

AMENDED IN ASSEMBLY AUGUST 9, 2010

AMENDED IN ASSEMBLY JUNE 16, 2010

SENATE BILL

No. 1371

Introduced by ~~Senators Lowenthal and~~ Senator Correa

February 19, 2010

~~An act to add Chapter 9.6 (commencing with Section 2425) to An act to add Chapter 20.1 (commencing with Section 2704.30) to Division 3 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1371, as amended, ~~Lowenthal Correa. Federal transportation economic stimulus funds: 2nd round. Transportation: bond funded projects: letter of no prejudice.~~

Existing law, the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, provides for the issuance of \$9.95 billion in general obligation bonds for high-speed rail and related purposes, including \$950 million to be allocated by the California Transportation Commission to eligible recipients for capital improvements to intercity and commuter rail lines and urban rail transit systems in connection with or otherwise related to the high-speed train system.

Existing law, with respect to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, a \$19.925 billion general obligation bond act for transportation and related purposes, authorizes a regional or local agency to apply for a letter of no prejudice that makes that agency eligible to expend funds under its control for a project or project component that has been designated to receive bond funding and to be subsequently reimbursed from bond funds for that expenditure when bond funds become available.

This bill would allow an eligible recipient for funding for capital improvements to intercity and commuter rail lines and urban rail transit systems in connection with or otherwise related to the high-speed train system under the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century to apply to the California Transportation Commission and the Department of Transportation for a letter of no prejudice relating to those projects. The bill would authorize the commission and the department to develop guidelines to implement these provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law generally provides for programming and allocation of state and federal transportation capital improvement program funds pursuant to the state transportation improvement program process administered by the California Transportation Commission. Under these provisions, 25% of available funds are available for interregional improvement projects nominated by the Department of Transportation, subject to a requirement that 60% of these funds be available for projects in nonurbanized areas on the interregional road system and for intercity rail projects. The remaining 75% of available funds are available for regional improvement projects nominated by regional agencies. All funds programmed through the state transportation improvement program process are subject to the north-south split, and the regional improvement funds are further subject to the county shares formula.~~

~~Existing law establishes special procedures and formulas for allocation and expenditure of federal transportation economic stimulus funds received by the state in 2009.~~

~~This bill would require the Department of Transportation to work with local transportation agencies to develop a list of potential projects that may be awarded within a 90-day period of the award to the state of 2nd round federal transportation economic stimulus funds. The bill would require the department to submit to the Legislative Analyst's Office and specified committees, or to post on its Internet Web site, a monthly status report with respect to expenditure of these funds. The bill would make related legislative findings and declarations.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Chapter 20.1 (commencing with Section 2704.30)
2 is added to Division 3 of the Streets and Highways Code, to read:

3
4 CHAPTER 20.1. IMPLEMENTATION OF THE SAFE, RELIABLE
5 HIGH-SPEED PASSENGER TRAIN BOND ACT FOR THE 21ST CENTURY

6
7 2704.30. (a) An eligible recipient for funds pursuant to Section
8 2704.095 may apply to the California Transportation Commission
9 and the Department of Transportation for a letter of no prejudice
10 for a project or a component of a project to be undertaken with
11 those funds. The commission may approve the letter of no prejudice
12 for one or more projects or project components that the commission
13 has programmed or otherwise approved for funding. The letter of
14 no prejudice shall reference the project or component thereof and
15 the amount of bond funding that is programmed or otherwise
16 approved for that project or project component. The commission
17 may approve a letter of no prejudice regardless of whether bond
18 funding has been previously appropriated for purposes of the
19 project or project component.

20 (b) Expenditures for the costs, up to the amount set forth in the
21 letter of no prejudice, of a project or project component for which
22 a letter of no prejudice has been issued shall be eligible for
23 reimbursement from the High-Speed Passenger Train Bond Fund
24 if all of the following apply:

25 (1) The project or project component for which the letter of no
26 prejudice was requested has commenced and expenditures have
27 been incurred by the eligible recipient.

28 (2) The expenditures made by the eligible recipient are eligible
29 for reimbursement in accordance with state and federal laws and
30 procedures, and are permitted expenditures under Section
31 2704.095. If expenditures made are determined to be ineligible,
32 then the state has no obligation to reimburse for those
33 expenditures.

34 (3) The eligible recipient complies with all legal requirements
35 for the project, including the requirements of the California
36 Environmental Quality Act (Division 13 (commencing with Section
37 21000) of the Public Resources Code).

1 (4) *The expenditures were incurred after the project or project*
2 *component was programmed or otherwise approved for funding*
3 *by the commission.*

4 (5) *There is in the High-Speed Passenger Train Bond Fund an*
5 *appropriated amount sufficient to make the reimbursement*
6 *payment. Nothing in this section requires the fund to be funded at*
7 *any particular time or in any particular amount.*

8 (c) *The commission, department, and eligible recipients may*
9 *enter into an agreement or agreements governing reimbursement*
10 *as described in this section.*

11 (d) *Both the commission and the department, in consultation*
12 *with eligible recipients, may develop guidelines to implement this*
13 *section. If the commission or the department develop guidelines,*
14 *they shall, to the extent practicable, use the guidelines developed*
15 *for letters of no prejudice under Section 8879.501 of the*
16 *Government Code.*

17 (e) *Nothing in this section modifies any requirement under*
18 *Chapter 20 (commencing with Section 2704).*

19 (f) *For the purposes of this section, “letter of no prejudice”*
20 *means an agreement between an eligible recipient and the*
21 *commission or the department that makes eligible for future*
22 *reimbursement from bond proceeds the expenditure of funds under*
23 *the control of the eligible recipient, subject to the availability of*
24 *bond funds, as provided in this section. The timing and final*
25 *amount of reimbursement are dependent on the terms of the*
26 *agreement and the availability of bond funds. The final amount of*
27 *reimbursement may be less than the amount stated in the letter of*
28 *no prejudice.*

29 *SEC. 2. This act is an urgency statute necessary for the*
30 *immediate preservation of the public peace, health, or safety within*
31 *the meaning of Article IV of the Constitution and shall go into*
32 *immediate effect. The facts constituting the necessity are:*

33 *In order to allow bond-funded transportation projects to proceed*
34 *as expeditiously as possible, and to benefit job retention in*
35 *California, it is necessary that this act take effect immediately.*

36 ~~SECTION 1. The Legislature finds and declares all of the~~
37 ~~following:~~

38 ~~(a) Congress is considering authorizing a second round of federal~~
39 ~~economic stimulus funding that has the potential to bring \$3.7~~
40 ~~billion to California for investment in transportation infrastructure.~~

1 ~~(b) To ensure that this stimulus package provides immediate~~
2 ~~economic relief by creating or saving jobs in the short term, the~~
3 ~~federal legislation is expected to include extremely short timelines~~
4 ~~for project delivery that will pose significant challenges to state~~
5 ~~and local agencies.~~

6 ~~(c) Despite a modest economic recovery, the statewide~~
7 ~~unemployment rate remains above 12 percent, with some counties~~
8 ~~experiencing a jobless rate above 20 percent.~~

9 ~~(d) The state must stand ready to use all stimulus funds available~~
10 ~~to it within the timelines provided by the second federal economic~~
11 ~~stimulus act.~~

12 ~~(e) To this end, it is the intent of the Legislature to enact~~
13 ~~legislation that does all of the following:~~

14 ~~(1) Expedites the process by which state and local transportation~~
15 ~~agencies obligate and award federal funds, easing regulatory and~~
16 ~~statutory hurdles where appropriate and in a manner that is~~
17 ~~consistent with the mobility and environmental goals of the state.~~

18 ~~(2) Establishes an allocation formula that provides flexibility~~
19 ~~in the use of funds and ensures geographic equity such that all~~
20 ~~areas of the state benefit from the second federal economic stimulus~~
21 ~~act.~~

22 ~~(3) Articulates priorities for project selection that will assist~~
23 ~~state and local agencies in reducing their backlogs of maintenance~~
24 ~~and rehabilitation projects and enable Proposition 1B (2006)~~
25 ~~projects, that may otherwise be delayed due to the fiscal~~
26 ~~environment of the state, to move forward.~~

27 ~~SEC. 2. Chapter 9.6 (commencing with Section 2425) is added~~
28 ~~to Division 3 of the Streets and Highways Code, to read:~~

29
30 ~~CHAPTER 9.6. SECOND ROUND FEDERAL TRANSPORTATION~~
31 ~~ECONOMIC STIMULUS FUNDS~~

32
33 ~~2425. This chapter shall be known and may be cited as the~~
34 ~~Transportation Economic Stimulus Act of 2010.~~

35 ~~2426. (a) The department shall work with local transportation~~
36 ~~agencies to develop a list of potential projects that may be awarded~~
37 ~~within a 90-day period after the award of the second round of~~
38 ~~federal transportation economic stimulus funds to the state. In~~
39 ~~doing so, the department shall assess whether the project is~~
40 ~~included in the federal transportation improvement program, has~~

1 ~~completed applicable state and federal environmental review~~
2 ~~processes, and would have sufficient funding from other sources~~
3 ~~to complete the project if stimulus funds were provided.~~

4 ~~(b) The department shall submit, on a monthly basis, a status~~
5 ~~report on the implementation of the federal stimulus act to the~~
6 ~~Legislative Analyst's Office and the appropriate policy and fiscal~~
7 ~~committees of the Legislature. This report shall identify each~~
8 ~~project funded by the federal stimulus act and indicate whether a~~
9 ~~project has been certified, obligated, and awarded, and has had~~
10 ~~funds disbursed for it. The report shall also indicate the percentage~~
11 ~~of funds provided to state and local agencies in accordance with~~
12 ~~the allocation formula established by this chapter that has met each~~
13 ~~of these milestones. In lieu of submitting the monthly report to the~~
14 ~~Legislative Analyst's Office and the committees, the department~~
15 ~~may elect to post the information, or a link to the information, on~~
16 ~~its Internet Web site on a monthly basis.~~

17 ~~SEC. 3.— This act is an urgency statute necessary for the~~
18 ~~immediate preservation of the public peace, health, or safety within~~
19 ~~the meaning of Article IV of the Constitution and shall go into~~
20 ~~immediate effect. The facts constituting the necessity are:~~

21 ~~In order to maximize the opportunity for California to receive~~
22 ~~and expend federal transportation economic stimulus funds, it is~~
23 ~~necessary for this act to take effect immediately.~~