



● **Board of Directors**
Communications and Legislation Committee

4/13/2010 Board Meeting

8-9

Subject

Express opposition to AB 1664 (Swanson, D-Oakland): Metropolitan Water District Act

Description

Introduced by Assembly Member Sandré R. Swanson (D-Oakland), chair of the Assembly Committee on Labor and Employment, Assembly Bill 1664 ([Attachment 1](#)) proposes to amend the Metropolitan Water District Act (MWD Act) to prohibit member agencies from directing or instructing their directors on how to vote on Metropolitan board matters.

As amended on April 5, 2010, AB 1664 would add a new section 51.5 to the MWD Act as follows:

Sec. 51.5. (a) The representative of a member public agency serving on the board shall at all times be authorized to represent the member public agency that appointed the representative.

(b) The governing body of the member public agency or an elected or appointed official or member of a member public agency shall not direct or instruct a member of the board to vote in a particular manner with respect to any question, order, resolution, or ordinance that comes before the board for a vote.

As written, AB 1664 is confusing and ambiguous. The author's intent is presumably to prohibit member agencies from mandating their respective directors to vote in a particular manner. However, although directors are appointed to Metropolitan's Board by their respective member agencies, they are already required to consider problems and issues from the standpoint of their Metropolitan responsibility. They also owe a fiduciary duty to Metropolitan and its interests. In this regard, AB 1664 is unnecessary.

Conversely, Metropolitan directors are appointed by their agencies to represent the agency's interests and should consult with their respective agencies and governing boards regarding Metropolitan decisions. AB 1664 could stifle the collaboration among Metropolitan directors and their appointing agencies and is improper. In this regard, AB 1664 could interfere with Metropolitan's and its member agencies' autonomy and could interject uncertainty into the roles and duties of a Metropolitan director.

Because AB 1664 is unnecessary and ambiguous, staff recommends Metropolitan oppose the bill as currently drafted.

Policy

Metropolitan Water District Act Sections 51, 52 and 54: Appointment of Directors

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because the proposed action involves continuing administrative activities such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in

question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to the provisions of CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination and oppose AB 1664 as stated in the letter.

Fiscal Impact: None

Business Analysis: None

Option #2

Adopt the CEQA determination and take a neutral watch position, leaving the member agencies to take positions as they deem appropriate.

Fiscal Impact: None

Business Analysis: None

Staff Recommendation

Option #1



Linda Waade
Deputy General Manager, External Affairs

4/9/2010

Date



Jeffrey Kightlinger
General Manager

4/9/2010

Date

Attachment 1 – Assembly Bill 1664 as amended April 5, 2010

Ref# ea12605514

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1664

Introduced by Assembly Member Swanson

January 20, 2010

~~An act to amend Section 22406 of the Vehicle Code, relating to vehicles. An act to add Section 51.5 to the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), relating to water.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1664, as amended, Swanson. ~~Vehicles: motoreyele trailers. Metropolitan Water District Act.~~

The Metropolitan Water District Act provides for the creation of metropolitan water districts, governed by a board of directors composed of at least one representative of each member public agency appointed or selected by the member public agency, as prescribed.

This bill would require the representative of a member public agency serving on the board to at all times be authorized to represent the member public agency that appointed the representative. The bill would prohibit the governing body of the member public agency or an elected or appointed official or member of a member public agency from directing or instructing a member of the board to vote in a particular manner with respect to any question, order, resolution, or ordinance that comes before the board for a vote.

~~Existing law prohibits specified vehicles drawing other vehicles from traveling at a speed in excess of 55 miles per hour on a highway. Existing law requires those vehicles to travel in lanes designated by the Department of Transportation or local authorities under specified circumstances.~~

AB 1664

— 2 —

~~This bill would exempt a motorcycle that is drawing a trailer specifically designed for a motorcycle from the above restrictions.~~

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

The people of the State of California do enact as follows:

1 *SECTION 1. Section 51.5 is added to the Metropolitan Water
2 District Act (Chapter 209 of the Statutes of 1969), to read:*

3 *Sec. 51.5. (a) The representative of a member public agency
4 serving on the board shall at all times be authorized to represent
5 the member public agency that appointed the representative.*

6 *(b) The governing body of the member public agency or an
7 elected or appointed official or member of a member public agency
8 shall not direct or instruct a member of the board to vote in a
9 particular manner with respect to any question, order, resolution,
10 or ordinance that comes before the board for a vote.*

11 *SECTION 1. Section 22406 of the Vehicle Code is amended
12 to read:*

13 *22406. (a) A person shall not drive any of the following
14 vehicles on a highway at a speed in excess of 55 miles per hour:*

15 *(1) A motortruck or truck tractor having three or more axles or
16 any motortruck or truck tractor drawing any other vehicle.*

17 *(2) A passenger vehicle or bus drawing any other vehicle.*

18 *(3) A schoolbus transporting any school pupil.*

19 *(4) A farm labor vehicle when transporting passengers.*

20 *(5) A vehicle transporting explosives.*

21 *(6) A trailer bus, as defined in Section 636.*

22 *(b) This section does not apply to a motorcycle drawing a trailer
23 that is designed specifically for a motorcycle.*

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