



## BOARD OF DIRECTORS

Chairman Ed Gallo  
Vice-Chair Dave Roberts  
Bob Campbell  
Rocky Chavez  
David Druker  
Bill Horn  
Julianne Nygaard  
Chris Orlando  
Jerome Stocks

Raymond Patchett, Interim Executive Director  
C. Michael Cowett, General Counsel

## AGENDA

### GOVERNANCE COMMITTEE

Chairman Ed Gallo, Vice-Chair Dave Roberts,  
Chair of the Monitoring Committee, Chris Orlando  
Chair of the Planning Committee, Jerome Stocks  
Staff Committee Liaison: Ellen Roundtree

**Wednesday, September 3, 2008 – 8:30 a.m.**  
**311 South Tremont St., Oceanside, California**

1. Open Meeting
2. Changes to the Agenda
3. Biennial Review of the Conflict of Interest Code (Attachments 3A and 3B)
4. San Diego Northern Railway, Inc. Annual Meeting and Election of Officers
5. Legislative Status Update (Attachments 5A and 5B)
6. Draft Board Agenda for September 18, 2008 Board Meeting
7. Future Board Agendas (Master Board Agenda)
8. Other Matters
9. Public Comment
10. Next Meeting: Wednesday, **October 1, 2008**, 8:30 a.m., 311 South Tremont, Oceanside, CA
11. Adjournment

*For individuals with disabilities, we will provide assistive services. To obtain such services or copies of documents in an alternate format, please call or write, a minimum of 72 hours prior to the event, to request these needed reasonable modifications. We will make every attempt to accommodate requests that do not give 72- hour notice. Please contact our Clerk of the Board at (760) 967-2808.*

*Persons with hearing impairment please use the California Relay Service (CRS): 800-735-2929 using TTY; 800-735-2922 using voice; 800-735-0373 for CRS Customer Service; 800-855-3000 for Spanish.*

*Any writings or documents provided to a majority of the members of the NCTD Board of Directors regarding any item on this agenda will be made available for public inspection in the department of the Clerk of the Board located at 810 Mission Avenue, Oceanside, CA 92054, during normal business hours.*



**STAFF REPORT TO THE  
GOVERNANCE COMMITTEE**

**Agenda Item #  
3**

**TITLE: BIENNIAL REVIEW OF THE CONFLICT OF INTEREST CODE**

Time Sensitive  Consent

**STAFF  
RECOMMENDATION:**

**That the Board approve the amended Conflict of Interest Code before September 19, 2008 for timely filing with the code reviewing body, the Board of Supervisors of the County of San Diego.**

**BACKGROUND  
INFORMATION:**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The code's objective is to prevent potential financial gain by persons holding positions of influence. Pursuant to the applicable code sections, it may be determined that certain designated employees make, or participate in the making of, decisions which may foreseeably have a material effect on any financial interest of the employee.

NCTD is required by Government Code 87306.5 to review its Conflict of Interest Code biennially to determine if it is accurate or if the code must be amended. Once the determination has been made that the code must be amended, a notice must be submitted to the County. As a result of the recent reorganization, NCTD must amend its Conflict of Interest Code to reflect position eliminations and job title changes and has filed a notice to amend with the Board of Supervisors of the County of San Diego. NCTD must file its actual amendments to the code by September 19, 2008. The Amended Appendix of the Conflict of Interest Code is included as Attachment 3A. Adoption of Resolution Number 08-06 is included as Attachment 3B.

As NCTD continues to progress through the organizational changes and updates job descriptions, it may need to once again amend its Conflict of Interest Code and bring the amendment back to the Board for approval.

**ATTACHMENT:** Attachment 3A - Appendix of the Conflict of Interest Code  
Attachment 3B - Adoption of Resolution Number 08-06

**FISCAL IMPACT:** None

**COMMITTEE  
REVIEW:**  
9/4/08

**STAFF CONTACT:** Richard Hannasch  
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**Key Staff Contact:** Cathy Sweet, Manager of Budgeting and Fare Collection  
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**STAFF REPORT TO THE  
GOVERNANCE COMMITTEE**

Agenda Item #

**4**

**TITLE: SAN DIEGO NORTHERN RAILWAY, INC. ANNUAL MEETING AND  
ELECTION OF OFFICERS**

Time Sensitive  Consent

**STAFF  
RECOMMENDATION:**

**That the Board of Director's elect Tom Lichterman, Director of Operations, as President and C. Michael Cowett, General Counsel, as the Secretary of the Corporation.**

**BACKGROUND  
INFORMATION:**

The San Diego Northern Railway, Inc. (SDNR) was formed by the North San Diego County Transit Development Board as a subsidiary entity to have full responsibility for overseeing the operation of the Commuter Rail and the maintenance of the railroad right-of-way and the rail equipment. In the Spring of 1996, staff and legal counsel determined that it would be most efficient to discontinue the active operation of the SDNR. However, for a variety of reasons, such as on-going legal activities and the potential for future opportunities, general counsel recommended maintaining SDNR as an in-active corporate entity.

Toward that end, in July 1996, the Board of Directors of the SDNR approved the following actions: (1) Authorized the assignment of all contract rights and obligations held by the SDNR to the North San Diego County Transit Development Board (state law subsequently changed name to North County Transit District); (2) Set the regular meetings of the SDNR Board of Directors to occur annually; and (3) Directed staff to take such further actions, subject to the approval of the President, as necessary to maintain the corporation in good standing. Since these actions were taken, staff has done what has been necessary to maintain the formal corporate status of the SDNR, including the filing of appropriate reports and tax returns. No other business has been conducted by the SDNR.

In accordance with the prior action of the Board, it is necessary that a 2008 annual meeting of the SDNR Board be held. The only matter at this time that needs to be considered and acted upon by the SDNR Board is the election of President and Secretary. Historically, the Executive Director has had the role of President and the Board's General Counsel, currently C. Michael Cowett, has fulfilled the role of Secretary. In light of the current pursuit of a permanent Executive Director, staff recommends assigning the role of President to Tom Lichterman, Director of Operations. Staff also recommends the continuation of C. Michael Cowett as Secretary.

**ATTACHMENT:** None

**FISCAL IMPACT:** None

**COMMITTEE  
REVIEW:**  
9/4/08

**STAFF CONTACT:** Ellen Roundtree  
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STAFF REPORT TO THE GOVERNANCE COMMITTEE

Agenda Item # 5

TITLE: LEGISLATIVE STATUS UPDATE

Time Sensitive [X] Consent [ ]

STAFF RECOMMENDATION:

That the Governance Committee receive the legislative status report.

BACKGROUND INFORMATION:

Periodic status reports on federal and state legislative activities are provided to the Governance Committee and NCTD Board of Directors during the year. This status report provides an update on state activities. Changes from the last legislative update are represented in bold italics.

STATE

2008-2009 State Budget-Chronological order

The Governor's proposal for the Fiscal 2008-09 State Budget was released on May 14, 2008 and contained devastating news for the future of public transit in California. The proposal recommends that another \$1.4 billion be diverted from the Public Transportation Account (PTA) to cover non-transit shortfalls in the General Fund. This proposal would bring the total diversion from transit to more than \$4 billion over the last decade. The proposal included \$306 million for the State Transit Assistance Program (STA), which was significantly lower than the Governor's proposal in January 2008 of \$743 million. This proposal not only recommends diverting the entire "spillover" to non-traditional transit purposes, but additionally proposes to divert funding from the base Public Transit Account (\$593 million for home-to-school transportation, \$235 million for the repayment of bond debt service). This precedent setting distinction would further reduce NCTD funding by \$2 million. As a reminder, the diversion of the "spillover", as recommended in January 2008, represents a loss to NCTD of \$4 million. These combined proposals represent a \$6 million loss to NCTD. The Administration's recommendation of the \$306 million is intended to provide the same level of funding as the FY 2007-2008 State Budget for STA. However, last years' level of funding already included a permanent diversion from transit, and with the huge increase in fuel costs, last years' dollars are significantly less in terms of purchasing power.

On June 10, 2008 the Assembly Budget Subcommittee staff approved an STA Program funding level of about \$624 million, the level appropriated in 2006-07. On June 11, 2008 the Senate Budget Subcommittee also approved a funding level of \$624 million to the public transportation account, however, their proposal divides the program between STA and the State Transportation Improvement Program, \$494 million and \$129 million respectively.

1 Spillover-Generated when gasoline prices increase at a faster rate than all other taxable items.

On July 8, 2008, the Budget Conference Committee voted for a compromise between the two versions. The compromise restores \$317 million Public Transportation Account (PTA); \$64.7 million would be used for loan payback from the Traffic Congestion Relief fund to the PTA, with the remaining \$253 million restored to the STA account. This action would increase the total to the STA account from the Governor's proposal of \$306 million to \$559 million, which would equate to nearly \$8 million for NCTD.

***Over the summer there were rumors from Sacramento related to the potential suspension of Proposition 42. If this were to occur, public transportation would lose approximately \$210 million of which NCTD's portion would be \$3 million. Due to extensive efforts opposing this action throughout the state, borrowing of Proposition 42 appears to be off the table, for now.***

***However, as of the preparation of this staff report, a state budget requiring two-thirds support by the legislature has not been approved. Although another \$250 million in spillover revenue has been realized since the announcement of the May Revise, the Governor, in his "August Compromise" is still proposing \$306 million to the STA account. According to the Governor's office, this funding level is consistent with the FY 2007-2008 level, therefore not a reduction to transit.***

***And while Proposition 42 is not currently part of the discussion, it is still deemed to be at risk if additional revenues, such as the Governor's temporary one-cent sales tax, is not part of a budget package.***

***The Senate is expected to convene on August 28, 2008 to consider proposals offered by the Governor in his "August Compromise".***

#### *Other State Legislative Matters*

The 2007-2008 Legislative Session is drawing to a close with August 31 scheduled as the last day for any bill to be passed and final recess set to begin. The Governor has until September 30 to sign or veto bills that were passed by the Legislature before September 1 and in the Governor's possession on or after September 1. Adjournment Sine Die (end of session) occurs at midnight on November 30 and the 2009-2010 Regular Legislative Session convenes at 12:00 pm on December 1, 2008. Statutes become effective on January 1, 2009. A copy of California's 2008 Legislative Calendar is included as attachment 5A.

Attachment 5B is a matrix on currently pending state bills, their current status, and how transit would be affected. The following bills that are enrolled or moving through the process, with a potential impact to transit in North County, are highlighted below for your convenience.

- SB 53 (Ducheny): Department of Railroads: This bill was originally proposed to create the Department of Transportation in the Business, Transportation and Housing Agency, and would include the positions of Director and Deputy Director within the department, to be appointed by the Governor. This bill, as originally proposed, would transfer the department responsibilities, currently administered by the intercity rail passenger program, High Speed Rail Authority (HSRA), and the California Public Utilities Commission (CPUC). The bill was amended on June 19, 2008 after passing Assembly Floor and

therefore must return to Assembly Transportation and Assembly Appropriations. **On August 14, 2008, this bill was amended significantly. The revised bill, if signed into law, will require the California Research Board, in consultation with the Business, Transportation and Housing, Caltrans, the CPUC, HSRA and the Office of the Legislative Analyst to evaluate and make recommendations on consolidating rail functions. A report must be submitted to the Legislature by May 1, 2009. Location: Assembly Third Reading as of 08/27/08.**

- ***AB 660 (Galgiani): Railroad-Highway Grade Separations: This bill provides various changes to California's railroad grade separation program. The purpose of the changes are intended to eliminate confusing and obsolete requirements and to facilitate the expenditure of the \$250 million included in Grade Separation Program included in Proposition 1B. The bill has passed the Assembly and Senate.***
- ***AB 2009 (Hernandez and Huff ): Utility User taxes: exemption: Existing law authorizes the Board of Supervisors of any county to levy a utility user tax on the consumption of electricity, gas, water, sewer, telephone, telegraph, and cable television services in the unincorporated area of the county. This bill would provide that no utility user tax shall be imposed upon compressed natural gas dispensed by a gas compressor within a local jurisdiction, as defined, if that natural gas is dispensed by a gas compressor that is separately metered and dedicated to serve the local agency or public transit operator. This bill has been signed into law.***
- ***AB 3034 (Gagliani and Ma): Safe, Reliable High-Speed Passenger Train Bond: Existing law created the Safe, Reliable High-Speed Passenger Train Bond Act scheduled to be presented to the voters on November 4, 2008 as Proposition 1. If passed, the bond would provide for \$9.95 billion in general obligation bonds, \$9 billion to match federal funds for planning and construction of a high-speed train system pursuant to the business plan of the High-Speed Rail Authority, and \$950 million that would be available for capital projects on other passenger rail lines to provide connectivity to the high speed train system and for capacity enhancements and safety improvements to those lines. In theory, coastal railroad corridor improvements between Oceanside and San Diego would have been eligible. Existing law identifies the high speed rail line linking San Francisco to Los Angeles Union Station to serve as the "backbone" of a 700 mile system linking all the state's major population centers and to be fully funded before funding other corridors and identifies these corridors as follows:***
  - a) ***Oakland-San Jose***
  - b) ***Sacramento-Merced***
  - c) ***Los Angeles-Inland Empire***
  - d) ***Inland Empire-San Diego***
  - e) ***Los Angeles-Irvine***

***AB 3034 authorizes the High-Speed Rail Authority to expend bond proceeds on other corridors, listed below, provided there is no adverse impact on the construction of the Phase 1 San Francisco Terminal and Los Angeles Union Station and Anaheim Corridor.***

- a) Sacramento to Stockton to Fresno***
- b) San Francisco Transbay Terminal to San Jose to Fresno***
- c) Oakland to San Jose***
- d) Fresno to Bakersfield to Palmdale to Los Angeles Union Station***
- e) Los Angeles Union Station to Riverside to San Diego***
- f) Los Angeles Union Station to Anaheim to Irvine***
- g) Merced to Stockton to Oakland and San Francisco via the***

***AB 3034 has been approved by the legislature and was signed by the Governor on August 26, 2008. Proposition 1A will also be presented to the voters pursuant to the requirements of AB 3034.***

Legislative changes that occur subsequent to the preparation of the report will be presented at the Governance Committee.

**ATTACHMENT:** 5A - 2008 Legislative Calendar  
5B - Matrix of State Legislative Activity Related to Public Transit

**FISCAL IMPACT:** None

**COMMITTEE  
REVIEW:**  
09/03/08

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September 3, 2008

TO: North County Transit District Board Members  
FROM: Clerk of the Board  
SUBJECT: POSTING OF BOARD AGENDA

In Compliance with the Ralph M. Brown Act, As Amended, the following information is provided.

The Agenda for this meeting of the Governance Committee was posted as follows:

Meeting Date and Time:	September 3, 2008; 8:30 am
Posted At:	810 Mission Avenue, Oceanside, CA and 311 So. Tremont, Oceanside, CA
Date & Time of Posting:	August 29, 2008; 5:00 p.m.
Posted By:	Clerk of the Board