



**Expo**

Exposition Metro Line  
Construction Authority


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**5.b**

**DATE:** JUNE 1, 2006

**TO:** BOARD OF DIRECTORS

**FROM:** RICHARD D. THORPE   
CHIEF EXECUTIVE OFFICER

**ACTION:** SUPPORT SB 1384 (KUEHL) AMENDMENT AND ADOPT  
RESOLUTION

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### **RECOMMENDATION**

That the Board of Directors support SB 1384 (Kuehl), seek amendments pertaining to conflict of interest and adopt a Resolution stating that the Metro Line Construction Authority (Authority) would not seek reimbursement for implementation of this measure.

### **SUMMARY**

SB 1384 seeks to clarify SB 504, which created the Authority. SB 1384 would clarify the roles and responsibilities of both Metro and the Authority and would address some ambiguities in the original legislation. Further, Authority staff has submitted language to Senator Kuehl's office asking that SB 1384 be amended to include language which would clarify that Board Members, their alternates, officers and employees, who also serve in other government capacities, are not conflicted from acting on Authority issues. Lastly, this legislation will not result in any additional costs to the Authority and the author has asked for a waiver to the state mandate requirement in order to move the legislation forward.

### **DISCUSSION**

SB 504 established the Authority for the purpose of awarding and overseeing final design and construction contracts for completion of the Exposition Line Light Rail Project. SB 1384 clarifies the roles and responsibilities of the Authority and Metro. Specifically SB 1384 would clarify the following:

- The Authority is empowered to conduct environmental studies necessary to complete the next phase of the project.
- The Authority is responsible for constructing all phases of the project and Metro is responsible for operating the project in phases as they are completed.
- The Authority may formulate their own property agreements on property held in trust during construction.
- Metro will provide light rail vehicles for the project.
- State is included as one of the entities that may allocate funds to the project, such as the California Transportation Commission.

These areas were generally addressed in the original legislation and this language more clearly defines the respective agencies roles and responsibilities.

The Authority has requested that Senator Kuehl's office include amendments (Attachment A) which would clarify that Board Members, alternates, and officers/employees of other governmental agencies are not conflicted from serving on or working for the Authority. In the last several meetings, Counsel has determined that neither the CEO of Metro nor the CEO of the Authority could participate in any discussion or sign agreements that pertained to both agencies because of conflict of interest issues. The language submitted to Senator Kuehl's office was formulated and approved by both the Authority Counsel and the Metro Counsel and Ethics Officer. This language would explicitly recognize that those who serve in other government capacities do not have a financial interest in, hold incompatible offices or engage in incompatible activities involving the Authority and their respective appointing authorities.

Lastly, SB 1384 would not result in any increased costs to the Authority since the roles and responsibilities of the Authority and Metro do not fundamentally change. The law could be construed to impose additional duties on a local agency which would make it subject to state mandate requirements. The author has requested that the Authority waive the state mandate requirement by adopting a resolution which states that the local agency will not seek reimbursement from the state. The author's office has requested that both Metro and the Authority adopt such a resolution (Attachment B) in order to move the legislation forward.

As the bill clarifies the responsibilities of both agencies and since the bill will not result in any increased costs, staff recommends that the Board of Directors adopt a support position on SB 1384 and adopt the attached resolution waiving the ability to seek reimbursement from the State.

**FINANCIAL IMPACT**

None

**NEXT STEPS**

Work with Senator Kuehl's staff to ensure that the amendments are incorporated into the legislation.

**ATTACHMENT(S)**

- A. Proposed SB 1384 Amendments
- B. Resolution

## ATTACHMENT A

SB 1384 Senate Bill – INTRODUCED BILL NUMBER: SB 1384  
INTRODUCED BILL TEXT

INTRODUCED BY Senator Kuehl

FEBRUARY 21, 2006

An act to amend Sections 132610, 132625, 132645, and 132650 of the Public Utilities Code, relating to transportation.

### LEGISLATIVE COUNSEL'S DIGEST

SB 1384, as introduced, Kuehl Los Angeles-Exposition Metro Line light rail project.

Existing law establishes the Los Angeles County Metropolitan Transportation Authority (LACMTA) as the single successor agency to the Southern California Rapid Transit District and the Los Angeles County Transportation Commission. The LACMTA is responsible for most transit guideway projects in Los Angeles County and has specified duties and responsibilities with regard to transportation. Existing law also establishes the Exposition Metro Line Construction Authority for the purpose of awarding and overseeing final design and construction contracts for completion of the Los Angeles-Exposition Metro Line light rail project, as specified. Existing law requires, upon allocation of federal and local funds by the LACMTA for these purposes, the construction authority to conduct the financial studies and the planning and engineering necessary for completion of the project. Existing law requires the LACMTA to identify and expeditiously enter into an agreement with the construction authority to hold in trust with the construction authority all real and personal property, and any other assets, accumulated in the planning, design, and construction of the project. Existing law requires the authority to be dissolved upon completion of the project and requires the LACMTA to assume responsibility for operating the project upon dissolution of the authority.

This bill would require the construction authority, upon allocation of federal, state, and local funds by the LACMTA for these purposes, to conduct environmental studies in addition to the

financial studies and the planning and engineering necessary for completion of the project. The bill would revise the provisions requiring the LACMTA to enter into an agreement with the construction authority to hold in trust certain property and assets. The bill would require the LACMTA to assume responsibility for operating the project upon completion of the project or any of its phases. The bill would make other related changes.

Because this bill would impose additional duties on the LACMTA and the construction authority, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Existing law requires the authority to adopt an administrative code incorporating the provisions of the Political Reform Act and other statutes regarding conflicts of interest. This bill would explicitly recognize that the Board members, their alternates, and the officers and employees who also serve in other government capacities do not have a financial interest in, hold incompatible offices, or engage in incompatible activities, with regard to certain decisions or activities involving their respective appointing authorities.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 132610 of the Public Utilities Code is amended to read:

132610. (a) The authority has all of the powers necessary for planning, acquiring, leasing, developing, jointly developing, owning, controlling, using, jointly using, disposing of, designing, procuring, and building the project, including, but not limited to, all of the following:

(1) Acceptance of grants, fees, allocations, and transfers of funds from federal, state, and local agencies, and private entities.

(2) Acquiring, through purchase or through eminent domain proceedings, any property necessary for, incidental to, or convenient for, the exercise of the powers of the authority, provided the authority shall use existing right-of-ways where feasible.

(3) Incurring indebtedness, secured by pledges of revenue available for project completion.

(4) Contracting with public and private entities for the planning, design, and construction of the project. These contracts may be assigned separately or may be combined to include any or all tasks necessary for completion of the project.

(5) Entering into cooperative or joint development agreements with local governments or private entities. These agreements may be entered into for the purpose of sharing costs, selling or leasing land, air, or development rights, providing for the transferring of passengers, making pooling arrangements, or for any other purpose that is necessary for, incidental to, or convenient for the full exercise of the powers granted to the authority. For purposes of this paragraph, "joint development" includes, but is not limited to, an agreement with any person, firm, corporation, association, or organization for the operation of facilities or development of projects adjacent to, or physically or functionally related to, the project.

(6) Relocation of utilities, as necessary for completion of the project.

(b) The duties of the authority include, but are not limited to, all of the following:

(1) Conducting financial and environmental studies, planning, and engineering necessary for completion of the project.

(2) (A) Adoption of an administrative code for administration of the authority in accordance with any applicable laws, including, but not limited to, the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), contracting and procurement laws, laws relating to contracting goals for minority and women business participation, and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(B) (i) The administrative code adopted under subparagraph (A) shall include a code of conduct for employees and board members that is consistent with Sections 84308 and 87103 of the Government Code and prohibits board members and staff from accepting gifts valued at ten dollars (\$10) or more from contractors, potential contractors, or their subcontractors.

(ii) The code shall require the disclosure, on the record, of the proceedings by the officer of the agency who receives a contribution within the preceding 24 months in an amount of more than two hundred fifty dollars (\$250) from a party or participant to a proceeding, and the disclosure by the party or participant.

(iii) The code shall provide that no officer of the agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding, as

described in Section 84308 of the Government Code, if the officer has willfully or knowingly received a contribution in the amount of more than two hundred fifty dollars (\$250) within the preceding 24 months from a party or his or her agent, or from any participant or his or her agent, if the participant has a financial interest in the decision.

(iv) Any officer deemed ineligible to participate in a proceeding due to the provisions of this code of conduct may be replaced for the purposes of that proceeding by an appointee chosen by the appropriate appointing authority.

(v) Under the code of conduct, board members shall be deemed to have a financial interest in a decision within the meaning of Section 87100 of the Government Code if the decision involves the donor of, or intermediary or agent for a donor of, a gift or gifts aggregating ten dollars (\$10) or more in value within the 12 months prior to the time the decision was made.

[ALTERNATIVE 1] (vi) Board members, alternate members, officers, consultants, and employees shall not be considered financially interested, solely by virtue of their holding offices or being employed by the authority and an appointing authority enumerated in Section 132615(a), and may participate in decisions and agreements regarding the authority and any of the appointing authorities enumerated in Section 132615. Such participation shall not constitute a conflict of interest under Government Code section 1090 or 87100, nor shall it constitute an incompatible activity under Government Code section 1126.

(3) As necessary for final design and construction, completion of a detailed management, implementation, safety, and financial plan for the project and submission of the plan to the Governor, the Legislature, and the commission.

(c) The authority shall make reasonable progress, as determined by the commission, in the final design and construction of the project.

(d) The duties and responsibilities imposed by this section shall be contingent upon allocation of federal , state, and local funds by the LACMTA for these purposes.

SEC. 2. Section 132615 of the Public Utilities Code is amended to read:

132615. (a) The authority shall be governed by a board consisting of seven voting members who shall be appointed as follows:

(1) Two members shall be appointed by the City Councils of the Cities of Santa Monica and Culver City with each city council appointing one member by a majority vote of the membership of that city council.

(2) Two members shall be appointed by the Los Angeles County Board of Supervisors.

(3) One member shall be appointed by the LACMTA.

(4) Two members shall be appointed by the City Council of the City of Los Angeles by a majority vote of its membership.

(b) All members shall serve a term of not more than four years, with no limit on the number of terms that may be served by any person.

(c) Each appointing authority shall also appoint an alternate member to serve in a member's absence. If the position of a voting member becomes vacant, the alternate member shall serve until the position is filled as required pursuant to subdivision (a).

(d) Members of the board are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(e) Four members of the board shall constitute a quorum.

(f) The board shall elect a chairperson and vice chairperson from among the membership of the board.

(g) Each member of the board may be compensated at a rate of not more than one hundred fifty dollars (\$150) per day spent attending to the business of the authority. Compensation, if paid, shall not exceed six hundred dollars (\$600) per month, plus expenses directly related to the performance of duties imposed by the authority, including, but not limited to, travel and personal expenses.

(h) The Chief Executive Officer of the LACMTA shall serve on the board as an ex officio, nonvoting member.

(i) Members appointed to the board of the authority may include members or employees of the appointing authorities enumerated in Section 132615(a).

SEC. 3. Section 132625 of the Public Utilities Code is amended to read:

132625. The LACMTA shall identify and expeditiously enter into an agreement or agreements with the authority to do all of the following:

(a) Hold in trust with the authority all real and personal property, and any other assets accumulated in the planning, design, and construction of the project, including, but not limited to, rights-of-way, documents, third-party agreements, contracts, and design documents, as necessary for completion of the project , unless otherwise agreed upon by the LACMTA and the authority .

(b) Outline the design review, construction, and testing process that acknowledges LACMTA's direct role in the review of the project to ensure the final project will be compatible, functionally connected, and operative within LACMTA's existing metro rail system.

(c) Describe the various funding sources and the obligations of the authority to assist LACMTA obtain federal, state, and local funds for the project, and the authority's obligations and duties upon



receipt of the funds necessary to construct the project.

(d) Describe all financial elements of the project, and the budget approved for the project.

SEC. 4. Section 132645 of the Public Utilities Code is amended to read:

132645. The authority shall not encumber the project with any obligation that is transferable to the LACMTA upon completion of the design and construction of the project. The design and construction to be administered by the authority does not include rolling stock, which is a component of the operation of the project and shall be provided and administered by the LACMTA.

SEC. 5. Section 132650 of the Public Utilities Code is amended to read:

132650. The authority shall be dissolved upon completion of construction of the light rail project. The LACMTA shall assume responsibility for operating the project upon dissolution of the authority completion of the project or any of its phases .

SEC. 6. The provisions of this chapter enacted at the 2005-2006 Regular Session of the Legislature are declarative of existing law as they pertain to conflicts of interest, incompatible activities, and the ability of board members, alternate members, officers, consultants, and employees to participate in decisions and agreements regarding the authority and any of the appointing authorities enumerated in Section 132615(a).

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.





**ATTACHMENT B**

**Resolution No. 004**

**RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE  
EXPOSITION METRO LINE CONSTRUCTION AUTHORITY  
ON  
SB 1384 (KUEHL)**

WHEREAS, the State Legislature is currently considering SB 1384 (Kuehl) which would make conforming changes to the statute creating the Exposition Light Rail Construction Authority (Authority); and

WHEREAS, this legislation will clarify the responsibilities of the Authority and the Los Angeles County Metropolitan Transportation Authority (Metro); and

WHEREAS, this legislation will not result in additional costs to the Authority as it clarifies the roles and responsibilities of each agency.

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of the Exposition Metro Line Construction Authority (Authority) will not seek reimbursement from the state for any costs incurred to implement SB 1384.