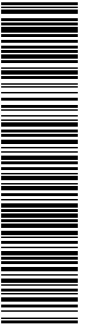


An act to add Section 143.2 to the Streets and Highways Code, relating to transportation.

SECURED
COPY



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares the following:

(a) It is important for the economic, social, and environmental well-being of the state that the people of the state have sufficient quality wildlife crossing improvements within the Interstate 15 transportation corridor.

(b) The ability of the Department of Transportation to provide sufficient quality wildlife crossing improvements within the Interstate 15 right-of-way will be enhanced by a program to allow an entity engaged in undertaking an intercity passenger rail construction project within the Interstate 15 right-of-way to undertake all or a portion of the study, planning, design, development, financing, acquisition, installation, construction, reconstruction, or improvement of wildlife crossing improvements and appurtenances thereto.

SEC. 2. Section 143.2 is added to the Streets and Highways Code, to read:

143.2. (a) For the purposes of this section, the following definitions apply:

(1) "Authorized agreement" means either of the following types of agreements:

(A) An agreement whereby the rail entity assists the department in defining a feasible project and negotiates fair and reasonable terms for implementing the project.

(B) An agreement whereby the rail entity assumes responsibility for designing, procuring, delivering, improving, or constructing an eligible facility in accordance with established specifications and payment terms.

(2) "Eligible facility" means any wildlife crossing and appurtenance thereto developed, operated, or held in accordance with this section.

(3) "Rail entity" means a person, entity, or organization that is not the federal government or any other public agency and that is undertaking an intercity passenger rail construction project within the Interstate 15 right-of-way.

(b) Notwithstanding any other law, and subject to the limitations of subdivision (c), the department may solicit proposals for, accept unsolicited proposals for, negotiate, or enter into, an authorized agreement with a rail entity undertaking an intercity passenger rail construction project within the Interstate 15 right-of-way for the purpose of developing and constructing an eligible facility for wildlife crossing concurrently with that entity's project.

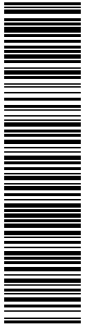
(c) (1) The department may enter into an authorized agreement pursuant to this section if the authorized agreement will provide quantifiable environmental benefits for the region and for wildlife and if the department deems the authorized agreement to be in the best interest of the state.

(2) The department shall exercise the authority under this section in consultation with the Department of Fish and Wildlife.

(3) In any authorized agreement entered into by the department to develop, design, and construct an eligible facility, the department may include any provision the department determines necessary or appropriate, including, but not limited to, the following:

(A) Provisions addressing how the department and rail entity will share development costs and allocate and manage project risks.

(B) Provisions allowing the department to grant or otherwise disburse state or federal funds to the rail entity for the costs to develop, design, and construct an eligible facility.



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(C) Provisions addressing the acquisition of rights-of-way and other property interests that may be required, including for the granting of necessary easements and for the issuance of permits or other authorizations.

(D) Provisions identifying any technical specifications concerning the eligible facility that must be satisfied by the rail entity.

(E) Provisions specifying events of default, remedies available to the rail entity and department, and dispute resolution procedures, including arbitration and other alternative dispute resolution procedures.

(F) Provisions regarding the maintenance and auditing of the rail entity's books and records.

(G) Provisions specifying that the rail entity will comply with all applicable legal requirements related to the use of state or federal funds.

(H) Provisions specifying that the rail entity will obtain errors and omissions insurance coverage for the design elements of the project.

(I) Provisions specifying that the rail entity will require payment and performance bonding, liability insurance, and errors and omissions insurance of its contractors and consultants.

(4) Any authorized agreement shall include indemnity, defense, and hold harmless provisions agreed to by the department and the rail entity, including provisions for indemnifying the State of California from any claims or losses resulting or accruing from the performance of the rail entity.

(5) Before executing an agreement authorized pursuant to this section, the department shall submit a draft of the agreement to the Department of Finance for review.

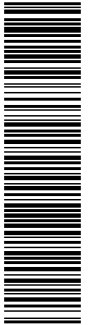
(d) The department may use any lawful source of funding or financing, either previously appropriated or upon appropriation, for the development or construction of an eligible facility under this section, including but not limited to, the following:

(1) The department may accept from the United States or any of its agencies any funds or credit assistance as are available to it for carrying out the purposes of this section, whether the funds are made available by grant, loan, or other financing arrangement.

(2) The department may accept from any source a grant, donation, gift, in-kind contribution, or other form of conveyance of land, money, other real or personal property, or other valuable thing made to the department for carrying out the purposes of this section.

(e) An authorized agreement described in subdivision (a) shall be entered into prior to January 1, 2025.

(f) Nothing in this section affects, expands, alters, or limits any other rights or remedies otherwise available at law.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.
General Subject: Department of Transportation: Route 15: intercity passenger rail projects.

Existing law vests the Department of Transportation with full possession and control of all state highways and authorizes the department to make and enter into any contracts in the manner provided by law that are required for the performance of its duties. Existing law, the State Contract Act, governs the bidding and award of public works contracts by specific state departments, including the Department of Transportation.

This bill would, notwithstanding any other law, authorize the department to solicit proposals for, accept unsolicited proposals for, negotiate, or enter into an agreement with a rail entity, as defined, that is undertaking an intercity passenger rail construction project within the right-of-way of Route 15, to develop and construct a wildlife crossing concurrently with the rail construction project, as specified. The bill would establish parameters for this authorization.

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

