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Gary L. Gallegos
Executive Director, SANDAG



**EXECUTIVE
COMMITTEE
SPECIAL MEETING
AGENDA**

Friday, August 18, 2017

9 to ~~10~~11 a.m.

SANDAG Board Room

401 B Street

San Diego

AGENDA HIGHLIGHTS

- **INDEPENDENT EXAMINATION OF MEASURE A REVENUE ESTIMATE COMMUNICATIONS**
- **2018 SANDAG BALLOT MEASURE**

PLEASE SILENCE ALL ELECTRONIC DEVICES DURING THE MEETING

MISSION STATEMENT

The 18 cities and county government are SANDAG serving as the forum for regional decision-making. SANDAG builds consensus, makes strategic plans, obtains and allocates resources, plans, engineers, and builds public transit, and provides information on a broad range of topics pertinent to the region's quality of life.

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EXECUTIVE COMMITTEE

Friday, August 18, 2017

ITEM NO.

RECOMMENDATION

1. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

Public comments under this agenda item will be limited to five public speakers. Members of the public shall have the opportunity to address the Executive Committee on any issue within the jurisdiction of the Committee that is not on this agenda. Other public comments will be heard during the items under the heading "Reports." Anyone desiring to speak shall reserve time by completing a "Request to Speak" form and giving it to the Clerk prior to speaking. Public speakers should notify the Clerk if they have a handout for distribution to Committee members. Public speakers are limited to three minutes or less per person. Committee members also may provide information and announcements under this agenda item.

REPORTS

2. INDEPENDENT EXAMINATION OF MEASURE A REVENUE ESTIMATE COMMUNICATIONS (Vice Chair Terry Sinnott)

INFORMATION

Vice Chair Terry Sinnott will provide an update on progress to implement the actions approved by the Board of Directors at its August 4, 2017, meeting, including the recommendations listed in the Hueston Hennigan LLP report.

+3. 2018 SANDAG BALLOT MEASURE (Robyn Wapner)

DISCUSSION/
POSSIBLE ACTION

Current law provides SANDAG with the authority to call for an election on the governance of or matters related to the powers, privileges, or duties of the agency. The Executive Committee is asked to discuss the placement of a 2018 ballot measure pursuant to this authority.

4. CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – PUBLIC EMPLOYMENT: EXECUTIVE DIRECTOR PURSUANT TO GOVERNMENT CODE SECTION 54957 (Julie Wiley)

5.4. CONTINUED PUBLIC COMMENTS

If the five-speaker limit for public comments was exceeded at the beginning of this agenda, other public comments will be taken at this time. Subjects of previous agenda items may not again be addressed under public comment.

6.5. UPCOMING MEETINGS

INFORMATION

The next meeting of the Executive Committee is scheduled for Friday, September 8, 2017, at 9 a.m.

7.6. ADJOURNMENT

+ next to an agenda item indicates an attachment



**EXECUTIVE COMMITTEE
AUGUST 18, 2017**

**ACTION REQUESTED: DISCUSSION/
POSSIBLE ACTION**

2018 SANDAG BALLOT MEASURE

File Number 7300400

Introduction

Prior to the passage of Senate Bill 1703 (SB 1703) (Peace) in 2002, SANDAG existed as a voluntarily formed joint powers authority. In SB 1703 the Legislature codified the SANDAG governance structure and recognized SANDAG as the consolidated agency responsible for planning and implementing an efficient regional transportation system and preparing a regional comprehensive plan that meets the mobility needs and improves the quality of life for the entire San Diego region. This legislation also provided SANDAG with the authority to call for an election on matters related to the governance or duties of the agency.

On February 15, 2017, Assemblymember Lorena Gonzalez Fletcher introduced Assembly Bill 805 (AB 805), which makes various changes to state law that would significantly impact the governance, powers, privileges, and duties of SANDAG.

At its meeting on July 28, 2017, the Board of Directors directed the Executive Committee to consider the placement of a 2018 ballot measure regarding SANDAG reform and what alternatives that measure could contain.

Discussion

On April 14, 2017, the Board of Directors voted to oppose AB 805 until and unless there are amendments, and to be open to discussions with the author. While AB 805 has been amended since that time, several provisions remain in the current version of the bill that would have significant impacts on the SANDAG governance and voting structures. In addition, new language was added that would alter current contracting requirements for the agency. The last day to amend bills in the Legislature is September 8, 2017. The author has indicated that additional amendments are forthcoming.

Proposed Changes in AB 805

SANDAG Board of Directors Membership

Current law provides that the governing body of each city shall select its representatives to the SANDAG Board of Directors. AB 805, as drafted, would require that the Mayor and the Council President serve as the primary and secondary representatives for the City of San Diego.

Officers of the SANDAG Board of Directors

The SANDAG Chair and Vice Chair serve as the officers of the Board of Directors. Pursuant to current SANDAG statutory authority, the Board has established a nomination and election process for leadership, including annual terms of office for the Chair and Vice Chair positions.

The proposal included in AB 805 would require that the mayors of the two largest cities alternate between serving as Chair and Vice Chair of the Board for two-year terms. (In terms of current population, the two largest cities in the region are the cities of San Diego and Chula Vista.)

SANDAG Voting Structure

With the exception of the consent agenda¹ and when otherwise required by statute, all items before the Board of Directors currently require a majority tally vote (one vote per member agency jurisdiction) as well as a majority of the weighted vote² of the member agencies present.

Rather, AB 805, as currently written, would require the affirmative vote of a majority of the members present for action on any item.³ After a tally vote is taken, however, AB 805 proposes to allow a weighted vote to be called by the members of any two jurisdictions. If at least four members from jurisdictions representing not less than 51 percent of the weighted vote support the action, the weighted vote would supersede the original action of the Board.

SANDAG Policy Advisory Committees

AB 805 proposes to create a new audit committee consisting of five voting members with two SANDAG Board members and three members of the public to be appointed by the Board of Directors. The proposed audit committee would make a recommendation to the Board of Directors on the contract of the firm conducting the annual financial statement audits; appoint an independent performance auditor, subject to Board approval; and approve an annual audit plan required under AB 805.

The proposed auditor would conduct performance audits of all departments, offices, boards, activities, agencies, and programs of SANDAG; prepare annual audit plans; and investigate material claims of financial fraud, waste, or impropriety within SANDAG. The independent performance auditor would serve a term of five years and could only be removed for cause.

In addition, AB 805, as drafted, would provide the independent performance auditor with "the power to appoint, employ, and remove assistants, employees, and personnel as deemed necessary for the efficient and effective administration of the affairs of the office and to prescribe their duties, scope of authority, and qualifications." It is not clear whether this authority would be limited to the functions of the auditor or apply to SANDAG in its entirety.

Finally, AB 805 would authorize the independent performance auditor to summon any officer, agent, or employee of SANDAG and examine him or her upon oath or affirmation for certain investigatory

¹ Under current statute, consent items require a majority vote of the members present based on one vote per agency, otherwise known as a tally vote.

² Under current law, no agency may have more than 40 votes, and no agency may have less than 1 vote. AB 805 would increase the 40 vote per agency cap to 50 votes per agency.

³ It appears this provision would provide the City of San Diego and County of San Diego with two tally votes each, compared to the current single tally vote per jurisdiction under current law.

purposes. If implemented as written, it appears that this provision could obligate SANDAG, under certain circumstances, to provide employees with legal representation.

Enforceable Commitment/Project Labor Agreement

If passed in its current form, AB 805 would prohibit SANDAG from entering into a construction contract over \$1 million unless there either is an enforceable commitment that provides that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or a specified contract that falls within an apprenticeship occupation in the building and construction trades in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. The bill provides that this requirement shall not apply if any of the following requirements are met:

1. SANDAG has entered into a project labor agreement (PLA)⁴ that will bind all contractors and subcontractors performing work on the project or SANDAG has contracted to use a skilled and trained workforce and the entity (construction contractor or subcontractor?) has agreed to be bound by that PLA.
2. The project or contract is being performed under the extension or renewal of a PLA that was entered into by SANDAG before January 1, 2017.
3. The entity has entered into a PLA that will bind the entity and all its subcontractors at every tier performing the project or the entity has contracted to use a skilled and trained workforce.

SANDAG Election Authority

Currently the law provides that the SANDAG Board of Directors can place measures on the countywide ballot for a decision by the voters of San Diego County on “the governance of or matters related to the powers, privileges, or duties” of SANDAG. Below is the specific language from SB 1703 Article 7 (Public Utilities Code Section 132362).

“In addition to the authority set forth in Article 5 (commencing with Section 132300) and Article 6 (commencing with Section 132320) of Chapter 2 of Division 12.7, if the consolidated agency⁵ provides compensation to San Diego County for the cost of including an ordinance or measure on the ballot, the consolidated agency may call an election, including an advisory election, in San Diego County on any ordinance or measure regarding the governance of or matters related to the powers, privileges, or duties of the consolidated agency, including, but not limited to, merger or complete consolidation of the transit boards.”

VICTORIA STACKWICK
Principal Legislative Analyst

Attachment: 1. Assembly Bill 805

Key Staff Contact: Robyn Wapner, (619) 699-1994, robyn.wapner@sandag.org

⁴ As defined in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code, PLA means “a prehire collective bargaining agreement that establishes terms and conditions of employment for a specific construction project or projects and is an agreement described in Section 158(f) of Title 29 of the United States Code.”

⁵ The “consolidated agency” being referenced in this statute is SANDAG.

AMENDED IN SENATE JULY 13, 2017
 AMENDED IN ASSEMBLY MAY 30, 2017
 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
 (Coauthor: Assembly Member Frazier)**

February 15, 2017

An act to amend Sections 120050.2, 120051.6, 120102.5, 125102, 132351.1, 132351.2, 132351.4, 132352.3, 132354.1, and 132360.1 of, to *add Sections 120221.5, 125222.5, and 132354.7 to*, 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 delete the requirement for the chair of the County of San Diego Board of Supervisors to serve on the board.~~ 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 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 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 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.

Existing law authorizes the board of the MTS, the NCTD, and the consolidated agency to enter into and perform all necessary contracts to construct or develop property for transit purposes, including, but not limited to, employing labor and doing all acts necessary and convenient for the full exercise of the powers granted to each of these agencies.

This bill would prohibit the MTS, the NCTD, and the consolidated agency from entering into a construction contract over \$1,000,000 with any entity unless the entity provides to the each agency an enforceable commitment that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or a contract that falls within an apprenticeship occupation in the building and construction trades, except as specified.

(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:

3 120050.2. The board consists of 15 members selected as
4 follows:

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

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

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

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

19 SEC. 2. Section 120050.5 of the Public Utilities Code is
20 repealed.

21 SEC. 3. Section 120051.1 of the Public Utilities Code is
22 repealed.

23 SEC. 4. Section 120051.6 of the Public Utilities Code is
24 amended to read:

25 120051.6. The alternate members of the board shall be
26 appointed as follows:

27 (a) The County of San Diego Board of Supervisors shall appoint
28 a county supervisor, not already appointed under Section 120051,
29 who represents one of the two supervisorial districts with the
30 greatest percentage of its area within the incorporated area of the
31 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. 5. Section 120102.5 of the Public Utilities Code is
18 amended to read:

19 120102.5. (a) A majority of the members of the board
20 constitutes a quorum for the transaction of business. All official
21 acts of the board require the affirmative vote of the majority of the
22 members of the board present. However, after a vote of the
23 members is taken, a weighted vote may be called by the members
24 of any two jurisdictions.

25 (b) In the case of a weighted vote, the County of San Diego and
26 each city shall, in total, exercise 100 votes to be apportioned
27 annually based on population, except in the case of the City of San
28 Diego. Each of the four representatives of the City of San Diego
29 shall exercise 12 ½ weighted votes, for a total of 50 votes. The
30 representatives for the City of Chula Vista shall split the votes
31 allocated to that city evenly among its representatives.

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

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

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 transit development
2 board pursuant to Section 120054.

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

5 *SEC. 6. Section 120221.5 is added to the Public Utilities Code,*
6 *to read:*

7 *120221.5. The board shall not enter into a construction*
8 *contract over one million dollars (\$1,000,000) with any entity*
9 *unless the entity provides to the board an enforceable commitment*
10 *that the entity and its subcontractors at every tier will use a skilled*
11 *and trained workforce to perform all work on the project or a*
12 *contract that falls within an apprenticeship occupation in the*
13 *building and construction trades in accordance with Chapter 2.9*
14 *(commencing with Section 2600) of Part 1 of Division 2 of the*
15 *Public Contract Code.*

16 (a) This subdivision shall not apply if any of the following
17 requirements are met:

18 (1) The board has entered into a project labor agreement that
19 will bind all contractors and subcontractors performing work on
20 the project or the board has contracted to use a skilled and trained
21 workforce and the entity has agreed to be bound by that project
22 labor agreement.

23 (2) The project or contract is being performed under the
24 extension or renewal of a project labor agreement that was entered
25 into by the board before January 1, 2017.

26 (3) The entity has entered into a project labor agreement that
27 will bind the entity and all its subcontractors at every tier
28 performing the project or the entity has contracted to use a skilled
29 and trained workforce.

30 (b) For purposes of subdivision (a), “project labor agreement”
31 has the same meaning as defined in paragraph (1) of subdivision
32 (b) of Section 2500 of the Public Contract Code.

33 ~~SEC. 6.~~

34 *SEC. 7. Article 11 (commencing with Section 120480) is added*
35 *to Chapter 4 of Division 11 of the Public Utilities Code, to read:*
36

37 Article 11. Transactions and Use Tax

38
39 120480. (a) A retail transactions and use tax ordinance
40 applicable in the incorporated and unincorporated territory within

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

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

13 120481. (a) The board, in the ordinance, shall state the nature
14 of the tax to be imposed, the tax rate or the maximum tax rate, the
15 purposes for which the revenue derived from the tax will be used,
16 and may set a term during which the tax will be imposed. The
17 purposes for which the tax revenues may be used shall be limited
18 to public transit purposes serving the area of jurisdiction of the
19 board, as determined by the board, including the administration
20 of this division and legal actions related thereto. These purposes
21 include expenditures for the planning, environmental reviews,
22 engineering and design costs, and related right-of-way acquisition.
23 The ordinance shall contain an expenditure plan that shall include
24 the allocation of revenues for the purposes authorized by this
25 section.

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

30 120482. (a) The county shall conduct an election called by
31 the board pursuant to Section 120480.

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

34 120483. (a) Any transactions and use tax ordinance adopted
35 pursuant to this article shall be operative on the first day of the
36 first calendar quarter commencing more than 110 days after
37 adoption of the ordinance.

38 (b) Prior to the operative date of the ordinance, the board shall
39 contract with the State Board of Equalization to perform all
40 functions incident to the administration and operation of the

1 ordinance. The costs to be covered by the contract may also include
2 services of the types described in Section 7272 of the Revenue
3 and Taxation Code for preparatory work up to the operative date
4 of the ordinance. Any disputes as to the amount of the costs shall
5 be resolved in the same manner as provided in that section.

6 120484. The revenues from the taxes imposed pursuant to this
7 article may be allocated by the board for public transit purposes
8 consistent with the applicable regional transportation improvement
9 program and the applicable regional transportation plan.

10 120485. The board, subject to the approval of the voters, may
11 impose a maximum tax rate of one-half of 1 percent under this
12 article and Part 1.6 (commencing with Section 7251) of Division
13 2 of the Revenue and Taxation Code. The board shall not levy the
14 tax at a rate other than one-half or one-fourth of 1 percent unless
15 specifically authorized by the Legislature.

16 120486. The board, as part of the ballot proposition to approve
17 the imposition of a retail transactions and use tax, may seek
18 authorization to issue bonds payable from the proceeds of the tax.

19 120487. Any action or proceeding wherein the validity of the
20 adoption of the retail transactions and use tax ordinance provided
21 for in this article or the issuance of any bonds thereunder or any
22 of the proceedings in relation thereto is contested, questioned, or
23 denied, shall be commenced within six months from the date of
24 the election at which the ordinance is approved; otherwise, the
25 bonds and all proceedings in relation thereto, including the adoption
26 and approval of the ordinance, shall be held to be valid and in
27 every respect legal and incontestable.

28 120488. The board has no power to impose any tax other than
29 the transactions and use tax imposed upon approval of the voters
30 in accordance with this article.

31 ~~SEC. 7.~~

32 *SEC. 8.* Section 125102 of the Public Utilities Code is amended
33 to read:

34 125102. (a) A majority of the members of the board constitutes
35 a quorum for the transaction of business. All official acts of the
36 board require the affirmative vote of the majority of the members
37 of the board present. However, after a vote of the members is taken,
38 a weighted vote may be called by any two members.

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

4 (c) Approval under the weighted vote procedure requires the
5 vote of the representatives of not less than three jurisdictions
6 representing not less than 51 percent of the total weighted vote to
7 supersede the original action of the board.

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

11 (e) For purposes of subdivision (b), the population of the County
12 of San Diego is the population in the unincorporated area of the
13 county within the area of jurisdiction of the board pursuant to
14 Section 125052.

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

17 *SEC. 9. Section 125222.5 is added to the Public Utilities Code,*
18 *to read:*

19 *125222.5. The district shall not enter into a construction*
20 *contract over one million dollars (\$1,000,000) with any entity*
21 *unless the entity provides to the district an enforceable commitment*
22 *that the entity and its subcontractors at every tier will use a skilled*
23 *and trained workforce to perform all work on the project or a*
24 *contract that falls within an apprenticeship occupation in the*
25 *building and construction trades in accordance with Chapter 2.9*
26 *(commencing with Section 2600) of Part 1 of Division 2 of the*
27 *Public Contract Code.*

28 (a) *This subdivision shall not apply if any of the following*
29 *requirements are met:*

30 (1) *The district has entered into a project labor agreement that*
31 *will bind all contractors and subcontractors performing work on*
32 *the project or the district has contracted to use a skilled and trained*
33 *workforce and the entity has agreed to be bound by that project*
34 *labor agreement.*

35 (2) *The project or contract is being performed under the*
36 *extension or renewal of a project labor agreement that was entered*
37 *into by the district before January 1, 2017.*

38 (3) *The entity has entered into a project labor agreement that*
39 *will bind the entity and all its subcontractors at every tier*

1 performing the project or the entity has contracted to use a skilled
2 and trained workforce.

3 (b) For purposes of subdivision (a), “project labor agreement”
4 has the same meaning as defined in paragraph (1) of subdivision
5 (b) of Section 2500 of the Public Contract Code.

6 ~~SEC. 8.~~

7 SEC. 10. 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. 9.~~

5 *SEC. 11.* 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 a member of~~ the San Diego County Board of Supervisors.
25 However, the City of San Diego and the County of San Diego shall
26 each have a primary and secondary representative, which for the
27 City of San Diego shall be the mayor of the City of San Diego and
28 the 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, 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 primary representative of the San Diego County Board of
 3 Supervisors is from a district that is substantially an incorporated
 4 area, a supervisor who represents a district that is substantially
 5 an unincorporated area shall be appointed to the board as the
 6 secondary representative. Alternatively, in those years when the
 7 primary representative of the San Diego County Board of
 8 Supervisors is from a district that is substantially an
 9 unincorporated area, a supervisor who represents a district that
 10 is substantially an incorporated area shall be appointed to the
 11 board as the secondary representative.

12 ~~(e) Notwithstanding subdivision (d), in those years when the~~
 13 ~~chair of the San Diego County Board of Supervisors is from a~~
 14 ~~district that is substantially an incorporated area, a supervisor who~~
 15 ~~represents a district that is substantially an unincorporated area~~
 16 ~~shall be appointed to the board as the secondary representative.~~
 17 ~~Alternatively, in those years when the chair of the San Diego~~
 18 ~~County Board of Supervisors is from a district that is substantially~~
 19 ~~an unincorporated area, a supervisor who represents a district that~~
 20 ~~is substantially an incorporated area shall be appointed to the board~~
 21 ~~as the secondary representative.~~

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

28 (g) The board may allow for the appointment of advisory
 29 representatives to sit with the board but in no event shall those
 30 representatives be allowed a vote. The current advisory
 31 representatives to the San Diego Association of Governments may
 32 continue their advisory representation on the consolidated agency
 33 at the discretion of their governing body. The governing bodies of
 34 the County of Imperial and the cities in that county may
 35 collectively designate an advisory representative to sit with the
 36 board.

37 ~~SEC. 10.~~

38 SEC. 12. Section 132351.2 of the Public Utilities Code is
 39 amended to read:

1 132351.2. (a) A majority of the member agencies constitute
2 a quorum for the transaction of business. In order to act on any
3 item, the affirmative vote of the majority of the members of the
4 board present is required. However, after a vote of the members
5 is taken, a weighted vote may be called by the members of any
6 two jurisdictions.

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

10 (c) For the weighted vote, there shall be a total of 100 votes,
11 except additional votes shall be allowed pursuant to subdivision
12 (h). Each member agency shall have that number of votes
13 determined by the following apportionment formula, provided that
14 each agency shall have at least one vote, no agency shall have
15 more than 50 votes, and there shall be no fractional votes:

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

19 (2) Total the population of the remaining agencies determined
20 in paragraph (1) and compute the percentage of this total that each
21 agency has.

22 (A) Multiply each percentage derived above by 50 to determine
23 fractional shares.

24 (B) Boost fractions that are less than one to one and add the
25 whole numbers.

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

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

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

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

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

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

1 (C) If the answer to subparagraph (A) is less than 100, the
2 remaining vote is allocated one each to the agency having the
3 highest fraction excepting those whose vote was increased to one
4 pursuant to subparagraph (A).

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

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

11 (e) Approval under the weighted vote procedure requires the
12 vote of the representatives of not less than four *members from*
13 jurisdictions representing not less than 51 percent of the total
14 weighted vote to supersede the original action of the board.

15 (f) For purposes of subdivision (c), the population of the County
16 of San Diego is the population in the unincorporated area of the
17 county.

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

20 (h) Any newly incorporated city shall receive one vote under
21 the weighted vote procedure until the next recomputation of the
22 weighted vote formula under subdivision (c), at which time the
23 new agency shall receive votes in accordance with the recomputed
24 formula. Until this recomputation, the total weighted vote may
25 exceed 100.

26 ~~SEC. 11:~~

27 *SEC. 13.* Section 132351.4 of the Public Utilities Code is
28 amended to read:

29 132351.4. (a) The consolidated agency shall have five standing
30 policy advisory committees named the executive, transportation,
31 regional planning, borders, and audit committees. The
32 responsibilities of the committees shall be established by the board.
33 Committee membership may be expanded by the consolidated
34 agency, and shall be selected in accordance with a process
35 established by the consolidated agency. The membership shall be
36 as follows:

37 (1) The executive committee shall consist of six voting members
38 with board members representing east county, north county coastal,
39 north county inland, south county, and the representative, or the
40 representative's alternate in their absence, from the City of San

1 Diego and the county. The chairperson and the vice chairperson
2 of the consolidated agency shall each be one of the six voting
3 members.

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

13 (B) Among its transportation responsibilities, the transportation
14 committee shall provide a strong focus and commitment to meeting
15 the public transit needs of the San Diego region, set transit funding
16 criteria and recommend transit funding levels, and undertake transit
17 responsibilities resulting from consolidation, as delegated by the
18 board.

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

27 (3) The regional planning committee shall consist of six voting
28 members with board members or alternates representing east
29 county, north county coastal, north county inland, south county,
30 and the mayor or a council member from the City of San Diego,
31 and a supervisor from the County of San Diego.

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

38 (5) The audit committee shall consist of five voting members
39 with two board members and three members of the public to be
40 appointed by the board. The audit committee shall recommend to

1 the board the contract of the firm conducting the annual financial
2 statement audits and the hiring of the independent performance
3 auditor and approve the annual audit plan after discussion with the
4 independent performance auditor pursuant to subdivision (b) of
5 Section 132354.1.

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

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

11 ~~SEC. 12.~~

12 *SEC. 14.* Section 132352.3 of the Public Utilities Code is
13 amended to read:

14 132352.3. The officers of the board are the chairperson and
15 the vice chairperson. The mayors of the largest city and the
16 second-largest city shall alternate between serving as chairperson
17 and vice chairperson for ~~four-year~~ *two-year* terms. The board may
18 create additional officers and elect members to those positions.
19 However, no member may hold more than one office. The term
20 of office for any officers of the board other than the chairperson
21 and the vice chairperson shall be established by the board.

22 ~~SEC. 13.~~

23 *SEC. 15.* Section 132354.1 of the Public Utilities Code is
24 amended to read:

25 132354.1. (a) The board shall arrange for a post audit of the
26 financial transactions and records of the consolidated agency to
27 be made at least annually by a certified public accountant.

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

32 (2) The independent performance auditor shall have authority
33 to conduct or to cause to be conducted performance audits of all
34 departments, offices, boards, activities, agencies, and programs of
35 the consolidated agency. The auditor shall prepare annually an
36 audit plan and conduct audits in accordance therewith and perform
37 those other duties as may be required by ordinance or as provided
38 by the California Constitution and general laws of the state. The
39 auditor shall follow government auditing standards. All officers
40 and employees of the consolidated agency shall furnish to the

1 auditor unrestricted access to employees, information, and records,
 2 including electronic data, within their custody regarding powers,
 3 duties, activities, organization, property, financial transactions,
 4 contracts, and methods of business required to conduct an audit
 5 or otherwise perform audit duties. It is also the duty of any
 6 consolidated agency officer, employee, or agent to fully cooperate
 7 with the auditor, and to make full disclosure of all pertinent
 8 information.

9 (3) The auditor shall have the power to appoint, employ, and
 10 remove assistants, employees, and personnel as deemed necessary
 11 for the efficient and effective administration of the affairs of the
 12 office and to prescribe their duties, scope of authority, and
 13 qualifications.

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

27 (c) The board shall develop and adopt internal control guidelines
 28 to prevent and detect financial errors and fraud based on the internal
 29 control guidelines developed by the Controller pursuant to Section
 30 12422.5 of the Government Code and the standards adopted by
 31 the American Institute of Certified Public Accountants.

32 (d) The board shall develop and adopt an administration policy
 33 that includes a process to conduct staff performance evaluations
 34 on a regular basis to determine if the knowledge, skills, and abilities
 35 of staff members are sufficient to perform their respective
 36 functions, and shall monitor the evaluation process on a regular
 37 basis.

38 *SEC. 16. Section 132354.7 is added to the Public Utilities*
 39 *Code, to read:*

1 132354.7. *The consolidated agency shall not enter into a*
2 *construction contract over one million dollars (\$1,000,000) with*
3 *any entity unless the entity provides to the consolidated agency an*
4 *enforceable commitment that the entity and its subcontractors at*
5 *every tier will use a skilled and trained workforce to perform all*
6 *work on the project or a contract that falls within an apprenticeship*
7 *occupation in the building and construction trades in accordance*
8 *with Chapter 2.9 (commencing with Section 2600) of Part 1 of*
9 *Division 2 of the Public Contract Code.*

10 (a) *This subdivision shall not apply if any of the following*
11 *requirements are met:*

12 (1) *The consolidated agency has entered into a project labor*
13 *agreement that will bind all contractors and subcontractors*
14 *performing work on the project or the consolidated agency has*
15 *contracted to use a skilled and trained workforce and the entity*
16 *has agreed to be bound by that project labor agreement.*

17 (2) *The project or contract is being performed under the*
18 *extension or renewal of a project labor agreement that was entered*
19 *into by the consolidated agency before January 1, 2017.*

20 (3) *The entity has entered into a project labor agreement that*
21 *will bind the entity and all its subcontractors at every tier*
22 *performing the project or the entity has contracted to use a skilled*
23 *and trained workforce.*

24 (b) *For purposes of subdivision (a), “project labor agreement”*
25 *has the same meaning as defined in paragraph (1) of subdivision*
26 *(b) of Section 2500 of the Public Contract Code.*

27 ~~SEC. 14.~~

28 *SEC. 17.* Section 132360.1 of the Public Utilities Code is
29 amended to read:

30 132360.1. In preparing and updating the regional
31 comprehensive plan, it is the intent of the Legislature that:

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

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

1 (c) The regional comprehensive plan shall identify
2 disadvantaged communities as designated pursuant to Section
3 39711 of the Health and Safety Code and include transportation
4 strategies to reduce pollution exposure in these communities.

5 (d) In formulating and maintaining the regional comprehensive
6 plan, the consolidated agency shall take account of and shall seek
7 to harmonize the needs of the region as a whole, the plans of the
8 county and cities within the region, and the plans and planning
9 activities of organizations that affect or are concerned with planning
10 and development within the region.

11 (e) The consolidated agency shall engage in a public
12 collaborative planning process. The recommendations resulting
13 from the public collaborative planning process shall be made
14 available to and considered by the consolidated agency for
15 integration into the draft regional comprehensive plan. The
16 consolidated agency shall adopt a procedure to carry out this
17 process including a method of addressing and responding to
18 recommendations from the public.

19 (f) In formulating and maintaining the regional comprehensive
20 plan, the consolidated agency shall seek the cooperation and
21 consider the recommendations of all of the following:

- 22 (1) Its member agencies and other agencies of local government
23 within the jurisdiction of the consolidated agency.
- 24 (2) State and federal agencies.
- 25 (3) Educational institutions.
- 26 (4) Research organizations, whether public or private.
- 27 (5) Civic groups.
- 28 (6) Private individuals.
- 29 (7) Governmental jurisdictions located outside the region but
30 contiguous to its boundaries.

31 (g) The consolidated agency shall make the regional
32 comprehensive plan, policies, and objectives available to all local
33 agencies and facilitate consideration of the regional comprehensive
34 plan in the development, implementation, and update of local
35 general plans. The consolidated agency shall provide assistance
36 and enhance the opportunities for local agencies to develop,
37 implement, and update general plans in a manner that recognizes,
38 at a minimum, land use, transportation compatibility, and a
39 jobs-to-housing balance within the regional comprehensive plan.

1 (h) The consolidated agency shall maintain the data, maps, and
2 other information developed in the course of formulating the
3 regional comprehensive plan in a form suitable to assure a
4 consistent view of developmental trends and other relevant
5 information for the availability of and use by other government
6 agencies and private organizations.

7 (i) The components of the regional comprehensive plan may
8 include, but are not limited to, transportation, housing, water
9 quality and supply, infrastructure, air quality, energy, solid waste,
10 economy, and open space, including habitat. Performance standards
11 and measurable criteria shall be established through a public
12 process to ensure that the regional comprehensive plan is prepared
13 consistent with these measures as well as in determining
14 achievement of the regional comprehensive plan goals throughout
15 its implementation.

16 (j) Any water supply component or provision of the regional
17 infrastructure strategy regarding water supply contained in the
18 regional comprehensive plan shall be consistent with the urban
19 water management plan and other adopted regional water facilities
20 and supply plans of the San Diego County Water Authority.

21 ~~SEC. 15.~~

22 *SEC. 18.* If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.

O