

**SOUND TRANSIT**

**RESOLUTION NO. 99-16**

**Establishing procedures governing legal actions, ratifying and confirming the authority of the Executive Director to initiate legal actions, ratifying resolutions passed by the Executive Committee prior to the date of this resolution, and designating the Board Administrator as the sole officer authorized to accept service of legal process**

**BACKGROUND AND COMMENTS**

<b>Meeting:</b>	<b>Date:</b>	<b>Type of Action:</b>	<b>Staff Contact:</b>	<b>Phone:</b>
Board	5/27/99	Approval	Desmond Brown	398-5017

**ACTION:**

The proposed resolution establishes procedures for Board and Executive Committee oversight of the agency’s legal actions and confirms that the Executive Director is authorized to initiate or defend legal or administrative actions, suits and appeals subject to the supervision of the Executive Committee and the Board. The resolution also designates the Board Administrator as the sole officer authorized to accept service of legal process on behalf of the agency.

**BACKGROUND:**

Sound Transit’s ability to implement the *Sound Move* commuter rail, regional express and light-rail projects will be significantly affected by numerous local, state and federal laws and regulations. Sound Transit recently approved a roster of attorneys to assist in addressing legal issues in a number of areas, including, labor and employment, municipal governance, construction, public contracting, municipal finance, tax, land-use and environmental law.

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. Alignment and design decisions are expected in Fall 1999/Winter 2000 for both central Link light-rail and for north commuter rail. Although Sound Transit plans to continue to work cooperatively with governmental entities, non-governmental citizen organizations and private parties to resolve issues through negotiations, Sound Transit will likely need to defend itself against legal actions, and in some cases, the agency may need to initiate legal actions to protect its ability to implement *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 intended to delegate to the Executive Director the authority to initiate 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 establish procedures for the conduct of legal actions or explicitly state the Board's intent to grant this authority to the Executive Director.

On March 23, 1999, in response to a need for immediate action on a pending matter, the Executive Committee approved Resolution No. R99-9 to confirm the Executive Director's authority to initiate legal actions on behalf of the agency. Resolution No. R99-9 came before the Board on March 25, 1999 for consideration. Based on the direction provided by the Board at that meeting, this resolution has been prepared to establish procedures to govern the agency's legal affairs.

#### **RELEVANT BOARD POLICIES AND PREVIOUS ACTIONS TAKEN:**

- ◆ Resolution No. 78-1, authorizing the Executive Director to take necessary measures to protect Sound Transit's legal position (April 9, 1998).
- ◆ Resolution No. 80, adopting rules and operating procedures for the Board (January 23, 1997).
- ◆ Resolution No. R99-9, confirming the Executive Director's authority to authorize legal/administrative actions, suits and appeals (March 1999).

#### **KEY FEATURES:**

The proposed resolution assigns to the Executive Committee the responsibility of supervising the agency's routine legal affairs. The Executive Committee will have the authority to approve or disapprove a proposed legal action before the action is taken. However, the Executive Committee would not be obligated to vote to approve or disapprove the action. If after being informed of the proposed course of action, the Executive Committee does not advise against proceeding with the action, then the Executive Director would be authorized to proceed with the proposed legal action.

To ensure timely consideration of legal actions by the Executive Committee, the resolution provides that the Executive Director must notify the Executive Committee in advance of any proposed legal action in which the agency would initiate a court proceeding or a state or federal administrative proceeding. If advance notice is not feasible or practical under the circumstances, the Executive Director would be authorized to proceed with the action. However, in such cases, the action shall be subject to ratification by the Executive Committee.

The proposed resolution also provides that legal actions against another government entity require advance Board approval except in an emergency situation as defined in the Board Operating Rules (Resolution 80). In an emergency, the Executive Committee could approve the proposed legal action subject to Board ratification.

The resolution also confirms and ratifies actions taken by the Executive Committee and Executive Director to authorize legal actions filed before the effective date of this Resolution, including Resolution No. R99-9.

The proposed resolution appoints the Board Administrator as the sole person able to accept service of process. This will prevent litigants from trying to locate and serve Board members personally with lawsuits.

**FUNDING IMPACT:**

None.

**ALTERNATIVES:**

- ◆ Require Board approval of all proposed legal actions. This approach could impair the agency's ability to timely respond to situations requiring immediate action.
- ◆ Interpret Resolution 78-1 broadly to grant Executive Director the authority to pursue legal/administrative actions, suits and appeals. This approach could invite legal challenges on the ground that the Executive Director lacks the authority to commence the legal/administrative action, suit or appeal deemed necessary to protect and defend the agency.

**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. R99-16

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority establishing procedures governing legal actions, ratifying and confirming the authority of the Executive Director to initiate legal actions, ratifying resolutions passed by the Executive Committee prior to the date of this resolution, and designating the Board Administrator as the sole officer authorized to accept service of legal process.

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 improvement; 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, agencies and private parties to implement *Sound Move* in a manner that reflects and balances the interests of all parties 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 and legal position while implementing *Sound Move*, a resolution should be enacted establishing

procedures for the conduct of the agency's legal actions and confirming the Executive Director's authority to maintain legal actions to protect, preserve and defend Sound Transit's interests and legal position as intended in Resolution 78-1; and

WHEREAS, in order to ensure the timely and orderly receipt and review of legal proceedings involving Sound Transit, the authority to accept legal process should be vested exclusively with the Board Administrator.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Central Puget Sound Regional Transit Authority that:

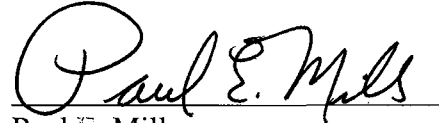
Section 1. Legal actions against a governmental entity shall require Board approval except in case of an emergency (as defined in Resolution 80--Board Operating Procedures), in which case the proposed legal action may be approved by the Executive Committee. In the event the Executive Committee acts in lieu of the Board, the action taken shall be placed on the agenda for consideration at the next regularly scheduled meeting of the Board, and the action shall remain effective until the Board shall act to ratify, modify or disapprove the action.

Section 2. The Executive Committee shall be responsible for supervising the conduct of all other legal actions, and may, as the Committee deems appropriate, act to approve, disapprove, ratify or refer proposed legal actions to the Board. Subject to supervision by the Executive Committee, the authority of the Executive Director to initiate and maintain legal actions to protect and defend Sound Transit's interests and legal position is hereby confirmed. The Executive Director shall inform the Executive Committee in advance of initiating a proposed legal action unless advance notice is infeasible or impractical under the circumstances, in which case the action taken by the Executive Director shall be placed on the agenda for consideration at the next regularly scheduled meeting of the Executive Committee, and the action shall remain effective until the Board or Executive Committee shall act to ratify, modify or disapprove the action. Resolutions passed by the Executive Committee and legal actions initiated by the Executive Director prior to the date of this Resolution are hereby ratified and confirmed.


Section 3. The authority to accept service of legal process is vested exclusively in the Board Administrator.

Section 4. This Resolution is supplemental and in addition to the powers and authority granted by other applicable resolutions and motions, and shall not be construed to limit or supersede other resolutions and motions except for Resolution 99-9 which is superseded by this Resolution 99-16.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on the 27<sup>th</sup> day of May 1999.

  
Paul E. Miller  
Chair

ATTEST:

  
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Marcia Walker  
Board Administrator