

AMENDED IN ASSEMBLY MAY 11, 2017

AMENDED IN ASSEMBLY APRIL 20, 2017

AMENDED IN ASSEMBLY APRIL 6, 2017

AMENDED IN ASSEMBLY MARCH 23, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 805

Introduced by Assembly Member Gonzalez Fletcher

February 15, 2017

An act to amend Sections 120050.2, ~~120051~~, 120051.6, 120102.5, 125102, 132351.1, 132351.2, 132351.4, 132352.3, 132354.1, and 132360.1 of, to add Article 11 (commencing with Section 120480) to Chapter 4 of Division 11 of, to add Article 9 (commencing with Section 125480) to Chapter 4 of Division 11.5 of, and to repeal Sections 120050.5 and 120051.1 of, the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 805, as amended, Gonzalez Fletcher. County of San Diego: transportation agencies.

(1) Existing law provides for the consolidation of certain regional transportation planning, programming, and related functions in San Diego County from various existing agencies including the San Diego Association of Governments (SANDAG), the San Diego Metropolitan Transit Development Board, also known as the San Diego Metropolitan Transit System (MTS), and the North County Transit District (NCTD).

Existing law provides for the consolidated agency, commonly known as SANDAG, to be governed by a board of directors of 21 city and

county members selected by the governing body of each member agency.

This bill would require the mayor and the president of the city council of the City of San Diego to serve on the board. The bill would require the chair of the County of San Diego Board of Supervisors to serve on the board as one of the 2 members from the county board of supervisors. The bill would also revise the selection of alternate members of the board.

Existing law, in order for the SANDAG board to act on any item, generally requires a majority vote of the members present on the basis of one vote per agency as well as a weighted vote pursuant to a specified process, except in the case of consent items.

~~This bill would instead require a majority of the weighted vote of the board members present in order for the board to act on any item. The bill would also modify the weighted vote process.~~

Existing law provides for SANDAG to have 4 standing policy advisory committees named the executive, transportation, regional planning, and borders committees.

This bill would additionally provide for an audit committee with specified responsibilities, including the appointment of an independent performance auditor. The bill would require SANDAG to submit an annual report to the Legislature, developed by its transportation committee, that outlines various matters related to public transit.

Existing law provides for the consolidated agency to prepare a regional comprehensive plan containing various elements, as specified.

This bill would require the regional comprehensive plan to address greenhouse gas emissions reduction targets set by the State Air Resources Board and would require the plan to include strategies that provide for mode shift to public transportation.

(2) Existing law creates MTS and NCTD, with various public transit responsibilities in the southern and northern parts of the County of San Diego, respectively. Existing law provides for MTS to be governed by a board of 15 members generally consisting of city and county representatives selected by member agencies. Existing law provides that the chairperson of the MTS board is a resident of the County of San Diego selected by the board, as specified.

This bill would require one of the 4 San Diego City Council members on the MTS board to be the mayor. The bill would grant to the City of Chula Vista a 2nd member, who would be the mayor. The bill would require the chairperson of the MTS board to be selected by the board.

~~The bill would require the member of the board of supervisors to be the member representing the district with the greatest percentage of its area within the incorporated area of the county within the MTS jurisdiction. The bill would also revise the process for selecting alternate members of the MTS board.~~

Existing law generally provides that official acts of the MTS or NCTD board require the affirmative vote of the majority of the members of the board, except that a weighted vote of the MTS board may be requested pursuant to a specified process.

~~This bill would create a similar weighted voting process for NCTD. The bill would require all official acts of the MTS or NCTD boards to require the affirmative vote of the majority of the weighted vote of the board members present. NCTD and modify the weighted voting process for the MTS.~~

Existing law authorizes various transportation agencies, including SANDAG, to impose a transactions and use tax for transportation purposes within its jurisdiction, subject to approval of $\frac{2}{3}$ of the voters and various other requirements. Existing law provides for issuance of bonds backed by these tax revenues, as specified.

This bill would additionally authorize MTS and NCTD to individually impose a transactions and use tax within their respective portions of the County of San Diego, with revenues to be used for public transit purposes, as specified, serving their jurisdictions, and to issue bonds backed by these tax revenues, subject to similar requirements.

(3) By imposing additional requirements on local agencies, this 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. Section 120050.2 of the Public Utilities Code is
2 amended to read:

1 120050.2. The board consists of 15 members selected as
2 follows:

3 (a) One member of the County of San Diego Board of
4 Supervisors, appointed by the board of supervisors.

5 (b) One member of each city council appointed individually by
6 the city councils of the Cities of Coronado, El Cajon, Imperial
7 Beach, La Mesa, Lemon Grove, National City, Poway, and Santee.

8 (c) Four members of the City Council of the City of San Diego,
9 one of whom shall be the mayor, and two members of the City
10 Council of the City of Chula Vista, one of whom shall be the
11 mayor, each appointed by their respective city council.

12 (d) The chairperson of the board shall be selected by a two-thirds
13 vote of the board, a quorum being present. The chairperson shall
14 serve for a term of four years, except that he or she is subject to
15 removal at any time by a two-thirds vote of the board, a quorum
16 being present.

17 SEC. 2. Section 120050.5 of the Public Utilities Code is
18 repealed.

19 ~~SEC. 3. Section 120051 of the Public Utilities Code is amended~~
20 ~~to read:~~

21 ~~120051. The member of the board of supervisors appointed~~
22 ~~pursuant to subdivision (a) of Section 120050.2 shall represent the~~
23 ~~supervisory district with the greatest percentage of its area within~~
24 ~~the incorporated area of the County of San Diego within the area~~
25 ~~under the jurisdiction of the transit development board as defined~~
26 ~~in Section 120054.~~

27 ~~SEC. 4.~~

28 ~~SEC. 3.~~ Section 120051.1 of the Public Utilities Code is
29 repealed.

30 ~~SEC. 5.~~

31 ~~SEC. 4.~~ Section 120051.6 of the Public Utilities Code is
32 amended to read:

33 120051.6. The alternate members of the board shall be
34 appointed as follows:

35 (a) The County of San Diego Board of Supervisors shall appoint
36 a county supervisor, not already appointed under Section 120051,
37 who represents one of the two supervisory districts with the
38 greatest percentage of its area within the incorporated area of the
39 County of San Diego within the area under the jurisdiction of the

1 transit development board as defined in Section 120054, to serve
2 as an alternate member of the transit development board.

3 (b) The city councils of the cities specified in subdivision (b)
4 or (c) of Section 120050.2 shall each individually appoint a
5 member of their respective city councils not already appointed
6 pursuant to subdivision (b) or (c) of Section 120050.2 to serve as
7 an alternate member of the transit development board for each
8 member of the city on the board.

9 (c) At its discretion, a city council or the county board of
10 supervisors may appoint a second alternate member, in the same
11 manner as first alternates are appointed, to serve on the board in
12 the event that neither a member nor the alternate member is able
13 to attend a meeting of the board.

14 (d) An alternate member and second alternate member shall be
15 subject to the same restrictions and shall have the same powers,
16 when serving on the board, as a member.

17 ~~SEC. 6.~~

18 *SEC. 5.* Section 120102.5 of the Public Utilities Code is
19 amended to read:

20 120102.5. (a) A majority of the members of the board
21 constitutes a quorum for the transaction of business. All official
22 acts of the board require the affirmative vote of the majority of the
23 ~~weighted vote of the members~~ *members of the board* present.
24 ~~However, any reference in this division to a two-thirds vote of the~~
25 ~~members of the board shall be deemed to mean the affirmative~~
26 ~~vote of two-thirds of the weighted vote of the members present.~~
27 *after a vote of the members is taken, a weighted vote may be called*
28 *by the members of any three jurisdictions.*

29 ~~(b) In the case of a weighted vote, there shall be a total of 100~~
30 ~~votes. Each member agency shall have that number of votes~~
31 ~~annually determined by the following apportionment formula;~~
32 ~~provided that each agency shall have at least one vote, and that~~
33 ~~there shall be no fractional votes:~~

34 (1) ~~Compute, consistent with subdivision (d), the total population~~
35 ~~of the cities and the county, and compute the percentage of this~~
36 ~~total for each agency.~~

37 (2) ~~Boost percentage fractions in the case of each agency where~~
38 ~~the total is less than one, to one, and then add to that number only~~
39 ~~the whole numbers, excluding fractions, for all other agencies.~~

1 ~~(3) If the total cumulative number under paragraph (2) is less~~
 2 ~~than 100, add one vote each to the agencies that, prior to exclusion~~
 3 ~~under paragraph (2), had the highest fractional amounts, but~~
 4 ~~exclude from this allocation any agency whose fraction was~~
 5 ~~boosted under paragraph (2), until a total of 100 votes is reached.~~

6 ~~(4) If the total cumulative number under paragraph (2) is more~~
 7 ~~than 100, subtract one vote each from the agencies that, prior to~~
 8 ~~exclusion under paragraph (2), had the lowest fractional amounts,~~
 9 ~~until a total of 100 votes is reached, but in no case shall an agency~~
 10 ~~have less than one vote.~~

11 ~~(e) The City of San Diego shall allocate half of its weighted~~
 12 ~~vote to the mayor of the City of San Diego, and the other half shall~~
 13 ~~be divided equally between the three city council members. The~~
 14 ~~City of Chula Vista shall allocate its weighted vote evenly between~~
 15 ~~its two members.~~

16 *(b) In the case of a weighted vote, the County of San Diego and*
 17 *each city shall, in total, exercise 100 votes to be apportioned*
 18 *annually based on population, except in the case of the City of San*
 19 *Diego. Each of the four representatives of the City of San Diego*
 20 *shall exercise 12 ½ weighted votes, for a total of 50 votes. The*
 21 *representatives for the City of Chula Vista shall split the votes*
 22 *allocated to that city evenly among its representatives.*

23 *(c) Approval under the weighted vote procedure requires the*
 24 *vote of the representatives of not less than three jurisdictions*
 25 *representing not less than 51 percent of the total weighted vote to*
 26 *supersede the original action of the board.*

27 *(d) When a weighted vote is taken on any item that requires*
 28 *more than a majority vote of the board, it shall also require the*
 29 *supermajority percentage of the weighted vote.*

30 ~~(d)~~

31 *(e) For purposes of subdivision (b), the population of the County*
 32 *of San Diego is the population in the unincorporated area of the*
 33 *county within the area of jurisdiction of the transit development*
 34 *board pursuant to Section 120054.*

35 ~~(e)~~

36 *(f) The board shall adopt a policy and procedure to implement*
 37 *this section.*

38 ~~SEC. 7.~~

39 *SEC. 6.* Article 11 (commencing with Section 120480) is added
 40 to Chapter 4 of Division 11 of the Public Utilities Code, to read:

1 Article 11. Transactions and Use Tax

2
3 120480. (a) A retail transactions and use tax ordinance
4 applicable in the incorporated and unincorporated territory within
5 the area of the board pursuant to Section 120054 shall be imposed
6 by the board in accordance with Section 120485 and Part 1.6
7 (commencing with Section 7251) of Division 2 of the Revenue
8 and Taxation Code, and Section 2 of Article XIII C of the California
9 Constitution. The tax ordinance shall take effect at the close of the
10 polls on the day of election at which the proposition is adopted.
11 The initial collection of the transactions and use tax shall take
12 place in accordance with Section 120483.

13 (b) If, at any time, the voters do not approve the imposition of
14 the transactions and use tax, this chapter remains in full force and
15 effect. The board may, at any time thereafter, submit the same, or
16 a different, measure to the voters in accordance with this chapter.

17 120481. (a) The board, in the ordinance, shall state the nature
18 of the tax to be imposed, the tax rate or the maximum tax rate, the
19 purposes for which the revenue derived from the tax will be used,
20 and may set a term during which the tax will be imposed. The
21 purposes for which the tax revenues may be used shall be limited
22 to public transit purposes serving the area of jurisdiction of the
23 board, as determined by the board, including the administration
24 of this division and legal actions related thereto. These purposes
25 include expenditures for the planning, environmental reviews,
26 engineering and design costs, and related right-of-way acquisition.
27 The ordinance shall contain an expenditure plan that shall include
28 the allocation of revenues for the purposes authorized by this
29 section.

30 (b) As used in this section, “public transit purposes” includes
31 the public transit responsibilities under the jurisdiction of the board
32 as well as any bikeway, bicycle path, sidewalk, trail, pedestrian
33 access, or pedestrian accessway.

34 120482. (a) The county shall conduct an election called by
35 the board pursuant to Section 120480.

36 (b) The election shall be called and conducted in the same
37 manner as provided by law for the conduct of elections by a county.

38 120483. (a) Any transactions and use tax ordinance adopted
39 pursuant to this article shall be operative on the first day of the

1 first calendar quarter commencing more than 110 days after
 2 adoption of the ordinance.

3 (b) Prior to the operative date of the ordinance, the board shall
 4 contract with the State Board of Equalization to perform all
 5 functions incident to the administration and operation of the
 6 ordinance. The costs to be covered by the contract may also include
 7 services of the types described in Section 7272 of the Revenue
 8 and Taxation Code for preparatory work up to the operative date
 9 of the ordinance. Any disputes as to the amount of the costs shall
 10 be resolved in the same manner as provided in that section.

11 120484. The revenues from the taxes imposed pursuant to this
 12 article may be allocated by the board for public transit purposes
 13 consistent with the applicable regional transportation improvement
 14 program and the applicable regional transportation plan.

15 120485. The board, subject to the approval of the voters, may
 16 impose a maximum tax rate of one-half of 1 percent under this
 17 article and Part 1.6 (commencing with Section 7251) of Division
 18 2 of the Revenue and Taxation Code. The board shall not levy the
 19 tax at a rate other than one-half or one-fourth of 1 percent unless
 20 specifically authorized by the Legislature.

21 120486. The board, as part of the ballot proposition to approve
 22 the imposition of a retail transactions and use tax, may seek
 23 authorization to issue bonds payable from the proceeds of the tax.

24 120487. Any action or proceeding wherein the validity of the
 25 adoption of the retail transactions and use tax ordinance provided
 26 for in this article or the issuance of any bonds thereunder or any
 27 of the proceedings in relation thereto is contested, questioned, or
 28 denied, shall be commenced within six months from the date of
 29 the election at which the ordinance is approved; otherwise, the
 30 bonds and all proceedings in relation thereto, including the adoption
 31 and approval of the ordinance, shall be held to be valid and in
 32 every respect legal and incontestable.

33 120488. The board has no power to impose any tax other than
 34 the transactions and use tax imposed upon approval of the voters
 35 in accordance with this article.

36 ~~SEC. 8.~~

37 *SEC. 7.* Section 125102 of the Public Utilities Code is amended
 38 to read:

39 125102. (a) A majority of the members of the board constitutes
 40 a quorum for the transaction of business. All official acts of the

1 board require the affirmative vote of the majority of the weighted
2 vote of the members of the board present. However, any reference
3 in this division to a two-thirds vote of the members of the board
4 shall be deemed to mean the affirmative vote of two-thirds of the
5 weighted vote of the members present. *after a vote of the members*
6 *is taken, a weighted vote may be called by any three members.*

7 (b) ~~In the case of a weighted vote, there shall be a total of 100~~
8 ~~votes. Each member agency shall have that number of votes~~
9 ~~annually determined by the following apportionment formula,~~
10 ~~provided that each agency shall have at least one vote, and that~~
11 ~~there shall be no fractional votes:~~

12 (1) ~~Compute, consistent with subdivision (e), the total population~~
13 ~~of the cities and the county, and compute the percentage of this~~
14 ~~total for each agency.~~

15 (2) ~~Boost percentage fractions in the case of each agency where~~
16 ~~the total is less than one, to one, and then add to that number only~~
17 ~~the whole numbers, excluding fractions, for all other agencies.~~

18 (3) ~~If the total cumulative number under paragraph (2) is less~~
19 ~~than 100, add one vote each to the agencies that, prior to exclusion~~
20 ~~under paragraph (2), had the highest fractional amounts, but~~
21 ~~exclude from this allocation any agency whose fraction was~~
22 ~~boosted under paragraph (2), until a total of 100 votes is reached.~~

23 (4) ~~If the total cumulative number under paragraph (2) is more~~
24 ~~than 100, subtract one vote each from the agencies that, prior to~~
25 ~~exclusion under paragraph (2), had the lowest fractional amounts,~~
26 ~~until a total of 100 votes is reached, but in no case shall an agency~~
27 ~~have less than one vote.~~

28 (b) *In the case of a weighted vote, the County of San Diego and*
29 *each city shall, in total, exercise 100 votes to be apportioned*
30 *annually based on population.*

31 (c) *Approval under the weighted vote procedure requires the*
32 *vote of the representatives of not less than three jurisdictions*
33 *representing not less than 51 percent of the total weighted vote to*
34 *supersede the original action of the board.*

35 (d) *When a weighted vote is taken on any item that requires*
36 *more than a majority vote of the board, it shall also require the*
37 *supermajority percentage of the weighted vote.*

38 (e)

39 (e) For purposes of subdivision (b), the population of the County
40 of San Diego is the population in the unincorporated area of the

1 county within the area of jurisdiction of the board pursuant to
2 Section 125052.

3 ~~(d)~~

4 (f) The board shall adopt a policy and procedure to implement
5 this section.

6 ~~SEC. 9.~~

7 SEC. 8. Article 9 (commencing with Section 125480) is added
8 to Chapter 4 of Division 11.5 of the Public Utilities Code, to read:

9

10 Article 9. Transactions and Use Tax

11

12 125480. (a) A retail transactions and use tax ordinance
13 applicable in the incorporated and unincorporated territory within
14 the area of the board pursuant to Section 125052 shall be imposed
15 by the board in accordance with Section 125485 and Part 1.6
16 (commencing with Section 7251) of Division 2 of the Revenue
17 and Taxation Code, and Section 2 of Article XIII C of the California
18 Constitution. The tax ordinance shall take effect at the close of the
19 polls on the day of election at which the proposition is adopted.
20 The initial collection of the transactions and use tax shall take
21 place in accordance with Section 125483.

22 (b) If, at any time, the voters do not approve the imposition of
23 the transactions and use tax, this chapter remains in full force and
24 effect. The board may, at any time thereafter, submit the same, or
25 a different, measure to the voters in accordance with this chapter.

26 125481. (a) The board, in the ordinance, shall state the nature
27 of the tax to be imposed, the tax rate or the maximum tax rate, the
28 purposes for which the revenue derived from the tax will be used,
29 and may set a term during which the tax will be imposed. The
30 purposes for which the tax revenues may be used shall be limited
31 to public transit purposes serving the area of jurisdiction of the
32 board, as determined by the board, including the administration
33 of this division and legal actions related thereto. These purposes
34 include expenditures for the planning, environmental reviews,
35 engineering and design costs, and related right-of-way acquisition.
36 The ordinance shall contain an expenditure plan that shall include
37 the allocation of revenues for the purposes authorized by this
38 section.

39 (b) As used in this section, “public transit purposes” includes
40 the public transit responsibilities under the jurisdiction of the

1 district as well as any bikeway, bicycle path, sidewalk, trail,
2 pedestrian access, or pedestrian accessway.

3 125482. (a) The county shall conduct an election called by
4 the board pursuant to Section 125480.

5 (b) The election shall be called and conducted in the same
6 manner as provided by law for the conduct of elections by a county.

7 125483. (a) Any transactions and use tax ordinance adopted
8 pursuant to this article shall be operative on the first day of the
9 first calendar quarter commencing more than 110 days after
10 adoption of the ordinance.

11 (b) Prior to the operative date of the ordinance, the board shall
12 contract with the State Board of Equalization to perform all
13 functions incident to the administration and operation of the
14 ordinance. The costs to be covered by the contract may also include
15 services of the types described in Section 7272 of the Revenue
16 and Taxation Code for preparatory work up to the operative date
17 of the ordinance. Any disputes as to the amount of the costs shall
18 be resolved in the same manner as provided in that section.

19 125484. The revenues from the taxes imposed pursuant to this
20 article may be allocated by the board for public transit purposes
21 consistent with the applicable regional transportation improvement
22 program and the applicable regional transportation plan.

23 125485. The board, subject to the approval of the voters, may
24 impose a maximum tax rate of one-half of 1 percent under this
25 article and Part 1.6 (commencing with Section 7251) of Division
26 2 of the Revenue and Taxation Code. The board shall not levy the
27 tax at a rate other than one-half or one-fourth of 1 percent unless
28 specifically authorized by the Legislature.

29 125486. The board, as part of the ballot proposition to approve
30 the imposition of a retail transactions and use tax, may seek
31 authorization to issue bonds payable from the proceeds of the tax.

32 125487. Any action or proceeding wherein the validity of the
33 adoption of the retail transactions and use tax ordinance provided
34 for in this article or the issuance of any bonds thereunder or any
35 of the proceedings in relation thereto is contested, questioned, or
36 denied, shall be commenced within six months from the date of
37 the election at which the ordinance is approved; otherwise, the
38 bonds and all proceedings in relation thereto, including the adoption
39 and approval of the ordinance, shall be held to be valid and in
40 every respect legal and incontestable.

1 125488. The board has no power to impose any tax other than
 2 the transactions and use tax imposed upon approval of the voters
 3 in accordance with this article.

4 ~~SEC. 10.~~

5 SEC. 9. Section 132351.1 of the Public Utilities Code is
 6 amended to read:

7 132351.1. (a) A board of directors consisting of 21 members
 8 shall govern the consolidated agency.

9 (b) For purposes of this chapter, “governing body” means the
 10 board of supervisors, council, council and mayor where the mayor
 11 is not a member of the council, authority, trustees, director,
 12 commission, committee, or other policymaking body, as
 13 appropriate, that exercises authority over an entity represented on
 14 the board of the consolidated agency.

15 (c) All powers, privileges, and duties vested in or imposed upon
 16 the consolidated agency shall be exercised and performed by and
 17 through a board of directors provided, however, that the exercise
 18 of all executive, administrative, and ministerial power may be
 19 delegated and redelegated by the board, to any of the offices,
 20 officers, or committees created pursuant to this chapter or created
 21 by the board acting pursuant to this chapter.

22 (d) The board shall be composed of one primary representative
 23 selected by the governing body of each city in the county and the
 24 chair of the San Diego County Board of Supervisors. However,
 25 the City of San Diego and the County of San Diego shall each
 26 have a primary and secondary representative, which for the City
 27 of San Diego shall be the mayor of the City of San Diego and the
 28 president of the city council. Each director shall be a mayor,
 29 councilperson, or supervisor, as applicable, of the governing body
 30 that selected him or ~~her~~ *her, and shall serve until recalled by the*
 31 *governing body of the city or county.* Vacancies shall be filled in
 32 the same manner as originally selected. Each city or county shall
 33 also select one alternate to serve on the board when the primary
 34 or secondary representative, if applicable, is not available. The
 35 alternate shall be subject to the same restrictions and have the same
 36 powers, when serving on the board, as the representative for whom
 37 he or she is substituting. The alternate shall be a mayor,
 38 councilperson, or supervisor, as applicable, of his or her governing
 39 body.

1 (e) Notwithstanding subdivision (d), in those years when the
2 chair of the San Diego County Board of Supervisors is from a
3 district that is substantially an incorporated area, a supervisor who
4 represents a district that is substantially an unincorporated area
5 shall be appointed to the board as the secondary representative.
6 Alternatively, in those years when the chair of the San Diego
7 County Board of Supervisors is from a district that is substantially
8 an unincorporated area, a supervisor who represents a district that
9 is substantially an incorporated area shall be appointed to the board
10 as the secondary representative.

11 (f) At its discretion, each city or county may select a second
12 alternate, in the same manner as the first alternate, to serve on the
13 board in the event that neither the primary representative nor the
14 first alternate is able to attend a meeting of the board. This alternate
15 shall be subject to the same restrictions and have the same powers,
16 when serving on the board, as the primary representative.

17 (g) The board may allow for the appointment of advisory
18 representatives to sit with the board but in no event shall those
19 representatives be allowed a vote. The current advisory
20 representatives to the San Diego Association of Governments may
21 continue their advisory representation on the consolidated agency
22 at the discretion of their governing body. The governing bodies of
23 the County of Imperial and the cities in that county may
24 collectively designate an advisory representative to sit with the
25 board.

26 ~~SEC. 11.~~

27 *SEC. 10.* Section 132351.2 of the Public Utilities Code is
28 amended to read:

29 132351.2. (a) A majority of the member agencies constitute
30 a quorum for the transaction of business. In order to act on any
31 item, the affirmative vote of the majority of the ~~weighted vote of~~
32 ~~the members of the board~~ present is required. *However, after a*
33 *vote of the members is taken, a weighted vote may be called by the*
34 *members of any four jurisdictions.*

35 (b) The governing body of the City of San Diego and the County
36 of San Diego shall allocate their weighted votes equally between
37 their primary and secondary members.

38 (c) For the weighted vote, there shall be a total of 100 votes,
39 except additional votes shall be allowed pursuant to subdivision
40 (f). (h). Each member agency shall have that number of votes

1 determined by the following apportionment formula, provided that
2 each agency shall have at least one ~~vote~~ *vote*, *no agency shall have*
3 *more than 50 votes*, and there shall be no fractional votes:

4 ~~(1) Compute the total population of the San Diego region and~~
5 ~~compute the percentage of this total for each agency.~~

6 ~~(2) Boost percentage fractions in the case of each agency where~~
7 ~~the total is less than one, to one, and then add to that number only~~
8 ~~the whole numbers, excluding fractions, for all other agencies.~~

9 ~~(3) If the total cumulative number under paragraph (2) is less~~
10 ~~than 100, add one vote each to the agencies that, prior to exclusion~~
11 ~~under paragraph (2), had the highest fractional amounts, but~~
12 ~~exclude from this allocation any agency whose fraction was~~
13 ~~boosted under paragraph (2), until a total of 100 votes is reached.~~

14 ~~(4) If the total cumulative number under paragraph (2) is more~~
15 ~~than 100, subtract one vote each from the agencies that, prior to~~
16 ~~exclusion under paragraph (2), had the lowest fractional amounts,~~
17 ~~until a total of 100 votes is reached, but in no case shall an agency~~
18 ~~have less than one vote.~~

19 *(1) If any agency has 50 percent or more of the total population*
20 *of the San Diego County region, allocate 50 votes to that agency*
21 *and follow paragraph (2), and if not, follow paragraph (3).*

22 *(2) Total the population of the remaining agencies determined*
23 *in paragraph (1) and compute the percentage of this total that*
24 *each agency has.*

25 *(A) Multiply each percentage derived above by 50 to determine*
26 *fractional shares.*

27 *(B) Boost fractions that are less than one to one and add the*
28 *whole numbers.*

29 *(C) If the answer to subparagraph (B) is 50, drop all fractions*
30 *and the whole numbers are the votes for each agency.*

31 *(D) If the answer to subparagraph (B) is less than 50, the*
32 *remaining vote is allocated one each to the agency having the*
33 *highest fraction excepting those whose vote was increased to one*
34 *pursuant to subparagraph (B).*

35 *(E) If the answer to subparagraph (B) is more than 50, the*
36 *excess vote is taken one each from the agency with the lowest*
37 *fraction. In no case shall a vote be reduced to less than one.*

38 *(3) Total the population determined in paragraph (1) and*
39 *compute the percentage of this total that each agency has.*

1 (A) Boost fractions that are less than one to one and add the
2 whole numbers.

3 (B) If the answer to subparagraph (A) is 100, drop all fractions
4 and the whole numbers are the votes for each agency.

5 (C) If the answer to subparagraph (A) is less than 100, the
6 remaining vote is allocated one each to the agency having the
7 highest fraction excepting those whose vote was increased to one
8 pursuant to subparagraph (A).

9 (D) If the answer to subparagraph (A) is more than 100, the
10 excess vote is taken one each from the agency with the lowest
11 fraction. In no case shall a vote be reduced to less than one.

12 (d) When a weighted vote is taken on any item that requires
13 more than a majority vote of the board, it shall also require the
14 supermajority percentage of the weighted vote.

15 (e) Approval under the weighted vote procedure requires the
16 vote of the representatives of not less than four jurisdictions
17 representing not less than 51 percent of the total weighted vote to
18 supersede the original action of the board.

19 (f) For purposes of subdivision (c), the population of the County
20 of San Diego is the population in the unincorporated area of the
21 county.

22 ~~(d)~~

23 (g) The weighted vote formula under subdivision (c) shall be
24 recomputed every July 1.

25 ~~(e)~~

26 (h) Any newly incorporated city shall receive one vote under
27 the weighted vote procedure until the next recomputation of the
28 weighted vote formula under subdivision (c), at which time the
29 new agency shall receive votes in accordance with the recomputed
30 formula. Until this recomputation, the total weighted vote may
31 exceed 100.

32 ~~SEC. 12.~~

33 *SEC. 11.* Section 132351.4 of the Public Utilities Code is
34 amended to read:

35 132351.4. (a) The consolidated agency shall have five standing
36 policy advisory committees named the executive, transportation,
37 regional planning, borders, and audit committees. The
38 responsibilities of the committees shall be established by the board.
39 Committee membership may be expanded by the consolidated
40 agency, and shall be selected in accordance with a process

1 established by the consolidated agency. The membership shall be
 2 as follows:

3 (1) The executive committee shall consist of six voting members
 4 with board members representing east county, north county coastal,
 5 north county inland, south county, and the representative, or the
 6 representative’s alternate in their absence, from the City of San
 7 Diego and the county. The chairperson and the vice chairperson
 8 of the consolidated agency shall each be one of the six voting
 9 members.

10 (2) (A) The transportation committee shall consist of nine voting
 11 members with board members or alternates representing east
 12 county, north county coastal, north county inland, south county
 13 and the mayor or a council member from the City of San Diego,
 14 a supervisor from the County of San Diego, a member of the board
 15 of the MTDB appointed by the board of the MTDB, a member of
 16 the board of the NCTD appointed by the board of the NCTD, and
 17 a member of the San Diego County Regional Airport Authority
 18 appointed by the airport authority.

19 (B) Among its transportation responsibilities, the transportation
 20 committee shall provide a strong focus and commitment to meeting
 21 the public transit needs of the San Diego region, set transit funding
 22 criteria and recommend transit funding levels, and undertake transit
 23 responsibilities resulting from consolidation, as delegated by the
 24 board.

25 (C) The board shall provide a report, developed by the
 26 transportation committee, to the Legislature on or before July 1 of
 27 each year that outlines the public transit needs, transit funding
 28 criteria, recommended transit funding levels, and additional work
 29 on public transit, as delegated to the transportation committee by
 30 the board. The report shall specify the funds spent explicitly on
 31 public transportation. The report shall be submitted consistent with
 32 Section 9795 of the Government Code.

33 (3) The regional planning committee shall consist of six voting
 34 members with board members or alternates representing east
 35 county, north county coastal, north county inland, south county,
 36 and the mayor or a council member from the City of San Diego,
 37 and a supervisor from the County of San Diego.

38 (4) The borders committee shall consist of seven voting
 39 members with board members or alternates representing east
 40 county, north county coastal, north county inland, south county,

1 the mayor or a council member from the City of San Diego, a
2 supervisor from the County of San Diego, and a mayor, council
3 member, or supervisor from the County of Imperial.

4 (5) The audit committee shall consist of five voting members
5 with two board members and three members of the public to be
6 appointed by the board. The audit committee shall recommend to
7 the board the contract of the firm conducting the annual financial
8 statement audits and the hiring of the independent performance
9 auditor and approve the annual audit plan after discussion with the
10 independent performance auditor pursuant to subdivision (b) of
11 Section 132354.1.

12 (b) The board may appoint other standing and ad hoc working
13 groups to advise it in carrying out its responsibilities.

14 (c) No board member may serve as a member of more than two
15 standing policy advisory committees at any one time, except those
16 board members serving on the audit committee.

17 ~~SEC. 13.~~

18 *SEC. 12.* Section 132352.3 of the Public Utilities Code is
19 amended to read:

20 132352.3. The officers of the board are the chairperson and
21 the vice chairperson. The mayors of the largest city and the
22 second-largest city shall alternate between serving as chairperson
23 and vice chairperson for four-year terms. The board may create
24 additional officers and elect members to those positions. However,
25 no member may hold more than one office. The term of office for
26 any officers of the board other than the chairperson and the vice
27 chairperson shall be established by the board.

28 ~~SEC. 14.~~

29 *SEC. 13.* Section 132354.1 of the Public Utilities Code is
30 amended to read:

31 132354.1. (a) The board shall arrange for a post audit of the
32 financial transactions and records of the consolidated agency to
33 be made at least annually by a certified public accountant.

34 (b) (1) The audit committee shall appoint an independent
35 performance auditor, subject to approval by the board, who may
36 only be removed for cause by a vote of at least two-thirds of the
37 audit committee and the board.

38 (2) The independent performance auditor shall have authority
39 to conduct or to cause to be conducted performance audits of all
40 departments, offices, boards, activities, agencies, and programs of

1 the consolidated agency. The auditor shall prepare annually an
2 audit plan and conduct audits in accordance therewith and perform
3 those other duties as may be required by ordinance or as provided
4 by the California Constitution and general laws of the state. The
5 auditor shall follow government auditing standards. All officers
6 and employees of the consolidated agency shall furnish to the
7 auditor unrestricted access to employees, information, and records,
8 including electronic data, within their custody regarding powers,
9 duties, activities, organization, property, financial transactions,
10 contracts, and methods of business required to conduct an audit
11 or otherwise perform audit duties. It is also the duty of any
12 consolidated agency officer, employee, or agent to fully cooperate
13 with the auditor, and to make full disclosure of all pertinent
14 information.

15 (3) The auditor shall have the power to appoint, employ, and
16 remove assistants, employees, and personnel as deemed necessary
17 for the efficient and effective administration of the affairs of the
18 office and to prescribe their duties, scope of authority, and
19 qualifications.

20 (4) The auditor may investigate any material claim of financial
21 fraud, waste, or impropriety within the consolidated agency and
22 for that purpose may summon any officer, agent, or employee of
23 the consolidated agency, any claimant, or other person, and
24 examine him or her upon oath or affirmation relative thereto. All
25 consolidated agency contracts with consultants, vendors, or
26 agencies will be prepared with an adequate audit provision to allow
27 the auditor access to the entity's records needed to verify
28 compliance with the terms specified in the contract. Results of all
29 audits and reports shall be made available to the public in
30 accordance with the requirements of the California Public Records
31 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
32 of the Title 1 of the Government Code).

33 (c) The board shall develop and adopt internal control guidelines
34 to prevent and detect financial errors and fraud based on the internal
35 control guidelines developed by the Controller pursuant to Section
36 12422.5 of the Government Code and the standards adopted by
37 the American Institute of Certified Public Accountants.

38 (d) The board shall develop and adopt an administration policy
39 that includes a process to conduct staff performance evaluations
40 on a regular basis to determine if the knowledge, skills, and abilities

1 of staff members are sufficient to perform their respective
2 functions, and shall monitor the evaluation process on a regular
3 basis.

4 ~~SEC. 15.~~

5 *SEC. 14.* Section 132360.1 of the Public Utilities Code is
6 amended to read:

7 132360.1. In preparing and updating the regional
8 comprehensive plan, it is the intent of the Legislature that:

9 (a) The regional comprehensive plan preserve and improve the
10 quality of life in the San Diego region, maximize mobility and
11 transportation choices, and conserve and protect natural resources.

12 (b) The regional comprehensive plan shall address the
13 greenhouse gas emissions reduction targets set by the State Air
14 Resources Board as required by Section 65080 of the Government
15 Code and include strategies that provide for mode shift to public
16 transportation.

17 (c) The regional comprehensive plan shall identify
18 disadvantaged communities as designated pursuant to Section
19 39711 of the Health and Safety Code and include transportation
20 strategies to reduce pollution exposure in these communities.

21 (d) In formulating and maintaining the regional comprehensive
22 plan, the consolidated agency shall take account of and shall seek
23 to harmonize the needs of the region as a whole, the plans of the
24 county and cities within the region, and the plans and planning
25 activities of organizations that affect or are concerned with planning
26 and development within the region.

27 (e) The consolidated agency shall engage in a public
28 collaborative planning process. The recommendations resulting
29 from the public collaborative planning process shall be made
30 available to and considered by the consolidated agency for
31 integration into the draft regional comprehensive plan. The
32 consolidated agency shall adopt a procedure to carry out this
33 process including a method of addressing and responding to
34 recommendations from the public.

35 (f) In formulating and maintaining the regional comprehensive
36 plan, the consolidated agency shall seek the cooperation and
37 consider the recommendations of all of the following:

38 (1) Its member agencies and other agencies of local government
39 within the jurisdiction of the consolidated agency.

40 (2) State and federal agencies.

- 1 (3) Educational institutions.
- 2 (4) Research organizations, whether public or private.
- 3 (5) Civic groups.
- 4 (6) Private individuals.
- 5 (7) Governmental jurisdictions located outside the region but
- 6 contiguous to its boundaries.

7 (g) The consolidated agency shall make the regional
 8 comprehensive plan, policies, and objectives available to all local
 9 agencies and facilitate consideration of the regional comprehensive
 10 plan in the development, implementation, and update of local
 11 general plans. The consolidated agency shall provide assistance
 12 and enhance the opportunities for local agencies to develop,
 13 implement, and update general plans in a manner that recognizes,
 14 at a minimum, land use, transportation compatibility, and a
 15 jobs-to-housing balance within the regional comprehensive plan.

16 (h) The consolidated agency shall maintain the data, maps, and
 17 other information developed in the course of formulating the
 18 regional comprehensive plan in a form suitable to assure a
 19 consistent view of developmental trends and other relevant
 20 information for the availability of and use by other government
 21 agencies and private organizations.

22 (i) The components of the regional comprehensive plan may
 23 include, but are not limited to, transportation, housing, water
 24 quality and supply, infrastructure, air quality, energy, solid waste,
 25 economy, and open space, including habitat. Performance standards
 26 and measurable criteria shall be established through a public
 27 process to ensure that the regional comprehensive plan is prepared
 28 consistent with these measures as well as in determining
 29 achievement of the regional comprehensive plan goals throughout
 30 its implementation.

31 (j) Any water supply component or provision of the regional
 32 infrastructure strategy regarding water supply contained in the
 33 regional comprehensive plan shall be consistent with the urban
 34 water management plan and other adopted regional water facilities
 35 and supply plans of the San Diego County Water Authority.

36 ~~SEC. 16.~~

37 *SEC. 15.* If the Commission on State Mandates determines that
 38 this act contains costs mandated by the state, reimbursement to
 39 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O