

Senate Bill No. 504

CHAPTER 827

An act to add Chapter 7 (commencing with Section 132600) to Division 12.7 of the Public Utilities Code, relating to transportation.

[Approved by Governor October 10, 2003. Filed
with Secretary of State October 11, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 504, Kuehl. Exposition Metro Line Construction Authority.

Existing law establishes the Los Angeles County Metropolitan Transportation Authority (LACMTA) as the single successor agency to the Southern California Rapid Transit District and the Los Angeles County Transportation Commission. The LACMTA is responsible for most transit guideway projects in Los Angeles County and has specified duties and responsibilities with regard to transportation.

This bill would establish the Exposition Metro Line Construction Authority for the purpose of awarding and overseeing final design and construction contracts for completion of the Los Angeles-Exposition Metro Line light rail project from the Metro Rail Station at 7th and Flower Streets in the City of Los Angeles to the downtown area of the City of Santa Monica.

The bill would, upon allocation of federal and local funds by the LACMTA for these purposes, require the construction authority to (a) conduct the financial studies and the planning and engineering necessary for completion of the project, (b) adopt an administrative code, including a specified code of conduct for administration of the construction authority in accordance with laws relating to open meetings of public entities, contracting and procurement, contracting goals for minority and women business participation, and political reform, and (c) as necessary for final design and construction, complete a detailed management, implementation, safety, and financial plan for the project and submit the plan to the Governor, the Legislature, and the California Transportation Commission.

The bill would require that the construction authority be governed by a board consisting of 7 voting members appointed to terms of 4 years. Two members would be appointed by the City Councils of the Cities of Santa Monica and Culver City, with each city council appointing one member by a majority vote of the membership of that city council. Two members shall be appointed by the City Council of the City of Los Angeles by a majority vote of its membership. Two members would be



appointed by the Los Angeles County Board of Supervisors. One member would be appointed by the LACMTA and the Chief Executive Officer of the LACMTA would serve as an ex officio, nonvoting member. Each appointing authority would be required to appoint an alternate member.

The bill would authorize the governing board to appoint an executive director to serve at the pleasure of the construction authority. The executive director would be authorized to appoint staff or retain consultants as necessary to carry out the duties of the construction authority. The bill would require that all contracts approved and awarded by the executive director be awarded in accordance with state and federal laws relating to procurement. The bill would require that the awards be based on price or competitive negotiation, or on both.

The bill would require the LACMTA to identify and expeditiously enter into an agreement with the construction authority to hold in trust with the construction authority all real and personal property, and any other assets, accumulated in the planning, design, and construction of the project, including, but not limited to, rights-of-way, documents, 3rd-party agreements, contracts, and design documents, as necessary for completion of the project, to outline the design review, construction, and testing process, and to describe the funding sources of the authority, the financial elements, and the approved budget for the project.

The bill would require the construction authority to enter into a memorandum of understanding with the LACMTA that specifically addresses the ability of the LACMTA to review any significant changes in the scope of the design or construction, or both design and construction, of the project.

The bill would prohibit the construction authority from encumbering any future farebox revenue anticipated from the operation of the project.

The bill would prohibit the construction authority from encumbering the project with any obligation that is transferable to the LACMTA upon completion of the design and construction of the project, except as specified.

The bill would require the authority to be dissolved upon completion of the project. The LACMTA would assume responsibility for operating the project upon dissolution of the authority.

The bill would impose a state-mandated local program by placing additional duties upon local governmental entities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund



to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Chapter 7 (commencing with Section 132600) is added to Division 12.7 of the Public Utilities Code, to read:

CHAPTER 7. EXPOSITION METRO LINE CONSTRUCTION AUTHORITY

132600. For purposes of this chapter, the following terms have the following meanings:

- (a) The “authority” is the Exposition Metro Line Construction Authority created under this chapter.
- (b) The “board” is the governing board of the authority.
- (c) The “commission” is the California Transportation Commission.
- (d) The “LACMTA” is the Los Angeles County Metropolitan Transportation Authority.
- (e) The “project” is the Los Angeles-Exposition Metro Line light rail project extending from the Metro Rail Station at 7th Street and Flower Street in the City of Los Angeles to the downtown of the City of Santa Monica.

132605. The authority is hereby created for the purpose of awarding and overseeing final design and construction contracts for completion of the project.

132610. (a) The authority has all of the powers necessary for planning, acquiring, leasing, developing, jointly developing, owning, controlling, using, jointly using, disposing of, designing, procuring, and building the project, including, but not limited to, all of the following:

- (1) Acceptance of grants, fees, allocations, and transfers of funds from federal, state, and local agencies, and private entities.
- (2) Acquiring, through purchase or through eminent domain proceedings, any property necessary for, incidental to, or convenient for, the exercise of the powers of the authority, provided the authority shall use existing right-of-ways where feasible.
- (3) Incurring indebtedness, secured by pledges of revenue available for project completion.
- (4) Contracting with public and private entities for the planning, design, and construction of the project. These contracts may be assigned



separately or may be combined to include any or all tasks necessary for completion of the project.

(5) Entering into cooperative or joint development agreements with local governments or private entities. These agreements may be entered into for the purpose of sharing costs, selling or leasing land, air, or development rights, providing for the transferring of passengers, making pooling arrangements, or for any other purpose that is necessary for, incidental to, or convenient for the full exercise of the powers granted to the authority. For purposes of this paragraph, “joint development” includes, but is not limited to, an agreement with any person, firm, corporation, association, or organization for the operation of facilities or development of projects adjacent to, or physically or functionally related to, the project.

(6) Relocation of utilities, as necessary for completion of the project.

(b) The duties of the authority include, but are not limited to, all of the following:

(1) Conducting financial studies, planning, and engineering necessary for completion of the project.

(2) (A) Adoption of an administrative code for administration of the authority in accordance with any applicable laws, including, but not limited to, the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), contracting and procurement laws, laws relating to contracting goals for minority and women business participation, and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(B) (i) The administrative code adopted under subparagraph (A) shall include a code of conduct for employees and board members that is consistent with Sections 84308 and 87103 of the Government Code and prohibits board members and staff from accepting gifts valued at ten dollars (\$10) or more from contractors, potential contractors, or their subcontractors.

(ii) The code shall require the disclosure, on the record, of the proceedings by the officer of the agency who receives a contribution within the preceding 24 months in an amount of more than two hundred fifty dollars (\$250) from a party or participant to a proceeding, and the disclosure by the party or participant.

(iii) The code shall provide that no officer of the agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding, as described in Section 84308 of the Government Code, if the officer has willfully or knowingly received a contribution in the amount of more than two hundred fifty dollars (\$250) within the preceding 24 months from a party



or his or her agent, or from any participant or his or her agent, if the participant has a financial interest in the decision.

(iv) Any officer deemed ineligible to participate in a proceeding due to the provisions of this code of conduct may be replaced for the purposes of that proceeding by an appointee chosen by the appropriate appointing authority.

(v) Under the code of conduct, board members shall be deemed to have a financial interest in a decision within the meaning of Section 87100 of the Government Code if the decision involves the donor of, or intermediary or agent for a donor of, a gift or gifts aggregating ten dollars (\$10) or more in value within the 12 months prior to the time the decision was made.

(3) As necessary for final design and construction, completion of a detailed management, implementation, safety, and financial plan for the project and submission of the plan to the Governor, the Legislature, and the commission.

(c) The authority shall make reasonable progress, as determined by the commission, in the final design and construction of the project.

(d) The duties and responsibilities imposed by this section shall be contingent upon allocation of federal and local funds by the LACMTA for these purposes.

132615. (a) The authority shall be governed by a board consisting of seven voting members who shall be appointed as follows:

(1) Two members shall be appointed by the City Councils of the Cities of Santa Monica and Culver City with each city council appointing one member by a majority vote of the membership of that city council.

(2) Two members shall be appointed by the Los Angeles County Board of Supervisors.

(3) One member shall be appointed by the LACMTA.

(4) Two members shall be appointed by the City Council of the City of Los Angeles by a majority vote of its membership.

(b) All members shall serve a term of not more than four years, with no limit on the number of terms that may be served by any person.

(c) Each appointing authority shall also appoint an alternate member to serve in a member's absence. If the position of a voting member becomes vacant, the alternate member shall serve until the position is filled as required pursuant to subdivision (a).

(d) Members of the board are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(e) Four members of the board shall constitute a quorum.



(f) The board shall elect a chairperson and vice chairperson from among the membership of the board.

(g) Each member of the board may be compensated at a rate of not more than one hundred fifty dollars (\$150) per day spent attending to the business of the authority. Compensation, if paid, shall not exceed six hundred dollars (\$600) per month, plus expenses directly related to the performance of duties imposed by the authority, including, but not limited to, travel and personal expenses.

(h) The Chief Executive Officer of the LACMTA shall serve on the board as an ex officio, nonvoting member.

132620. (a) The board may appoint an executive director to serve at the pleasure of the authority.

(b) The executive director is exempt from all civil service provisions and shall be paid a salary established by the board.

(c) The executive director may appoint staff or retain consultants as necessary to carry out the duties of the authority.

(d) All contracts approved and awarded by the executive director shall be awarded in accordance with state and federal laws relating to procurement. Awards shall be based on price or competitive negotiation, or on both of those things.

132625. The LACMTA shall identify and expeditiously enter into an agreement or agreements with the authority to do all of the following:

(a) Hold in trust with the authority all real and personal property, and any other assets accumulated in the planning, design, and construction of the project, including, but not limited to, rights-of-way, documents, third-party agreements, contracts, and design documents, as necessary for completion of the project.

(b) Outline the design review, construction, and testing process that acknowledges LACMTA's direct role in the review of the project to ensure the final project will be compatible, functionally connected, and operative within LACMTA's existing metro rail system.

(c) Describe the various funding sources and the obligations of the authority to assist LACMTA obtain federal, state, and local funds for the project, and the authority's obligations and duties upon receipt of the funds necessary to construct the project.

(d) Describe all financial elements of the project, and the budget approved for the project.

132635. The authority shall enter into a memorandum of understanding with the LACMTA that shall specifically address the ability of the LACMTA to review any significant changes in the scope of the design or construction, or both design and construction, of the project. For purposes of this section, the term "significant change" means any change of mode or technology, or any other substantive



change that affects the connectivity and operation of the project as part of the overall transit system operated by the LACMTA, or any combination of those things. Design and construction of a light rail project that is consistent with the current scope of the project shall not be deemed to be a significant change in the scope of the project and shall not require concurrence by the LACMTA.

132640. The authority shall not encumber any future farebox revenue anticipated from the operation of the project.

132645. The authority shall not encumber the project with any obligation that is transferable to the LACMTA upon completion of the design and construction of the project. The design and construction to be administered by the authority does not include rolling stock, which is a component of the operation of the project and shall be administered by the LACMTA.

132650. The authority shall be dissolved upon completion of construction of the light rail project. The LACMTA shall assume responsibility for operating the project upon dissolution of the authority.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

