

Senate Bill No. 1371

CHAPTER 292

An act to add Chapter 20.5 (commencing with Section 2704.75) to Division 3 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 2010. Filed with
Secretary of State September 24, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1371, Correa. 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 for a letter of no prejudice relating to those projects. The bill would authorize the commission to develop guidelines to implement these provisions.

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

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

SECTION 1. Chapter 20.5 (commencing with Section 2704.75) is added to Division 3 of the Streets and Highways Code, to read:

CHAPTER 20.5. IMPLEMENTATION OF THE SAFE, RELIABLE HIGH-SPEED PASSENGER TRAIN BOND ACT FOR THE 21ST CENTURY

2704.75. (a) An eligible recipient for funds pursuant to Section 2704.095 may apply to the California Transportation Commission for a letter of no prejudice for a project or a component of a project to be undertaken with those funds. The commission may approve the letter of no prejudice for one or more projects or project components that the commission has programmed or otherwise approved for funding. The letter of no prejudice shall reference the project or component thereof and the amount of bond funding that is programmed or otherwise approved for that project or project component. The commission may approve a letter of no prejudice regardless of whether bond funding has been previously appropriated for purposes of the project or project component.

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

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

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

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

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

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

(c) The commission and an eligible recipient may enter into an agreement or agreements governing reimbursement as described in this section.

(d) The commission, in consultation with eligible recipients, may develop guidelines to implement this section. If the commission develops guidelines, the commission shall, to the extent practicable, use the guidelines developed for letters of no prejudice under Section 8879.501 of the Government Code.

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

(f) For the purposes of this section, “letter of no prejudice” means an agreement between an eligible recipient and the commission that makes eligible for future reimbursement from bond proceeds the expenditure of

funds under the control of the eligible recipient, subject to the availability of bond funds, as provided in this section. The timing and final amount of reimbursement are dependent on the terms of the agreement and the availability of bond funds. The final amount of reimbursement may be less than the amount stated in the letter of no prejudice.

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

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