

AMENDED IN ASSEMBLY AUGUST 31, 1995
AMENDED IN ASSEMBLY AUGUST 21, 1995
AMENDED IN ASSEMBLY JULY 18, 1995
AMENDED IN ASSEMBLY JUNE 30, 1995
AMENDED IN SENATE APRIL 17, 1995

SENATE BILL

No. 457

Introduced by Senator Kelley

February 16, 1995

An act to amend Sections 14031.8, 14031.9, and 14035 of the Government Code, and to amend Section 164.55 of the Streets and Highways Code, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 457, as amended, Kelley. Transportation: intercity and commuter rail services funding: California Transportation Commission.

(1) Under existing law, an intercity rail service receiving specified state funding is eligible to continue to receive those funds only if it maintains a ratio of fare revenues to avoidable costs of at least 55%. In order to receive state funding, a commuter rail service is required to maintain a ratio of fare revenues to avoidable costs of at least 40%. The California Transportation Commission, at the request of the Department of Transportation, may waive those requirements for up to 3 years.

This bill would prohibit an intercity or commuter rail service from receiving any state operating subsidy if it failed to achieve the prescribed fare revenue ratios by its 3rd year of operation plus any additional years, not to exceed 3 years, for which a waiver was granted. The bill would require any waiver granted by the commission to be annually reviewed and reconsidered by the commission, and would require the commission to conduct a public hearing on a request for a waiver.

The bill would require the department to transfer to the Southern California Regional Rail Authority, through an interagency agreement, all responsibility for administering a specified intercity rail service between the Cities of San Diego and Santa Barbara. The bill would require the agreement to contain specified provisions ~~and to be executed on or before July 1, 1996~~. The bill would also require the department and the authority to enter into an agreement, ~~to be effective April 1, 1996~~, to transfer from the department to the authority funds necessary to operate intercity rail services ~~in service~~ in southern California. The transfer of the funds would constitute an appropriation. The bill would prescribe a formula for the expenditure of those funds.

The bill would provide a process whereby the authority would submit to the commission, not later than September 1 of each year, a business plan relating to the intercity rail service, ~~the~~. *The* department and the commission would review the business plan and would make suggestions for improvement, ~~and the~~. *The* authority would submit the final plan ~~to the Governor and the Legislature on or before November 1 of each year~~. The bill would require the authority to submit the initial business plan pursuant to that process on ~~April 1, 1996~~ *the commencement date of the interagency agreement*.

(2) Existing law authorizes the department to enter into contracts with the National Railroad Passenger Corporation (Amtrak) to provide commuter and intercity passenger rail services.

This bill would authorize the department to also enter into those contracts with other rail operators.



(3) Existing law establishes a state transportation funding plan for the expenditure, during the 10-year period from July 1, 1990, to June 30, 2000, of new revenues resulting from the enactment of transportation revenue measures in 1989. That plan calls for the expenditure of \$3,000,000,000 for intercity rail, commuter rail, and urban rail transit, and specifies the eligible corridors within each category.

This bill would include the Los Angeles-San ~~Bernardino-Las Vegas, Nevada~~ *Bernardino-Barstow* rail corridor among the eligible intercity rail corridors.

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

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

1 SECTION 1. (a) The Legislature finds and declares
2 all of the following:

3 (1) Intercity and commuter rail services are vital
4 elements of the state transportation network.

5 (2) The state should give reasonable consideration to
6 funding passenger rail service in the allocation of
7 transportation resources.

8 (b) It is therefore the intent of the Legislature that the
9 allocation of transportation resources be determined on
10 the basis of efficiency, ~~performance, and geographical~~
11 ~~equity.~~ *and performance.*

12 SEC. 2. The Legislature further finds and declares all
13 of the following:

14 (a) The LOSSAN Intercity Rail Passenger Corridor
15 between the Cities of Santa Barbara, Los Angeles, and San
16 Diego is one of the most heavily traveled rail passenger
17 corridors in the United States.

18 (b) The LOSSAN corridor is a model of
19 intergovernmental cooperation, whereby federal, state,
20 and local funding have been put together in a cooperative
21 southern California-San Diego program to create a real
22 benefit to the traveling public.

23 (c) The Southern California Regional Rail Authority is
24 an existing joint powers authority formed pursuant to
25 Section 130255 of the Public Utilities Code made up of the



1 County Transportation Commissions of the Counties of
2 Los Angeles, Orange, Riverside, San Bernardino, and
3 Ventura, set up to operate the more than 350 mile
4 regional commuter rail network known as METROLINK.

5 (d) The Southern California Regional Rail Authority
6 controls most of the rail rights-of-way in southern
7 ~~California, dispatching all passenger and freight trains in~~
8 ~~the region, and is responsible for coordinating the~~
9 ~~marketing of rail passenger service.~~ *California and is the*
10 *most logical choice to provide dispatching service on the*
11 *publicly owned lines for all passenger and freight trains*
12 *in the region in order to achieve the most efficient rail*
13 *operations possible.*

14 (e) The North San Diego County Transit
15 Development Board has recently initiated commuter rail
16 service linking Southern California Regional Rail
17 Authority services from Los Angeles to North San Diego
18 County Transit Development Board services from San
19 Diego at the City of Oceanside.

20 (f) As a result of all of the above, the Southern
21 California Regional Rail Authority and the North San
22 Diego County Transit Development Board now operate
23 services throughout the whole of southern California and
24 are already equipped to plan and administer the southern
25 California intercity rail program in a more cost-effective,
26 locally oriented manner than would otherwise be the
27 case.

28 (g) *It is the intention of the Legislature that the*
29 *LOSSAN corridor's share of funding for intercity rail*
30 *services be maintained at the current level.*

31 SEC. 3. Section 14031.8 of the Government Code is
32 amended to read:

33 14031.8. (a) Any proposed new intercity service
34 funded under Section 14031.6 shall continue to be eligible
35 for those funds, commencing with its fourth year of
36 operation, only if it maintains a ratio of fare revenues to
37 avoidable costs of at least 55 percent by its third year of
38 operation.

39 (b) Any existing intercity service funded under
40 Section 14031.6 shall be eligible for those funds, if it



1 maintains a ratio of fare revenues to avoidable costs of at
2 least 55 percent during the previous year of operation.

3 (c) For any new or existing intercity service not
4 achieving the ratio of fare revenues to avoidable costs
5 required by subdivision (a) or (b), the commission may
6 grant a waiver for continuation of service, for not to
7 exceed a maximum of three years, if the department
8 makes a request for the a waiver at least six months prior
9 to the termination date and the commission conducts a
10 public hearing on the request. Any request for a waiver
11 shall be accompanied with an analysis of the service in
12 question defining a specific program designed to improve
13 the service's fare revenues to avoidable costs ratio. A
14 waiver granted pursuant to this subdivision shall be
15 annually reviewed and reconsidered by the commission.

16 (d) An intercity service shall be ineligible for any state
17 operating subsidy if it fails to achieve the fare revenue
18 ratio prescribed by subdivision (a) by its third year of
19 operation plus any additional years, not to exceed three
20 years, for which a waiver was granted pursuant to
21 subdivision (c).

22 SEC. 4. Section 14031.9 of the Government Code is
23 amended to read:

24 14031.9. (a) Any proposed new commuter service
25 funded under Section 14031.6 shall continue to be eligible
26 for those funds, commencing with its fourth year of
27 operation, only if it maintains a ratio of fare revenues to
28 avoidable costs of at least 40 percent by its third year of
29 operation.

30 (b) Any existing commuter service funded under
31 Section 14031.6 shall be eligible for those funds,
32 commencing with the 1984–85 fiscal year, only if it
33 maintains a ratio of fare revenues to operating costs of at
34 least 40 percent during the previous year of operation.

35 (c) For any new or existing commuter service not
36 achieving the ratio of fare revenues to avoidable costs or
37 operating costs required by subdivision (a) or (b), the
38 commission may grant a waiver for continuation of
39 service, for not to exceed three years, if the department
40 makes a request for such a waiver at least six months prior



1 to the termination date and the commission conducts a
2 public hearing on the request. Any request for a waiver
3 shall be accompanied with an analysis of the service in
4 question defining a specific program designed to improve
5 the service's fare revenues to avoidable costs or operating
6 costs ratio. A waiver granted pursuant to this subdivision
7 shall be annually reviewed and reconsidered by the
8 ~~department~~ *commission*.

9 (d) A commuter rail service shall be ineligible for any
10 state operating subsidy if it fails to achieve the fare
11 revenue ratio prescribed by subdivision (a) by its third
12 year of operation plus any additional years, not to exceed
13 three years, for which a waiver was granted pursuant to
14 subdivision (c).

15 SEC. 5. Section 14035 of the Government Code is
16 amended to read:

17 14035. (a) The department may enter into contracts
18 with the National Railroad Passenger Corporation under
19 Section 403(b) of the Rail Passenger Service Act of 1970
20 (45 U.S.C. Sec. 563(b)) and other rail operators to provide
21 commuter and intercity passenger rail services. The
22 contracts may include, but are not limited to, the
23 extension of intercity passenger rail services or the
24 upgrading of commuter rail services.

25 (b) The department may contract with railroad
26 corporations and other rail operators for the use of tracks
27 and other facilities and the provision of passenger services
28 on terms and conditions as the parties may agree.

29 (c) The department is the only public agency eligible
30 to receive funds pursuant to Section 1614 of Title 49 of the
31 United States Code.

32 (d) The department may construct, acquire, or lease,
33 and improve and operate, rail passenger terminals and
34 related facilities which provide intermodal passenger
35 services along the following corridors: the San Diego-Los
36 Angeles-Santa Barbara-San Luis Obispo corridor, the San
37 Francisco-San Jose-Monterey corridor, the Los
38 Angeles-Riverside-San Bernardino-Calexico corridor, the
39 San Jose-Oakland-Sacramento-Reno corridor, the Los
40 Angeles-Bakersfield-Fresno-Stockton-Sacramento-



1 Oakland corridor, and the Los Angeles-Santa
2 Barbara-Oakland-Sacramento-Redding corridor.

3 (e) The department may enter into a contract with
4 the National Railroad Passenger Corporation to provide
5 additional trains over the San Joaquin route running
6 between Bakersfield and Oakland and to extend the
7 existing route to Sacramento.

8 (f) Through an interagency agreement, the
9 department shall transfer to the Southern California
10 Regional Rail Authority, and the authority shall assume,
11 all responsibility for administering the intercity rail
12 services within the Los Angeles-San Diego, Santa
13 Barbara-Los Angeles, the Santa Barbara-City of San Luis
14 Obispo portion of the Santa Barbara-San Luis Obispo
15 County-San Jose corridor, and Los
16 Angeles-Fullerton-Riverside-Coachella Valley-Calexico
17 rail corridors. Upon the effective date of the agreement,
18 the authority shall succeed to the department's powers
19 and duties relative to that service, except that the
20 department shall continue to be responsible for
21 coordinating this intercity corridor with other intercity
22 services in the state. ~~The agreement shall ensure that the~~
23 ~~level of funding for the LOSSAN service is consistent with~~
24 ~~the funding levels of other intercity passenger rail~~
25 ~~services in the state and the annual appropriations~~
26 ~~process described in subdivision (i). The agreement shall~~
27 ~~describe auditing responsibilities and process~~
28 ~~requirements, equipment lease terms, contracting~~
29 ~~review process, and coordination of services with other~~
30 ~~corridors. The interagency agreement shall be entered~~
31 ~~into on or before April 1, 1996. If an interagency~~
32 ~~agreement is not entered into on or before April 1, 1996,~~
33 ~~the department shall continue to administer intercity rail~~
34 ~~operations for southern California and implementation of~~
35 ~~the interagency agreement shall commence October 1,~~
36 ~~1996, following the parties' signing of the agreement.~~

37 (g) *The interagency agreement shall describe the*
38 *relative responsibilities of the authority and the*
39 *department and provide guidance to the authority on the*
40 *preparation of annual business plans. The business plan*



1 *adopted by the authority shall be consistent with the*
2 *current interagency agreement. The agreement shall*
3 *describe auditing responsibilities and process*
4 *requirements, reimbursement and billing procedures,*
5 *the respective responsibilities of the department and*
6 *authority for funding shortfalls during the course of each*
7 *fiscal year; coordination of services with other corridors,*
8 *an operating contract oversight review process, a base*
9 *level of service for the corridor; performance standards*
10 *and reporting procedures, and other relevant monitoring*
11 *procedures. The agreement shall also describe the terms*
12 *for the use of equipment owned by the department*
13 *including, but not limited to, ownership, number of units*
14 *provided, liability coverage, maintenance*
15 *responsibilities, and indemnification issues. The annual*
16 *business plan shall report on the recent as well as*
17 *historical performance of the service, an overall*
18 *operating plan including proposed service*
19 *enhancements for the upcoming year; short-term and*
20 *long-term capital improvement programs, local and state*
21 *funding requirements for the upcoming fiscal year; and*
22 *an action plan with specific performance goals and*
23 *deadlines. The business plan shall clearly delineate how*
24 *the operations, funding, accounting, and administration*
25 *of the intercity rail passenger services shall be separate*
26 *from those associated with commuter services in the*
27 *corridors.*

28 *(h) The authority shall be responsible for negotiating*
29 *and administering a contract with the National Railroad*
30 *Passenger Corporation or with any other party that may*
31 *be authorized under federal law to operate the service.*
32 *The authority may either administer the contract itself or*
33 *select, on a competitive basis, a qualified operator to*
34 *administer the contract. The department is deemed to be*
35 *a third-party beneficiary of the contract, and the contract*
36 *shall not contain any provision or condition that would*
37 *negatively impact on or conflict with any other contracts*
38 *the department has regarding intercity rail services.*

39 ~~(h)~~



1 (i) The authority is deemed an agency of the state for
2 all purposes related to rail passenger services, including
3 Section 1614 of Title 49 of the United States Code.

4 (†)

5 (j) The authority shall be expanded, on or before
6 January 1, 1996, to include on its policy board
7 representation from all counties ~~involved in receiving~~
8 intercity rail services in southern California for intercity
9 rail issues including the approval of an annual business
10 plan. *The authority may include, but is not limited to, the*
11 *following agencies: the San Luis Obispo Council of*
12 *Governments, the Santa Barbara County Association of*
13 *Governments, the Ventura County Transportation*
14 *Commission, the Los Angeles County Metropolitan*
15 *Transportation Authority, the Orange County*
16 *Transportation Authority, the Riverside County*
17 *Transportation Commission, the San Bernardino*
18 *Associated Governments, the San Diego Association of*
19 *Governments, and the Imperial County Association of*
20 *Governments.*

21 (†)

22 (k) The state funding allocation shall be based on an
23 annual business plan prepared by the authority that
24 reports the results of the marketing, financial, patronage,
25 operating and capital programs of the previous year,
26 including progress on improving the total ridership, fare
27 box to operating cost ratio, and local financial support for
28 the services. ~~The business plan shall clearly delineate the~~
29 ~~intercity rail passenger services from the commuter rail~~
30 ~~services administered by the authority.~~ The business plan
31 shall also recommend goals for the coming year for
32 improved operating, financial passenger ridership
33 performance and the specific actions planned to meet
34 those goals for the coming year. The business plan shall be
35 submitted by the authority to the commission not later
36 than September 1 of each year. The commission and
37 department shall review the business plan and make
38 suggestions for improvement based on a consultative
39 process with the authority. The authority may then
40 consider adopting those changes, but shall submit a final



1 business plan to the ~~Governor and the Legislature~~
2 *commission* on or before November 1 of each year. The
3 ~~commission shall submit its final review of the business~~
4 ~~plan to the Governor and the Legislature on or before~~
5 ~~November 15 of each year.~~ The business plan shall then
6 form the basis for the ~~fund allocation to the authority~~
7 *appropriation* in the State Budget in 1997 and subsequent
8 years. The initial business plan shall be submitted
9 pursuant to this process on ~~April 1, 1996~~ *on the*
10 *commencement date of the interagency agreement*, and
11 shall form the basis for the 1996-97 appropriation
12 ~~allocated in Section 6 of the act that amended this section~~
13 ~~during the first year of 1995-96 Regular Session.~~ *If the*
14 *interagency agreement is not signed by April 1, 1996, the*
15 *initial business plan shall be submitted on October 1, 1996,*
16 *following the signing of the interagency agreement and*
17 *shall form the basis for the appropriations of the following*
18 *fiscal year.*

19 SEC. 6. Section 164.55 of the Streets and Highways
20 Code is amended to read:

21 164.55. (a) The department, in cooperation with
22 local transportation officials, shall develop guidelines to
23 implement the intercity rail program. The guidelines
24 shall define the criteria to identify and prioritize projects
25 which can be implemented not later than June 30, 2001,
26 and will provide an efficient system of intercity rail
27 services in the state.

28 (b) Allocations for intercity rail projects are not
29 required by this section to be matched by local entities.

30 (c) The commission shall give high priority and an
31 appropriate level of funding to the development and
32 enhancement of an efficient and effective intercity
33 passenger rail system in the state.

34 (d) "Intercity rail" has the same meaning as the term
35 "intercity rail passenger service" as defined in the Rail
36 Passenger Service Act (45 U.S.C. Sec. 502(11)).

37 (e) Intercity rail projects eligible for funding include
38 the following corridors:

- 39 (1) Los Angeles-San Diego.
40 (2) Santa Barbara-Los Angeles.



1 (3) Los Angeles-Fresno-San Francisco Bay area and
2 Sacramento.

3 (4) San Francisco Bay area-Sacramento-Auburn.

4 (5) San Francisco-Santa Rosa-Eureka.

5 (6) Santa Barbara-San Luis Obispo County-San Jose.

6 (7) Los Angeles-Fullerton-Riverside-Coachella
7 Valley-Calexico.

8 (8) Los Angeles-San Bernardino-Las Vegas, Nevada
9 *Bernardino-Barstow*.

10 (f) The department shall submit the guidelines to the
11 commission not later than July 1, 1990, and the
12 commission shall adopt the guidelines not later than
13 September 1, 1990.

14 (g) Any intercity rail corridor that was included
15 among the corridors enumerated in subdivision (e)
16 subsequent to the enactment of this section by Chapter
17 106 of the Statutes of 1989 is eligible to compete for
18 funding, and funds that had been programmed or
19 allocated prior to the inclusion of the additional eligible
20 corridors need not be programmed or reallocated.

21 SEC. 7. (a) The Department of Transportation and
22 the Southern California Regional Rail Authority shall
23 enter into an agreement, to be effective April 1, 1996, *or*
24 *on October 1 following the signing of the interagency*
25 *agreement* for the transfer from the department to the
26 authority of funds necessary to operate intercity rail
27 services within the jurisdiction of the authority. This shall
28 include funds made available to the department for
29 intercity rail service in southern California for the state
30 operating subsidy, ~~marketing costs~~, and a share of *the*
31 *marketing and* administrative costs resulting from the
32 substitution of responsibilities. All state funds transferred
33 pursuant to the agreement shall be available only for
34 intercity rail passenger service.

35 (b) Of the total amount transferred to the authority
36 pursuant to subdivision (a), the expenditure of 20 percent
37 of the amount shall be discretionary with the authority;
38 however, emphasis shall be on the implementation of
39 new services. Of the remaining 80 percent, proportionate
40 amounts shall be allocated to each southern California



1 corridor, based on the corridor's proportion of existing
2 total passenger miles. This formula may be modified by
3 the authority to the extent necessary to avoid reducing
4 the level of any existing services.

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