



Date: June 18, 2020

To: Joint ABAG MTC Governance Committee

Fr: Therese W. McMillan, Executive Director

Re: **Major Questions Related to Creating a New Consolidated Legislation Committee**

In May, the Commission and Executive Board took initial steps to consolidate several ABAG and MTC committees, starting with the Legislation Committees, and asked staff to prepare a memo describing the administrative and procedural changes necessary before consolidation can take place. Staff asks for your guidance on the following questions to inform our recommendations for the consolidated Legislation Committee that we will be bringing back to you in July.

How will a single consolidated Legislation Committee report up to two governing boards?

Key Fact: A consolidated committee with members from two separate governing boards cannot direct via recommendation or otherwise act on behalf of those governing boards independently. They can advise actions of the governing boards, but those are not binding in any fashion.

That notwithstanding, the advisory function of a consolidated committee has inherent value to the separate governing boards receiving that advice. As an example, if the committees were combined and had 18 members (9 ABAG/9 MTC) and voted on a bill as follows, ABAG members 8-1 to Oppose/MTC members 7-2 to Support, then the committee as a whole would *oppose* the bill by 10-8 vote.

Consequences: The advisory vote would be forwarded to the ABAG Executive Board and the MTC Commission as the formal action taken. The Legislation Committee members on each body could explain their perspective, if it differed from the advisory vote. Following discussion, the Commission and ABAG Executive Board would make its own *de novo* decision. This would be informed by the advisory recommendation of the consolidated Legislation Committee and any subsequent discussion at the full board meetings.

Could the new Consolidated Committee take action on very short notice prior to action by its full governing bodies? How might it take positions on bills that significantly impact one agency but the other agency has no interest in?

Currently, both agencies have procedures for taking emergency action on bills when necessary. MTC's Legislation Committee can take a position on a bill, convey it to the state legislature and then inform the Commission at its next meeting and seek validation. Similarly, ABAG's President and Legislation Committee Chair can take positions on a bill, inform Sacramento and ask the Executive Board to validate their position after the fact. In addition, of the many bills the legislature takes up each year, some are of interest to both MTC and ABAG while others are of interest to only one (e.g. TDA Reform to the Commission).

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Consequences: If the Commission and ABAG Executive Board wish to retain the authority to act quickly in advance of action by their full bodies and/or take up bills of interest to only one agency but not the other, subcommittees comprised of ONLY the MTC members or ONLY the ABAG Executive Board members of the consolidated Legislation Committee may need to be appointed and vested with these specific authorities for limited circumstances. If established, staff may need to calendar all three committees/subcommittees concurrently in those months when specific discrete actions by all three are required.

How will Chair and Vice Chair of the Consolidated Committee be selected?

While ABAG's President has sole authority to appoint ABAG committees, once a committee is appointed the committee members themselves choose their Chair and Vice Chair. Under MTC procedures, the Chair appoints the Chairs and Vice Chairs of all committees but those appointments must be ratified by a vote of the Commission. *Staff recommends* that the consolidated committee have two Co-Chairs and Vice Chairs, one each from ABAG and MTC

Consequences: Where necessary to amend MTC's Commission Procedures Manual, amendments go to the MTC Administration Committee first, then to the Commission. Any changes to ABAG's procedures go straight to the Executive Board. To stay on schedule, this all needs to happen in July and August.

How will Committee membership be determined?

Factors: In addition to each agency appointing an equal number of members, ABAG and MTC will need to agree on what the right balance is between city and county representation as well as geographic representation by sub-region—North Bay, East Bay, West Bay, South Bay.

Total #: X	ABAG-city	ABAG-county	MTC-city	MTC-county
North Bay				
South Bay				
East Bay				
West Bay				

Open vs. Closed Membership: We will need to reconcile rules around who can attend meetings. ABAG has designated, closed membership and doesn't deputize to address quorum issues. MTC can deputize members to achieve quorum but also lets Commissioners attend all committee meetings as non-voting members with the same speaking privileges as voting members.

Consequences: Following MTC's protocol would mean all 21 Commissioners and 35 Executive Board members could sit at the dais and speak as members of the committee. To better manage the size of the group and length of meetings, *staff recommends* using ABAG's defined membership model and addressing quorum issues through some form of deputizing if possible. The MTC Commissioners that aren't members of Legislation Committee but wish to speak would do so during public comment.

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How will staff support the consolidated Legislation Committee meetings?

Scheduling: Currently, Joint MTC and ABAG Legislation Committee meetings are on Fridays when the MTC committees meet. *Staff recommends* keeping meetings on those days.

Clerk Support: Open question: not for Board level consideration, but internal resolution.

Currently Martha Silver is clerk for MTC's Legislation Committee and Fred Castro is Clerk for ABAG's Legislation Committee. Staff will determine appropriate assignments, including the anticipated, limited cases where subcommittees as suggested above need to convene.