION: DIRECTOR ROTKIN

SECOND: DIRECTOR KOENIG

MOTION PASSED WITH 11 AYES (Directors Downing, Dutra, Kalantari-Johnson, Koenig, Lind, McPherson, Meyers, Pageler, Parker, Petersen, and Rotkin)

6 BOARD OF DIRECTORS COMMENTS

Director McPherson commented that he had a resolution honoring Alex Clifford. Chair Lind recommended waiting until Item 13.

Director Meyers announced the City of Santa Cruz (City) received \$29.9 million in state funding this week for the Pacific Station North Redevelopment Project. Pacific Station South Redevelopment Project is fully funded and the City will be breaking ground in spring 2022.

Director Meyers thanked John Urgo, Planning and Development Director, who has been working closely with the City's staff and helped submit a complicated grant to the state. She also thanked Assemblymember Stone and Senator Laird for their support in helping to acquire this funding. Director Rotkin added that two-thirds of the awarded funding on the Pacific Station North Redevelopment Project goes toward affordable housing.

Hearing no further comments, Chair Lind moved to the next agenda item.

7 ORAL AND WRITTEN COMMUNICATIONS TO THE BOARD OF DIRECTORS

Brian Peoples, Trail Now, spoke of the Santa Cruz Coastal Corridor (letter attached). He requested METRO representatives on the SCCRTC support the recommendation to apply the federal railbanking process to this corridor.

Hearing nothing further, Chair Lind moved to the next agenda item.

8 LABOR ORGANIZATION COMMUNICATIONS

James Sandoval, SMART 0023 Chairperson, spoke to the documents he sent to the Board (attached) with regards to the Public Employment Relations Board (PERB). He provided background in working with Senator Laird and requested the Board members sign the letter of support. He expressed thanks to Directors Koenig, Dutra, Petersen, and Kalantari-Johnson for listening to the union's concerns and a special thanks to Directors Petersen and Kalantari-Johnson for already signing the letter.

Jordan Vascones, SEA Chapter President, expressed that this is an opportunity for both METRO as a whole and the workers of METRO. He further stated that PERB comes with no monetary cost and having this third party will ensure transparency, accountability, and overall labor peace.

Bonnie Morr, Legislative Representative from SMART Local 0023, emphasized that going under PERB's jurisdiction for issues that arise due to unfair labor practices is a huge benefit. It would go further to strengthen the relationship between METRO workers and the transit district, Board and the public.

Louie Costa, Director of California State Legislative Board, SMART-Transportation Division sent a letter (attached) supporting PERB.

Directors Dutra, Petersen, Koenig, Kalantari-Johnson and Ex-Officio Director Northcutt spoke in favor of PERB.

Directors Rotkin, McPherson, Lind, and Meyers felt additional discussions were warranted and more time is needed to research the matter.

Director Koenig requested this item be agendaized within three meetings of hiring a new CEO to have a thorough discussion on the topic.

Chair Lind asked the Board members if there was any objection to Director Koenig's recommendation. There was no show of hands.

There were no public comments.

Hearing nothing further, Chair Lind moved to the next agenda item.

9 ADDITIONAL DOCUMENTATION TO SUPPORT EXISTING AGENDA ITEMS

Having none, Chair Lind moved to the next agenda item.

CONSENT AGENDA

- 10.1 ACCEPT AND FILE: PRELIMINARY APPROVED CHECK JOURNAL DETAIL FOR THE MONTH OF NOVEMBER AND DECEMBER 2021
- 10.2 ACCEPT AND FILE: MINUTES FROM DECEMBER 10, 2021 AND DECEMBER 17, 2021 BOARD OF DIRECTORS SPECIAL MEETINGS, JANUARY 14, 2022 FINANCE, BUDGET, & AUDIT STANDING COMMITTEE AND JANUARY 14, 2022 PERSONNEL/HR STANDING COMMITTEE
- 10.3 ACCEPT AND FILE: THE YEAR-TO-DATE MONTHLY FINANCIAL REPORT AS OF DECEMBER 31, 2021

- 10.4 ACCEPT AND FILE: ACCEPTANCE OF AUDITED FINANCIAL STATEMENTS WITH INDEPENDENT AUDITOR'S REPORT FOR THE YEAR ENDED JUNE 30, 2021
- 10.5 ACCEPT AND FILE: SEMI-ANNUAL REPORT ON THE STATUS OF METRO'S DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
- 10.6 ACCEPT AND FILE: THE QUARTERLY PROCUREMENT REPORT FOR 3RD QUARTER OF FY22
- 10.7 APPROVE: CONSIDERATION OF AUTHORIZING THE BOARD CHAIR TO SEND A LETTER TO STATE LEGISLATIVE REPRESENTATIVES IN SUPPORT OF COLLECTING NON-TAX TRANSIT FEES ON SPECIFIC PROPERTIES DEFINED BY THE COUNTY OF SANTA CRUZ

Director Koenig spoke briefly to Item 10.7 and thanked John Urgo and Director McPherson and his staff for working on this item. We are requesting Senator Laird and Assemblymember Stone to introduce legislation that would allow Santa Cruz County the ability to include a separate line item on property tax bills for the collection of non-tax transit fees (e.g., an agreement that the developer and future purchasers buy annual METRO passes as a condition of developing/living with fewer parking spaces).

- 10.8 APPROVE: CONSIDERATION OF RESOLUTION APPROVING THE FY22 REVISED CAPITAL BUDGET/PORTFOLIO
- 10.9 APPROVE: RECOMMENDED ACTION ON TORT CLAIMS
- 10.10 APPROVE: REVIEW REQUEST FOR AUTHORIZATION AND FUNDING OF AN HR ANALYST I POSITION
- 10.11 APPROVE: DISCLOSURE POLICY AND PROCEDURES
- 10.12 APPROVE: CONSIDERATION OF ISSUING PURCHASE ORDER TO GMV SYNCROMATICS FOR CONTINUATION OF INTELLIGENT TRANSPORTATION SYSTEM SUPPORT

Ex-Officio Director Henderson asked for a brief comment regarding Item 10.12. It was his understanding that METRO was moving away from this vendor. Julie Sherman, General Counsel, responded that METRO is moving away from that vendor but we do have their equipment installed on the buses. As part of our settlement agreement with that vendor, if the new vendor takes a particularly long time to get the new system installed and the old system removed, then this vendor would be engaged to continually support that equipment during that period of time.

- 10.13 APPROVE: CONSIDERATION OF A RESOLUTION MAKING CERTAIN FINDINGS AND DIRECTING THAT THE BOARD AND ITS COMMITTEE MEETINGS WILL CONTINUE TO BE HELD VIA TELECONFERENCE

There were no public comments.

ACTION: MOTION TO APPROVE THE CONSENT AGENDA AS PRESENTED

MOTION: DIRECTOR ROTKIN

SECOND: DIRECTOR PAGELER

MOTION PASSED WITH 11 AYES (Directors Downing, Dutra, Kalantari-Johnson, Koenig, Lind, McPherson, Meyers, Pageler, Parker, Petersen, and Rotkin

REGULAR AGENDA

11 AUTHORIZING SALES TAX REVENUE BONDS (MEASURE G), SERIES 2022 (FEDERALLY TAXABLE) TO REFINANCE THE DISTRICT'S CALPERS UAL AND APPROVAL OF RELATED LEGAL AND DISCLOSURE DOCUMENTS

Chuck Farmer, CFO, requested approval of the sale of the bonds on February 16, 2022. METRO got preliminary good news from the S&P 500 that METRO will be rated AA. CFO Farmer introduced the Financial Advisor, Legal Counsel and the Underwriters. Juan Galvan, Jones Hall, gave a brief summary of the documents in the agenda packet. CFO Farmer added that we are proposing to issue bonds in an amount not to exceed \$53 million.

Director McPherson said getting an AA rating is phenomenal and we wouldn't have gotten that rating 4-5 years ago. He praised the past Board of Directors and CEO Clifford for turning things around.

Director Rotkin said he agreed with Bruce's comments. He asked CFO Farmer to tell the public the magnitude of money the district will be saving over the long run by using these bonds rather than incrementally paying these off over the years. CFO Farmer said we are projecting approximately \$15 million in savings over the course of the bonds.

Director Koenig shared his support and was glad METRO is doing this mid-February before the bond rates go up.

There were no public comments.

ACTION: MOTION TO APPROVE THE SALE OF SALES TAX REVENUE BONDS (MEASURE G) SERIES 2022 (FEDERALLY TAXABLE) TO REFINANCE THE DISTRICT'S CALPERS UAL AND APPROVAL OF RELATED LEGAN AND DISCLOSURE DOCUMENTS

MOTION: DIRECTOR McPHERSON

SECOND: DIRECTOR KOENIG

MOTION PASSED WITH 11 AYES (Directors Downing, Dutra, Kalantari-Johnson, Koenig, Lind, McPherson, Meyers, Pageler, Parker, Petersen, and Rotkin

10:30 Director McPherson departed

- 12 PRESENTATION OF EMPLOYEE LONGEVITY AWARDS: (10 YEARS: RON BUSHNELL, BLANCA EUSSE-VALDEZ, HOWARD JAMES, ELIZABETH THOMPSON, LYLE TOLINE, EDGARDO VILLALOBOS, AND STEFAN WOLICZKO); (15 YEARS: H.D. BROWN, ANTONIO CASTILLO, EFREN ESCAMILLA, PEGGY FLECHTNER, LEONEL HERRERA, HUNG C. LEE, AND TODD PINSKY); AND (20 YEARS: MARIO ARELLANO, JON BARTHOLOMEW, RHONDA CARTER, HARLAN GLATT, AND DELVIS SEDA)**
Chair Lind read bios that were available for each employee receiving a longevity award as well as a letter submitted by Rhonda Carter, and thanked them for their service.

There were no public comments.

- 13 RETIREE RESOLUTIONS OF APPRECIATION: DENNIS BALDWIN, ALEX CLIFFORD, GEORGE FELDER, MELODY MARTIN AND GINA PYE**
Chair Lind read the bios for each and thanked them for their service. Dennis Baldwin thanked the Board for taking the time to appreciate his years of service. Interim CEO Crummié read a thank you letter from George Felder.

Director Dutra congratulated all for their accomplishments and wished good luck to all that are retiring.

There were no public comments.

ACTION: MOTION TO APPROVE THE RESOLUTIONS AS PRESENTED

MOTION: DIRECTOR ROTKIN

SECOND: DIRECTOR PAGELER

MOTION PASSED WITH 10 AYES (Directors Downing, Dutra, Kalantari-Johnson, Koenig, Lind, Meyers, Pageler, Parker, Petersen, and Rotkin). Director McPherson was not present.

- 14 PROCLAMATION OF APPRECIATION IN HONOR OF ALEX CLIFFORD**

Chair Lind read the proclamation from the City of Scotts Valley. General Counsel Sherman provided a resolution (attached) in honor of Alex Clifford.

There were no public comments.

ACTION: MOTION TO APPROVE THE RESOLUTION FOR ALEX CLIFFORD AS PRESENTED BY GENERAL COUNSEL SHERMAN

MOTION: DIRECTOR ROTKIN

SECOND: DIRECTOR KOENIG

MOTION PASSED WITH 10 AYES (Directors Downing, Dutra, Kalantari-Johnson, Koenig, Lind, Meyers, Pageler, Parker, Petersen, and Rotkin). Director McPherson was not present.

- 15 METRO ADVISORY COMMITTEE (MAC) SEMI-ANNUAL ORAL UPDATE**

James Von Hendy, MAC Chair, reported on the second half of 2021 and gave a brief summary of the responsibilities of MAC to the new members of the Board. He acknowledged how much the Board and Bus Operators have done during COVID to ensure public transit continues to serve the community and keep its passengers safe. He gave a detailed list of topics discussed and staff's responses.

16 RATIFICATION OF ENGAGEMENT LETTER WITH INTERIM CEO

Chair Lind spoke to the item and requested Board support of the ratification of the engagement letter. Director Rotkin thanked Dawn Crummié for stepping into this role until a new CEO is recruited.

ACTION: MOTION TO APPROVE THE RATIFICATION OF ENGAGEMENT LETTER WITH INTERIM CEO

MOTION: DIRECTOR PAGELER

SECOND: DIRECTOR ROTKIN

MOTION PASSED WITH 10 AYES (Directors Downing, Dutra, Kalantari-Johnson, Koenig, Lind, Meyers, Pageler, Parker, Petersen, and Rotkin). Director McPherson was not present.

17 INTERIM CEO ORAL REPORT / COVID-19 UPDATE

Interim CEO Crummié announced the career change of Delee Brubeck. She has transferred to our Operations Department as an Administrative Assistant and we wish her well in her new position.

She went on to give a COVID-19 update. Since January 1, 2022, METRO has had 36 positive cases. None of the cases traced back to METRO. Recent cases have been traced to exposure to children.

She also shared that METRO has received six new Gillig buses and they are on property and being assessed by our Fleet Maintenance. We hope to have them on the streets within two months.

Discussion ensued on how the latest class of Bus Operators is performing, steps taken to recruit, and how staff is covering the shortages without a reduction in service. Interim CEO Crummié said she would get back to the Board with an answer on how many graduated in the last class and how many are currently in training.

Director Rotkin addressed the new members of the Board and requested HR provide the new directors with the hiring business cards to pass out. Director Kalantari-Johnson requested staff to send the Board of Directors social media messaging that they can send out by email.

Director Downing ask if testimonials from Bus Operators on why they enjoy working for METRO are used in recruitment. Danielle Glagola, Marketing, Communications and Customer Service Director, said METRO is using testimonials and trying to get the word out not just in commercials but in printed materials.

James Sandoval added that we can tackle this problem together by bringing back the sense of family. When Bus Operators felt they had the support of METRO, they were recruiting for METRO to family and friends. He requested Chair Lind call a special meeting before February 18, 2022, which is the deadline to get an answer to Senator Laird regarding the PERB issue. He requested Article 3 in the bylaws be exercised. Chair Lind responded that the Board had already provided direction on this issue.

18 ANNOUNCEMENT OF NEXT REGULAR BOARD MEETING

Chair Lind announced the next regular board meeting is on February 25, 2022 at 9:00 AM via teleconference.

19 ADJOURNMENT

Chair Lind adjourned the meeting at 11:31 AM.

Respectfully submitted,

Donna Bauer
Executive Assistant

Attachment

From: [Brian Peoples](#)
To: boardinquiries@scmtd.com
Cc: [Guy Preston](#); [Matt Machado](#); [Manu Koenig](#); [Bruce McPherson](#); [Gine Johnson](#); [Zach Friend](#); rquinn@pacbell.net; rlj12@comcast.net; ladykpetersen@gmail.com; jacques.bertrand@sbcglobal.net; Alnorth@Cabrillo.edu; greg.caput@co.santa-cruz.ca.us; "jimmy.dutra@cityofwatsonville.org"; eduardo.montesino@cityofwatsonville.org; sbrown@cityofsantacruz.com; info@scrtc.org; tim.gubbins@dot.ca.gov; [Ryan Coonerty](#); [Andy Schiffrin](#); openup@cats.ucsc.edu
Subject: Protect publicly owned transportation corridor - authorize railbanking
Date: Friday, January 28, 2022 9:12:53 AM

This Message Is From an External Sender

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Santa Cruz Metro,

Thank you for allowing us to speak with you about the Santa Cruz Coastal Corridor and the importance of applying the federal railbanking process to preserve it for future public transit and opening the Interim Coastal Trail NOW.

The Santa Cruz Coastal Corridor is one of three transportation corridors (Highway 1, Soquel Drive, Coastal) that are critical for our community. All three corridors need to be opened to allow for effective transportation across the county. Opening the Coastal Corridor for active transportation has been shown to be the most effective use of the corridor to improve mobility across the county. In order to protect and preserve this public resource for transportation, the federal railbanking process must be applied.

The federal railbanking process has been applied 100s of times throughout America to preserve transportation corridors for future public transit. To protect this publicly owned resource, RTC Executive Director must be authorized to apply the federal railbanking process. Authorizing RTC Executive Director to negotiate with the private companies is needed to protect this valuable publicly owned transportation corridor. We ask the Metro representatives on the RTC Board support RTC Executive Director's recommendation to apply the federal railbanking process to the Santa Cruz Coastal Corridor.

Best regards,

Brian Peoples
Trail Now

Attachment

From: jasandoval607@yahoo.com
To: boardinquiries@scmttd.com; [Alta Northcutt](#); [Bruce McPherson](#); [Donna Lind](#); [Donna Meyers](#); [Jimmy Dutra](#); [Kristen Petersen](#); [Larry Mangioli](#); [Larry Pageler](#); [Manu Koenig](#); [Michael Rotkin](#); [Shebreh Kalantari-Johnson](#)
Cc: ["John Laird Former Board Member"](#)
Subject: Agenda Item 8: Labor Communications, January 28, 2020 METRO Board of Directors meeting
Date: Wednesday, January 26, 2022 1:43:30 PM
Attachments: [image001.png](#)
[PERB Proposed Legislation Letter with Signatures.pdf](#)
[Board of Directors signatures final.pdf](#)
[SC METRO Board Item_PERB_Koenig.docx](#)
[AB2850 Senate Committee On Labor, Public Employment And Retirement_\(Highlighted\).pdf](#)

This Message Is From an External Sender

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Dear METRO Board of Directors,

Here is what is being presented to the METRO Board of Directors on January 28, 2022, and reasons why it is important we are covered under PERB.

Attached are:

1. Joint PERB Proposed Legislation Letter with signatures from SMART Local 0023 & SEIU 521. (184 signatures)
2. Board of Directors signature page committing to labor relations for legislation to cover METRO under PERB.
3. AB2850 we are hoping to mirror.
4. Board of Director Manu's agenda item request recommending METRO to support this.

Since our opportunity has been taken away from us to present this to you all at this Board meeting because it was removed as an agenda item, John Laird and I came up with an agreement where if we can get majority signatures from the you all (METRO Board of Directors) on a letter committing yourself to labor relations by supporting legislation that will bring METRO and our unions under PERB, John Laird will submit our bill into legislation to get this done. **His deadline is February 18th. (See attached letter "Board of Directors signatures final")**

If you haven't done so already, please reach out to me for any questions or concerns you may have about our request. We will do our best to explain further what this is and how beneficial it is to METRO. during labor communications. I hope we are not restricted to three minutes as this is very important.

Here are my rebuttals to the arguments and concerns I have heard so far regarding PERB:

Points against PERB:

- Having PERB would make it difficult to find another CEO/General Manager:
 - I spoke to the recruiter, and we have around 15 applicants for the CEO/Manager position already. It should not be a deal breaker for anyone applying unless they have bad intentions like committing unfair labor practices and not wanting to meet in the middle. We shouldn't lower our standards for the sake of getting more applicants. We don't do that for drivers. We need to find the right leader for METRO that will want to bargain in good faith.
- The next CEO should decide:
 - We have a petition with 184 signatures from METRO workers requesting to be under the jurisdiction of PERB. This is nearly all of METRO staff. This decision from the Board of Directors, because you are all in charge of METRO, have an opportunity to put something in place where all managers at METRO and the Union are always bargaining in good faith.

Attachment

- It's too short notice:
 - I brought this up last year. Senator John Laird committed to putting this into legislation, but as you would imagine, it was strongly opposed by Alex Clifford. John Laird wanted support from both sides so he told me to wait until this year and see what we can do. In the meantime, he came up with a deal with Mike Rotkin (the Board of Directors chair at the time) for him to mediate all potential unfair labor practices which Mike did help us with one. Now let's imagine Mike wasn't there and other Board members were too busy serving their community?
 - There are 16 Transit Agencies in California. Three of them have moved to PERB. A couple of years ago, a transit agency was turned away due to funding issues. From my understanding, VTA and the union there are about to propose to be covered under PERB and they are a much larger transit agency than we are. We need to move into it now before it becomes more difficult later.
- BART and the Union have more disputes since they got PERB:
 - BART and their workers had so many disputes that it led to a strike before they got PERB. BART did what we are asking to do which is be covered under PERB for unfair labor practice protection. I did a public records request and only found one charge since they got their legislation which was in 2020. It seems to have fixed BART's and the unions relationship because there are no more outstanding disputes.
- We don't want a third party involved to remedy disputes:
 - Unfair labor practice mitigation should not be contingent on the relationship of the next CEO or any Board member. We need to take ourselves out of the equation and put something in place where we can always resolve disputes free of charge. **I do want to emphasize, PERB is only there when we need it.** It doesn't change anything as far as resolving disputes internally. They only get involved when either side hits a wall. Each Board member is busy serving the community and you all shouldn't have to mediate every dispute. PERB is a place where Board members can direct either side if you don't have time to mediate. We will continue to do everything we can to remedy disputes internally.
- It takes forever to resolve disputes with PERB:
 - It is better than the alternative which is a lawsuit in superior court which can take longer and is more costly. The superior court also has appeal processing which can drag any dispute on a lot longer and they don't have the same experience PERB does with employer-labor relations.
- We haven't had enough problems to justify bringing in PERB:
 - Why wait? This is a preventative measure to make sure both sides are always accountable. We shouldn't have to have so many issues to justify either side for doing this. PERB is the expert agency that has decades of experience resolving unfair labor practice claims. Under existing law, SMART Local 0023 and other labor unions on property must bring a lawsuit in court alleging that an unfair labor practice has occurred. Litigation in court is not a realistic option for resolving labor disputes because it is cumbersome and expensive. Waiting another year is not the solution. We need to do this now. By waiting another year only kicks the can down the road when all this does is balance the playing field where both sides will always

Attachment

bargain in good faith.

Let's all be part of something spectacular and do something that is beneficial for everyone at METRO. This will promote labor harmony. We need METRO workers to feel the support from this Board, otherwise more people are planning on quitting because morale is extremely low. We have a chance right now to bring the sense of family back to METRO by everyone here committing themselves to working with each other. METRO Board of Directors, PLEASE sign that letter of support.

I will send an email requesting electronic signatures from you all showing your support for labor relations. Please sign it as soon as possible so we can get that to John Laird before his deadline.

We have already had commitments from several Board members in support of this legislation. We hope to have complete support from all Board members moving forward.

Here is more information on PERB:

SANTA CRUZ METROPOLITAN TRANSIT DISTRICT: EMPLOYER-EMPLOYEE RELATIONS

ISSUE:

For transit agencies not under the jurisdiction of PERB, a union or employer must file a writ in California's under-resourced Superior Court system to pursue an ULP violation. Alleged violations can take years and extensive resources to reach resolution, and cases may or may not be assigned to a judge with experience in labor law. This process has left many unresolved violations to fester and contributed to labor tension, which can complicate contract negotiations.

BACKGROUND:

The National Labor Relations Act (NLRA), created in 1935, is a law that governs relations between labor unions and employers in the private sector. The National Labor Relations Board, a group that governs the NLRA, decides whether improper labor practices have actually occurred during management-union bargaining sessions. They are in charge with the investigation and prosecution of those who engage in unfair labor practices. The NLRB is designed to be completely equitable, taking sides for neither management nor union, acting as a sort of "referee" in what is usually an emotionally charged action between employees and employers.

The Public Employment Relations Board (PERB) was established in 1967 to mirror the NLRB but for public sector unions. Like the NLRB, PERB's responsibility is to adjudicate conflicts between unions and their employers. Most of California's public sector employees now fall under the

Attachment

jurisdiction PERB to settle employer-employee conflicts, but transit districts are generally not included due to statutory precedent.

Employee organizations at Santa Cruz Metropolitan Transit District (SCMTD) came together to propose legislation to include SCMTD under the jurisdiction of PERB for adjudication of unfair labor practices (ULPs). Although employer-employee relations at SCMTD are peaceful, that could change with time.

Employee representatives are asking the Board of Directors to agree that SCMTD would benefit from moving unfair labor practice charges (ULPs) to PERB for future conflict resolution.

POSSIBLE BILL SUMMARY/SOLUTION:

PERB is an established and trusted agency that specializes in public employer-employee conflict resolution. Moving jurisdiction over ULPs to PERB will allow transit agencies to access a timelier and less resource-intensive process to settle disputes, as well as increase confidence that a dispute will be adjudicated by a body with extensive knowledge of labor law. Additionally, because most public agencies are under PERB jurisdiction, this bill would create better uniformity for labor unions who represent employees of transit agencies and other public employees.

I am pleading with each and every one of you. Please see beyond what you are hearing on the other side of this. There is nothing negative about what we are asking for. Nearly all of METRO staff is asking for your support.

Please contact me with any questions or concerns. Here is some FAQ's regarding PERB:

<https://perb.ca.gov/about/faq-about-perb/>

James Sandoval

Organizer, General Chairperson

SMART Local 0023

8312470400

td23.smart-local.org



Attachment



To: METRO Board of Directors

January 14, 2022

From: Members of SMART Local 0023 & SEIU Local 521

Re: SCMTD / SMART Local 0023 and The Public Employees Relation Board (PERB)
Proposed Legislation

We are requesting for the METRO Board of Directors to support legislation to bring Santa Cruz METRO/SMART Local 0023 under the Public Employment Relations Board (PERB)'s unfair practice jurisdiction which will promote labor peace. The community of Santa Cruz County needs to be able to count on Santa Cruz METRO to provide smooth, safe, uninterrupted bus service.

This bill does not change Santa Cruz METRO's substantive legal obligations under the existing Santa Cruz Metropolitan Transit District Act. For example, the bill does not impose factfinding or interest arbitration to resolve contract disputes. Strikes and lockouts would continue to be regulated under the existing statutory scheme applicable to all public transit agencies (the Public Transportation Labor Disputes Act, Government Code section 3610 et seq.). The bill simply provides an administrative forum, PERB, to resolve bargaining and other labor disputes, just as PERB does for other public employers and public employee unions.

PERB is the expert agency that has decades of experience resolving unfair labor practice claims in many other public employment contexts, including several public transit contexts (Los Angeles County Metro, SF Muni, Orange County Transportation Authority, BART and now the Sacramento Regional Transit District).

Many transit districts were created before PERB came to existence and many of the transit district labor relations statutes are patterned after the NLRA, and enforced by the courts. Because Santa Cruz METRO was created prior to the PERB, it makes practical and fiscal sense to transfer jurisdiction to the PERB.

The PERB administrative process is low-cost, accessible and relatively expeditious. This means labor disputes will not fester. With this bill, strikes and lockouts are significantly less likely to happen because there will be a place (PERB) for workers and the employer to take their claims for resolution.

Under existing law, SMART Local 0023 and other labor unions on property must bring a lawsuit in court alleging that an unfair labor practice has occurred. Litigation in court is not a realistic option for resolving labor disputes because it is cumbersome and expensive.

PERB was specifically established to adjudicate public sector labor relations issues. PERB's expertise in labor relations law will provide Santa Cruz METRO and its employees a much faster and cost effective alternative to settle workplace disputes.

For more information on PERB: www.perb.ca.gov

See attached: AB 2850

Attachment

Timestamp	If you agree with the above statement, please add your FULL name to this petition	Please select which union you're in
1	14/01/2022 13:27:44 James Sandoval	SMART Local 0023
2	14/01/2022 13:30:31 Rhiannon Axton	SMART Local 0023
3	14/01/2022 13:31:22 Josefina Cruz	SMART Local 0023
4	14/01/2022 13:31:23 Ezequiel Osorio	SMART Local 0023
5	14/01/2022 13:32:00 Terry Johnson	SMART Local 0023
6	14/01/2022 13:32:20 MANUEL PEREZ	SMART Local 0023
7	14/01/2022 13:34:08 Michelle C Martinez	SMART Local 0023
8	14/01/2022 13:34:41 Brandon Freeman	SMART Local 0023
9	14/01/2022 13:35:39 Patrick Forthun	SMART Local 0023
10	14/01/2022 13:43:37 Manuel Diaz	SMART Local 0023
11	14/01/2022 13:43:49 Delvis Seda	SMART Local 0023
12	14/01/2022 13:44:40 Ignacio mata	SMART Local 0023
13	14/01/2022 13:44:43 Peggy Flechtner	SMART Local 0023
14	14/01/2022 13:45:50 Lanea Hightower	SMART Local 0023
15	14/01/2022 13:52:52 Eryln Osorio	SMART Local 0023
16	14/01/2022 13:53:13 Edgardo Madrigal	SMART Local 0023
17	14/01/2022 13:55:24 Michelle Fitzpatrick	SMART Local 0023
18	14/01/2022 13:56:17 Joe Escobar	SMART Local 0023
19	14/01/2022 13:57:28 Gustavo R cortes	SMART Local 0023
20	14/01/2022 14:01:36 Sergio Tabag	SMART Local 0023
21	14/01/2022 14:27:43 Jordan Vascones	SEIU Local 521
22	14/01/2022 14:56:59 Holly Alcorn	SEIU Local 521
23	14/01/2022 14:57:18 Gustavo Magana	SMART Local 0023
24	14/01/2022 15:00:54 Juan B Montesinos zarate	SMART Local 0023
25	14/01/2022 15:04:28 Sheldon J Griffith	SEIU Local 521
26	14/01/2022 15:17:01 Lyle toline	SMART Local 0023
27	14/01/2022 15:17:30 Liz Padilla	SEIU Local 521
28	14/01/2022 15:59:06 Anthony L Frey	SMART Local 0023
29	14/01/2022 16:07:21 Mariano Bernal	SEIU Local 521

Attachment

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30	14/01/2022 16:16:21 Jaime Jimenez-Neri	SMART Local 0023
31	14/01/2022 16:28:44 Brenda Roman	SMART Local 0023
32	14/01/2022 16:46:07 Lupe sanchez	SEIU Local 521
33	14/01/2022 16:47:50 Michael Rios	SEIU Local 521
34	14/01/2022 17:19:52 Jose Luis Barriga Estrada	SMART Local 0023
35	14/01/2022 17:55:04 Jesus M. Garcia	SMART Local 0023
36	14/01/2022 19:00:04 Eulialio Abrego	SMART Local 0023
37	14/01/2022 23:50:37 Miguel Angel Maldonado Aparicio	SMART Local 0023
38	15/01/2022 00:46:27 Alma Gutierrez	SMART Local 0023
39	15/01/2022 00:46:35 Jose Ignacio Carranco	SMART Local 0023
40	15/01/2022 09:41:43 Josefina cruz	SMART Local 0023
41	15/01/2022 10:41:52 Jorge Antonio Gallegos	SMART Local 0023
42	15/01/2022 10:43:32 Allison Hernandez-Adair	SMART Local 0023
43	15/01/2022 10:44:04 Vincent Garcia	SMART Local 0023
44	15/01/2022 10:47:51 Juan I Gallegos.	SMART Local 0023
45	15/01/2022 10:49:20 Eddie Torres	SMART Local 0023
46	15/01/2022 10:50:00 Travis Lee Havens	SMART Local 0023
47	15/01/2022 10:53:21 Valentin Zarate	SMART Local 0023
48	15/01/2022 10:57:36 Deborah Lenore Baldwin	SMART Local 0023
49	15/01/2022 10:57:49 Michell Ann collins	SMART Local 0023
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54	15/01/2022 11:26:25 David W. Horvath	SMART Local 0023
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56	15/01/2022 11:42:11 Elena Zyulina	SMART Local 0023
57	15/01/2022 11:50:28 Pablo Martinez	SMART Local 0023
58	15/01/2022 11:51:08 Ivan T Garcia	SMART Local 0023

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60	15/01/2022 11:55:46 Joshua C Chelise	SMART Local 0023
61	15/01/2022 11:58:31 Johnny Joe Ramirez	SMART Local 0023
62	15/01/2022 12:00:06 Howard James	SMART Local 0023
63	15/01/2022 12:00:36 Efrain Arellano	SMART Local 0023
64	15/01/2022 12:04:43 Cesar Medina	SMART Local 0023
65	15/01/2022 12:04:57 Nicolas Andres Serrano	SMART Local 0023
66	15/01/2022 12:17:37 Cynthia Farrell	SMART Local 0023
67	15/01/2022 12:25:15 Nathanael Abrego	SMART Local 0023
68	15/01/2022 12:36:52 David R Demara	SMART Local 0023
69	15/01/2022 12:50:22 Jeremy Lovenfosse	SMART Local 0023
70	15/01/2022 12:50:39 Blanca Eusse-Valdez	SMART Local 0023
71	15/01/2022 12:58:13 Isidro Gabriel-Guevara	SMART Local 0023
72	15/01/2022 12:58:47 John Manuel Fuentez	SMART Local 0023
73	15/01/2022 13:00:26 Robert P Maldonado	SMART Local 0023
74	15/01/2022 13:03:10 Darna Stewart	SMART Local 0023
75	15/01/2022 13:09:05 Adrian Jimenez	SMART Local 0023
76	15/01/2022 13:11:56 Xiomara brioso	SMART Local 0023
77	15/01/2022 13:18:07 Veronica Hoover	SMART Local 0023
78	15/01/2022 13:19:40 Chris Sullivan	SMART Local 0023
79	15/01/2022 13:19:41 Erik Berg	SMART Local 0023
80	15/01/2022 13:20:07 Daniela Alejandra Leal	SMART Local 0023
81	15/01/2022 13:32:17 Andrew W Kearney	SMART Local 0023
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83	15/01/2022 13:44:27 Francisca Fernandez	SMART Local 0023
84	15/01/2022 13:48:42 Joy Olander	SEIU Local 521
85	15/01/2022 13:54:44 Nathan L. Misenheimer	SEIU Local 521
86	15/01/2022 14:03:17 Clarence Aragon	SMART Local 0023
87	15/01/2022 14:15:09 Pío quinto carrillo	SMART Local 0023

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Timestamp	If you agree with the above statement, please add your FULL name to this petition	Please select which union you're in
88	15/01/2022 14:16:56 Tanya Gilliam	SEIU Local 521
89	15/01/2022 14:21:55 Bryan Saucedo	SMART Local 0023
90	15/01/2022 14:37:24 Simone Coke	SEIU Local 521
91	15/01/2022 14:41:47 Rickie-Ann Kegley	SEIU Local 521
92	15/01/2022 14:46:48 Idan albarado	SMART Local 0023
93	15/01/2022 14:49:18 Nanez,Jose	SMART Local 0023
94	15/01/2022 14:52:35 Miguel A Escarcega	SMART Local 0023
95	15/01/2022 15:02:05 Angel Valdez	SMART Local 0023
96	15/01/2022 15:05:36 Cayla Hill	SEIU Local 521
97	15/01/2022 15:12:05 mitchell blair doukas	SMART Local 0023
98	15/01/2022 15:30:35 Maurizio Italia	SMART Local 0023
99	15/01/2022 16:05:14 Ruben valdez	SMART Local 0023
100	15/01/2022 16:22:42 Wesley Guild	SEIU Local 521
101	15/01/2022 16:31:48 Jason LoGiudice	SEIU Local 521
102	15/01/2022 16:36:22 Mark Saunders	SMART Local 0023
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104	15/01/2022 17:26:56 Gabriela Martinez	SMART Local 0023
105	15/01/2022 18:04:08 Mario Arellano	SMART Local 0023
106	15/01/2022 18:12:58 Johnny Iopez	SMART Local 0023
107	15/01/2022 18:21:18 Julio Perez	SMART Local 0023
108	15/01/2022 18:39:53 Alicia Griffin	SMART Local 0023
109	15/01/2022 19:07:56 Joan Jeffries	SEIU Local 521
110	15/01/2022 19:10:11 Molly Gallet	SEIU Local 521
111	15/01/2022 19:37:15 Elizabeth Thompson	SEIU Local 521
112	15/01/2022 19:55:22 Juan M Garcia	SMART Local 0023
113	15/01/2022 20:48:21 Maria V Sanchez	SEIU Local 521
114	15/01/2022 21:02:05 Maria Hernandez	SEIU Local 521
115	15/01/2022 21:15:49 Miguel Avalos	SMART Local 0023
116	15/01/2022 21:52:48 Jose Valtierra	SEIU Local 521

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117	16/01/2022 07:25:30 Francisco Calderon	SMART Local 0023
118	16/01/2022 07:34:33 David Hernandez	SMART Local 0023
119	16/01/2022 07:42:58 Jennifer Kortright	SMART Local 0023
120	16/01/2022 08:48:58 Lynn Hersey	SMART Local 0023
121	16/01/2022 11:22:43 Uriel Estrada	SEIU Local 521
122	16/01/2022 12:10:55 Efren J Escamilla	SMART Local 0023
123	16/01/2022 13:15:15 Robert Valdivia	SEIU Local 521
124	16/01/2022 17:28:50 John Nevin	SEIU Local 521
125	17/01/2022 06:45:45 Norma Chavez	SMART Local 0023
126	17/01/2022 07:15:38 Jesus	SMART Local 0023
127	17/01/2022 07:19:37 Michael miller	SMART Local 0023
128	17/01/2022 08:58:24 Jorge Henriquez	SMART Local 0023
129	17/01/2022 09:01:38 Herbert Dean Brown	SMART Local 0023
130	17/01/2022 09:04:19 Norma Osorio	SMART Local 0023
131	17/01/2022 09:09:31 Carolyn Bowers	SMART Local 0023
132	17/01/2022 09:13:46 Rhonda Starleen Carter	SMART Local 0023
133	17/01/2022 09:15:54 Romeo Vidal	SMART Local 0023
134	17/01/2022 09:20:22 david medina	SMART Local 0023
135	17/01/2022 09:21:31 Amy Lona	SMART Local 0023
136	17/01/2022 09:30:58 Sara Hewitt	SMART Local 0023
137	17/01/2022 09:36:21 Clint Daniel Nabor	SMART Local 0023
138	17/01/2022 09:41:37 Arasel Campos	SEIU Local 521
139	17/01/2022 09:42:09 Matthew Kaminski	SMART Local 0023
140	17/01/2022 10:06:27 Donovan Castaneda	SMART Local 0023
141	17/01/2022 10:07:20 Maribel Negrete	SMART Local 0023
142	17/01/2022 10:21:29 Pablo D Berrelleza	SEIU Local 521
143	17/01/2022 10:30:49 Roberta c Rodriguez	SMART Local 0023
144	17/01/2022 11:08:32 Jon Bartholomew	SMART Local 0023
145	17/01/2022 11:17:04 Cortney Martin	SEIU Local 521

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146	17/01/2022 11:35:50 Julio Garcia Velasco	SMART Local 0023
147	17/01/2022 11:40:20 Edward Diaz	SEIU Local 521
148	17/01/2022 12:34:13 Marc Krovetz	SMART Local 0023
149	17/01/2022 14:58:48 Eric Negrete	SMART Local 0023
150	17/01/2022 16:11:05 Delee Brubeck	SEIU Local 521
151	17/01/2022 16:20:37 Amy perez	SMART Local 0023
152	17/01/2022 20:30:34 Edgardo Villalobos	SMART Local 0023
153	17/01/2022 20:44:19 Juan Fernandez Magana	SMART Local 0023
154	18/01/2022 08:11:55 Sean Witt	SEIU Local 521
155	18/01/2022 12:43:04 Rob Willis	SEIU Local 521
156	18/01/2022 12:45:51 Elmer Torres	SEIU Local 521
157	18/01/2022 12:49:31 Lucas Iriguchi	SEIU Local 521
158	18/01/2022 12:52:55 leslie beck	SMART Local 0023
159	18/01/2022 12:53:59 Cristobal Vasquez	SEIU Local 521
160	18/01/2022 13:21:39 Luis	SEIU Local 521
161	18/01/2022 13:53:10 Ed Davidson	SMART Local 0023
162	18/01/2022 14:23:52 Andrea Eusse-Gil	SEIU Local 521
163	18/01/2022 16:20:23 Sandra galindo	SEIU Local 521
164	19/01/2022 08:06:16 Adrienne Jenkins	SEIU Local 521

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1	14/01/2022 13:27:44 James Sandoval	SMART Local 0023
2	14/01/2022 13:30:31 Rhiannon Axton	SMART Local 0023
3	14/01/2022 13:31:22 Josefina Cruz	SMART Local 0023
4	14/01/2022 13:31:23 Ezequiel Osorio	SMART Local 0023
5	14/01/2022 13:32:00 Terry Johnson	SMART Local 0023
6	14/01/2022 13:32:20 MANUEL PEREZ	SMART Local 0023
7	14/01/2022 13:34:08 Michelle C Martinez	SMART Local 0023
8	14/01/2022 13:34:41 Brandon Freeman	SMART Local 0023
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37	14/01/2022 23:50:37 Miguel Angel Maldonado Aparicio	SMART Local 0023
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68	15/01/2022 12:36:52 David R Demara	SMART Local 0023
69	15/01/2022 12:50:22 Jeremy Lovenfosse	SMART Local 0023
70	15/01/2022 12:50:39 Blanca Eusse-Valdez	SMART Local 0023
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99	15/01/2022 16:05:14 Ruben valdez	SMART Local 0023
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149	17/01/2022 14:58:48	Eric Negrete	SMART Local 0023
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151	17/01/2022 16:20:37	Amy perez	SMART Local 0023
152	17/01/2022 20:30:34	Edgardo Villalobos	SMART Local 0023
153	17/01/2022 20:44:19	Juan Fernandez Magana	SMART Local 0023
154	18/01/2022 08:11:55	Sean Witt	SEIU Local 521
155	18/01/2022 12:43:04	Rob Willis	SEIU Local 521
156	18/01/2022 12:45:51	Elmer Torres	SEIU Local 521
157	18/01/2022 12:49:31	Lucas Iriguchi	SEIU Local 521
158	18/01/2022 12:52:55	leslie beck	SMART Local 0023
159	18/01/2022 12:53:59	Cristobal Vasquez	SEIU Local 521
160	18/01/2022 13:21:39	Luis	SEIU Local 521
161	18/01/2022 13:53:10	Ed Davidson	SMART Local 0023
162	18/01/2022 14:23:52	Andrea Eusse-Gil	SEIU Local 521
163	18/01/2022 16:20:23	Sandra galindo	SEIU Local 521
164	19/01/2022 08:06:16	Adrienne Jenkins	SEIU Local 521
165	19/01/2022 09:33:00	Peter Rasmussen	SEIU Local 521
166	20/01/2022 09:10:20	Stefan Woliczko	SEIU Local 521
167	20/01/2022 11:24:49	ed cummins	SEIU Local 521
168	20/01/2022 17:27:55	J Thomas	SMART Local 0023
169	20/01/2022 20:23:31	Paul Lennon	SMART Local 0023
170	20/01/2022 20:52:25	Jaime renteria	SMART Local 0023
171	21/01/2022 07:23:36	Antonio Torres Castillo Jr	SEIU Local 521
172	21/01/2022 08:30:39	Brian Lewis	SEIU Local 521
173	21/01/2022 08:30:53	Tomas Moreno	SEIU Local 521
174	21/01/2022 08:31:04	Jose Flores	SEIU Local 521

Attachment

Timestamp	If you agree with the above statement, please add your FULL name to this petition	Please select which union you're in
175	21/01/2022 09:28:17 Wondimu Mengistu	SEIU Local 521
176	21/01/2022 09:28:22 Mario Espinoza	SMART Local 0023
177	21/01/2022 10:09:38 EILEEN WAGLEY	SEIU Local 521
178	21/01/2022 13:50:03 Sergio Iona	SMART Local 0023
179	21/01/2022 15:02:06 Ronald G Catley	SMART Local 0023
180	21/01/2022 15:10:12 Mary Therese Sells	SMART Local 0023
181	21/01/2022 15:37:50 Luis rocha	SEIU Local 521
182	21/01/2022 15:38:01 Migual Villarruel	SEIU Local 521
183	21/01/2022 15:38:11 Cesar Alvarez Castillo	SEIU Local 521
184	21/01/2022 15:38:24 Christopher Raymond Leonard	SEIU Local 521

Attachment



The undersigned METRO Board of Directors are committed to labor relations and support legislation that will bring Santa Cruz Metropolitan Transit District under the jurisdiction of the Public Employment Relations Board for unfair labor practice mitigation.

X

Shebreh Kalantari-Johnson
City of Santa Cruz Appointment

X

Donna Meyers
City of Santa Cruz Appointment

X

Vacant
City of Watsonville Appointment

X

Jimmy Dutra
City of Watsonville Appointment

X

Bruce McPherson
County of Santa Cruz Appointment

X

Manu Koenig
County of Santa Cruz Appointment

X

Larry Pageler
County of Santa Cruz Appointment

X

Kristen Peterson
City of Capitola Appointment

X

Vacant
County of Santa Cruz Appointment

X

Donna Lind
City of Scotts Valley Appointment

X

Mike Rotkin
County of Santa Cruz Appointment

Attachment

*Santa Cruz Metropolitan
Transit District*



DATE: January 28, 2022

TO: Board of Directors

FROM: Director Koenig

SUBJECT: CONSIDERATION OF AUTHORIZING THE BOARD CHAIR TO WRITE A LETTER TO STATE LEGISLATORS LAIRD AND STONE REQUESTING THAT SANTA CRUZ METRO/SMART LOCAL 0023 BE ADDED TO THE PUBLIC EMPLOYMENT RELATIONS BOARD (PERB) JURISDICTION

I. RECOMMENDED ACTION

1. Receive information about the Public Employment Relation Board (PERB) and how it could help to resolve past and future disputes.

2. Authorize the Board Chair to write letters to state legislators Laird and Stone requesting that Santa Cruz METRO/SMART Local 0023 be added to the Public Employment Relations Board (PERB) jurisdiction.

II. SUMMARY

- Under current law, if Santa Cruz METRO and its employees' representatives cannot reach a mutual agreement, they resolve labor disputes through litigation in the court system. In contrast, the statutory frameworks for most public-sector labor relations regimes now provide that the parties resolve their disputes through PERB.
- PERB is a quasi-judicial administrative agency charged with administering certain statutory frameworks governing employer-employee relations, resolving disputes, and enforcing the statutory duties and rights of public agency employers and employee organizations.
- The proposed legislation would authorize PERB, and the powers and duties of PERB, to apply, as appropriate, to the PUC enabling statutes governing labor relations for Santa Cruz METRO.
- The bill provides an administrative forum, PERB, to resolve bargaining and other labor disputes. PERB provides this service to other public employers and public employee unions, such as Los Angeles County Metro, SF Muni, Orange County Transportation Authority, BART, and the Sacramento Regional Transit District.

Attachment

Board of Directors OR Committee Name
(Insert Date of Board Meeting in FORMAT Month, DD, YYYY)
Page 2 of 3

III. DISCUSSION/BACKGROUND

- PERB was specifically established to adjudicate public sector labor relations issues. Under existing law, SMART Local 0023 and other labor unions on the property must bring a lawsuit in court alleging that an unfair labor practice has occurred.
- PERB's expertise in labor relations law will provide Santa Cruz METRO and its employees a much faster and cost-effective alternative to settle workplace disputes.
- In 1980 Santa Cruz County Bus drivers went on strike, temporarily disrupting service for 10 days.
- A bus driver strike in 2005 temporarily halted service for over 30 days Santa Cruz County, stranding as many as 23,000 riders. Over 30 local and highway routes were temporarily shut down as more than 140 bus drivers participated in the strike.
- With this bill, strikes and lockouts are significantly less likely to happen because there will be a place (PERB) for workers and the employer to take their claims for resolution.

IV. STRATEGIC PLAN PRIORITIES ALIGNMENT

5. Employee Engagement: Attract, Retain and Develop

V. FINANCIAL CONSIDERATIONS/IMPACT

PERB regulations do not require a fee for filing or pursuing an unfair practice charge. Certain divisions of PERB may charge fees for specific items such as Administrative Record requests or some State Mediation and Conciliation Services. Generally, there is no cost to filing or pursuing an unfair practice charge.

VI. CHANGES FROM COMMITTEE (Board Report ONLY)

None

VII. ALTERNATIVES CONSIDERED

None

VIII. ATTACHMENTS

Attachment A: SMART Local 0023 Letter of Support

Prepared by: Manu Koenig, Director

Attachment

Board of Directors OR Committee Name
(Insert Date of Board Meeting in FORMAT Month, DD, YYYY)
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IX. APPROVALS

Dept. Manager Name, Title

Approved as to fiscal impact:

Chuck Farmer, CFO

Alex Clifford, CEO/General Manager

Attachment

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT

Senator Jerry Hill, Chair

2019 - 2020 Regular

Bill No: AB 2850 **Hearing Date:** August 11, 2020
Author: Low
Version: July 28, 2020
Urgency: No **Fiscal:** Yes
Consultant: Glenn Miles

SUBJECT: Public transit employer-employee relations: San Francisco Bay Area Rapid Transit District

KEY ISSUE

Should the Public Employment Relations Board (PERB) have jurisdiction over labor disputes between the Bay Area Rapid Transit District (BART) and its employees?

ANALYSIS

Existing law:

- 1) Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA) but leaves to the states the regulation of collective bargaining in their respective public sectors. While the NLRA and the decisions of its National Labor Relations Board (NLRB) often provide persuasive precedent in interpreting state collective bargaining law, public employees generally have no collective bargaining rights absent specific statutory authority establishing those rights (29 United State Code § 151 et seq.).
- 2) Provides several statutory frameworks under California law to provide public employees collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives. These include the Meyers-Milias-Brown Act (MMBA) which provides for public employer-employee relations between local government employers and their employees, including some, but not all public transit districts (Government Code § 3500 et seq.).
- 3) Establishes PERB, a quasi-judicial administrative agency charged with administering certain statutory frameworks governing employer-employee relations, resolving disputes, and enforcing the statutory duties and rights of public agency employers and employee organizations, but provides the City and County of Los Angeles, respectively, local alternatives to PERB oversight (Government Code § 3541).
- 4) Does not cover California's public transit districts by a common collective bargaining statute. Instead, while some transit agencies are subject to the MMBA, the majority of transit agencies are subject to labor relations provisions found in each district's specific Public Utilities Code (PUC) enabling statute, in joint powers agreements, or in articles of incorporation and bylaws (e.g., Public Utilities Code § 28500).

Attachment

AB 2850 (Low)

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- 5) Provides transit employees not under the MMBA with basic rights to organization and representation, but does not define or prohibit unfair labor practices. Unlike other California public agencies and employees, these transit agencies and their employees have no recourse to PERB. Instead, they must rely upon the courts to remedy any alleged violations. Additionally, they may be subject to provisions of the federal Labor Management Relations Act of 1947 and the 1964 Urban Mass Transit Act, now known as the Federal Transit Act (Public Utilities Code § 24501 et seq.; 49 United State Code § 5333(b)).
- 6) Provides that the following provisions shall govern disputes between exclusive bargaining representatives of public transit employees and local agencies not covered by the MMBA:
 - (a) The disputes shall not be subject to any fact-finding procedure otherwise provided by law.
 - (b) Each party shall exchange contract proposals not less than 90 days before the expiration of a contract, and shall be in formal collective bargaining not less than 60 days before that expiration.
 - (c) Each party shall supply to the other party all reasonable data as requested by the other party.
 - (d) At the request of either party to a dispute, a conciliator from the California State Mediation and Conciliation Service shall be assigned to mediate the dispute and shall have access to all formal negotiations (Government Code §3611).
- 7) Establishes the San Francisco BART Act, which establishes the Bay Area Rapid Transit District (BART) and provides for representation by a labor organization; unit determination; collective bargaining; personnel; and, provisions relating to retirement benefits. The act also defines “San Francisco Bay area” to mean the Counties of San Francisco, Marin, Sonoma, Napa, Solano, Contra Costa, Alameda, Santa Clara, and San Mateo (Public Utilities Code § 28500 et seq.).

This bill:

- 1) Provides that PERB, and the powers and duties of PERB, as specified, shall apply, as appropriate, to the PUC enabling statutes governing labor relations for BART.
- 2) Adopts the following definitions in the BART Act:
 - a) “District” means the San Francisco Bay Area Rapid Transit District, including all operations and extensions of the transportation system, regardless of modality or vehicle type, and excluding all temporary bus lines.
 - b) “Employee organization” means an organization that includes employees of the district that has as one of its primary purposes representing those employees in their relations with the district. “Employee organization” shall also include any person of the organization authorized to act on its behalf.
 - c) “Exclusive representative” means an accredited employee organization recognized or certified as the exclusive negotiating representative of employees in an appropriate unit within the district.

Attachment

AB 2850 (Low)

- 3) Makes conforming changes throughout the BART act to reflect PERB or MMBA terminology using “employee organization” and “exclusive representative” and eliminates language that refers to “labor organization” and “accredited representative”.
- 4) States that a primary purpose of the BART Act’s labor provisions is to promote the improvement of personnel management and employer-employee relations within the district by providing a uniform basis for recognizing the rights of employees, among other things, to select one employee organization as the exclusive representative in an appropriate unit.
- 5) Requires that exclusive representatives shall have the right to represent their bargaining unit members in employer-employee relations with the district, and employees shall have the right to representation by their exclusive representative.
- 6) Declares that nothing in the BART Act’s labor provisions section is intended to adversely affect any rights afforded to exclusive representatives or district employees under existing law as it may be amended from time to time.
- 7) Requires BART to give reasonable written notice to an exclusive representative of its intent to make any changes to matters within the scope of representation, as specified.
- 8) Adds to the BART Act a provision that prohibits BART and an employee organization from engaging in respective lists of unlawful labor actions reflective of similar prohibitions in the MMBA.
- 9) Maintains the current procedure whereby the Governor can call a “time out” and “cooling” off” period when BART and the employee representatives are at an impasse in labor negotiations before employees can strike.
- 10) Provides that PERB has jurisdiction over the initial determination whether an unfair practice charge is justified and, if so, the appropriate remedy.
- 11) Specifies that PERB shall have no authority in an action to recover damages due to an unlawful strike to award strike-preparation expenses as damages nor to award damages for costs, expenses, or revenue losses incurred during, or because of, an unlawful strike.
- 12) Authorizes any charging party, respondent, or intervener aggrieved by a final decision or order of PERB, as specified, to petition for a writ of extraordinary relief in the district court of appeal from PERB’s decision or order and specifies how the court may review PERB’s decision or order.
- 13) Authorizes PERB to seek enforcement of any final decision in the district court of appeal, as specified.
- 14) Provides that the BART Act as amended by this bill shall not be interpreted as if it were in conflict with any collective bargaining agreement and shall not be implemented to abrogate an agreement entered into before January 1, 2021, between the district and an employee organization.

- 15) Requires that specified provisions added by this bill to the BART Act shall be interpreted in a manner consistent with PERB's interpretation of parallel provisions in other statutes it enforces.
- 16) Makes BART subject to existing Government Code sections guaranteeing unions' access to employee data and employees for purposes of communication, including at employee orientations, and requires BART provide union representatives reasonable leaves of absence without loss of compensation or benefits to serve as stewards or officers to the employee representative or affiliated statewide or national employee organizations.
- 17) Makes findings and declarations regarding the unique need of BART to efficiently and cost-effectively adjudicate unfair labor practice complaints that support this special statute in lieu of a statute of general applicability.

COMMENTS

1. Need for this bill?

Background

Many public transit districts have historical antecedents as private sector companies that public agencies took over in the post - World War II period during company consolidation as the private sector withdrew from mass transit. Federal legislation linked transportation project funding to the preservation of transit district employees' collective bargaining rights at a time when public sector employees had not yet attained collective bargaining. Consequently, transit district employees often enjoyed collective bargaining protections earlier than other state and local public employees did. When the state authorized collective bargaining for state and local public employees through various labor relations statutes, existing statutes already governed many transit districts. The MMBA provides in part in Government Code Section 3500: "Nothing contained herein shall be deemed to supersede the provisions of existing state law ... which establish and regulate a merit or civil service system or which provide for other methods of administering employer-employee relations ..."

Under current law, if BART and its employees' representatives cannot reach mutual agreement, they resolve labor disputes through arbitration and litigation in the court system. In contrast, the statutory frameworks for most public sector labor relations regimes now provide that the parties resolve their disputes through PERB. This bill seeks to incorporate PERB jurisdiction of labor disputes into the BART Act, as specified, guided by the public policy that its expertise in public labor law will facilitate cooperation and labor peace in the public sector

In 2013, BART experienced a labor strike that created substantial disruption in the Bay Area. Since then, there have been considerable efforts by BART, its employee representatives, and public and community officials to revise BART's labor relations law to mitigate further labor conflict while preserving the rights of the respective parties.

This bill is intended to improve employer and labor relations at BART by clarifying each party's rights and obligations under the law and by applying appropriate decision-making and enforcement mechanisms from the MMBA to BART.

3. Proponent Arguments

According to the author,

AB 2850 provides the guidance of an established, neutral administrative agency - PERB - to aid BART and its employees in resolving unfair labor practice disputes. This bill will encourage harmonious labor relations and industrial peace, setting up BART for success in its upcoming contract bargaining.

According to SEIU,

Under current law, most public transit districts are not covered by a uniform collective bargaining statute such as MMBA but rather governed by the Public Utilities Code and accompanying regulations. Disagreements under this situation are handled unevenly and in costly litigation. AB 2850 would require all labor disputes and claims to be resolved ...before PERB thus reducing the need to take every dispute to the Superior Courts. The BART strike of 2013 demonstrated the need for a more timely adjudication process to resolve disputes and keep the trains running on time.

4. Opponent Arguments:

None on file.

5. Prior Legislation:

AB 3033 (Low) of 2018 would have amended the PUC by including BART's supervisory, professional, and technical employee units under MMBA's provisions; thereby, granting them certain statutory rights related to the employer-employee relationship, and bringing them under PERB's jurisdiction. Governor Brown vetoed AB 3033 and two PERB-related bills, writing in his veto message:

I am returning the following bills without my signature.

AB 2305

AB 2886

AB 3034

These bills expand the Public Employment Relations Board's jurisdiction to cover labor disputes involving several local public agencies.

Over the years, the Legislature has expanded the Board's jurisdiction, but the necessary funding for the increased workload has not kept pace. This has resulted in significant backlogs at the Board - both labor and employers have complained about this problem. This Administration has recently increased the Board's funding to help correct this problem. The Board's jurisdiction should not be expanded again until the Board's ability to handle its previously expanded caseload is established.

Attachment

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AB 2850 (Low)

AB 604 (Glazer) of 2017 would have prohibited BART from entering into an agreement that would limit its ability to prepare for a work stoppage or operate during a work stoppage. The author withdrew the bill from consideration in the Senate Public Employment and Retirement Committee.

SB 423 (Huff) of 2014 would have repealed various statutes governing public transportation labor disputes, including requirements governing labor relations when a strike is threatened. The bill died in the Senate Public Employment and Retirement Committee.

AB 199 (Oropeza), Chapter 833, Statutes of 2003, transferred the jurisdiction of labor disputes regarding supervisor's bargaining units at the Los Angeles County Metropolitan Transportation Authority to PERB.

SUPPORT

Service Employees International Union - California

OPPOSITION

None received.

-- END --



California State Legislative Board

717 K Street #222 • Sacramento, CA 95814
PHONE: 916-441-2051 • cslb@ca-smart-td.org

Louie Costa
State Director

January 27, 2022

VIA Email Only

Santa Cruz METRO Board of Directors
110 Vernon Street
Santa Cruz, CA 95060

The California State Legislative Board of the International Association of Sheet Metal Air Rail and Transportation Workers Union (SMART-TD) strongly urges the SCMTD Board of Directors to stand with their unions and support proposed legislation that would bring SCMTD and its member unions under the jurisdiction of the Public Employees Relations Board (PERB) for the adjudication of unfair labor practices.

PERB is the expert agency that has decades of experience resolving unfair labor practice (ULP) claims in many other public employment contexts, including several public transit contexts (Los Angeles County Metro, SF Muni, Orange County Transportation Authority, BART and now the Sacramento Regional Transit District).

The PERB administrative process is low-cost, accessible, and relatively expeditious. This means labor disputes will not fester. PERB was specifically established to adjudicate public sector labor relations issues. PERB's expertise in labor relations law will provide Santa Cruz METRO and its employees a much faster and cost-effective alternative to settle workplace disputes.

There is no logical reason to oppose this proposal. It will help to strengthen the management labor relationship and will benefit the communities that SCMTD serves.

Respectively submitted,

Louie Costa
Director SMART-TD
California State Legislative Board.

Attachment



Resolution No. _____
On the Motion of Director: _____
Duly Seconded by Director: _____
The Following Resolution is Adopted:

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
SANTA CRUZ METROPOLITAN TRANSIT DISTRICT REGARDING A
PROCLAMATION OF APPRECIATION IN HONOR OF
ALEX CLIFFORD
FOR HIS OUTSTANDING SERVICE TO THE
SANTA CRUZ METROPOLITAN TRANSIT DISTRICT**

WHEREAS, Alex Clifford has served with distinction for over seven years as the Santa Cruz Metropolitan Transit District's (METRO) CEO/General Manager; and

WHEREAS, Mr. Clifford helped guide METRO through the unprecedented challenges posed first by an existing \$6.3 million structural fiscal deficit and then by the COVID-19 pandemic; and

WHEREAS, as a result of Mr. Clifford's fine and steadfast leadership, the transit services that METRO's communities depend on are well-prepared to survive the COVID-19 pandemic, and will emerge equipped with the resources needed to improve service and address the congestion and connectivity issues that will return; and

WHEREAS, tackling the structural deficit, and guiding METRO throughout the COVID-19 pandemic, with no employee layoffs during either period, and with the utmost concern given to employee and customer safety are only two of the many accomplishments on Mr. Clifford's watch; and

WHEREAS, throughout his years of service Mr. Clifford has led METRO to make major improvements in the quality of its public transit services, including: established a robust bus replacement plan (reducing the backlog of buses needing to be replaced from 62 to 38); oversaw the completion of several important public works projects (including the Judy K. Souza Operations building) and the procurement of several key technology projects; created a zero-emission bus plan and began the process of transitioning METRO to zero-emission buses; guided METRO through the purchase of its first four zero emission buses and charging infrastructure; and initiated the process towards replacing METRO's aging Enterprise Resource Planning system; and

Attachment

Resolution #

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WHEREAS, Mr. Clifford also, in partnership with his leadership team, fully funded a complex Reserves Plan; created a number of other new fiscally-responsible policies and plans; initiated the process of paying off METRO's unfunded PERS liability; and created and filled key departments and roles within METRO; and

WHEREAS, Mr. Clifford also admirably and tirelessly represented METRO through his participation and leadership on the California Transit Association (CTA), the Community Transportation Association of America (CTAA), the California Association for Coordinated Transportation (CalAct), The Bus Coalition, the Zero Emission Bus Resource Alliance (ZEBRA), and the American Public Transportation Association (APTA); and

WHEREAS, as a thirty-year leader in the public transit realm, Mr. Clifford brought to METRO an incredible work ethic and positive attitude, enabling him to address METRO's challenges, whether big or small; and

WHEREAS, as Mr. Clifford retires, he leaves METRO in a solid position, with its bus and paratransit services poised to regain ridership and ready to take on the next generation of growth and mobility options, and a competent and dedicated senior leadership team in place; and

WHEREAS, Mr. Clifford has served METRO with great dedication, insight, and vision.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Santa Cruz Metropolitan Transit District does hereby express its appreciation to Alex Clifford for his leadership and dedicated service to METRO; and

BE IT FURTHER RESOLVED that the Board of Directors of the Santa Cruz Metropolitan Transit District offers its best wishes for good health, fulfillment and well deserved happiness to Alex Clifford as he embarks on his next adventures.

PASSED AND ADOPTED by the Board of Directors of the Santa Cruz Metropolitan Transit District this 28th day of January 2022 by the following vote:

AYES: Directors -

NOES: Directors -

ABSTAIN: Directors -

ABSENT: Directors -

Attachment

Resolution #
Page 3 of 3

APPROVED _____

DONNA LIND
Board Chair

ATTEST _____

DAWN CRUMMIÉ
Interim CEO/General Manager

APPROVED AS TO FORM:

JULIE SHERMAN
General Counsel