SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT ACT

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SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
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II. SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

[Part 2 of Division 10 of the Public Utilities Code, as originally added by Chapter 1056, Statutes of 1957.]

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS:

§ 28500. This part is known and may be cited as the "San Francisco Bay Area Rapid Transit District Act." **Short Title.**

§ 28501. This part is in furtherance of the declared policy of the State to stimulate the maximum use of the harbor in San Francisco Bay in order to foster and develop international and other trade for the benefit of the entire State. **Policy.**

The geographical situation of San Francisco Bay, which makes it one of the finest harbors in the world, at the same time prevents the full utilization of the harbor by acting as a physical barrier to a system of rapid and effective transportation between the various portions of the metropolitan area surrounding the Bay.

Only a specially created district can freely operate in the eighty-four (84) individual units of county, city and county, and city governments located in this area. Because of the unique problems presented by the area it is necessary that this legislation be applicable solely to such area to insure necessary rapid transit service.

Extensive studies and surveys have been made at considerable cost in public funds to determine whether or not interurban mass rapid transit would be a feasible instrument for reducing existing and future interurban travel problems and for relieving existing and future traffic congestion on freeways, streets and highways. These surveys have produced convincing evidence that the prosperity of the entire Bay area will depend upon the preservation and enhancement of its urban centers and subcenters; and that sustaining these centers and subcenters as concentrations of employment, commerce, and culture, in turn will depend upon providing an adequate, modern, interurban mass rapid transit system.

The studies have also established that to provide a standard of service which will meet the needs of the public, the interurban system must be effectively separated from conflicting traffic either by grade separation of intersecting streets, roads, and highways, or by other equally effective means; and, to the extent practicable, its service must be coordinated with that of other transit facilities in the areas served.

§ 28502. The 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. **Construction.**

§ 28502.1. Unless the context otherwise requires, the provisions of this chapter govern the construction of this part.

§ 28503. "District" as used in this part, means the San Francisco Bay Area Rapid Transit District. **"District"**

§ 28504. "San Francisco Bay area," as used in this part, means the Counties of San Francisco, Marin, Sonoma, Napa, Solano, Contra Costa, Alameda, Santa Clara and San Mateo. **"San Francisco Bay Area"**

§ 28505. "Rapid transit," as used in this part, means the transportation of passengers and their incidental baggage by any means. **"Rapid Transit"**

§ 28506. For the purpose of establishing the bonded debt limit of the district, "taxable property," as used in this part, shall not include solvent credits. **"Taxable Property"**

§ 28507. "Board of supervisors," as used in this part, means the board of supervisors of a county in the San Francisco Bay area. **"Board of Supervisors"**

§ 28508. "Board of directors," "board," or "directors," as used in this part, means the board of directors of the district. **"Board, etc."**

§ 28509. "Public agency," as used in this part, includes the State of California, and any county, city and county, city, district, or other political subdivision or public entity of, or organized under the laws of, this State. **"Public Agency"**

CHAPTER 2. CREATION OF DISTRICT:

§ 28600. There is hereby created the San Francisco Bay Area Rapid Transit District, comprising the territory lying within the boundaries of the Counties of Alameda, Contra Costa, Marin, San Francisco, and San Mateo. **District.**

§ 28601. Through compliance with the provisions for withdrawal set forth in Chapter 10 of this part, the territory of any of the Counties of Alameda, Contra Costa, Marin, San Francisco, and San Mateo may be withdrawn from the district. **Withdrawal.**

§ 28602. Through compliance with the provisions for annexation set forth in Chapter 9 of this part, the territory of all or any of the Counties of Napa, Santa Clara, Solano, or Sonoma may be included within the district. **Annexation.**

CHAPTER 3. GOVERNMENT OF DISTRICT:

Article 2.2. – District Board of Directors

§ 28745. On and after November 29, 1974, the governing body of the district shall be a board of directors consisting of nine members elected by election districts, except as provided in Section 28752.6. **District Board of Directors**

The nine election districts shall be established within the district as provided in this article by resolution adopted by the board.

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§ 28745.4. The board, in dividing the district into election districts, shall establish and define the boundaries of the nine election districts within the territory of the district, and shall number the election districts from 1 to 9, inclusive. The boundaries of the election districts shall be defined so that the districts shall be as nearly equal in population as practicable, considering the factors specified in Section 28745.6.

Boundaries.

§ 28745.6. In establishing the election districts, consideration shall be given to the following factors:

Factors Regarding Establishment.

(a) Community of interest of the population within an election district.

(b) Cohesiveness, contiguity, integrity, and compactness of territory.

(c) Topography.

(d) Geography.

Boundaries of the election districts need not conform to the boundaries of counties, cities, cities and counties, or districts, or of wards or election districts established for the nomination or election of any officers thereof, or of Assembly, Senate, or congressional districts.

§ 28745.8. The establishment of election districts shall be made on the basis of the population in the district as shown or estimated from the most recent of any of the following: the last federal decennial census; any census of a county, taken as provided in Section 26203 of the Government Code, or census of a city, taken as provided in Chapter 17 (commencing with Section 40200), Part 2, Division 3, Title 4 of the Government Code; any census or population estimate of a city or of a city and county, taken or made as provided in Section 2107.1 or 2107.2 of the Streets and Highways Code; or population estimates contained in any official document prepared by the Department of Finance and issued to the public.

Population as Basis.

§ 28746. The resolution establishing the election districts shall describe the boundaries of the election districts by reference to a map or maps on file with the district secretary. Immediately upon adoption of the resolution, the secretary shall file a certified copy of the map or maps describing all nine-election districts with the Secretary of State and with the county elections official of each county with territory within the boundaries of the district.

Boundaries Map.

§ 28746.2. All cities, counties, and cities and counties within the district shall provide such information, services, and facilities as may be required in apportioning the district into the nine election districts.

Information re Apportioning District.

§ 28746.4. Until the election and qualification of the first elected board, the members of the board in office on January 1, 1974, shall remain in office, shall receive the compensation and expenses prescribed in this part for the office, and shall be the governing body of the district. The term of office of the nonelected board shall end at noon on November 29, 1974.

Nonelected Board — Term of Office.

§ 28746.6. A general district election for the election of directors whose terms are to expire in that year shall be held and conducted on the first Tuesday after the first Monday in November of each even-numbered year and shall be consolidated, where possible, with the general election held on that date.

Election of Directors; Conduct; Consolidation.

§ 28746.8. Except as otherwise provided in this article, candidates for the board shall be nominated, the election held and conducted, and the ballots canvassed in accordance with the provisions of the Uniform District Election Law.

Uniform District Election Law

§ 28747. Each candidate for the board shall file a declaration of candidacy in the form and manner prescribed in the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) with the county elections official of the county in which the candidate resides. Candidates for the board shall be residents and voters of the district and of the geographical area making up the election district from which they are to be elected.

Filling of Declaration of Candidacy.

§ 28747.2. A candidate for election from any of the election districts shall be nominated and elected by the voters residing within the election district from which he is elected.

Voter Requirement.

§ 28747.4. The county elections official of each county within the boundaries of the district shall conduct the election and canvass the returns for those election districts or portions of election districts which are within the county of his or her jurisdiction as county elections official. After the official canvass has been taken, the county elections official shall report the returns, by election district number, to the board. The board shall declare the results of the election. The secretary of the district shall issue certificates of election, signed by him or her and duly authenticated, to each candidate declared elected, immediately following determination of the results of the election by the board.

Conduct Election.

§ 28747.6. Members of the board shall be residents and voters of the district and of the geographical area making up the election district from which they are elected. The office shall be deemed to be vacant if a member ceases to meet these requirements.

Residency Requirement.

§ 28747.8. The candidate from each election district receiving the highest number of votes cast for the board in that election district shall be declared elected.

Candidate Declared Elected.

§ 28748. If a tie vote makes it impossible to determine which of two or more candidates has been elected, the existing board shall resolve the tie by lot and declare the results thereof as provided in Section 10551 of the Elections Code.

Tie Vote.

§ 28748.2. Each member of the first elected board shall take office at noon on November 29, 1974. The term of office of the elected directors shall be four years, except that the term of office of the first elected board shall be either two years or four years. At the first regular meeting of the first elected board, the board shall determine, by lot, whether the directors elected from the even- or odd-numbered election districts shall have terms of office expiring at noon on the last Friday in November 1976 or November 1978, as the case may be.

Term of Office.

§ 28748.4. Until November 29, 1974, any vacancy on the board shall be filled for the remainder of the unexpired term in the same manner as the vacating member was appointed. Thereafter, any vacancy on the board shall be filled by appointment for the remainder of the unexpired term by the remaining members of the board. Any person so appointed shall meet the requirements set forth in Section 28747.6.

Vacancy on Board.

§ 28748.8. (a) The board may by ordinance or resolution provide that each director shall be paid a sum that shall not exceed one thousand dollars ($1,000) for each calendar month that he or she serves as a director. The board may, by ordinance or resolution, provide for an adjustment to the monthly compensation based upon the percentage increase in the California Consumer Price Index, as calculated by the Department of Finance, for each calendar year following the operative date of the last adjustment. The adjustment shall not become effective until the next regular election of the directors following the adoption of the ordinance or resolution.

Compensation and Expenses.

(b) The ordinance or resolution to authorize a monthly stipend pursuant to subdivision (a), in lieu of per-meeting compensation, shall include a requirement that a member can receive a monthly stipend for a given month only if he or she attends all scheduled and noticed regular board meetings for that month. For those members meeting this attendance requirement, the amount of one hundred dollars ($100) shall be deducted from the stipend for failure to attend each meeting of a committee on which he or she serves that month. In any month that a member fails to meet these attendance requirements, that member may be compensated at the rate of one hundred dollars ($100) per board or committee meeting attended, not to exceed five hundred dollars ($500) for that month.

(c) For the purpose of this section, a member who misses a scheduled and noticed meeting of the board or a committee while attending to official district business pursuant to authorization shall be construed as having attended the meeting.

(d) The ordinance or resolution may provide for not more than two excused absences during a calendar year without disqualifying the member for a monthly stipend.

(e) In addition to the compensation otherwise provided for in this section, each director may be allowed necessary traveling and personal expenses incurred solely as a result of the performance of his or her duties, in amounts as may be authorized by the board.[1] Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

(Amended by Stats. 2007, c.213 (A.B. 490), § 4, effective January 1, 2008.)

Article 2.4. – Redistricting of Election Districts

§ 28750. Following each federal decennial census and using the census as a basis, the board shall, by resolution, adjust the boundaries of the election districts so that the districts shall be as nearly equal in population as practicable, considering the factors specified in Section 28745.6. **Adjustment of Boundaries.**

§ 28750.2. The boundaries of the election districts shall be adjusted by the board before November 1 of the year next succeeding the year in which each federal decennial census is taken. **Date of Boundary Adjustment.**

Notwithstanding Section 28745, if the board fails to adjust election district boundaries pursuant to this article before the December 31 of the year next succeeding the year in which each federal decennial census is taken, each director to be elected at that election shall have the qualifications required in Section 28747.6, but shall be elected at large. Directors shall continue to be so elected until the board adjusts the election district boundaries.

§ 28750.4. The resolution reestablishing the election districts shall describe the new boundaries of the election districts by reference to a map or maps on file with the secretary of the district. Immediately upon adoption of the resolution, the secretary shall file a certified copy of the resolution and the map or maps describing all election districts with the Secretary of State and with the county elections official of each county with territory within the boundaries of the district. **New Boundaries.**

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[1] See Public Utilities Code § 99156 regarding board compensation and travel expenses enacted 1988, reprinted at Appendix C. See also Board Rules, Chapter V, Section 3.2, regarding rules for travel and personal expense.

§ 28750.6. If, at any time between each federal decennial census, the district annexes territory, pursuant to Chapter 9 (commencing with Section 29500), the board, within 90 days after completion of the annexation proceedings, shall, by resolution, adjust the boundaries of the election districts so that the district shall be as nearly equal in population as practicable, considering the factors specified in Section 28745.6.

Population Equality.

§ 28750.8. (a) The term of office of any director who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the election district from which he was elected.

Effect of Boundary Change.

(b) At the first election for directors following adjustment of the boundaries of the election districts, a director shall be elected for each election district under the readjusted election district plan that has the same number as an election district whose incumbent's term is due to expire.

(c) Notwithstanding any other provision of this article, a change in the boundaries of an election district shall not be made within 90 days prior to the final date of voter registration for an election of directors.

Article 2.6. – Board Selection Election

§ 28752. Not later than January 31, 1974, the board of supervisors of any county included within the district may adopt a resolution declaring that, in its judgment, the members of the board of directors should be appointed as provided in Article 2 (commencing with Section 28730), rather than elected as provided in Article 2.2 (commencing with Section 28745).

Board of Supervisors Resolution re: Appointed Board.

§ 28752.2. (a) If the boards of supervisors of two or more counties included within the district adopt resolutions pursuant to Section 28752, the board of directors shall call a special election which shall be consolidated with the direct primary election to be held on June 4, 1974.

Special Board Election.

(b) The board of directors shall provide for the publication of notice of the election pursuant to Section 6066 of the Government Code. The first publication of notice shall be made between May 1 and May 15, 1974.

(c) The ballot for the election shall contain substantially the instructions required to be printed on ballots for use at general elections and the following proposition substantially as follows:

Shall the Members of the Board of Directors of the San Francisco Bay Area Rapid Transit District be elected?	YES	
	NO	

§ 28752.4. If a majority of the votes cast in the district on the proposition are in favor of the proposition, the members of the board of directors from that county shall be elected and shall serve as provided in Article 2.2 (commencing with Section 28745). **Elected Board.**

§ 28752.6. If a majority of the votes cast in the district on the proposition are not in favor of the proposition, the members of the board of directors shall be appointed and shall serve as provided in Article 2 (commencing with Section 28730). **Appointed Board.**

§ 28752.8. The results of the election shall be entered into the minutes of the board of directors. **Election Results.**

Article 3. – Powers and Duties of Directors

§ 28760. Each director, before entering upon the duties of his office, shall take the oath of office as provided for in the Constitution and laws of this State. A copy of the oath shall be filed with the secretary of the district and the Secretary of State. **Oath of Office.**

§ 28761. The board shall choose one of its members president, and another vice president, who shall be authorized to act for the president during his absence or disability. The board shall choose a secretary, who shall not be a member of the board, and shall provide for the time and place of holding its meetings which shall be held at least once each month. The president shall be paid a salary of five thousand dollars ($5,000) per year. The vice president shall be paid a salary of three thousand dollars ($3,000) per year. Such salaries shall be in addition to any payments authorized under Section 28748.8.[2]

Officers.

§ 28762. The board of directors is the legislative body of the district and, consistent with the provisions of this part, shall determine all questions of district policy.

Power and Duties.

§ 28763. The district may do any and all things necessary to carry out the purposes of this part.

Necessary Acts.

§ 28764. The board shall determine what transit facilities should be acquired or constructed, and may establish zones within the district to undertake the acquisition or construction of any transit facilities.

Transit Facilities: Acquisition of Construction; Zones.

§ 28765. The board may determine what transit facilities should be acquired or constructed:

Transit Facilities: Common Benefit; Zones.

(a) For the common benefit of the district as a whole; or

(b) For the benefit of two or more zones; or

(c) For the benefit of a single zone.

§ 28766. The board shall supervise and regulate every transit facility owned and operated by the district, including the fixing of rates, rentals, charges, and classifications, and the making and enforcement of rules, regulations, contracts, practices, and schedules, for or in connection with any transit facility owned or controlled by the district.

Transit Facilities: Fixing of Rates; Establishment of Schedules.

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[2] See Public Utilities Code § 99156 regarding board compensation and travel expenses, enacted 1988, reprinted at Appendix C. See also Board Rules, Chapter V, Section 3.2, regarding rules for travel and personal expense.

§ 28767. The board may adopt a personnel system for the purpose of recruiting and maintaining an effective working force with good morale. The board shall by resolution determine and create such number and character of positions as are necessary properly to carry on the functions of the district and shall establish an appropriate salary, salary range, or wage for each position so created. The board may by resolution abolish any such position. Except as otherwise provided, appointments to such positions shall be made by the general manager.

Personnel: Positions and Salaries.

§ 28767.3. Not later than October 12, 1974, the board shall adopt an affirmative action program approved by the Office of Federal Contract Compliance of the Department of Labor.

Affirmative Action Program.

§ 28767.5. The district is authorized to maintain a police department. The employees of the district that are appointed as members of such department by the general manager and duly sworn are peace officers; provided, that such officers shall not exercise their powers or authority except as provided in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code. The district shall adhere to the standards for recruitment and training of peace officers established by the Commission on Peace Officer Standards and Training pursuant to Title 4 (commencing with Section 13500) of Part 4 of the Penal Code.

Peace Officers.

§ 28767.8. (a) The board may establish an office of independent police auditor, reporting directly to the board, to investigate complaints against district police personnel.

Independent Police Auditor.

(b) The appointed independent police auditor shall have the following powers and duties:

(1) To investigate those complaints or allegations of on-duty misconduct and off-duty unlawful activity by district police personnel, within the independent police auditor's purview as it is set by the board.

(2) To reach independent findings as to the validity of each complaint.

(3) To recommend appropriate disciplinary action against district police personnel for those complaints determined to be sustained.

(c) The board shall organize, reorganize, and manage the office of the independent police auditor. Notwithstanding the authority granted the general manager in this part, the board may, by resolution, authorize a citizen review board to participate in recommending appropriate disciplinary action.

(d) The independent police auditor shall prepare, in accordance with the rules of the office, reports of his or her activities as permitted by law.

(Added by Stats. 2010, c. 78 (A.B. 1586), § 2, effective January 1, 2011.)

§ 28768. The board of directors may contract for or employ any professional services required by the district or for the performance of work or services for the district which, in the board of director's opinion, cannot satisfactorily be performed by the officers or employees of the district.

Contracting for Professional Services.

§ 28769. The board shall have an annual audit made of all books and accounts of the district by an independent certified public accountant or public accountant.

Annual Audit.

§ 28769.5. The board shall operate an automated management information system to enable it to submit a report monthly to the Metropolitan Transportation Commission and the office of the Legislative Analyst on the district's expenditures as compared to the projected expenditures in its budget, and the board shall submit such report to the commission and that office.

Monthly Budget Report.

§ 28770. As soon as practicable after the close of each fiscal year the board of directors shall submit to the chief administrative officer and legislative bodies of cities and counties within the district a financial report showing the result of operations during the preceding fiscal year and the financial status of the district on the final day thereof. Copies of the report shall be supplied to the general public upon request in the quantity deemed appropriate by the board.

Annual Financial Report.

§ 28771. The board may provide by resolution, under such terms and conditions as it sees fit, for the payment of demands against the district without prior specific approval thereof by the board if the demand is for a purpose for which an expenditure has been previously approved by the board and in an amount no greater than the amount so authorized, and if the demand is approved by the general manager.

Payment of Demands.

§ 28772. To facilitate the business of the district, the board may provide for the creation and administration of such funds as the needs of the district may require. The funds shall be disbursed in accordance with rules established by the board and all payments from any fund shall be reported to the board. **Administration of Funds.**

§ 28773. The board of directors may hold public hearings, subpoena witnesses, and perform all other acts necessary to properly carry out its duties. The board may delegate such authority to other officers of the district who shall report thereon to the board. In the case of public hearings, including those pursuant to Sections 29039 to 29046, inclusive, authority may be so delegated to a referee, who need not be an officer of the district. **Public Hearings.**

§ 28774. Each director may administer oaths and affirmations in any district investigation or proceeding. **Oaths.**

Article 4. – Meetings and Legislation

§ 28790. All meetings of the board of directors, whether regular or special, shall be open to the public. **Public Meetings.**

§ 28791. A majority of the board of directors shall constitute a quorum for the transaction of its business. **Quorum.**

§ 28792. The board of directors shall adopt rules to govern its proceedings. **Rules.**

§ 28793. The acts of the board shall be expressed by motion, resolution, or ordinance. No ordinance shall be passed by the board on the day of its introduction, nor within three days thereafter, nor at any time other than a special, regular, or adjourned regular meeting. No ordinance, resolution, or motion shall have any validity or effect unless passed by the affirmative votes of a majority of the directors. No ordinance shall take effect until the expiration of 30 days following its adoption, except the following which shall take effect upon adoption: an ordinance relating to an election, or to the issuance or sale of bonds, or to the levying or collection of taxes, or the fixing of fares; or an ordinance necessary for the immediate preservation or protection of the property, interests, or welfare of the district, which shall contain a specific statement showing its urgency, and which shall be passed by two-thirds of the total vote of the directors. All ordinances except those which take effect upon their adoption shall be subject to referendum in the manner provided by law for the legislative acts of boards of supervisors of counties. **Procedure.**

§ 28794. All ordinances shall be published after passage. **Ordinances.**

§ 28795. The enacting clause of all ordinances shall be as follows: **Enacting.**

"Be it enacted by the Board of Directors of the San Francisco Bay Area Rapid Transit District:"

§ 28796. All ordinances shall be signed by the president or the vice president of the board, and attested by the secretary. **Form.**

Article 5. – Officers

§ 28810. The officers of the district shall consist of the members of the board of directors; a president and a vice president of the board, each of whom shall be a member of the board; a secretary, a general manager, a general counsel, a treasurer, a controller, and such other or subordinate officers, assistants, and deputies as the board may deem necessary and provide for by ordinance or resolution. **Officers.**

The general counsel shall be a person admitted to practice law in the Supreme Court of California and shall have been actively engaged in the practice of law for not less than ten (10) years next preceding his appointment.

The person appointed controller shall have been actively engaged in the practice of accounting for not less than seven (7) years next preceding his appointment.

§ 28811. The secretary, general manager, general counsel, treasurer, and controller shall be appointed by and may be removed by the affirmative votes of a majority of the members of the board of directors. All other officers and employees shall be appointed by the general manager and shall serve at his pleasure, subject to the provisions of this part relating to personnel. **Appointment and Removal.**

§ 28812. The compensation of all district officers and employees, except as otherwise provided in this part, shall be fixed by ordinance or resolution of the directors. **Compensation.**

§ 28813. The board may consolidate any of the district offices in one person. **Office Consolidation.**

§ 28814. The oath of office of all officers appointed by the board of directors or by the general manager of the district shall be taken, subscribed, and filed with the secretary of the district at any time after the officer has notice of his appointment but not later than fifteen (15) days after the commencement of his term of office. No other filing is required. **Oath of Office.**

§ 28815. Each officer shall give such bond and in such amount as the board may require. **Bond.**

§ 28816. Article 4 (commencing at Section 1090), Chapter 1, Division 4, Title 1, of the Government Code shall apply to all officers and contracts of the district. **Financial Interest.**

§ 28817. The treasurer shall be the custodian of the funds of the district and shall make payments only upon warrants duly and regularly signed by the general manager. He shall keep an account of all receipts and disbursements. With the approval of the board, the treasurer and general manager may designate alternates to act for them. **Treasurer.**

§ 28818. With the consent of the board, the treasurer may: **Deposit of District Securities.**

(a) Authorize any state or national bank in this state, a federally chartered or state chartered savings and loan association, or a trust company authorized to act as such in this state, to receive as his agent deposits of any securities acquired by the district.

(b) Place and maintain for safekeeping with any state or national bank in this state, a federally chartered or state chartered savings and loan association, or a trust company authorized to act as such in this state, any securities owned by the district.

(c) Make deposits of securities for safekeeping pursuant to the provisions of Section 53608 of the Government Code.

The financial institution selected shall have a total paid-in capital of at least one million dollars ($1,000,000). The treasurer shall take from the financial institution a receipt for the securities, and neither the treasurer nor the district is responsible for the custody and safe return of the securities until they are withdrawn from the financial institution by the treasurer. Any financial institution to which securities are delivered, either as agent or depositary for the treasurer, shall make such disposition of the securities as the treasurer directs and is responsible only for strict compliance with written instructions given to it by the treasurer. All such securities are at all times subject to the order of the treasurer.

Article 6. – General Manager

§ 28830. The board shall appoint and fix the salary of a general manager, who shall have charge, subject to the direction and control of the board, of the acquisition, construction, maintenance, and operation of the facilities of the district and also of the administration of the business affairs of the district. **General Manager.**

§ 28831. All other things being equal, the general manager shall be chosen on the basis of his qualifications with special reference to his actual experience in or his knowledge of accepted practices in respect to the duties of his office as hereinafter set forth. **Qualifications.**

§ 28832. The general manager need not be a resident of this State at the time of his appointment. **Residence.**

§ 28833. The general manager shall hold office for an indefinite term and may be removed by the board only upon the adoption of a resolution by the affirmative vote of not less than a majority of the board. Before the general manager may be removed, he shall, if he demands it, be given a written statement of the reasons alleged for his removal and he shall have the right to be publicly heard thereon at a meeting of the board prior to the final vote on the resolution providing for his removal, but pending and during such hearing the board may suspend him from office. The board may not reduce the salary of the general manager below the amount fixed at the time of his original appointment except upon the adoption of a resolution by a like vote and after a like opportunity to be heard. The action of the board in suspending or removing the general manager or reducing his salary, if approved by a majority of the membership of the board, is final. **Removal.**

§ 28834. The powers and duties of the general manager are: **Powers and Duties.**

(a) To have charge, subject to the direction and control of the board, of the acquisition, construction, maintenance, and operation of the facilities of the district.

(b) To have charge, subject to the direction and control of the board, of the administration of the business affairs of the district.

(c) To see that all ordinances of the district are enforced.

(d) To administer the personnel system adopted by the board and except for officers appointed by the board to appoint, discipline or remove all officers and employees subject to the rules and regulations adopted by the board and the applicable provisions of this part.

(e) To prepare and submit to the board as soon as practical after the end of each fiscal year a complete report of the finances and administrative activities of the district for the preceding year.

(f) To keep the board advised as to the needs of the district.

(g) To prepare or cause to be prepared all plans and specifications for the construction of the works of the district.

(h) To devote his entire time to the business of the district.

(i) To perform such other and additional duties as the board may require.

(j) To cause to be installed and maintained a system of auditing and accounting which shall completely and at all times show the financial condition of the district.

§ 28835. The general manager shall attend meetings of the board as directed by the board. **Attendance at Board Meetings.**

§ 28836. The directors may appoint a general manager pro tempore during any absence or disability of the general manager. **Manager Pro Tempore.**

CHAPTER 4. LABOR PROVISIONS:

§ 28850. (a) If a majority of the employees employed by a district in a unit appropriate for collective bargaining indicate a desire to be represented by a labor organization, then the board, after determining pursuant to Section 28851 that the labor organization represents the employees in the appropriate unit, shall bargain with the accredited representative of those employees. Both parties shall bargain in good faith and make all reasonable efforts to reach agreement on the terms of a written contract governing wages, salaries, hours, working conditions, and grievance procedures.

Labor Organization.

(1) If a dispute arises over the terms of a written contract governing wages, salaries, hours, or working conditions that is not resolved by negotiations conducted in good faith between the board and the representatives of the employees, then upon the agreement of both parties, the board and the representatives of the employees may submit the dispute to an arbitration board. The decision of a majority of the arbitration board shall be final.

(2)(A) The arbitration board shall be composed of two representatives of the district, two representatives of the labor organization, and a fifth member to be agreed upon by the representatives of the district and the labor organization.

(B) If the representatives of the district and the labor organization are unable to agree on the fifth member, then the names of five persons experienced in labor arbitration shall be obtained from the California State Mediation and Conciliation Service within the Department of Industrial Relations. The labor organization and the district shall, alternately, strike a name from the list supplied by the California State Mediation and Conciliation Service. The labor organization and the district shall determine by lot who shall first strike a name from the list. After the labor organization and the district have stricken four names, the name remaining shall be designated as the arbitrator.

(C) The transit board and the labor organization shall each pay half of the cost of the impartial arbitrator.

(b) A contract or agreement shall not be made with any labor organization, association, group, or individual that denies membership on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code. However, the organization may preclude from membership any individual who advocates the overthrow of the government by force or violence.

(c) The district shall not discriminate with regard to employment against any person on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code.

Public Hearing.

§ 28851. If there is a question whether a labor organization represents a majority of employees or whether the proposed unit is or is not appropriate, such matters shall be submitted to the State Conciliation Service for disposition. The State Conciliation Service shall promptly hold a public hearing and may, by decision, establish the boundaries of any collective bargaining unit and provide for an election to determine the question of representation. Provided, however, any certification of a labor organization to represent or act for the employees in any collective bargaining unit shall not be subject to challenge on the grounds that a new substantial question of representation within such collective bargaining unit exists until the lapse of one year from the date of certification or the expiration of any collective bargaining agreement, whichever is later.

Employees of Acquired Utility.

§ 28852. Whenever the district acquires existing facilities from a publicly or privately owned public utility, either in proceedings by eminent domain or otherwise, to the extent necessary for operation of facilities, all of the employees of such public utility whose duties pertain to the facilities acquired who have been employed by said utility for at least seventy-five (75) days shall be appointed to comparable positions in the district without examination and shall be governed thereafter by the personnel system adopted by the board, and these employees shall be given sick leave, seniority and vacation credits in accordance with the records of the acquired public utility.

The provisions of this section shall apply only to those officers or supervisory employees of the acquired utility as shall be designated by the board.

§ 28853. Whenever the district acquires existing facilities from a publicly or privately owned public utility, either in proceedings in eminent domain or otherwise, that has a pension plan in operation, members and beneficiaries of such pension plan shall continue to have the rights, privileges, benefits, obligations and status with respect to such established system; provided, however, that the outstanding obligations and liabilities of such public utility by reason of such pension plan have been considered and taken into account and allowance made for in the purchase price of such public utility.

Same: Pension Plan.

§ 28854. The persons entitled to pension benefits as provided for in Section 28853 and the benefits which are provided shall be specified in the agreement or order by which any public utility is acquired by the district.

Same: Acquisition Order.

§ 28855. All persons receiving pension benefits from such acquired public utility and all persons entitled to pension benefits under the pension plan of such acquired public utility may become members or receive pensions under the retirement system established by the district by mutual agreement of such persons and the district.

Same: Pension Plan Option.

CHAPTER 5. RETIREMENT SYSTEM:

Article 1. – Establishment

§ 28870. The board may establish a retirement system for the officers and employees of the district and provide for the payment of annuities, pensions, retirement allowances, disability payments, and death benefits or any of them.

Retirement System.

§ 28871. The district may maintain its own retirement fund or may provide for benefits to eligible officers and employees, or their beneficiaries, by means of group insurance or other insurance, or by such means as in the opinion of the board will satisfactorily provide an adequate and sure method of meeting the payments contemplated by the retirement system.

Method.

§ 28872. Before establishing any retirement system the board shall secure a report from a qualified actuary, which shall show the cost of the benefits provided by the system, and the prospective assets and liabilities of the system.

Actuarial Report.

§ 28873. The board may adopt all ordinances and resolutions and perform all acts necessary or convenient to the initiation, maintenance, and administration of the retirement system. **Initiation, Maintenance, Etc.**

§ 28874. Nothing in this chapter prevents the district from participating in and making all or part of its employees members of the State Employees' Retirement System by contract entered into between the district and the board of administration of the system under the State Employees' Retirement Law or from participating in the Federal Social Security Act pursuant to Chapter 8 (commencing at Section 13775) of Part 3 of Division 3 of Title 2 of the Government Code, and the district may perform all acts necessary or convenient for such participation. **State Employees' Retirement System.**

§ 28875. The board may classify and determine the officers and employees who shall be included as members in the retirement system and may change the classification from time to time. Membership of all officers and employees so classified and included in the retirement system is compulsory. **Classification.**

Article 2. – Benefits and Contribution

§ 28890. The board may prescribe the terms and conditions upon which the officers and employees of the district or their beneficiaries shall be entitled to benefits and the amounts thereof. **Terms and Conditions.**

§ 28891. The retirement allowance may be predicated in part upon service rendered the district by a member prior to the establishment of the retirement system, which service is known as "prior service." **Prior Service.**

§ 28892. The board shall provide that both the district and the members shall contribute to the retirement system. The rate of contribution by an officer or employee of the district becoming a member of the retirement system shall be so fixed as to provide, with accumulated interest and based on tables and assumptions adopted by the board, substantially one-half the value of any retirement allowance granted for service, exclusive of any credits allowed for prior service. **Contribution.**

§ 28893. All members of the retirement system shall contribute in the manner and amount fixed by the board and such contributions may be collected by deducting the amounts thereof from the salary, wages, or compensation due such members. **Collection.**

§ 28894. Liabilities accruing under the retirement system because of benefits other than such as are the equivalent of contributions by the members, with accumulated interest, shall be met by contributions by the district. Prior service or other liabilities of the district may be met by annual appropriations instead of by appropriation for the total of the liabilities; but until the present value of regular contributions for current service, together with assets then available, equals the present value of all allowances and benefits granted or to be granted under the system, the appropriation for any one year when added to any unused balance of any previous appropriations for such purpose shall not be less than the amount disbursed during that year on account of prior service or other liabilities of the district. **Liabilities.**

§ 28895. If any member withdraws from the retirement system prior to retirement the total amount contributed by him with such interest as may be credited thereto shall be returned to him; provided, however, that the board may prescribe the terms and conditions upon which a member, whose district service is terminated except by death or retirement, may elect to leave his contributions and interest thereon in the retirement fund, and the terms and conditions upon which a retirement allowance may be made to him after such termination based upon his contributions prior to such termination. **Withdrawal.**

§ 28896. All money received by any person as an annuity, pension, retirement allowance, disability payment, or death benefit from the retirement system, and all contributions and interest thereon returned to any member of the retirement system, whether in the actual possession of such person or deposited, loaned, or invested by him, is exempt from execution or any other process except to the extent permitted by Section 704.110 of the Code of Civil Procedure and is unassignable. **Exemption from Execution.**

Article 3. – Retirement Board

§ 28910. The board shall create a retirement board of not more than five members, at least two members of which shall be the elected representatives of the employees, to administer the retirement system, and shall define its powers and duties and the tenure of the members. **Retirement Board.**

§ 28911. All members of the retirement board shall serve without pay. **Compensation.**

§ 28912. The retirement board shall determine the eligibility of officers, employees, and their dependents to participation in the system and shall be the sole authority and judge under such ordinances as may be adopted by the board as to the conditions under which persons may be admitted to and continue to receive benefits of any sort under the retirement system, and may modify allowances for service and disability. The determination of the retirement board shall be final and conclusive and shall not be modified or set aside except for fraud or abuse of discretion. **Determination.**

§ 28913. If the district maintains its own retirement fund, the retirement board shall have exclusive control of the administration, investment, and disbursement of such fund. Investment of the fund shall be subject to the terms, conditions, limitations, and restrictions imposed by the laws of this State upon savings banks in the making of investments by savings banks, and cash may be deposited in any licensed national bank or banks in this State or in any bank, banks, or corporations authorized or licensed to do a banking business and organized under the laws of this State. **Funds.**

CHAPTER 6. POWERS AND FUNCTIONS OF DISTRICT:

Article 1. - Corporate Power

§ 28950. The district has perpetual succession and may adopt a seal and alter it at pleasure. **Seal.**

§ 28951. The district may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction. **Suit.**

§ 28952. The district may levy, and collect or cause to be collected, taxes for any lawful purpose, as provided in Chapter 7 of this part. **Tax Levy.**

§ 28953. The district may exercise the right of eminent domain to take any property necessary or convenient to the exercise of the powers granted in this part. The district, in exercising such power, shall in addition to the damage for the taking, injury, or destruction of property, also pay the cost, exclusive of betterment and with credit for salvage value, of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables or poles of any public utility which is required to be moved to a new location. **Eminent Domain.**

§ 28955. The Public Utilities Commission of the State shall have and exercise power and jurisdiction to fix just compensation to be paid for the taking of any property of a public utility in eminent domain proceedings brought by the district. The district may commence and maintain such eminent domain proceedings in the Public Utilities Commission or the superior court at its option. **Eminent Domain: Public Utility.**

§ 28956. The district is entitled to the benefit of any reservation or grant, in all cases, where any right has been reserved or granted to the State or any agency or political subdivision thereof or any public corporation to construct or maintain roads, highways or other crossings over any public or private lands. **Reservation or Grant.**

§ 28957. The district may be merged into or consolidated with any other public agency which may be established by law upon such terms as the board of directors shall specify in a resolution to be submitted to the electors of the district for approval in the manner provided in Sections 29540 to 29545, inclusive, of this part insofar as possible. The resolution authorizing consolidation or merger shall not take effect unless and until a majority of the votes cast are in favor of the proposed merger or consolidation. In the event of merger or consolidation, the surviving entity or the consolidated entity shall succeed to all the powers, duties, purposes, responsibilities, liabilities, and jurisdiction now or hereafter vested by law in the district. **Merger or Consolidation.**

§ 28958. The board may authorize the temporary transfer of cash balances in any fund (except moneys in any fund which the district is required to set aside for the payment of bonds, notes or other evidence of indebtedness and the interest thereon) to any other fund; and the amount so transferred shall be repaid as soon as moneys are available in the fund to which such transfer has been made. Transfers of funds within, or revision of, a budget adopted by the district, whether before or after the incurring of a bonded indebtedness may be made by appropriate act of the board at a regular or special meeting.

Budgetary Control.

§ 28959. Notwithstanding Sections 53090 and 53091 of the Government Code, commercial outdoor advertising signs located on property of the San Francisco Bay Area Rapid Transit District shall be in conformance with the zoning regulations and ordinances of the city or county in which the signs are located.

Advertising Signs.

Article 2. - Contracts

§ 28970. The district may make contracts and 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 save harmless, to employ labor, and to do all acts necessary and convenient for the full exercise of the powers granted in this part.

Contracts.

§ 28971. The district may contract with any department or agency of the United States of America or of the State of California or with any public or private corporation upon such terms and conditions as the directors find is for the best interests of the district.

Public or Private Organizations.

§ 28973. The district may insure against any accident to or destruction of the system or any part thereof.

Insurance: Accident.

§ 28974. The district may insure against loss of revenues from any cause whatsoever.

Same: Loss of Revenue.

§ 28975. The district may insure against public liability or property damage, or both. It may provide in the proceedings authorizing the issuance of any bonds for the carrying of such or any other insurance, in such amount and of such character as may be specified, and for the payment of the premiums thereon.

Same: Liability or Property Damage.

Article 4. - Property

§ 29010. The district may take by grant, purchase, gift, devise, or lease, or condemn in proceedings under eminent domain, or otherwise acquire, and hold and enjoy, real and personal property of every kind within or without the district necessary to the full or convenient exercise of its powers. The board may lease, mortgage, sell, or otherwise dispose of any real or personal property within or without the district when in its judgment it is for the best interests of the district so to do.

Acquisition.

§ 29010.3. (a) The district may take by gift, or take or convey by grant, purchase, devise, or lease, and hold and enjoy, real and personal property of every kind within or without the district necessary for, incidental to, or convenient for, transit-oriented joint development projects that meet the definition and requirement set forth in subdivision (b).

Acquisition for Joint Development Projects.

(b) (1) For purposes of this section, a transit-oriented joint development project is a commercial, residential, or mixed-use development that is undertaken in connection with existing, planned, or proposed transit facilities and is located 1/4 mile or less from the external boundaries of that facility.

(2) Any transit-oriented joint development project created under this section shall comply with the land use and zoning regulations of the city, county, or city and county in which the project is located.

(c) Notwithstanding Section 29036 or any other provision of law, the authority granted under this section is subject to the land use and zoning regulations of the city, county, or city and county jurisdiction in which the transit-oriented joint development is located, in accordance with the Planning and Zoning Law (Title 7 (commencing with Section 65000) of the Government Code), relating to zoning.

§ 29010.5. Notwithstanding Sections 53091 and 53094 of the Government Code, nor any zoning override which may have been previously exercised pursuant thereto by a school district, whenever the district leases or has leased, mortgages or has mortgaged, sells or has sold, or otherwise disposes or has disposed of real property to the school district which was acquired from private owners, the city, whether general law or charter, in which such land is located, or county, in unincorporated areas, shall retain zoning and permit powers.

Disposal of Land.

§ 29011. Whenever the board by resolution determines that any record, map, book, or paper in the possession of the district or any officer or employee thereof is of no further value to the district, the board may authorize its sale, destruction, or other disposition.

Records, Books, Etc.

Article 5. - Rapid Transit Facilities and Service

§ 29030. The district may provide a rapid transit system for the transportation of passengers and their incidental baggage.

Rapid Transit System.

§ 29031. The district may acquire, construct, own, operate, control, or use rights-of-way, rail lines, bus lines, stations, platforms, switches, yards, terminals, parking lots, and any and all other facilities necessary or convenient for rapid transit service within or partly without the district, underground, upon, or above the ground and under, upon, or over public streets, highways, bridges, or other public ways or waterways, together with all physical structures necessary or convenient for the access of persons and vehicles thereto, and may acquire any interest in or rights to the use or joint use of any or all of the foregoing; provided, that installations in state freeways shall be subject to the approval of the Department of Transportation and installations in other state highways shall be subject to Article 2 (commencing with Section 670), Chapter 3, Division 1 of the Streets and Highways Code.

Acquisition, Etc.

§ 29031.1. (a) Subject to compliance with subdivision (c), the district's seismic retrofit work on structures or facilities shall be exempt from Division 13 (commencing with Section 21000) of the Public Resources Code.

Seismic Retrofit Outreach. *Repealed by its own terms effective January 1, 2011*

(b) For purposes of this section, the district's "seismic retrofit work" shall be defined as work to address earthquake vulnerabilities identified in the original BART system by retrofitting to full operability at stations, aerial guideways and structures, columns, and column foundations, parking structures, yards, administration and ancillary structures as identified in Section 6.1 of the BART Seismic Vulnerability Study, adopted by the board of directors of the district on June 6, 2002, and in the Earthquake Safety Program, General Obligation Bond Program Report, approved by the board of directors of the district on June 10, 2004.

(c) As a condition of the exemption, the district shall do all of the following:

(1) Conduct three workshops and other outreach efforts to ensure public awareness of the proposed seismic retrofit work prior to commencement of construction.

(2) Comply with applicable environmental, health, and safety laws.

(3) Comply with the district's standard construction practices, subject to minor modifications that would not result in a significant adverse effect on the environment, including Article GC7 of the 2003 General Conditions for Construction Contracts and Article 1.11 (Noise Control) of Section 01570 of BART Facilities Standards, Standard Specifications, Release 1.2.

(4) Require its contractors to comply with Feasible Control Measures for Construction Emissions of PM-10 set forth in the San Francisco Bay Area Air Quality Management District CEQA Guidelines, page 15, Table 2 (December 1999), as applicable.

(5) Use equipment powered by emulsified diesel fuel, electricity, natural gas, or ultralow sulfur diesel as an alternative to conventional diesel-powered construction equipment, where feasible.

(d) This section shall not apply to any project for the purpose of expanding the district's rapid transit service or providing service other than rapid transit service.

(e) This section shall become inoperative on June 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

(Amended by Stats. 2005, c. 536 (A.B. 1170), § 1, effective October 5, 2005, inoperative June 1, 2010, repealed January 1, 2011. Repealed by its own terms, effective January 1, 2011.)

§ 29032. The district may lease or contract for the use of its facilities, or any portion thereof, to any operator, and may provide for subleases by such operator upon such terms and conditions as it deems in the public interest. The word "operator" as used in this section means any city or public agency or any person, firm or private corporation.

Lease or Contract.

§ 29033. The district may construct and operate or acquire and operate works and facilities in, under, upon, over, across, or along any street or public highway or any stream, bay or watercourse, or over any of the lands which are the property of the State, to the same extent that such rights and privileges appertaining thereto are granted to municipalities within the State.

Construction, Operation, Etc.

§ 29034. The district may enter into agreements for the joint use of any property and rights by the district and any public agency or public utility operating transit facilities; may enter into agreements with any public agency or public utility operating any transit facilities, either wholly or partially within, or without, the district, for the joint use of any property of the district or of that public agency or public utility, or the establishment of through routes, joint fares, transfer of passengers or pooling arrangements.

Agreements.

§ 29034.5. (a) The district may approve annexation of areas to the district pursuant to Chapter 9 (commencing with Section 29500) or other forms of affiliation; however, the district shall meet its service commitments within its boundaries as they existed on January 1, 1971, before the district may expend any district funds for the purpose of extending services and facilities outside of those boundaries, except for the extension of services and facilities south of the Daly City Station to the terminus of the BART-San Francisco Airport Extension.

Annexation; Service Commitments.

(b) This section does not preclude either of the following:

(1) Rail line extensions to other areas that may be annexed to, or in some other way are affiliated with, the district, if other than district funds are used to finance the construction and operation of the extensions.

(2) Improvements to existing district stations and yards.

(c) As used in this section, "service commitments" means the extension of district services and facilities to the Cities of Antioch, Pittsburg, Pleasanton, Livermore, and Fremont and to the northwest section of the City and County of San Francisco.

§ 29034.6. (a) Not later than 1991, the district shall proceed to commence construction of an extension of its facilities to West Pittsburg, or to a point east of that location, if the funding described in subdivision (b) is sufficient and all of the following occur:

West Pittsburg Extension.

(1) The voters of Contra Costa County, at the November 8, 1988, general election, approve an additional one-half of 1 percent sales tax for transportation purposes.

(2) An increase in San Francisco Bay area bridge tolls, as proposed by Senate Bill No. 45 of the 1987-88 Regular Session, is approved.

(3) Sufficient funds are provided to the district from paragraphs (1) and (2) which, together with funds identified in subdivision (b), would result in the generation of at least four hundred twenty-five million dollars ($425,000,000) for the West Pittsburg BART extension.

(b) The district board of directors shall set aside at least thirty-four million dollars ($34,000,000) from district reserve funds and, if the district receives two hundred million dollars ($200,000,000) from the San Mateo County Transit District as a result of an agreement between the district and the San Mateo County Transit District, the district board of directors shall set aside at least an additional seventy-four million dollars ($74,000,000) for the purposes of this section. The district shall seek other funding as may be available from state and other sources to meet the objective of completing construction of an extension to West Pittsburg.

(c) It is the intent of the Legislature that the district extend its service and facilities to eastern Contra Costa County as far as the four hundred twenty-five million dollars ($425,000,000) funding amount will permit.

(d) If funds generated from the additional Contra Costa County transportation sales tax or the increase in bridge tolls do not become available to the district, it is the intent of the Legislature that the district proceed with service and facilities extension as far as available funding sources permit.

Dublin, and Warm Springs Extensions.

§ 29034.7. (a) Not later than December 31, 1991, the district shall proceed to commence construction of an extension of its facilities to Dublin if an agreement is then existing between the district and the Alameda County Transportation Commission to provide funding for that extension in accordance with the Alameda County Transportation Expenditure Plan adopted pursuant to Section 131055.

(b) Not later than December 31, 1991, the district shall proceed to commence construction of an extension of its facilities to Warm Springs, subject to each of the following conditions:

(1) The Dublin extension is fully funded and ready for implementation.

(2) Appropriate federal and environmental approvals are obtained in a timely manner.

(3) Adequate funding is available from the sources described in subdivision (c).

(c) In order to meet the objective of completing construction of the Dublin and Warm Springs extensions of the district's facilities, as contemplated by the Alameda County Transportation Expenditure Plan, the board of directors of the district shall take the following actions:

(1) Set aside, for expenditure on those projects, not less than fifty-eight million dollars ($58,000,000) from the district's reserve funds.

(2) Commit for expenditure on those projects, an additional amount of not less than one hundred twenty-six million dollars ($126,000,000) if, pursuant to an agreement between the district and the San Mateo County Transit District, the district is to receive two hundred million dollars ($200,000,000) as a capital contribution from the San Mateo County Transit District.

(3) Seek additional funding as may be available from an increase in San Francisco Bay area bridge tolls pursuant to Chapter 406 of the Statutes of 1988, together with funding from state and other sources, to provide not less than six hundred two million dollars ($602,000,000) to fund the Dublin and Warm Springs extensions as provided for in the Alameda County Transportation Expenditure Plan.

(d) It is the intent of the Legislature, if funding, as provided for in the Alameda County Transportation Expenditure Plan and pursuant to paragraphs (2) and (3) of subdivision (c), does not become available to the district for the full extension of service and facilities described in subdivisions (a) and (b), that the district nevertheless undertake to provide the described extensions to the extent that available funding permits.

(Amended by Stats. 2010, c. 491 (S.B. 1318), § 5.)

§ 29035. The district may operate such feeder bus lines and other feeder services as necessary. **Feeder Services.**

§ 29035.5. Metropolitan Transportation Commission Resolution 3434, in December 2001, established the following Regional Transit Expansion Program for the San Francisco Bay area: **Regional Transit Expansion Program.**

(a) BART to Warm Springs, sponsored by the Bay Area Rapid Transit District.

(b) BART from Warm Springs to Milpitas, San Jose, and Santa Clara, sponsored by the Santa Clara Valley Transportation Authority.

(c) San Francisco Muni Third Street Light-Rail Transit Project: Phase 2-New Central Subway, sponsored by the San Francisco County Transportation Authority and San Francisco Muni.

(d) BART/Oakland Airport Connector, sponsored by the Bay Area Rapid Transit District.

(e) Caltrain Downtown Extension/Rebuilt Transbay Terminal, sponsored by the San Francisco County Transportation Authority.

(f) Caltrain Rapid Rail/Electrification, sponsored by the Joint Powers Board (Caltrain).

(g) Caltrain Express/Phase 1, sponsored by the Joint Powers Board (Caltrain).

(h) Downtown to East Valley Light-Rail and Bus Rapid Transit: Phases 1 and 2, sponsored by the Santa Clara Valley Transportation Authority.

(i) Capitol Corridor: Phase 1 Expansion, sponsored by the Capitol Corridor Joint Powers Authority.

(j) AC Transit Oakland/San Leandro Bus Rapid Transit: Phase 1 (Enhanced Bus), sponsored by AC Transit.

(k) Regional Express Bus: Phase 1, sponsored by the Metropolitan Transportation Commission.

(l) Dumbarton Rail, sponsored by the Joint Powers Board (Caltrain).

(m) BART/East Contra Costa Rail Extension, sponsored by the Contra Costa Transportation Authority and BART.

(n) BART/Tri-Valley Rail Extension, sponsored by the Alameda County Transportation Commission and BART.

(o) Altamont Commuter Express (ACE): Service Expansion, sponsored by the Altamont Commuter Express.

(p) Caltrain Express: Phase 2, sponsored by the Joint Powers Board (Caltrain).

(q) Capitol Corridor: Phase 2 Enhancements, sponsored by the Capitol Corridor Joint Powers Authority.

(r) Sonoma-Marin Rail, sponsored by Sonoma-Marin Area Rail Transit.

(s) AC Transit Enhanced Bus: Hesperian/Foothill/ MacArthur Corridors, sponsored by AC Transit.

(Amended by Stats. 2010, c. 491 (S.B. 1318), § 6.)

§ 29036. The board of directors shall refer for recommendation the plans of routes, rights of way, terminals, stations, yards and related facilities and improvements to the city councils and boards of supervisors within whose jurisdiction said facilities and improvements lie and to such other state, regional and local agencies and commissions as may be deemed appropriate by the board of directors. The board of directors shall give due consideration to all recommendations submitted.

Routes, Etc.

§ 29037. The district shall not interfere with or exercise any control over any transit facilities now or hereafter owned and operated wholly or partly within the district by any city or public agency, unless by consent of such city or public agency and upon such terms as are mutually agreed upon between the board and such city or public agency.

City Transit Facilities.

§ 29038. The rates and charges for service furnished pursuant to this part shall be fixed by a two-thirds vote of the board and shall be reasonable. Insofar as practicable, the rates shall be fixed so as to result in revenue which will be sufficient to do all of the following:

Rates and Charges.

(a) Pay the operating expenses of the district.

(b) Provide for repairs, maintenance, and depreciation of works owned or operated by the district.

(c) Provide for the purchase, lease, or acquisition of rolling stock, including provisions for interest, sinking funds, reserve funds, or other funds required for the payment of any obligations incurred by the district for the acquisition of rolling stock.

(d) After making any current allocation of funds required for the foregoing purposes and by the terms of any indebtedness incurred under Articles 6 (commencing with Section 29240) and 7 (commencing with Section 29250) of Chapter 8, provide funds for any purpose the board deems necessary and desirable to carry out the purposes of this part.

§ 29039. The board of supervisors of a county or a city and county, or the city council of a municipality having territory located within the district may file a request for a hearing before the district board as to the reasonableness of any rates or charges fixed by the district and as to any proposal for fixing the location of facilities by the district. The request shall be in writing and shall state the subject matter on which a hearing is desired. **Hearing.**

§ 29040. Upon the filing of a request for hearing as provided in Section 29039 the district board shall fix the time and place for hearing. The time fixed shall not be less than fifteen (15) days nor more than sixty (60) days from the date such request is filed. Notice of such hearing shall be given to the county or city requesting such hearing and shall be published by the board. **Notice.**

§ 29041. At the time fixed for any hearing before the board, any board of supervisors or city council eligible to file a request for hearing, not a party to the original request for hearing, may intervene and shall be entitled to be heard and to introduce evidence. **Intervention.**

§ 29042. The district, petitioner or petitioners, and the interveners shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in direct examination; and to rebut evidence introduced by other parties. **Evidence.**

§ 29043. Oral evidence shall be taken only on oath or affirmation. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious business affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil action. **Evidence.**

§ 29044. A complete record of all proceedings and testimony before the board at such hearing shall be taken down by a reporter appointed by the board. In case an action is brought to review any decision of the board, a transcript of such testimony, together with all exhibits or copies thereof introduced, together with the written request for hearing and other proceedings in the cause shall constitute the record on review; provided, however, that the board and other parties may stipulate in writing that a specified portion of the evidence be certified to the court for judgment and in such case the portion of the evidence specified and the stipulation specifying such evidence shall be the record on review. **Record.**

§ 29045. Within thirty (30) days after submission of the case, the board shall render its decision in writing together with written findings of fact. Copies of the findings and decision shall be sent forthwith to the petitioners and interveners by registered mail, postage prepaid. **Decision.**

§ 29046. Within forty (40) days after the mailing of the decision to the petitioner, the petitioner may apply for a writ of mandate in the manner provided in the Code of Civil Procedure. The complete record of the proceedings or such parts thereof as are designated by the petitioner, shall be prepared by the district and shall be delivered to the petitioner within thirty (30) days after a request therefore, upon payment of the expense of preparation and certification thereof. **Writ of Mandate.**

§ 29047. The district shall be subject to regulations of the Public Utilities Commission relating to safety appliances and procedures, and the commission shall inspect all work done pursuant to this part and may make such further additions or changes necessary for the purpose of safety to employees and the general public. The commission shall enforce the provisions of this section. **Safety Requirements.**

The commission shall enforce the provisions of this section.

The district shall reimburse the commission for any cost incurred by the commission in regulating pursuant to this section when such regulating is performed (a) by persons not on the staff of the commission or (b) by the staff of the commission but not funded by a Budget Act appropriation. The reimbursement shall be in the amount as agreed upon by the district and the commission and approved by the Director of Finance. If the district and the commission are unable to agree as to the amount of the cost, the Director of Finance shall determine the amount.

Article 6. - Claims

Claim for Damages.

§ 29060. All claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

Article 7. - Indebtedness

Loans.

§ 29080. The district may accept, subject to the procedures and limitations provided in Chapter 8 of this part, contributions or loans from the United States, or any department, instrumentality, or agency thereof, for the purpose of financing the acquisition, construction, maintenance, and operation of transit facilities, and may enter into contracts and cooperate with, and accept cooperation from the United States, or any department, instrumentality, or agency thereof, in the acquisition, construction, maintenance, and operation, of any such transit facilities in accordance with any legislation which Congress may have heretofore adopted or may hereafter adopt, under which aid, assistance, and cooperation may be furnished by the United States in the acquisition, construction, maintenance, and operation or in financing the acquisition, construction, maintenance, and operation of any such transit facilities. The district may do any and all things necessary in order to avail itself of such aid, assistance, and cooperation under any federal legislation now or hereafter enacted. Any evidence of indebtedness issued under this section shall constitute a negotiable instrument.

§ 29081. The district may cooperate with and enter into agreements with the State of California or any public agency for the acquisition, construction, completion, maintenance, operation, or repair, joint or otherwise, and in whole or in part, of transit facilities. In connection with any such cooperation or contract, the State or any public agency may make public contributions to the district as in the judgment of the Legislature, or the governing board of the agency, are necessary or proper for its undertaking, and the district may reimburse the State or public agency for any such advance or contribution from the proceeds of the sale of bonds or any other funds available to the district, except that any agreement requiring reimbursement of contributions or advances by obligating the district to incur an indebtedness will be subject to the procedures and limitations provided in Chapter 8 of this part. The State or any public agency may also authorize, aid and assist the district to carry out any activity which the State or public agency is by law authorized to perform and carry out on its own behalf.

Public Agency Aid.

Article 8. - Investments

§ 29100. Subject to any agreement or covenant between the district and the holders of any of its obligations limiting or restricting classes of investments, the district may invest any surplus money in its treasury, including money in any sinking fund, reserve fund, or other fund created or established for the benefit of holders of any outstanding obligations of the district, in any of the following:

Surplus Money: Investment.

(a) Its own bonds.

(b) Treasury notes, certificates of indebtedness, bills, bonds of the United States, or any other evidence of indebtedness secured by the full faith and credit of the United States.

(c) Obligations issued pursuant to the federal Home Loan Bank Act or the National Housing Act.

(d) Treasury notes or bonds of this State, or of any public corporation, municipal corporation, public district, or political subdivision within this State which are legal as security for the deposit of public funds.

(e) In any investment in which county funds may be placed pursuant to the general laws of the State of California.

§ 29101. Such investment may be made by direct purchase of any issue of such bonds, treasury notes, or obligations, or part thereof, at the original sale or by the subsequent purchase of the bonds, treasury notes, or obligations. **District Purchase.**

§ 29102. Any bonds, treasury notes, or obligations purchased and held as investments by the district may from time to time be sold and the proceeds reinvested in bonds, treasury notes, or obligations as provided in this article. **Reinvestment.**

§ 29103. Sales of any bonds, treasury notes, or obligations purchased and held by the district shall from time to time be made in season so that the proceeds may be applied to the purposes for which the money with which the bonds, treasury notes, or obligations were originally purchased was placed in the treasury of the district. **Sale.**

CHAPTER 7. TAXATION:

Article 1. - Property Taxation

§ 29120. The board may provide for the assessment, levy, and collection of taxes by the district, including the sale of property to the district for delinquent taxes, with penalties, interest, and cost. **Taxes.**

§ 29121. The board shall, at the time of fixing the general tax levy and in the manner provided for the general tax levy, levy and collect annually until the general obligation bonds of the district are paid, or until there is a sum in the treasury of the district set apart for that purpose to meet all sums coming due for principal and interest on the bonds as they become due and payable, a tax sufficient to pay the annual interest on the bonds and such part of the principal thereof, including any sinking fund installments required by any of the district's agreements with its bondholders, as becomes due before the proceeds of a tax levied at the next general tax levy will be available for such purposes. **Annual Levy and Collection.**

§ 29122. The taxes required to be levied and collected on account of interest, principal, and sinking fund of general obligation bonds of the district shall be in addition to all other taxes levied for district purposes, and shall be collected at the time and in the same manner as other district taxes are collected, and be used for no other purpose than the payment of bonds and accruing interest.

Same: Interest, Principal, Etc.

§ 29123. The tax rate for taxes levied in any fiscal year for all district purposes other than taxes levied pursuant to Section 29121, shall not exceed five cents ($0.05) on each one hundred dollars ($100) of assessed valuation of taxable property within the district, except the tax rate for the first year of levy may include an additional amount sufficient to repay temporary borrowing incurred pursuant to Article 5 of Chapter 8 of this part. Taxes levied pursuant to this section for maintenance and operation of rapid transit facilities shall be supplementary to the revenues derived from such facilities and shall be limited to actual requirements.

Tax Rate.

§ 29124. All assessments shall be made for the district by the State Board of Equalization and the county assessors, and all taxes shall be collected for the district by the tax collectors, of the counties in which the district is situated.

County Assessment and Collection.

§ 29125. Each county auditor shall, on or before the third Monday in August of each year, transmit to the board a statement in writing showing the total value of all property within the district as equalized.

Valuation.

§ 29126. The board shall, on or before the first weekday in September, or if such weekday falls upon a holiday then on the first business day thereafter, fix the rate of taxes, designating the number of cents upon each hundred dollars, using as a basis the value of property transmitted to the board by the county auditors, which rate of taxation shall be sufficient to raise the amount previously fixed by the board. These acts by the board shall constitute a valid assessment of the property and a valid levy of the taxes so fixed.

Designation of Rate.

§ 29126.1. If in the determination of any tax rate a fraction of a cent occurs, the board may adopt a rate ending in the next higher tenth of one cent ($0.001). An excess over the amount specified in the budget, arising from the use of the tenth of one-cent tax rate, is not a violation of this chapter. Any cash collected resulting from such excess or from an excess resulting from any other cause shall not invalidate the levies but shall be applied in the next succeeding budget year as available surplus unless its expenditure is otherwise authorized by law.

Tax Rate: Fraction of a Cent.

§ 29127. The board shall immediately after fixing the rate of taxes as above provided transmit to the county auditors of the counties in which the district is situated a statement of the rate of taxes fixed by the board.

Transmission.

§ 29128. The district's taxes so levied shall be collected at the same time and in the same manner as county taxes. When collected the net amount, ascertained as provided in this article, shall be paid to the treasurer of the district, under the general requirements and penalties provided by law for the settlement of other taxes. The district may adopt the alternative procedure of tax collection and apportionment established by Chapter 3 (commencing at Section 4701) of Part 8 of Division 1 of the Revenue and Taxation Code and any amendments thereof; provided, however, that the district may thereafter abandon said alternative procedure at the end of any fiscal year of the district.

Procedure.

§ 29129. Whenever any real property situate in any district which has availed itself of the provisions of Section 29124 has been sold for taxes and has been redeemed, the money paid for redemption shall be apportioned and paid to the district by the county treasurers receiving it in the proportion which the tax due to the district bears to the total tax for which the property was sold.

Tax Sale.

§ 29130. The compensation to be charged by and paid to any county for the performance of services under this chapter shall be fixed by agreement between the board of supervisors of the county and the board. The compensation shall in no event exceed one-half of 1 percent of all money collected for the district. The compensation collected by the county shall be placed to the credit of the county salary fund.

Compensation.

§ 29131. All taxes levied under this part are a lien on the property on which they are levied. Unless the board has by ordinance otherwise provided, the enforcement of the collection of such taxes shall be in the same manner and by the same means provided by law for the enforcement of liens for county taxes, all the provisions of law relating to the enforcement of the latter being made applicable to this part, so far as consistent therewith.

Lien.

Article 2. - Retail Transactions and Use Tax

§ 29140. The board shall, by ordinance, impose transactions and use taxes in conformity with Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code for the purposes specified in Sections 29142 and 29142.2, subject to periodic legislative review and amendment.

Imposition of Tax.

§ 29141. Any transactions and use taxes ordinance adopted pursuant to this article shall be operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this article, or January 1, 1970, whichever is later.

Ordinance: Tax Administration.

Prior to the operative date of the ordinance, the district shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance.

If the district shall not have contracted with the State Board of Equalization prior to the operative date of its ordinance, it shall nevertheless so contract and in such case, the operative date shall be the first day of the first calendar quarter following the execution of the contract.

The contract entered into by the district with the State Board of Equalization prior to January 1, 1978, for the administration and operation of the transactions and use tax ordinance shall be amended to provide for the allocation of the transactions and use tax revenues pursuant to Section 29142.2.

§ 29142. (a) Revenues derived from the transactions and use taxes, not to exceed an aggregate principal amount of one hundred fifty million dollars ($150,000,000), plus the costs payable by the district to the State Board of Equalization for preparatory costs and for its services in connection with such taxes and plus the costs of issuance of, and interest payments on, bonds or notes secured by such revenues, shall be used for the planning, acquiring, and constructing of the district's approximately 75-mile system, including the San Francisco-Oakland Rapid Transit Tube and any and all works, structures, property, rolling stock, or other facilities of any kind which the district is authorized to acquire, construct, or complete.

Permissible Uses of Tax Revenues.

(b) Revenues in excess of the amount specified in subdivision (a) shall be used for purposes specified in Section 29142.2, operational purposes, the liquidation of operational deficits, and the payment of principal and interest on negotiable bonds issued pursuant to subdivision (c).

(c) To finance the operation of its rapid transit system during the 1974 -75 fiscal year, the district may issue negotiable bonds in an amount not to exceed sixteen million dollars ($16,000,000) in anticipation of the revenues specified in subdivision (b). However, upon a determination by the board that the issuance of sixteen million dollars ($16,000,000) in negotiable bonds, together with other funds available to the district, provide insufficient funds for the operation of the district during the 1975-76 fiscal year, the district may issue additional negotiable bonds in an amount not exceeding eight million dollars ($8,000,000). The district may also issue additional negotiable bonds in an amount not exceeding one million three hundred thousand dollars ($1,300,000) if the board determines that otherwise insufficient funds are available to the district for its operation during the 1976-77 fiscal year. The district shall pay the principal and interest on such bonds only from such revenues. Interest on such bonds may be funded, and paid from the proceeds of such bonds, for period of not to exceed two years from the date of such bonds. The board, by resolution shall determine the form, denomination, maturities, interest rates, and all other terms and conditions relative to the issuance of such negotiable bonds.

§ 29142.2. Notwithstanding Section 7271 of the Revenue and Taxation Code, after deduction for the cost of the State Board of Equalization in administering the transactions and use tax, the amounts collected under the ordinance adopted pursuant to Section 29140 and available for distribution shall be allocated as follows:

Distribution.

(a) Seventy-five percent to the San Francisco Bay Area Rapid Transit District.

(b) Twenty-five percent shall be allocated by the Metropolitan Transportation Commission to the San Francisco Bay Area Rapid Transit District, the City and County of San Francisco for its municipal railway system, and the Alameda-Contra Costa Transit District for transit services on the basis of regional priorities established by the commission. The allocations by the commission to these transit operators for transit services shall be in accordance with the criteria in the financial management plan which is to be developed and annually revised by the commission in coordination with the Alameda-Contra Costa Transit District, the San Francisco Bay Area Rapid Transit District, and the City and County of San Francisco.

§ 29142.4. No funds shall be allocated to an entity pursuant to Section 29142.2, after January 1, 1978, unless, as determined by the Metropolitan Transportation Commission, the transit operator:

Transit Operator Requirements.

(a) Is a participating member of a regional transit coordinating council which the commission shall establish to better coordinate routes, schedules, fares, and transfers among the San Francisco Bay area transit operators and to explore potential advantages of joint ventures in areas such as marketing, maintenance, and purchasing. The commission shall be a member of the council.

(b) Establishes, for the period for which the funds are allocated, fare levels such that fare revenues equal at least 33 percent of its operating cost, which shall be all of its costs in the expense object classes, exclusive of the costs of the depreciation and amortization expense object classes, of the uniform system of accounts and records adopted by the State Controller pursuant to Section 99243. The allocation period shall not be less than one calendar quarter nor longer than one fiscal year, as determined by the commission. For purposes of this subdivision, the two special transit service districts of the Alameda-Contra Costa Transit District shall be considered separate transit districts. On and after July 1, 1981, the commission may grant, any operator which was in compliance with the 33 percent requirement prior to that date, a credit not to exceed 5 percent to meet that requirement on the basis of special operating characteristics of its transit system, including, but not limited to, its transfer and special fare policies. In no event shall the combined fare revenues of the three operators, excluding any credit granted by the commission, be less than 33 percent of their combined operating cost.

(c) Has complied with standards established by the commission pursuant to Section 66517.5 of the Government Code.

Transit Operators: Financial Management Plan.

§ 29142.5. On and after July 1, 1984, for purposes of meeting the requirement of subdivision (b) of Section 29142.4, the Metropolitan Transportation Commission may consider, as fare revenues, that portion of the local support of an operator for its transit system which exceeds its base level of operating support as determined by the commission, if the commission finds that this consideration will enable the operator to maintain or improve vital transit within a coordinated fare structure.

Transfer Notification.

§ 29142.6. Upon determination by the Metropolitan Transportation Commission that an operator has met the conditions specified in Section 29142.4, the commission shall notify the State Board of Equalization of the percentage of the transaction and use taxes to be allocated to the operator. Upon such notification, the State Board of Equalization shall transmit to the operator, as promptly as feasible, its share of the transaction and use taxes.

§ 29142.8. (a) Any portion of the transactions and use tax revenues available for allocation and not allocated by the Metropolitan Transportation Commission shall be invested through the Surplus Money Investment Fund. The amount invested and the accrued interest therefrom shall be available for allocation by the commission.

Surplus Money Investment Fund.

(b) Any funds which accumulated during a period an operator is not in compliance with Section 29142.4 may be allocated to any operator in compliance with that section at the time of allocation.

§ 29143. (a) The district is hereby authorized to issue revenue bonds, payable, in whole or in part, from revenues made available under this article. Those revenues are deemed to be revenues of the enterprise for all purposes of the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code), and the restrictions therein provided against the securing of bonds by the taxing power or the proceeds of taxation do not apply. The district is deemed a "local agency" and the planning, acquiring, constructing, operating or maintaining of the district's rapid transit facilities, or any part thereof, is deemed an "enterprise," within the meaning of the Revenue Bond Law of 1941. The provisions of that law not inconsistent with any of the provisions of this article are made applicable to the district, except that no election shall be required for the issuance of revenue bonds authorized by the board pursuant to this article and secured, in whole or in part, by the revenues made available under this article. Notwithstanding any provision of the Revenue Bond Law of 1941, the resolution or indenture authorizing the issuance of any revenue bonds secured, in whole or in part, by those revenues shall provide that the use of the revenues by the district to redeem bonds shall be continued in effect until the bonds are fully paid or provision has been made for their payment in full.

Issuance of Revenue Bonds.

(b) Notwithstanding Section 54388 of the Government Code or any other law, the revenue bonds authorized by this article may be sold through negotiated sale conducted in accordance with Section 53591 of the Government Code.

(c) The district may borrow money in anticipation of the revenues made available under this article and may, from time to time, issue negotiable notes for that purpose.

(d) In addition to pledging revenues for the payment of any revenue bonds, the district may pledge for the payment of the bonds all other income or receipts of the district which are not required by law to be used for other purposes.

CHAPTER 8. BONDS AND OTHER EVIDENCE OF INDEBTEDNESS:

Article 1. - Authorization of General Obligation Bonds

§ 29150. The district may borrow money, incur a bonded indebtedness in respect thereto, and levy taxes for the payment of principal and interest thereon, in the manner provided in Chapter 7 of this part, but no such bonded debt shall exceed fifteen (15) percent of the assessed valuation of taxable property within the district.

Limitation on Bonded Debt.

§ 29151. Before submitting a proposal to incur any bonded indebtedness, the district shall employ such engineers, economists, fiscal experts and others as is necessary to develop general plans, estimates and general specifications pertaining to the projects for which the bond issue is proposed, sufficient in the opinion of the board to enable the board to determine the feasibility of such projects, provided that no such reports or the approval thereof specified in Section 29156 of this code shall be applicable to any proposal for the issuance of additional bonds to complete the project referred to in the original reports.

Development of Project Plans.

§ 29152. Such engineers, economists, fiscal experts and others shall make reports to the district, which shall include:

Engineering and Financial Reports.

(a) A general description of the facilities to be acquired or constructed from the proceeds of the proposed bond issue.

(b) The estimated total cost of constructing or acquiring, or both, such facilities.

(c) The estimated period of construction of such facilities.

(d) An estimate of the revenues which may be expected to be derived therefrom.

(e) The amount of bonds which will be required to pay the estimated total cost of constructing or acquiring such facilities. If the district determines to make interest payments out of bond proceeds, the estimate may include a sum sufficient to pay interest on the bonds during the estimated period of construction and for three years, or less, thereafter.

(f) An estimate of the taxes required to be levied for all district purposes, the sources from which such taxes shall be obtained, and the proportion or amount to be derived from each source.

§ 29153. After receiving such reports, the board shall determine and declare by resolution whether or not the proposed plan of work is feasible and whether or not the project, as set forth in said reports, is necessary, and if so, shall make an order determining the amount of bonds that should be issued in order to raise the amount of money necessary therefore, and in determining such amount, sufficient shall be included to cover the cost of inspection of works in course of construction. Such determination by the board shall constitute a conclusive determination that the reports then on file with the board are adequate and sufficient to enable the board to make the determination as set forth in such resolution.

Determination of Amount of Bond Issue.

§ 29154. After adoption by the board of the reports made pursuant to Section 29152 the board shall refer such reports to the boards of supervisors of the counties comprising the district for their approval.

Reference of Reports to Supervisors.

§ 29155. After receiving the reports, each board of supervisors shall fix a time and place for a public hearing to consider the reports. The time fixed for the hearing shall not be less than 30 days nor more than 60 days from the date the reports were received from the board.

Public Hearing.

§ 29156. Within 15 days from the date of the public hearing held pursuant to Section 29155, each board of supervisors shall, by a resolution adopted by a majority vote of the board of supervisors, determine whether it approves the reports and shall file an executed copy of the resolution with the secretary of the district.

Approval by Supervisors.

§ 29157. If a majority of any board of supervisors does not approve the reports, the district may make additional studies and changes and may refer the amended reports to the board of supervisors of the counties comprising the district in order to obtain unanimous approval from the counties comprising the district. If no agreement is reached within a period of six months following the date the original reports were received from the board, any county not approving the reports may withdraw from the district under Chapter 10 (commencing with Section 29650), notwithstanding that, after that county's disapproval, the reports are withdrawn by the district. Failure of a county to withdraw from the district, within 30 days following the six-month period, has the same effect as approval by the board of supervisors of the county of the reports as last amended, unless the reports have been previously withdrawn by the district.

Additional Studies: Withdrawal From District.

§ 29157.1. Whenever it appears to the board that bonded indebtedness heretofore authorized pursuant to the provisions of this article is insufficient to cover all costs of the acquisition and construction of facilities, the board shall make an order determining the amount of bonds that should be issued in order to raise the additional funds necessary for the completion of such facilities. The provisions of Sections 29154, 29155, 29156 and 29157 of this code shall not be applicable to any election to authorize the issuance of additional bonds, after the district shall have issued all or any part of its first authorized issue of bonds.

Additional Bonds: Requirements for Issuance.

§ 29158. When the district has received unanimous approval from the boards of supervisors of the counties comprising the district pursuant to Section 29156 of this code, or when the board has made its order pursuant to Section 29157.1 of this code, the board shall call a special election and submit to the qualified voters of the district the proposition of incurring such bonded indebtedness for the acquisition, construction or completion of rapid transit facilities by the district and all other works, property, or structures necessary or convenient therefore and for the purpose of carrying out the provisions of this part.

Special Election.

§ 29159. The resolution calling the special election shall contain:

Election Resolution.

(a) A statement of the general object and purpose of incurring the indebtedness.

(b) Statement of the estimated cost of the proposed work and improvements.

(c) The amount of the principal of the indebtedness to be incurred therefore.

(d) The maximum term, which shall not exceed fifty (50) years that the bonds proposed to be issued shall run before maturity.

(e) The maximum rate of interest to be paid on said indebtedness, which shall not exceed six (6) percent per annum.

(f) A statement declaring whether interest, to be paid upon such bonds during the estimated period of construction of the works of the district and for three years thereafter, or less, shall be a capital charge, and shall be payable out of the principal sum realized from the sale of bonds, and, if so, to what extent.

(g) An estimate of the taxes required to be levied for all district purposes, the sources from which such taxes shall be obtained, and the proportion or amount to be derived from each source.

(h) The date on which the special bond election will be held, the hours during the day which the polls will be open, and the manner of voting for and against the incurring of such indebtedness; provided, however, the district shall have no power or authority, within six (6) months after an election at which a proposition submitted to the qualified electors of the district failed to receive the requisite number of votes as provided in Section 29168, to call or order another election for incurring any indebtedness for purposes substantially the same as voted upon at such prior election. If the special bond election is consolidated with any other election, the hours during which the polls shall be kept open in each county shall be the same as those provided for the election with which the election called pursuant to this part is consolidated and reference to that effect in the resolution shall be sufficient without specifying the particular hours.

§ 29160. The provisions of Section 37.5 of Chapter 1239 of the Statutes of 1949, the San Francisco Bay Area Metropolitan Rapid Transit District Act, relating to the repayment of appropriations made to the San Francisco Bay Area Rapid Transit Commission from the proceeds of the first sale of bonds issued by the district created by that act, shall apply to and be binding upon the San Francisco Bay Area Rapid Transit District.

Repayment of Appropriations to Rapid Transit Commission.

§ 29161. Any election submitting the proposition of incurring indebtedness and the issuance of bonds called pursuant to this part, may be held separately, or may be consolidated with any other election authorized by law, at which the qualified voters of any county, city and county, or city are entitled to vote. However, in the event an election called pursuant to this part is consolidated with any other election, as provided by Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, the provisions of this part setting forth the procedure for the calling of the election called pursuant to this part shall be complied with, except that the resolution calling the election need not set forth the election precincts or polling places, or the officers of election, which shall be the same as those set forth in the ordinance, order, resolution, notice, or other proceeding calling or providing for, or listing or designating the precincts, polling places, and election officers for the election with which the election called pursuant to this part is consolidated, and shall refer to the election or to the ordinance, order, resolution, notice, or other proceeding calling, providing for, or giving notice of the election, and which sets forth the precincts, polling places, and election officers. This reference may be made by giving the number or title or date of adoption of the ordinance, resolution, or order or to the date or proposed date of any publication of the notice and the name of the newspaper or proposed newspaper in which the notice has been or will be published or by any other definite description. Whenever a bond election called pursuant to this part is consolidated with a statewide general election held in the district, references to that general election shall be sufficient for all purposes of this part.

Separate or Consolidate Election.

§ 29162. Whenever a special bond election is called pursuant to this part and is not consolidated with any other election the board shall in its resolution calling such special bond election, in addition to all other matters required to be set forth therein:

Specification of Precincts.

(a) Specify the precincts or consolidated precincts in each county or portion of a county which are adopted for the purposes of the election and designate the location of the polling places, provided that one or more polling places may be established within the same precinct and separate ballot boxes and separate officers of election provided for each group of electors, which group shall be determined by alphabetical designations and divided into groups as nearly equal in number as practicable.

(b) Specify the names of the officers selected to conduct the election, who shall consist of at least one inspector and two judges in each precinct, but not in excess of six election officers for each polling place.

Whenever the special bond election called pursuant to this part is consolidated in whole or in part with any other election, the precincts, polling places and election officers need not be set forth in the resolution calling the special bond election except only to the extent that any precinct, polling place and election officers established for the special bond election differ or are in addition to those established for the election with which the special bond election called pursuant to this part is consolidated.

§ 29163. Notice of a special bond election shall be given by publication of the text of the resolution calling the election and except as provided below the text thereof shall be published once a week in each calendar week for two successive calendar weeks at any time prior to the election (the first publication of which shall be not less than twenty (20) days nor more than ninety (90) days prior to the date fixed for the election) in at least one newspaper of general circulation and in not more than three newspapers, designated by the board, which are printed and published in each county within the district. That portion of the resolution constituting notice of election as published in each county shall contain only the reference to the precincts, polling places, and election officers in the county or portion of the county in which it is published, and it shall not be necessary to publish any portion of the resolution setting forth the precincts, polling places or election officers in any other county. Except for the omission in any county of the reference to the precinct, polling place and election officers in any other county, the text of the resolution as published in each county to constitute notice of said election shall be the resolution in form as adopted by the board. To each resolution published in each county there shall be set forth a notice substantially as follows:

Publication of Notice.

"NOTICE OF ELECTION"

NOTICE is hereby given to the qualified electors of the San Francisco Bay Area Rapid Transit District that the Board of Directors has duly adopted a resolution calling a special bond election within the District which is set forth in full below, except only for the omission of the designation of the precinct, polling place and officers of election in any county or portion of a county in which such election is to be held except only the designation of such election details as the same pertain to the county or portion of a county in which the attached resolution is published, which election details are set forth in the following text of the resolution."

If there is no newspaper published in any county within the district, the notice shall be posted in three public places in such county.

§ 29164. All the expenses of holding the election shall be borne by the district, except when the election is consolidated with another election pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, in which case the expense borne by the district shall be that agreed upon by the district and the other governing body or bodies calling the election. **Expenses.**

§ 29165. No error, irregularity or omission in the calling, holding or conducting of any special bond election which does not affect the substantial rights of the taxpayers within the district or the electors voting at any election at which bonds of the district are authorized to be issued shall invalidate the election or any bonds authorized thereat. **Irregularity, Omission, Etc.**

§ 29166. (a) The returns of the election shall be made and the votes shall be canvassed by the county elections official in each county contained in the district, within thirty (30) days after holding of the election, and the county elections officials, respectively, shall certify the result of the election in each county, respectively, to the board of the district. **Election Results.**

(b) In the event that the election is consolidated with any other election, the returns of the election, the method of canvassing, and the results thereof shall be designated and declared in accordance with Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

§ 29167. At any special bond election called pursuant to this part, all residents of the district who are qualified electors possessing the qualifications prescribed by the general election laws of the State of California shall be entitled to vote thereat. All special bond elections shall be held and conducted as nearly as practicable in accordance with the general laws of the State of California, including provisions with respect to voting by absent voters, but the requirements as to the form of ballots need not apply except to the extent adopted by the board. Whether a resident of the district is a qualified elector within the district shall be conclusively determined by the last great register of voters of the county or portion of the county in which the election is held. Except when the special bond election is consolidated with any other election, the board shall designate the hours during which the polls shall be kept open. The polls shall not be opened before 7 a.m. nor kept open later than 8 p.m. and shall be kept open for not less than four hours. **Voter Qualification.**

§ 29168. At any special bond election two or more propositions for incurring indebtedness may be submitted at the same election in which event the votes cast for and against each proposition shall be counted separately, and whenever three-fifths of the qualified electors voting on any one of such propositions vote in favor thereof such proposition shall be deemed adopted. **Alternative Indebtedness.**

Article 2. - Form and Terms of General Obligation Bonds

§ 29169. Whenever three-fifths of the votes cast at any special bond election or on any proposition submitted thereat are in favor of incurring the indebtedness set forth in such proposition, the board may by resolution at any time it deems proper, or from time to time, provide for the authorization and issuance of the bonds not exceeding the amount authorized at such election. **Resolution.**

§ 29170. Bonds may be issued in form payable to bearer, with coupons attached for payment of interest and, if so issued, may be made subject to registration. Bonds issued in bearer form shall constitute negotiable instruments for all purposes under the laws of the State of California. The district may appoint a registration agent which may be a bank or trust company and authorize such registration agent to maintain books of registry and to register, authenticate and exchange bonds on such terms and conditions and pursuant to such rules and regulations as the district may provide. The district may provide for the interchange of coupon bonds for registered bonds and registered bonds for coupon bonds, and may provide that the bonds shall be registered as to principal only, or as to both principal and interest, or otherwise, as the district may determine. **Issuance.**

§ 29171. Coupon bonds may be issued in denominations of one thousand dollars ($1,000), or multiples thereof, as the district may determine. Coupon bonds of different denominations shall be exchangeable for coupon bonds of other denominations or for registered bonds on terms and conditions as the district may determine, including provisions for the authentication of any bonds issued upon the exchange by the registration agent or other agents appointed by the district for that purpose. **Coupon Bonds.**

§ 29172. Registered bonds may be issued without limitation as to principal amount, as may be determined by the district, except that registered bonds shall be in denominations of one thousand dollars ($1,000) or multiples thereof. Registered bonds of any denomination shall be exchangeable with bonds, either in registered or coupon form, of other denominations on such terms and conditions as the district shall determine, including provisions for authentication of bonds issued upon such exchange by the registration agent or other agents appointed by the district for that purpose, and upon the payment of such reasonable charges as may be prescribed by the district.

Registered Bonds.

§ 29173. Bonds shall bear interest at a rate of not to exceed 8 percent per annum, payable semiannually, except that interest for the first year or any fraction thereof may be paid in one installment.

Interest.

§ 29174. The district may provide for redemption of bonds prior to maturity, on such notice and at such time or times and with such redemption provisions, including premiums, as the district may determine, provided that no redemption premium shall be in excess of 6 percent of the principal amount of the bonds to be redeemed. No bond is subject to call or redemption prior to its fixed maturity date, unless the right to exercise such call and the redemption price are expressly stated on the face of the bond. When bonds have been validly called for redemption and payment of the principal thereof, and the interest thereon accrued to the date of redemption, together with the redemption premium, if any, shall have been made or provided for, interest thereon shall cease.

Redemption.

§ 29175. The district may provide for the payment of the principal and interest of bonds at any place within the State of California, or at any other place within the United States, which the district may designate. The place of payment shall be specified in the bonds and payment shall be made in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts.

Place of Payment.

§ 29176. Bonds shall bear dates prescribed by the district.

Dates.

§ 29177. Bonds may be serial or sinking fund bonds, or in part serially and in part sinking fund bonds, with such maturities and in such amounts annually, semiannually or otherwise, as the district may determine at the time of authorizing the issuance thereof. **Special or Sinking Fund.**

§ 29178. No bond by its terms shall mature in more than fifty (50) years from its own date, and in the event any authorized issue is divided into two or more series or divisions, the maximum maturity herein authorized shall be calculated from the date on the face of each bond, separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue. **Maturity.**

§ 29179. The district may divide any authorized issue into one or more series or division and fix different dates and different maturity dates for the bonds of each series or division. **Series.**

§ 29180. The district may prescribe the form of such bonds, and of the interest coupons attached thereto. Bonds shall be signed by the president of the board (or such other member of the board as the board shall by resolution designate) and countersigned by the secretary of the district and the seal of the district shall be affixed thereto. The interest coupons on said bonds shall be numbered consecutively and signed by the treasurer of said district. The signature on all coupons and one signature on the bonds may be engraved, lithographed, or printed facsimile signature. The seal of the district may be affixed to any bond by mechanical reproduction of a facsimile thereof. In case any officer whose signature or countersignature appearing on the bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such signature or countersignature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until the delivery of the bonds. If the district appoints a registration agent, fiscal agent, or other agent to authenticate bonds, any bond of the district, whether in coupon or registered form, may be signed by the facsimile signatures of the officers of the district with a facsimile seal of the district affixed mechanically or otherwise reproduced thereon, provided that such bonds shall be authenticated by the fiscal agent, registration agent, or other agent appointed by the district for that purpose. Any agent appointed by the district to **Forms.**

authenticate registered bonds or exchange bonds of different denominations, or coupon bonds for registered bonds, or vice versa, shall be a bank or trust company authorized to transact, and transacting, business in the State of California or the State of New York.

Interim Bonds.

§ 29181. Pending the actual issuance or delivery of bonds, the district may issue temporary or interim bonds, certificates, or receipts, of any denomination whatsoever, with or without coupon, and in such form as may be prescribed by the board, to be exchanged for definitive bonds when ready for delivery.

Interest Payment.

§ 29182. The district may provide that interest on bonds may be paid out of the proceeds of the sale of the bonds during the actual construction of any project, for the acquisition, construction, or completion of which bonds have been issued, and for a period of not to exceed three years thereafter, as determined by the district.

Payment by Taxes.

§ 29183. The district shall provide for the payment of the principal of and interest on the bonds by the levy and collection of taxes upon all property in the district subject to taxation by the district without limitation of rate or amount as provided in Sections 29121 and 29122 of this part, except that such taxes need not be levied to the extent that the district deposits in the treasury set apart for that purpose moneys derived from surplus revenues or any appropriations which may be made to it for that purpose or from any other funds howsoever derived.

§ 29184. Any general obligation bonds which shall be issued under the provisions of this part shall be legal investment for all trust funds; for the funds of insurance companies, banks--both commercial and savings--and trust companies; and for state school funds; and whenever any money or funds may, by any law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts, or irrigation districts within the State of California, such money or funds may be invested in the general obligation bonds issued under this part, and whenever bonds of cities, cities and counties, counties, school districts, or irrigation districts within this State may, by any law now or hereafter enacted, be used as security for the performance of any act or the deposit of any public moneys, the said bonds issued under this part may be so used. The provisions of this part shall be in addition to all other laws relating to legal investments and shall be controlling as the latest expression of the Legislature with respect thereto.

Legal Investments.

Article 3. - Issuance and Sale of General Obligation Bonds

§ 29200. The district may by resolution at any time, or from time to time, provide for the authorization and issuance of any bonds authorized pursuant to this part and for the sale of the whole or any part thereof.

Resolution.

§ 29201. Before making a sale of any of the bonds, notice shall be given by publication once a week, for two weeks, in a newspaper of general circulation in the district, if there is one, and no sale shall be held prior to the expiration of 15 days from the first publication of the notice. Copies of such advertisement may be published in any newspaper or financial publication in the United States and copies may be mailed to recognized investment dealers, banks, investing institutions and statistical organizations, together with any related material pertaining to the district and its bonds, but no defect in any such additional publication or failure to mail or failure of any person to receive copies of any such materials so mailed shall affect the validity of the sale. The board may reject any or all bids received if it determines that the bids are not satisfactory as to price or as to the responsibility of the bidders. If no bids are received or if the board rejects all bids received, the board may either readvertise or sell the bonds at private sale, provided, however, that if the bonds are sold at private sale, they shall not be sold at a price lower than the highest bid, if any, which was received at the public sale.

Notice by Publication; Procedure Upon Rejection of Bids, or if No Bids Received.

§ 29202. The published notice of sale shall describe the bonds and set forth the terms and conditions of sale. **Contents.**

Article 4. - Refunding Bonds

§ 29210. The district may provide for the funding or refunding of outstanding general obligation indebtedness pursuant to this article, if any of the following conditions exist: **Conditions.**

(a) The district has indebtedness evidenced by bonds, notes, or other evidences of indebtedness, which according to their terms are subject to call or payment before maturity.

(b) The district has filed a petition under any bankruptcy law of the United States and refunding of its indebtedness is authorized in the bankruptcy proceedings.

(c) The holder or holders of outstanding indebtedness has consented to exchange such outstanding bonds for refunding bonds bearing a lower rate of interest than such outstanding bonds.

§ 29211. The district by a two-thirds vote of the board may fund or refund its general obligation indebtedness at, after, or before maturity and issue refunding bonds of the district to refund the indebtedness evidenced by such outstanding securities. **Required Vote of Board.**

§ 29212. Refunding general obligations may be issued and may be sold in accordance with Articles 2 (commencing with Section 29169) and 3 (commencing with Section 29200), except that no election need be called or held for the purpose of authorizing the issuance of refunding bonds and the refunding bonds may be sold and the proceeds thereof applied to the redemption of bonds of indebtedness or may be exchanged at not less than their par value for the evidences of indebtedness to be refunded. **Issuance and Sale.**

§ 29213. Refunding bonds issued pursuant to this article will have the same weight and force and may be used in the same manner as the bonds to be refunded. **Effect.**

§ 29214. The proceeds of any sale of refunding bonds for cash shall be deposited with the treasurer or depositary, as determined by the district, to the credit of the Funding Fund, and applied only to refunding the indebtedness for which the bonds are issued. **Proceeds.**

§ 29215. Any proceeds of the refunding bonds remaining after the indebtedness has been paid shall be deposited in the fund established for the payment of principal and interest on the refunding bonds and used only for the purpose of paying such principal or interest as it matures. **Surplus Proceeds.**

§ 29216. At the time of making the general tax levy after incurring the bonded indebtedness and annually thereafter until the refunding bonds are paid or until there is a sum in the treasury set apart for that purpose sufficient to meet all payments of principal and interest on the bonds as they become due, the district shall levy and collect a tax sufficient to pay the interest on the bonds and such part of the principal as will become due before the proceeds of the next general tax levy will be available. **Taxes.**

§ 29217. If the earliest maturity of the refunding bonds is more than one year after the date of issuance, the board shall levy and collect annually a tax sufficient to pay the interest as it falls due and to constitute a sinking fund for payment of the principal on or before maturity. **Maturity.**

§ 29218. The taxes shall be levied and collected as other district taxes, and are in addition to all other taxes. They shall be used only for the payment of the bonds and interest thereon. **Tax Proceeds.**

§ 29219. Refunding bonds may be issued in a principal amount sufficient to provide funds for (a) the payment of the principal of and interest on the bonds, notes or other evidences of indebtedness to be refunded; (b) all expenses incidental to the calling, retirement or payment of the outstanding bonds, notes or other evidences of indebtedness and the issuance of refunding bonds including the difference in amount between the par value of the refunding bonds and any amount less than par; (c) any amount necessary to be made available for the payment of interest upon the refunding bonds from the date of their delivery to the date of maturity or payment of the bonds, notes or other evidences of indebtedness to be refunded out of the proceeds of sale or the date upon which the bonds, notes or evidences of indebtedness to be refunded will be paid pursuant to call and redemption thereof or pursuant to any agreement with the holders thereof for the refunding or exchanging of such bonds, notes or other evidences of indebtedness; and (d) the premium if any necessary to be paid in order to call and retire the outstanding bonds, notes or other evidences of indebtedness to be refunded. Refunding bonds may be exchanged at not less than their par value and accrued interest for outstanding bonds, notes or other evidences of indebtedness to be refunded thereby.

Principal Amount.

§ 29220. When sufficient money is in the Funding Fund to redeem one or more outstanding past due bonds, notes or other evidences of indebtedness, or to redeem one or more of the outstanding bonds, notes or other evidences of indebtedness, which are subject to call or payment before maturity, and which are proposed to be funded or refunded, the treasurer shall publish a notice that he is prepared to pay the bond, note or other evidence of indebtedness (giving its number, if any). The notice shall be published once a week for two weeks in a newspaper of general circulation in the district, if there is one. Copies of such advertisement may be published in any newspaper or financial publication in the United States. If the bond, note or other evidence of indebtedness to be called for redemption or refunded is not presented for redemption on or before the date specified for redemption, as set forth on the face of such outstanding bond, note or other evidence of indebtedness, interest thereon shall cease.

Redemption.

§ 29221. At the same time, the treasurer shall deposit in the post office a copy of the notice, enclosed in a sealed envelope, postage prepaid, addressed to the registered owner of any such bond, note, or other evidence of indebtedness, registered pursuant to this part, whose address appears upon the record in the treasurer's office. If the bond, note, or other evidence of indebtedness is not presented within the time specified in the notice, the interest upon it ceases and the amount due shall be set aside for the payment when presented. **Notice of Redemption.**

§ 29222. When any outstanding bonds, notes or other evidence of indebtedness are surrendered and paid, the treasurer shall cancel them by endorsing on their faces the amount for which they are received, "Canceled," and the date of cancellation. **Cancellation.**

§ 29223. The treasurer shall keep a record of bonds, notes, or other evidences of indebtedness redeemed, and report the redemption to the board. At the end of each month in which there has been a redemption, a report thereof shall be made accompanied by the bonds, notes, or other evidence of indebtedness which have been taken up and canceled or by a certificate of their destruction by any bank or trust company appointed by the board as fiscal agent or paying agent for such bonds, notes, or other evidences of indebtedness and authorized to destroy bonds, notes, or coupons, or other evidence of indebtedness upon payment thereof. **Record.**

§ 29224. Any money remaining in the Funding Fund, after all outstanding bonds, warrants, judgments, notes, or other evidences of indebtedness proposed to be refunded have been taken up and canceled, shall be deposited in the fund established for the payment of principal and interest on the refunding bonds and used only for paying such principal or interest as they mature. **Surplus Money.**

§ 29225. Refunding of revenue bonds of the district may be accomplished in the manner provided by the Revenue Bond Law of 1941, all of the provisions of which are hereby made applicable to the district. **Refunding.**

Article 5. - Temporary Borrowing

§ 29230. The district may borrow money for the purpose of defraying general administrative and preliminary expenses of the district, lawfully incurred, prior to the time moneys to be raised by the first tax levy for the district are available, a sum which shall not exceed five cents ($0.05) on each one hundred dollars ($100) of assessed valuation of taxable property in the district at the time the moneys are borrowed, and to evidence such borrowing by notes bearing interest at a rate not to exceed six (6) per centum per annum. The notes shall be payable from the first tax levy made by the district and the tax levy shall contain a sum sufficient to provide for the payment of the notes and the interest thereon. The form of said notes their issuance and sale, will be governed by the applicable provisions referred to in Section 29233. The maturity of said notes shall not exceed two (2) years.

Interim Borrowing.

§ 29231. At any time prior to the first receipt by the district of revenues from taxation, the counties within the district may loan any available money to the district for the purposes of organization and operation. Such expenditures shall constitute a proper expenditure of county funds.

County Loan.

§ 29232. The treasurers of the counties within the district shall pay into the treasury of the district all funds held by them to the credit of the district.

Payments by County Treasurers.

§ 29233. The district may borrow money in accordance with the provisions of Article 7 (commencing at Section 53820), Chapter 4, Part 1, Division 2, Title 5 of the Government Code, and these sections apply to and govern all such proceedings instituted under this part.

Alternate Method.

§ 29234. The district may borrow money in anticipation of the sale of bonds which have been authorized to be issued, but which have not been sold and delivered, and may issue negotiable bond anticipation notes therefore and may renew the same from time to time, but the maximum maturity of any such notes, including the renewals thereof, shall not exceed five years from the date of delivery of such original notes. Such notes may be paid from any moneys of the district available therefore and not otherwise pledged. If not previously otherwise paid the notes shall be paid from the proceeds of the next sale of the bonds of the district in anticipation of which they were issued and if not so paid taxes may be levied for their payment in the same manner as taxes are levied for the payment of general obligation bonds pursuant to Section 29121 until such bonds are issued. Such notes shall not be issued in an amount in excess of the aggregate amount of bonds which the district has been authorized to issue, less the amount of any bonds of such authorized issue previously sold, and also less the amount of other bond anticipation notes therefore issued and then outstanding. The notes shall be issued and sold in the same manner as the bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions, or limitations which a resolution of the district authorizing the issuance of bonds may contain.

Borrowing.

§ 29235. (a) The district may borrow money for the purchase of transit vehicles, as defined in subdivision (b) of Section 99501, transit equipment, or transportation facilities, or for capital improvements, by the issuance of grant anticipation notes issued pursuant to Article 7.7 (commencing with Section 53859) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code payable on the basis of any of the following:

Issuance of Grant Anticipation Notes.

(1) From appropriated state funds.

(2) From other funds committed, but not appropriated, and evidenced by an appropriate document of intent.

(3) On specific dates or events and evidenced by an appropriate document of intent. There shall be no liability on the state for funds appropriated but not allocated.

(b) In addition to the grant money that may be pledged for the payment of the notes pursuant to Section 53859.06 of the Government Code, the district may pledge as security, on terms that it deems appropriate, the transit vehicles or equipment, transportation facilities, or capital improvements acquired with the proceeds of the notes.

§29236. In addition to any other existing authority, the district may borrow money and incur indebtedness pursuant to Article 7.4 (commencing with Section 53835) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code. **Indebtedness.**

(Added by Stats. 2010, c. 699 (S.B. 894), § 37.3, effective January 1, 2011.)

Article 6. - Revenue Bonds

§29240. As an alternative procedure for the raising of funds, the district is hereby authorized to issue bonds, payable from revenues of any facility or enterprise to be acquired or constructed by the district, in the manner provided by the Revenue Bond Law of 1941, all of the provisions of which are hereby made applicable to the district, provided however, that no election shall be required in the case of revenue bonds authorized by the board of directors for rapid transit facilities and any and all parts thereof and all additions, extensions and improvements thereto and all other facilities authorized to be acquired, constructed or completed by the district under this part, if prior to such authorization a proposition for the issuance of general obligation bonds has been adopted by vote of the qualified electors of the district pursuant to Section 29168; and provided, further, that nothing contained in the Revenue Bond Law of 1941 shall be deemed to restrict the power of the district to levy taxes and use their proceeds for all district purposes within the restrictions established by this part. **Revenue Bonds.**

§ 29241. The district is hereby declared to be a local agency within the meaning of the Revenue Bond Law of 1941. The term "enterprise" as used in the Revenue Bond Law of 1941 shall for all purposes of this part include rapid transit facilities and any and all parts thereof and all additions, extensions and improvements thereto and all other facilities authorized to be acquired, constructed or completed by the district under this part. The district may issue revenue bonds under such law for any one or more facilities or enterprises authorized to be acquired, constructed or completed by the district, or in the alternative, may issue revenue bonds under such law for the acquisition, construction and completion of any one of such facilities and also issue bonds payable from assessments in accordance with the procedure provided by this part for any other of such facilities. Nothing in this part contained shall prevent the district from availing itself of, or making use of, any procedure provided hereunder for the issuance of bonds of any type or character for any of the facilities or works authorized hereunder, and all such proceedings may be carried on simultaneously or, in the alternative, as the directors may determine.

Local Agency.

Article 7. - Equipment Trust Certificates

§ 29250. The district shall have power to purchase equipment such as cars, trolley buses and motor buses, rolling equipment, and may execute agreements, leases and equipment trust certificates in the forms customarily used by private corporations engaged in the rapid transit business appropriate to effect such purchase and leasing of rolling equipment and may dispose of such equipment trust certificates upon such terms and conditions as the board may deem appropriate. All money required to be paid by the district under the provisions of such agreements, leases and equipment trust certificates shall be payable solely from the revenue or income to be derived from the transportation system and from grants and loans as provided in Sections 29080 and 29081 of this part. Payment for such equipment, or rentals therefore, may be made in installments, and the deferred installments may be evidenced by equipment trust certificates payable solely from such revenue or income, and title to such equipment shall not vest in the district until the equipment trust certificates are paid.

Equipment Purchase: Trust Certificates.

§ 29251. The agreement to purchase or lease may direct the vendor or lessor to sell and assign or lease the rolling equipment to a bank or trust company duly authorized to transact business in the State of California as trustee, lessor or vendor for the benefit and security of the equipment trust certificates and may direct such trustee to deliver the rolling equipment to one or more designated officers of the district and may authorize the district to simultaneously therewith execute and deliver an installment purchase agreement or a lease of the equipment to the district. **Sales, Lease, Etc.**

§ 29252. The agreements and leases shall be duly acknowledged before some person authorized by law to take acknowledgments of deeds and in the form required for acknowledgment of deeds and such agreements, leases, and equipment trust certificates shall be authorized by resolution of the district and shall contain such covenants, conditions and provisions which may be deemed necessary or appropriate to insure the payment of the equipment trust certificates from the revenue or income to be derived from the rapid transit system. **Acknowledgment.**

§ 29253. The covenants, conditions and provisions of the agreements, leases, and equipment trust certificates shall not conflict with any of the provisions of any trust agreement securing the payment of bonds, notes or certificates of the district. **Contents.**

Article 8. - Special Assessment Bonds

§ 29260. In addition to all other powers granted under this part, the district shall have the right to acquire, construct and complete any improvements authorized hereunder by special assessment proceedings. The Improvement Act of 1911 and the Improvement Bond Act of 1915 are applicable to the district and the powers and duties conferred by those acts upon the boards, officers and agents of the district; provided, that the improvements authorized to be constructed or acquired by this section are limited to those permitted to be constructed or acquired by the district under the provisions of this part. **Special Assessment Proceedings.**

§ 29261. An assessment district formed or proposed to be formed under this part, on the acquisition of any property or the construction of any improvement thereby, shall not be subject to any of the provisions of the District Investigation Law of 1933. **Exceptions.**

§ 29262. An assessment district formed or proposed to be formed under this part, on the acquisition of any property or the construction of any improvement thereby, shall not be subject to any of the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931. **Non-Applicability of Majority Protest Act.**

Article 9. - Reissuance of Bonds, Notes, Coupon or Other Evidence of Indebtedness, Lost, Destroyed, Defaced or Multilated.

§ 29270. If lost or completely destroyed, any bond, note, coupon, or other evidence of indebtedness may be reissued in the form and tenor of the lost or destroyed bond, note, coupon, or other evidence of indebtedness, upon the owner furnishing all of the following to the satisfaction of the district: **Reissuance: Loss, Etc.**

(a) Proof of ownership.

(b) Proof of loss or destruction.

(c) An undertaking to indemnify the district against any loss incurred on account of the bond, note, coupon, or other evidence of indebtedness.

(d) Payment of the cost of preparing and issuing the new bond, note, coupon, or other evidence of indebtedness.

§ 29271. If defaced, mutilated, or partially destroyed, any bond, note, coupon, or other evidence of indebtedness may be reissued in the form and tenor of the defaced or partially destroyed bond, note, coupon, or other evidence of indebtedness, to the bearer, or if registered, to the registered holder, at his expense, on surrender of the defaced or partially destroyed bond, note, coupon, or other evidence of indebtedness, and on such other conditions as the resolution authorizing the reissuance may provide. **Reissuance: Destruction, Etc.**

Article 10. - Past Due Bonds

§ 29280. When a bond, note, interest coupon, or other evidence of indebtedness payable from funds in the custody of the treasurer of the district is presented to him for payment and is not paid for want of funds, he shall endorse upon it "Not paid for want of funds," the date of presentation, and a serial number indicating the order of presentation, and shall sign or stamp his name thereon. **Endorsement.**

§ 29281. Upon receipt of the first money in the treasury applicable to their payment, the treasurer shall set apart the amount necessary to pay the past due bonds, notes, coupons or other evidence of indebtedness that have been registered for want of funds. He shall give notice by registered mail to the owner or holder of the registered bonds, notes, coupons, and other evidences of indebtedness, at the address last filed, stating that he is ready to pay for them. The bonds, notes, coupons and other evidences of indebtedness shall be paid from such money, in the order of their registration. **Notice.**

§ 29282. If the registered bonds, notes, coupons, and other evidences of indebtedness are not presented for payment within 30 days from mailing of the notice, the treasurer shall apply the fund set aside to the payment of the unpaid registered bonds, notes, coupons, and other evidences of indebtedness next in order, until all registered bonds, notes, coupons, and other evidences of indebtedness have been called. **Payment.**

Article 11. - General Provisions

§ 29290. All bonds and other evidences of indebtedness issued by the district under the provisions of this part, and the interest thereon, are free and exempt from all taxation within the State of California, except for transfer, franchise, inheritance and estate taxes. **Tax Exemption.**

§ 29291. An action to determine the validity of bonds or other evidences of indebtedness may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. **Determining Validity.**

§ 29292. Any person who, without probable cause, institutes in any court, state or federal, any action or proceeding contesting the validity of the issuance or sale by the district of any bonds or other evidences of indebtedness authorized by this part, and who does not prevail in such action or proceeding, shall be liable in damages to the district, in an amount which will compensate the district for all the detriment proximately caused thereby, or which, in the ordinary course of things, would be likely to result therefrom. He shall also be liable for the costs and attorney's fees paid or incurred in the defense of the action or proceeding. No proceeding contesting the validity of the issuance or sale by the district of any bonds or other evidences of indebtedness authorized by this part shall be instituted following the expiration of 60 days from and after the date of the election authorizing the issuance of the bonds or, in the case of indebtedness for which an election is not required, 60 days from and after the date of the resolution of the board authorizing the issuance of the indebtedness involved.

Liability of Action.

§ 29293. Notwithstanding any other statutory provision to the contrary, the district may pledge all or any part of income received under Section 29123 to the payment of any revenue bonds to be issued pursuant to Article 6 (commencing with Section 29240) of this chapter or the payment of any equipment trust certificates to be issued pursuant to Article 7 (commencing with Section 29250) of this chapter. Income so pledged may be declared in such pledge to be revenues of the enterprise for all purposes of the Revenue Bond Law of 1941, notwithstanding anything to the contrary therein contained.

Pledge for Payment of Revenue Bonds.

CHAPTER 9. ANNEXATION:

Article 1. - Annexation Agreement

§ 29500. Any county not included within the boundaries of the district, including a county which has withdrawn from the district pursuant to Chapter 10 of this part, may be annexed thereto in the manner provided in this chapter.

Annexation.

§ 29501. The board of supervisors of the county proposed to be annexed shall agree in writing with the board of directors of the district upon the terms and conditions of annexation, which agreement (among other things) may provide for the levy and collection of special taxes within the county in addition to the taxes elsewhere in this part provided for, the fixing of rates, rentals, and charges differing from those fixed or existing elsewhere within the district, the incurring or assumption of indebtedness, or the making of a payment or payments, or the transfer of property, real and personal, and other assets to the district by the county.

Agreement: Contents.

§ 29502. As a condition of annexation, the district shall require any county seeking to annex to the district to reimburse the district for the county's equitable share of the previously incurred cost of financing capital expenditures within the district theretofore imposed by taxation on territory within the district. The amount of reimbursement due from such county, unless otherwise provided for in the annexation agreement entered into pursuant to Section 29501 of this code, shall be computed on the following basis: one-half in the proportion that the population of the county bears to the total population of the district and one-half in the proportion that the assessed value of the real estate of the county bears to the total assessed value of the real estate of the district. Determinations of population shall be made by the district on the latest official information available to it. Determinations by the district as to the amount of capital expenditures shall be conclusive in each case.

Reimbursement.

§ 29503. As an alternative method of annexation, a petition may be presented to the board of supervisors of a county proposed to be annexed, signed by qualified electors of the county, in number to at least ten (10) percent of the total vote cast at the last general election within the county. The petition shall contain statements and declarations setting forth the reason for annexation. Such petition may be on separate papers, but each paper shall contain the affidavit of the party who circulated it, certifying that each name signed thereto is the true signature of the person whose name it purports to be. The clerk of the board of supervisors of such county shall compare the signatures with the affidavits of registration and certify to the board of supervisors the sufficiency or insufficiency of such petition. If found and certified by the clerk as being sufficient, such petition shall have all the force and effect of a resolution adopted by the board of supervisors of such county.

Alternative.

§ 29504. Upon receipt of a petition pursuant to Section 29503, the board of supervisors shall communicate with the board and negotiate an annexation agreement and hold an election as provided in this part.

Proceedings on Petition.

Article 2. - Approval by District

§ 29520. The agreement shall become effective and be binding upon the district and the county when approved in the manner set forth in this chapter. The board of directors of the district shall by ordinance setting forth the agreement at length declare its intention of causing it to be executed by the district.

District Ordinance.

§ 29521. The ordinance, together with a notice fixing the time and place for hearing thereon, shall be published once in a newspaper of general circulation published in the district. The time fixed for the hearing shall be not less than thirty (30) nor more than sixty (60) days from the date of the publication of the ordinance.

Hearing.

§ 29522. At the hearing any person interested may file with the board of directors of the district written objections to the execution of the agreement.

Objections.

§ 29523. Upon the hearing the board of directors of the district shall determine whether or not the agreement will be carried into execution and shall hear and determine all objections thereto. Failure of any person interested in the district or in the matter of the proposed execution of the agreement to show cause in writing pursuant to Section 29522, constitutes an assent on his part to a change in the boundaries of the district and to the execution of the agreement.

Failure to Show Cause.

§ 29524. Any hearing on the agreement may be adjourned from time to time by the board of directors of the district without further notice other than an order to be entered upon the minutes of the meeting fixing the time and place of adjournment.

Adjournment.

§ 29525. If no protests are filed or if the protests filed are overruled and denied, the board of directors of the district shall thereupon by resolution finally approve the agreement and authorize its execution, which shall become effective when executed by the county, duly authorized in the manner provided in this chapter.

Approval.

§ 29526. When executed by the district the agreement shall be dated and an executed copy filed with the secretary of the district. An executed copy shall also be filed with the clerk of the county to be annexed.

Filing.

Article 3. - Approval by County

§ 29540. At any time after the board of directors of the district has finally approved the agreement of annexation the board of supervisors of the county to be annexed shall cause an election to be held in the county to determine whether the county will be annexed to the district upon the terms and conditions stated in the agreement.

County Approval.

§ 29541. Notice of election shall be published once a week for two successive weeks (two publications) in a newspaper of general circulation published within the county, and shall either state that a copy of the annexation agreement is on file in the office of the clerk of the county proposed to be annexed, and open to the inspection of all persons interested, or set forth the terms and conditions of the agreement of annexation at length, in the discretion of the board of supervisors calling the election.

Election.

§ 29542. The ballots for the election shall contain substantially the instructions required to be printed on ballots for use at general state and county elections and in addition shall set forth the proposition of annexation substantially as follows: **Ballots.**

Shall the County of . . . be annexed to San Francisco Bay Area Rapid Transit District in accordance with and subject to all the terms and conditions of an agreement of annexation date . . . now on file in the office of the Clerk of . . . County?	YES	
	NO	

§ 29543. If upon a canvass of the election it is found that a majority of all votes cast on the proposition at the election were cast in favor of the annexation, the proposition and all of the terms and conditions of the agreement of annexation shall be deemed carried and approved by the voters. **Canvass.**

§ 29544. If the proposition fails to carry, the result shall be entered upon the minutes of the board of supervisors of the county. **Disapproval.**

§ 29545. If the proposition receives the vote of the requisite majority of voters, the board of supervisors of the county shall enter in its minutes an order declaring the result of the election and shall thereupon cause the agreement of annexation to be executed by its duly authorized officers. **Approval.**

Article 4. - Establishment of Annexation

§ 29560. Upon receipt by the district of a copy of the agreement of annexation properly executed by the district and the county proposed to be annexed the board of directors of the district shall pass a resolution declaring the county annexed to the district, and shall cause a certified copy of the resolution to be filed with the Secretary of State. From and after the date of filing of the resolution with the Secretary of State the annexation of the county to the district is complete. **Resolution Declaring Annexation.**

Article 5. - Effect of Annexation

§ 29570. From and after the date of annexation the board of directors of the district shall levy upon all of the property in the county annexed such taxes, tolls, or charges as are necessary to provide funds for the payment of the indebtedness assumed by the county or otherwise necessary to comply with the terms and conditions of the annexation agreement, all in addition to the general district taxes authorized elsewhere in this part to be levied and collected. **Effect.**

Article 6. - Contest of Annexation

§ 29580. The validity of any proceedings for the annexation of any county to the district shall not be contested in any action unless the action is brought within three (3) months after the completion of the proceedings. **Limitation of Action.**

Article 7. - Annexation of Land Owned Solely by District

§ 29590. When the district is the sole owner of any tract of land within the County of San Mateo upon which is located works and facilities of the district, the board, upon determining that the inclusion of that land will be for the best interests of the district, may, by resolution, declare that such land shall be included in the district. The inclusion of such land within the district is effective immediately upon the adoption of the resolution. **Tract Annexation.**

CHAPTER 10. WITHDRAWAL FROM DISTRICT:

§ 29650. Any county, the board of supervisors of which does not approve the reports of the board of directors of the district submitted pursuant to Section 29154 or 29157, may be withdrawn from the district. **Withdrawal.**

§ 29650.1. In addition to the right of withdrawal of a county as provided in Section 29650, any county may withdraw from the district at any time prior to the date of adoption by the board of a resolution calling a special election to submit to the qualified voters of the district a proposition of incurring a bonded indebtedness as provided in Section 29158, provided the board of directors of the district elects to accept for filing and approves a resolution of withdrawal adopted by the board of supervisors of the county seeking withdrawal. **Additional Grounds for Withdrawal.**

§ 29651. Withdrawal from the district shall be by a resolution adopted by a majority vote of the board of supervisors.

Resolution.

§ 29652. The withdrawal of any county from the district pursuant to this chapter shall not be effective until the resolution of withdrawal adopted by the board of supervisors is filed with the board of directors of the district.

Effective Date of Withdrawal.

§ 29653. The withdrawal of a county pursuant to this chapter does not invalidate any taxes or assessments levied or assessed against any property in the county prior to withdrawal, nor relieve such property of any other financial obligation or debt of the district incurred prior to withdrawal.

Financial Obligations.

§ 29654. Any county which is withdrawn from the district pursuant to this chapter may be subsequently annexed thereto on compliance with Chapter 9 (commencing with Section 29500).

Reannexation.

CHAPTER 10.5. SPECIAL SERVICE DISTRICTS:

Article 1. - Proposal Formation

§ 29660. One or more special service districts for any of the purposes in which the district is authorized to engage may be created within the boundaries of the district. Such special service districts may consist of one or more cities, with or without unincorporated territory, or unincorporated territory alone. Cities or unincorporated territory included within a special service district may be in the same or separate counties and need not be contiguous. No city shall be divided in the formation of such special service district, but a city may be in more than one special service district formed under this chapter.

Creation of Districts: Territories Includible.

§ 29661. Proceedings for the creation of a special service district may be initiated by resolution of the legislative body or bodies of the city or cities proposed to be included in such special service district and if unincorporated territory is proposed to be included in such special service district by resolution of the board or boards of supervisors of the county or counties in which such unincorporated territory is situated, or if only unincorporated territory is proposed to be included in such special service district, by resolution of the board or boards of supervisors of the county or counties in which such unincorporated territory is situated. Such resolution or resolutions shall declare that the public interest or necessity demands the creation of a special service district, shall describe its boundaries and shall request the formation of such special service district. When the entire area of a public agency is to be included in the special service district, it may be described by name. Certified copies of the resolution or resolutions shall be filed with the secretary of the district.

Creation by Resolution.

§ 29662. As an alternative to the initiation of proceedings for the formation of a special service district by resolution or resolutions, a petition may be filed with the secretary of the district signed by voters equal in number to at least 25 percent of the registered voters registered within the proposed special service district as determined from the affidavits of registration. The boundaries of the proposed special service district shall be described in the petition; provided, that when the entire area of a public agency is to be included in the special service district, it may be described by name.

Creation by Petition.

§ 29663. The petition shall declare that the public interest or necessity demands the creation of a special service district within the area of the district described in the petition. The petition may include one or more separate documents, but each document shall contain the affidavit of the party who circulated it, certifying that each name signed thereto is the true signature of the person whose name it purports to be.

Contents of Petition.

§ 29664. The secretary of the district shall compare the signatures in the petition with the affidavits of registration on file with the county elections official, and shall certify to the board as to the sufficiency or insufficiency of the petition.

Examination of Petition by District Secretary.

§ 29665. The following provisions of the Government Code shall not apply to this chapter or any proceeding taken thereunder:

Inapplicable Government Code Provisions.

(a) Chapter 6.6 (commencing with Section 54775), Part 1, Division 2 of Title 5, relating to local agency formation commissions.

(b) The District Investigation Law of 1933 (Chapter 2 (commencing with Section 58500), Division 1 of Title 6).

(c) Chapter 3 (commencing with Section 58850), Division 1 of Title 6, relating to county boundary commissions.

(d) Chapter 3.5 (commencing with Section 58900), Division 1 of Title 6, relating to notice of formation or change in boundaries of districts.

§ 29666. Nothing contained herein shall allow the San Francisco Bay Area Rapid Transit District, or any special service district formed hereunder, to exercise any jurisdiction, taxing, or otherwise, over any territory heretofore withdrawn from the San Francisco Bay Area Rapid Transit District pursuant to Chapter 10 (commencing with Section 29650) of the Public Utilities Code, or never annexed thereto pursuant to Chapter 9 (commencing with Section 29500) of the Public Utilities Code.

Lack of Jurisdiction Over Withdrawn Territory.

Article 2. - Hearing

§ 29670. Within 30 days after receipt of the resolution or resolutions of the legislative body or bodies or receipt of the certification of the sufficiency of a petition by the secretary of the district, the board shall by resolution designate the special service district as "San Francisco Bay Area Rapid Transit District, Special Service District No. ____ (here insert number)" (all such special service districts shall be numbered consecutively), shall fix a time and place for a hearing on the proposed creation of the special service district and shall not later than five days after fixing the time and place of hearing publish notice thereof.

Fixing Time and Place for Hearing.

§ 29671. The notice of hearing shall be published once in a newspaper of general circulation published in the district. The board, in its discretion, may give such additional notice as it deems desirable.

Publication of Notice of Hearing.

§ 29672. The time fixed for the hearing shall be not less than ten (10) nor more than thirty (30) days from the date of the publication of the notice. **Time for Hearing.**

§ 29673. At or before the hearing, any person interested may file with the secretary of the district written objections to the creation of the special service district or to the inclusion of his property therein. Upon the hearing, the board shall hear and determine all protests and objections. The hearing may be continued from time to time by the board without further notice other than an order to be entered upon the minutes of its meeting fixing the time and place of the continued hearing. **Filing Objections: Continuance of Hearing.**

§ 29674. If no protests are filed or if the protests filed are overruled and denied by the board, the board shall by resolution approve the creation of the special service district and shall by resolution call an election as provided in Article 3 (commencing with Section 29680). **Resolution of Approval and Calling Election.**

Article 3. - Election

§ 29680. At the time of the approval of the creation of a special service district, the board shall call an election in the territory proposed to be included in the special service district for the purpose of submitting to the voters in such territory the question of whether the special service district shall be created and established. **Purpose of Election.**

§ 29681. Such election shall be held on the next established election date not less than 74 days after the board's approval of the creation of the special service district. **Time for Election.**

§ 29682. The ballot for the election shall contain such instructions as are required by law to be printed thereon and in addition thereto the following: **Contents of Ballot.**

Shall the San Francisco Bay Area Rapid Transit District, Special Service District No. _____ (here insert number)" be created and established?	YES	
	NO	

§ 29683. No person is entitled to vote at the election unless he is a registered voter residing within the territory proposed to be included in the special service district. The election may be held on the same day as any other state, county or city election and may be consolidated.

Persons Entitled to Vote: Consolidation with Other Elections.

§ 29684. The costs of the election required by this article shall be borne by the district.

Costs of Election.

§ 29685. The question of the creation of a special service district shall be canvassed separately for each public agency, or portion thereof, in which an election is held, and the board shall order and declare the special service district created in each public agency, or portion thereof, in which an election was held and in which a majority of those who voted upon the proposition of creating the special service district voted in favor of the proposition, and excluding each public agency, or portion thereof, in which an election was held and in which a majority of those who voted upon the proposition of creating the special service district voted against the proposition. A certified copy of the resolution declaring the special service district created shall be filed in the office of the Secretary of State, and upon such filing the special service district shall be established.

Canvass.

Article 4. - Taxing Subdivision

§ 29690. A special service district has no separate corporate existence, but shall be deemed to be a taxing subdivision of the district, and within each special service district the board may levy and collect or cause to be collected taxes for any lawful purpose in accordance with Chapter 7 (commencing with Section 29120) and Section 29183.

Tax Status of Special Service District.

Article 5. - Bond Election

§ 29700. At any time after the approval by the board of the creation of a special service district, as provided in Section 29674, the board may provide for the submission of a proposition for the incurring of a bonded indebtedness to be incurred by the district on behalf of the special service district to pay the costs of acquiring, constructing or completing the whole or any portion of any transit facilities, or for acquiring any works, lands, structures, rights, equipment, or other property necessary or convenient to carry out the objects, purposes or powers of the district within the boundaries of a special service district created pursuant to this chapter.

Authorized Purposes.

§ 29701. The proposition for incurring a bonded indebtedness under Section 29700 may be submitted to the voters at the same election as the proposition to create the special service district held pursuant to Article 3 (commencing with Section 29680), or at an election subsequent to the creation of the special service district.

Elections at which Bond Proposition may be Submitted.

§ 29702. Except as otherwise provided in this chapter, the provisions of Chapter 8 (commencing with Section 29150) relating to general obligation bonds with the exception of Sections 29150 to 29158, inclusive, shall substantially govern as to all matters pertaining to the manner of calling, giving notice and holding the bond election, the execution, issuance, sale, maturity, redemption, refunding and validation of the bonds authorized by this article, the payment of interest from bond funds, the status of the bonds as investments, the reissuance of bonds, notes, coupons or other evidence of indebtedness which have been lost, destroyed, damaged or mutilated, and past due bonds.

Bond Election Procedure.

§ 29703. Only those registered voters residing within the boundaries of the special service district shall be entitled to vote on the proposition for the incurring of a bonded indebtedness. The favorable vote of three-fifths of all the voters voting on the proposition to authorize the issuance of bonds at the election held pursuant to Section 29701 within the special service district as finally established is required to authorize the issuance of the bonds.

Requisite Favorable Vote.

§ 29704. Only the property in the special service district shall be taxable for the payment of the principal and interest on special service district bonds. Until the bonds are paid, taxes shall be levied in substantial compliance with Chapter 7 (commencing with Section 29120) and Section 29183.

Manner in which Taxes to be Levied.

§ 29705. Any proceedings denying the validity of the creation of any special service district, or of any bonds authorized by the voters thereof, pursuant to this part, shall be brought within three months after the date upon which the applicable proposition is approved by the voters.

District and Bond Validation Proceedings.

Article 6. - Annexation

§ 29710. Any territory within the boundaries of the district not included within the boundaries of the special service district to which it is proposed to be annexed, may be annexed thereto in the manner provided in this article; provided that no city shall be divided in the annexation of territory to a special service district.

Division of City Prohibition.

§ 29711. The board shall by resolution determine that the annexation of the territory will facilitate the acquisition or operation of transit facilities for the special service district, describe the territory, declare its intention to annex the territory to the special service district, set forth the terms and conditions upon which the territory shall be annexed, fix the time and place for hearing on the question of the annexation and provide for notice of the hearing.

Annexation Resolution: Contents.

§ 29712. Any public agency or portion thereof included as part of the territory proposed to be annexed to a special service district pursuant to this article may, by resolution of its legislative body, or a petition of its voters filed with the secretary of the district prior to the hearing on annexation, require the submission of an annexation proposition to the voters of the public agency, or portion thereof. However, no election shall be held if the board, pursuant to Section 29719, excludes from the territory to be annexed the public agency, or portion thereof, proposed to be annexed in accordance with its resolution or petition.

Annexation Election: when no Election to be Held.

§ 29713. The petition for election provided for in Section 29712 shall be signed by voters within any public agency, or portion thereof, included within the boundaries of the territory proposed to be annexed equal in number to at least 10 percent of the registered voters residing within such public agency, or portion thereof. The petition may include one or more documents, but each document shall contain the affidavit of the party who circulated it certifying that each name affixed thereto is the true signature of the person whose name it purports to be.

Petition for Election: Matters Includible.

§ 29714. The secretary of the district shall compare the signatures with the affidavits of registration on file with the county elections official, and shall certify to the board as to the sufficiency or insufficiency of the petition.

Examination of Petition by District Secretary.

§ 29715. The terms and conditions for the annexation of territory to a special service district may provide, among other matters, for the payment of taxes within the territory to be annexed, in addition to the taxes otherwise provided for in this part, the fixing of rates, rentals, and charges differing from those fixed or existing elsewhere, within the special service district, the making of a payment or payments, or the transfer of property, real and personal, and other assets to the district by the territory proposed to be annexed.

Terms and Conditions for Annexation.

§ 29716. Notice fixing the time and place for hearing on the question of the annexation of territory to a special service district shall be published once in a newspaper of general circulation published in the district. The board, in its discretion, may give such additional notice as it deems desirable.

Notice of Hearing on Annexation.

§ 29717. The time of hearing shall be not less than 20 nor more than 60 days from the date of the publication of the notice.

Time of Hearing.

§ 29718. At or before the hearing, any person interested may file with the secretary of the district written objections to the annexation of the territory to the special service district or to the inclusion of his property. Upon the hearing, the board shall hear and determine all protests and objections.

Hearing on Objections to Annexation.

§ 29719. The hearing may be continued from time to time by the board without further notice other than an order entered upon the minutes of its meeting fixing the time and place of the continued hearing. In the event that no protests are filed, or the protests filed are overruled and denied, and no election is to be held, the board shall, by resolution, declare the territory, or a portion thereof, annexed to the special service district.

Continuance of Hearing: Procedure when no Protests Filed, Etc.

§ 29719.5. If the board finds that protest has been made, prior to the board's final determination for annexation, by the owners of real property within the area to be annexed the assessed value of which, as shown by the last equalized assessment roll, constitutes more than one-half of the total assessed value of the real property within the area to be annexed, the proceeding shall terminate. The board shall order the proceedings terminated when such protests are received.

Termination of Proceedings.

§ 29720. From and after the date of filing of the resolution with the secretary of the district, the annexation of the territory, or portion thereof, to the special service district is complete.

Completion of Annexation when no Protests Filed.

§ 29721. If an election is required to be held, pursuant to the provisions of Section 29712, the board shall call such election within 60 days after the petition or resolution is filed with the secretary of the district; provided that if a general election is to be held within the petitioning public agency within 120 days after the petition or resolution is filed with the secretary of the district, the board may consolidate the election required by this article with the general election.

Time For Calling Election: Permissible Consolidation of Elections.

§ 29722. The ballot for the election shall contain such instructions as are required by law to be printed thereon and in addition thereto the following:

Ballot: Contents and Provisions.

Shall territory in . . . *(giving name of public agency or portion thereof)* be annexed to San Francisco Bay Area Rapid Transit District, Special Service District No. ____ *(here insert number)*"?	YES	
	NO	

§ 29723. No person is entitled to vote at the election unless he is a voter of the public agency, or portion thereof, requesting the election. The election may be held on the same day as any other state, county or city election and may be consolidated.

Persons Entitled to Vote: Consolidation.

§ 29724. The costs of the election required by this article shall be borne by the district.

Costs of Election.

§ 29725. The question of the annexation of territory to a special service district shall be canvassed separately for each public agency, or portion thereof, in which an election is held, and the board shall order and declare the territory annexed to the special service district in each public agency, or portion thereof, in which an election is held and in which a majority of those who voted upon the proposition of annexation of territory to the special service district voted in favor of the proposition, and excluding each public agency, or portion thereof, in which an election was held and in which a majority of those who voted upon the proposition of the annexation of territory to the special service district voted against the proposition.

Canvass of Election Results.

§ 29726. Upon the completion of the annexation of any territory, in accordance with law, to any city included in a special service district, the city clerk shall file with the secretary of the district a certified copy of the ordinance, resolution or other document completing said annexation containing a description of the property so annexed. Unless the district within 90 days after such filing shall file with the city clerk the district's written objections to the annexation to the special service district of said territory, such territory shall, upon the termination of such period, be deemed incorporated into and annexed to the special service district, and thereafter is subject to taxation along with the entire territory of the special service district in accordance with the assessable valuation of the property thereof for special service district purposes, and for the payment of any indebtedness theretofore or thereafter incurred by the special service district.

Procedure to Complete Annexation.

§ 29727. If the district shall file its objections, in the manner provided in Section 29726, to the annexation to a special service district of territory annexed to a city included in a special service district, the territory shall not be annexed to the special service district, except in the manner heretofore provided in this Article 6 (commencing with Section 29710). The district may withdraw such objections by filing with the city clerk a certified copy of a resolution of the board stating that such objections are withdrawn. Thereupon such territory shall be deemed incorporated into and annexed to the special service district, as provided in Section 29726.

District Objections to Annexation.

Article 7. - Dissolution

§ 29740. A special service district may be dissolved by resolution of the board if any proposition for the incurring of a bonded indebtedness fails to carry, and if the special service district is then subject to no other indebtedness or liability pursuant to this part and has been organized for not less than two years. Dissolution of a special service district shall not prevent subsequent proceedings for the creation of a special service district including the same or any part of the area of the special service district dissolved.

Dissolution when Bond Issue Fails to Carry: Subsequent Proceedings.

CHAPTER 11. DISSOLUTION:

§ 29750. If district bonds for the acquisition or construction of rapid transit facilities have not been voted by the electors within five years of the creation of the district, the board of directors may call an election for the purpose of submitting to the voters of the district the question of whether the district will be dissolved. Upon the filing with the secretary of the district of a petition signed by voters within the district equal in number to at least 25 percent of the total vote cast in the district for all candidates for Governor at the last preceding general election at which a Governor was elected, asking that the question of dissolution of the district be submitted to the voters of the district, the board shall call an election for that purpose.

Dissolution.

§ 29751. The election, for the purpose of submitting to the voters of the district the question of whether or not the district shall be dissolved, shall be held within 60 days following the date on which it is ordered by the board or on which the petition is filed.

Election.

§ 29752. Notice of any election for dissolution, whether called because of the filing of a petition or ordered by the board without petition, shall be published. The date fixed for the election shall not be less than 30 days from the date of the first publication of the notice. **Publication Notice.**

§ 29753. The ballots for the election shall contain substantially the instructions required to be printed on ballots for use at general state and county elections and in addition the following: **Instructions.**

Shall the San Francisco Bay Area Rapid Transit District be dissolved?	YES	
	NO	

§ 29754. No other notice of the election other than that provided for in this article need be given and no sample ballots need be sent to the voters. **Notice and Ballots.**

§ 29755. If upon a canvass of the election it is found that a majority of all votes cast on the proposition at the election were in favor of the dissolution, the dissolution shall be deemed carried and approved by the voters. The board shall meet on Monday next succeeding the election and canvass the vote's cast. **Disapproval.**

§ 29756. If a majority of the qualified electors voting at said election vote in favor of such dissolution, the board of directors shall, by resolution entered upon its minutes, declare the district dissolved. A certified copy of said resolution shall be filed with the county and city and county recorders and with the Secretary of State and also with the county and city and county assessors and the State Board of Equalization. Upon the adoption of said resolution, said district shall be dissolved. The board of directors, if dissolution is voted, shall wind up the affairs of the district and pay all indebtedness thereof, and any moneys remaining thereafter shall be paid over to the counties, city and county and cities, in which the district lies, in proportion to the assessed valuation of taxable property in said city and county and cities and in the unincorporated area of the counties included in the district, as shown by the assessment rolls of the city and county and counties last equalized at the date of such dissolution. **Approval.**

§ 29757. In the event that the proposition for dissolution fails to carry, no subsequent election for the dissolution of the district shall be called until after the expiration of one year from the date of the prior election.

Subsequent Election.

APPENDIX A

PUBLIC CONTRACT CODE – *Article 6.8*

TRANSIT DESIGN-BUILD CONTRACTS

§ 20209.5. As used in this article, the following terms have the following meanings: **Definitions.**

(a) "Best value" means a value determined by objective criteria and may include, but is not limited to, price, features, functions, life-cycle costs, and other criteria deemed appropriate by the transit district.

(b) "Design-build" means a procurement process in which both the design and construction of a project are procured from a single entity.

(c) "Design-build entity" means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.

(d) "RFP" means request for proposal.

(e) "Transit operator" means any transit district, included transit district, municipal operator, included municipal operator, or transit development board, as defined in Section 99210 of the Public Utilities Code, or a consolidated agency as defined in Section 132353.1 of the Public Utilities Code, or any joint powers authority formed to provide transit service.

(Added by Stats. 2000, c. 541 (A.B. 958), § 2. Amended by Stats. 2006, c. 262 (A.B.372), § 1)

§ 20209.6. When it is in the best interest of the transit operator, the transit operator may enter into a design-build contract for both the design and construction of a project under this article. After evaluation of the traditional design, bid, and build process of transit construction and of the design-build process in a public meeting, the transit operator shall make written findings that use of the design-build process on the specific project under consideration will accomplish one of the following objectives: reduce project costs, expedite the project's completion, provide design features not achievable through the design-bid-build method, prior to entering into a design-build contract. In the design-build project proposal, the written findings shall be included as part of any application for state funds pursuant to this chapter.

Design-Build Contracts Entered into by Transit Operator.

(Added by Stats. 2000, c. 541 (A.B. 958), § 2.)

§20209.7. Design-build projects shall progress in a three-step process, as follows:

Design-Build Projects; Progress in Three-Step Process.

(a) The transit operator shall prepare a set of documents setting forth the scope of the project. The documents shall include, but are not limited to, the size, type, and desired design character of the buildings, transit facilities, and site, performance specifications covering the quality of materials, equipment, and workmanship, preliminary plans or building layouts, or any other information deemed necessary to describe adequately the transit operator's needs. The performance specifications and any plans shall be prepared by a design professional duly licensed or registered in California.

(b) Any architectural or engineering firm or individual retained by the transit operator to assist in the development criteria or preparation of the request for proposal (RFP) is not eligible to participate in the competition for the design-build entity.

(c)(1) For contracts awarded prior to the effective date of either the regulations adopted by the Department of Industrial Relations pursuant to subdivision (b) of Section 1771.55 of the Labor Code or the fee established by the department pursuant to paragraph (2), if the transit operator does not already have a labor compliance program, as defined in Section 1771.5 of the Labor Code, the transit operator shall establish and enforce a labor compliance program for the design-build contract containing the requirements outlined in Section 1771.5 of the Labor Code or shall contract with a third party to operate this labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement applies only to the design-build contract and does not apply to projects where the transit operator or the design-build entity has entered into a collective bargaining agreement that binds all of the contractors performing work on the project, or to any other project of the transit operator that is not design-build.

(2) For contracts awarded on or after the effective date of both the regulations adopted by the Department of Industrial Relations pursuant to subdivision (b) of Section 1771.55 of the Labor Code and the fee established by the department pursuant to this paragraph, the transit operator shall pay a fee to the department, in an amount that the department shall establish, and as it may from time to time amend, sufficient to support the department's costs in ensuring compliance with and enforcing prevailing wage requirements on the project, and labor compliance enforcement as set forth in subdivision (b) of Section 1771.55 of the Labor Code. All fees collected pursuant to this subdivision shall be deposited in the State Public Works Enforcement Fund created by Section 1771.3 of the Labor Code, and shall be used only for enforcement of prevailing wage requirements on those projects.

(3) The Department of Industrial Relations may waive the fee set forth in paragraph (2) if the transit operator has previously been granted approval by the director to initiate and operate a labor compliance program on its projects and requests to continue to operate that labor compliance program on its projects in lieu of labor compliance by the department pursuant to subdivision (b) of Section 1771.55 of the Labor Code. The fee shall not be waived for the transit operator if it contracts with a third party to initiate and enforce labor compliance programs on its projects.

(d)(1) Each RFP shall identify the basic scope and needs of the project or contract, the expected cost range, and other information deemed necessary by the contracting agency to inform interested parties of the contracting opportunity.

(2) Each RFP shall invite interested parties to submit competitive sealed proposals in the manner prescribed by the contracting agency.

(3) Each RFP shall include a section identifying and describing:

(A) All significant factors that the agency reasonably expects to consider in evaluating proposals, including cost or price and all nonprice-related factors.

(B) The methodology and rating or weighting process that will be used by the agency in evaluating competitive proposals and specifically whether proposals will be rated according to numeric or qualitative values.

(C) The relative importance or weight assigned to each of the factors identified in the RFP. If a nonweighted system is used, the agency shall specifically disclose whether all evaluation factors other than cost or price, when combined, are any of the following:

(i) Significantly more important than cost or price.

(ii) Approximately equal in importance to cost or price.

(iii) Significantly less important than cost or price.

(D) If the contracting agency wishes to reserve the right to hold discussions or negotiations with offerors, it shall specify the same in the RFP and shall publish separately or incorporate into the RFP applicable rules and procedures to be observed by the agency to ensure that any discussions or negotiations are conducted in a fair and impartial manner.

(e)(1) The transit operator shall establish a procedure to prequalify design-build entities using a standard questionnaire developed by the Director of Industrial Relations. The standardized questionnaire shall not require prospective bidders to disclose any violations of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code committed prior to January 1, 1998, if the violation was based on a subcontractor's failure to comply with these provisions and the bidder had no knowledge of the subcontractor' s violations and the bidder complied with the conditions set forth in subdivision (b) of Section 1775 of the Labor Code. In preparing the questionnaire, the director shall consult with the construction industry, building trades, transit operators, and other affected parties. This questionnaire shall require information relevant to the architecture or engineering firm that will be the lead on the design-build project. The questionnaire shall include, but not limited to, all of the following:

(A) A listing of all the contractors that are part of the design-build entity.

(B) Evidence that the members of the design-build entity have completed, or demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project.

(C) The licenses, registrations, and credentials required to design and construct the project, including information on the revocation or suspension of any license, credential, or registration.

(D) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance, as well as a financial statement that assures the transit operator that the design-build entity has the capacity to complete the project.

(E) Any prior serious or willful violation of the California Occupational Safety and Health Act of 1973, contained in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the federal Occupational Safety and Health Act of 1970 (P.L. 91-596), settled against any member of the design-build entity, and information concerning a contractor member's workers' compensation experience history and worker safety program.

(F) Information concerning any debarment, disqualification, or removal from a federal, state, or local government public works project. Any instance where an entity, its owners, officers, or managing employees submitted a bid on a public works project and were found by an awarding body not to be a responsible bidder.

(G) Any instance where the entity, its owner, officers, or managing employees defaulted on a construction contract.

(H) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations of federal or state law, including the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or of Federal Insurance Contribution Act (FICA) withholding requirements settled against any member of the design-build entity.

(I) Information concerning the bankruptcy or receivership of any member of the entity, and information concerning all legal claims, disputes, or lawsuits arising from any construction project of any member of the entity during the past three years, including information concerning any work completed by a surety.

(J) If the design-build entity is a partnership, limited partnership, or other association, a listing of all of the partners, general partners, or association members who will participate as subcontractors in the design-build contract.

(K) Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the design-build entity during the five-year period immediately preceding submission of a bid pursuant to this section, in which the claim, settlement, or judgment exceeds fifty thousand dollars ($50,000). Information shall also be provided concerning any work completed by a surety during this period.

(L) In the case of a partnership or other association that is not a legal entity, a copy of the agreement creating the partnership or association and specifying that all partners or association members agree to be liable for full performance under the design-build contract.

(2) The information required pursuant to this subdivision shall be verified under oath by the entity and its members in the manner in which civil pleadings in civil actions are verified. Information that is not a public record pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) shall not be open to public inspection.

(f) The transit operator shall establish a procedure for final selection of the design-build entity. Selection shall be subject to the following conditions:

(1) In no case shall the transit operator award a contract to a design-build entity pursuant to this article for a capital maintenance or capacity-enhancing rail project unless that project exceeds twenty-five million dollars ($25,000,000) in cost.

(2) For nonrail ticket projects that exceed two million five hundred thousand dollars ($2,500,00), the transit operator may award the project to the lowest responsible bidder or by using the best value method.

(3) For the acquisition and installation of technology applications or surveillance equipment designed to enhance safety, disaster preparedness, and homeland security efforts, there shall be no cost threshold and the transit operator may award the contract to the lowest responsible bidder or by using the best value method.

(g) Except as provided in this section, nothing in this act shall be construed to effect the application of any other law.

(Added by Stats. 2000, c. 541 (A.B. 958), § 2. Amended by Stats. 2001, c. 159 (S.B. 662), § 167; Stats. 2006, c. 262 (A.B. 372), § 2; Stats. 2008, c. 185 (A.B. 387), § 1, effective January 1, 2009; Stats. 2009-2010 2d Ex. Sess. C. 7 § 17 (S.B. 9XX), effective May 21, 2009.)

§ 20209.8. Criteria used in the evaluation of proposals may include, but need not be limited to, the proposed design approach, life-cycle costs, project features, and project functions.

Evaluation of Proposals; Criteria.

(a) Competitive proposals shall be evaluated by using only the criteria and source selection procedures specifically identified in the RFP. Once the evaluation is complete, all responsive bidders shall be ranked from most advantageous to least advantageous to the awarding agency.

(b) Any architectural or engineering firm or individual retained by the governing body to assist in the development criteria or preparation of the solicitation shall not be eligible to participate in the competition with any design-build entity.

(c) The award of the contract shall be made to the responsible bidder whose proposals are determined, in writing, to be the best value to the awarding body.

(d) Proposals shall be evaluated and scored solely on the basis of the factors and source selection procedures identified in the RFPs. However, the following minimum factors shall collectively represent at least 50 percent of the total weight or consideration given to all criteria factors: price, technical expertise, life cycle costs over 15 years or more, skilled labor force availability, and acceptable safety record.

(e) The contracting agency shall issue a written decision supporting its contract award and stating in detail the basis of the award. The decision and the contract file shall be sufficient to satisfy an external audit.

(f) Notwithstanding any provision of the Public Contract Code, upon issuance of a contract award, the contracting agency shall publicly announce its award, identifying the contractor to whom the award is made, the winning contractor's price proposal, and its overall combined rating on the RFP evaluation factors. The notice of award shall also include the agency's ranking of all other offerors and their respective price proposals and a summary of the agency's rationale for the contract award.

(g) For the purposes of this section, "skilled labor force availability" shall be determined by the existence of an agreement with a registered apprenticeship program, approved by the California Apprenticeship Council, which has graduated apprentices in each of the preceding five years. This graduation requirement shall not apply to programs providing apprenticeship training for any craft that has not been deemed by the Department of Labor and the Department of Industrial Relations to be an apprenticeable craft in the five years prior to enactment of this act.

(h) For the purposes of this section, a bidder's "safety record" shall be deemed "acceptable" if his or her experience modification rate for the most recent three-year period is an average of 1.0 or less and his or her average total recordable injury/illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category or if the bidder is a party to an alternative dispute resolution system as provided for in Section 3201.5 of the Labor Code.

(Added by Stats. 2000, c. 541 (A.B. 958), § 2.)

§ 20209.9. If the governing body of a transit operator elects to award a transit capital project through the design-build selection process pursuant to this article, all of the following apply:

Transit Capital Projects; Awards by Transit Operator.

(a) The retention proceeds withheld by the transit operator from the design-build entity listed at the time of bid shall not exceed 5 percent.

(b) The transit operator shall not withhold retention from payments to the design-build entity for actual costs incurred and billed for design services, construction management services, or where applicable, for completed operations and maintenance services.

(c) In a contract between the design-build entity and a subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld may not exceed the percentage specified in the contract between the transit operator and the design-build entity. If the design-build entity provides written notice to any subcontractor who is not a member of the design-build entity, prior to or at the time that the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the transit operator and the design-build entity from any payment made by the design-build entity to the subcontractor.

(d) In accordance with the provisions of applicable state law, the design-build entity may be permitted to substitute securities in lieu of the withholding from progress payments specified in subdivision (b). Substitutions shall be made in accordance with Section 22300 of the Public Contract Code.

(e) Upon request, the transit operator shall provide a list of parties who have requested a bid package.

(Added by Stats. 2000, c. 541 (A.B. 958), § 2.)

20209.10. (a) Any design-build entity that is selected to design and build a project pursuant to this article shall possess or obtain sufficient bonding and errors and omissions insurance coverage sufficient to cover all design and architectural services provided in the contract consistent with this article. Nothing in this article prohibits a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

Bonding: Errors and Omissions Insurance Coverage; Requirements; Bids.

(b) Any payment or performance bond written for the purposes of this article shall be written using a bond form developed by the Department of General Services pursuant to subdivision (i) of Section 14661 of the Government Code. The purpose of this subdivision is to promote uniformity of bond forms to be used on transit operator design-build projects throughout the state.

(c) All subcontracts that were not listed by the design-build entity in accordance with Section 20209.6 shall be awarded by the design-build entity. The design-build entity shall do both of the following:

(1) Provide public notice of the availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the public entity.

(2) Provide a fixed date and time on which the subcontracted work will be awarded.

(d) Subcontractors bidding on contracts pursuant to this article shall be afforded the protections contained in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code.

(Added by Stats.2000, c. 541 (A.B.958), § 2.)

§ 20209.11. (a) The minimum performance criteria and design standards established pursuant to this article by a transit operator for quality, durability, longevity, life-cycle costs, and other criteria deemed appropriate by the transit operator shall be adhered to by the design-build entity. Any deviations from those standards may only be allowed by written consent of the transit operator. The transit operator may retain the services of a design professional through the course of the project in order to ensure compliance with this article.

Minimum Performance Criteria and Design Standards; Determination of Project Price.

(b) The total price of the project shall be subject to the conditions established in subdivision (f) of Section 20209.7.

(Added by Stats. 2000, c. 541 (A.B.958), § 2; Amended by Stats. 2009, c. 229 (AB 282), § 2, effective January 1, 2010.)

§ 20209.12. Each transit operator that elects to proceed under this article and use the design-build method on a public works project shall prepare and deliver to the Legislative Analyst's Office within 120 days of the design-build project being put into operation or by December 1, 2015, whichever occurs first, a report containing a description of each public works project financed with public funds, procured through the design-build process, and completed on or before November 1, 2015. However, if a project has been commenced, but not completed on or before November 1, 2015, the transit operator shall complete a report no later than 120 days after completion of the project. The report shall include, but not be limited to, all of the following information:

Reports to Legislative Analyst's Office.

(a) The type of facility.

(b) The gross square footage of the facility.

(c) The company or contractor who was awarded the project.

(d) The estimated and actual length of time to complete the project.

(e) The findings established pursuant to Section 20133.

(f) Any Labor Code violations discovered during the course of construction or following completion of the project, as well as any fines or penalties assessed.

(g) The estimated and actual project cost.

(h) A description of any written protests concerning any aspect of the solicitation, bid, proposal, or award of the design-build project, including the resolution of the protest.

(i) An assessment of the prequalification process and criteria.

(j) An assessment of the impact of retaining 5 percent retention on the project.

(k) A description of the labor force compliance program and an assessment of the project impact, where required.

(l) A description of the method used to award the contract. If best value was the method, the factors used to evaluate the bid shall be described, including the weighting of each factor and an assessment of the effectiveness of the methodology.

(m) An assessment of the project impact of "skilled labor force availability."

(n) An assessment of the design-build dollar limits on transit projects. This shall include projects where the transit operator wanted to use design-build and was precluded by the dollar limitation. It shall also include projects where the best value method of awarding contracts was not used, due to dollar limitations.

(o) An assessment of the most appropriate uses for the design-build approach.

(p) Any transit operator that elects not to use the authority granted may also submit a report to the entities named in accordance with the schedule in this section. This report may include an analysis of why the authority granted was not used by the operator.

(Added Stats. 2000, c. 541, § 2 (A.B. 958). Amended by Stats. 2004, c. 196, (S.B. 1130) § 2; Stats. 2009, c. 466, (A.B. 729), § 1, effective January 1, 2010.)

§ 20209.13. (a) Unless expressly set forth in this article, nothing in this article is intended to affect, expand, alter, or limit any rights or remedies otherwise available at law. **Scope of Article.**

(b) This article applies only to transit projects. "Transit projects" for the purposes of this article does not include state highway construction or local street and road projects.

(Added by Stats. 2000, c. 541, § 2 (A.B. 958). Amended by Stats. 2004, c. 196, (S.B. 1130) § 3.)

§ 20209.14. This article shall remain in effect only until January 1, 2015, and as of that date is repealed. (Added Stats. 2000, c. 541, § 2 (A.B. 958). Amended by Stats. 2004, c. 196, (S.B. 1130) § 4; Stats. 2006, c. 262 (A.B. 372), § 3; Stats. 2009, c. 466, (A.B. 729), § 2, effective January 1, 2010.) **Duration of Article.**

APPENDIX B

PUBLIC CONTRACT CODE – *Article 8*

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

§ 20220. The provisions of this article shall apply to contracts by the San Francisco Bay Area Rapid Transit District, as provided for in Part 2 (commencing with Section 28500) of Division 10 of the Public Utilities Code. **Purpose.**

(Added by Stats. 1982, c. 465, p. 1924, § 11.)

§ 20221. (a) The purchase of all supplies, equipment, and materials when the expenditure required exceeds one hundred thousand dollars ($100,000), shall be by contract let to the lowest responsible bidder or, in the district's discretion, to the responsible bidder who submitted a proposal that provides the best value to the district on the basis of the factors identified in the solicitation. "Best value" means the overall combination of quality, price, and other elements of a proposal that, when considered together, provide the greatest overall benefit in response to requirements described in the solicitation documents. The construction of facilities and works when the expenditure required exceeds ten thousand dollars ($10,000) shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation. This publication shall be made at least 10 days before the bids are received. The board may reject any and all bids and readvertise in its discretion. **Bids.**

(b) Whenever the expected procurement required exceeds two thousand five hundred dollars ($2,500) and, in the case of the construction of facilities and works does not exceed ten thousand dollars ($10,000) or, in the case of the purchase of supplies, equipment, or materials, does not exceed one hundred thousand dollars ($100,000), the district shall obtain a minimum of three quotations, either written or oral, that permit prices and terms to be compared.

(c) Where the expenditure required by the bid price is less than one hundred thousand dollars ($100,000), the general manager may act for the board. When acting pursuant to this subdivision, the general manager shall, in each instance, promptly notify the board of the action taken.

(Amended by Stats. 1995, c. 115 (A.B. 949), § 1; Stats. 1996, c. 244 (A.B. 2590), § 1; Stats. 1998, c. 134 (A.B. 2683), § 1; Stats. 2006, c. 814 (S.B. 1687), § 1; Stats. 2007, c. 116 (A.B. 1326), § 1.)

Airport Extension; Procurement Procedures.

§ 20221.1. Notwithstanding any other provision of law, the governing board of the San Francisco Bay Area Rapid Transit District may, at its discretion, elect to design and construct all or any part of the extension of the district's transit facilities to the San Francisco International Airport. If the board elects to design and construct the project, it shall comply with all of the following procurement procedures:

(a) A request for qualifications shall be prepared and submitted to an adequate number of sources, as determined by the district, in its discretion, to permit reasonable competition consistent with the nature and requirements of that portion of the extension the district has elected to design and construct in accordance with this section. In addition, notice of the request for qualifications shall be published at least once in a newspaper of general circulation, which publication shall be at least 10 days before responses to the request for qualifications are received. The request for qualifications shall identify the minimum standards that the district has determined, in its discretion, shall be met or exceeded by a contractor to successfully design and construct the project described in this section. Those standards may include, but are not limited to, technical experience and capability, financial condition and capacity, organization, and personnel.

(b) All respondents determined by the district to meet or exceed the minimum standards set forth in the request for qualifications shall be considered prequalified. The district may, in its discretion, repeat the prequalification process described in subdivision (a). If the district has prequalified at least three respondents, it may invite those prequalified to submit sealed bids for the project based upon plans and specifications prepared by the district. Only those who have been prequalified are eligible for award of a contract. Award shall be made to the prequalified bidder submitting the lowest responsive bid.

(c) The board may reject any and all bids and request new bids.

(Added by Stats. 1994, c. 988 (S.B. 1742), § 1, eff. Sept. 29, 1994.)

Purchase in Open Market after Rejection of Bids; Vote Required.

§ 20222. If after rejecting bids the board determines and declares by a two-thirds vote of all its members that in its opinion the supplies, equipment and materials may be purchased at a lower price in the open market, the board may proceed to purchase the supplies, equipment and materials in the open market without further observance of the provisions requiring contracts, bids, or notice.

(Added by Stats. 1982, c. 465, p. 1925, § 11.)

Public Calamity; Dispensation with Contracts, Bids and Notice; Resolution.

§ 20223. In case of an emergency, the board may, by resolution passed by a two-thirds vote of all its members, declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property, and thereupon proceed to expend or enter into a contract involving the expenditure of any sum needed in the emergency without observance of the provisions requiring contracts, bids, or notice. If notice for bids to let contracts will not be given, the board shall also comply with Chapter 2.5 (commencing with Section 22050).

(Amended by Stats. 1994, c. 803 (A.B. 3348), § 1.8.)

§ 20224. Upon determining that immediate remedial measures to avert or alleviate damage to property, or to repair or restore damaged or destroyed property, of the district are necessary in order to insure that the facilities of the district are available to serve the transportation needs of the general public, and upon determining that available remedial measures, including procurement in compliance with Sections 20221, 20222, and 20223, are inadequate, the general manager may authorize the expenditure of money previously appropriated specifically by the board for the direct purchases of goods and services, without observance of the provisions of those sections.

Emergency Contracts.

The general manager shall, after any such expenditure, submit to the board a full report explaining the necessity for the action.

(Added by Stats. 1983, c. 1131, § 2.)

§ 20224.5. All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security:

Bidder's Security.

(a) Cash.

(b) A cashier's check made payable to the district.

(c) A certified check made payable to the district.

(d) A bidder's bond executed by an admitted surety insurer, made payable to the district.

Upon an award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the district beyond 60 days from the time the award is made.

(Added by Stats. 1989, c. 1163, § 9. Amended by Stats. 1990, c. 808 (S.B. 886), § 11.)

§ 20225. The general manager may establish districtwide purchasing standards, the purpose of which is to insure the necessary quality of supplies and equipment purchased by, or under the supervision of, the district and to permit the consolidation of purchases in order to effect greater economy in district purchasing.

Districtwide Purchasing Standards; Establishment; Purpose.

(Added by Stats. 1983, c. 1131, § 3.)

§ 20226. Notwithstanding Section 20221, and upon a finding by two-thirds of all members of the board that the proposed purchase in compliance with Sections 20221 and 20222 does not constitute a method of procurement adequate for the operation of district facilities or equipment, the board may direct the procurement of prototype equipment or modifications in an amount sufficient to conduct and evaluate operational testing without further observance of any provisions requiring contracts, bids, or notice.

Procurement of Prototype Equipment or Modifications; Amount.

(Added by Stats. 1983, c. 1131, § 4.)

§ 20227. Notwithstanding Section 20221, the board may direct the purchase of any supply, equipment, or material without observance of any provision requiring contracts, bids, or notice upon a finding by two-thirds of all members of the board that there is only a single source of procurement therefore and that the purchase is for the sole purpose of duplicating or replacing supply, equipment, or material, as the case may be, in use.

Purchases Without Contracts, Bids or Notice.

(Added by Stats. 1983, c. 1131, § 5.)

§ 20228. (a) Notwithstanding Section 20221, work on the Oakland Wye complex to the MacArthur Station project and on the Daly City turnback and storage facilities project may be performed by district personnel during periods of operation of the transit system when interconnection work is to be performed within 12 feet of the centerline of the existing track.

Interconnection and Other Specified Work; Performance by District Personnel.

(b) Notwithstanding Section 20221, interconnection work required for the Dublin-Pleasanton Extension, Warm Springs Extension, Pittsburg-Antioch Extension, Colma-San Francisco Airport Extensions, and work required by Department of Transportation retrofit or replacement projects may be performed by district personnel when the work is to be performed within 12 feet of the centerline of existing track or where the tie-in or startup of the work could affect operating train control, traction power, electrical control, or communications systems and the district has determined that there is a clear risk to safety of personnel or to passenger service which requires that district personnel perform the work.

(c) Notwithstanding subdivisions (a) and (b), it shall continue to be the policy of the district to perform all interconnection work by competitive bidding.

(Amended by Stats. 1991, c. 168 (A.B. 994), § 1.)

§ 20229. In order to facilitate the participation of minority-owned and women-owned businesses in nonfederally funded contracts consistent with federally funded contracts, the district may establish for nonfederally funded contracts percentage goals for participation of those businesses in subcontracts and subsupply contracts in accordance with the provisions of Part 23 (commencing with Section 23.1) of Title 49 of the Code of Federal Regulations in effect on January 1, 1983.

DBE Goals.

(Added by Stats. 1983, c. 731, § 1.)

§ 20229.1. (a) Notwithstanding any other provision of law, the governing board of the San Francisco Bay Area Rapid Transit District may direct the purchase of (1) electronic equipment, including, but not limited to, computers, telecommunications equipment, fare collection equipment, and microwave equipment and (2) specialized rail transit equipment, including, but not limited to, rail cars, and contracts for work that include, at a minimum, conversion of the rail car motive power system to alternating current or the complete replacement of existing rail car motive power units that utilize direct current, by competitive negotiation upon a finding by two-thirds of all members of the board that the purchase of that equipment in compliance with provisions of this code generally applicable to the purchase does not constitute a method of procurement adequate for the district's needs.

Purchase of Electronic Equipment and Specialized Rail Transit Equipment by Competitive Negotiation.

(b) Competitive negotiation, for the purposes of this section, shall include, as a minimum, all of the following elements:

(1) A request for proposal shall be prepared and submitted to an adequate number of qualified sources, as determined by the district in its discretion, to permit reasonable competition consistent with the nature and requirements of the procurement. In addition, notice of the request for proposal shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before the proposals are received. The district shall make every effort to generate the maximum feasible number of proposals from qualified sources and shall make a finding to that effect before proceeding to negotiate if only a single response to the request for proposal is received.

(2) The request for proposal shall identify significant evaluation factors, including price, and their relative importance.

(3) The district shall provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection for contract award.

(4) Award shall be made to the qualified bidder whose proposal will be most advantageous to the district with price and other factors considered. If award is not made to the bidder whose proposal contains the lowest price, the board shall make a finding setting forth the basis for the award.

(c) The board may reject any and all proposals and request new proposals at its discretion.

(d) A person who submits, or who plans to submit, a proposal may protest any acquisition conducted in accordance with this section as follows:

(1) Protests based on the content of the request for proposal shall be filed with the district within 10 calendar days after the request for proposal is first advertised in accordance with subdivision (b). The district shall issue a written decision on the protest prior to opening of proposals. A protest may be renewed by refiling the protest with the district within 15 calendar days after the mailing of the notice of the recommended award.

(2) Any bidder may protest the recommended award on any ground not based upon the content of the request for proposals by filing a protest with the district within 15 calendar days after the mailing of the notice of the recommended award.

(3) Any protest shall contain a full and complete written statement specifying in detail the grounds of the protest and the facts supporting the protest. Protestors shall have an opportunity to appear and be heard before the board prior to the opening of proposals in the case of protests based on the content of the request for proposals, prior to final award in the case of protests based on other grounds or the renewal of protests based on the content of the request for proposals.

(e) Where the district, through competitive negotiation, has entered into lease agreements for equipment of the type specified in subdivision (a) subsequent to December 1, 1980, the district may purchase the equipment directly from the lessor upon a finding by two-thirds of all members of the board that the purchase of that equipment in compliance with provisions of this code generally applicable to the purchase does not constitute a method of procurement adequate for the district's needs.

(f) Provisions in any contract concerning women and minority business enterprises, which provisions are in accordance with the request for proposals, shall not be subject to negotiation with the successful bidder.

(Amended by Stats. 1990, c. 310 (S.B. 1769), eff. July 17, 1990; Stats. 1991, c. 162 (S.B. 658), § 1; Stats. 1992, c. 1178 (S.B. 1440), § 2.)

APPENDIX C

PUBLIC UTILITIES CODE

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

§ 99156. Notwithstanding any other provision of law, a transit district may provide compensation to a member of the governing board of the district only for attendance at a meeting of the board or for each day the member is engaged in other district business within or without the district. A member who engages in district business other than attendance at board meetings shall first obtain authorization of the board for reimbursement of travel expenses or other compensation before engaging in that business and shall submit a report thereof to the board for all expenditures.

(Added by Stats. 1988, c. 1160, § 1.)

Members of Governing Board of Transit Districts; Compensation.

§ 99157. Notwithstanding any other provision of law, a transit district may not provide any life, accident, or health insurance plan to any member or former member of the governing board of the district who first served as a member of the governing board after January 1, 1989, that exceeds the benefits provided to full-time active or retired district employees. The terms, conditions, or contributions applicable to any plan provided for employees shall also apply to any plan provided for those members of the governing board.

(Added by Stats. 1988, c. 1160, § 2.)

Members of Governing Board of Transit Districts; Provision of Insurance Plans.

§ 99158. Notwithstanding any other provision of law, a transit district may not establish or contribute to a pension or retirement benefits plan or purchase an annuity for any member of its governing board who first served as a member of the governing board after January 1, 1989. This section does not apply to a deferred compensation plan described in Section 53213 of the Government Code.

(Added by Stats. 1988, c. 1160, § 3.)

Members of Governing Board of Transit Districts; Pensions, Retirement Benefits, or Annuities.

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