

AMENDED IN SENATE AUGUST 3, 2010

AMENDED IN SENATE JULY 15, 2010

AMENDED IN ASSEMBLY MAY 17, 2010

AMENDED IN ASSEMBLY APRIL 27, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2703

Introduced by Assembly Member John A. Pérez

February 19, 2010

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

AB 2703, as amended, John A. Pérez. 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 ~~regional or local agency to also apply to the California Transportation Commission for a letter of no prejudice relating to projects to be funded under the \$950 million allocated to eligible regional or local agencies~~ *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.

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 ~~that is a regional or local agency~~ may apply to the
9 California Transportation Commission *and the Department of*
10 *Transportation* for a letter of no prejudice for a project or a
11 component of a project to be undertaken with those funds. The
12 commission may approve the letter of no prejudice for one or more
13 projects or project components that the commission has
14 programmed or otherwise approved for funding. The letter of no
15 prejudice shall reference the project or component thereof and the
16 amount of bond funding that is programmed or otherwise approved

1 for that project or project component. The commission may
2 approve a letter of no prejudice regardless of whether bond funding
3 has been previously appropriated for purposes of the project or
4 project component.

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

10 (1) The project or project component for which the letter of no
11 prejudice was requested has commenced and ~~the regional or local~~
12 expenditures have been incurred *by the eligible recipient*.

13 (2) The expenditures made by the ~~regional or local agency~~
14 *eligible recipient* are eligible for reimbursement in accordance
15 with state and federal laws and procedures, and are permitted
16 expenditures under Section 2704.095. If expenditures made are
17 determined to be ineligible, then the state has no obligation to
18 reimburse for those expenditures.

19 (3) The ~~regional or local agency~~ *eligible recipient* complies with
20 all legal requirements for the project, including the requirements
21 of the California Environmental Quality Act (Division 13
22 (commencing with Section 21000) of the Public Resources Code).

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

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

30 (c) The California Transportation Commission ~~and the regional~~
31 ~~or local agency~~ *or the Department of Transportation and the*
32 *eligible recipient* may enter into an agreement or agreements
33 governing reimbursement as described in this section.

34 (d) ~~The~~ *Both the California Transportation Commission and*
35 *the Department of Transportation*, in consultation with ~~regional~~
36 ~~and local agencies~~ *eligible recipients*, may develop guidelines to
37 implement this section. If the commission ~~develops guidelines,~~ it
38 ~~or the department develop guidelines,~~ they shall, to the extent
39 practicable, use the guidelines developed for letters of no prejudice
40 under Section 8879.501 of the Government Code.

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

3 (f) For the purposes of this section, “letter of no prejudice”
4 means an agreement between a ~~regional or local agency~~ *an eligible*
5 *recipient* and the California Transportation Commission *or the*
6 *Department of Transportation* that makes eligible for future
7 reimbursement from bond proceeds the expenditure of funds under
8 the control of the ~~regional or local agency~~ *eligible recipient*, subject
9 to the availability of bond funds, as provided in this section. The
10 timing and final amount of reimbursement ~~is~~ *are* dependent on the
11 terms of the agreement and the availability of bond funds. The
12 final amount of reimbursement may be less than the amount stated
13 in the letter of no prejudice.

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

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