

**Public Utilities Code Division 12.7 County and Regional Transportation Commissions
Chapter 2. San Diego County Regional Transportation Commission**

Article 1. General Provisions, Findings, and Definitions

§ 132000.

This chapter shall be known and may be cited as the San Diego County Regional Transportation Commission Act.

§ 132001.

The Legislature hereby finds and declares all of the following:

- (a) Recognizing the scarcity of resources available for all transportation development, alternative methods of financing provided in this chapter are needed to finance the cost of maintaining, acquiring, constructing, and developing facilities for transportation systems in the County of San Diego and these methods will increase economic opportunities, contribute to economic development, be in the public interest and serve a public purpose, and promote the health, safety, and welfare of the citizens within the County of San Diego.
- (b) It is in the public interest to allow the voters of San Diego County to create the San Diego County Regional Transportation Commission so that local decisions can be implemented in a timely manner to provide improvements to the transportation system.

§ 132002.

“Bonds” means indebtedness and securities of any kind or class, including bonds, notes, bond anticipation notes, and commercial paper.

§ 132003.

“Commission” means the San Diego County Regional Transportation Commission created pursuant to this chapter in the County of San Diego.

§ 132004.

“County” means the County of San Diego.

§ 132005.

“San Diego Association of Governments” means the joint powers agency established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code which is the transportation planning agency for the San Diego County region. Any board, commission, department, or officer succeeding to the functions of the association is granted the powers and duties of the association under this chapter.

§ 132006.

“Transit development boards” means the San Diego Metropolitan Transit Development Board and the North San Diego County Transit Development Board.

Article 2. Creation of the Commission

§ 132050.

There is hereby created the San Diego County Regional Transportation Commission in the county.

§ 132051.

The Board of Directors of the San Diego Association of Governments shall serve as the San Diego County Regional Transportation Commission.

§ 132052.

The commission shall not hire a staff, but shall use the staff of the San Diego Association of Governments and shall compensate the San Diego Association of Governments for the use of staff services as set forth in Section 132103.

§ 132053.

On and after a transactions and use tax is imposed pursuant to Article 5 (commencing with Section 132300), the commission may authorize payment from the proceeds of the tax to members of the commission and alternates for serving on the commission. If so authorized, each member of the commission, including alternate members when serving in the absence of a regular member, shall be paid one hundred dollars (\$100) for each day the member attends meetings of the commission and committees of the commission, but not to exceed five meetings in any one quarter, and his or her necessary and reasonable expenses in performing his or her duties as a commission member.

Article 3. Administration

§ 132100.

The joint powers agreement, bylaws, and all rules and regulations of the San Diego Association of Governments shall be the established rules for the proceedings and administration of the commission except as provided otherwise in this chapter.

§ 132101.

Meetings of the commission shall be held at least annually and as often as determined necessary by the commission.

§ 132102.

The acts of the commission shall be expressed by motion, resolution, or ordinance.

§ 132103.

The commission shall expend only that amount of the funds generated pursuant to this chapter for staff support, audit, administrative expenses, and contract services that are necessary and reasonable to carry out its responsibilities pursuant to this chapter.

§ 132104.

The commission shall do all of the following:

- (a) Adopt an annual budget.

- (b) Cause a post-audit of the financial transactions and records of the commission and of all revenues expended pursuant to this chapter to be made at least annually by a certified public accountant.
- (c) Do any and all things necessary to carry out the purposes of this chapter.

§ 132105.

- (a) The commission shall publish, pursuant to Section 6061 of the Government Code, notice of the time and place of the public hearing for the adoption of the annual budget not later than 15 days prior to the date of the hearing.
- (b) The proposed annual budget shall be available for public inspection at least 15 days prior to the hearing.

§ 132106.

The initial meeting of the commission shall be held in the City of San Diego when called by the Board of Directors of the San Diego Association of Governments in order to approve a transactions and use tax ordinance and ballot proposition and call an election in accordance with Article 5 (commencing with Section 132300).

Article 4. Powers and Functions

§ 132200.

The commission may adopt a seal and alter it at its pleasure.

§ 132201.

The commission may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all court and tribunals of competent jurisdiction.

§ 132202.

All claims for money or damages against the commission are governed by Division 3.6 (commencing with Section 810) of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

§ 132203.

The commission may make contracts and enter into stipulations of any nature whatsoever, including, but not limited to, contracts and stipulations to indemnify and hold harmless, to employ labor, and to do all acts necessary and convenient for the full exercise of the powers granted in this chapter.

§ 132204.

The commission may contract with any department or agency of the United States of America, with any public agency, including, but not limited to, the Department of Transportation, the San Diego Association of Governments, or any transit development board, county, or city, or with any person upon any terms and conditions that the commission finds is in its best interest.

§ 132205.

The commission may provide and maintain, by contract with a public agency or by other means, a security force to enforce its regulations, preserve and protect any public transit system or project

financed pursuant to this chapter, and preserve and protect the public peace, health, and safety with respect to its system or projects.

Article 5. Transactions and Use Tax

§ 132300.

The Legislature, by the enactment of this article, intends the additional funds provided government agencies by this article to supplement existing local revenues being used for public transportation purposes. The government agencies are further encouraged to maintain their existing commitment of local funds for public transportation purposes.

§ 132301.

A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the county shall be imposed by the commission in accordance with Section 132307 and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if two-thirds of the electors voting on the measure vote to approve its imposition at a special election called for that purpose by the commission. The tax ordinance shall take effect at the close of the polls on the day of election at which the proposition is adopted. The initial collection of the transactions and use tax shall take place in accordance with Section 132304.

If, at any time, the voters do not approve the imposition of the transactions and use tax, this chapter remains in full force and effect. The commission may, at any time thereafter, submit the same, or a different, measure to the voters in accordance with this chapter.

§ 132302.

The commission, in the ordinance, shall state the nature of the tax to be imposed, the tax rate or the maximum tax rate, the purposes for which the revenue derived from the tax will be used, and may set a term during which the tax will be imposed. The purposes for which the tax revenues will be used may include, but are not limited to, the administration of this chapter, including legal actions related thereto, the construction, capital acquisition, maintenance, and operation of streets, roads, and highways, including state highways, and the construction, maintenance, and operation of public transit systems, including exclusive public mass transit guideway systems. These purposes include expenditures for the planning, environmental reviews, engineering and design costs, and related right-of-way acquisition. The ordinance shall contain an expenditure plan which shall include the allocation of revenues for the purposes authorized by this section.

§ 132303.

- (a) The county shall conduct an election called by the commission pursuant to Section 132301.
- (b) The election shall be called and conducted in the same manner as provided by law for the conduct of elections by a county.

§ 132304.

- (a) Any transactions and use tax ordinance adopted pursuant to this article shall be operative on the first day of the first calendar quarter commencing more than 110 days after adoption of the ordinance.
- (b) Prior to the operative date of the ordinance, the commission shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance.

§ 132305.

The revenues from the taxes imposed pursuant to this article may be allocated by the commission for public transportation purposes consistent with the adopted regional transportation improvement program and the regional transportation plan.

§ 132306.

If taxes are imposed pursuant to this article for expenditure for public transit purposes, the commission shall allocate revenues derived therefrom to the transit development boards for allocation within their respective areas of jurisdiction for transit purposes consistent with the adopted regional transportation improvement program and the regional transportation plan.

§ 132307.

- (a) The commission, subject to the approval of the voters, may impose a maximum tax rate of 1 percent under this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, and the commission may state the maximum tax rate in terms of not to exceed 1 percent, or any lesser percentage thereof. The commission shall not levy the tax at a rate other than 1 percent or three-fourths, one-half, or one-fourth of 1 percent, unless specifically authorized by the Legislature.
- (b) The tax rate adopted pursuant to this article, unless otherwise prohibited, may be increased by the commission by ordinance adopted in the manner and by the vote stated in Section 132301 and approved by a majority of the electors voting on the measure at an election called for that purpose by the commission.

§ 132308.

The commission may reduce a tax rate to percentages lower than that approved by the voters and may further provide for an increase of the tax rate if it has previously been lowered. However, the tax rate may not be increased to a rate above the tax rate approved by the voters.

Any revised tax rate may be adopted only if the commission determines, by a two-thirds vote, that the proceeds of the taxes with the altered tax rate will be sufficient to provide for the payment of principal of, and interest on, any limited tax bonds and any other indebtedness incurred by the commission which was to be payable from the proceeds of the retail transactions and use tax.

§ 132309.

- (a) The commission, as part of the ballot proposition to approve the imposition of a retail transactions and use tax, shall seek authorization to issue bonds payable from the proceeds of the tax and establish the appropriations limit of the commission.
- (b) The maximum bonded indebtedness which may be outstanding at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated proceeds of the transactions and use tax for a period of not more than the number of years for which the transactions and use tax authorized by this article is to be imposed.

§ 132310.

- (a) The bonds authorized by the voters concurrently with the approval of the retail transactions and use tax may be issued by the commission at any time, and from time to time, payable from the proceeds of the tax. The bonds shall be referred to as "limited tax bonds." The bonds may be secured by a pledge of revenues from the proceeds of the tax.

- (b) The pledge of retail transactions and use taxes to the limited tax bonds authorized under this article shall have priority over the use of any of the taxes for “pay-as-you-go” financing, except to the extent that the priority is expressly restricted in the resolution authorizing the issuance of the bonds.

§ 132310.5.

The commission may provide for the bonds to bear a variable interest rate, for the manner and intervals in which the rate shall vary, and for the dates on which the interest shall be payable.

§ 132311.

Limited tax bonds shall be issued pursuant to a resolution adopted at any time, and from time to time, by the commission by a two-thirds vote of all members of the commission.

The commission may from time to time issue bonds in accordance with the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code), for the purposes set forth in the ordinance adopted pursuant to Section 132302, which shall constitute an “enterprise” within the meaning of Section 54309 of the Government Code. Article 3 (commencing with Section 54380) of Chapter 6 of Part 1 of Division 2 of Title 5 of the Government Code and the limitations on the rate of interest set forth in subdivision (b) of Section 54402 of the Government Code do not apply to the issuance and sale of bonds pursuant to this chapter. Instead, the commission shall authorize the issuance of bonds by resolution, which resolution shall specify all of the following:

- (a) The purposes for which the bonds are to be issued.
- (b) The maximum principal amount of the bonds.
- (c) The maximum term for the bonds.
- (d) The maximum rate of interest to be payable upon the bonds shall not exceed the maximum rate permitted for bonds of the commission by Section 53531 of the Government Code or any other applicable provisions of law. In the case of bonds bearing a variable interest rate, the variable rate shall on no day exceed the maximum rate permitted for bonds of the commission on that day by Section 53531 of the Government Code or any other applicable provisions of law. However, the variable interest rate so permitted may on any day exceed that maximum rate if the interest paid on the bonds from their date of original issuance to that day does not exceed the total interest which would have been permitted to have been paid on the bonds if the bonds had borne interest at all times from the date of issuance to that day at the maximum rate permitted from time to time by Section 53531 of the Government Code or any other applicable provisions of law.
- (e) The maximum discount on the sale of the bonds. However, the bonds shall not be sold at less than 95 percent of the principal amount in the manner determined by the commission. Each resolution shall provide for the issuance of bonds in the amounts as may be necessary, until the full amount of the bonds authorized has been issued. The full amount of bonds may be divided into two or more series with different dates of payment fixed for the bonds of each series. A bond need not mature on its anniversary date.

§ 132312.

Any bonds issued pursuant to this article are a legal investment for all trust funds; for the funds of insurance companies, commercial and savings banks, and trust companies; and for state school funds. Whenever any money or funds may, by any law now or hereafter enacted, be invested in bonds of cities, counties, school districts, or other districts within the state, those funds may be invested in the bonds issued pursuant to this article, and whenever bonds of cities, counties, school districts, or other districts within this state may, by any law now or hereafter enacted, be used as security for the performance of any act or the deposit of any public money, the bonds issued

pursuant to this article may be so used. The provisions of this article are in addition to all other laws relating to legal investments and shall be controlling as the latest expression of the Legislature with respect thereto.

§ 132313.

Any action or proceeding wherein the validity of the adoption of the retail transactions and use tax ordinance provided for in this article or the issuance of any bonds thereunder or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced within six months from the date of the election at which the ordinance is approved; otherwise, the bonds and all proceedings in relation thereto, including the adoption and approval of the ordinance, shall be held to be valid and in every respect legal and incontestable.

§ 132314.

The commission has no power to impose any tax other than the transactions and use tax imposed upon approval of the voters in accordance with this chapter.

Article 6. Extension, Expansion, or Increase of Transactions and Use Tax

§ 132320.

For the purposes of this article, the following terms have the following meanings:

- (a) To “expand” the transactions and use tax means to expand the purposes for which the revenue derived from the tax may be expended to include covering the costs of implementation of the regional comprehensive plan as referenced in Article 6.5 (commencing with Section 132360). These projects shall be limited to mitigation of impacts related to growth, maximizing the efficiency of regional transportation and transit systems, and funding of regional projects that integrate land uses, transportation systems, infrastructure needs, and public investment strategies, within a regional framework. Projects shall be limited to any or all of the following:
 - i. Acquisition, management, maintenance, and monitoring of natural habitat and open space, and other projects that implement protection and preservation programs consistent with adopted natural community conservation plans and habitat conservation plans.
 - ii. Development and implementation of watershed management.
 - iii. Construction, repair, replacement, and maintenance of stormwater management and conveyance systems, and water quality improvement programs or projects.
 - iv. Construction, acquisition, maintenance, monitoring, and operation of beach sand replenishment projects.
 - v. Funding of operations and maintenance costs for public transit projects that maximize mobility and transportation choices.
- (b) To “extend” the transactions and use tax means to extend the imposition of the tax beyond any term stated in the tax ordinance originally imposing the tax.
- (c) To “increase” the transactions and use tax means to increase the tax rate or the maximum tax rate authorized in the tax ordinance originally imposing the tax to an amount that does not exceed the maximum tax rate authorized under Section 132307.
- (d) The term “property” with regard to real property may include severable appurtenant real property rights such as easements, permits, and leases.

- (e) The “purposes” for which revenue derived from the transactions and use tax may be expended, in addition to the other purposes listed in this article and in Article 5 (commencing with Section 132300), include funding one or more grants to provide funding mechanisms for purchases of property or long-term management and monitoring of projects authorized by this section. Recipients of those grants shall be required to meet the applicable conditions of Section 132321.

§ 132321.

- (a) The commission may, upon terms, standards, and conditions approved by the commission, transfer environmental mitigation or conservation property to a public agency or to a nonprofit corporation that is qualified pursuant to Section 501(c)(3) of the Internal Revenue Code.
- i. As a condition to the transfer of property pursuant to this subdivision, the commission may enter into an agreement with the transferee to provide funding for the future maintenance and monitoring of the property consistent with any permit conditions and mitigation requirements imposed by state or federal law or conditions imposed by a state or federal agency. In determining the amount of the funding provided, the commission shall consider the costs of maintaining and monitoring the property and shall offset from the amount of those costs any benefit or value received by the transferee or the commission as a result of the transfer.
 - ii. The transferee to which the commission transfers the property shall assume the long-term responsibility for the future maintenance and monitoring of the property.
 - iii. (A) If the transferee fails to maintain and monitor the property in the manner required by law, by a permit, or as described in paragraph (1), or if the transferee is a nonprofit corporation that ceases to exist, the property shall automatically revert to the commission.
(B) If the property reverts to the commission pursuant to this paragraph, any remaining funds from the original transfer pursuant to paragraph (1) shall also revert to the commission.
(C) Any costs, including legal costs, associated with reversion of the property and funds pursuant to this paragraph shall be the responsibility of the transferee.
 - iv. Any documents conveying property in accordance with this section shall include a restriction limiting the use of the property solely for conservation purposes or environmental mitigation purposes in accordance with the conditions specified in paragraph (1).
 - v. Documents conveying property in accordance with this section and documents related to a transfer or assignment of property under this section shall be filed with the county recorder's office in the county in which the property is located.
 - vi. The transferee shall not do any of the following:
 - a. Transfer or assign the property to another entity without approval from the commission and compliance with this section.
 - b. Transfer or use the property for any purpose other than as required by the agreement described in paragraph (1), and any relevant permit conditions and mitigation requirements.
 - c. Subdivide the property.
 - d. Secure loans or liens against the property.
 - vii. The commission shall conduct, or cause to be conducted, an audit of the performance of the transferee at least once every five years to ensure that the

transferee is meeting its obligations pursuant to the terms of the agreement described in paragraph (1).

- (b) The commission may, upon terms, standards, and conditions approved by the commission, award one or more grants to provide a funding mechanism for long-term management and monitoring of projects authorized by Section 132320 to a public agency or to a nonprofit corporation that is qualified pursuant to Section 501(c)(3) of the Internal Revenue Code. As a condition to the award of a grant pursuant to this subdivision, the commission may enter into an agreement with the grantee that contains the following terms:
- i. The grantee shall maintain accurate books, records, and accounts of all of its dealings, which shall be subject to an annual financial audit by an independent auditing firm approved by the commission. The grantee shall pay for the annual audit and provide a copy of the audit results to the commission. The commission shall determine whether the grant fund expenditures are consistent with the terms of the agreement described in this subdivision. In addition, the commission may conduct or cause to be conducted a fiscal and compliance audit of the grantee.
 - ii. The commission shall conduct, or cause to be conducted, an audit of the performance of the grantee at least once every five years to ensure that the grantee is meeting its obligations pursuant to the terms of the agreement described in this subdivision.
 - iii. (A) If the grantee fails to perform its management or monitoring responsibilities in the manner required by law and in the manner required by the agreement described in this subdivision, or if a grantee that is a nonprofit corporation ceases to exist, any remaining funds derived from the grant pursuant to this subdivision shall revert to the commission.
(B) Any costs, including legal costs, associated with reversion of funds to the commission pursuant to this paragraph shall be the responsibility of the grantee.

§ 132322.

- (a) An ordinance expanding, extending, or increasing the retail transactions and use tax imposed under this chapter shall be imposed by the commission and shall be applicable in the incorporated and unincorporated territory of the county, if the constitutionally required percentage of the electors voting on the measure vote to approve its imposition at a special election called for that purpose by the commission. The ordinance shall take effect on the day immediately following the day of the election at which the proposition is adopted.
- (b) If at any time the voters do not approve the imposition of the expansion, extension, or increase of the transactions and use tax, the commission may, at any time thereafter, submit the same, or a different, measure to the voters in accordance with this article.

§ 132324.

- (a) In the ordinance, the commission shall state the nature of the tax to be imposed, the tax rate or the maximum tax rate, and the purposes for which the revenue derived from the tax will be used. In connection with the extension or expansion of the tax, the tax rate or the maximum tax rate may be increased from the tax rate or the maximum tax rate in effect at that time.
- (b) If the tax is extended, the ordinance shall set forth the new term during which the tax will be imposed.
- (c) If the tax is expanded, the ordinance shall contain an expenditure plan that includes the allocation of revenues for the expanded purposes.

§ 132326.

- (a) The county shall conduct an election called by the commission pursuant to Section 132322.
- (b) The election shall be called and conducted in the same manner as provided by law for the conduct of elections by a county.

§ 132328.

- (a) Any ordinance extending or expanding, or both, the transactions and use tax shall be operative on the day immediately following the day of the election at which the proposition is adopted. Any increase in the tax rate or the maximum tax rate authorized by the ordinance shall be operative in accordance with Section 132304.
- (b) If the ordinance expands, extends, or increases the transactions and use tax, the commission shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance.

§ 132330.

Any action or proceeding wherein the validity of the adoption of the extension, expansion, or increase of the retail transactions and use tax, or the issuance of any bonds thereunder, or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced within 60 days from the date of the election at which the ordinance is approved; otherwise, the bonds and all proceedings in relation thereto, including the adoption and approval of the ordinance and the levy and collection of the retail transactions and use tax, shall be held to be valid and in every respect legal and incontestable.

§ 132332.

The commission has no power to extend, expand, or increase any tax other than the transactions and use tax extended, expanded, or increased upon approval of the voters in accordance with this chapter.

§ 132334.

All provisions of Article 5 (commencing with Section 132300) relating to allocation of revenues, tax rates, and bonds apply to the expanded, extended, or increased transactions and use tax, except that the revenues derived from the expanded or increased tax may be used for the additional purposes described in subdivision (a) of Section 132320.