

AMENDED IN SENATE APRIL 7, 2008

SENATE BILL

No. 1093

Introduced by Senator Wiggins
(Principal coauthor: Assembly Member Evans)

January 10, 2008

An act to amend Sections ~~66540.4 and 66540.5~~ of 66540.6, 66540.11, 66540.12, 66540.22, 66540.32, and 66540.68 of, and to add Section 66540.315 to, the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1093, as amended, Wiggins. San Francisco Bay Area Water Emergency Transportation Authority.

Existing law, *the San Francisco Bay Area Water Emergency Transportation Response and Disaster Recovery Act*, establishes the San Francisco Bay Area Water Emergency Transportation Authority *as a local governmental entity of regional government* and gives that entity the authority to plan, manage, operate, and coordinate the emergency activities of all water transportation and related facilities within the bay area region, except as specified. ~~Existing law requires that, in certain states of emergency, the authority coordinate emergency activities for all water transportation services in the bay area region in cooperation with certain specified entities. Existing law requires the transfer of public transportation ferries and related water transportation services and facilities in the bay area region, as specified, to the authority and requires the authority to adopt a transition plan to facilitate that transfer. Existing law requires that the planning, management, and operation of any existing or planned public transportation ferries and related facilities and services in the bay area region be consolidated under the authority's control.~~

This bill would make that consolidation subject to the authority's adoption of the transition plan and would prohibit the authority from compelling operational changes to water transportation services provided by public agencies on or before January 1, 2008, prior to the adoption of that plan. The bill would require the transition plan to include specified information, including, but not limited to, a description of any compensation proposed to be made for the execution of the transfer of ownership of any assets, as specified, and would require that the amount of compensation be mutually agreed upon by the authority and the local agency, as specified. The bill would require that proposed changes to the City of Vallejo's water transportation services be proposed in a specified manner and would require the authority to ensure that the ferry maintenance facility located on Mare Island remains operational and that specified plans for improvement or expansion of that facility are completed. The bill would also authorize the authority to establish a community advisory committee to receive community and passenger recommendations related to consolidation or operational issues affecting existing and proposed water transportation services.

Existing law requires the authority to create and adopt the transition plan on or before January 1, 2009, and an emergency water transportation system management plan on or before July 1, 2009. Under existing law, the authority is required to provide a copy of those plans to each city and county in the bay area region at least 45 days prior to adopting the plans.

This bill would extend the date for the creation and adoption of the transition plan to July 1, 2009. In addition, the bill would require the authority to conduct specified public hearings and provide copies of the plans or plan amendments to specified cities and counties within certain periods of time prior to adopting those plans or amendments.

Existing law provides that the authority is governed by a board of 5 members and requires that each member of the board be a resident of a county in the bay area region.

This bill would require that a ferry terminal collecting at least 40% of the total receipts of the ferry system be represented on the board, as specified.

Existing law requires the board to supervise and regulate every water transportation services facility owned or operated or controlled by the authority, including the establishment of rates and the making and enforcement of schedules, among other things, for or in connection with

any transportation facility owned or operated or controlled by the authority.

This bill would require the board to conduct a public hearing at least 60 days prior to adopting changes to rates or schedules and to provide notification of those changes to the public, specified newspapers, and the city where the ferry terminal affected by the changes is located, as specified.

Existing law prohibits the authority from assuming any financial obligations in accepting a transfer other than those associated with the operation of the services and facilities being transferred to it. Existing law also requires the authority to bear reasonable administrative costs incurred by public transportation ferries and related water transportation services related to the transfer of public transportation services to the authority.

This bill would authorize the authority to assume any costs associated with engine repowering, engine overhauling, and dredging, as specified, and would also require the authority to bear the reasonable administrative costs incurred by public transportation ferries and related water transportation services related to the implementation of the San Francisco Bay Area Water Emergency Transportation Response and Disaster Recovery Act.

Existing law requires the authority to assume and be bound by the employment terms and conditions set forth in any collective bargaining agreement or employment contract between the San Francisco Bay Area Water Transit Authority and any labor organization or employee affected by the creation of the authority, as specified.

This bill would also require the authority to assume and be bound by the employment terms and conditions set forth in any collective bargaining agreement or employment contract between any public or private entity whose services the authority directly assumes, and any labor organization or employee affected by the assumption of those services.

The bill would enact other related provisions.

By imposing additional duties on the authority, the bill would impose a state-mandated local program.

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.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 66540.6 of the Government Code is
2 amended to read:

3 66540.6. (a) In order to establish and secure emergency
4 activities of all water transportation and related facilities within
5 the bay area region, the authority shall have the authority to operate
6 a comprehensive emergency public water transportation system
7 that includes water transportation services, water transit terminals,
8 and any other transport and facilities supportive of the system for
9 the bay area region, provided that ~~any such~~ *those* facilities are
10 consistent with the Bay Plan adopted by the Bay Conservation and
11 Development Commission, as it may be amended from time to
12 time, and that the authority consults in good faith with affected
13 municipalities, counties, and other public agencies that may be
14 affected by a particular facility. The authority shall have authority
15 and control over all public transportation ferries within the bay
16 area region, except those owned and operated by the Golden Gate
17 Bridge, Highway and Transportation District. The planning,
18 management, and operation of any existing or planned public
19 transportation ferries and related facilities and services in the bay
20 area region shall be consolidated under the authority's control,
21 *subject to the adoption of the transition plan required by*
22 *subdivision (b) of Section 66540.32. The authority shall not compel*
23 *operational changes to water transportation services provided by*
24 *public agencies on or before January 1, 2008, prior to the adoption*
25 *of that transition plan.*

26 (b) Because of the importance of an orderly development of a
27 comprehensive bay area region emergency water transportation
28 system, the environmental, health, and public safety issues
29 implicated, and the scarce resources available, the authority shall
30 determine the entry within its jurisdiction of any water
31 transportation service or facility that will affect public lands or

1 receive or benefit from the use of federal, state, or local funds,
2 except those owned and operated by the Golden Gate Bridge,
3 Highway and Transportation District.

4 (c) Nothing in this section shall be construed to be in derogation
5 of the existing authority of the California Public Utilities
6 Commission.

7 *SEC. 2. Section 66540.11 of the Government Code is amended*
8 *to read:*

9 66540.11. (a) All public transportation ferries and related water
10 transportation services and facilities within the bay area region
11 shall be transferred to the authority in accordance with the
12 transition plan required under subdivision (b) of Section 66540.32,
13 except for the services and facilities owned, operated, and provided
14 by the Golden Gate Bridge, Highway and Transportation District.

15 (b) The authority may accept the transfer of ownership,
16 operation, and management of any other public transportation
17 ferries and related water transportation services and facilities within
18 the bay area region developed or adopted by any general purpose
19 local government or special district that operates or sponsors water
20 transit, including, but not limited to, those water transportation
21 services provided under agreement with a private operator.

22 (c) All transfers pursuant to subdivision (a) and (b) shall be
23 consistent with the transition plan required under subdivision (b)
24 of Section 66540.32 and shall include, but not be limited to, all of
25 the following:

26 (1) All real and personal property, including, but not limited to,
27 all terminals, ferries, vehicles or facilities, parking facilities for
28 passengers and employees, and buildings and facilities used to
29 operate, maintain, and manage the water transportation services
30 system.

31 (2) All personnel currently employed by the water transportation
32 services system, subject to the provisions of Article 5 (commencing
33 with Section 66540.55) of Chapter 5.

34 (3) All contracts with tenants, concessionaires, leaseholders,
35 and others.

36 (4) All subsidies for the water transportation services system,
37 other than the direct subsidy the Golden Gate Bridge, Highway
38 and Transportation District currently provides to the water
39 transportation services system it provides.

1 (5) All financial obligations—~~secured by revenues and fees~~
2 generated from the operations of the water transportation services
3 system, including, but not limited to, bonded indebtedness and
4 subsidies associated with the public transportation ferry system.

5 (d) In accepting a transfer, the authority may assume no financial
6 obligations other than ~~those associated with the operation of the~~
7 ~~services and facilities being transferred to it.~~ *the following:*

8 (1) *The financial obligations associated with the operation of*
9 *the services and facilities being transferred to the authority.*

10 (2) *The costs, on a pro rata basis, associated with any long-term*
11 *engine repowering or engine overhauling necessary to keep the*
12 *vessels being transferred to the authority in working order.*

13 (3) *The costs associated with any dredging required prior to*
14 *the transfer of ferry services to the authority.*

15 (e) Reasonable administrative costs incurred by the other public
16 transportation ferries and related water transportation services and
17 facilities related to the transfer *required by this section or the*
18 *implementation of this title* shall be borne by the authority.

19 *SEC. 3. Section 66540.12 of the Government Code is amended*
20 *to read:*

21 66540.12. (a) The authority shall be governed by a board
22 composed of five members, as follows:

23 (1) Three members shall be appointed by the Governor, subject
24 to confirmation by the Senate. The Governor shall make the initial
25 appointment of these members of the board within 10 days after
26 the effective date of this title.

27 (2) One member shall be appointed by the Senate Committee
28 on Rules.

29 (3) One member shall be appointed by the Speaker of the
30 Assembly.

31 (b) Each member of the board shall be a resident of a county in
32 the bay area region.

33 (c) *If a ferry terminal collects at least 40 percent of the total*
34 *receipts of the ferry system under the control of the authority, the*
35 *city or public agency where that terminal is located shall have a*
36 *representative on the board.*

37 ~~(e)~~

38 (d) Public officers associated with any area of government,
39 including planning or water, whether elected or appointed, may
40 be appointed to serve contemporaneously as members of the board.

1 No local jurisdiction or agency may have more than one
2 representative on the board of the authority.

3 ~~(d)~~

4 (e) The Governor shall designate one member as the chair of
5 the board and one member as the vice chair of the board.

6 ~~(e)~~

7 (f) The term of a member of the board shall be six years

8 ~~(f)~~

9 (g) Vacancies shall be immediately filled by the appointing
10 power for the unexpired portion of the terms in which they occur.

11 *SEC. 4. Section 66540.22 of the Government Code is amended*
12 *to read:*

13 66540.22. (a) The board shall supervise and regulate every
14 water transportation services facility owned or operated or
15 controlled by the authority, including the establishment of rates,
16 rentals, charges, and classifications, and the making and
17 enforcement of rules, regulations, contracts, practices, and
18 schedules, for or in connection with any transportation facility
19 owned or operated or controlled by the authority.

20 (b) *If the board proposes to change rates or schedules for or in*
21 *connection with a facility described in subdivision (a), the board*
22 *shall conduct a public hearing at least 60 days prior to adopting*
23 *those changes. The hearing shall be located in the city where the*
24 *ferry terminal affected by the proposed changes is located and the*
25 *board shall do all of the following:*

26 (1) *Make copies of the proposed changes available to the public*
27 *on the Internet at least 30 days prior to the public hearing.*

28 (2) *Provide written notification of the proposed changes to all*
29 *major newspapers in the area affected by those changes at least*
30 *30 days prior to the public hearing. For purposes of this*
31 *paragraph, "major newspaper" means a newspaper with a*
32 *circulation rate of at least 10,000.*

33 (3) *Provide written notification of the proposed changes to the*
34 *city where the ferry terminal affected by those changes is located*
35 *at least 30 days prior to the public hearing.*

36 *SEC. 5. Section 66540.315 is added to the Government Code,*
37 *to read:*

38 66540.315. *The authority may establish a community advisory*
39 *committee to receive community and passenger recommendations*
40 *related to consolidation and operational issues affecting existing*

1 *and proposed water transportation services. The authority shall*
2 *determine the composition of these committees.*

3 *SEC. 6. Section 66540.32 of the Government Code is amended*
4 *to read:*

5 66540.32. (a) The authority shall create and adopt, on or before
6 July 1, 2009, an emergency water transportation system
7 management plan for water transportation services in the bay area
8 region in the event that bridges, highways, and other facilities are
9 rendered wholly or significantly inoperable.

10 (b) (1) The authority shall create and adopt, on or before
11 ~~January 1~~ July 1, 2009, a transition plan to facilitate the transfer
12 of existing public transportation ferry services within the bay area
13 region to the authority pursuant to this title. In the preparation of
14 the transition plan, priority shall be given to ensuring continuity
15 in the programs, services, and activities of existing public
16 transportation ferry services.

17 (2) *The plan required by this subdivision shall include all of*
18 *the following:*

19 (A) *A description of the proposed expansion of ferry services*
20 *in the bay area region and a description of any proposed changes*
21 *to the operations of existing ferry services in the bay area region.*

22 (B) *An estimate of the costs to provide the services described*
23 *in subparagraph (A) and available or proposed sources of revenue*
24 *to meet those costs.*

25 (C) *A description of the proposed services, duties, functions,*
26 *responsibilities, and liabilities of the authority and those of*
27 *agencies providing or proposed to provide water transportation*
28 *services.*

29 (D) (i) *To the extent the plan includes the transfer of ownership*
30 *of any assets, including, but not limited to, vessels, personnel,*
31 *terminals, and parking structures, a description of any*
32 *compensation proposed to be made for the execution of those*
33 *transfers.*

34 (ii) *For purposes of this subparagraph, the amount of*
35 *compensation to be made shall be mutually agreed upon by the*
36 *authority and the local agency. This agreement shall not be*
37 *implemented until both the authority and the local agency pass a*
38 *resolution in support of the agreement. The authority and the local*
39 *agency shall provide notice of the agreement to the public within*
40 *30 days of reaching the agreement and shall pass the resolution*

1 *within 60 days of reaching the agreement. If the authority and the*
2 *local agency are unable to agree on an amount, the authority shall*
3 *enter into an agreement with the local agency to arbitrate the*
4 *controversy.*

5 *(E) A commitment to leverage or seek funding that supports the*
6 *completion of existing or planned capital projects, as of January*
7 *1, 2008, that further the expansion, efficiency, or effectiveness of*
8 *the ferry system.*

9 *(F) A description of how existing and expanded water*
10 *transportation services will provide seamless connections to other*
11 *transit providers in the bay area region, including, but not limited*
12 *to, a description of how the authority will coordinate with all local*
13 *agencies to ensure optimal public transportation services that*
14 *support access to the ferry system for the immediate and*
15 *surrounding communities.*

16 *(3) To the extent the plan required by this subdivision includes*
17 *proposed changes to water transportation services provided by*
18 *the City of Vallejo, those changes shall be proposed in a manner*
19 *consistent with that city's general plan, its downtown and*
20 *waterfront redevelopment plans, and its development and*
21 *disposition agreements, including, but not limited to, the*
22 *construction of the proposed Vallejo Station Joint Development*
23 *Project, which includes a parking garage and a separate bus*
24 *transfer facility.*

25 *(4) To the extent the plan required by this subdivision includes*
26 *proposals for ferry maintenance facilities, the authority shall*
27 *ensure that the existing ferry maintenance facility located on Mare*
28 *Island remains in operation and that any plans for the improvement*
29 *or expansion of the facility that have received funds on or before*
30 *January 1, 2008, are completed.*

31 *(c) In developing the plans described in subdivisions (a) and*
32 *(b), the authority shall cooperate to the fullest extent possible with*
33 *the Metropolitan Transportation Commission, the State Office of*
34 *Emergency Services, the Association of Bay Area Governments,*
35 *and the San Francisco Bay Conservation and Development*
36 *Commission, and shall, to the fullest extent possible, coordinate*
37 *its planning with local agencies, including those local ~~agencies~~*
38 *agencies that operated, or contracted for the operation of, public*
39 *water transportation services as of the effective date of this title.:*
40 *To avoid duplication of work, the authority shall make maximum*

1 use of data and information available from the planning programs
2 of the Metropolitan Transportation Commission, the State Office
3 of Emergency Services, the Association of Bay Area Governments,
4 the San Francisco Bay Conservation and Development
5 Commission, the cities and counties in the San Francisco Bay area,
6 and other public and private planning agencies. In addition, the
7 authority shall consider both of the following:

8 (1) The San Francisco Bay Area Water Transit Implementation
9 and Operations Plan adopted by the San Francisco Bay Area Water
10 Transit Authority on July 10, 2003.

11 (2) Any other plan concerning water transportation within the
12 bay area region developed or adopted by any general purpose local
13 government or special district that operates or sponsors water
14 transit, including, but not limited to, those water transportation
15 services provided under agreement with a private operator.

16 (d) The authority shall prepare a specific transition plan for any
17 transfer not anticipated by the transition plan required under
18 subdivision (b).

19 (e) ~~At least 45 days prior to adoption of~~ *Prior to adopting* the
20 plans required by subdivisions (a) and (b) *this section*, the authority
21 shall ~~provide~~ *do both of the following*:

22 (1) ~~Provide a copy of the plan adopted pursuant to subdivision~~
23 ~~(a) and the plan adopted pursuant to subdivision (b) plans~~ *to each*
24 *city and county in the bay area region. Any of these at least 90*
25 *days prior to adopting the plans in order to allow those cities or*
26 *counties may to provide comments on these the plans to the*
27 *authority.*

28 (2) *Conduct a public hearing at least 60 days prior to adopting*
29 *the plans in each city where an operational ferry terminal existed*
30 *on January 1, 2008. For purposes of the public hearing required*
31 *by this paragraph, the board shall do both of following:*

32 (A) *Make copies of the plans available to the public on the*
33 *Internet at least 30 days prior to the public hearing.*

34 (B) *Provide written notification of the plans to all major*
35 *newspapers in the city where the hearing will occur at least 30*
36 *days prior to the public hearing.*

37 (f) *Prior to amending any of the plans adopted pursuant to this*
38 *section, the authority shall do both of the following:*

39 (1) *At least 90 days prior to adopting the amendments, provide*
40 *a copy of the amendments to each city and county affected by the*

1 *amendments in order to allow those cities and counties to provide*
2 *comments on the amendments to the authority.*

3 (2) *Conduct a public hearing at least 60 days prior to adopting*
4 *the amendments in each city affected by the amendments. For*
5 *purposes of the public hearing, the board shall do both of the*
6 *following:*

7 (A) *Make copies of the amendments available to the public on*
8 *the Internet at least 30 days prior to the public hearing.*

9 (B) *Provide written notification of the amendments to all major*
10 *newspapers in the city where the hearing will occur at least 30*
11 *days prior to the public hearing.*

12 (g) *For purposes of this section, “major newspaper” means a*
13 *newspaper with a circulation rate of at least 10,000.*

14 SEC. 7. *Section 66540.68 of the Government Code is amended*
15 *to read:*

16 66540.68. (a) *This article does not apply to any employees of*
17 *the authority in a bargaining unit that is represented by a labor*
18 *organization, except as to the protection of the rights of those*
19 *employees that were employees of the San Francisco Bay Area*
20 *Water Transit Authority as specifically provided in Section*
21 *66540.56.*

22 (b) *The adoption, terms, and conditions of the retirement systems*
23 *covering employees of the authority in a bargaining unit*
24 *represented by a labor organization shall be pursuant to a collective*
25 *bargaining agreement between that labor organization and the*
26 *authority. Any such retirement system adopted pursuant to a*
27 *collective bargaining agreement shall be on a sound actuarial basis.*
28 *The authority and the labor organization representing the*
29 *authority’s employees in a bargaining unit shall be equally*
30 *represented in the administration of that retirement system.*

31 (c) (1) *The authority shall assume and be bound by the terms*
32 *and conditions of employment set forth in any collective bargaining*
33 *agreement or employment contract between the San Francisco Bay*
34 *Area Water Transit Authority and any labor organization or*
35 *employee affected by the creation of that the authority, as well as*
36 *the duties, obligations, and liabilities arising from, or relating to,*
37 *labor obligations imposed by state or federal law upon the San*
38 *Francisco Bay Area Water Transit Authority.*

39 (2) *The authority shall assume and be bound by the terms and*
40 *conditions of employment set forth in any collective bargaining*

1 agreement or employment contract between any entity, whether
2 public or private, whose services the authority directly assumes,
3 and any labor organization or employee affected by the assumption
4 of those services.

5 SEC. 8. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.

14 SECTION 1. ~~Section 66540.4 of the Government Code is~~
15 ~~amended to read:~~

16 ~~66540.4. There is hereby established the San Francisco Bay~~
17 ~~Area Water Emergency Transportation Authority as a local~~
18 ~~governmental entity of regional government with jurisdiction~~
19 ~~extending throughout the bay area region.~~

20 SEC. 2. ~~Section 66540.5 of the Government Code is amended~~
21 ~~to read:~~

22 ~~66540.5. The authority shall have the authority to plan, manage,~~
23 ~~operate, and coordinate the emergency activities of all water~~
24 ~~transportation and related facilities within the bay area region,~~
25 ~~except those provided or owned by the Golden Gate Bridge,~~
26 ~~Highway and Transportation District. During a state of war~~
27 ~~emergency, a state of emergency, or a local emergency, as~~
28 ~~described in Section 8558, the authority, in cooperation with the~~
29 ~~State Office of Emergency Services, the United States Coast Guard,~~
30 ~~the Federal Emergency Management Agency, and the Metropolitan~~
31 ~~Transportation Commission, shall coordinate the emergency~~
32 ~~activities for all water transportation services in the bay area region~~
33 ~~and, for those purposes, shall be known as the Bay Area Maritime~~
34 ~~Emergency Transportation Coordinator.~~