

SOUND TRANSIT

RESOLUTION NO. R99-9

**Confirming the Executive Director's authority
to authorize legal/administrative actions, suits and appeals
BACKGROUND AND COMMENTS**

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Executive Committee	3/19/99	Approval subject to ratification by the Board	Desmond Brown	684-6758
Board	3/23/99	Ratification		

ACTION:

To approve a resolution confirming that Executive Director is authorized to initiate or defend legal or administrative actions, suits and appeals after appropriate consultation with the Chair of the Board and other designated members of the Executive Committee.

BACKGROUND:

Sound Transit's ability to implement the Sound Move commuter rail, regional express and light-rail projects will be significantly affected by land-use and environmental regulations that are currently being considered or implemented by federal, state and local governments and regulatory agencies. For example, local comprehensive plan amendments made this year will affect light-rail permitting decisions the following year.

In addition to the policy-level land-use and environmental decisions that will affect the implementation of Sound Move, Sound Transit will begin applying for construction permits in summer 1999 to construct the stations and parking improvements necessary to implement commuter rail service between Tacoma and Seattle. Although Sound Transit plans to continue to work cooperatively with each federal, state and local regulatory agency to resolve most issues through cooperative negotiations, because many land-use and zoning codes have not previously addressed the unique issues presented by light-rail and commuter rail, Sound Transit will likely need to seek review of administrative decisions to the appropriate elected governing body or through the administrative or judicial appeal process to resolve issues critical to the implementation of Sound Move.

Resolution 78-1 provides that the Executive Director is authorized to administer and manage Sound Transit's daily business operations and "is authorized to take necessary measures to cause compliance or to protect Sound Transit's legal position. While this language appears to be intended to delegate to the Executive Director the authority to initiate the appropriate legal/administrative actions, suits and appeals as necessary to protect the agency in the ordinary conduct of its business, Resolution 78-1 does not explicitly state the Board's intent to grant this authority to the Executive Director.

The Board will continue to retain all substantive authority over all legal or administrative actions. However, in order to ensure the agency's ability to act promptly to protect its interests within the time allowed to seek review or reconsideration of adverse land-use, environmental and other permitting decisions, it is recommended that a resolution be passed confirming the Executive Director's authority to take these actions to protect the agency's legal rights. Passage of the resolution will ensure that the agency's ability to assert its legal rights cannot be challenged on the ground that the Executive Director lacked the authority to commence the legal/administrative action, suit or appeal deemed necessary to protect and defend the agency.

FUNDING IMPACT:

None.

ALTERNATIVES:

Interpret Resolution 78-1 broadly to grant Executive Director the authority to pursue legal/administrative actions, suits and appeals.

CONSEQUENCES OF DELAY:

Delaying action may subject the agency to legal challenges asserting that the Executive Director lacked the authority to take legal action to protect and defend the agency.

LEGAL REVIEW:

The Legal Department has prepared and approved the Background and Comments and the Resolution.

SOUND TRANSIT

RESOLUTION NO. R99-9

A RESOLUTION of the Executive Committee of the Central Puget Sound Regional Transit Authority for the Pierce, King and Snohomish Counties region confirming the Executive Director's authority to authorize legal/administrative actions, suits and appeals.

WHEREAS, a regional transit authority ("Sound Transit") has been created for the Pierce, King, and Snohomish County region by action of their respective county councils pursuant to RCW 81.112.030; and

WHEREAS, on November 5, 1996, Central Puget Sound area voters approved local funding for *Sound Move*, the ten-year plan for regional high-capacity transit in the Central Puget Sound Region; and

WHEREAS, *Sound Move* provides for implementation of commuter rail, light-rail and regional express/HOV services and highway improvement; and

WHEREAS, Sound Transit's ability obtain the permits and approval necessary to implement the Sound Move commuter rail, regional express and light-rail projects will be significantly affected by the land-use and environmental regulations currently in effect or under consideration by federal, state and local governments and regulatory agencies; and

WHEREAS, Resolution 78-1 provides that the Executive Director is authorized to administer and manage the RTA's daily business operations and "is authorized to take necessary measures to cause compliance or to protect the RTA's legal position, ..."; and

WHEREAS, Sound Transit shall continue to work cooperatively with federal, state and local governments and agencies to implement Sound Move in a manner that reflects and balances each agencies' interests in the development of a regional transportation system; and

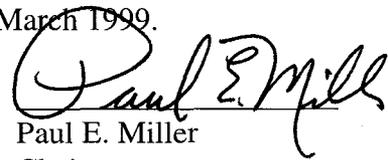
WHEREAS, in order to ensure Sound Transit's ability to act promptly to protect its interests within the time allowed to seek review or reconsideration of adverse land-use, environmental and other permitting decisions, a resolution should be enacted confirming the Executive Director's authority to take these actions to protect and defend Sound Transit's legal rights as intended in Resolution 78-1; and

WHEREAS, immediate action is required to confirm the Executive Director's authority in order to protect Sound Transit's interests until such time as the Board shall consider this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Executive Committee of the Regional Transit Authority that:

The Executive Director is authorized to initiate and/or defend legal or administrative actions, suits and appeals as deemed necessary to protect Sound Transit, after appropriate consultation with the Chair of the Board, the Chair of each Board committee and other Boardmembers as appropriate, provided that in the event that the Executive Director is unable to consult with Boardmembers before taking the action, then the action shall be subject to ratification by the Board. This Resolution shall be effective immediately but shall be subject to ratification by the Sound Transit Board.

ADOPTED by the Executive Committee of the Central Puget Sound Regional Transit Authority at a special meeting thereof held on the 23rd day of March 1999.


Paul E. Miller
Chair

ATTEST:


Marcia Walker
Board Administrator