



**STATUTORY ENTITY  
AD HOC COMMITTEE REPORT**

**Board Workshop  
September 17, 2015**

# SEAHOC Committee Purpose

- To study and make recommendations to the full Board regarding:
  - Sponsoring legislation to consolidate certain SANBAG entities and functions into a new statutory entity
  - Timing and substance of legislation and implementation

# SEAHOC REPORT

- I. Why change legal structure?
- II. Which SANBAG entities to consolidate?
- III. New Entity Name, Organization and Administration
- IV. Final Recommendations
- V. Schedule

**I.**

**Why change legal  
structure?**

# Problems With Current Legal Structure

- Member jurisdictions are at risk for SANBAG JPA liability due to SANBAG's current legal structure
- Statutes and JPA that created the different SANBAG entities contain conflicting rules and requirements (e.g. voting, procurement, etc.)
- Incorrect identification of entities in contracts

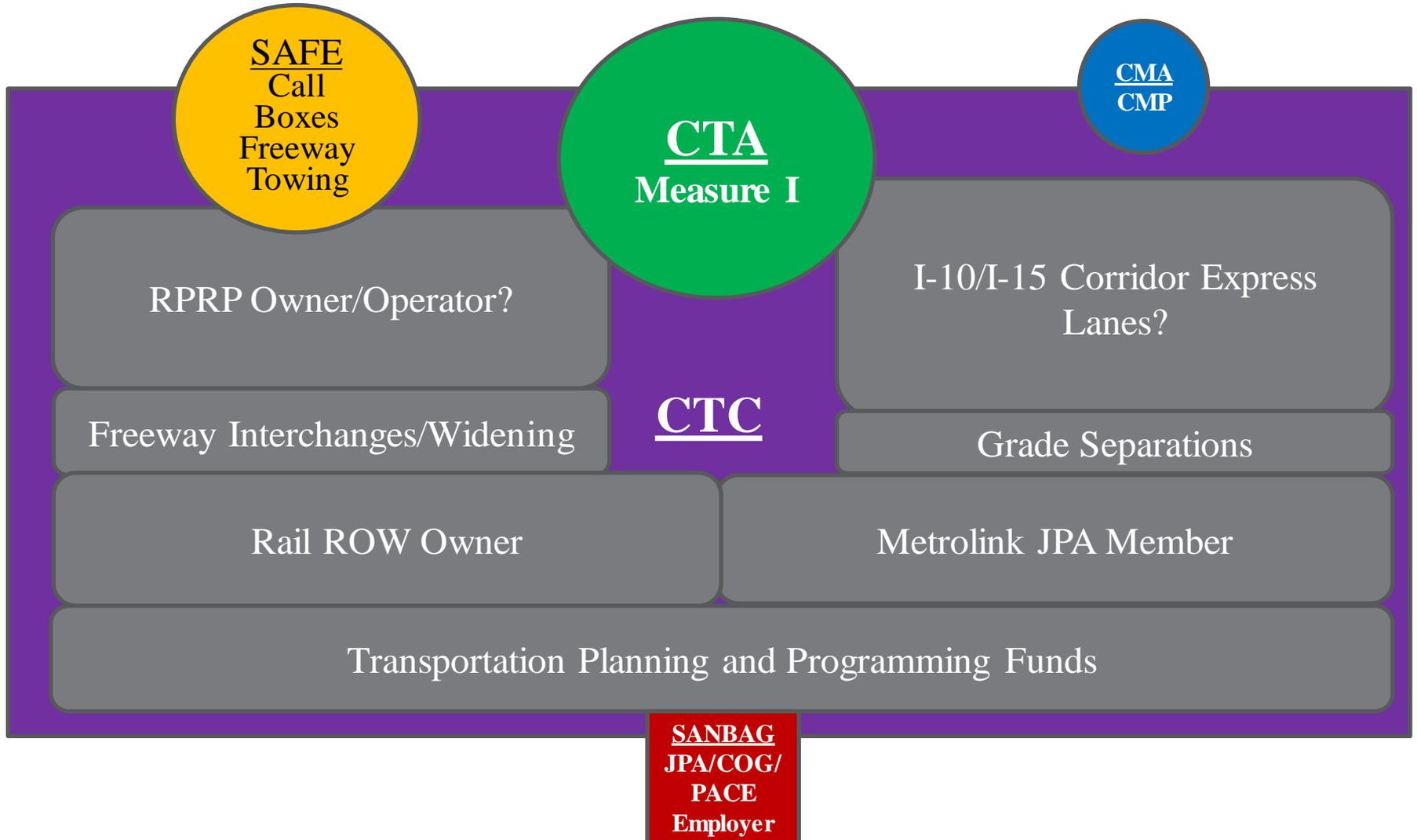
# 5 Separate Legal Entities

- San Bernardino Associated Governments, a Joint Powers Authority (**JPA**) – 1973.
- San Bernardino County Transportation Commission (**CTC**) – 1976. SANBAG was designated CTC.
- San Bernardino County Service Authority for Freeway Emergencies (**SAFE**) – 1986. CTC was designated SAFE.
- San Bernardino County Transportation Authority (**CTA**) – 1989. CTC was designated CTA.
- Congestion Management Agency for San Bernardino County (**CMA**) – 1990. CTC was designated CMA.

# Relationships of 5 Legal Entities

- SANBAG (JPA) is the CTC
- The CTC is the CTA, SAFE and CMA
- Only SANBAG (JPA) has employees

# Current Legal Structure

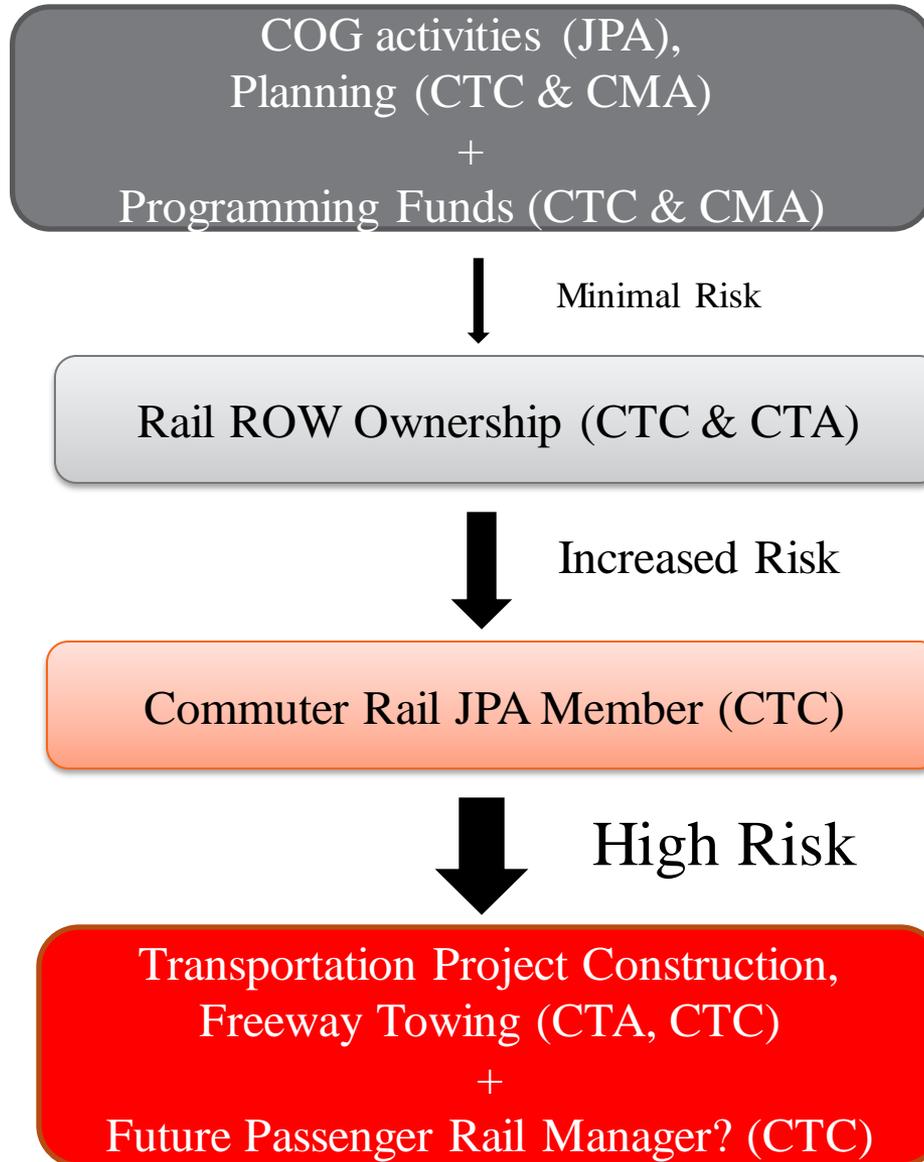


# JPA Member Liability

- Joint Powers Authority (JPA)
  - Joint Venture/Partnership type relationship
  - JPA is staffing entity for CTC, CTA, SAFE, and CMA
  - Under California law members may be jointly and severally liable for torts, possibly contracts, arising out of JPA actions/inactions



# Expanded Functions = Increased Risk



# Options

1. Business as usual – do nothing
2. Keep current structure, with added liability barriers/protections—gaps would remain
3. Create new statutory entity—transferring employees and as many functions, rights, obligations, liabilities as legally possible to New Entity

# Statutory Entity

1. Eliminates member liability
  - a. Separate legal identity, akin to a corporation
  - b. No “Members”; no jurisdiction liability
  - c. Liability risk contained within Statutory Entity
2. Clarifies rules, regulations & administration
  - a. One Board structure, voting rules
  - b. Uniform procurement requirements
  - c. Clarifies nature of entity & party to contracts

**II.**

**Which SANBAG entities  
to consolidate?**

# Legal Issues

- JPA's Outstanding PACE/HERO bonds
- SBCTA's Outstanding Measure I bonds
- JPA's Pension obligations
- JPA's, CTA's and CTC's existing contracts

# JPA's Outstanding Bonds - PACE

- \$135,000,000 (approx.) PACE/HERO Bonds issued to date
- SANBAG (JPA) is issuer
  - Pub. Res. Code authorizes cities, counties, or JPA consisting of cities and county to operate PACE programs
  - Legislatively, PACE program cannot be transferred to new statutory entity
- Contractually, SANBAG must continue PACE program through term of existing contracts – 6/30/2017
- After PACE contracts expire, bonds must be administered through maturity – 9/2/2036 (evergreen as new bonds issued)
- Bonds' repayment secured by income stream of assessed properties and is not reportable obligation of JPA

# SBCTA's Outstanding Bonds - Measure I

- \$202,015,000 Measure I Revenue Bonds outstanding
- SBCTA is issuer
  - Legislation can declare rights and obligations of old entity are those of the New Entity
  - SBCTA Measure I Bond ratings are excellent:
    - S&P AAA; Moody's Aa2; Fitch AA+
- Bond market is familiar with and looks favorably upon SBCTA

# SBCERA Requirements

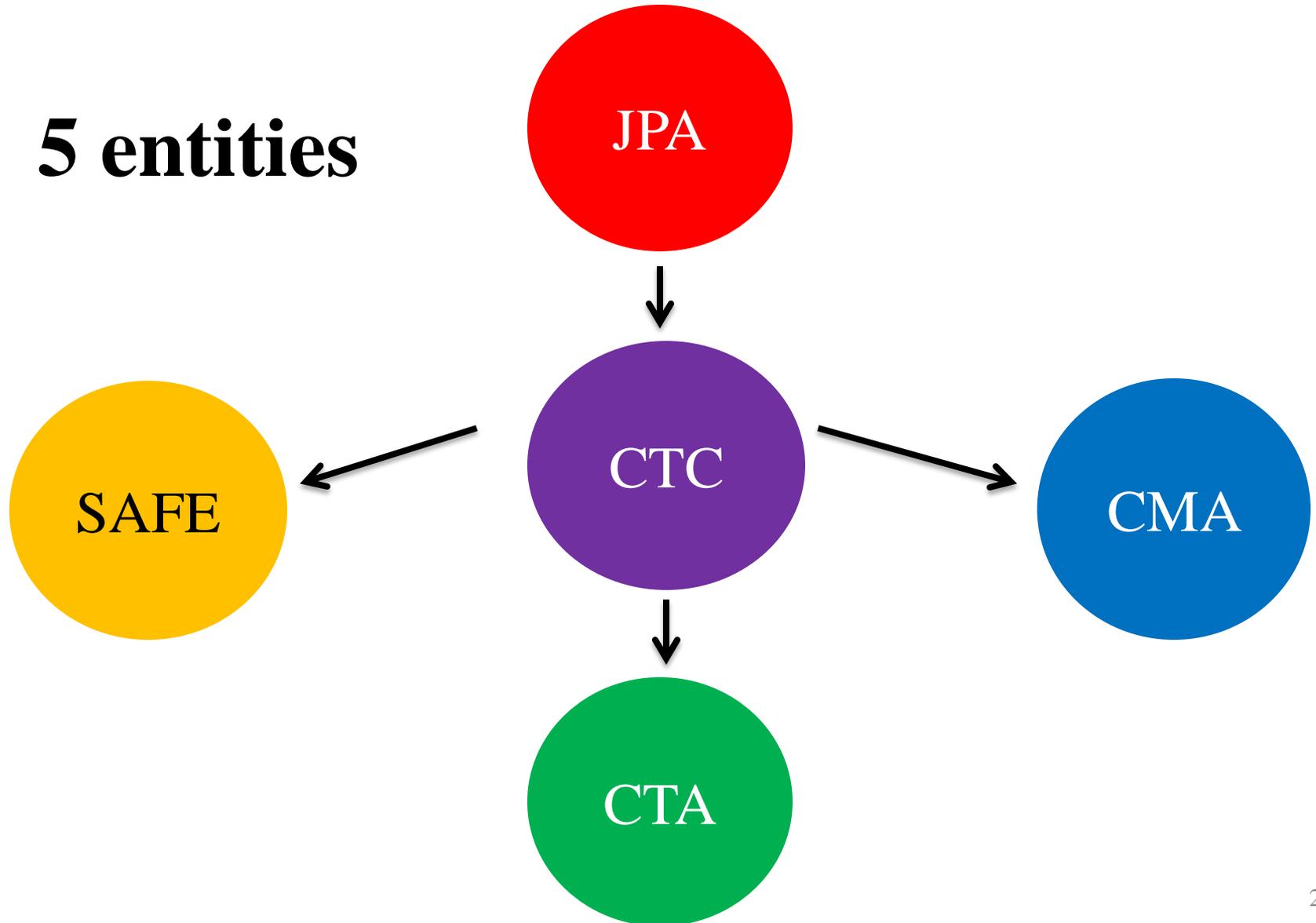
- SANBAG (JPA) is staffing agency for all SANBAG entities
- SANBAG is SBCERA sponsoring employer
- Coordinate legislative language with SBCERA to transfer employer obligations from SANBAG to New Entity and avoid SANBAG “withdrawal” liability (i.e. fixing of unfunded actuarial liability)
- Meet SBCERA’s requirements for transfer (e.g. petition Board of Retirement, adopt resolutions, negotiate agreement, etc.)
- If necessary, obtain tax opinion on replacement benefits program issue

# Existing Contracts

- 600+ contracts - funding, cooperative agreements, design, project management, construction, staffing services, procurements, etc.
- 1,000+ rail right-of-way licenses, leases, permits, etc.
- Majority in name of SBCTA, but many in name of SBCTC or SANBAG generically
- Legislation can declare rights and obligations of old entity are those of the New Entity

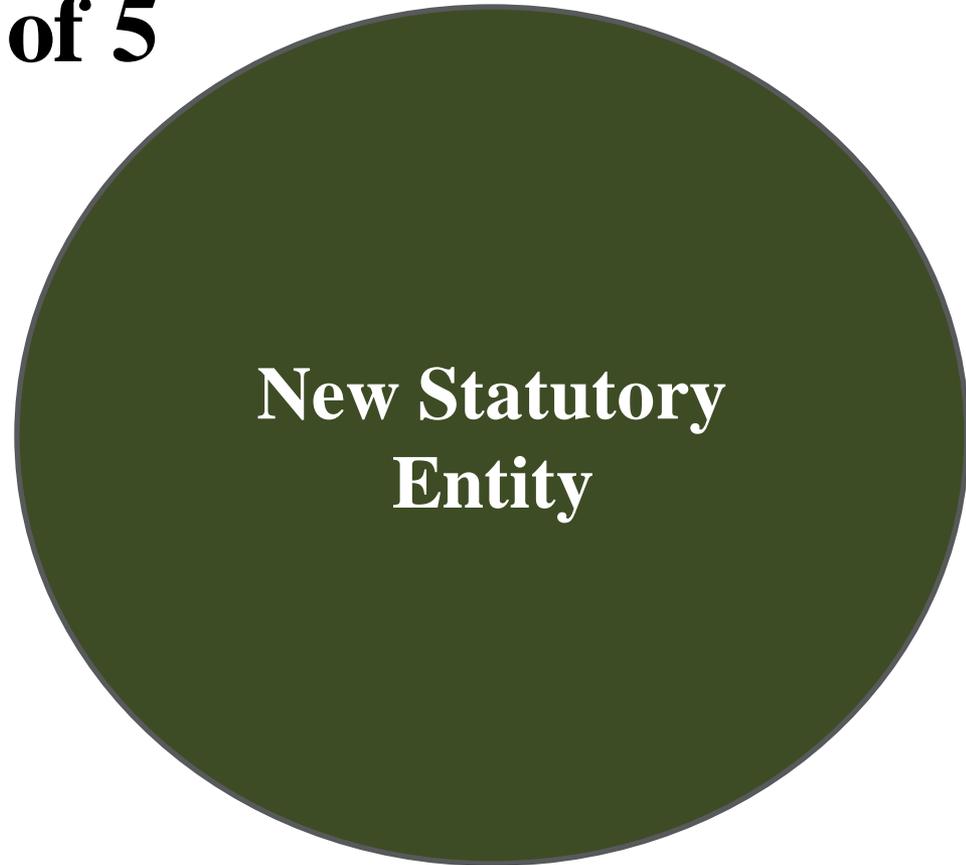
# Current Structure

**5 entities**



# Proposed Structure

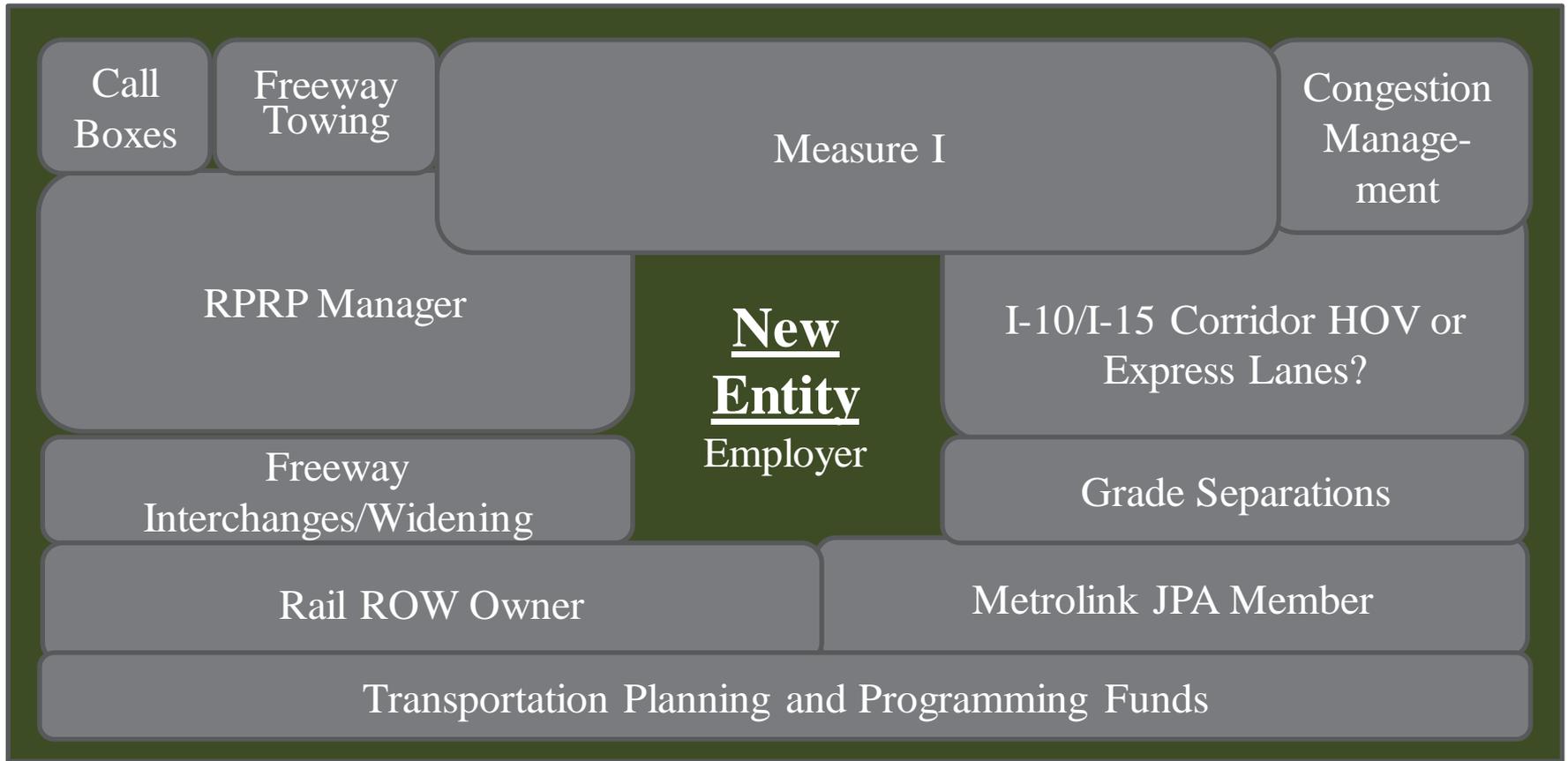
**2 entities instead of 5**



**New Entity = CTA + CTC + SAFE + CMA**



# Proposed Structure



SANBAG  
JPA  
PACE/COG

25 JPA Member Agencies

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

# Recommendations Adopted by SEAHOC

- That the Board:
  - Sponsor legislation consolidating SBCTC, SBCTA, SAFE, and CMA into New Entity
  - SANBAG employees become New Entity employees
  - San Bernardino Associated Governments continue in existence at least through PACE contracts' expiration, with COG functions to be determined by Board

# **III.**

## **New Entity Name, Organization and Administration**

# Assumes No COG Functions

- Discussion and recommendations regarding New Entity name, board structure, membership, voting, alternates and stipends assumes no COG functions by New Entity
- Does not preclude New Entity employees from providing staffing for and at expense of COG

# Statutory Entity Name?

- Entity name is a Board decision
- Legal considerations for name include:
  - Bond counsel recommends retaining SBCTA name because:
    - \$202,015,000 outstanding bonds in SBCTA's name
    - SBCTA has excellent bond ratings
    - SBCTA's name recognition is valuable in bond markets
    - Name quickly conveys nature, purpose, functions and location of agency
  - Vast majority of hundreds of existing contracts in SBCTA's name

# Names of Other California CTAs and CTCs

- Alameda County  
Transportation  
Commission
- El Dorado County  
Transportation Authority
- Fresno County  
Transportation Authority
- Los Angeles County  
Metropolitan  
Transportation Authority
- Orange County  
Transportation Authority
- Riverside County  
Transportation Commission
- San Francisco County  
Transportation Authority
- Santa Clara Valley  
Transportation Authority
- Sonoma County  
Transportation Authority
- Tulare County  
Transportation Authority
- Ventura County  
Transportation Commission

# Recommendation Adopted by SEAHOC

- Name New Entity San Bernardino County Transportation Authority (SBCTA\*), pending further discussion regarding COG functions

\*If new statutory entity includes COG functions, then entity name to be reconsidered by Board

# Board Structure & Membership

- How many Board members?
- One jurisdiction, one member, except County (5 supervisors are members)?
- All elected officials, except ex officio gubernatorial appointee?
- Public members?
- Elected officials per district based upon population weighted basis?
- Special designation for county seat representative?
- Alternates?

# Number of Board Members

- SBCTC—30 members
- SBCTA—29 members
- LACMTA—14 members
- OCTA—18 members
- RCTC—34 members
- VCTC—18 members

# Board Membership

AGENCY	SBCTC	SBCTA	LACMTA	OCTA	RCTC	VCTC
Supervisors	X	X	X	X	X	X
One per City	X	X			X	X
Governor Appointee	X		X	X	X	X
County Seat Special Trtmt	X <sup>(1)</sup>		X <sup>(2)</sup>			
Public Members			X	X		X
One per County District			X			
Alternates	X	X	X	X	X	X

(1) Mayor of San Bernardino on Board

(2) Mayor of Los Angeles on Board, appoints additional councilmember to Board

# Recommendation Adopted by SEAHOC

- Board membership of New Entity to be 30 members:
  - 5 members of the County Board of Supervisors
  - 1 mayor or council member from each incorporated city/town in the County
  - 1 non-voting member appointed by Governor
  - Alternates to be permitted for cities/towns (mayor or council member)

# Voting Rights Common to Local Transportation Agencies

- One member, one vote
- Governor's appointee—non-voting
- Quorum = 50% + 1 members
- Majority of members required to take action
- Split house vote—unique to SBCTC and RCTC

# Split House Voting

“In the case of the San Bernardino County Transportation Commission, its official acts shall require the affirmative vote of a majority of the members representing the cities and a majority of the members of the board of supervisors if this is requested by either a majority of the members representing the cities or a majority of the members of the board of supervisors.”

(CPUC Sec. 130102.5)

# **Recommendation Adopted by SEAHOC**

- Voting method for New Entity Board to be one vote per Board member with no split house voting
- Governor's appointee is non-voting

# Board Stipends

- \$100/day not to exceed \$400/month -- all local transportation agencies, except LACMTA (since 1988)
- SANBAG Policy 10050 permits:
  - \$100/day for SBCTA Board meetings
  - \$100/day for SBCTC Board meetings and other meetings
  - Not to exceed \$400/month
- LACMTA:
  - \$150/day not to exceed \$600/month

# **Recommendation Adopted by SEAHOC**

- New Entity Board members receive stipend of \$150/day, not to exceed \$600/month

# Statutory Transportation Agencies Organization and Administration

STATUTORY TRANSPORTATION AGENCIES - ORGANIZATION & ADMINISTRATION						
	SBCTC	SBCTA	LACMTA	OCTA	RCTC	VCTC
MEMBERSHIP	<p>30 Members</p> <ul style="list-style-type: none"> <li>-5 County Supervisors</li> <li>-SB Mayor</li> <li>-1 elected official from each incorporated City</li> <li>-1 non-voting member (appointed by Governor)</li> </ul>	<p>29 Members</p> <ul style="list-style-type: none"> <li>-5 County Supervisors</li> <li>-SB Mayor</li> <li>-1 elected official from each incorporated City</li> </ul>	<p>14 Members</p> <ul style="list-style-type: none"> <li>-5 County Supervisors</li> <li>-LA Mayor</li> <li>-1 LA City Council member (appointed by Mayor)</li> <li>-2 members of public (appointed by Mayor)</li> <li>-4 elected officials, one from each County sector (selection committee)</li> <li>-1 non-voting member (appointed by Governor)</li> </ul>	<p>18 Members</p> <ul style="list-style-type: none"> <li>-5 County Supervisors</li> <li>-5 elected officials, 1 from each County district (elected by population weighted basis)</li> <li>-5 elected officials, 1 from each County district (elected 1 vote/City)</li> <li>-2 members of public (appointed by OCTA voting members)</li> <li>-1 non-voting member (appointed by Governor)</li> </ul>	<p>34 Members</p> <ul style="list-style-type: none"> <li>-5 County Supervisors</li> <li>-1 elected official from each incorporated City</li> <li>-1 non-voting member (appointed by Governor)</li> </ul>	<p>18 Members</p> <ul style="list-style-type: none"> <li>-5 County Supervisors</li> <li>-1 elected official from each incorporated City</li> <li>-1 member of public (appointed by County Board)</li> <li>-1 member of public (selection committee)</li> <li>-1 non-voting member (appointed by Governor)</li> </ul>
VOTING	<p>Quorum, majority present (1 vote/member)</p> <p>+May call for split house vote</p>	<p>Quorum, majority present (1 vote/member)</p>	<p>Quorum, majority present (1 vote/member)</p>	<p>Quorum, majority present (1 vote/member)</p>	<p>Quorum, majority present (1 vote/member)</p> <p>+May call for split house vote</p>	<p>Quorum, majority present (1 vote/member)</p>
STIPEND	<p>\$100/day Not to Exceed \$400/month</p> <p>+Plus necessary traveling and personal expenses</p>	<p>Allowed by SANBAG policy not statute</p>	<p>\$150/day Not to Exceed \$600/month</p> <p>+Plus other directly related expenses</p>	<p>\$100/day Not to Exceed \$400/month</p> <p>+Plus travel and personal expenses max \$100/day Not to Exceed \$500/month</p>	<p>\$100/day Not to Exceed \$400/month</p> <p>+Plus necessary traveling and personal expenses</p>	<p>\$100/day Not to Exceed \$400/month</p> <p>+Plus necessary traveling and personal expenses</p>

**IV.**

# **Final Recommendations**

# Final Recommendations

1. Sponsor legislation creating a new statutory entity consolidating SBCTC, SBCTA, SAFE, and CMA.
2. Authorize General Counsel to oversee drafting of such legislation.
3. SANBAG employees become SBCTA employees.
4. San Bernardino Associated Governments (JPA) continues in existence at least through PACE contracts' expiration, with COG functions to be determined by Board.
5. New Entity name to be San Bernardino County Transportation Authority (SBCTA\*), pending further discussions regarding COG functions.
6. Goal: January 1, 2017 legislation effective date.

\*If new statutory entity includes COG functions then entity name to be reconsidered by Board

# Final Recommendations

(continued)

7. Legislation will provide for:
  - a. New Entity to assume all rights, obligations, powers, duties of SBCTC, SBCTA, SAFE, CMA
  - b. Board membership of New Entity to consist of 30 members: 5 Supervisors; 24 city/town mayors/council members; 1 Governor's appointee (*ex officio*)\*
  - c. Voting method for Board to be one member one vote, with no split house voting, except for Governor's appointee\*
  - d. Quorum = majority; majority of members required to take action
  - e. Board to receive stipend of \$150/day not to exceed \$600/month
  - f. Alternates permitted (cities/towns only, mayor or council member)
8. SEAHOC continues to meet throughout drafting of legislation.

\*If new statutory entity includes COG functions then Board membership and voting to be reconsidered by Board

**V.**  
**Schedule**

# SANBAG Schedule

- **September 17, 2015**, Board Workshop: Board considers Ad Hoc Committee's recommendations and provides direction
- **October 7, 2015**, Board Meeting: Board makes decision whether to proceed with statutory entity legislation
- **November/December 2015**, Ad Hoc Meeting - Draft legislation to be presented to SEAHOC for review and approval
- **December 2015/January 2016**, Board Meeting – Board review of key legislation policy issues

# **Legislative Timing**

**(estimated dates)**

- **October/November** - Prepare Draft Legislation
- **January 22, 2016** - Legislative Counsel deadline
- **February 19, 2016** - Bill introduction deadline
- **January 1, 2017** - Effective date, unless urgency clause

**Questions or Comments?**

**STATUTORY TRANSPORTATION AGENCIES - ORGANIZATION & ADMINISTRATION**

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