



**MCCMC LEGISLATIVE COMMITTEE MEETING  
MONDAY, AUGUST 27, 2018, 8:00 A.M.  
SAN RAFAEL CITY HALL – 3RD FLOOR CONFERENCE ROOM  
1400 FIFTH AVENUE, SAN RAFAEL, CA 94901**

**AGENDA**

**A. WELCOME/INTRODUCTIONS**

**B. REPORTS**

David Jones/Kyra Ross – Emanuels Jones, Sacramento

- Discussion regarding the Wildfire Conference Committee (SB 901) and updates for the last week of the Legislative Session.

Henry Symons, District Representative – report from Assembly member Marc Levine

Nancy Hall Bennett - League of California Cities

**C. UPDATES**

- Discussion Regarding Propositions on November, 6, 2018 Statewide General Election
- Updates on SB 822, SB 649, and SB 827
- Update Regarding S. 3157 (Thune & Schatz) Streamline Small Cell Deployment Act

**D. COMMITTEE BUSINESS**

**2. Action Items**

- AB 2923 (Chiu) San Francisco Bay Area Rapid Transit District: Transit-Oriented Development

**3. Watch Items**

- AB 1912 (Rodriguez) Public Employees' Retirement: Joint Powers Agreements: Liability (amended August 17, 2018)
- AB 813 (Holden) Multistate Regional Transmission System Organization: Membership

**E. CHAIRS REPORT**

General Committee Update: Chair

**F. CALENDAR**

Upcoming General MCCMC Meetings:

- August, 2018 – No Meeting
- Wednesday, September 26, 2018 – Hosted by the Town of Ross

Upcoming MCCMC Legislative Committee Meetings:

- Monday, September 26, 2018, at 8 A.M.
- Monday, October 22, 2018, at 8 A.M.

**G. ADJOURN**

## ACTION ITEMS

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### AB 2923, as amended, Chiu. San Francisco Bay Area Rapid Transit District: transit-oriented development.

(1) Existing law establishes the San Francisco Bay Area Rapid Transit District (BART) with various powers and duties and establishes a board of directors as the legislative body of the district. Existing law requires the board to determine all questions of district policy and what transit facilities should be acquired or constructed, and authorizes the board to establish zones within the district to undertake the acquisition or construction of any transit facilities.

This bill would require the board to adopt by ordinance new transit-oriented development (TOD) zoning standards for each station that establish minimum local zoning requirements for height, density, parking, and floor area ratio only, that apply to an eligible TOD project, as defined. The bill would require that the adoption of, or amendments to, the TOD zoning standards comply with specified requirements and would require affected local jurisdictions to adopt a local zoning ordinance that conforms to the TOD zoning standards and is operative within 2 years of the date that the TOD zoning standards are adopted by the board for a station, or by July 1, 2022, if the board has not adopted TOD zoning standards for the station. The bill would provide that BART's approval of TOD zoning standards is subject to California Environmental Quality Act (CEQA) review and would designate BART as the lead agency for CEQA review, as specified.

This bill would, where local zoning remains inconsistent with the TOD zoning standards after July 1, 2022, require the TOD zoning standards to become the local zoning for any BART-owned parcels that are at least 75% within 1/2 mile of any existing or planned BART station entrance within the BART district in areas represented on the board, as specified. The bill would require BART to ensure any otherwise applicable local design standards are included as general guidance to the TOD developer, and would require a TOD developer to adhere to any applicable local design standards insofar as those standards do not prohibit the minimum height, minimum density, minimum floor area ratio, and maximum parking allowances required by the TOD zoning standards. The bill would require that, where housing is proposed as part of a TOD project, a minimum of 20% of the residential housing units are affordable housing, as specified, and that the construction of the TOD project comply with specified labor requirements. The bill would provide that when BART enters into an exclusive negotiating agreement with a developer for development of an eligible TOD project, that agreement shall confer a vested right to proceed with development, as specified. The bill would provide that its provisions are repealed on January 1, 2029, except as otherwise specified. The bill would enact other related provisions and exceptions.

By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(2) The bill would include legislative findings and declarations in support of the act being a matter of statewide concern.

(3) 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.

- **League Position:** Oppose

## WATCH ITEMS

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### AB 1912 (Rodriguez), as amended, Public Employees' Retirement: Joint Powers Agreements: Liability.

(1) Existing law establishes various public agency retirement systems, including, among others, the Public Employees' Retirement System, the State Teachers' Retirement System, the Judges' Retirement System II, and various county retirement systems pursuant to the County Employees Retirement Law of 1937. These systems provide defined pension benefits to public employees based on age, service credit, and amount of final compensation.

The Joint Exercise of Powers Act generally authorizes 2 or more public agencies, by agreement, to jointly exercise any common power. Under the act, if an agency is not one or more of the parties to the agreement but is a public entity, commission, or board constituted pursuant to the agreement, the debts, liabilities, and obligations of the agency are the debts, liabilities, and obligations of the parties to the agreement, unless the agreement specifies otherwise. The act also authorizes a party to a joint powers agreement to separately contract for, or assume responsibilities for, specific debts, liabilities, or obligations of the agency.

This bill would eliminate that authorization, and would specify that if an agency established by a joint powers agreement participates in, or contracts with, a public retirement system, member agencies, both current and former to the agreement, would be required, prior to filing a notice of termination or a decision to dissolve or cease the operations of the agency, to mutually agree as to the apportionment of the agency's retirement obligations among themselves, provided that the agreement equals 100% of the retirement liability of the agency. If the member agencies are unable to mutually agree to the apportionment, the bill would require the board to apportion the retirement liability of the agency to each member agency, as specified, and would establish procedures allowing a member agency to challenge the board's determination through the arbitration process. The bill would also provide that if a judgment is rendered against an agency or a party to the agreement for a breach of its obligations to the retirement system, the time within which a claim for injury may be presented or an action commenced against the other party that is subject to the liability determined by the judgment begins to run when the judgment is rendered. The bill would specify that those provisions apply both retroactively to a member agency, or current and former member agency, that has an agreement with the board on or before January 1, 2019, and to new agreements with the board on or after that date.

(2) The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS), which provides a defined benefit to members of the system, based on final compensation, credited service, and age at retirement, subject to certain variations. PERL vests management and control of PERS in its Board of Administration.

Existing law authorizes the governing board of a contracting agency to terminate its membership with PERS, subject to specified criteria. Existing law requires the PERS board to enter into a specified agreement with the governing body of a terminating agency, upon request of that agency, to ensure that final compensation is calculated in the same manner as benefits of nonterminating agencies, and that related necessary adjustments in the employer's contribution rate are made and benefits adequately funded, including a lump-sum payment at termination, if agreed to by the terminating agency and the board. Existing law requires a terminating agency to notify the PERS board of its intention to enter into this agreement within a specified period of time. Existing law authorizes the PERS board to choose not to enter into an agreement to terminate if the board determines that it is not in the best interests of PERS. Existing law requires all plan assets and liabilities of a terminating agency to be deposited in a single pooled account, the terminated agency pool subaccount within the Public Employees' Retirement Fund, a continuously appropriated fund.

This bill would also require the PERS board to enter into the above-described agreement upon request of a member agency of a terminating agency formed under the Joint Exercise of Act and would provide that the member agencies of the terminating agency are liable to the system for inadequate funding of the benefits pursuant to the agreement. To the extent that the bill would increase any lump-sum payments made by a terminating agency and deposited into a subaccount within the Public Employees' Retirement Fund, the bill would make an appropriation.

(3) Existing law makes a terminated agency liable to the system for any deficit in funding for earned benefits, interest, and for reasonable and necessary costs of collection, including attorney's fees. Existing law provides that the board has a lien on the assets of a terminated contracting agency, as specified, and that assets shall also be available to pay actual costs, including attorney's fees necessarily expended for collection on the lien.

This bill would extend that liability and lien to all of the parties of a terminating agency that was formed under the Joint Exercise of Powers Act. To the extent that these changes would increase deposits in the Public Employees' Retirement Fund, the bill would make an appropriation.

(4) Existing law authorizes the board of PERS to elect not to impose a reduction, or to impose a lesser reduction, on a terminated plan if the board has made all reasonable efforts to collect the amount necessary to fully fund the liabilities of the plan and the board finds that not reducing the benefits, or imposing a lesser reduction, will not impact the actuarial soundness of the terminated agency pool.

This bill would eliminate that provision. The bill would require the board, prior to exercising its authority to reduce benefits and to the extent consistent with its fiduciary duties, to consider and exhaust all options and necessary actions, including evaluating whether to bring a civil action against any member agencies to a terminated agency formed by an agreement under the Joint Exercise of Powers Act to compel payment of the terminated public agency's pension obligations. The bill would also specify that the board is entitled to reasonable attorney's fees in addition to other costs. The bill would also set forth related legislative findings.

- **League Position:** Removal of Opposition

AB 813 (Holden), as amended, Multistate Regional Transmission System Organization: Membership.

Existing law provides for the establishment of an Independent System Operator (ISO) as a nonprofit public benefit corporation and requires the ISO to ensure efficient use and reliable operation of the electrical transmission grid consistent with achieving planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the North American Electric Reliability Council. The Clean Energy and Pollution Reduction Act of 2015 provides for the transformation of the ISO into a regional organization, with the approval of the Legislature, pursuant to a specified process. That process provides that modifications to the ISO's governance structure, through changes to its bylaws or other corporate governance documents, will not become effective until the ISO, the Public Utilities Commission (PUC), the State Energy Resources Conservation and Development Commission (Energy Commission), the State Air Resources Board (state board), the Governor, and the Legislature take specified actions on or before January 1, 2019.

This bill would prohibit a California electrical transmission facility owner, a retail seller of electricity, or a local publicly owned electric utility from joining a multistate regional transmission system organization, as defined, unless the bylaws or other organizational documents that govern the organization, and the organization's operations, meet Federal Energy Regulatory Commission requirements and other specified requirements. The bill would require a California transmission owner, retail seller, or local publicly owned electric utility, before joining a multistate regional transmission system organization, to submit the bylaws and other organizational documents that govern the multistate regional transmission system organization to the Energy for review. The bill would require the Energy Commission, in consultation with the PUC and the state board, to review those materials for compliance with the bill's requirements. The bill would prohibit a California transmission owner, retail seller, or local publicly owned electric utility from joining the multistate regional transmission system organization unless the Energy Commission has determined that the organization's bylaws and organizational documents meet those requirements. If a California transmission owner, retail seller, or local publicly owned electric utility has joined an independent system operator that becomes a multistate regional transmission organization and the Energy Commission determines that the organization's bylaws and organizational documents do not meet those requirements, the bill would require that the California transmission owner, retail seller, or local publicly owned electric utility not remain in the organization. The bill would authorize the ISO to develop and submit to the Energy Commission a governance proposal that complies with those requirements, require the Energy Commission, in consultation with the PUC and state board, to review the proposal for compliance with the bill's requirements, and, if the Energy Commission determines that the proposal meets those requirements and if a transmission owner from outside California that is not a participating transmission owner as of January 1, 2019, has entered into an agreement with the ISO indicating an intent to become a participating transmission owner, would authorize the ISO to proceed to implement the proposal. The bill would prohibit the ISO from implementing the new governance structure prior to January 1, 2021.

Existing law establishes the California Renewables Portfolio Standard Program, which requires the PUC to establish a renewables portfolio standard requiring all retail sellers, defined as including electrical corporations, to procure a minimum quantity of electricity products from eligible renewable energy resources, as defined, so that the total kilowatt hours of those products sold to their retail end-use customers achieves certain percentages of retail sales by certain dates. The program additionally requires each local publicly owned electric utility to procure a minimum quantity of electricity products from eligible renewable energy resources to achieve the procurement requirements established by the program. The program, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles adopted by the commission, requires that all retail sellers and local publicly owned electric utilities procure a balanced portfolio of electricity products from specified categories of eligible renewable energy resources, known as portfolio content categories. Existing law provides that electricity products may be differentiated for these purposes by their impacts on the operation of the electrical grid in supplying electricity, as well as meeting the requirements of the program.

If the ISO becomes a multistate regional transmission system organization and thereafter operates an expanded balancing authority area that includes one or more new participating transmission owners located outside of California, this bill would specify that the boundary of the balancing authority area used for determining the portfolio content categories is the boundary of the Independent System Operator's balancing authority area as of December 31, 2018. However, if another balancing authority in California elects to join the ISO's balancing authority area, the bill would add the facilities of that balancing authority to the ISO's balancing authority area for purposes of determining the portfolio content categories.

- **League Position:** Watch

## **LEGISLATIVE CALENDAR**

- August 31, 2018 – Last day for each house to pass bills, except bills that take effect immediately or bills in Extraordinary Session (Art. IV, Sec. 10(c), (J.R. 61(b)(18)), Final recess begins upon adjournment (J.R. 51z(b)(3)).
- September 30, 2018 – Last day for Governor to sign or veto bills passed by the Legislature before September 1 and in the Governor's possession on or after September 1 (Art. IV, Sec. 10(b)(2)).
- November 6, 2018 – State General Election.
- November 20, 2018 – Adjournment *Sine Die* at midnight (Art. IV, Sec. 3(a)).
- January 1, 2019 – Statutes take effect (Art. IV, Sec. 8)).

## **LEAGUE OF CALIFORNIA CITIES CALENDAR**

- September 12-14, 2018 - Annual Conference, Long Beach
- October 8, 2018 - Riverside CitiPAC Golf Tournament, Beaumont
- October 11, 2018 - Central Valley Division CitiPAC, Patterson
- November 7 – 10, 2018 – National League of Cities City Summit, Los Angeles