

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON TRANSPORTATION

Lori D. Wilson, Chair

SB 904 (Dodd) – As Amended March 21, 2024

**SENATE VOTE:** 29-8

**SUBJECT:** Sonoma-Marín Area Rail Transit District

**SUMMARY:** Makes various changes to the enabling statutes for the Sonoma-Marín Area Transit District (SMART), including procurement thresholds, and authorizes SMART's special taxes to also be imposed by a qualified voter initiative, if the initiative complies with certain requirements. Specifically, **this bill:**

- 1) Increases the existing bid threshold for SMART to award contracts for the purchases of supplies, equipment, and materials from \$40,000 to \$75,000.
- 2) Authorizes SMART to let contracts to the responsible bidder that provides the "best value".
- 3) Requires SMART to obtain a minimum of three quotations, written or verbal, that permit prices and terms to be compared, whenever the expected expenditure required for the purchase of supplies, equipment, or materials exceeds \$10,000 but does not exceed \$75,000.
- 4) Authorizes SMART's special taxes to also be imposed by a qualified voter initiative, if the initiative complies with certain requirements, including:
  - a) The qualified voter initiative proposes a rate for the retail sales and use tax that is no less than 1/4 of 1%; and,
  - b) The qualified voter initiative proposes expenditures for the revenues generated from the retail transaction and use tax that are consistent with the purpose of providing a rail transit system under the jurisdiction of SMART.
- 5) Requires the Board of Supervisors of the Counties of Sonoma and Marin to call a special election on a tax measure proposed by SMART's Board of Directors or a qualified voter initiative in their respective counties, as specified.
- 6) Requires SMART to also obtain coverage for the district and its employees under the appropriate federal workers' compensation, unemployment compensation, and disability and unemployment insurance laws, in addition to California law.
- 7) Deletes requirement that SMART can only locate commuter stations within incorporated areas in Sonoma County, north of Healdsburg.
- 8) Deletes obsolete references, as specified.

**EXISTING LAW:**

- 1) Creates SMART and establishes a comprehensive set of powers and duties regarding the formation, governance, organization, maintenance, operation and potential dissolution of the district. Authorizes SMART to provide passenger rail service in the counties of Sonoma and Marin and is governed by a 12- member board of directors. (Public Utilities Code (PUC) 105096).
- 2) Authorizes SMART to submit to the voters of the district a measure proposing a retail transactions and use tax ordinance. (PUC 105115).
- 3) Requires SMART to award contracts for the purchase of supplies, equipment, and materials in excess of \$40,000 to the lowest responsible bidder. (Public Contracting Code (PCC) 20355.1)
- 4) Restricts SMART to only locate stations in the incorporated area of Sonoma County, north of Healdsburg. (PUC 105096).

**FISCAL EFFECT:** According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

**COMMENTS:** In 2002 the Legislature passed AB 2224 (Nation) Chapter 341, which established the Sonoma-Marin Area Rail Transit District to build a passenger rail service on the right-of-way of the former Northwestern Pacific Railroad within Marin and Sonoma Counties. In 2012 construction began on the rail line and by 2017 the first phase of the system opened to the public. The first phase was 43 miles and ran from Northern Santa Rosa to downtown San Rafael. By 2019 the service was extended to Larkspur. The eventual goal is to extend the train an additional 27 miles north to Cloverdale. This bill would delete a provision of law that prohibits SMART stations from only being located in incorporated areas of Sonoma so the train can eventually be extended to Cloverdale.

SMART receives its funding primarily from two local measures, Measure M, which provided the initial fund source, and Measure Q, a 20 year ¼ cent sales tax dedicated to the SMART project. SMART's ridership has continued to grow. In April of 2024 SMART reported 80,000 passengers, marking the highest ridership in one month in the agency's history.

*According to the author,* "the SMART train is an incredible multi-modal and multi-jurisdictional project that advances many of our state's top goals: increased rail and bicycle use, transit oriented development, and collaboration by local governments at a regional scale. SMART is the first railroad to resume passenger service in Sonoma and Marin counties in over 50 years. Since coming into service only 7 years ago, SMART has overcome many hurdles and in 2023 returned to their pre-pandemic ridership numbers. SMART was recently designated by the Federal Railroad Administration as part of the Capitol Corridor network and the State Rail Plan projects that it may one day connect with Amtrak services in Solano County, further strengthening our state's rail transit system. SB 904 updates the enabling statute that created the SMART special district, raising bidding thresholds and aligning state law with SMART's new dual status as a freight operator. This bill also empowers the voters of this special district for the first time to pursue their own ballot measures through a voter initiative. A voter-approved qualified initiative process has the potential to provide an opportunity to enhance community engagement and help

inform and affirm the development of an expenditure plan, providing greater accountability and direction for how to best dedicate future resources to operate the SMART system.”

*Voter Initiative to continue funding SMART:* Measure Q is set to expire in 2028. In 2020 Sonoma and Marin voters rejected Measure I, which would have extended the sales tax measure by another 30 years. Measure I received the support of 54% of voters. This bill would authorize a voter initiative to be placed on the ballot to extend funding for SMART, which may allow it to pass with a majority of voter support instead of the current 2/3 voter requirement should the SMART board place the measure on the ballot again.

According to Transform, writing in support of the bill, “Efficient passenger rail is critical to advancing the Bay Area’s equity, climate, and transportation goals. Since the opening of SMART passenger rail service in 2017, SMART has been incredibly popular and ridership has been high—exceeding 50,000 average monthly trips. Despite the declining ridership that many public transit agencies have suffered since the pandemic, ridership on SMART has returned quickly and in FY 2023 exceeded pre-pandemic levels.

By enabling future operating support for SMART, SB 904 is critical to continuing to provide high-quality, sustainable transportation options to Sonoma and Marin County residents.”

On August 28, 2017, the California Supreme Court entered a decision in *California Cannabis Coalition v. City of Upland*, 3 Cal. 5th 924, which held that Article XIIC, Section Two, subdivision (b)’s requirement that general taxes be submitted to the electorate at a regularly scheduled general election where members of the local governing board are subject to election did not apply to taxes proposed by voter initiative. Groups seeking to impose special taxes by majority vote by initiative soon argued that if the Court held that the general election requirement in subdivision (b) did not apply to initiatives, then neither did the 2/3 vote requirement for special taxes in subdivision (d). At least seven such taxes imposed by voters in various local agencies across the state have been approved, and no court thus far has invalidated them.

According to the California Taxpayers Association, writing in opposition to the bill, “Special Taxes Require a Two-Thirds Vote. SB 904 fails to specify that special taxes placed on the ballot via an initiative require a two-thirds vote of the electorate. The two-thirds vote was enacted to require bipartisan consensus on tax increases, counterbalance well-financed special interests influencing the local election process, and require local jurisdictions to provide a clear and critical need for a particular public project. Voters have consistently supported a two-thirds vote threshold for special taxes. The Legislature should uphold the will of the voters and respect the taxpayer protections enshrined in the California Constitution.

By allowing some special taxes to be approved without the constitutionally required two-thirds vote, SB 904 would open any tax increases approved pursuant to the bill to significant legal scrutiny. Taxpayers should not be required to fund costly litigation defending unconstitutionally approved tax increases.”

*Procurement:* SB 904 updates the procurement thresholds for SMART. This bill increases from \$40,000 to \$75,000 the point at which purchases of supplies, equipment, and materials are required to go through a formal bid process. Additionally, this bill requires SMART to obtain a minimum of three quotes to allow for a comparison of price and terms when these purchases

exceed \$10,000 but do not exceed \$75,000. Finally, the bill authorizes SMART to utilize the best value procurement method for these purchases. This procurement method allows SMART to let a contract to the responsible bidder who submitted a proposal that provides the overall best value, not only the lowest price. As noted by the author, SMART's procurement thresholds have not been updated since its creation over 20 years ago. Since that time SMART has launched passenger service, expanded the system, assumed freight operations, and is planning for a future intercity rail connection. The updates included are consistent with an inflationary adjustment.

*Update of SMART enabling statutes.* SB 904 updates various part of SMART's enabling statutes. The bill clarifies that SMART must also obtain coverage for its employees under the appropriate federal workers' compensation, unemployment compensation, and disability and unemployment insurance laws, in addition to requirements under California law. When SMART assumed freight rail operations from the Northwestern Pacific Railroad Company (NWPCo.) in 2022, the freight employees were covered under the Federal Employers Liability Act (FELA), not California state law. SB 904 acknowledges this new part of the SMART workforce.

*Related Legislation:* SB 1031 (Weiner of 2024) would have created a 9 county tax measure to fund public transit and other transportation projects in the Bay Area. That bill would have required the exclusion of Sonoma and Marin from the measure until 2028, and would require the measure to fund SMART should a voter initiative to fund SMART fail in 2026. That bill is pending referral in the Assembly.

SB 1175 (McGuire), Chapter 303, Statutes of 2022 added the Sacramento-Larkspur-Novato-Cloverdale corridor to the existing authorization for the California Department of Transportation (Caltrans) to provide intercity passenger rail service on specified corridors in the state.

SB 69 (McGuire), Chapter 423, Statutes of 2021 reorganized the North Coast Rail Authority (NCRA) into the Great Redwood Trail Agency (GRTA), transferred its authority related to rail and freight to SMART, and established GRTA's new mission of developing the Great Redwood Trail.

AB 2224 (Nation), Chapter 341, Statutes of 2002 created SMART and established powers and duties regarding the formation, governance, organization, maintenance, operation and potential dissolution of the district. Authorized SMART to provide passenger rail service in the counties of Sonoma and Marin. Authorized SMART to submit to the voters of the district a measure proposing a retail transactions and use tax ordinance.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Alliance for Jobs  
California Teamsters Public Affairs Council  
North Bay Leadership Council  
Sonoma-Marín Area Rail Transit District (SMART)  
Transform  
Transportation Authority of Marin

**Opposition**

California Taxpayers Association  
Howard Jarvis Taxpayers Association

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