

File No. 150227

Committee Item No. 2

Board Item No. 15

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use & Transportation

Date Mar. 9, 2015

Board of Supervisors Meeting

Date Mar. 24, 2015

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
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| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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OTHER (Use back side if additional space is needed)

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Completed by: Andrea Ausberry Date Mar. 5, 2015

Completed by: _____ Date _____

AMENDED IN COMMITTEE

3/9/15

FILE NO. 150227

RESOLUTION NO.

1 [Urging the San Francisco Municipal Transportation Agency Board to Adopt Proof of Labor
2 Harmony Conditions for Commuter Shuttle Operators]

3 **Resolution urging the San Francisco Municipal Transportation Agency Board to adopt**
4 **a requirement that applicants demonstrate labor harmony conditions as part of the**
5 **Commuter Shuttle Pilot Program and any other permanent Commuter Shuttle Program.**

6
7 WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) has
8 adopted a Commuter Shuttle Policy and Pilot Program (Program); and

9 WHEREAS, The purpose of the program is to ensure the orderly use of private
10 commuter shuttles in conjunction with, and without interference to, the operations of the
11 SFMTA's Muni bus service, to ameliorate any impedance or dangers to vehicular, bicycle and
12 pedestrian traffic occasioned by the increased deployment of commuter shuttle services, and
13 to otherwise ensure the safety of the public; and

14 WHEREAS, The SFMTA found that the promotion of the use of private mass
15 transportation has significant beneficial effects, provided operational precautions, which
16 include permitting, the enforcement of standards, and the monitoring of the impact of the
17 program on the community; and

18 WHEREAS, The SFMTA adopted Transportation Code, Section 914, to establish the
19 program to regulate the use of Muni stops by commuter shuttles; and

20 WHEREAS, Since the Program entails the conditional sharing of access to such stops
21 by permitted private commuter shuttles, a chief concern and purpose of the Program is to
22 ensure the effective operation of the City's public mass transit system and, specifically, to
23 ensure the expedient and safe access by Muni buses to SFMTA bus stops; and

24 WHEREAS, In adopting the Program, the SFMTA made the following general findings
25 of purpose: 1) Provide a safe environment for commuter shuttle riders as well as other street

1 users; 2) Support the commuter shuttle operations; 3) Integrate commuter shuttles into the
2 existing multi-modal transportation system; 4) Ensure that commuter shuttles do not adversely
3 affect operations of public transportation in San Francisco; 5) Consistently and fairly apply and
4 enforce any regulations/policies governing shuttle operations; 6) Work collaboratively with
5 shuttle sector to develop policies and resolve concerns and conflicts; 7) Establish a program
6 structure that meets current needs, and that has the potential to evolve as the sector grows
7 and needs change; 8) Develop processes with attention to effective enforcement and ease of
8 administration and on-going oversight; and

9 WHEREAS, The SFMTA provides an essential public function to the citizens of San
10 Francisco, the interference with which has a significant impact on the lives of the public and
11 the commerce of the City; and

12 WHEREAS, The Program must ensure that commuter shuttles do not adversely affect
13 public transportation operations; and

14 WHEREAS, Under State law the City has plenary authority to regulate the use of its
15 streets and sidewalks, subject to the rights retained by the people over public places pursuant
16 to the state and federal constitutions; and

17 WHEREAS, The City's authority extends to the regulation and control of traffic and the
18 operation of public transportation within its borders; and

19 WHEREAS, The Board of Supervisors further finds that considerable public resources
20 have been expended to develop an integrated public transit system, which includes the
21 development of bus routes, the designation and construction of regular bus stops, the analysis
22 and monitoring of traffic, bicycle and pedestrian routes, and the enforcement of rules and
23 regulations; and

1 WHEREAS, By permitting commuter shuttles to access and utilize SFMTA bus stops,
2 the SFMTA may establish the terms of use and ensure the operations of the SFMTA system
3 are not hampered or disrupted; and

4 WHEREAS, Unlike the SFMTA, commuter shuttle services are private companies
5 whose labor relations are governed by federal law; and

6 WHEREAS, Federal law authorizes and permits the resolution of labor disputes
7 through economic action, including picketing at the place of business of the employer that is
8 involved in the labor dispute; and

9 WHEREAS, Federal law prohibits the picketing of secondary employers and, with
10 respect to transportation businesses, requires any such action to be performed by roving
11 pickets that must follow the vehicles from location to location or meet the vehicle where it
12 stops; and

13 WHEREAS, The City is not an employer protected by the prohibition of secondary
14 picketing under federal law, and peaceful picketing in a public forum, such as the sidewalks, is
15 a constitutionally-protected activity; and

16 WHEREAS, The Board of Supervisors finds that a labor dispute involving a commuter
17 shuttle service that has requested to participate in the Program, and that has been granted a
18 permit to utilize Designated Stops, will likely result in the disruption of the orderly operation of
19 SFMTA buses, namely impeding the timely arrival and departure of SFMTA buses to arrive at
20 Designated Stops, the disruption of traffic around such Designated Stops, and the impedance
21 of rider access to board or alight SFMTA buses at Designated Stops; and

22 WHEREAS, The Board of Supervisors further finds, for the reasons set forth in
23 SFMTA's findings related to the adoption of Transportation Code, Section 914, including the
24 fact that on a daily basis commuter shuttle services make 2,497 stops in the City, that the
25 coordination of commuter shuttle services within the existing SFMTA bus transportation

1 network requires assurances that public bus service will not be interrupted, delayed or
2 otherwise affected by labor disputes involving the commuter shuttles which have been
3 permitted to share SFMTA bus stops; and

4 WHEREAS, Because there is a substantial likelihood of disruption of SFMTA's
5 operations in the event of a labor dispute involving a commuter shuttle that participates in the
6 Program, the Board of Supervisors finds that consideration of the extent to which a commuter
7 shuttle service has secured or provided for labor harmony must be a component of the
8 Program, and a criterion of the Shuttle Service Providers' application process; and

9 WHEREAS, The Board of Supervisors finds that the City has a proprietary interest in
10 ensuring the uninterrupted operation of the SFMTA and specifically, the provision of public
11 bus transportation to its citizens; and

12 WHEREAS, The Board of Supervisors further finds that considerable public resources
13 have been expended on developing the SFMTA bus system, and that considerable additional
14 resources will continue to be expended to implement, administer and develop the Program;
15 and

16 WHEREAS, The City further finds that a Shuttle Service provider's participation in the
17 Program is voluntary; now, therefore, be it

18 RESOLVED, That the Board of Supervisors urges the Municipal Transportation
19 Agency's Board of Directors to amend Transportation Code, Section 914, by adopting
20 Commuter Shuttle Labor Harmony Conditions with respect to Shuttle Service Providers that
21 choose to participate in this Program and obtain permits or renew permits to utilize SFMTA
22 Designated Stops; and, be it

23 FURTHER RESOLVED, That the Board of Supervisors urges the SFMTA Board of
24 Directors incorporate into the Program's permit application process the consideration of the
25

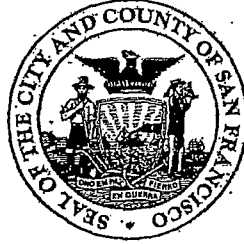
1 extent to which an applicant can assure Labor Harmony in its operations in order to minimize
2 the possibility of disruption to SFMTA; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors urges the SFMTA Board to
4 adopt Labor Harmony Conditions as part of any later permanent Commuter Shuttle Program;
5 and, be it

6 FURTHER RESOLVED, That the Board of Supervisors urges the SFMTA Board to
7 broadly define the term "Labor Harmony" and does not require an applicant to adopt any
8 particular method of assuring labor harmony, but requires an applicant seeking a permit to
9 utilize Designated Stops to provide a Labor Harmony Certification indicating the extent of such
10 applicant's commitment to labor harmony as a condition of the application process.

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BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Ed Reiskin, Executive Director, Municipal Transportation Agency
Greg Suhr, Chief, Police Department
Donna Levitt, Division Manager, Office of Labor Standards Enforcement

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Transportation
Committee, Board of Supervisors

DATE: March 4, 2015

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Wiener on March 3, 2015:

File No. 150227

Resolution urging the San Francisco Municipal Transportation Agency Board to adopt a requirement that applicants demonstrate labor harmony conditions as part of the Commuter Pilot Program and any other permanent Commuter Shuttle Program.

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Janet Martinsen, Municipal Transportation Agency
Kate Breen, Municipal Transportation Agency
Dillon Auyoung, Municipal Transportation Agency
Christine Fountain, Police Department

BILL NUMBER: AB 61 INTRODUCED BILL TEXT INTRODUCED BY
Assembly Member Travis Allen DECEMBER 12, 2014
An act to amend Section 22500.5 of the Vehicle Code, relating to
shuttle services. LEGISLATIVE COUNSEL'S DIGEST AB 61, as

introduced, Travis Allen. Shuttle services: loading and unloading of passengers. Under existing law, a person may not stop, park, or leave a vehicle standing alongside a curb space authorized for the loading or unloading of passengers of a bus engaged as a common carrier in local transportation when indicated by a sign or red paint on the curb, except that existing law allows local authorities to permit schoolbuses to stop alongside these curb spaces upon agreement between a transit system operating buses as common carriers in local transportation and a public school district or private school. This

bill would also allow local authorities to permit shuttle service vehicles, as defined, to stop for the loading or unloading of passengers alongside these curb spaces upon agreement between a transit system operating buses engaged as common carriers in local transportation and a shuttle service provider, as defined. Vote:

majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no. THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS

FOLLOWS: SECTION 1. Section 22500.5 of the Vehicle Code is amended to read: 22500.5. (a) Upon agreement between a transit system

operating buses engaged as common carriers in local transportation and a public school district or private school, local authorities may, by ordinance, permit schoolbuses owned by, or operated under contract for, that public school district or private school to stop for the loading or unloading of passengers alongside any or all curb spaces designated for the loading or unloading of passengers of the transit system buses.

(b) Upon agreement between a transit system operating buses engaged as common carriers in local transportation and a shuttle service provider, local authorities may, by ordinance or resolution, permit shuttle service vehicles to stop for the loading or unloading of passengers alongside any or all curb spaces designated for the loading or unloading of passengers of the transit system buses. (1) As used

in this subdivision, "shuttle service vehicle" means a motor vehicle designed, used, or maintained by or for a charter-party carrier of passengers, as defined in Section 5360 of the Public Utilities Code, or a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, or any highway carrier of passengers required to register with the Public Utilities Commission. (2) As used in this

subdivision, "shuttle service" means transportation by private vehicles offered for the exclusive or primary use of a discrete group, including, but not limited to, clients, patients, students, paid or unpaid staff, visitors, or residents, between an organization or entity's facilities or between the organization or entity's facilities and other locations, on a regularly scheduled basis. (3) As used

in this subdivision, "shuttle service provider" means any person using shuttle service vehicles to provide shuttle service.



Read breaking thoughts on the OpinionShop blog

Marshall Kilduff on Seattle's plan to give low-income transit riders a break at the fare box; Spencer Whitney on need for police reform.

OPINION FORUM On Public Transit

More tech shuttles in San Francisco?

Susan Vaughan
Bruce Oka

On December 1, a Republican Assemblyman from Orange County introduced a bill, AB61, that would privatize public bus stops by making it possible for corporate shuttle buses — the “Google” buses — to stop in public bus stops in an agreement with local transit authorities. You might be thinking: Isn't the San Francisco Municipal Transportation Agency running a pilot program in 2014 to limit the tech shuttles to do that? Yes, but in violation of the vehicle code, which prohibits any vehicle except for mass carriers (public buses, cabs) and school buses from operating in public bus zones. Members of the Coalition

for Safe, Legal, and Environmental Transit are now suing to get those private buses out of the Muni stops. San Francisco Tomorrow, the California Alliance for Retired Americans, Gray Panthers and other organizations are strongly opposed to AB61. Why? Ask Muni drivers and they will tell you — vehicles that pull illegally into public bus stops obstruct service for senior citizens and people with disabilities. Illegal stops in bus zones could also be hindering Muni on-time performance. The transportation agency made improvements last year — 106 miles of transit-only red carpet lanes, for example. But on-time performance dropped from about 60 percent to 54 percent over 15 months by the second quarter of FY 2015

(and is way below the mandated on-time performance goal of 85 percent). Are tech buses further slowing Muni? And at what cost? Muni gets kids to school, workers to jobs, shoppers to stores, and museumgoers to museums. It serves as a safety net for people who are disabled, don't own cars, can't afford cabs, don't have smartphones or are excluded from the private shuttles that is the vast majority of San Franciscans. A robust and expanded Muni is crucial to resisting growing income inequality, fighting climate change and serving our city's increasing — and aging — population. But right now, only about 25 percent of all trips in the city are by transit. Maintaining even that modest percentage will be difficult if competition for curb space increases — and that is the expectation

At a review of the agency's pilot program for the shuttle buses in January, program administrator Carl Paine said that demand for permits to operate private shuttles in Muni stops was likely to increase. If AB61 passes, Paine's prediction will undoubtedly come true — and Muni service will be degraded further. But here's a thought: If Marc Zuckerberg can purchase the naming rights for San Francisco General Hospital for \$75 million, and Marc Benioff can donate \$100 million to UCSF (thank you), then certainly almost all the tech companies now encroaching on the public right-of-way for a mere \$3.67 daily fee to the city — Google, Apple, Facebook, Yahoo, Genentech, LinkedIn, eBay and others — can put up billions of dollars for public regional transit and billions of dollars more

for workforce housing. They could make a significant dent in the Bay Area contribution to climate change — and even name expanded systems after themselves. How about the Benioff Bahn or the Zuckerberg Zephyr? If you oppose AB61, as we do, contact the chairman of the Assembly Transportation Committee, Assemblyman Jim Frazier, D-Oakley, at 1020 N St., Room 112, Sacramento, California, 95814, and make sure to cc your Assembly member as well. Susan Vaughan is a Muni rider and bicyclist. Bruce Oka is a former member of the Municipal Transportation Agency Board of Directors, and a founding member of the Muni Accessibility Advisory Committee, a citizens advisory committee founded in 1982.

DAVID SIROTA Technology does not guarantee sunlight

tors and the public. “It is very difficult to conceive of a scenario — short of nuclear winter — where an agency would be justified in allowing its Cabinet-level head officer to solely use a private e-mail communications channel for the conduct of government busi-

ness. It is very difficult to know if his office investigated bank fraud in the lead up to the financial crisis of 2008. In the Cuomo administration's announcement of the new policy for other branches of state government, the governor's chief information officer said the objective is “making

Albany. In light of that, a former Justice Department official in the Clinton administration, Melanie Sloan, told International Business Times: “This is potentially obstruction of justice. The only reason that the government destroys records is so that it can

150227

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

Supervisor Wiener

Subject:

Resolution Urging the MTA Board to Adopt Proof of Labor Harmony Conditions for Shuttle Operators

The text is listed below or attached:

Resolution urging the Municipal Transportation Agency Board to Adopt a requirement that applicants demonstrate Labor Harmony Conditions as part of the Commuter Pilot Program and any other permanent commuter shuttle program.

Signature of Sponsoring Supervisor:

