

ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area



ABAG

To: Administrative Committee
Fr: Kenneth Moy, Legal Counsel
Dt: April 27, 2016
Re: Petition for Special Meeting of General Assembly

The Association of Bay Area Governments (ABAG) has received petitions requesting that a special meeting of the ABAG General Assembly be held on May 12 beginning at 10:00 AM for the following purposes:

- a) A full discussion of the alternatives developed by Management Partners and any other alternative(s) presented by any member of the ABAG General Assembly for a new Regional Agency and Governance Model, or modifying an existing organization to carry out all and/or a portion of the regional land use and transportation planning functions and other existing responsibilities of ABAG;
- b) A vote of the ABAG General Assembly on the proposed options~ any modifications of the proposed options, any additional options, any preferred alternative(s) and subsequent course of action for the ABAG Executive Board and staff; and
- c) A vote of the ABAG General Assembly to repeal, ratify or modify ABAG Resolution 12-15 adopted by the ABAG Administrative Committee on October 28, 2015.

Section VI.B(3) of the ABAG Bylaws requires the Executive Board of ABAG to call a special meeting of the General Assembly as follows:

Special meetings of the General Assembly may be called by the Executive Board upon its own motion. A special meeting shall be called by the Executive Board upon written request of fifteen (15) Member cities and three (3) Member counties. (emphasis added)

Further, Section VII.C of the Bylaws authorizes the Admin Committee to act on behalf of the Executive Board as follows:

There shall be an Administrative Committee of the Executive Board of the Association whose composition shall be determined by the Executive Board and which shall, subject to any constraint or limitation imposed by the Executive Board or the General Assembly, exercise all powers of the Executive Board between meetings of the Executive Board . . . (list of limitations on Administrative Committee powers not applicable to this matter)

The petitions were signed by the delegates to the General Assembly from nineteen (19) Member cities and three (3) Member counties. The cities and counties themselves have neither made an official request for a special meeting of the General Assembly nor taken any action to validate the request made by individual delegates. The balance of this memorandum, however, assumes

that the Administrative Committee will respond favorably to this request for a special meeting of the General Assembly despite the potential technical shortcomings of the petitions.

Section VI.B(4) of the Bylaws requires that written notice of a special meeting of the General Assembly must be sent to the delegates at least 10 days in advance of the meeting.

The special meeting of the General Assembly must comply with Brown Act. Sections VI.C(1)-(3) of the Bylaws state as follows:

The powers and functions of the General Assembly shall include:

(1) *Exercising as appropriate all of the powers of the Association as set forth in these Bylaws or the Agreement. The General Assembly shall have the power to limit the Executive Board's exercise of any power or authority set aside to the Executive Board under these Bylaws.*

(2) *Any delegate may at any meeting of the General Assembly propose a subject or subjects for study by the Association. The General Assembly may take action upon such proposals and, if requested by any delegate, determine whether a study will be made of the subject or subjects so proposed or may refer such subject or subjects to the Executive Board.*

(3) *Any delegate may at any meeting of the General Assembly request review by the General Assembly of any action of the Executive Board which has been taken between meetings of the General Assembly.*

However, the Brown Act requires that matters for discussion and action by the General Assembly be noticed and described in the agenda for the meeting. Therefore, these sections of the Bylaws are circumscribed by this notice requirement. The ability to raise *ad hoc* topics under section VI/C(2) – (3) is limited. The General Assembly can refer such topics to a policy body or staff but cannot conduct substantive discussion or take action. For the same reason, any topic(s) that the Administrative Committee wishes to present to the General Assembly for discussion or action should be noticed in the agenda for the special meeting.