

Senate Bill No. 325

Passed the Senate August 22, 2011

Secretary of the Senate

Passed the Assembly August 18, 2011

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Title 12.5 (commencing with Section 93300) to the Government Code, relating to railroads.

LEGISLATIVE COUNSEL'S DIGEST

SB 325, Rubio. Central California Railroad Authority.

Existing law authorizes the creation of railroad authorities in various parts of the state.

This bill would enact the Central California Railroad Authority Act to create the Central California Railroad Authority as an alternative for ensuring short-line railroad service in the Counties of Kern, Kings, Tulare, Fresno, and Merced. The bill would require the authority to be governed by a board of directors who would be appointed by the council of governments or county association of governments within the Counties of Kern, Kings, Tulare, Fresno, and Merced, thereby imposing a state-mandated local program. The bill would authorize the Counties of Madera, Stanislaus, and San Joaquin to elect to join the authority. The bill would set forth the powers and duties of the authority, as specified. The bill would require the authority to conduct its first meeting not later than 120 days after abandonment or discontinuance of service on, or the bankruptcy or sale of, the short-line railroads in the member counties if the members have formed a joint exercise of powers agreement to implement and manage the authority. The bill would authorize the authority to acquire and operate railroads or select a franchisee to operate a rail transportation system, to prepare a plan for acquisition and operation of specified railroad lines, and establish criteria for the award of a franchise for the acquisition, financing, and operation of the railroad system. The bill would further authorize the authority to issue revenue bonds pursuant to the Revenue Bond Law of 1941. The bill would provide that the state is not liable for any contract, debt, or obligation of the authority. The bill would prohibit the authority from being a claimant for Transportation Development Act funds or from receiving funds from the Public Transportation Account. The bill would also state the intent of the Legislature in enacting the authority.

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.

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

SECTION 1. Title 12.5 (commencing with Section 93300) is added to the Government Code, to read:

TITLE 12.5. CENTRAL CALIFORNIA RAILROAD
AUTHORITY

CHAPTER 1. GENERAL PROVISIONS

93300. This title shall be known, and may be cited, as the Central California Railroad Authority Act.

93301. The Legislature finds and declares all of the following:

(a) It is the intent of the Legislature, in enacting this title, to provide an alternative for ensuring railroad service if the Surface Transportation Board authorizes the abandonment or discontinuance of service on, or in the event of bankruptcy or sale of, short-line railroads in the Counties of Kern, Kings, Tulare, Fresno, and Merced.

(b) It is the intent of the Legislature to provide a means to consider and, if justified, to pursue economic development opportunities and projects related to rail service along railroad lines in participating counties.

(c) It is the intent of the Legislature that enactment of this title not provide a justification for the Surface Transportation Board to grant a petition for abandonment or discontinuance of service on the affected short lines.

(d) It is the intent of the Legislature that the authority be expanded to include the Counties of Madera, Stanislaus, and San Joaquin if those counties request to be included at a future date.

93302. The Legislature finds and declares that maintaining a railroad service through central California will provide economic benefits and do all of the following:

(a) Ensure continuing short-line freight railroad service between Kern County and Merced County.

(b) Enable opportunities for the improvement of short-line rail service, including passenger service connecting to high-speed rail stations, extending from Kern County to the Port of Oakland.

(c) Reduce reliance on motor vehicles and encourage the use of rail service as an alternative transportation means.

(d) Reduce traffic congestion on and deterioration of state and federal highway systems and local roads in central California.

(e) Provide convenient and attractive short-line transportation service for shippers and receivers through central California.

93303. As used in this title, “authority” means the Central California Railroad Authority.

93304. The authority is a local agency for purposes of the Disaster Assistance Act (Chapter 7.5 (commencing with Section 8680) of Division 1 of Title 2).

CHAPTER 2. CREATION OF THE CENTRAL CALIFORNIA RAILROAD AUTHORITY

93307. (a) The Central California Railroad Authority is hereby created, having a service area comprised of the Counties of Kern, Kings, Tulare, Fresno, and Merced, to provide rail freight service within those counties.

(b) The Counties of Madera, Stanislaus, and San Joaquin may elect to join the authority and, if that election is made, the service area of the authority is expanded to include those counties.

93308. (a) The authority shall be governed by a board of directors, composed as follows:

(1) One member appointed by the Kern Council of Governments.

(2) One member appointed by the Kings County Association of Governments.

(3) One member appointed by the Tulare County Association of Governments.

(4) One member appointed by the Fresno Council of Governments.

(5) One member appointed by the Merced County Association of Governments.

(b) If the Counties of Madera, Stanislaus, or San Joaquin elect to join the authority, the regional transportation planning agencies

of the counties so joining shall each appoint one person to the board of directors.

(c) A board member appointed pursuant to subdivision (a) or (b) shall be both an elected official of a city or county that belongs to the regional transportation planning agency or council of governments appointing him or her and a board member of that planning agency or council of governments.

(d) All members of the board of directors shall serve for terms of two years and until their successors have qualified.

(e) Notwithstanding any other provision of law that precludes the simultaneous holding of incompatible offices, a local government officer may be appointed and may serve as a member of the authority's board of directors if the person also meets the other applicable qualifications of this title.

(f) (1) The board of directors may provide, by motion, ordinance, or resolution, that each of its members may receive compensation in an amount not to exceed one hundred dollars (\$100) for each day of service. A member of the board of directors shall not receive compensation for more than six days of service in a month.

(2) The board of directors, by ordinance adopted pursuant to the procedures and standards specified in Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the amount of compensation that may be received by members of the board of directors.

(3) The board of directors may provide, by motion, ordinance, or resolution, that its members may receive their actual and necessary traveling and incidental expenses incurred while on official business. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3.

(4) A member of the board of directors may waive any or all of the payments permitted by this section.

(5) For the purposes of this subdivision, a "day of service" means any of the following:

(A) A meeting conducted pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

(B) Representation of the authority at a public event, provided that the board of directors has previously approved the member's representation at a board of directors' meeting and that the member delivers a written report to the board of directors regarding the

member's representation at the next board of directors' meeting following the public event.

(C) Representation of the authority at a public meeting or a public hearing conducted by another public agency, provided that the board of directors has previously approved the member's representation at a board of directors' meeting and that the member delivers a written report to the board of directors regarding the member's representation at the next board of directors' meeting following the public meeting or public hearing.

(D) Representation of the authority at a meeting of a public benefit nonprofit corporation on whose board the authority has membership, provided that the board of directors has previously approved the member's representation at a board of directors' meeting and the member delivers a written report to the board of directors regarding the member's representation at the next board of directors' meeting following the corporation's meeting.

(E) Participation in a training program on a topic that is directly related to the authority, provided that the board of directors has previously approved the member's participation at a board of directors' meeting, and that the member delivers a written report to the board of directors regarding the member's participation at the next board of directors' meeting following the training program.

(g) A majority of the members of the authority constitutes a quorum for the transaction of business, and all official acts of the authority require the affirmative vote of a majority of the members of the authority.

(h) The acts of the authority shall be expressed by motion, resolution, or ordinance.

(i) All meetings of the authority shall be conducted pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

93309. (a) The authority shall do all of the following:

(1) Adopt an annual budget.

(2) Adopt an administrative code, by ordinance, which prescribes the powers and duties of the authority officers, the method of appointment of the authority employees, and methods, procedures, and systems of operation and management of the authority.

(3) Cause a postaudit of the financial transactions and records of the authority to be made at least annually by a certified public accountant.

(4) Do any and all things necessary to carry out the purposes of this title.

(b) Notice of the time and place of a public hearing on the adoption of the annual budget shall be published pursuant to Section 6061 not later than 15 days prior to the hearing.

(c) The proposed annual budget shall be available for public inspection at least 15 days prior to the hearing.

(d) The authority may sue and be sued, except as provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

(e) All claims for money or damages against the authority are governed by Division 3.6 (commencing with Section 810) of Title 1, except as provided therein, or by other statute or regulation expressly applicable thereto.

93310. The authority shall conduct its first meeting no later than 120 days after abandonment or discontinuance of service on any railroad line specified in Section 93301, provided the member regional transportation agencies or councils of governments have formed a joint exercise of powers agreement to implement and manage the authority.

93311. The regional transportation planning agencies or councils of governments for the Counties of Fresno, Merced, Kern, Kings, and Tulare, and any regional transportation planning agencies of other counties that may elect to join the authority, may operate freight rail service within the area of jurisdiction of the authority.

CHAPTER 3. POWERS AND DUTIES OF THE AUTHORITY

93312. The authority has all of the following powers:

(a) To acquire, own, operate, and lease real and personal property reasonably related to the operation and maintenance of railroads.

(b) To issue revenue bonds pursuant to Section 93316 for any purpose of the authority.

(c) To acquire property by purchase, lease, gift, or through exercise of the power of eminent domain, within its area of jurisdiction.

(d) To operate railroads, including those outside its boundaries in order to connect its lines with the lines of another railroad

corporation, provided the service begins within the authority's area of jurisdiction.

(e) To accept grants or loans from federal agencies.

(f) To select a franchisee, which may be a public or private entity, to acquire or operate a rail transportation system within the area of the authority's jurisdiction.

93313. The authority may acquire, own, lease, and operate railroad lines and equipment, including, but not limited to, real and personal property, tracks, rights-of-way, equipment, and facilities.

93314. The authority may prepare a plan for the acquisition and operation of any railroad line specified in Section 93301, at no expense to the state, to achieve the purposes set forth in Section 93302.

93315. After preparation of a plan pursuant to Section 93314, the authority may do any of the following:

(a) Conduct engineering and other studies related to the acquisition of any railroad line.

(b) Evaluate alternative plans from the private sector to acquire, finance, and operate a railroad system in a manner which achieves the purposes specified in Section 93302.

(c) Establish criteria for the award of a franchise.

(d) Select a franchisee to acquire, finance, and operate the railroad system.

(e) Accept grants, gifts, fees, or allocations from other entities, including private and public sources.

(f) Employ an executive officer, other staff, and consultants deemed appropriate for support of the activities of the authority.

93316. (a) The authority may issue bonds, payable from revenues of any facility or enterprise to be acquired or constructed by the authority, in the manner provided by the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5).

However, an election is not required in the case of revenue bonds authorized by the board of directors for railroad facilities, and any addition, extension, and improvement thereto, and all other facilities authorized to be acquired, constructed, or completed by the authority under this title.

(b) The authority is a local agency within the meaning of the Revenue Bond Law of 1941. The term "enterprise," as used in that

law, includes railroad facilities, and any addition, extension, and improvement thereto, and all other facilities authorized to be acquired, constructed, or completed by the authority under this title.

93317. The state is not liable for any contracts, debts, or other obligations of the authority.

93318. Agencies forming the joint powers agreement implementing the authority shall be liable for all debts and obligations of the authority.

93319. The authority may not utilize or be a claimant for Transportation Development Act funds and shall not be entitled to receive funds from the Public Transportation Account.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

Approved _____, 2011

Governor