



Date: May 7, 2007
 Committee Meeting Date: May 17, 2007
 Board Meeting Date: June 7, 2007
 ACTION X DISCUSSION INFO

BOARD MEMORANDUM

TO: Administration and Finance Committee
 Santa Clara Valley Transportation Authority
 Board of Directors

THROUGH: Michael T. Burns
 General Manager

FROM: Bill Lopez
 Chief Administrative Officer

SUBJECT: Amendments To SCVTA – ATU Pension Plan

RECOMMENDATION:

Policy-Related Action: Yes

Government Code Section 84308 Applies: No

Approve amendments to the Santa Clara Valley Transportation Authority – Amalgamated Transit Union (SCVTA – ATU) Pension Plan.

BACKGROUND:

Assembly Bill (AB) 1064, which became effective January 1, 2004, added Section 99159 to the Public Utilities Code relating to the administration of public transit district pension plans.

AB 1064 requires equal representation of labor and management on public transit district pension plans and specifies how the resolution of deadlocks shall be handled.

Discussions were held with representatives of VTA and the Amalgamated Transit Union, Local 265 (ATU) during 2005 and 2006 in an effort to reach agreement on how to amend the Pension Plan to implement the provisions of AB 1064. Each party presented proposed changes to the Pension Plan, but agreement could not be reached. The Union subsequently filed a grievance under the Collective Bargaining Agreement regarding implementation of the Union’s proposed changes.

A settlement could not be reached in the grievance and on October 11, 2006 the Union filed suit in the Superior Court of the State of California, Santa Clara County, in ATU v. SCVTA in a petition to compel arbitration.

DISCUSSION:

As directed by the Court, discussions were held with representatives of VTA and ATU to attempt to reach a settlement in this matter, and a proposed settlement has been reached with regard to the lawsuit, including proposed amendments to the Pension Plan. A complete list of the proposed amendments is attached in "Proposed Plan Amendments".

The proposed amendments to the SCVTA – ATU Pension Plan are as follows:

Section 2.1

- Adds a seventh Trustee to the Board of Pensions, to be jointly appointed by VTA and ATU for a one-year term, with successive one-year terms unless removed or replaced by the parties.
- Provides for up to two Alternate Members appointed by VTA and up to two Alternate Members appointed by ATU.

Section 2.2

- Adds a new section 2.2.7 regarding the powers, duties, and responsibilities of the Board of Pensions.

Section 2.3

- Provides that a quorum of the Board shall be two Trustees appointed by the Union and two Trustees appointed by VTA.

ALTERNATIVES:

The Board could deny approval of the Proposed Plan Amendments. This action would result in failure to reach agreement between the parties on implementation of AB 1064, and require the parties to return to Superior Court to settle the dispute.

FISCAL IMPACT:

There is not expected to be any significant fiscal impact resulting from these changes.

Prepared by: Carol Horner

PROPOSED PLAN AMENDMENTS

1. VTA and Union shall agree to amend the Pension Plan as follows:
 - a. Amend Section 2.1 to read: “The Plan shall be administered by the Board of Pensions, which shall consist of the following seven Trustees:
 - b. Add a new Section 2.1.3: “A Trustee selected as provided in Section 2.1.7.”
 - c. Accept Union’s proposed additions to Section 2.1 of the Pension Plan (Administration)
 - i. 2.1.4 “Up to two alternates appointed by VTA, and
 - ii. 2.1.5.”Up to two alternates appointed by the Union.
 - d. Add a new section 2.1.6 that reads as follows: “The entity (i.e., VTA or Union) which appointed a Trustee may remove or replace such Trustee at any time.”
 - e. Add a new section 2.1.7 that reads as follows: “VTA and Union shall jointly appoint a seventh Trustee.
 - i. The jointly appointed Trustee shall serve for a one-year term, commencing on the date of the first Board meeting to be held following the election of such Trustee, and shall be automatically renewed for successive one-year terms unless either VTA or Union gives the other written notice 60 days before the yearly anniversary of the commencement of the jointly appointed Trustee’s term. VTA and Union may jointly agree to remove or replace the jointly appointed Trustee from the Board at any time.
 - ii. The jointly appointed Trustee shall not be an officer, employee, agent or representative of either VTA or Union and shall not be entitled to contract with VTA to provide services (e.g. to serve as an actuary, money manager, or mediator or arbitrator with respect to any matter arising under the collective bargaining agreement between VTA or Union) during the jointly appointed Trustee’s term on the Board.
 - f. Amend the first sentence of Section 2.2 of the Pension Plan (Powers and Duties of the Pension Board) to read as follows: “The Board of Pensions shall have the following powers, duties and responsibilities:”

g. Add a new section 2.2.7 that reads:

“in addition to the foregoing:

(a) to exercise sole and exclusive fiduciary responsibility over the assets of the Plan;

(b) to exercise sole and exclusive responsibility for administering the Plan in a manner that will assure prompt delivery of benefits and related services to the participants and their beneficiaries;

(c) to discharge its duties solely in the interest, and for the exclusive purposes of providing benefits to participants and their beneficiaries, minimizing employer contributions to the Plan, and defraying reasonable expenses of administering the Plan;

(d) to discharge its duties with respect to the Plan with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims;

(e) to diversify the investments of the Plan so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly not prudent to do so;

(f) to provide for the services of outside actuaries, auditors, accountants, attorneys and others as necessary to assist the Board in carrying out its fiduciary obligations and responsibilities; and,

(g) to exercise such other powers, duties and responsibilities as may be conferred by law and/or this Plan and which are not inconsistent with Section XVI, §17 of the California Constitution.”

h. Amend Section 2.3 of the Plan to read as follows: “A quorum of the Board of Pensions shall require the presence of two Trustees appointed by the Union and two Trustees appointed by VTA.”