

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1779

Introduced by Assembly Member Galgiani

February 21, 2012

~~An act to amend Section 8920 of the Government Code, relating to the code of ethics.~~ *An act to amend Sections 14031.8 and 14070.2 of, and to repeal and add Article 5.4 (commencing with Section 14074) of Chapter 1 of Part 5 of Division 3 of Title 2 of, the Government Code, relating to transportation.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1779, as amended, Galgiani. ~~Code of ethics.~~ *Intercity rail agreements.*

Existing law authorizes the Department of Transportation to contract with Amtrak for intercity rail passenger services and provides funding for these services from the Public Transportation Account. Existing law, until December 31, 1996, authorized the department, subject to approval of the Secretary of Business, Transportation and Housing, to enter into an interagency transfer agreement under which a joint powers board assumes responsibility for administering the state-funded intercity rail service in a particular corridor. Existing law, with respect to a transferred corridor, requires the board to demonstrate the ability to meet performance standards established by the secretary.

This bill would authorize the department, with the approval of the secretary, to enter into an additional interagency transfer agreement with respect to the San Joaquin Corridor, as defined, if a joint powers authority and governing board is created and organized. In that regard, the bill would provide for the creation of the San Joaquin Corridor

Joint Powers Authority, to be governed by a board of not more than 11 members. The bill would provide that the board shall be organized when at least 6 of the 11 agencies elect to appoint members. The bill would provide for the authority to be created when the member-agencies enter into a joint powers agreement, as specified. Only those agencies that appoint members by December 31, 2013, would be member-agencies of the authority.

Existing law provides for the allocation of state funds by the secretary to a joint powers board under an interagency transfer agreement based on the annual business plan for the intercity rail corridor and subsequent appropriation of state funds.

This bill, with respect to the San Joaquin Corridor, would provide that specified resources for transit purposes shall not be available to offset any redirection, elimination, reduction, or reclassification of state resources for operating intercity rail services.

This bill would authorize the secretary to adopt new performance standards by December 31, 2014, for intercity rail services.

~~Existing law prohibits a Member of the Legislature, state elective or appointive officer, or judge or justice, while serving as such, from having any interest, engaging in any business or transaction or professional activity, or incurring any obligation which is in substantial conflict with the proper discharge of that person's duties in the public interest. Existing law also prohibits a Member of the Legislature from performing specified acts, including, among others, accepting specified employment and disclosing confidential information acquired in the course of and by reason of the Member's official duties.~~

~~This bill would make technical, nonsubstantive changes to these provisions:~~

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

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

- 1 SECTION 1. *This act shall be known and may be cited as the*
- 2 *Intercity Passenger Rail Act of 2012 for the San Joaquin Corridor.*
- 3 SEC. 2. (a) *The Legislature finds and declares all of the*
- 4 *following:*
- 5 (1) *An intercity rail passenger system, linking major urban*
- 6 *centers and complemented by feeder bus services that provide*
- 7 *access to outlying areas and destinations, is an important element*

1 *of the state's transportation system, and shall remain a state-funded*
2 *program.*

3 *(2) The state has a continuing interest in the provision of*
4 *cost-effective intercity rail passenger services and has a*
5 *responsibility to coordinate intercity rail passenger services*
6 *statewide.*

7 *(3) Since 1976, the state has invested over one billion eight*
8 *hundred million dollars (\$1,800,000,000) in capital improvements*
9 *and operating support for intercity rail passenger service and must*
10 *ensure the protection of that investment.*

11 *(b) The Legislature, through the enactment of this act, intends*
12 *all of the following:*

13 *(1) The Secretary of Business, Transportation and Housing*
14 *shall be responsible for the overall planning, coordination, and*
15 *budgeting of the intercity passenger rail service.*

16 *(2) If the secretary determines that transferring responsibility*
17 *for intercity rail service in a particular corridor or corridors to a*
18 *statutorily created joint powers agency would result in*
19 *administrative or operating cost reductions, the secretary may*
20 *authorize the Department of Transportation to enter into an*
21 *interagency transfer agreement to effect a transfer of those*
22 *administrative functions.*

23 *(3) Any intercity rail corridor for which administrative*
24 *responsibility has been transferred to a joint powers board through*
25 *an interagency transfer agreement shall remain as a component*
26 *of the statewide system of intercity rail corridors.*

27 *(4) The public interest requires expansion of the state intercity*
28 *rail program in order to keep pace with the needs of an expanding*
29 *population.*

30 *(5) For not less than a five-year period, the level of state funding*
31 *for intercity rail service in each corridor should be maintained at*
32 *a level equal to at least the current level of service in the corridor,*
33 *thus providing fiscal stability that will allow appropriate planning*
34 *and operation of these services.*

35 *SEC. 3. Section 14031.8 of the Government Code is amended*
36 *to read:*

37 *14031.8. (a) The Secretary of Business, Transportation and*
38 *Housing shall establish, through an annual budget process, the*
39 *level of state funding available for the operation of intercity*
40 *passenger rail service in each corridor.*

1 (b) Where applicable, operating funds shall be allocated by the
2 secretary to the joint powers board in accordance with an
3 interagency *transfer* agreement—~~which~~ *that* includes mutually
4 agreed-upon rail services. Funds for the administration and
5 marketing of services, as appropriate, shall also be transferred by
6 the secretary to the joint powers board, subject to the terms of the
7 interagency *transfer* agreement.

8 (c) The joint powers board or local or regional entities may, *but*
9 *shall not be required to*, augment state-provided resources to
10 expand intercity passenger rail services, or to address funding
11 shortfalls in achieving agreed-upon performance standards.
12 *However, notwithstanding Section 99233.4 or 99260.5 of, or*
13 *subdivision (b) of Section 99400 of, the Public Utilities Code, or*
14 *any other provision of law, the joint powers board or local or*
15 *regional agencies relative to the San Joaquin Corridor shall not*
16 *use existing sources of transit funding for this purpose, including,*
17 *but not limited to, funds made available under the*
18 *Mills-Alquist-Deddeh Act, commonly known as the Transportation*
19 *Development Act (Chapter 4 (commencing with Section 99200) of*
20 *Part 11 of Division 10, of the Public Utilities Code), or under the*
21 *State Transportation Assistance Program pursuant to Sections*
22 *99313 and 99314 of the Public Utilities Code. The joint powers*
23 *board or local or regional agencies with regard to the San Joaquin*
24 *Corridor may identify and secure new supplemental sources of*
25 *funding for the purpose of expanding or maintaining intercity rail*
26 *passenger service levels, which may include state and federal*
27 *intercity rail resources.*

28 (d) The department may provide any support services as may
29 be mutually agreed upon by the *joint powers* board and the
30 department.

31 (e) Operating costs shall be controlled by dealing with, at a
32 minimum, the current Amtrak cost allocation formula, *which,*
33 *beginning in federal fiscal year 2013–14, will be subject to Section*
34 *209 of the federal Passenger Rail Investment and Improvement*
35 *Act, and the ability to contract out to Amtrak or other rail operators*
36 *as a part of federal legislation dealing with Amtrak reauthorization.*

37 (f) Not later than December 31, 1997, the secretary shall
38 establish a set of uniform performance standards for all corridors
39 and operators to control cost and improve efficiency. *To the extent*
40 *necessary, as determined by the secretary, performance standards*

1 *may be modified not later than December 31, 2014, relative to*
2 *including the San Joaquin Corridor among the corridors subject*
3 *to an interagency transfer agreement.*

4 *(g) Notwithstanding any other provision of this section, with*
5 *regard to the San Joaquin Corridor, local resources described in*
6 *subdivision (c) shall not be available for expenditure to offset any*
7 *redirection, elimination, reduction, or reclassification of state*
8 *resources for operating intercity rail services.*

9 *SEC. 4. Section 14070.2 of the Government Code is amended*
10 *to read:*

11 14070.2. (a) If authorized by the secretary, the department
12 may, through an interagency *transfer* agreement, transfer to a joint
13 powers board, and the board may assume, all responsibility for
14 administering *intercity* passenger rail service in the corridor. Upon
15 the date specified in the agreement, the board shall succeed to the
16 department's powers and duties relative to that service, except that
17 the department shall retain responsibility for developing budget
18 requests for the service through the state budget process, which
19 shall be developed in consultation with the board, and for
20 coordinating service in the corridor with other *intercity* passenger
21 rail services in the state.

22 (b) ~~The~~(1) *Except as otherwise provided in paragraph (2), the*
23 *interagency transfer agreement shall be executed on or before*
24 *December 31, 1996.*

25 (2) *With respect to the San Joaquin Corridor, the interagency*
26 *transfer agreement shall be executed on or before December 31,*
27 *2013.*

28 (c) The secretary shall require the board to demonstrate the
29 ability to meet the performance standards established by the
30 secretary pursuant to subdivision (f) of Section 14031.8.

31 *SEC. 5. Article 5.4 (commencing with Section 14074) of*
32 *Chapter 1 of Part 5 of Division 3 of Title 2 of the Government*
33 *Code is repealed.*

34 *SEC. 6. Article 5.4 (commencing with Section 14074) is added*
35 *to Chapter 1 of Part 5 of Division 3 of Title 2 of the Government*
36 *Code, to read:*

Article 5.4. San Joaquin Corridor

1
2
3 14074. As used in this article, the following terms have the
4 following meanings:
5 (a) “Authority” or “San Joaquin Joint Powers Authority” means
6 a joint exercise of powers agency formed under Chapter 5
7 (commencing with Section 6500) of Division 7 of Title 1 for
8 purposes of assuming administrative responsibility for the San
9 Joaquin corridor under an interagency transfer agreement
10 pursuant to Article 5 (commencing with Section 14070).
11 (b) “Board” means the governing board of the San Joaquin
12 Joint Powers Authority established under Section 14074.2.
13 (c) “San Joaquin Corridor” or “corridor” means the Los
14 Angeles-Bakersfield-Fresno-Stockton-Sacramento-Oakland
15 intercity passenger rail corridor.
16 14074.2. (a) There is hereby created the San Joaquin Joint
17 Powers Board, subject to being organized pursuant to subdivision
18 (b). The board shall be composed of not more than 11 members,
19 as follows:
20 (1) One member of the board of directors of the Sacramento
21 Regional Transit District, appointed by that board.
22 (2) One member of the board of directors of the San Joaquin
23 Regional Rail Commission, appointed by that board.
24 (3) One member of the board of directors of the Stanislaus
25 Council of Governments, appointed by that board.
26 (4) One member of the board of directors of the Merced County
27 Association of Governments, appointed by that board.
28 (5) One member of the board of directors of the Madera County
29 Transportation Commission, appointed by that board.
30 (6) One member of the board of directors of the Fresno Council
31 of Governments, appointed by that board.
32 (7) One member of the board of directors of the Kings County
33 Association of Governments, appointed by that board.
34 (8) One member of the board of directors of the Tulare County
35 Association of Governments, appointed by that board.
36 (9) One member of the board of directors of the Kern Council
37 of Governments, appointed by that board.
38 (10) One member of the board of directors of a regional
39 transportation agency or rail transit operator that serves Contra

1 *Costa County, appointed by _____, who shall be a resident of the*
2 *county.*

3 *(11) One member of a regional transportation agency or rail*
4 *transit operator that serves Alameda County, appointed by _____,*
5 *who shall be a resident of the county.*

6 *(b) The board shall be organized when at least six of the*
7 *agencies described in paragraphs (1) to (11), inclusive, of*
8 *subdivision (a) elect to appoint a member to serve on the board.*
9 *Only those agencies that appoint members to serve on the board*
10 *prior to December 31, 2013, shall be member-agencies of the*
11 *authority and be represented on the board.*

12 *14074.4. This authority shall be created only if the agencies*
13 *that would be represented on the board enter into a joint exercise*
14 *of powers agreement to form the agency.*

15 *14074.6. The board shall make its decisions in accordance*
16 *with the votes of its members, with a majority vote required for*
17 *all matters with the exception of the approval of the business plan*
18 *and revisions to that plan, which shall require a two-thirds vote*
19 *of the members.*

20 *14074.8. The Steering Committee of the Caltrans Rail Task*
21 *Force shall remain in existence. If a joint powers authority is*
22 *formed pursuant to this article and an interagency transfer*
23 *agreement is executed pursuant to subdivision (b) of Section*
24 *14070.2, the Steering Committee of the Caltrans Rail Task Force*
25 *shall become the Steering Committee of the San Joaquin Joint*
26 *Powers Agency for the purpose of advising the joint powers board.*

27 ~~SECTION 1. Section 8920 of the Government Code is amended~~
28 ~~to read:~~

29 ~~8920.—(a) A Member of the Legislature, state elective or~~
30 ~~appointive officer, or judge or justice shall not, while serving as~~
31 ~~such, have any interest, financial or otherwise, direct or indirect,~~
32 ~~or engage in any business or transaction or professional activity,~~
33 ~~or incur any obligation of any nature, which is in substantial~~
34 ~~conflict with the proper discharge of his or her duties in the public~~
35 ~~interest and of his or her responsibilities as prescribed in the laws~~
36 ~~of this state.~~

37 ~~(b) A Member of the Legislature shall not do any of the~~
38 ~~following:~~

39 ~~(1) Accept other employment which the Member has reason to~~
40 ~~believe will either impair his or her independence of judgment as~~

1 to his or her official duties or require him or her, or induce him or
2 her, to disclose confidential information acquired by the Member
3 in the course of and by reason of the Member's official duties.

4 ~~(2) Willfully and knowingly disclose, for pecuniary gain, to any~~
5 ~~other person, confidential information acquired by the Member in~~
6 ~~the course of and by reason of the Member's official duties or use~~
7 ~~any such information for the purpose of pecuniary gain.~~

8 ~~(3) Accept or agree to accept, or be in partnership with any~~
9 ~~person who accepts or agrees to accept, any employment, fee, or~~
10 ~~other thing of monetary value, or portion thereof, in consideration~~
11 ~~of the Member's appearing, agreeing to appear, or taking any other~~
12 ~~action on behalf of another person before any state board or agency.~~

13 ~~This subdivision shall not be construed to prohibit a Member~~
14 ~~who is an attorney at law from practicing in that capacity before~~
15 ~~any court or before the Workers' Compensation Appeals Board~~
16 ~~and receiving compensation therefor. This subdivision shall not~~
17 ~~act to prohibit a Member from acting as an advocate without~~
18 ~~compensation or making inquiry for information on behalf of a~~
19 ~~constituent before a state board or agency, or from engaging in~~
20 ~~activities on behalf of another which require purely ministerial~~
21 ~~acts by the board or agency and which in no way require the board~~
22 ~~or agency to exercise any discretion, or from engaging in activities~~
23 ~~involving a board or agency which are strictly on his or her own~~
24 ~~behalf. The prohibition contained in this subdivision shall not~~
25 ~~apply to a partnership or firm of which the Member of the~~
26 ~~Legislature is a member if the Member of the Legislature does not~~
27 ~~share directly or indirectly in the fee, less any expenses attributable~~
28 ~~to that fee, resulting from the transaction. The prohibition contained~~
29 ~~in this subdivision as it read immediately prior to January 1, 1983,~~
30 ~~shall not apply in connection with any matter pending before any~~
31 ~~state board or agency on or before January 2, 1967, if the affected~~
32 ~~Member of the Legislature was an attorney of record or~~
33 ~~representative in the matter prior to January 2, 1967. The~~
34 ~~prohibition contained in this subdivision, as amended and operative~~
35 ~~on January 1, 1983, shall not apply to any activity of any Member~~
36 ~~in connection with a matter pending before any state board or~~
37 ~~agency on January 1, 1983, which was not prohibited by this~~
38 ~~section prior to that date, if the affected Member of the Legislature~~
39 ~~was an attorney of record or representative in the matter prior to~~
40 ~~January 1, 1983.~~

1 ~~(4) Receive or agree to receive, directly or indirectly, any~~
2 ~~compensation, reward, or gift from any source except the State of~~
3 ~~California for any service, advice, assistance, or other matter related~~
4 ~~to the legislative process, except fees for speeches or published~~
5 ~~works on legislative subjects and except, in connection therewith,~~
6 ~~reimbursement of expenses for actual expenditures for travel and~~
7 ~~reasonable subsistence for which no payment or reimbursement~~
8 ~~is made by the State of California.~~

9 ~~(5) Participate, by voting or any other action, on the floor of~~
10 ~~either house, in committee, or elsewhere, in the passage or defeat~~
11 ~~of legislation in which the Member has a personal interest, except~~
12 ~~as follows:~~

13 ~~(A) If, on the vote for final passage by the house of which he~~
14 ~~or she is a member, of the legislation in which the Member has a~~
15 ~~personal interest, he or she first files a statement (which shall be~~
16 ~~entered verbatim on the journal) stating in substance that the~~
17 ~~Member has a personal interest in the legislation to be voted on~~
18 ~~and, notwithstanding that interest, he or she is able to cast a fair~~
19 ~~and objective vote on that legislation, the Member may cast his or~~
20 ~~her vote without violating any provision of this article.~~

21 ~~(B) If the Member believes that, because of his or her personal~~
22 ~~interest, he or she should abstain from participating in the vote on~~
23 ~~the legislation, the Member shall so advise the presiding officer~~
24 ~~prior to the commencement of the vote and shall be excused from~~
25 ~~voting on the legislation without any entry on the journal of the~~
26 ~~fact of his or her personal interest. In the event a rule of the house~~
27 ~~requiring that each Member who is present vote aye or nay is~~
28 ~~invoked, the presiding officer shall order the Member excused~~
29 ~~from compliance and shall order entered on the journal a simple~~
30 ~~statement that the Member was excused from voting on the~~
31 ~~legislation pursuant to law.~~

32 ~~The provisions of this section do not apply to persons who are~~
33 ~~members of the state civil service as defined in Article VII of the~~
34 ~~California Constitution.~~

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