

Assembly Bill No. 660

Passed the Assembly August 28, 2008

Chief Clerk of the Assembly

Passed the Senate August 11, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 190, 191, 2450, 2452, 2454, 2458, and 2460.5 of, and to repeal Section 2454.5 of, the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 660, Galgiani. Railroad-highway grade separations.

Existing law provides for the Department of Transportation to include \$15,000,000 in its annual proposed budget for highway-railroad grade separation projects. Existing law requires the Public Utilities Commission to establish an annual priority list for expenditure of these funds, which may be allocated by the California Transportation Commission for various kinds of projects, including alteration of existing grade separations, construction of new grade separations for existing or proposed grade crossings, and removal or relocation of highways or railroad tracks to eliminate existing grade crossings. Existing law provides that allocations from these funds may not exceed 80% of project costs, and generally limits the maximum total allocation amount for a single project to \$5,000,000 unless there is specific legislative authorization, with certain exceptions. Existing law generally sets the percentage contribution required of railroads for grade separation projects at 10% of project costs, but if federal funds are used for a project, it provides that the railroad contribution is to be computed pursuant to federal law. Existing law requires that an amount equal to a portion of the funds received by cities and counties for grade separation projects shall be deducted by the Controller from apportionments to those cities and counties of specified fuel tax revenues.

This bill would revise the program to delete funding eligibility for a new grade separation to eliminate a proposed grade crossing or for removal or relocation of highways or railroad tracks to eliminate existing grade crossings. The bill would provide for a maximum allocation of 80% of project costs for all projects funded but would modify the provisions limiting the maximum amount that may be allocated to a single project to \$5,000,000, unless there is specific legislative authorization. The bill would redefine the

terms “grade separation” and “project” for these purposes. The bill would set a railroad’s contribution for a project, if state funds are used, to a percentage of the cost of the grade separation, but not including the cost of any other part of the project. The bill would also modify the calculation of the amount of funds deducted from the apportionments of the fuel tax revenues, and delete provisions requiring the reduction of cost to a party to a grade separation project when the National Railroad Passenger Corporation (Amtrak) contributes towards a specified amount of the project.

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

SECTION 1. Section 190 of the Streets and Highways Code is amended to read:

190. Each annual proposed budget prepared pursuant to Section 165 shall include the sum of fifteen million dollars (\$15,000,000), which sum may include federal funds available for grade separation projects, for allocations to grade separation projects, in accordance with Chapter 10 (commencing with Section 2450) of Division 3.

SEC. 2. Section 191 of the Streets and Highways Code is amended to read:

191. Prior to each July 15, the department shall prepare and forward to the Controller a report identifying the amounts to be deducted from the allocations under Sections 2104 and 2107 as provided in Sections 2104.1 and 2107.6. The amounts reported shall be the amount of funds allocated to cities for grade separation projects included in allocations to cities made pursuant to Chapter 10 (commencing with Section 2450) of Division 3 in the preceding fiscal year and the amount of funds allocated to counties for grade separation projects included in allocations to counties made pursuant to Chapter 10 (commencing with Section 2450) of Division 3 in the preceding fiscal year.

SEC. 3. Section 2450 of the Streets and Highways Code is amended to read:

2450. For purposes of this chapter:

(a) “Grade separation” means, for the purpose of calculating the railroad contribution to the project, the theoretical structure necessary to separate the roadway from the railroad grade for the number of lanes on the existing highway and for the full width of

the railroad corridor, in accordance with the current design standards of the department.

(b) “Project” means the grade separation and other structures that actually separate the vehicular roadway from the railroad tracks, and all approaches, ramps, connections, drainage, and other construction required to make the grade separation operable and to effect the separation of grades. A grade separation project may include provision for separation of nonmotorized traffic from the vehicular roadway and the railroad tracks. If a separation of nonmotorized traffic is not to be included in a project, there shall be an affirmative finding that the separation of nonmotorized traffic is not in the public interest. On any project where there is only one railroad track in existence, the project shall be built so as to provide for expansion to two tracks when the Director of Transportation determines that the project is on an existing or potential major railroad passenger corridor. The project may consist of:

- (1) The alteration or reconstruction of existing grade separations.
- (2) The construction of new grade separations to eliminate existing grade crossings.

(c) “Highway” means city street, a county highway, or a state highway which is not a freeway as defined in Section 257.

(d) “Railroad” means a railroad corporation.

SEC. 4. Section 2452 of the Streets and Highways Code is amended to read:

2452. Prior to July 1 of each year, the Public Utilities Commission shall establish a list, in order of priority, of projects that the commission determines to be most urgently in need of separation or alteration. The priority list shall be determined on the basis of criteria established by the Public Utilities Commission.

SEC. 5. Section 2454 of the Streets and Highways Code is amended to read:

2454. Allocations made pursuant to Section 2453 shall be made on the basis of the following:

- (a) An allocation of 80 percent of the estimated cost of the project shall be made; except that whenever contributions from other sources exceed 20 percent of the estimated cost, the allocation shall be reduced by the amount in excess of 20 percent of the estimated cost.

- (b) On projects that eliminate an existing crossing, or alter or reconstruct an existing grade separation, no allocation shall be

made unless the railroad agrees to contribute 10 percent of the cost of the project.

(c) (1) Notwithstanding subdivisions (a) and (b), the total of these allocations for a single project shall not exceed five million dollars (\$5,000,000) without specific legislative authorization. Cumulative allocations to a single project shall not exceed 80 percent of the cost to construct the project.

(2) Notwithstanding paragraph (1), the California Transportation Commission may allocate up to fifteen million dollars (\$15,000,000) to a single project if that project is the highest ranking project on the priority list established by the Public Utilities Commission pursuant to Section 2452.

(d) (1) Notwithstanding subdivisions (a) to (c), inclusive, a single project in excess of five million dollars (\$5,000,000), but not exceeding twenty million dollars (\$20,000,000), shall be considered without specific legislative authority, if the project (A) is included in the Public Utilities Commission's priority list of projects scheduled to be funded, (B) eliminates the need for future related grade separation projects, (C) provides projected cost savings of at least 50 percent to the state or local jurisdiction, or both of them, by eliminating the need for future projects, and (D) alleviates traffic and safety problems or provides improved rail service not otherwise possible. Projects approved pursuant to this subdivision shall be funded over a multiyear period, not to exceed five years, and the allocation for any one of those years shall not exceed the amount prescribed by subdivision (c) for a single project.

(2) Not more than one-half of the total allocation available in any one fiscal year for grade separation projects may be used for the purposes of this subdivision. An agency that has received an allocation for a project approved pursuant to this subdivision shall not be eligible for an allocation for another project under this subdivision for a period of 10 years from the date of approval of that project. However, if funds are available for allocation, as determined by the Department of Transportation, an agency may be eligible for an allocation for another project.

(e) Notwithstanding any of the provisions of this section or any other provision of law, when the state or a local agency uses funds derived from federal sources in financing its share of project costs,

the railroad contribution, where required by federal law or regulation, shall be computed pursuant to federal law.

(f) Notwithstanding any of the provisions of this section or any other provision of law, when the state or a local agency uses state funds in financing a portion of project costs, the railroad contribution, to the extent determined pursuant to this section, shall be calculated based on the cost of the grade separation only, and not the cost of any other part of the project.

SEC. 6. Section 2454.5 of the Streets and Highways Code is repealed.

SEC. 7. Section 2458 of the Streets and Highways Code is amended to read:

2458. If a construction contract has not been awarded within two years after an allocation for construction costs, the commission may order the allocation canceled and those funds shall revert to the fund set aside for purposes of this chapter. All or any part of an allocation for preconstruction costs may be canceled and those funds shall revert to the fund set aside for purposes of this chapter upon a finding that insufficient progress is being made to complete the project. Where an allocation is canceled pursuant to this section, the local agency shall reimburse the fund set aside for purposes of this chapter the portion of the allocation that is not reverted as set forth in this section. The department shall determine, with the local agency, as to the time of repayment.

SEC. 8. Section 2460.5 of the Streets and Highways Code is amended to read:

2460.5. From funds remaining after allocations for projects higher on the priority list, the commission shall offer to allocate the remaining funds for the next eligible project on the priority list, even though the amount of the remaining funds is less than the amount the local agency is entitled to for that project.

The commission, in the next fiscal year, shall allocate to the local agency an additional amount equal to the difference between the amount the local agency was eligible to receive and the amount of the reduced allocation.

The total of the amount of allocations for a single project, including, but not limited to, any allocation pursuant to this section, shall not exceed the amount prescribed by subdivision (c) of Section 2454 without specific legislative authorization.

Approved _____, 2008

Governor