

SAN FRANCISCO BAY AREA WATER TRANSIT AUTHORITY ENABLING LEGISLATION

WAIS Document Retrieval CALIFORNIA CODES
GOVERNMENT CODE
SECTION 66540-66540.72

66540. Unless the context otherwise requires, the definitions set forth in this section govern the construction of this title.

(a) "Authority" means the San Francisco Bay Area Water Transit Authority created by Section 66540.1.

(b) "Board" means the board of directors of the authority.

(c) A "public water transit operating agency" is any general purpose local government or special district that operates or sponsors water transit, including, but not limited to, those water transit services provided under agreement with a private operator.

66540.1. There is hereby created the San Francisco Bay Area Water Transit Authority.

66540.2. (a) The authority shall be governed by a board comprised of eleven members as follows:

(1) Eight of the members shall be appointed as follows:

(A) Four members shall be appointed by the Governor.

(B) Two members shall be appointed by the Senate Committee on Rules.

(C) Two members shall be appointed by the Assembly Committee on Rules.

(2) (A) Except as provided in subparagraph (B), three members shall be members of the community advisory committee established under Section 66540.14, and shall be selected by, and serve at the pleasure of, that committee.

(B) For the first eight-year term only, the governing board of any public water transit operating agency that provided service prior to June 30, 1999, that is not represented by one of the two locally elected officials specified in paragraph (2) of subdivision (b) may designate a person who is or will be its representative on the community advisory committee to be a member of the board. The person designated under this subparagraph shall be appointed, immediately upon designation, to not more than one eight-year term, concurrently, on the board and the community advisory committee.

(b) (1) From his or her appointees, the Governor shall designate one member as the president of the board and one member as the vice president of the board.

(2) The six remaining members of the board appointed pursuant to paragraph (1) of subdivision (a) shall consist of a representative from the maritime industry, a representative from the transit industry, a biological resource specialist, two locally elected officials, and a representative from the public at large who is a regular user of the water transit services of the authority. For the first eight-year term only, one of the locally elected officials shall represent a public water transit operating agency that provided service prior to June 30, 1999.

(c) Each member of the board shall be a resident of a county in the region described in Section 66502.

(d) In making the appointments, the appointing authorities shall make every effort to ensure that the board is geographically balanced, but only to the extent consistent with the requirements of this title.

(e) Each member shall have one vote, except that the president of the board shall have two votes if there is a tie vote and the member representing the

community advisory committee has not yet been appointed as required under paragraph (2) of subdivision (a).

(f) No local jurisdiction or public water transit operating agency may have more than one representative on the board of the authority.

66540.4. The initial terms of the appointed directors shall be eight years.

66540.6. Upon the expiration of the eight-year terms described in Section 66540.4, two directors shall be appointed to serve until February 1, 2010, two directors shall be appointed to serve until February 1, 2011, and four directors shall be appointed to serve until February 1, 2012.

66540.8. (a) A director may be compensated at the rate of one hundred dollars (\$100) per day for performance of his or her duties. The compensation authorized under this subdivision may not be for more than five days in any month.

(b) A director shall be compensated for his or her necessary, actual expenses incurred in the discharge of his or her duties.

66540.10. The board shall employ a chief executive officer who shall have charge of administering the affairs and responsibilities of the authority, subject to the policy direction of the board. The chief executive officer, subject to the approval of the board, shall oversee the hiring of employees necessary to carry out the functions of the authority.

66540.12. The board shall employ a general counsel, responsible for managing the legal affairs of the authority, and the board may employ additional legal staff, contract for private legal counsel, and contract with state agencies for legal services.

66540.14. Not later than six months from the date of the first meeting of the board, the chief executive officer, with the advice and consent of the board, shall convene a community advisory committee to assist and advise the board in carrying out its functions. The community advisory committee shall meet on a regular basis. The community advisory committee shall include one member representing each local jurisdiction in which a water transit terminal exists or is proposed, and one member representing each special district providing public water transit services. Unless appointed under subparagraph (B) of paragraph (2) subdivision (a) of Section 66540.2, the members shall be appointed by the county board of supervisors and the city council of each county or city in which a water transit terminal is located or is proposed to be located, with one member appointed by the Golden Gate Bridge Highway and Transit District. The community advisory committee shall appoint one of its members to the board.

66540.16. (a) Not later than six months from the date of the first meeting of the board, the chief executive officer, with the advice and consent of the board, shall convene a technical advisory committee to assist and advise the board in carrying out its functions. The technical advisory committee shall meet on a regular basis. The technical advisory committee shall consist of members representing local, regional, state, and federal agencies, operating ground transportation agencies, and operating water transit services.

(b) Additional members shall include at least one member who represents each of the following interests: fish and wildlife, recreational boating, private environmental protection entities, business, real estate development, architecture, urban planning, private sector vessel operators, and organized labor, as well as the public at large.

66540.18. The board shall properly notice and conduct its meetings in accordance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

66540.20. (a) The authority shall prepare and adopt a San Francisco Bay Area Water Transit Implementation and Operations Plan. The plan shall include all appropriate landside, vessel, and support elements, operational and performance standards, and policies. In preparing the plan, the authority shall review and consider, in addition to other materials and information, the findings presented in the document entitled "San Francisco Bay Area Water Transit Initiative," dated February 1999, and prepared by the Bay Area Council and the Bay Area Economic Forum, and shall include, but need not be limited to, all environmental standards and conditions set forth in that initiative. The adoption of the plan shall be subject to public hearings in all nine San Francisco Bay area counties, and shall be reviewed by the Metropolitan Transportation Commission. After that review, the procedure regarding the plan shall continue as follows:

(1) On or before December 12, 2002, the authority shall submit a preliminary draft of the final plan to the Legislature for review.

(2) On or after the date of completion of all programmatic environmental impact reports in connection with adoption of the final plan, the authority shall submit the final plan to the Legislature for review and statutory approval.

(3) The authority may implement the final plan only after the Legislature has approved it by statute.

(b) The plan shall investigate and provide for terminal locations throughout the San Francisco Bay area.

(c) The authority shall consult with the Metropolitan Transportation Commission in preparation of the plan. The commission shall provide input and data in response to the authority's requests in a responsive and timely manner. The authority shall submit the plan to the commission for review and comment not later than 90 days prior to the date the plan is submitted to the Legislature. The commission shall prepare and transmit comments on the plan to the authority not later than 90 days after the date the plan is submitted to the commission for review. The authority shall include any comments received from the commission when submitting the plan to the Legislature.

(d) In compliance with subdivision (c), the Metropolitan Transportation Commission shall do all of the following:

(1) Provide the authority with relevant data and analytical criteria for the evaluation of the cost-effectiveness of alternative forms of transit, high-occupancy vehicle lane expansion, or other transportation investments in the corridors that potentially would be served by the authority.

(2) Collaborate with the authority in updating the water transit demand model to include travel forecasting on each of the proposed water transit corridors.

(3) Collaborate with the authority in the development of feeder system proposals.

(4) Identify all necessary and appropriate steps required to coordinate the water transit system with other elements of the San Francisco Bay area transportation network.

(e) The primary focus of the authority and the plan shall be to provide new or expanded water transit services and related ground transportation terminal access services that were not in operation as of June 30, 1999. The authority shall seek to cooperatively involve in the implementation, planning, and operations all existing water transit services and related ground transportation agencies in whose jurisdictions existing or planned water transit terminals are located. The authority shall operate in good faith to avoid negatively impacting water transit services and related ground transportation terminal access services in existence as of June 30, 1999. The authority may not request an allocation of any funds that were available to the Metropolitan Transportation Commission for allocation on June 30, 1999, including the revenues dedicated from state-owned bridges to ferry services as of June 30, 1999, and revenues derived continuously from sources in the amounts and manner as specified in law in effect as of June 30, 1999.

(f) The authority may not operate water transit services that are scheduled at the same time, from the same origin, and to the same destination as publicly sponsored services, if those public services were in operation as of June 30, 1999. The authority shall provide ferry services at only those terminals in which docking rights have been obtained with the consent of the owner of those rights.

(g) Following approval by the Legislature, by statute, of the plan, the authority shall negotiate in good faith, as described below, with public sponsors of existing water transit services and related ground transportation terminal access services to provide services in the approved plan that would expand or augment existing services in their service district, as defined by law, or in plans of the Metropolitan Transportation Commission that existed and were in effect as of June 30, 1999. Good faith negotiations shall include all of the following steps:

(1) Notification by certified mail from the authority to the public sponsor of existing water transit services or related ground transportation terminal access services, hereafter referred to as the notified agency, setting forth the specific services to be negotiated, including performance standards and conditions and cost reimbursement available according to the plan approved by the Legislature.

(2) A period of 30 days from receipt of the notification required under paragraph (1) for the notified agency to declare in writing to the authority by certified mail their intent to negotiate in good faith. If the notified agency does not so declare in writing to the authority within 30 days, the notified agency shall be deemed not interested in negotiating for the service and the authority may announce a competitive bid process or take actions to directly operate the service if the board of directors of the authority makes a public finding that the action is in the public interest.

(3) A period of 90 days from declaration of intent to negotiate by the notified agency for the authority and notified agency to negotiate in good faith to reach agreement.

(4) The authority and notified agency, by mutual agreement, may extend the period for good faith negotiations.

(5) Notwithstanding the procedure described in subdivision (h), if at the end of 90 days or the mutually agreed-upon extension period for negotiations, the authority and the notified agency have not reached agreement for operation of the service, the authority may announce a competitive bid process. The notified agency may participate in that competitive bid process.

(h) If at the conclusion of the good faith negotiations process there is a dispute between the authority and the notified agency as to the impact of

proposed new services on existing services, the matter shall be submitted to the Metropolitan Transportation Commission for resolution pursuant to Section 6516.5 of the Government Code. The Metropolitan Transportation Commission shall make a determination based on the demand model adopted by the authority as to whether the proposed new service will have a minor or major impact on services existing as of June 30, 1999. A minor impact means an impact that reasonably and potentially diverts less than 15 percent of the passengers using services that were in existence as of June 30, 1999. A major impact means an impact that reasonably and potentially diverts 15 percent or more of the passengers using services that were in existence as of June 30, 1999. If the proposed new service will have a major impact, the authority may not operate a water transit service in that location without mutual agreement between the authority and the notified agency. If the proposed new service will have a minor impact, the authority may initiate service according to the procedures contained in subdivision (g).

66540.22. The San Francisco Bay Area Water Transit Implementation and Operations Plan shall include all of the following:

(a) A detailed description of the high-speed water transit system, including, but not limited to, all routes to be operated and terminals to be served during the 10-year period following funding of the authority. The description may include phasing of the routes to be served and terminals to be constructed.

(b) An adopted demand model based upon ridership surveys conducted throughout the region and an updated demand model developed by the Metropolitan Transportation Commission.

(c) A water transit demand analysis, based upon the demand model, of the demand forecast and cost-effectiveness for the water transit system as a whole and for each corridor to be served.

(d) Architectural design criteria and standards for terminals and landside facilities to meet the performance objectives and operational criteria. The architectural design criteria and standards for terminals shall be developed in cooperation with the community advisory committee and in consultation with local jurisdictions that are prospective hosts of terminals for the water transit system.

(e) An intermodal plan to connect water transit services with other modes of transportation and public transit, including, but not limited to, cooperative arrangements with existing public transit services and new intermodal services. The intermodal plan shall be developed in cooperation with the community advisory committee, the technical advisory committee, and existing ground transportation agencies.

(f) A feasibility analysis and proposal for the use of new technologies and alternative fuels in marine engines and ground transportation intermodal services, to the extent feasible, to minimize air emission and water pollution impacts from the system operations. The new technologies and alternative fuels studied in the feasibility analysis and proposal for use in marine engines shall include, but need not be limited to, natural gas, 100 percent biodiesel, hybrid solar in combination with electric or wind power, and hybrid solar in combination with both solar and wind power. The analysis shall be conducted in cooperation with the Bay Area Air Quality Management District, the Regional Water Quality Control Board, and the Bay Conservation and Development Commission.

(g) A plan for monitoring air emissions and water impacts that is mutually agreed upon by the authority and the entities listed in subdivision (f).

(h) Design specifications for vessels, consistent with the architectural design criteria and standards for the terminals and landside facilities and the feasibility analysis to minimize air emission impacts.

(i) A plan for acquiring the requisite vessels, including, but not limited to, a proposed request for proposals, that incorporates the design specifications and seeks to support shipbuilding and fleet maintenance within the region to the extent possible.

(j) A plan for ensuring safety of vessel operations traveling on the San Francisco Bay. The plan shall be developed in cooperation with the California Maritime Academy and the United States Coast Guard.

(k) A systemwide regional programmatic environmental impact report and study of the plan, consistent with the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), and consistent with the substantive requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.). The report shall include an independent evaluation conducted by the Bay Area Air Quality Management District to assess the air quality impacts of the complete water transit system, as set forth in the San Francisco Bay Area Water Transit Implementation and Operations Plan, in comparison to transporting the same number of people over the same distance by motor vehicles and other modes of transportation.

(l) An overall funding and financing plan based upon the detailed description of the water transit system and demand analysis, including, but not limited to, acquisition and construction phasing.

(m) A projection of capital and cash-flow requirements, including, but not limited to, costs for vessels and associated maintenance facilities, terminals and associated land use costs, and costs for feeder vehicles and associated maintenance facilities.

(n) A projection of operating costs and revenues, including, but not limited to, projected patronage, fare structure, and fare revenues for water transit and feeder services.

(o) A proposal for ongoing operating financial support.

(p) An analysis of the cost-effectiveness of the water transit system in comparison to other options for mobility and disaster relief and recovery. The analysis shall be prepared in cooperation with the Metropolitan Transportation Commission.

66540.23. Notwithstanding any other provision of law, the authority may not operate the water transit system until the plan has been approved by the Legislature by statute.

66540.24. The authority shall operate a comprehensive San Francisco Bay area regional public water transit system, that includes water transit terminals, feeder buses, and any other transport and facilities supportive of the system. The primary focus of the authority shall be the provision of services through the development and operation of a comprehensive water transit system.

66540.26. (a) The authority shall plan for, coordinate, and effect the delivery of feeder bus services that serve the water transit terminals. The plans shall be coordinated with local public transit operators.

(b) For the purposes of carrying out subdivision (a), the authority may do all of the following:

(1) Enter into agreements with public transit operators for the provision of feeder transit services that offer direct linkages to the water transit system.

(2) Own rolling stock, and operate feeder bus lines and other forms of feeder transportation, as needed, that offer direct linkages to the water transit system.

(3) Contract with public, private, nonprofit, and for-profit franchisees for the purpose of providing feeder transportation services that offer direct linkages to the water transit system.

(4) Take any other actions necessary and proper to ensure that feeder transportation services are provided.

66540.28. The authority may accept, through purchase of fee, conveyance of title, long-term lease, or other means deemed appropriate, the vessels, terminals, maintenance and support facilities, and other assets of public water transit providers.

66540.30. The authority shall, in coordination with local public agencies, construct, acquire, develop, jointly develop, own, maintain, operate, and lease property and facilities which are elements of the operations of the San Francisco Bay area water transit service, including terminals, parking, maintenance and administration facilities.

66540.32. The authority may enter into agreements for the joint use or joint development of any property rights, including air rights, owned by the authority.

66540.34. The authority shall set fares for travel on the water transit system that it operates, and define and set other fares and fees for services related to the water transit system without the approval of the Public Utilities Commission.

66540.36. The authority may acquire real or personal property, through negotiation, purchase, lease, or gift.

66540.38. The authority may exercise the power of eminent domain within the region described in subdivision (b) of Section 66540.2, except in areas of national park lands, to take any property necessary, incidental, or convenient to carry out the purposes of the authority. In the event that the power of condemnation is exercised, the authority shall duly notify the local jurisdiction in which the property is sited and the special district that owns the facility, and shall exercise the power of eminent domain only with the formal consent of that jurisdiction. Eminent domain can be exercised only if the authority, the affected local jurisdiction, and the special district each approves its use by a two-thirds vote.

66540.40. The authority may acquire, own, lease, construct, and operate water transit vessels and equipment, including, but not limited to, real and personal property, and equipment, and any facilities of the authority, except those facilities providing access to national parks.

66540.42. The authority may select franchisees, which may be private or public, for those operating elements of the water transit system and related facilities of the authority.

66540.44. The authority may enter into contracts with public, private, and nonprofit entities for the provision of services and materials necessary to carry out its purposes.

66540.46. The authority shall prepare and implement annual operating budgets for the operation of the San Francisco Bay area water transit system, associated terminals, and related feeder transit and support services.

66540.48. The authority shall contract with an independent certified public account for an annual audit of the financial records and books of the authority. The accountant shall submit a report of the audit to the board and the board shall make copies of the report available to the public.

66540.50. The authority may apply for and receive grants from any and all state and federal agencies.

66540.52. The authority may solicit and accept gifts, fees, grants, or allocations from other public and private entities.

66540.54. The authority may sue and be sued.

66540.56. The authority may issue revenue bonds.

66540.58. The authority may incur bonded indebtedness and receive and manage a dedicated revenue source.

66540.60. The authority may deposit or invest any moneys of the authority in banks or financial institutions in the state in accordance with state law.

66540.62. The authority shall prescribe a method of securing employees, and shall adopt rules and regulations governing the employment of employees including the establishment of a retirement system. If the authority determines that it is in the best interests of the employees of the authority, the authority may enter into a contract with the Public Employees' Retirement System.

66540.64. The authority may create, oversee, and terminate special advisory committees.

66540.68. The authority is subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.).

66540.70. The authority shall not exercise the power to levy any tax or to seek that authority for any purposes.

66540.72. The authority shall be funded through appropriations made under the annual Budget Act.