



MEASURE T

Madera County Transportation Authority

FAQs – Sierra Citizen’s Proposal to Change Board Composition

1. What is the MCTC and what does it do?

The Madera County Transportation Commission (MCTC) serves as the Metropolitan Planning Organization (MPO), which is established by federal law. MCTC also serves as the Regional Transportation Planning Agency (RTPA), which is established under State law. The purpose of the MPO and RTPA are to develop transportation plans and programs for urbanized areas of the State and allows for access to grants from the State and federal government. MCTC also serves as the Madera County 2006 Transportation Authority (Authority) for the administration of Measure T funds. In other words, MCTC serves multiple functions to promote efficiency and to streamline functionality. However, MCTC as the Authority does not serve as the Measure T Citizens’ Oversight Committee, which is an independent body responsible for the review of Measure T revenues and expenditures.

2. What is the proposal to change the composition of the MCTC to include individuals not elected by the voters?

As part of the Measure T renewal discussion, proponents are requesting to double the number of people to include an additional six representatives to be on the Authority’s board and the commission boards (MCTC, MPO, and RTPA). It appears that at least five of the representatives would not be elected by the voters and therefore not subject to the recall process. One of the members of the Authority is proposed to be from the Measure T Citizens’ Oversight Committee, which is an independent body responsible for the review of Measure T expenditures (i.e., reviewing the actions of the Authority). The selection would be based on miles of road within an area and not population. (Note that Measure T currently distributes funding based on percentage of population.)

3. Is the Board of the MCTC recommending non-elected individuals be appointed?

No. The MCTC Board has not recommended any changes to the current system where elected representatives serve on the Board.

4. Can the Board of Supervisors legally create an entirely new Authority with non-elected members?

No. When creating an authority, the Board of Supervisors is restricted under State law to either designating the RTPA (i.e. the MCTC Board) as the board or to create an entirely new entity. (See Public Utilities Code section 180051(b).) Even assuming a change could be made at this point (and State law does not provide for such a process when there is already an existing Authority), and assuming the MCTC/RTPA Board was not used, the new authority would still be comprised entirely of elected officials under State law. Specifically, “Each member of the authority, and each alternate designated pursuant to subdivision (c), shall be an elected official of a local governmental entity within or partly within the county.” (*Id.*) The concurrence of a majority of the cities with a majority of the population is also required to determine the membership.

5. Can the Board of Supervisors legally change number of members of the MCTC Board as proposed?

No. State law provides that the Board of Supervisors can only appoint three members to the MCTC. (See Government Code section 29535.) Three other members are appointed by the city selection committee (CSC) per State law. (*Id.*) The CSC is comprised of the mayors of the incorporated cities of Chowchilla and Madera, as is also required by State law. Currently, the CSC has appointed councilmembers from the City of Madera and the City of Chowchilla to serve on the MCTC. The Board of Supervisors does not have any legal authority to determine appointments or representation allotments for the three members appointed by the CSC, and vice versa. By setting up this County/City mechanism, it appears the legislature may have intended to strike a balance between urban and rural representation. State law also currently limits total membership for the MCTC to a total six individuals – meaning it cannot be legally expanded to include additional members as proposed.

6. Are there any restrictions on the Board of Supervisors appointing non-elected three members to the MCTC Board?

Yes. Even if the Board of Supervisors want to appoint non-elected individuals, there are several hurdles to doing so. Among others County Resolution 72-331 provides that the appointment must be members of the Board of Supervisors. Even if the County were inclined to amend Resolution 72-331, the MCTC is a separate public entity and has adopted its own rules for membership. These rules require that in order to sit on the MCTC Board, the “members shall be appointed by the member agencies with three members *from the Madera County Board of Supervisors....*” Additionally, the term of the appointment “shall

correspondent with his or her term on the agency for which they serve as a representative.” Even alternate members are required to be on the Board of Supervisors. As a result, the MCTC Rules independently require that only elected officials from the Board of Supervisors be appointed from the County to the MCTC Board. There are also federal and State restrictions as noted below.

7. What would it take to amend the MCTC rules?

Among others, amendments to the Rules require ratification of the Commission Board, 50% of which is composed of members from the City of Chowchilla and City of Madera. Note that the proposal as presented would result in diluted representation for the cities of Chowchilla and Madera, who currently have the greatest combined population and generate the most Measure T revenue.

8. Assuming the MCTC rules were changed, could non-elected individuals be appointed to the MCTC, including the MPO, and RTPA Boards?

No. As a practical matter the Board of Supervisors is limited to appointing only elected officials from the County. To change to allow additional or non-elected people to be on the MCTC Board without limiting its current authority and entity designations (including the RTPA and MPO) would be complicated and require approvals from multiple agencies – including changes to federal law that would potentially require the approval of the United States Congress and the President of the United States, approval from the State of California, etc.

9. Why is this so complicated?

Transportation agencies and officers are subject to a variety of State and federal laws. Balancing compliance with State and federal laws can be complex.

For example, MCTC serves as the MPO. Federal law regulates MPOs. Under federal law, the proposal would result in a substantial change in the proportion of voting members, which can trigger redesignation requirements. This, in turn, would require approval from the Governor of the State of California and (at a minimum) at least one of the cities in the County. Furthermore, federal regulations state that redesignation is not required for changes involving “periodic rotation of members representing units of general-purpose local government, as established under MPO by-laws.” Such members are elected representatives of local government. This is also underscored by federal law mandates that each metropolitan planning organization that serves an area designated as a transportation management area shall consist of “A) local elected officials; B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of

public transportation; and C) appropriate State officials.” To change these requirements would require amendment of federal law, which would likely require approval of both the House and Senate of the United States Congress and approval of the President of the United States.

Additionally, MCTC serves as the RTPA. If MCTC were not so designated, the only other alternative is for the County Board of Supervisors is to create a separate authority. This would take time and money and would result in the creation of another governmental agency. Additionally, State law mandates that members of such an entity “shall be an elected official of a local governmental entity within or partly within the county.” This underscores an apparent legislative intent that members be elected officials rather than individuals not elected by the voters. Various approvals from the State would also be required, including addressing existing agreements with the State.

10. Even if it were possible, could the proposed changes even be made this year?

No. Even assuming that all of the various agencies, etc., were inclined to adopt the proposal, as a practical matter the process would likely take multiple years. There would be significant cost and time needed to substantially re-organize or create new entities (with staffing), obtain the required approvals on both the State and federal levels, secure any needed amendments to the law, etc., before individuals who have not been elected would be permitted to sit on the various boards.