

INTER OFFICE MEMO

To: Board of Directors

Date: December 8, 2021

From: Rick Ramacier
General Manager

Subject: PEPRA & Federal Section 13(c)

Background

Since the state enacted PERS based pension reform in 2013 (PEPRA), the Amalgamated Transit Union International (ATU) has argued that this reform interferes with their rights to bargain for wages and benefits under federal Section 13(c) of the federal transportation authorizations.

In short review, the USDOL originally agreed with the ATU contention and began to hold up California transit operators federal grant applications. Subsequently, a federal court agreed with Sacramento RT (Sac RT) and Monterey-Salinas Transit (MST) – enjoined by Caltrans – that the USDOL had erred in agreeing that PEPRA - on its face - violates the rights of unions like ATU under Section 13(c).

Thus, eventually the USDOL decided not to hold up anymore California transit federal grant applications. However, in 2019, the ATU International filed a new lawsuit against USDOL arguing that only Sac RT and MST had “won” the original lawsuit and therefore USDOL is wrong in not holding up other California transit operator federal grant applications with respect to PEPRA and Section 13(c).

That new lawsuit was schedule to begin hearing in early 2021. However, in January of this past year, USDOL wrote the court asking for a time out, if you will, as they had come to decide that they were wrong and that they should be holding up California grants because of the alleged conflict between PEPRA and Section 13(c). This was communicated in a letter from USDOL to FTA Region 9 (Region 9 oversees California) on October 28, 2021.

Subsequent to that, Governor Newsom sent a letter to President Biden’s Chief of Staff, the Sectary of Transportation and the Secretary of Labor expressing his strong opposition to this apparent shift in thinking from USDOL as well as his outright opposition and concern that USDOL might deny California up to \$12 billion in federal public transit funding. Senators Diane Feinstein and Alex Padilla wrote a similar letter to the same people. Both letters state their strong belief that USDOL is wrong in its new interpretation of PEPRA and how it may or may not impact Section 13(c) rights.

As of this writing, no California grants have been held up by the USDOL due to this issue. There are a few procedural items going to Court between now and late December relative to the lawsuit filed by the ATU International in 2019. Staff will be able to provide with in progress report to you at the Board meeting on December 16, 2021.

Action Requested

Staff recommends that County Connection begin to inform our federal and state delegations of the reemergence of these issues as well as the pontental impacts to us.