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### Title

Operating Differences and Restraints Imposed by the Enabling Ordinances of the Fifteen California Transit Districts

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**Operating Differences and Restraints  
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Fifteen California Transit Districts**

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CONTENTS

Page No.

|  |    |
|--|----|
| EXECUTIVE SUMMARY . . . . .                  | 1  |
| ACKNOWLEDGMENT . . . . .                     | 3  |
| INTRODUCTION . . . . .                       | 4  |
| TRANSIT DISTRICT ACTIVATION HISTORY. . . . . | 8  |
| ENABLING ACT ANALYSIS. . . . .               | 10 |
| Definitions . . . . .                        | 10 |
| Governing Boards. . . . .                    | 19 |
| Board Duties and Designated Staff . . . . .  | 21 |
| District Powers . . . . .                    | 24 |
| Labor Provisions. . . . .                    | 30 |
| Retirement Systems. . . . .                  | 32 |
| Miscellaneous Provisions. . . . .            | 34 |
| POTENTIAL REVISIONS. . . . .                 | 38 |
| Definitions . . . . .                        | 38 |
| Governing Boards. . . . .                    | 40 |
| Board Duties and Designated Staff . . . . .  | 40 |
| District Powers . . . . .                    | 42 |
| Labor Provisions. . . . .                    | 43 |
| Retirement Systems. . . . .                  | 43 |
| Miscellaneous Provisions. . . . .            | 44 |

TABLES

Page No.

|   |  |    |
|---|--|----|
| 1 | California Transit Districts Authorized. . . . . | 7  |
| 2 | Direct Activation History. . . . .               | 9  |
| 3 | Definitions. . . . .                             | 11 |
| 4 | Governing Boards . . . . .                       | 20 |
| 5 | Board Duties and Designated Staff. . . . .       | 22 |
| 6 | District Powers. . . . .                         | 25 |
| 7 | Labor Provisions . . . . .                       | 31 |
| 8 | Retirement Systems . . . . .                     | 33 |
| 9 | Miscellaneous Provisions . . . . .               | 35 |

## EXECUTIVE SUMMARY

The Honorable Walter M. Ingalls, Chairman of the California State Assembly Committee on Transportation, requested that the Institute of Transportation Studies, Transit Management Program, complete an analysis of the enabling legislation of the 15 California Transit Districts. This report was prepared in response to this request. A comparison is provided between districts to provide data, and recommendations are made to assist the Transportation Committee when drafting transit legislation.

The research validated the concept of separate enabling acts for each district based on the demographic, geographical and political factors peculiar to that district. Therefore, there is no recommendation for the development of a general law for all California transit districts. The difference between the various districts is such that it appears prudent to rely on site-specific legislation drafted with knowledge of provisions applying to established districts. One of the goals of this study was to facilitate the between-district comparisons in existing law.

Twenty major issues are highlighted in the report as being worthy of special consideration by the Assembly Transportation Committee. These issues extend over the complete range of subject matter in the enabling acts and represent potential troublesome areas that may have to be modified and amended. In addition to the 20 major issues, numerous other differences are delineated.

Among the major issues that should be addressed by the state legislature are district ordinance procedures which are generally very weak. They do not provide the protection for the citizens that city and county ordinances provide. Other issues for legislative action include requiring districts to have annual audits and personnel or administrative codes.

Definitions for "revenue," "transit or rapid transit," and "existing systems," should be standardized. Whether or not all districts should be allowed to operate charter buses is an issue that requires legislative review. Labor provisions in the acts are very similar and the Legislature is recommended to review provisions governing mediation and notices of corporate charge.

A history of transit district activation is provided. Separate sections of the report are devoted to the topics:

- Legal definitions
- Organization of governing boards and staff
- Governing board duties
- District powers including taxing and bonding
- Retirement systems
- Labor provisions
- Miscellaneous provisions

Each section of the report is accompanied by a table which summarizes the characteristics by district and provides a specific reference to the California Public Utilities Code where additional information can be obtained.

#### ACKNOWLEDGMENT

Much of the preliminary data collection was completed by David Kaufman during the 1976 Summer Quarter term at UCI. Mr. Ken Smart, OCTD Counsel, reviewed the paper during several of its iterations, and helped to interpret various legal questions and definitions.

## INTRODUCTION

The Honorable Walter M. Ingalls, Chairman of the California State Assembly Committee on Transportation, requested that the Institute of Transportation Studies, Transit Management Program, complete an analysis of the enabling legislation of the 15 California Transit Districts. This report responds to this request: a comparison is provided between districts to provide data, and recommendations are made to assist the Transportation Committee when drafting transit legislation.

This report is not a compendium of relevant sections of the Public Utility Code. Major sections of the enabling acts have been analyzed and the conclusions are presented in the text. An index for the appropriate section of the Public Utility Code is provided in matrix form in the Appendix. This provides an easy comparison of specific issues for all the district acts and highlights special differences. The section number of the Public Utility Code, which contains all transit district enabling acts, is used in the Appendix for easy reference by the users of this analysis.

The research validates the concept of separate enabling acts for each district based on the demographic, geographic and political factors peculiar to that district. It is impossible, at this time, to make recommendations regarding the necessity for a general law for all California transit districts. The differences between areas is such that it would appear prudent to rely on site specific legislation



drafted with knowledge of provisions applying to established districts. This report will facilitate the between-district comparisons in existing law.

Transit districts are created as single purpose special districts in order to provide transportation for the carless, and to offer alternatives to the automobile. Transit districts provide a mechanism for the control and disbursement of the considerable amounts of federal and state funds, which avoids the problem of commingling of transportation funds and budgets with the general funds of counties or cities. Transit districts can and do provide the organizational institutions that allow for joint control of transportation by cities and counties on an area-wide or region-wide basis.

There are 12 active transit districts in the State of California. Two were implemented by direction from the State Legislature, nine were activated by the approval of the majority of voters within the district and one was activated by local government resolutions. The State Legislature has provided for the creation of three additional transit districts, but they have not been implemented.

The enabling legislation for the 15 districts varies in many respects. The major causative factor for the differences appears to be the varying geographic and demographic features between metropolitan areas. Another reason for differences in the legislative acts is the special mechanisms that were written into the law to protect existing private and public transportation systems and to preserve some local government prerogatives. A less important cause for these differences is the 19-year span between the passage of the first and last enabling

act. In certain respects, the acts reflect changing ideas, attitudes and circumstances within the total transportation picture in California.

In order to clarify the differences in legislation, the following sections are addressed: legal definitions; organization of governing boards and their staffs; governing board duties; district powers including taxing and bonding; miscellaneous provisions; and retirement systems. A brief description of the activation history of the districts is also included.

Table 1 lists the 15 authorized districts in California in the order of the year of legislative approval. Acronyms for each district are identified and these are used throughout the report. Districts are listed in the same order on all matrix tables so as to clarify trends over time.

Table 1  
CALIFORNIA TRANSIT DISTRICTS AUTHORIZED

| <u>Name</u>                                | <u>Acronym</u> | <u>Enabling Act<br/>Adoption Year</u> |
|--|----------------|---------------------------------------|
| Alameda or Contra Costa Counties           | A-C            | 1955                                  |
| San Francisco Bay Area Rapid Transit Dist. | BART           | 1957                                  |
| Fresno Metropolitan Transit District       | FMTD           | 1961*                                 |
| Stockton Metropolitan Transit District     | SMD            | 1963                                  |
| Southern California Rapid Transit Dist.    | SCRTD          | 1964                                  |
| Marin County Transit District              | MCTD           | 1964                                  |
| West Bay Rapid Transit Authority           | WBRTA          | 1964*                                 |
| Orange County Transit District             | OCTD           | 1965                                  |
| San Diego County                           | SDC            | 1965*                                 |
| Santa Barbara Metropolitan District        | SBMD           | 1965                                  |
| Santa Cruz Metropolitan Transit District   | SCMTD          | 1967                                  |
| Santa Clara County Transit District        | SCCTD          | 1969                                  |
| Golden Empire Transit District             | GETD           | 1971                                  |
| Sacramento Regional Transit District       | SRTD           | 1971                                  |
| San Mateo County Transit District          | SMCTD          | 1974                                  |

\*Legislation approved, but never activated

## TRANSIT DISTRICT ACTIVATION HISTORY

Approval by the voters in the proposed district is the activating agent in 11 of the districts. Bay Area Rapid Transit (BART) and Southern California Rapid Transit District (SCRTD) are the exceptions. They were activated by the enabling legislation; Sacramento was initiated by a joint resolution of the Board of Supervisors and City Council, and West Bay, which requires on a Board of Supervisors resolution, has never been activated. Table 2 presents a summary of legislative provisions governing activation.

Fresno voters have twice turned down district formation. There has been no formation election in the San Diego County, due to the complicated procedure for calling an election. Santa Clara County had two unsuccessful elections prior to voter approval in 1972.

Citizen petitions initiated successful elections in Alameda-Contra Costa in 1956, Stockton in 1964, Santa Barbara in 1966 and the Golden Empire (Bakersfield) in 1972. Successful elections, conducted as a result of County Board of Supervisor resolution, implemented districts in Marin County (1964), Orange County (1970), Santa Clara County (1972) and San Mateo County (1974). In 1967, Santa Cruz voters approved the formation of a district after a joint city-county resolution placed the measure on the ballot.

The only trend in legislation through the years was to provide an increasing number of alternative methods of placing the formation of a district on the ballot for a vote of the people.

Table 2

DIRECT ACTIVATION HISTORY

|  | A-C   | BART  | FMTD           | SMD   | SCRTD | MCTD  | WBRTA | OCTD  | SDC            | SBMD  | SCMTD | SCCTD             | GETD   | SRTD   | SMCTD  |
|--|-------|-------|----------------|-------|-------|-------|-------|-------|----------------|-------|-------|-------------------|--------|--------|--------|
| Provisions for Formation                                 |       |       |                |       |       |       |       |       |                |       |       |                   |        |        |        |
| Direct Activation by Enabling Act                        |       | 28600 |                |       | 30100 |       |       |       |                |       |       |                   |        |        |        |
| Direct Activation by Board of Supervisors                |       |       |                |       |       |       | 4.1   |       |                |       |       |                   |        |        |        |
| Direct Activation by Board of Supervisors & City Council |       |       |                |       |       |       |       |       |                |       |       |                   |        | 102052 |        |
| Election in Response to City Council(s) Resol.           | 24561 |       | 2.2            | 50021 |       | 70021 |       | 40020 | 90023          | 95501 | 98201 | 100032            | 101030 |        | 103070 |
| Bd. Suprs. Resolution                                    | 24581 |       | 2.5            | 50025 |       | 70020 |       | 40034 | 190070         | 95130 |       | 100032            | 101036 |        |        |
| Bd. Suprs. & City Council Resolution                     |       |       |                |       |       | 70025 |       | 40025 |                |       |       | 100032            | 101036 |        | 103052 |
| Voters Petition  | 24611 |       | 2.10           | 50030 |       | 70030 |       | 40030 | 90070          | 95160 | 98030 |                   | 101036 |        |        |
| % of votes required                                      | 10    |       | 10             | 25    |       | 25    |       | 25    | 5 <sup>1</sup> | 25    |       |                   | 10     |        |        |
| Approval from LAFCO reqd                                 |       |       |                |       |       |       |       |       |                |       | 98051 |                   | 101035 |        |        |
| Election Resulted From                                   |       |       |                |       |       |       |       |       |                |       |       |                   |        |        |        |
| City Council Resolution                                  |       |       | X <sup>2</sup> |       |       |       |       |       |                |       |       |                   |        |        |        |
| Bd. of Supr. Resolution                                  |       |       |                |       |       | X     |       | X     |                |       |       | X                 |        |        | X      |
| City Council & Bd. of Supr. Resolution                   |       |       |                |       |       |       |       |       |                |       | X     |                   |        |        |        |
| Voters Petition  | X     |       |                | X     |       |       |       |       |                | X     |       |                   | X      |        |        |
| District Activated by                                    |       |       |                |       |       |       |       |       |                |       |       |                   |        |        |        |
| Election (Year shown)                                    | 1956  |       |                | 1964  |       | 1964  |       | 1970  |                | 1966  | 1967  | 1972 <sup>3</sup> | 1972   |        | 1974   |
| Enabling Act   |       | X     |                |       | X     |       |       |       |                |       |       |                   |        |        |        |
| Bd. of Supr. Resolution                                  |       |       |                |       |       |       |       |       |                |       |       |                   |        |        |        |
| Bd. of Supr. & City Council Resolution                   |       |       |                |       |       |       |       |       |                |       |       |                   |        | 1972   |        |
| District Not Activated                                   |       |       | X              |       |       |       | X     |       | X              |       |       |                   |        |        |        |

<sup>1</sup>Seven cities involved. All seven must approve either by resolution or petition; <sup>2</sup>Two unsuccessful elections have been held; <sup>3</sup>Successful election was preceded by two unsuccessful elections.

## ENABLING ACT ANALYSIS

### Definitions

The definitions listed in each of the enabling acts have proved to be very important. Identical language in various portions of two districts' acts has completely different legal meanings as a result of how a word or clause is specified in the definition section of the acts. Table 3 lists the Code sections where definitions are specified for each of the 15 transit acts.

#### Title and Citation

The first definition of each of the enabling acts is entitled "Title and Citation" or in some cases "Citation" with similar language used for all districts. As an example, Section 40000 of the Orange County Transit District is listed as "Title and Citation" and states:

"This part shall be known and cited as the  
Orange County Transit District Act of 1965."

Similar titles and citations appear in all the transit district acts.

#### Policy Statements

Included in all but the Alameda-Contra Costa and Fresno districts are policy statements that deal with the need and purpose for a transit district within the specified area. These statements emphasize the importance of unified control, and justify public involvement. Santa Cruz and Sacramento state that the Legislature finds and declares that

Table 3  
DEFINITIONS

|  | A-C   | BART  | FMTD | SMD   | SCRTD | MCTD  | WBRTA | OCTD  | SDC   | SBMD  | SCMTD | SCCTD  | GETD   | SRTD   | SMCTD  |
|--|-------|-------|------|-------|-------|-------|-------|-------|-------|-------|-------|--------|--------|--------|--------|
| Policy Statement                                   |       |       |      |       |       |       |       |       |       |       |       |        |        |        |        |
| Necessity of Transit System                        |       |       |      | 50010 |       | 70010 |       | 40010 | 90020 | 95030 | 98010 | 100001 | 101001 |        | 103001 |
| Leg. Findings & Declaration                        |       |       |      |       | 30001 |       |       |       |       |       |       |        |        | 102001 |        |
| State Policy                                       |       | 28501 |      |       |       |       | 1.1   |       |       |       |       |        |        |        |        |
| Ultimate Purpose to be Part of Designated District |       |       |      |       |       |       | BART  | SCRTD |       |       |       |        |        |        |        |
| No Policy Statement                                | X     |       | X    |       |       |       |       |       |       |       |       |        |        |        |        |
| Construction Clause                                |       |       |      |       |       |       |       |       |       |       |       |        |        |        |        |
| Strict Interpretation                              | 24502 |       | 1.2  | 50001 |       | 70001 |       | 40001 | 90001 | 95001 | 98001 | 100000 | 101005 | 102010 | 103010 |
| Liberal Interpretation                             |       | 28502 |      |       | 30002 |       | 14.1  |       |       |       |       |        |        |        |        |
| Board  |       |       |      |       |       |       |       |       |       |       |       |        |        |        |        |
| "Board of Directors"                               |       |       |      |       |       |       |       |       |       |       |       |        |        |        |        |
| "Board" or "Directors"                             |       | 28508 |      |       | 30000 |       |       |       |       |       |       |        |        | 102014 | 103014 |
| Board of Directors                                 | 24503 |       | 1.4  | 50003 |       | 70003 |       | 40003 | 90003 | 95003 | 98003 |        | 101007 |        |        |
| Board of Supervisors                               |       |       |      |       |       |       |       |       |       |       |       | 100014 | 101009 |        | 103015 |
| No Definition                                      |       |       |      |       |       |       | X     |       |       |       |       |        |        |        |        |
| Voter  |       |       |      |       |       |       |       |       |       |       |       |        |        |        |        |
| Registered Elector                                 | 24504 |       | 1.5  | 50004 |       | 70004 |       | 40004 | 90004 | 95004 | 98004 |        | 101010 |        |        |
| No Definition                                      |       | X     |      |       | X     |       | X     |       |       |       |       | X      |        | X      | X      |
| Transit & Rapid Transit                            |       |       |      |       |       |       |       |       |       |       |       |        |        |        |        |
| Passengers & Baggage Transit                       | 24505 |       | 1.6  | 50005 |       |       |       |       |       |       |       |        |        |        |        |
| Rapid Transit                                      |       | 28505 |      |       |       |       |       |       |       |       |       | 100012 | 101011 | 102012 |        |
| Addl. Language Re: Charters & School Bus           |       |       |      |       |       |       |       |       |       |       |       |        |        |        |        |
| Transit Rapid Transit                              |       |       |      |       | 30005 | 70005 | 2.7   | 40005 | 90005 | 95005 | 98005 |        |        |        |        |
| Transit Works or Facilities                        |       |       |      |       |       |       |       |       |       |       |       |        |        |        |        |
| Real & Personal Property Equipment & Interest      | 24506 |       | 1.7  | 50006 |       | 70006 |       | 40006 | 90006 | 95006 | 98006 | 100013 | 101012 | 102013 | 103013 |
| No Definition                                      |       | X     |      |       | X     |       | X     |       |       |       |       |        |        |        |        |

Table 3 (continued) -- DEFINITIONS

|  | A-C   | BART  | FMTD | SMD | SCRTD | MCTD | WBRTA       | OCTD         | SDC | SBMD | SCMTD        | SCCTD         | GETD          | SRTD   | SMCTD         |
|--|-------|-------|------|-----|-------|------|-------------|--------------|-----|------|--------------|---------------|---------------|--------|---------------|
| Public Agency<br>City, City & County,<br>County, State or District<br>No Definition  | 24509 | 28509 | 1.8  | X   | 30007 | X    | 2.12        | X            | X   | X    | X            | 100016        | X             | 102017 | 103016        |
| Revenues<br>Rates, Fares, Tolls,<br>Rentals, Interest & Profits<br>No Definition   | X     | X     | X    | X   | X     | X    | 2.9         | X            | X   | X    | X            | 100018        | X             | 102019 | 103018        |
| Person<br>Individual, Firm, etc.<br>Excludes Public Agencies<br>No Definition  | X     | X     | X    | X   | X     | X    | 2.11        | X            | X   | X    | X            | 100019        | X             | 102020 | 103019        |
| Establish<br>Establish, Construct,<br>Complete, Acquire, Extend<br>or Reroute<br>No Definition   | X     | X     | X    | X   | X     | X    | 6.31<br>(a) | X            | X   | X    | X            | 100020        | X             | 102021 | 103020        |
| Existing System<br>Any Transit System with<br>% of Revenue Miles in<br>District<br>Same as Above, but<br>Excludes Taxi Cabs<br>No Definition | X     | X     | X    | X   | X     | X    | X           | 40221<br>75% | X   | X    | 98300<br>75% | 100021<br>40% | 101014<br>40% | X      | 103021<br>75% |



a transit is required; BART and West Bay state that the purpose of these districts is part of the state policy regarding transit.

The emphasis on uniform control goes even further when new transit districts are created in the same major metropolitan area as existing districts. There is a clause in the Orange County act that states the eventual purpose of the district is to become part of the SCRTD. A similar clause in the West Bay Act deals with West Bay becoming part of BART. Policy statements are important in that they establish the necessity for a transit district within a carefully defined area and, in turn, establish the premise that the enabling act applies only to that district and may embody special or peculiar circumstances of law that do not apply in other transit districts or to the rest of the state in general.

#### Legal Construction

All acts carry a construction definition as follows:

"Unless the context otherwise requires, the provisions of this chapter (definitions) govern the construct of this part (enabling act)."

The three rapid transit district acts have an additional definition as follows:

"This part shall be liberally construed to carry out the objects and purposes and the declared policy of the State of California as in this part set forth."

The net effect of this definition is to indicate legislative encouragement for imaginative and advanced actions on the part of the

Board in achieving the objectives stated in the legislative findings and declaration.

### Board

The West Bay Act is the only Act that does not define "Board." The most common definition used was that the "Board of Directors of the Transit District" is the "Board." Bay Area Rapid Transit (BART) and SCRTD use more detail and indicate the terms, "The Board of Directors," "The Board," or "Directors," all mean the "Board." In three of the districts, Santa Clara, Golden Empire, and San Mateo, the "Board of Supervisors" is designated as the "Board."

### Transit or Rapid Transit

The district acts written before 1964 and those written after 1967, define "transit" as follows:

"Transit means the transportation of passengers and their incidental baggage."

This same definition is used for rapid transit in the case of BART.

The acts that were passed between the years of 1964 and 1967 inclusive, contained additional language in the definition as follows:

"Transit means the transportation of passengers only and their incidental baggage by means other than a chartered bus, sightseeing bus, or any other motor vehicle not on an individual passenger fare-paying basis. Nothing in this section shall be construed to prohibit the district from providing school bus service for the transportation of pupils between their homes and schools."

Southern California Rapid Transit District (SCRTD) and West Bay have this same definition for rapid transit.

West Bay's ultimate purpose is to be a part of BART, but these two definitions are inconsistent in this respect.

#### Transit Works or Facilities

Transit works or facilities were not defined in the acts for the three rapid transit districts, BART, SCRTD and West Bay. All other districts have a standard definition as follows:

"Transit works or transit facilities means all real and personal property, equipment, rights or interests owned or to be acquired by the district for the transit district."

#### Public Agency

Public Agency is defined as follows:

"Public agency as used in this part includes the State of California, any county, city and county, city, district or other political subdivision or public entity of, or organized under the laws of this State."

This definition is contained in the acts of eight of the districts. The other seven have no definition. There is no apparent pattern as to whether or not this definition is included.

#### Revenues, Person, Establish

Four districts: West Bay, Santa Clara, Sacramento and San Mateo, contain definitions for the above terms as follows:

"Revenues means all rates, fares, tolls, rentals, or other income and revenue actually received or receivable by or for the account of the district from the operation of the system, including, without limiting the generality of the foregoing, interest allowed on any monies or securities and any consideration in any way derived from any properties owned, operated or at any time maintained by the district."

"Person includes any individual, firm, copartnership, association, corporation, trust, business trust or receiver or trustee or conservator for any thereof, but does not include a public agency, as defined in this chapter."

"Establish includes establish, construct, complete, acquire, extend, or reroute. It does not, however, include the maintenance and operation of any existing system acquired by the district."

These definitions were included in the 1964 West Bay Act that has as its ultimate destiny a merger with BART. Why these same definitions were included in three of the four last districts created is unclear. No definition was provided in the Acts of the other 11 districts.

#### Existing Systems

The Santa Clara Act defines existing system as follows:

"Existing system means any transit service or system of a publicly or privately owned public

utility or division thereof operating entirely within Santa Clara County or at least 40 percent of whose revenue vehicle miles for the preceding calendar year were operated within the district, but does not include a charter-party carrier or the charter service of a passenger stage corporation."

The Golden Empire District Act contains the same definition substituting the words "within the district" in place of "within Santa Clara County." The definition in the San Mateo Act contains important differences. Its definition says the system must have been in effect in January, 1974; that 75% of its revenue miles must be within the county. It also excludes taxicabs as being part of existing systems. This is an important distinction in view of subsequent taxi company lawsuits against Santa Clara and Orange County Districts. Orange County and Santa Cruz have definitions similar to Santa Clara except for the requirement for 75% of the mileage rather than 40%. These definitions are included in the chapter on existing systems.

Although the other ten district acts refer to existing systems, no definitions were provided.

### Miscellaneous

Definitions that appeared in only one Act are not shown on Table 3. These include such items as the definition of the percent of total votes cast, which is a definition included in the AC Act. The percent of the total vote cast is defined as being:

"The percent of total votes cast exclusive of absent voter ballots within the proposed

district, city or territory, as the case may be, at the last general state election."

"City" was defined in the AC Act as to include city and county, and any incorporated town, but does not include unincorporated towns or villages. The Sacramento Act spelled out that "city" means Davis, Folsom, Roseville, Sacramento, Woodlands, and any other annexed city. Several district acts define "counties" as meaning a specific county: in the Santa Clara Act meaning the County of Santa Clara, in the Golden Empire Act the County of Kern, and in the Sacramento Act the County of Sacramento. The West Bay County definition includes San Mateo and provides for annexation of additional counties. The San Mateo Act refers only to San Mateo County.

There is a definition for the term "Officer" in the Sacramento Act. "Officer" is defined as the General Manager and the Directors of the Board. In the Golden Empire Act, "Commission" is defined as being the Local Agency Formation Commission of the county.

There is a definition for "taxable property" included in the BART Act which defines "taxable property" in the following manner:

"For the purpose of establishing a bonded debt limit of the district, taxable property as used in this part, shall not include solvent credit."

The Santa Clara Act and the Sacramento Act define "system" as meaning:

"All transit works and transit facilities owned or held or to be owned or held by the district for transit purposes."

## Governing Boards

Table 4 presents the similarities and the differences in the organization of the governing boards for each of the districts. The number of members on the governing board are fixed for 11 of the districts and vary from 5 to a maximum of 11 members in the case of SCRTD. Four of the district acts provide for district growth and establish a variable number of board members. The Fresno Act provides for an original membership of 5 and an ultimate membership of 7, depending on annexation. The West Bay Act provides for an original membership of 8 with no specified limit--the ultimate number depending on annexation. The Sacramento Act provides for an original membership of 7 with a growth capability up to 11. The San Diego Act provided a rather complex relationship depending on how many cities joined the district at the beginning and how they were to be added as annexations took place.

The composition of the Board is also detailed on Table 4. In four districts: AC, BART, Fresno, and San Diego, the enabling act provides for direct election by the voters. The other 11 districts have appointive or designated members consisting of various combinations of supervisors or supervisor appointees and elected city officials or city appointees. Five districts, Stockton, Orange County, Santa Barbara, Golden Empire and San Mateo, have a provision for a fifth member other than a member of a city council or Board of Supervisors.

In most cases, the length of term for the Board members is four years. The Marin County Act, the Santa Clara Act, and the Sacramento Act provide for two year terms. In the case of the West Bay Act, supervisor's appointees are appointed for four year terms and city appointees are appointed for two year terms. A residency requirement

Table 4

GOVERNING BOARD

|   | A-C        | BART            | FMTD       | SMD        | SCRTD       | MCTD       | WBRTA    | OCTD       | SDC        | SBMD       | SCMTD      | SCCTD       | GETD        | SRTD        | SMCTD       |
|---|------------|-----------------|------------|------------|-------------|------------|----------|------------|------------|------------|------------|-------------|-------------|-------------|-------------|
| Number of Members                             |            |                 |            |            |             |            |          |            |            |            |            |             |             |             |             |
| Fixed Number                                  | 24801<br>7 | 28745<br>9      |            | 5060<br>5  | 30201<br>11 | 70060<br>7 |          | 40060<br>5 |            | 95400<br>5 | 98100<br>7 | 100060<br>5 | 101100<br>5 |             | 103100<br>5 |
| Allowance for District Growth                 |            |                 | 3.1        |            |             |            | 4.3      |            | 90170      |            |            |             |             | 102100      |             |
| Original membership                           |            |                 | 5          |            |             |            | 8        |            |            |            |            |             |             | 7           |             |
| Final Membership                              |            |                 | 7          |            |             |            | ∞        |            |            |            |            |             |             | 11          |             |
| Composition of Board                          |            |                 |            |            |             |            |          |            |            |            |            |             |             |             |             |
| No. Directly Elected                          | 24801<br>7 | 28748.2<br>9    | 3.5<br>5-7 |            |             |            |          |            | 90170      |            |            |             |             |             |             |
| Number Appointed                              |            |                 |            | 50060<br>5 | 30201<br>11 | 70060<br>7 | 4.3<br>8 | 40060<br>5 |            | 95400<br>5 | 98100<br>7 | 100060<br>5 | 101103<br>5 | 102100<br>7 | 103100<br>9 |
| Supervisors or Their Designees                |            |                 |            | 2          | 5           | 5          | 4        | 2          |            | 2          | 2          | 5           | 2           | 3           | 3           |
| City Officials or Their Designees             |            |                 |            | 2          | 6           | 2          | 4        | 2          |            | 2          | 2          | 5           | 2           | 3           | 3           |
| Other Members                                 |            |                 |            | 1          |             |            |          | 1          |            | 1          |            |             | 1           |             | 3           |
| Length of Term (Years)                        | 24862<br>4 | 28748.2<br>4    | 3.5<br>4   | 50067<br>4 | 30201<br>4  | 70061<br>2 | 4<br>2   | 40060<br>4 | 90190<br>4 | 95430<br>4 | 98104<br>4 | 100081<br>2 | 101102<br>4 | 102100<br>2 | 103108<br>4 |
| Residency Required                            | 24801      | 28731           |            | 50064      | 30201       |            |          | 40060      | 90170      | 95404      | 98101      | 100060      | 101101      |             |             |
| Advisory Commission Mandated                  |            |                 |            |            |             |            |          |            |            |            |            | 100080      |             | 102140      |             |
| Compensation Amounts                          |            |                 |            |            |             |            |          |            |            |            |            |             |             |             |             |
| Determined by Board                           | 24908      |                 | 3.27       |            |             | 70087      |          |            | 90242      | 95492      | 98132      |             | 101130      |             | 103113      |
| Set by Legislative Act                        |            | 28748.8         |            | 50087      | 30251       |            | 4.9      | 40087      |            |            |            | 100063      |             | 102106      |             |
| Per Meeting Pay, \$                           | 50         | 50 <sup>1</sup> | 25         | 15         | 50          |            | 20       | 50         | 50         | 30         |            | 0           | 50          | 20          | 50          |
| Maximum Monthly Pay, \$                       | 250        | 250             | 100        | 45         | 500         |            | 100      | 200        | 200        | 90         |            | 0           | 100         | 80          | 100         |
| Compensation Authority                        |            |                 |            |            |             |            |          |            |            |            |            |             |             |             |             |
| Determined by Board                           |            |                 |            |            |             | X          |          |            |            |            | X          | X           |             |             |             |
| Board Meetings Only                           |            |                 |            | X          | X           |            |          |            |            | X          |            |             |             | X           | X           |
| Board & Committee Meetings                    |            | X               |            |            |             |            |          |            |            |            |            |             |             |             |             |
| Meetings & Other Authorized District Business | X          |                 | X          |            |             |            |          | X          | X          |            |            |             |             |             |             |

<sup>1</sup> President \$5,000 per year, Vice-President \$3,000 per year



is specified for ten of the districts. Nothing is mentioned in the other five acts. An advisory commission is mandated for the Santa Clara County and Sacramento Transit Districts.

Compensation for Board members varies a great deal from district to district. Eight of the districts have the authority to establish their own compensation; two of them with no limits, but six of the districts are limited to maximum monthly amounts. Individual per diem compensation and maximum monthly amounts are specified in the enabling acts for the other seven districts.

The pay scale varies from \$15.00 per diem at Stockton, \$20.00 at West Bay and Sacramento to the more common \$50.00 per diem for most districts. The maximum monthly salary in any calendar month varies also from \$45.00 in Stockton to \$500.00 per month allowed for SCRTD Directors. Most districts have a \$200.00 per month maximum.

#### Board Duties and Designated Staff

Table 5 presents a comparison of board duties and obligations, and lists the designated staff officers called for by the enabling acts. All districts include language regarding the supervision and regulations of transit facilities. There are minor variations when it comes to the authority for operations including both direct district operations or district contracted operations. No specific language regarding operations is contained in the BART, SCRTD, or San Diego Acts, although those acts clearly imply that the Board has operating authority.

A Personnel or Administrative Code is required in all district acts except for West Bay, Orange County, and Golden Empire. An annual audit is called for in all but West Bay and Golden Empire Acts.

Table 5

BOARD DUTIES AND DESIGNATED STAFF

|  | A-C   | BART  | FMTD | SM <sup>n</sup> | SCRTD | MCTD  | WBRTA | OCTD  | SDC   | SBMD  | SCMTD | SCCTD  | GETD   | SRTD   | SMCTD  |
|--|-------|-------|------|-----------------|-------|-------|-------|-------|-------|-------|-------|--------|--------|--------|--------|
| Director of Transit Facilities           |       |       |      |                 |       |       |       |       |       |       |       |        |        |        |        |
| Supervision & Regulation                 | 24885 | 28766 | 3.14 | 50074           | 30256 | 70074 | 6.8   | 40074 | 90214 | 95454 | 98112 | 100071 | 101151 | 102121 | 103141 |
| Operation (Direct or Contact)            | 24936 |       | 3.15 | 50075           |       | 70075 | 6.8   | 40075 |       | 95455 | 98113 | 100071 | 101152 | 101121 | 103141 |
| Specified Implied                        |       | 28766 |      |                 | 30256 |       |       |       | 90216 |       |       |        |        |        |        |
| Personnel or Admin. Code                 | 24886 | 28767 | 3.17 | 50076           | 30257 | 70076 |       |       | 90215 | 95456 | 98114 | 100071 |        | 102121 | 103141 |
| Annual Audit Required                    | 24888 | 28769 | 3.19 | 50078           | 30259 | 70078 |       | 40078 | 90217 | 95458 | 98116 | 100071 |        | 102121 | 103141 |
| Ordinances                               |       |       |      |                 |       |       |       |       |       |       |       |        |        |        |        |
| Ordinance Power                          | 24909 | 28793 | 3.28 | 50088           | 30273 | 70078 |       | 40088 | 90243 | 95493 | 98133 | 100062 | 101124 | 102105 | 103106 |
| Public Hearing Required                  |       |       |      |                 |       |       |       |       |       |       | 98133 |        |        |        |        |
| Two Readings Required                    | 24909 | 28793 | 3.28 | 50088           | 30273 |       |       |       | 90243 | 95493 | 98133 |        |        |        |        |
| County Procedures Mandated               |       |       |      |                 |       | 70088 |       | 40088 |       |       |       | 100062 | 101124 |        |        |
| Staff Officers Designated by Legislature |       |       |      |                 |       |       |       |       |       |       |       |        |        |        |        |
| General Mgr. or Exec. Off.               | 24926 | 28810 | 3.35 | 50095           | 30300 | 70095 | 4.11  | 40095 | 90260 | 95520 | 98140 | 100090 | 101165 | 102160 | 103160 |
| Secretary                                | 24931 | 28761 | 3.40 | 50100           | 30251 |       | 4.11  |       | 90265 | 95525 |       | 100090 | 101165 | 102160 | 103160 |
| Clerk of the Board                       |       |       |      |                 |       |       |       | 40062 |       |       |       |        |        |        |        |
| General Counsel or Atty                  | 24931 | 28810 | 3.41 | 50100           | 30300 |       | 4.11  |       | 90265 | 95525 | 98149 | 100090 | 101165 | 102160 | 103160 |
| Auditor or Controller                    |       | 28810 |      |                 | 30300 |       |       |       |       |       |       | 100090 |        | 102160 | 103160 |
| Treasurer                                |       | 28810 |      |                 | 30300 |       |       |       |       |       |       | 100090 | 101166 | 102160 | 103160 |
| Chief Engineer                           |       |       |      |                 |       |       | 4.11  |       |       |       |       |        |        |        |        |
| County Officials Desig.                  |       |       |      |                 |       | 70060 |       | 40062 |       |       |       |        |        |        |        |

The power to pass ordinances is included in all the acts except the West Bay Act. The Santa Cruz Act is the only transit district that is required to have a public hearing as part of its ordinance procedure. All districts are required to have two readings of ordinances except for Sacramento and San Mateo. Four of the districts: Marin, Orange, Santa Clara, and Golden Empire, are required to follow county procedures which requires public hearings and two readings of a proposed ordinance.

Some enabling acts go into a great more detail than others with regard to staff officer designation and descriptions of duties. All 15 acts call for a General Manager or an Executive Officer but detail varies from a simple statement requiring that there will be a General Manager or an executive Officer without description of duties or responsibilities, as in the Orange County Act, to quite detailed and specific duty descriptions for General Managers in some of the other acts.

Table 5 describes the other required staff officers for each district. There is a provision for a Secretary in many of the Acts. In the case of Orange County, there is a provision for a Clerk of the Board. A general counsel or attorney is provided in all but two of the Acts and in these two cases, county officials are designated to serve in those particular capacities. In five of the Districts, an Auditor or Comptroller is specified. In six of the Districts, a Treasurer is specified. A Chief Engineer is designated for the West Bay Transit District. In the Marin County and Orange County Act, county officials are designated for various functions including attorney, auditor and treasurer.

## District Powers

Included among the powers of the districts are the powers of eminent domain. All of the transit districts have a standard clause regarding eminent domain with only minor variations in the wording.

This clause states:

"the district has all the same rights, powers, and privileges of a county, and all rights, powers, and privileges conferred in this part. The district in exercising such power shall, in addition to the damage for the taking, injury or destruction of property, must also pay the cost or removal, reconstruction, or relocation of any structure, railway, mains, pipes, conduits, cables or poles of any public utilities which is required to be moved to a new location."

All the protection of the courts are still available to anyone who is a part in the eminent domain proceedings.

Four of the districts: Stockton, Santa Barbara, Santa Cruz, and the Golden Empire Transit Districts, must have the consent of the local jurisdiction involved before they can proceed with the eminent domain. Eight of the districts including SCRTD, Orange County, San Diego, Santa Barbara, Santa Clara, Golden Empire and San Mateo districts, have a special clause requiring PUC approval before they deal with railroad property. Table 6 presents this information along with a description of the other powers of the transit districts.

A major district function is the authority to have work performed by contract. A standard clause is used for all districts with very little variation. As an example, the standard clause in the Orange County Act reads:

Table 6  
DISTRICT POWERS

|  | A-C             | BART             | FMTD           | SMD             | SCRTD           | MCTD         | WBRTA       | OCTD         | SDC             | SBMD            | SCMTD           | SCCTD         | GETD             | SRTD             | SMCTD            |
|--|-----------------|------------------|----------------|-----------------|-----------------|--------------|-------------|--------------|-----------------|-----------------|-----------------|---------------|------------------|------------------|------------------|
| <b>Eminent Domain</b>                            |                 |                  |                |                 |                 |              |             |              |                 |                 |                 |               |                  |                  |                  |
| Standard Clause                                  | 25703           | 28953            | 6.3            | 50162           | 30503           | 70162        | 6.6         | 40162        | 90402           | 96002           | 98212           | 100131        | 101177           | 102242           | 103242           |
| Requires Consent of Local Jurisdictions          |                 |                  |                | 50162           |                 |              |             |              |                 | 96002           | 98213           |               | 101178           |                  |                  |
| Requires PUC Approval for Rail Property          |                 |                  |                |                 | 30503           |              |             | 40162        | 90402           | 96002           | 98214           | 100131        | 101179           |                  | 103243           |
| <b>Contracting</b>                               |                 |                  |                |                 |                 |              |             |              |                 |                 |                 |               |                  |                  |                  |
| Standard Clause                                  | 25721           | 28470            | 6.5            | 50165           | 30530           | 70165        | 6.12        | 40165        | 90420           | 96030           | 98220           | 100120        | 101180           | 102220           | 103220           |
| Minimum Value Requiring Bid                      | 25751<br>\$3000 | 28990<br>\$10000 | 6.10<br>\$3000 | 50170<br>\$5000 | 30570<br>\$5000 |              |             |              | 90440<br>\$5000 | 96060<br>\$3000 | 98230<br>\$3000 |               | 101185<br>\$5000 | 102222<br>\$5000 | 103222<br>\$3500 |
| County Procedures Mandated                       |                 |                  |                |                 |                 | 70170        |             | 40710        |                 |                 |                 | 100122        |                  |                  |                  |
| <b>Taxation</b>                                  |                 |                  |                |                 |                 |              |             |              |                 |                 |                 |               |                  |                  |                  |
| Property Tax Authorized by Legislative Act       | 25891           | 29120            | 3.16           | 50210           | 30800           | 70210        | 6.51        | 40210        | 90540           | 96220           | 98280           | 100180        | 101265           | 102330           | 103321           |
| Maximum Amount, \$                               | 25892<br>No Lim | 29123<br>.05     | 3.16<br>.25    | 50210<br>.05    |                 | 70210<br>.05 | 6.53<br>.01 | 40210<br>.05 | 90547<br>.05    | 96220<br>.05    | 98280<br>.05    |               | 101265<br>.15    |                  |                  |
| Maximum Amount with Local Govt & Voter Approval  |                 |                  |                | 50210<br>.10    |                 |              |             |              |                 | 96220<br>.10    | 98280<br>.10    |               | 101265<br>.25    |                  |                  |
| Property Tax May be Authorized by Voters         |                 |                  |                |                 | 30806           |              |             |              |                 |                 |                 | 101180        |                  | 102332           | 103322           |
| Sales Tax May be Authorized by the Voters        |                 |                  |                |                 | 30825           |              |             | 40330        |                 |                 |                 | 10250         |                  |                  | 103350           |
| <b>Bonding Authority</b>                         |                 |                  |                |                 |                 |              |             |              |                 |                 |                 |               |                  |                  |                  |
| Revenue Bonds                                    | 26351           | 29240            | 7.5            | 50265           | 30930           | 70265        | 7.1         | 40336        | 90720           | 96590           | 98380           | 100450        | 101335           | 102530           | 103513           |
| Gen. Obligation Bonds                            | 26201           | 29150            | 6.40           | 50225           | 30900           | 70225        | 7.51        | 40225        | 90600           | 96400           | 98310           | 100400        | 101280           | 102500           | 103340           |
| Voter Majority Required for General Oblig. Bonds | 26211<br>2/3    | 29168<br>3/5     | 6.40<br>1/2    | 50236<br>1/2    | 30903<br>3/5    | 70236<br>3/5 | 7.62<br>2/3 | 40236<br>3/5 | 90611<br>3/5    | 96411<br>2/3    | 98317<br>2/3    | 100113<br>1/2 | 101297<br>1/2    | 102504<br>1/2    | 103503<br>2/3    |

Table 6 (continued) -- DISTRICT POWERS

|                              | A-C   | BART  | FMTD | SMD   | SCRTD | MCTD  | WBRTA | OCTD | SDC   | SBMD  | SCMTD | SCCTD  | GETD   | SRTD   | SMCTD  |
|------------------------------|-------|-------|------|-------|-------|-------|-------|------|-------|-------|-------|--------|--------|--------|--------|
| <b>Annexation</b>            |       |       |      |       |       |       |       |      |       |       |       |        |        |        |        |
| Counties                     |       | 29500 |      |       |       |       | 13.51 |      |       |       |       |        |        | 102055 |        |
| Cities                       | 26401 | 29660 | 8.1  |       | 31400 |       |       |      | 90770 |       |       |        |        | 102055 |        |
| Unincorporated Area          | 26651 | 29660 | 9.1  |       | 31400 |       |       |      | 90930 |       |       |        |        |        |        |
| Authority but no Specificity |       |       |      | 50270 |       | 70270 |       |      |       | 96750 | 98390 |        |        |        |        |
| Not Mentioned                |       |       |      |       |       |       |       | X    |       |       |       | X      | X      |        | X      |
| <b>Special Provisions</b>    |       |       |      |       |       |       |       |      |       |       |       |        |        |        |        |
| Special Transit Districts    | 27401 | 29660 |      |       |       |       |       |      |       |       |       | 100471 |        |        |        |
| Rapid Transit Systems        |       | 29030 |      |       | 30630 |       |       |      | 90025 |       |       |        |        |        |        |
| Charter Bus Operation        |       |       |      |       |       |       |       |      |       |       |       | 100160 | 101206 | 102280 | 103281 |

"The district may make contracts to enter into stipulations of any nature whatsoever either in connection with eminent domain proceedings or otherwise, including without limiting the generality of the foregoing contracts and stipulations to indemnify and hold harmless, to employ labor, and to do all acts necessary and convenient for the full exercise of the powers granted in this part."

A great deal of variation does exist when it comes to purchasing, especially with regard to minimum values requiring a bid. Three districts, Orange County, Marin County, and Santa Clara County are mandated to use county purchasing procedures. Most transit districts require bids for purchases of \$3000 and greater. The BART act specifies that bids are required for purchases in excess of \$10,000. Some of the other district acts, including SCRTD, San Diego County, Golden Empire, and Sacramento established \$5,000 as the value for which bids are required.

Table 6 presents a brief summation of the taxation situation. The coverage is quite varied and goes into great detail in some districts and lesser detail in others. Although all districts are empowered to levy a property tax, the maximum amount of property tax that can be levied varies. Also, some districts have never received voter approval to implement the tax empowered by the Legislation.

The most common value is a 5¢ rate which can be levied by BART, Orange County, Stockton, Marin County, San Diego County, Santa Barbara, and Santa Cruz Counties. No limit was specified for the AC District. Fresno is authorized to 25¢, Golden Empire to 15¢ and the West Bay Authority is limited to 1¢. Some districts have some flexibility with regard to the amount that can be levied with local

government and voter approval. For instance, Stockton, with voter approval, can increase from five to ten cents as can Santa Barbara and Santa Cruz. Golden Empire may go to 25¢ from its 15¢ base with local government and voter approval. In the case of SCRTD, property tax can only be authorized by the electors as is also the case with Santa Barbara and Santa Cruz. Golden Empire may go to 25¢ from its 15¢ base with local government and voter approval. In the case of SCRTD, property tax can only be authorized by the electors as is also the case with Santa Clara County, Sacramento County and San Mateo County. The amount must be specified as part of the ballot.

Four of the districts: SCRTD, Orange County, Santa Clara County, and San Mateo County have the authorization to put sales tax elections before their electorate. SCRTD and OCTD have failed to obtain voter approval, whereas both Santa Clara and San Mateo have approval. By authority of the State Legislature, a one-half cent sales tax for rapid transit is levied in the BART district.

Bonding authority is common to all districts. All districts have the power to issue revenue and general obligation bonds in conjunction with voter approval. The voter majority required for general obligation bonds in conjunction with voter approval. The voter majority required for general obligation bonds varies. Districts requiring a 2/3 majority for passage of general obligation bonds include AC, Santa Barbara, Santa Cruz, and West Bay. Districts requiring 3/5 or 60% voter approval for general obligation bond authority include BART, SCRTD, Orange County, Marin County, San Diego County and San Mateo County. Stockton, Santa Clara, Golden Empire, Sacramento, Fresno require only the 50% majority to pass bonds.



Annexation is another subject that is covered under the transit district acts and again varies a great deal from transit district to transit district. Discussion of procedures necessary for the annexation are included in different acts and are shown in Table 6. Procedures include annexation of counties specifically, annexation of cities, and annexation of unincorporated areas. There is a discussion of general annexation authority in the acts for Stockton, Marin County, Santa Barbara and Santa Cruz, but no specific authority is provided.

In Orange County, Santa Clara County, Golden Empire, and San Mateo, there is no possibility of annexation because no provision is provided and inasmuch as these districts encompass a whole county, no authority is required. The AC Act and the BART Act provide procedures for the annexation of cities and unincorporated areas. Procedures for the annexation of cities and unincorporated areas are included in the SCRTD, San Diego County and Sacramento County Acts. The Sacramento Act provides for the annexation of counties and cities and the West Bay Authority provides only for counties.

Table 6 also presents a description of some special provisions for some of the districts. Three districts, AC, BART, Santa Clara County, have provisions for the development of special transit districts which could operate as separate modules with the overall district boundaries. Three districts, BART, SCRTD, San Diego County, have provisions for Rapid Transit Districts within the district. Charter bus operations are specifically permitted in four of the districts including Santa Clara County, Golden Empire, Sacramento and San Mateo County.

## Labor Provisions

The transit acts go into great detail with regard to labor relations, but our analyses dealt only with the negotiation relationships and procedures. A summation is presented in Table 7. A merit system is mandated in Santa Cruz for district employees, but no other mention of labor relations is included. A merit system is also mandated for Marin County, and like the rest of the districts, it has provisions in a general clause outlining labor negotiation procedures. Southern California Rapid Transit District, Orange County, Marin County, San Diego County, Santa Barbara, Santa Clara, Golden Empire, Fresno and San Mateo have fact-finding mandated as part of the negotiations. Binding arbitration is mandated in the Santa Barbara and Fresno districts.

The labor provisions section exhibits a degree of consistency not found in most other sections of the 15 transit acts. The Santa Cruz Act is a major exception, which provides protection for acquired facilities, and a merit system for its employees. However, it does not provide for collective bargaining and provide the usual union organizational sections of the law.

All the other 14 transit districts provide for collective bargaining, prohibit discrimination in all forms and provide an arbitration mechanism. As provided in the acts arbitration results are binding, but both parties must agree in advance before arbitration can proceed. Two exceptions exist: Fresno and Santa Barbara, where all disputes are expected to be settled by binding arbitration.

In the event of a dispute, and one or both of the parties refuse to enter arbitration, all but three of the districts must

Table 7

## LABOR PROVISIONS

|  | A-C   | BART  | FMTD | SMD   | SCRTD | MCTD  | WBRTA | OCTD  | SDC   | SMBD  | SCMTD | SCCTD  | GETD   | SRTD   | SMCTD  |
|--|-------|-------|------|-------|-------|-------|-------|-------|-------|-------|-------|--------|--------|--------|--------|
| <b>Board and Union Responsibilities</b>                                      |       |       |      |       |       |       |       |       |       |       |       |        |        |        |        |
| Bargain in Good Faith  | 25051 | 28850 | 4.1  | 50120 | 30750 | 70120 | 13.90 | 40120 | 90300 | 95650 | *     | 100300 | 101340 | 102400 | 103400 |
| Binding Arbitration of Disputes  |       |       |      |       |       |       |       |       |       |       |       |        |        |        |        |
| If Both Parties Agree to Submit  | 25051 | 28850 |      | 50120 | 30750 | 70120 | 13.90 | 40120 | 90300 |       |       | 100305 | 101341 | 102401 | 103405 |
| Mandated   |       |       | 4.2  |       |       |       |       |       |       | 95650 |       |        |        |        |        |
| Fact Finding Mandated When Arbitration Not Used                              |       |       |      |       | 30756 | 70120 | 13.90 | 40120 | 90300 |       |       | 100306 | 101342 |        | 103406 |
| Merit System Mandated but No Labor Provisions                                |       |       |      |       |       |       |       |       |       |       | 98160 |        |        |        |        |
| Discrimination Prohibited  | 25051 | 28850 | 4.3  | 50120 | 30750 | 70120 | 13.90 | 40121 | 90300 | 95650 | 98161 | 100303 | 101343 | 102402 | 103403 |
| State Conciliation Service Can Assist in Determining Repres.                 | 25052 | 28851 | 4.4  | 50120 | 30751 | 70122 | 13.91 | 40122 | 90300 | 95651 |       | 100301 | 101344 | 102403 | 103401 |
| Appt. of Employees to Comp. Positions on Acquis. of Existing Facilities      | 25053 | 28852 | 4.21 | 50122 | 30752 | 70123 | 13.92 | 40123 | 90300 | 95652 | 98163 | 100350 | 101345 | 102404 | 103420 |
| Rights & Oblig. of Employees of Acquired Facilities having Pension Plans     | 25054 | 28853 | 4.21 | 50123 | 30753 | 70123 | 13.93 | 40123 | 90300 | 95653 | 98164 | 100351 | 101346 | 102404 | 103421 |
| Board may Provide Ins., Health Benefits or Retirement Plans                  | 25057 |       | 4.7  | 50126 |       | 70127 |       | 40127 | 90300 | 95656 | 98166 |        |        |        |        |
| Payroll Deductions Authorized If Agreed Upon by Employees                    | 25057 |       | 4.7  | 50126 |       | 70125 | 13.90 | 40125 | 90300 | 95656 | 98166 |        | 101347 | 102406 |        |
| Notice to Union of Proposed Corporate Change; Collective Bargaining Required |       |       | 4.23 |       |       | 70124 | 13.94 | 40124 | 90300 |       |       |        |        | 102405 |        |

\* Employee organizations have right of petition

enter into a state supervised fact finding program and a 30 day cooling off period prior to a lawful strike. Bay Area Rapid Transit, AC, and Sacramento have no recourse but to go directly to strike situations if disputes arise.

There are potential problems for those six districts which are required to provide notice to unions of proposed corporate change as follows:

"The district shall not dispose of or lease to any transit system or part thereof, nor merge, consolidate or coordinate any transit system or part thereof or reduce or limit the lines or service of any existing system or its system, or terminate any lease arrangement or management contract, unless it shall first give notice of such contemplated action to the collective bargaining agent of the employees who are or may be affected thereby. The terms and conditions of employment affected by such action shall be a proper subject of collective bargaining".

Taken literally, this could mean that minor route changes would be subject to management-union negotiation. This could also possibly affect terminations of contracts and lease arrangements and involve the district with unions other than the designated labor representatives.

#### Retirement Systems

Table 8 presents a comparison of the transit district acts with regard to retirement systems. The use of the county retirement system is mandated in Orange and Marin Counties. The Board is required to establish retirement systems in the Golden Empire and San Mateo systems, and the rest of the districts have the option of establishing retirement systems.

Table 8  
RETIREMENT SYSTEM

|   | A-C   | BART  | FMTD | SMD   | SCRTD | MCTD  | WBRTA | OCTD  | SDC   | SBMD  | SCMTD | SCCTD  | GETD   | SRTD   | SMCTD  |
|---|-------|-------|------|-------|-------|-------|-------|-------|-------|-------|-------|--------|--------|--------|--------|
| Authority to Establish<br>Board May<br>Board Shall<br>County System Mandated<br>Not Mentioned                             | 25301 | 28870 | 4.31 | 50130 | 30400 |       |       |       | 90350 | 95800 | 98180 | 100371 |        | 102430 | 103440 |
|   |       |       |      |       |       | 70130 |       | 40130 |       |       |       |        | 101355 |        |        |
|   |       |       |      |       |       |       | X     |       |       |       |       |        |        |        |        |
| Other Systems Permissible<br>State or Public Employees<br>Retirement System   | 25305 | 28874 | 4.32 | 50134 | 30404 |       |       |       | 90350 | 95804 | 98184 | 100371 | 101356 | 102431 | 103441 |
| Social Security   | 25305 | 28874 | 4.41 | 50134 | 30405 |       |       | 40128 | 90350 | 95804 | 98184 | 100380 | 101359 | 102408 | 103450 |
| Labor Can Negotiate   |       |       | 4.31 |       |       | 70127 |       | 40127 | 90350 |       |       | 100370 | 101356 | 102431 | 103340 |
| Retirement System Directors<br>Transit Board<br>May Appoint Special Board<br>Shall Appoint Special Board<br>Not Specified | 25361 | 28910 |      | 50150 | 30430 |       |       |       |       | 95860 | 98200 |        |        |        |        |
|   |       |       | X    |       |       | X     |       | X     | X     |       |       | X      | X      | X      | X      |
| Method of Providing Benefits<br>District Fund, Group<br>Insurance or Other<br>Not Specified                               | 25302 | 28871 |      | 50131 | 30401 |       |       |       |       | 95801 | 98181 |        | 101355 |        |        |
|   |       |       | X    |       |       | X     |       | X     | X     |       |       | X      |        | X      | X      |
| Employee Contributions<br>Mandated<br>Optional<br>Not Specified   | 25333 | 28893 |      | 50142 | 30431 |       |       |       |       | 95832 | 98192 |        |        |        |        |
|   |       |       | X    |       |       | X     |       | X     | X     |       |       | X      | X      | X      | X      |

Only three of the districts, Orange County, Marin County and West Bay, are not specifically authorized to join the state or public employees retirement system. Social Security systems are authorized for everyone but Marin County and West Bay. There is a clause that says labor can negotiate for other retirement systems in Orange County, Marin, San Diego, Santa Clara, Golden Empire, Sacramento, Fresno and San Mateo.

The SCRTD Act specifies that the transit Board itself serve as retirement system directors. The authority to appoint a special retirement board is given to AC, BART, Stockton and Santa Cruz, while Santa Barbara was mandated to appoint a special retirement board. In the other districts, there was no specification for retirement system directors.

Specific instructions regarding the provision of benefits, including a district fund, group insurance, or other methods, were provided in seven of the acts, but were not specified in the other districts. The seven were AC, BART, SCRTD, Stockton, Santa Barbara, Santa Cruz and Golden Empire. In four of the districts, SCRTD, Stockton, Santa Barbara and Santa Cruz, it was mandated that there would be employee contributions, and in two of the districts, AC and BART, it was indicated that employee contributions were optional. In the rest of the districts there is no mention regarding employee contributions.

#### Miscellaneous Provisions

Table 9 presents additional miscellaneous provisions that were analyzed in this study. There is a clause in the acts of six of the districts--AC, BART, SCRTD, Santa Barbara, Santa Cruz, and Fresno with regard to a prohibition against the interference or control of other city or public transit agencies. There is additional language in the SCRTD Act that prohibits competition with privately owned transit

Table 9

## MISCELLANEOUS PROVISIONS

|  | A-C   | BART         | FMTD | SMD   | SCRTD        | MCTD  | WBRTA | OCTD  | SDC   | SBMD  | SCMTD | SCCTD   | GETD    | SRTD   | SMCTD  |
|--|-------|--------------|------|-------|--------------|-------|-------|-------|-------|-------|-------|---------|---------|--------|--------|
| Relation to Other Public Transit Agencies                |       |              |      |       |              |       |       |       |       |       |       |         |         |        |        |
| Prohibition Against Interference or Control of           | 25803 | 29037        | 6.22 |       | 30637        |       |       |       |       | 96122 | 98242 |         |         |        |        |
| No Mention   |       |              |      | X     |              | X     | X     | X     | X     |       |       | X       | X       | X      | X      |
| Competition with Existing Sys.                           |       |              |      |       |              |       |       |       |       |       |       |         |         |        |        |
| Must Complete Purchase Before Proceeding with Own System |       |              |      |       |              |       | 6.33  | 40222 |       |       |       | 1000551 | 1012082 | 102301 | 103301 |
| Must Initiate Purchase Before Proceeding with Own System |       |              |      |       |              |       |       |       |       |       | 98302 |         |         |        |        |
| No Mention   | X     | X            | X    | X     | X            | X     |       |       | X     | X     |       |         |         |        |        |
| Competition Purchase Price Specified                     |       |              |      |       |              |       |       |       |       |       |       |         |         |        |        |
| Going Concern Value                                      |       |              |      |       |              |       |       |       |       |       | 98303 | 1000552 | 1012083 | 102302 | 103302 |
| Avg. Competition's Last 3 Years of Growth                |       |              |      |       |              |       | 6.34  | 40223 |       |       |       |         |         |        |        |
| Budget   |       |              |      |       |              |       |       |       |       |       |       |         |         |        |        |
| Required   |       |              |      |       | 30507        |       |       |       |       |       | 98146 | 100071  | 101250  | 102205 | 103141 |
| Requires Approval of Other Local Agencies                |       |              |      |       | 30507        |       |       |       |       |       | 98146 |         |         |        |        |
| Requires Review by Other Local Agencies                  |       |              |      |       |              |       |       |       |       |       |       |         |         | 102205 |        |
| Insurance Requirements                                   |       |              |      |       |              |       |       |       |       |       |       |         |         |        |        |
| Acc. Destruction of System                               |       |              |      |       | 30533        |       |       |       |       |       |       | 100124  |         | 102224 | 103255 |
| Loss of Revenue  |       |              |      |       | 30534        |       |       |       |       |       |       | 100124  |         |        | 103255 |
| Liability and Prop. Damage                               |       |              |      |       | 30535        |       |       |       |       |       |       | 100124  |         | 102224 | 103255 |
| Uninsured Motorists                                      |       |              |      |       | 30008        |       |       |       |       |       |       |         |         |        |        |
| Fixing of Rates & Charges                                |       |              |      |       |              |       |       |       |       |       |       |         |         |        |        |
| Board Majority   | 25807 |              | 6.26 | 50186 |              | 70186 | 6.9   | 40186 | 90486 | 96126 | 98246 | 100166  | 101201  | 102285 | 103141 |
| Other Than Simple Majority                               |       | 29038<br>2/3 |      |       | 30638<br>2/3 |       |       |       |       |       |       |         |         |        |        |

systems. Seven other district acts have statements in them with regard to competition with existing systems. Orange County, Santa Clara County, Golden Empire, Sacramento, San Mateo and West Bay are required, if their operation is in competition with existing systems, to complete the purchase of competing system before proceeding with their own system. Santa Cruz's Act says that they must initiate the purchase negotiations before proceeding with their own system. There is no provision for relief of the competition ban in the SCRTD Act, but there is the possibility that eminent domain procedures might be used. The rest of the districts do not mention competition.

When transit districts are required to either complete or initiate purchase proceedings, the purchase price is specified by the enabling act. In five of the cases, Santa Cruz, Santa Clara, Golden Empire, Sacramento, and San Mateo, the act specifies purchase as the going concern value. In the case of Orange County and West Bay, the specified purchase price shall be no less than the average of the last three years of gross revenue for the competitor.

Only six districts are required to prepare budgets. Santa Cruz and SCRTD are required to prepare budgets and they are also required to secure approval from other local agencies. Sacramento must operate with a budget which other local agencies are required to review, but not necessarily approve. Santa Clara, Golden Empire, and San Mateo are required to have budgets while they are not required in the other districts.

Insurance requirements also vary. They are not specified for 11 of the districts. Sacramento is required to provide insurance for accidental



destruction of the system as well as for liability and property damage. This is also required for Santa Clara and San Mateo, and in addition, they must provide insurance for the loss of revenue. Southern California Rapid Transit District is required to have all three of these types of insurance, and in addition, must provide for uninsured motorist damage.

The fixing of rates and charges is designated as a responsibility of each of the 15 boards. These can be established on the basis of majority votes in all districts except BART and SCRTD, where a 2/3 majority of the Board is required for approval.

## POTENTIAL REVISIONS

This paper does not support a body of general law for the transit districts of the State of California. The concept of enabling acts based on the peculiar demographic, geographic, and political factors of each district appears to be responsive to the political culture of different metropolitan areas in California.

The study does show the existence of some possible deficiencies, potential problem areas, and unnecessary variations in the existing acts. It is recommended that the Legislature examine the following sections and issues in more detail so as to encourage standardization.

### Definitions

Issue: Should all district acts contain a definition prescribing "liberal construction" of the act?

The three rapid transit districts are the only districts that carry a definition for "liberal construction." The effect of this definition is to show legislative intent for innovative action by the transit boards in complying with legislative findings and declaration in the policy statement of the act. The effects of the inclusion or exclusion of this definition are not well understood.

Issue: Should there be separate and distinct definitions for "transit" and "rapid transit?"

The three designated "rapid transit" districts carry the same definition for "rapid transit" as the other twelve for "transit."

This commonality of definition coupled with the various transportation rights and authorities given to "transit" districts makes it difficult to determine any difference between "rapid transit" and "transit." It is questionable whether such distinctions should continue.

Issue: Should charter and sightseeing buses and motor vehicles not on an individual passenger fare-paying basis be excluded from the definition of transit?

In the definition of "transit" for the seven districts created between 1964 and 1967, charter and sightseeing buses and motor vehicles not on an individual passenger fare-paying basis were specifically excluded from the definition. This exclusion does not apply to the other eight districts and the four newest of these districts have specific authorizations for the provision of charter service.

Issue: Should the term "revenue" have a standardized definition?

Only four districts contain a definition for "revenue." The terms "revenue" and "fare box revenue" have been included in legislative proposals in recent sessions of the California Legislature. An all-inclusive standardized definition of "revenue" could prove to be quite important in future legislation. The definition of "revenue" varies throughout the industry and may include such items as advertising fees, rentals, local taxes, and used equipment resales.

Issue: Should all district acts have a cutoff date included in the definition for existing systems?

The most used definition for "existing systems" appears to be deficient in one respect. A cutoff or effective date is not provided except in the San Mateo Act. The lack of an effective date in the

Santa Clara, Orange, Golden Empire, and Santa Cruz acts could allow a company to organize in an area obviously designated for transit improvements or expansion and be eligible to claim damages.

#### Governing Board

Issue: Should there be a standardized set of rules for the payment of compensation to board members?

Some district acts prohibit the Board from collecting pay for anything other than a board meeting. This restriction may limit the participation of board members in committee meetings, inter-agency meetings or activities, and public relations. The maximum compensation ceilings appear to be all that is needed to prevent unwarranted activities.

#### Board Duties and Designated Staff

Issue: Should there be a standardized requirement provided for the "public" or "neutral" members of governing boards?

The intent of the enabling acts for five of the districts was to have a board consisting of equal numbers of supervisors and city councilmen combined with a member or members not identified as either a "city" or "county" person. The Orange County Act is very specific and prohibits ex-councilpersons and supervisors from being the fifth "public" member. The other acts are not that specific and in the case of the Santa Barbara and Golden Empire Acts, a supervisor or councilperson could even be appointed as the fifth member. Language in the County Transportation Commissions Act (Chapter 1333, 1976) is very specific as to the qualifications for the "public" member and this could be considered as a guideline for future legislation.

Issue: Should all district acts require the development of a Personnel or Administrative Code, and should there be a requirement for an annual audit?

Three districts are not required to have a Personnel or Administrative Code, and two districts are not required to have an annual audit.

Issue: Should district ordinance procedures be standardized?

There is considerable variation in the procedures for passing an ordinance. It would appear to be reasonable for all districts to have the same requirement as cities and counties, e.g., a public hearing, two separate readings of the ordinance, and a 30-day wait after the second reading and passage before the ordinance becomes effective.

Issue: Should the enabling acts specify the requirement of having certain staff officers and, also, which positions should be mandated?

Careful consideration should be given to the designation of staff officers. General Managers are called for in all 15 district acts, but only one act provides for a clerk of the board. In cities and counties, the clerk of the board or council has a carefully defined legal responsibility with regard to minutes, documents, proposals and contracts and this would also be appropriate in the case of transit districts. Treasurers and auditors should also be designated and it is imperative that each district have a general counsel or attorney.

## District Powers

Issue: Should minimum purchase price requiring bids be updated and standardized?

Consideration should be given to standardizing purchasing procedures as outlined in the various district acts. Considerable variation exists in the minimum purchase price requiring a bid (e.g., five districts at \$3000, one at \$3500, four at \$5000 and one at \$10,000). Three other districts are directed to use county procedures.

Issue: Should taxation procedures continue to be primarily local issues?

Taxation policies vary in response to local decisions and policies that were in force with each district was created. No specific recommendations can be provided as a result of this analysis.

Issue: Should there be a consistent proportion of votes required to pass a bond issue?

It is hard to understand why the percentage of voters required to pass a general obligation bond varies so much between districts. An evaluation of these variations (e.g., 50%, 60%,  $66\frac{2}{3}\%$ ) should be initiated to determine the effect on the probability of passage. Also, does the proportional vote influence the interest rate on the bonds sold?

Issue: Should all districts be allowed to operate charter buses?

Charter bus operations are specifically permitted in the four newest districts. Eight of the districts are expressly forbidden to have charter operations. As charter operations can improve service

and a district's financial situation, consideration should be given to allowing all districts to provide charter operations within their service area.

#### Labor Provisions

Issue: Should all district acts provide for fact finding and 30-day no-strike provisions?

Six of the districts have fact finding provisions and 30-day cooling off periods and two of the districts are required to use binding arbitration. In the other districts, failure to agree can only lead to strikes.

Issue: If the State Legislature mandates that the union must be notified of any corporate change, should the definition of corporate change be provided or clarified?

The language concerning corporate change includes items such as "reduce or limit the lines of service," "terminate any lease or management contract," or "lease, merge or consolidate any part of the transit system." If broadly interpreted, routine route changes or improvements could become the subject for collective bargaining.

#### Retirement Systems

Issue: Should the State Legislature specify whether or not employee contributions to retirement systems shall be required?

The major variations in the legislatively mandated retirement systems concerns whether or not employee contributions will be required.

## Miscellaneous Provisions

Issue: Should the State Legislature clarify how a transit district deals with existing competing systems?

Competition with existing systems appears to be a difficult legislative section and is treated differently in the various acts. Three districts, San Diego, Marin County and Stockton, have no prohibitions against competition. Six districts have a provision that prohibits interference with or control of existing city or public transit agencies. One of these, SCRTD, has additional language that prohibits competition with private transit agencies and no methods are provided to deal with the competitive systems. Eminent domain may provide a viable method for SCRTD.

Seven other districts have specific sections regarding competition with existing systems. Six of them must complete the purchase of the existing system and in the case of Santa Cruz, negotiations for purchase must have been initiated before the transit system can proceed with the service. The purchase price is specified for these seven districts. In the five latest districts created, the purchase price is prescribed as the going concern value and can be established by arbitration. A more stringent purchase requirement is specified for West Bay and Orange County which is the payment of no less than the average of the last three years gross of the competition without any regard to profit or going concern value. Santa Cruz is covered by both of the above two sections (PUC Code Section 98242, 98301, and 38302) and the sections appear to be in conflict.

Issue: Should all transit districts be required to adopt annual budgets?



Almost all public agencies in California have a requirement to prepare and adopt an annual budget and this should be a requirement written into all the transit district acts. Only six districts currently spell out that requirement. Cities and counties are not only required to adopt budgets, but they must hold public hearings first.

Issue: Does the specification of mandatory insurance requirements in some district acts prohibit alternative cost-effective methods of providing insurance?

The requirements for certain kinds of insurance are obvious for transit districts, but they are only specified for four of the districts. Many public agencies are currently utilizing self-insurance systems, and the specification of an insurance requirement might be a deterrent to the development of cost-effective self-insurance programs. In the absence of the requirement for insurance, the prerogative is left to the districts.