

REPORT

to

THE HONORABLE EDMUND G. BROWN JR.
GOVERNOR OF THE STATE OF CALIFORNIA

by

THE GOVERNOR'S BOARD OF INVESTIGATION

in compliance with

SECTIONS 3612 AND 3613 of THE CALIFORNIA GOVERNMENT CODE

regarding

A LABOR DISPUTE

between

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT

and

AMALGAMATED TRANSIT UNION LOCAL 192, AFL-CIO-CLC

Dated: October 21, 2013

I. INTRODUCTION

This report is submitted to the Honorable Edmund G. Brown Jr., Governor of the State of California, in compliance with Government Code section 3612, subdivision (a), by a Board of Investigation (the Board) appointed by Governor Brown pursuant to that subdivision to investigate the issues involved in a labor dispute between the Alameda-Contra Costa Transit District (AC Transit) and the Amalgamated Transit Union Local 192, AFL-CIO-CLC (ATU).

The members of the Board are Peter Southworth (Chair), Deputy Secretary and General Counsel, California State Transportation Agency; Micki Callahan, Human Resources Director, City and County of San Francisco; and Josie Camacho, Executive Secretary-Treasurer, Alameda Labor Council, AFL-CIO. All members of the Board participated in the drafting of this Report and approved its submission to the Governor.

As authorized by the second paragraph of section 3613 of the Government Code, the Board held a public hearing on October 21, 2013, at the Elihu M. Harris State Office Building at 1515 Clay Street, Main Auditorium, Oakland, California. The hearing began at approximately 9:00 a.m., and it ended at approximately 11:50 a.m.

Representatives of AC Transit and ATU appeared before the Board and made presentations, written and oral. Members of the public provided oral comment.

Accompanying this report are the following documents submitted by the parties:

- 1 Position Statement of ATU with exhibits and supporting documentation
(Exhibit A).
- 2 Position Statement of AC Transit with exhibits and supporting documentation
(Exhibit B).

In accordance with Government Code sections 3612 and 3613, this Report contains a statement of the facts with respect to the dispute, the issues involved in the dispute, and the respective positions of the parties regarding the issues. This report contains findings regarding whether a strike would result in a significant disruption of public transportation services and endanger the public health, safety, or welfare.

II. STATEMENT OF FACTS WITH RESPECT TO THE DISPUTE

The following is a brief statement of the facts leading up to the current labor dispute between the parties.

The term of the labor agreement between AC Transit and ATU ran from July 1, 2010, through June 30, 2013. ATU represents approximately 1,689 workers in a variety of classifications, including: bus operator, dispatcher, mechanic, janitor, service employee, and clerical.

ATU and AC Transit commenced negotiations for a new labor agreement on March 29, 2013. On June 15, 2013, the union membership voted overwhelmingly to authorize a strike. The parties engaged in extensive mediation under the auspices of the California State Mediation and Conciliation Service, beginning on June 24, 2013. On August 5, 2013, ATU issued a 72-hour notice of its intent to strike beginning August 7, 2013; however, the parties reached a tentative agreement on August 6, 2013. The membership rejected this tentative agreement by a vote of 576 [no] to 257 [yes]. Approximately 50% of the bargaining unit did not vote on the first tentative agreement.

The parties returned to the bargaining table and reached a second tentative agreement on September 25, 2013. The membership rejected the second tentative agreement by a vote of 561 [no] to 369 [yes]. Again, approximately 50% of the membership did not participate in the vote.

On October 8, 2013, in anticipation of the inability of the parties to reach an agreement, AC Transit requested the Governor to appoint a Board of Investigation pursuant to Government Code section 3612. The parties again returned to the bargaining table. On October 14, 2013, ATU issued a 72-hour notice of its intent to strike beginning October 17, 2013. On October 16, 2013, Governor Brown informed the parties that he was invoking section 3612 of the Government Code and had appointed this Board to investigate and to submit a report on the current labor dispute within seven days. The Governor's appointment of this Board has the effect of prohibiting any strike or lockout for a period of seven days, beginning October 17, 2013.

Despite the expiration of the contract, and after rejection of the second tentative agreement, the parties continued discussions and they have jointly identified the principal issues to be addressed.

III. PRINCIPAL ISSUES INVOLVED IN THE DISPUTE

The Board identified these issues based on the written submissions and oral presentations from the parties at the public hearing. The principal unresolved issues are:

- 1) the structure and amount of employee contributions to health premiums; and
- 2) certain working conditions, specifically provisions for meal and rest breaks.

IV. POSITIONS OF THE PARTIES AS TO THE PRINCIPAL ISSUES

Employee Contributions to Health Premiums: The parties' first tentative agreement on health premium contributions provided a flat rate for all employees at all coverage levels (Employee Only, Employee Plus One, Employee Plus Family) in all health plans (Kaiser or Health Net). The second tentative agreement on health

premium contributions was a graduated rate structure depending on coverage level and health plan.

ATU has identified the disproportionate impact of higher premiums on its lowest paid members as an issue to resolve. A large number of ATU members perceived the proposed healthcare contributions as eroding the proposed wage increases, which are not themselves in dispute. AC Transit noted the resistance of ATU members to paying contributions to healthcare generally, as this union's members have never before paid healthcare contributions. The parties are in agreement that they need to jointly explore new ways of addressing this issue during any cooling-off period.

Bus Operator Meal and Rest Breaks: Certain working conditions had been in dispute, notably bus operator meal and rest breaks, and restroom access and breaks. The latter issue has been resolved, but the parties must continue to discuss provisions associated with meal and rest breaks.

Employee Safety and Morale: While not specifically in dispute in these contract discussions, it appears employee safety and its impact on morale may have been partially responsible for the rejection of the tentative agreements. AC Transit is attempting to address the issue of employee safety by reinstating the Labor-Management Safety Committee. ATU welcomes the reintroduction of the safety committee, after it had been discontinued several years ago.

Status of Discussions: Both parties acknowledge that the other has been working intensively and in good faith on all issues, including the ones still in dispute. The parties agree that should the Governor obtain a 60-day cooling-off period, the parties would continue to work vigorously to reach a new agreement. Both parties recognize the limited time period available and appear to sincerely want to utilize any 60-day cooling-off period to continue working towards resolution. Given a 60-day cooling-off period,

both parties also acknowledge the importance of further reaching out to educate the ATU membership and increase participation in the voting process on any future tentative agreement.

V. IMPACT OF A STRIKE ON THE ALAMEDA-CONTRA COSTA DISTRICT REGION

Both parties agree that AC Transit provides a critical service to the public. AC Transit provides bus service to 13 cities and several unincorporated areas, serving a population of 1.5 million. It has 107 bus lines with roughly 5,500 bus stops, including commuter express bus service to San Francisco and other job centers in San Mateo and Santa Clara counties. AC Transit provides 181,000 daily trips or 52.6 million annual trips to riders from all demographic backgrounds. AC Transit's ridership includes 11,000 youth under the age of 18 and 15,000 senior citizens. A disruption to AC Transit service would result in 17,000 students (youth and higher education) needing to find an alternative way to school. Additional discussion of the impact on educational services and students is included in the following Public Comment section.

Fifty-one percent of AC Transit's ridership does not have a driver's license and 40% live in a household with no car. Sixty-three percent of AC Transit's riders are considered low-income, as compared to only 29% of the population in the service area.

Forty-one percent of AC Transit's riders, roughly 37,000 people, use the bus service to get to work, including 14,000 daily trips on the trans-bay service. During the previous BART strike, ridership on the trans-bay routes doubled. Similar numbers are expected during the current BART strike. Therefore, a strike would have a significant adverse impact on the income of these workers and on the regional economy.

A strike would impair access to medical care and appointments for 6,500 AC Transit riders daily. Key medical facilities accessible by AC Transit bus lines are not accessible by BART. Though Paratransit service is provided by a third party,

elimination of AC Transit service would likely force many senior citizens and people with disabilities to resort to Paratransit service, which has limited capacity. A significant number of AC Transit riders are people with disabilities. AC Transit estimates nearly 10,000 persons with disabilities use their services daily. Further discussion on the impact of people with disabilities and those needing medical services is discussed in the following Public Comment section.

A strike would have impacts on the environment and traffic congestion. Public transportation results in a net reduction in emissions from personal automobiles. AC Transit estimated that a strike could create up to 108,000 additional trips by car each day.

VI. PUBLIC COMMENTS

Eight members of the public made comments at the end of the hearing.

Public testimony from officials at the West Contra Costa Unified School District, Oakland Unified School District, Alameda County Office of Education, and Peralta Community College District confirmed the significant impact that a strike would have on students' safety and ability to attend class. Multiple education representatives identified impacts to children who would otherwise have to walk to school in unsafe urban conditions and noted shortened daylight hours. Further impact on school districts from reduced student attendance could result in a loss of critical state funding.

A representative from Peralta Community College District commented that 10,000 of their 50,000 students are EZ Pass recipients who utilize AC Transit to get to class. A representative of the Alameda County Office of Education indicated that the County has intentionally located alternative schools along AC Transit lines to better serve their students, a majority of whom use AC Transit as their primary source of

transportation. In the West Contra Costa Unified School District, 30-35% of the students rely on AC Transit to get to class. In the Oakland Unified School District, as high as 60% to 95% of the students at some schools rely on AC Transit to get to class.

All education representatives stated that the impact of a strike would be particularly severe on at-risk and low-income students, particularly those receiving meals, counseling, health care, and special services at school, in addition to educational opportunities. A representative from the East Oakland Youth Development Center noted the importance of AC Transit for the after-school programs provided by her agency and noted that many students travel many miles across town by bus, both to utilize those programs and to attend school. Education representatives stressed the partnership they have with AC Transit in providing vital services to students.

A representative from Alameda County Social Services Agency noted that the Agency serves 700 to 1000 clients daily, 60% of whom rely on public transportation. The Agency also stressed the importance of its relationship with AC Transit, indicating that its offices are by design located along AC Transit bus lines. The Agency said that recipients of important social services often physically have to come into its offices to resolve issues related to public assistance and services.

A member of an accessibility advisory committee and a director at the Lions Center for the Blind testified that AC Transit is the only option for transportation for many people with disabilities. Lack of transportation can be a matter of life or death for riders needing to access appointments, such as dialysis.

Finally, an AC Transit bus operator and ATU member spoke compellingly of the importance of AC Transit operators in the communities they serve, their dedication to those who have no other means of transportation, and their sense of personal connection to the riders. She noted that this dedication is manifested in the fact that ATU Local 192 has not had a strike in 35 years.

VII. FINDINGS

Based on the evidence presented by the parties and the public comment, this Board concludes that a present strike will cause a significant disruption in public transportation services and significant harm to the public's health, safety, and welfare.

Witnesses Appearing

AC Transit:

David Armijo, General Manager
Tom Prescott, Chief Performance Officer
David Wolf, General Counsel
Robert Del Rosario, Director of Service Development
Lewis Clinton, Chief Financial Officer

ATU:

Margot Rosenberg, Counsel for ATU Local 192
Yvonne Williams, President of Local 192
Tony Withington, International ATU Representative

Public:

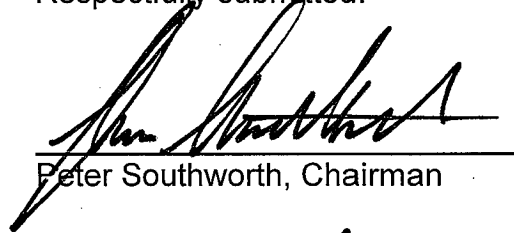
Regina Jackson, East Oakland Youth Development Center
Sylvia Soublet, Alameda County Social Services Agency
Adam Taylor, West Contra Costa Unified School District
Susan Piper, Oakland Unified School District
Karen Monroe, Alameda County Office of Education
Matthew Jones, Peralta Community College District
Scott Blanks, Accessibility Advisory Committee; Director, Lions Center for the Blind
Joyce Willis, ATU Local 192

VII. CONCLUSION

The undersigned members of the Board of Investigation respectfully submit that this Report fulfills the statutory obligations pursuant to Labor Code Section 3612.

Date: Oct. 21, 2013

Respectfully submitted:


Peter Southworth, Chairman


Micki Callahan, Member


Jqsie Camacho, Member