

Date of Hearing: March 20, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 1958 (Berman) – As Introduced January 29, 2024

**SUBJECT:** Santa Clara Valley Transportation Authority: board of directors.

**SUMMARY:** Specifies that, to the extent possible, the appointing powers of the Santa Clara Valley Transportation Authority (VTA) shall appoint individuals who have expertise, experience, or knowledge relative to transportation *or* project management issues.

**EXISTING LAW:**

- 1) Specifies that the government of the VTA shall be vested in a board of directors which shall consist of 12 members, as follows:
  - a) Two representatives of the county and one alternate who shall be members of the board of supervisors of the county, appointed by the board of supervisors.
  - b) Five representatives of the City of San Jose and one alternate who shall be city council members or the mayor of the City of San Jose, appointed by the city council.
  - c) Five city council members or mayors selected from among the city councils and mayors of all of the cities in the county, other than the City of San Jose, as provided by agreements among those cities. The agreements may provide for the appointment of alternates, who shall be city council members or mayors, for those city representatives.
- 2) Allows an alternate to vote in the place of a director represented by that alternate if the director is absent.
- 3) Requires, to the extent possible, the appointing powers to appoint individuals who have expertise, experience, or knowledge relative to transportation issues.

**FISCAL EFFECT:** None.

**COMMENTS:**

- 1) **Bill Summary and Author's Statement.** This bill requires that to the extent possible, the appointing powers of the VTA shall appoint individuals who have expertise, experience, or knowledge relative to transportation *or* project management issues. This bill is sponsored by the author.

According to the author, "Valley Transportation Authority provides essential public transit options that help get Santa Clara County's two million residents to and from work, school, and home. However, three Civil Grand Jury Reports over the last 17 years have concluded that VTA's governance structure is a root cause of the agency's poor performance and is in need of structural reform. A VTA Board with increased project management expertise will be better positioned to meet Santa Clara County's complex transportation needs."

- 2) **Santa Clara Valley Transportation Authority.** The Santa Clara County Transit District was created through state legislation in 1969 [SB 49 (Alquist and Bradley), Chapter 180, Statutes of 1969] to provide public transit service for the communities of Santa Clara County. On December 1, 1994, VTA became the congestion management agency in Santa Clara County, responsible for countywide transportation planning and funding and for managing the county’s blueprint to reduce congestion and improve air quality. Prior to January 1, 1995, the County Board of Supervisors served as the Board of Directors of VTA. Since January 1, 1995 [AB 2442 (Cortese), Chapter 254, Statutes of 1994], VTA has operated under a separate Board of Directors composed of County and city representatives. On January 1, 2000, AB 1650 (Committee on Transportation), Chapter 724, Statutes of 1999, changed VTA’s name.

VTA is an independent special district that provides bus, light rail, and paratransit services, as well as participates as a funding partner in regional rail service including Caltrain, Capital Corridor, and the Altamont Corridor Express. As the county’s congestion management agency, VTA is responsible for countywide transportation planning, including congestion management, design and construction of specific highway, pedestrian, and bicycle improvement projects, as well as promotion of transit-oriented development.

VTA provides these services throughout Santa Clara County, including Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga and Sunnyvale.

- 3) **Santa Clara County Grand Jury.** The Santa Clara County Civil Grand Jury has conducted three studies on VTA in the last 20 years. In its 2019 report, the grand jury stated, “For many years, VTA has been plagued by declining operating performance and recurring budget gaps between projected revenues and expenses (referred to as structural financial deficits) – notwithstanding significant population growth and, in recent years, increased employment levels throughout much of Silicon Valley.

“The 2003-2004 Santa Clara County Civil Grand Jury conducted an ‘Inquiry into the Board Structure and Financial Management of the Valley Transportation Authority’ which found, among other things, that:

- a) The operating performance of VTA compared unfavorably to its peer organizations;
- b) The VTA Board had not effectively managed the finances of VTA, resulting in a substantial structural financial deficit that was projected to increase in the following year; and,
- c) A root cause of VTA’s poor performance was the governance structure of the VTA Board, which was ‘too large, too political, too dependent on staff, too inexperienced in some cases, and too removed from the financial and operational performance of VTA.’

“To address these issues and attempt to make the VTA Board more responsive, the 2003-2004 Grand Jury proposed various changes to the Board’s structure. Although responses filed by seven of VTA’s constituent municipalities were supportive of some or all the recommended changes, VTA’s response defended the status quo, and most of the other

municipalities adopted VTA's position. Accordingly, the recommended changes were not made.

"The 2008-2009 Grand Jury again examined the governance of VTA and reiterated some of the same concerns noted in the earlier report, although the focus of the 2008-2009 report was primarily on the role and functioning of the VTA Board's appointed advisory committees.

"The 2018-2019 Civil Grand Jury (Grand Jury) revisited the subject of VTA's governance and the work of the earlier grand juries and found that:

- a) VTA's operating performance has continued to deteriorate over the last 10 years, relative to both its own historical performance and the performance of its peers, across a wide variety of metrics;
- b) The VTA Board has consistently failed to adequately monitor VTA's financial performance and has taken action, albeit less than fully effective action, only in the face of imminent financial crises; and,
- c) Despite the serious ongoing structural financial deficit, the VTA Board has been unwilling to review and reconsider decisions made years or even decades ago regarding large capital projects (and their attendant operating costs) that are no longer technologically sound or financially viable, based on their costs and projected ridership.

"The Grand Jury concluded that today, more so than in 2004 or 2009, the VTA Board is in need of structural change to enable it to better protect the interests of the County's taxpayers and address the many complex challenges presented by emerging trends in transportation, rapidly evolving technology and the changing needs of Silicon Valley residents. The Grand Jury recommends several changes to the governance structure and operations of the VTA Board which will improve the Board's ability to effectively perform its important oversight and strategic decision-making functions."

- 4) **VTA's Response to Report.** VTA responded to the report by writing, "As it is true of boards of large organizations, there are different levels of tenure on the Board. The goal is to encourage a balance of new perspectives with institutional knowledge and continuity. It is important to point out there is significant longevity on the Board. The combined years of service for all members is 95 years. The average (mean) length of service is five (5) years, the median is four (4) years, and the mode (the years of service most common to all Board members) is three (3) years. The longest tenure is 15 years. Additionally, staff provides significant resources to orient and assist Board members on a regular basis.

"The finding that the organization is staff driven and simultaneously dominated by the largest member agency is contradictory. Similar to other organizations, the Board sets the policy and provides direction to staff. Staff then implements the Board adopted policy and direction.

"Regarding the finding of the Board's fiduciary responsibilities and regional role, the Board's voting history shows there is generally consensus in approving projects with regional benefits."

- 5) **State Audits.** Published in July 2008, “The California State Auditor issued an audit on VTA saying, “The Santa Clara Valley Transportation Authority (VTA), one of the largest of more than 60 independent transit districts in California, has received criticism in recent years from, among other sources, an organizational and financial assessment published in March 2007 by a consultant VTA hired. Over the past year, VTA has responded to this assessment by making numerous improvements across its organization. Although VTA’s practices conform to best practices in many instances, recent improvement efforts and plans have not adequately addressed criticisms that it neglects constituency input in its decision making and that it lacks precision in capital budgeting. Additionally, VTA’s project-planning process is missing certain critical components, such as planning for future operating costs, and its project managers do not always comply with project-monitoring mechanisms. Thus, the quality of the information reaching VTA decision makers could be impaired. The collection of VTA accomplishments and remaining deficiencies indicates an organization striving for a high standard but still requiring some changes to reach it.”

In March 22, 2023 an audit of VTA was approved by the Joint Committee on Legislative Audit with a vote of 11-0. According to the State Auditor’s Office, the scope and objectives are the following:

- a) Review and evaluate the laws, rules, and regulations significant to the audit objectives.
- b) Assess VTA’s governance structure and practices.
- c) Review VTA’s strategic planning.
- d) Evaluate VTA’s project planning and oversight.
- e) Assess VTA’s financial viability.
- f) Review VTA’s fiscal oversight.
- g) To the extent possible, determine the extent to which VTA has created an agency culture focused on effective and efficient performance and compliance.
- h) Evaluate VTA’s implementation of recommendations made as a result of the 2008 audit by the State Auditor and whether implementation issues remain.
- i) Review and assess any other issues that are significant to the audit.

According to the State Auditor’s website, the estimated date of this audit is Summer 2024.

- 6) **Previous Legislation.** AB 2196 (Low), Chapter 381, Statutes of 2016, made numerous changes to the statutes which govern VTA, including clarifying that a mayor of a city is authorized to serve on the VTA Board of Directors in the same manner as city councilmembers.

AB 1091 (Berman) of 2021 would have, starting July 1, 2022, altered the board structure of VTA by reducing the number of appointed board members to 9 and prohibited the board

members from also serving as elected officials simultaneously. This bill died on the Assembly Floor Inactive File.

AB 2181 (Berman) of 2022 would have made numerous changes to the VTA board. This bill died in the Senate Transportation Committee.

- 7) **Arguments in Support.** According to Streets For All, “This bill would require that the board members that are appointed to the Santa Clara Valley Transportation Authority (VTA) have expertise or experience in transportation or project management issues. With upcoming large transportation infrastructure projects, such as the San Jose BART extension, the Board would benefit from having members with experience in project management.”
- 8) **Arguments in Opposition.** None on file.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Streets For All

**Opposition**

None on file

**Analysis Prepared by:** Jimmy MacDonald / L. GOV. / (916) 319-3958