

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 2600

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 8, 2020

The Senate Transportation Committee reports favorably and with committee amendments Senate Bill No. 2600.

As amended and reported, this bill provides for changes to the New Jersey Transit Corporation (NJ Transit) enabling statutes to increase transparency and accountability and the independence of NJ Transit board members.

Independence of Board Members

The bill provides that the chairperson and vice chairperson of the NJ Transit board of directors are to be elected from among the public voting members of the board. The chairperson and vice chairperson are each to serve two year terms. If the board fails to elect a chairperson and vice chairperson, the longest tenured public member of the board that is authorized to vote is to serve as chairperson until the election of a chairperson. If more than one member shares the longest tenure, the acting chairperson is to be decided by random selection from those members with the longest tenure and is to serve as chairperson until the election of the chairperson. The bill prohibits an ex officio member or the ex officio's designee from serving as the chairperson or vice-chairperson of the board or committee of the board or otherwise presiding over any board meeting or committee meeting.

Public Meetings

The bill requires that board agendas be provided to the public seven calendar days prior to the meeting and that the board is not to allow more than 60 calendar days to elapse without holding a public board meeting. For each public board meeting, the board is to hold a work session at least seven days before the board meeting to discuss items to be listed on the board meeting agenda, which is to be open to the public with the agenda for the upcoming board meeting published before the beginning of any work session. An item is not to be listed or voted on at a public board meeting unless the item was discussed or open for discussion at a work session of the board. The bill authorizes any board member to address the

board at a public board meeting or work session concerning an issue or item that the board member believes is in the public interest or board's interest to discuss. At that time, each board member is to be afforded an opportunity to discuss the issue or item. Following that discussion, the chairperson or board may add the issue or item to a subsequent board agenda or the board may take other appropriate action.

Board Hiring

This bill requires that the board of directors directly hire the Executive Director, Director of the Office of Customer Advocate, and Auditor General. It also requires board approval of hiring by the Executive Director for positions at the level of Senior Vice President and Chief.

Board and Committee Transparency and Accountability

The bill subjects major planning documents to review and approval by the board of directors. The bill requires the board to take an active role in developing corporate bylaws and to adopt new bylaws within 180 days of the effective date of the bill to ensure consistency with statutory law governing NJ Transit. The board is required to ensure that the bylaws are available to the public and published on NJ Transit's website.

Under the bill, NJ Transit personnel are required to make audit documents available to the members of the board in a centralized database. If NJ Transit has not yet established a centralized database for these documents, the bill requires that the documents be made available to a board member upon request. The bill requires NJ Transit senior management to collaborate with the administration committee on the development of any fiscal item. NJ Transit is prohibited from taking certain action concerning a fiscal item until the fiscal item has been presented to the administration committee. If the members of the administration committee find that the fiscal item should not advance or needs to be modified, the full board may, at a subsequent board meeting, require NJ Transit to take certain action.

The bill provides that the Auditor General and internal audit department of NJ Transit are to report directly to the audit committee and the board of directors and are to be independent of the supervision of the Executive Director, unless specifically authorized by the audit committee or the board.

The bill clarifies that each committee of the board is to serve as an apparatus for members of the committee to obtain information and to engage in policy discussions within the purview of the committee. Upon request of a committee member, NJ Transit personnel is required to provide information to the committee at a time and in a form and manner determined by the committee.

The bill permits the establishment of any ad hoc or temporary committee to address a specific issue of interest to the board or the public. Each committee, standing or temporary, is to submit a committee report to the board for each committee meeting, which is to include the written summary of the substance of any discussions and any action taken at the committee meeting.

The bill states that the chairperson of each passenger advisory committee and the Director of the Office of Customer Advocate, or designees of those persons, may attend any committee meeting to provide pertinent information or commentary to the committee. The bill also clarifies that the board and each member of the board remain authorized and obligated to exercise the functions and responsibilities of each committee and emphasizes that each board member is required to apply independent judgment while fulfilling the board member's duties.

Legislative Oversight

This bill clarifies the process for a standing legislative committee to require testimony or the production of documents by NJ Transit personnel before the committee. Under the bill, board members, officers, and employees of NJ Transit are required to appear before a standing legislative committee upon the written request of the chairperson, at a date, time, and location determined by the chairperson. If a board member, officer, or employee fails to appear, present testimony, or produce books, papers, documents, or other objects as requested, the chairperson of the committee is authorized to apply to the Superior Court to compel the person to do so. The court is authorized to punish any individual who fails to comply as if that person were in contempt of court.

Customer Advocate

This bill repeals a provision of law that requires NJ Transit to employ a customer advocate and, instead, establishes the Office of Customer Advocate (Customer Advocate) to: provide information and independent analysis to the NJ Transit board of directors on the impact that board and NJ Transit actions are having, or are expected to have, on NJ Transit's customers; provide genuine customer input and feedback to the board of directors, including relaying the needs and concerns of customers to the board of directors; and represent the best interest of NJ Transit's customers as determined by the Director of the Office of Customer Advocate. The Customer Advocate is allocated within the Department of Transportation but is independent of any supervision or control by the department, provided, however, that the director of the office is to be supervised by NJ Transit's board of directors.

The Customer Advocate is authorized to conduct investigations, initiate studies, conduct research, present comments and testimony

before the board of directors, legislative committees, and other governmental bodies, and prepare and issue reports. The Customer Advocate is required to arrange for meetings with NJ Transit passengers, on at least a monthly basis, for the purpose of: relaying the concerns and needs of passengers to the board of directors and the executive management team of NJ Transit; and providing information to passengers on major board or NJ Transit actions of which the director has knowledge. In addition to monthly meetings, the director of the office may undertake any other action that the director deems to be in furtherance of the Customer Advocate's purposes. The Customer Advocate also has the authority to represent the public interest regarding proposed fare increases, proposed substantial curtailments of service, proposed expansion of service, and any other action or omission of NJ Transit that the Customer Advocate determines has an impact on NJ Transit's customers.

The Customer Advocate is required to issue an annual report detailing the office's activities for the prior year.

The bill reduces the number of persons appointed by the Governor to each passenger advisory committee from six to five and instead authorizes the Director of the Office of Customer Advocate to appoint one person to each passenger advisory committee. The bill also directs the passenger advisory committees to provide advice, input, and guidance to the Office of Customer Advocate.

Capital Program Public Hearing and Reporting

The bill requires NJ Transit to hold at least two public hearings concerning the contents of the annual capital program before it adopts and implements the program. The bill also requires NJ Transit to hold at least two public hearings per year on its strategic plan, capital program priorities, and vision for NJ Transit's future. The bill provides requirements for the public hearings.

This bill amends the requirements for the annual transportation capital program report that is annually submitted to the Legislature as part of the annual budget process. This report is a recommendation provided by the Department of Transportation and NJ Transit for how the State should appropriate the State's capital program appropriations from the New Jersey Transportation Trust Fund.

The bill requires that the reporting of capital projects in the report be more specific by narrowing the scope of what is to be reported as a project down to the level of each contract of \$100,000 or more, or a group of contracts totaling more than \$100,000 that are for related work at a single site. The bill also requires the projects to be reported in a manner that conveys the scope and scale of work to be completed over the course of the fiscal year. These

requirements are directed specifically at the reporting for NJ Transit which has traditionally reported capital requests in broad categories that obscure the specific capital work to be completed.

The bill also provides that the capital program is to be reported in a document format as is currently the case, and to also require the reporting of capital program information in a sortable spreadsheet format.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that the chairperson and vice-chairperson be elected from the public voting members and that ex-officio members of the board or the ex-officio members designee are ineligible to serve as the chairperson or vice-chairperson of the board or any committee of the board.

The amendments require that board agendas be provided to the public seven calendar days prior to the meeting, instead of five, and that the board is not to allow more than 60 calendar days to elapse without holding a public board meeting. The amendments also require the board to hold a work session at least seven days prior to the board meeting, which is to be open to the public. The agenda for the upcoming board meeting is to be published before the beginning of any work session. The amendments also provide that an item is not to be listed on an agenda or voted on at a public board meeting unless the item was discussed or open for discussion at a work session of the board.

The amendments also include the elimination or substantial curtailment of paratransit service as a service with which the board is to have oversight. The amendments clarify that board approval is required for hiring by the Executive Director for any individual to serve in a Senior Vice President or Chief role.

The amendments provide that the Auditor General and internal audit department are to report directly to the audit committee and the board of directors and are to be independent of the supervision of the Executive Director, unless specifically authorized by the audit committee or the board.

The amendments permit the establishment of any ad hoc or temporary committee to address a specific issue of interest to the board or the public. The amendments require each committee to submit a committee report to the board for each committee meeting, which is to include a written summary of the substance of any discussions and any action taken at the committee meeting.