

**EMPLOYER STATUS DETERMINATION
PENINSULA CORRIDOR JOINT POWERS BOARD
SAN MATEO COUNTY TRANSIT DISTRICT**

This is the decision of the Railroad Retirement Board regarding the status of Peninsula Corridor Joint Powers Board and San Mateo County Transit District as employers under the Railroad Retirement and Railroad Unemployment Insurance Acts.

The Peninsula Corridor Joint Powers Board (a San Francisco City and County agency) was formed in 1987 to examine ways to preserve commuter rail service in the San Francisco-San Jose corridor. In 1991 it was empowered to acquire rail right of way. It has no employees. The San Mateo County Transit District began operations in 1975 as a bus transit provider. It has approximately 570 employees.

On December 27, 1991, the Peninsula Corridor Joint Powers Board, the San Mateo County Transit District, and the Santa Clara County Transit District acquired approximately 54 miles of right of way and trackage from the Southern Pacific Transportation Company. The San Mateo County Transit District holds title to those properties located in that county. The Peninsula Corridor Joint Powers Board also acquired rights to use an additional approximately 20 miles of Southern Pacific Transportation Company track. The purposes of the transactions were to ensure the continuation of commuter service between San Francisco and San Jose and to extend that service to Gilroy. The Southern Pacific Transportation Company continued to operate the service until June 30, 1992. Beginning July 1, 1992, Amtrak has operated it under contract with the Peninsula Corridor Joint Powers Board. The San Mateo County Transit District performs managerial, engineering, and financial oversight of the contract with Amtrak.

There is no interchange between Peninsula Corridor Joint Powers Board operations and other railroads (except for the use of Southern Pacific tracks as described above and Southern Pacific use of Peninsula Corridor Joint Powers Board track for freight operations). There is no through-ticketing with Amtrak's intercity operations.

The Peninsula Corridor Joint Powers Board and the San Mateo County Transit District are not operators of railroads. They are chiefly subsidy disbursing entities of county governments which contract with a rail operator, currently Amtrak, to provide commuter service. Employees providing service under the contract are

compensated by Amtrak and reported through its payroll. In Board

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Order 89-74 the Board held that a lessor employer, which had sold all of its railroad assets so that the lessor no longer had the equipment necessary to resume railroad operations, was no longer an employer under section 1(a)(1)(i) of the Railroad Retirement Act. See appeal of Board of Trustees of the Galveston Wharves, B.O. 89-74, April 24, 1989. The rationale of Board Order 89-74, where a company has transferred title to its assets, applies in the instant case where The Peninsula Corridor Joint Powers Board and the San Mateo County Transit District have contracted for provision of commuter service and do not have the capability of providing that service themselves.

The Board holds that the Peninsula Corridor Joint Powers Board and the San Mateo County Transit District are not employers under the Railroad Retirement Act or the Railroad Unemployment Insurance Act.

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