
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 626 **Hearing Date:** May 12, 2015
Author: McGuire
Version: April 16, 2015
Urgency: No **Fiscal:** No
Consultant: JRD

Subject: *Sonoma-Marin Area Rail Transit District: Police Force*

HISTORY

Source: Sonoma-Marin Area Rail Transit District

Prior Legislation: AB 2224 (Nation) – Ch.341, Statutes of 2002

Support: Sonoma County Sheriff Steve Freitas; Marin County Sheriff Robert Doyle;
Novato Police Chief James Berg; San Rafael Police Chief Diana Bishop;
Central Marin Police Authority Chief Todd Cusimano

Opposition: None known

PURPOSE

The purpose of this legislation is to authorize the Sonoma-Marin Area Rail Transit District to establish the position of chief of police.

Existing law establishes the Sonoma-Marin Area Rail Transit (SMART) District Act. (Public Utilities Code § 105000.)

Under existing law the government of the district shall be vested in a board of directors, which consists of 12 members. (Public Utilities Code § 105020.)

Under existing law the board has the power to:

- Own, operate, manage, and maintain a passenger rail system within the territory of the district.
- Determine the rail transit facilities, including ancillary bicycle and pedestrian pathways, to be acquired and constructed by the district, the manner of operation, and the means to finance them.
- Adopt an annual budget for the district that provides for the compensation of its officers and employees.
- Fix rates, rentals, charges, and classifications of rail transit service operated by the district.

- Adopt an administrative code that prescribes the powers and duties of district officers, the method of appointment of district employees, and the methods, procedures, and systems for the operation and management of the district.
- Adopt rules and regulations governing the use of rail transit facilities owned or operated by the district.
- Cause a post audit of the financial transactions and records of the district to be made at least annually by a certified public accountant.
- Adopt rules and regulations providing for the administration of employer-employee relations.
- Do any and all things necessary to carry out the purposes of this part.

(Public Utilities Code § 105032.)

Existing law lists are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, as specified. Those peace officers may carry firearms only if authorized and under terms and conditions specified by their employing agency. (Penal Code § 830.33.)

This legislation authorizes the SMART board to establish the position of chief of police.

This legislation specifies that the police chief will be a duly sworn police officer and must comply with the standards for recruitment and training of peace officers established in existing law.

This legislation specifies that, should the SMART board determine that more than one officer is needed, it may contract for those services with Marin and/or Sonoma counties.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In February of this year the administration reported that as “of February 11, 2015, 112,993 inmates were housed in the State’s 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity.”(Defendants’ February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the “durable solution” to prison overcrowding “consistently demanded” by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants’ Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee’s consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for This Legislation

According to the author:

Assembly Bill 2224 did not provide the SMART Board of Directors the authority to create and maintain a chief of police. Having a sworn chief of police would provide SMART the framework to provide safety and security for train riders, employees, property, buildings and infrastructure. In addition to providing support in protecting our passengers, having one employee at SMART as a sworn officer, it would allow for unfiltered information sharing between the thirteen local law enforcement agencies, state and local jurisdictions and the SMART Chief of Police. Currently law enforcement agencies are prohibited by Government Code 6254 to release specific law enforcement sensitive information to the general public (SMART). Access to law enforcement information between our safety partners will allow for the SMART Chief of Police to make decisions weighing the needs to our riders with accurate information pertaining to safety and security concerns. With SMART being under federal regulations, SMART reports to Department of Homeland Security (Transportation Security Administration) on transportation safety needs and works in conjunction with the Federal Bureau of Investigations on security and terrorism related concerns.

This bill is needed because:

- a. Train service is scheduled to start in 2016.
- b. Without a sworn police chief, sharing sensitive law enforcement intelligence and cases between SMART and other law agencies will diminish if not cease. Without this information, SMART becomes vulnerable and unable to respond to sensitive information pertaining to service disruption, acts of vandalism and violence. SMART would be unable to legally receive information on patients, injuries, suspects or other vital information during an investigation.
- c. Rail has been designated by federal law enforcement agencies as potential targets because of its open architecture and easy access points.
- d. SMART will be connecting two major existing means of transportation; the Sonoma County Airport and the Golden Gate Ferry which is direct access for commuters and tourists from San Francisco.
- e. SMART Chief of Police needs timely, accurate, unfiltered information during incidents along SMART's right of way to make safety related decisions for its passengers and employees.
- f. This proposal can have cost savings for SMART because it allows them to better plan for their needs without immediately relying on contracted services from local law enforcement agencies.

2. Effect of This Legislation

There are approximately 250 entities statewide that are eligible to receive state transit funding only four transit operators are statutorily allowed to maintain their own police department. All other transit service providers, including SMART, contract with local law enforcement or private entities to provide their security needs.

The author contends that, without a sworn police officer on staff, law enforcement agencies will not share sensitive information with SMART. Without this information, SMART becomes vulnerable and unable to respond to sensitive information pertaining to service disruption, acts of vandalism, and violence. The author suggests that this bill solves this problem because, with a sworn police chief, SMART will be able to access sensitive information from other law enforcement agencies.

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