

Date of Hearing: May 1, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 2325 (Lee) – As Introduced February 12, 2024

SUBJECT: San Francisco Bay Area Rapid Transit District: officers: designation and appointment.

SUMMARY: Eliminates the treasurer and controller as specifically designated officers of the Bay Area Rapid Transit District (BART) and as positions subject to appointment and removal by the BART Board. Specifically, **this bill:**

- 1) Removes the treasurer and controller as specifically designated officers of BART.
- 2) Eliminates the treasurer and controller as positions subject to appointment and removal by the BART Board.
- 3) Deletes the requirement that the person appointed controller to have been actively engaged in the practice of accounting for not less than 7 years next preceding their appointment.
- 4) Makes other technical and clarifying changes.

EXISTING LAW:

- 1) Requires the officers of BART to 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. 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 10 years next preceding his appointment. The person appointed controller shall have been actively engaged in the practice of accounting for not less than 7 years next preceding his appointment (PUC 28810).
- 2) Requires the secretary, general manager, general counsel, treasurer, and controller of BART to 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, as specified (PUC § 28811).
- 3) Establishes an independent office of the BART Inspector General (IG) to ensure that BART makes effective use of bridge toll revenue and other revenue and operates efficiently, effectively, and in compliance with applicable federal and state laws (PUC § 28840).

FISCAL EFFECT: None.

COMMENTS:

- 1) **Bay Area Rapid Transit District.** BART is a special district created by the State of California consisting of Alameda County, Contra Costa County, Santa Clara County, San

Mateo County and the City and County of San Francisco. BART connects San Francisco with cities in the East Bay and northern San Mateo County operating on five lines, 131 miles of track with 50 stations in five counties. According to BART, ridership has been impacted by the COVID-19 pandemic and remote work trends in the Bay Area. Prior to the pandemic, BART served 405,000 trips on an average weekday. BART was formed by the Legislature in 1957 and opened for service in 1972. BART currently has a nine-member board of directors directly elected by its nine election districts.

- 2) **BART Inspector General.** Senate Bill 595 (Beall), Chapter 650, Statutes of 2017, which authorized Regional Measure 3 (RM3), also created the BART IG. The measure, which raised toll rates on the Bay Area's seven state-owned bridges, was approved by voters in 2018 in the City and County of San Francisco, Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma Counties.

The IG was established to ensure BART makes effective use of bridge toll and other revenue and operates efficiently, effectively, and in compliance with applicable federal and state laws. Duties and responsibilities for the BART IG include, among others, conducting fraud and waste investigations, conducting audits, making recommendations to improve the efficiency and effectiveness of BART programs and operations, identifying opportunities to improve the data used to determine project resource allocations, and identifying and recommending best practices in the delivery of capital projects.

In the IG's Fiscal Year 2023 Annual Report to the California Legislature, the IG noted that "We determined that the District would benefit by consolidating financial operations under a Chief Financial Officer (CFO) within the span of control of the General Manager. A CFO structure will assist BART with its improvement efforts and better position the District to be more flexible and responsive to changes in transit and the economy, and make the most of its revenues." The IG also stated that, "Management has hired a consulting team to develop options and scenarios for a financial organizational structure based on the recommendation from the OIG's audit. These options along with a recommendation will be shared with the Financial Structure Ad Hoc Committee (see below) and the Board of Directors. The consulting team will provide a roadmap for implementing the recommended structure, including addressing change management. Staff is working to identify an author to carry legislation for amending the BART Act, which is required to place a Chief Financial Officer (CFO) position under the span of control of the General Manager." The expected implementation of this IG recommendation is July 2025.

- 3) **Bills Summary and Author's Statement.** This bill eliminates the treasurer and controller as specifically designated officers of the district and as positions subject to appointment and removal by the board. This bill also makes technical and conforming changes to law governing BART. BART is the sponsor of this bill.

According to the author, "This bill will allow the BART system to improve its financial management structure by consolidating responsibility in a Chief Financial Officer (CFO) that reports to the district's General Manager. This aligns with the Inspector General's recommendation in their 2023 report to the Legislature.

"To explain this recommendation, the Inspector General states, 'We determined that the District would benefit by consolidating financial operations under a Chief Financial Officer

(CFO) within the span of control of the General Manager. A CFO structure will assist BART with its improvement efforts and better position the District to be more flexible and responsive to changes in transit and the economy, and make the most of its revenues.’ (p. 7)”

- 4) **Arguments in Support.** According to BART, sponsor of this bill, “Currently, BART’s Controller-Treasurer has full authority over accounting, treasury, and risk management functions, while the General Manager oversees operating and capital budgets, financial planning, financial reporting, grant administration, funding strategies, financial analysis, and other related functions.

“This financial structure is unique compared to other transit agencies and is not optimal for efficient and transparent financial management. After an audit of BART’s financial functions by the Office of the BART Inspector General and consultations with stakeholders including an ad-hoc Financial Structure Committee of the Board of Directors, the creation of a Chief Financial Officer (CFO) position, reporting to the General Manager, was recommended and unanimously supported by the Board. A CFO would oversee all functions currently under the Controller-Treasurer, in addition to the financial activities under the General Manager’s purview. The CFO will also have the authority to implement strategic business changes to streamline BART’s financial forecasting, budgeting, and reporting of financial data.

“AB 2325 addresses the bifurcated reporting lines of BART’s financial functions by removing the Controller-Treasurer as a Board-appointed officer. This allows for the merging of all financial functions under the CFO. The new structure will create greater accountability under the General Manager and is part of BART’s commitment to using our limited financial resources in the most efficient manner possible. In addition to the language in AB 2325, BART is seeking amendments to replace references to the ‘treasurer’ within the Public Utilities Code with ‘chief financial officer or other finance personnel designated by the general manager’ to conform with the District’s new financial structure.”

- 5) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Rapid Transit District [SPONSOR]
 Bay Area Council
 San Francisco Bay Area Planning & Urban Research Association (SPUR)
 Seamless Bay Area

Opposition

None on file

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