

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2600

**STATE OF NEW JERSEY
219th LEGISLATURE**

DATED: JUNE 3, 2021

SUMMARY

- Synopsis:** Increases transparency and accountability for NJT and independence of NJT board members; establishes Office of Customer Advocate; requires greater detail for capital program.
- Type of Impact:** Increased State cost.
- Agencies Affected:** New Jersey Transit Corporation.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) finds that this bill will likely result in an indeterminate increase in State costs, primarily due to the establishment of an Office of Customer Advocate. There will also be smaller cost increases associated with the various reforms to the Board of Directors and financial oriented reforms. The magnitude of these costs will depend upon how the required changes are implemented, most notably in the potential size and staffing for the Office of Customer Advocate which is not specifically prescribed in the provisions of the bill.
- The board and financial oriented reforms largely require changes to existing agency practices that will increase involvement of board members and the public. This may result in indirect costs related to additional staff time and the production of additional documents.
- The development of a new Office of Customer Advocate will result in an indeterminate amount of additional direct costs to hire new staff and provide equipment for the office to support customer outreach, research, studies, investigations, and provide assistance to the Board.
- While these reforms will increase New Jersey Transit Corporation (NJ Transit) costs, they might also lead the agency to take a more deliberative approach, increase accountability to customers, and ensure board expertise is utilized by the agency. If the policy objectives of the

bill are successful, increased costs under the bill may be offset by significant indirect fiscal benefits from a more effectively run agency.

BILL DESCRIPTION

This bill provides for changes to the New Jersey Transit Corporation 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 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. The bill prohibits an ex officio member 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.

Board Hiring

This bill requires that the board 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. 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.

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 and are to be independent of the supervision of the Executive Director, unless specifically authorized by the audit committee or the board.

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.

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 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, including relaying the needs and concerns of customers to the board; 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.

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

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.

FISCAL ANALYSIS***EXECUTIVE BRANCH***

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that this bill will likely result in an indeterminate increase in State costs, primarily due to the establishment of an Office of Customer Advocate. The bill would repeal an existing section of law requiring NJ Transit to hire a customer advocate. The bill provides a broad scope of responsibility for the office, reflecting some roles and responsibilities comparable to the Office of the Ratepayer Advocate, including a role in providing independent analysis of proposed fare changes. The office is also required to provide assistance to the Board of Directors for NJ Transit as requested, to engage in regular outreach and communication with NJ Transit customers, and to engage in research and conduct investigations and studies of issues impacting customers. The office will also be responsible for publishing an annual report of its activities and assigning members to the passenger advisory committees. It is unclear how much staff would be needed to undertake this scope of work but in addition to the Customer Advocate, there would likely need to be one to ten additional support staff in the office. The number of support staff will dictate the salary cost as well as the equipment cost, which may involve office space, desks, computers, office supplies, and travel expenses. NJ Transit and the Department of Transportation may or may not have some available resources to accommodate this need, specifically dedicated office space, which would limit the fiscal impact.

The other provisions of the bill primarily relate to the structure of the board, the interaction between the board and NJ Transit executive management, and NJ Transit's interaction with the public, such as requirements for public documentation, hearings, and legislative oversight. All of the other items addressed by the bill concern management and oversight activities that are already

conducted by NJ Transit but makes changes to the way that they are to be executed. For instance, by requiring NJ Transit to more directly engage with the board prior to taking action on fiscal items, it will necessitate a longer timeline for taking these fiscal actions. It will also result in additional input into NJ Transit decision making processes. Similarly, by requiring NJ Transit to provide documents to board members on request, executive leadership is likely going to have to take additional time to meet with the board and explain their decision making processes. This will add work for NJ Transit management, but generally make agency decisions more deliberative and subject them to a greater breadth of viewpoints. It cannot be known at this time what dynamic will develop from these changes, and as a result the cost increase of additional staff time and effort also cannot be known.

While the changes imposed under the bill are likely to increase costs, they are made as reforms that are intended to improve agency performance over time. NJ Transit has an operating budget of over \$2.6 billion, so relatively small process and management improvements can have significant positive fiscal impacts. The improvements targeted by this bill are broadly targeted at the highest level of the agency's organizational structure. These are changes that will likely indirectly impact all agency functions, so any future improvements or declines in agency performance may be at least indirectly attributable to this legislation. What remains unclear is the magnitude of that impact, and the relative impact of these reforms compared with a number of other high level reform efforts at the agency over the last four years. As a result, any future positive or negative fiscal impacts of the bill are and will likely remain indeterminate.

Section: Authorities, Utilities, Transportation and Communications

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).