

Date of Hearing: June 25, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

SB 1029 (McGuire) – As Amended June 20, 2018

SENATE VOTE: 36-0

SUBJECT: North Coast Railroad Authority: right-of-way: Great Redwood Trail Agency: Sonoma-Marín Area Rail Transit District

SUMMARY: Dissolves the North Coast Railroad Authority (NCRA) and transfers its responsibilities for its southern portion to the Sonoma-Marín Area Rail Transit District (SMART); also creates and transfers its responsibilities to the Great Redwood Trail Agency (GRTA) in order to construct and manage a trail network on the northern end of NCRA's right-of-way. Specifically, **this bill:**

- 1) Creates GRTA and establishes its governing Board of Directors as follows:
 - a) Two Governor's appointees, one from the Department of Transportation (Caltrans) and one from the Natural Resources Agency;
 - b) One Senate appointee and one Assembly appointee;
 - c) One Mendocino County appointee and one Humboldt County appointee;
 - d) One mayor or city council member from a community along the right of way appointed by the Redwood Empire Division of the League of California Cities.
- 2) Requires NCRA to transfer its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, to SMART for right-of-way south of Willits by April 1, 2019.
- 3) Requires NCRA to transfer its rights, privileges, and responsibilities, excluding any preexisting liability related to debt, litigation, or contractual obligations, to GRTA for right-of-way north of Willits by July 1, 2019.
- 4) Abolishes NCRA upon completion of the transfers.
- 5) Assigns GRTA the following responsibilities, to the extent funding is available:
 - a) Inventory every parcel, easement, or contract related to its right-of-way;
 - b) Complete an environmental assessment of the conditions of the right-of-way for purposes of trail development;
 - c) Complete the federal railbanking process where appropriate;
 - d) Plan, construct, operate, and maintain a trail in, or parallel to, the right-of-way;
 - e) Conduct a thorough community engagement process;

- f) Honor existing trail licenses and work to provide new agreements;
 - g) Utilize the California Conservation Corps and other conservation organizations;
 - h) Prepare a master plan for the trail, including any environmental analysis required pursuant to the California Environmental Quality Act; and,
 - i) Report to the Legislature annually beginning January 1, 2020.
- 6) Authorizes GRTA to exercise all rights and powers necessary to carry out its purpose, including, but not limited to:
- a) Entering into and performing all necessary contracts, suing or being sued;
 - b) Fixing and collecting fees for the use of any land owned or controlled, or for any service provided by the agency;
 - c) Making grants or acquiring interests in real property;
 - d) Leasing, renting, selling, exchanging, or transferring interests in real property;
 - e) Undertaking or finding projects and programs related to the trail;
 - f) Providing for the management of the right-of-way and the trail;
 - g) Applying for and accepting grants, donations, or other assistance from public or private sources; and,
 - h) Recruiting and coordinating volunteers and experts to assist with the trail.
- 7) Requires the California Transportation Commission (CTC) to conduct an assessment of NCRA's preexisting liabilities related to debt, litigation, or contractual obligations and report that information to the Legislature prior to July 1, 2019.

EXISTING LAW:

- 1) Establishes NCRA, which traverses the Counties of Humboldt, Mendocino, Sonoma, and Trinity, intended to provide passenger and freight rail service to the north coast area.
- 2) Establishes a governing Board of Directors and grants NCRA the authority to acquire real and personal property and operate passenger and freight rail services, as specified.
- 3) Provides NCRA financing authority to carry out the abovementioned duties.
- 4) Creates SMART, within the Counties of Marin and Sonoma, for potential freight and transit services and to operate and maintain a passenger rail system within its territory.
- 5) Establishes CTC and directs CTC to advise and assist the Secretary of Transportation and the Legislature in formulating and evaluating state policies and plans for transportation programs in the state.

FISCAL EFFECT: Unknown

COMMENTS: NCRA was formed in 1989 by the Legislature under the North Coast Railroad Authority Act. At that time, the Act was intended to ensure continuation of railroad service in Northwestern California and envisioned the railroad playing a significant role in the transportation infrastructure serving a part of the State that faced transportation challenges due to restricted access and limited transport options. The approximate 300 mile rail line is broken down into two sections: the southern Russian River Division (from Lombard in Napa County to Willits in Mendocino County) and the northern Eel River Division (north of Willits to Samoa in Humboldt County).

From 1991 through 2008, CTC provided NCRA with an estimated \$63 million through various grant programs for purchasing right-of-way, rolling stock, equipment, and making repairs to the existing rail line. Additionally, in 2006, NCRA entered into an agreement with the Northwestern Pacific Railroad Company (NWPCo) to operate service on the NCRA rail line. Currently, NWPCo is the exclusive contract freight operator for NCRA. NWPCo runs minimal and limited freight rail service, operating up to two trains a week with several cars on each run, from the Lombard Interchange into Windsor California, approximately 62 miles in distance.

Since its inception, NCRA has been unable to secure stable and/or ongoing funding and also has struggled to provide adequate service along the rail line. In June of 2017, NCRA testified at a CTC hearing informing commissioners that NCRA has never been financially self-sufficient, operates with an annual loss, is routinely unable to pay its obligations, and possesses outstanding debts due to legal fees from environmental lawsuits. NCRA further testified that it was having difficulty maintaining and expanding rail service and that it was in the process of selling excess property to pay its debt obligations. Overall, NCRA does not generate sufficient revenue from its operating contract with NWPCo to cover its expenditures. Additionally, since 2011, NCRA has annually held anywhere from an estimated \$7 million to \$10.6 million in debt obligations while simultaneously operating with significant cash flow constraints. CTC requested that NCRA develop a strategic plan and return to the Commission to explain how NCRA was going to continue.

In a follow-up presentation to CTC in January of this year, NCRA provided an overview of its strategic plan. NCRA proposed to accomplish several key objectives, including railbanking a 120-mile segment of right-of-way to raise necessary funding to retire debt, and working toward obtaining grant and private funding required to complete phased improvements and restore freight service. CTC indicated that the plan did not present sufficient information for the Legislature and other stakeholders to make informed decisions concerning the future of NCRA, noting specifically that plans for railbanking and establishing the freight belt line and tourist train around Humboldt Bay did not include information on cost, schedule, partnerships, and other necessary requirements. In summary, CTC concluded that NCRA could not be expected to continue as it is, and suggested a legislative solution was the only remedy to the problem.

According to the author, he introduced this bill “to proactively replace the nearly defunct NCRA, a state-created agency, with a solution that will benefit all of California and the North Coast for generations to come. With an annual deficit, crumbling and aging infrastructure, no potential income, and no way to repair the northern 240 miles of track, it is simply impossible for NCRA to complete its mission. In addition, NCRA recently lost its appeal regarding an environmental analysis and, if the decision stands, NCRA will be liable for up to \$2 million in plaintiff’s

attorney fees. This bill would render the case moot and be able to resolve the issues presented in the suit.”

Writing in opposition to the measure, the California Farm Bureau Federation raises a number of concerns, including the lack of funding details in the bill and the need for local engagement. One particular concern the Farm Bureau raises relates to the potential impacts this new trail could have on the private landholders adjacent to the trail. The Farm Bureau’s letter points out that these landowners will likely feel the brunt of the trail’s negative impacts, including noise, lack of privacy, littering, property damage, vandalism, trespassing, burglary, overnight camping, fire risk, and claims of liability.

Writing in response, the author acknowledges that it is understandable that landowners, farmers, and ranchers would have fears about a change in the use of the right-of-way, especially since there has been no rail use on these lands for over 20 years and they are used to having the line abandoned. The author notes that these are very valid and common concerns that come up whenever a “rails to trails” project occurs, and the national Rails to Trails Conservancy, who is work working with the author, has dealt with these issues hundreds of times all over the country and is experienced at working out solutions. According to the author, there will be an extensive community input process, long before any trail is ever built, and it will include input from landowners and farmers.

Train Riders Association of California write in opposition to the bill based on the likelihood that it would result in the tearing out of the tracks that could be resurrected for rail excursion service. According to the author, the good news is that the bill helps maintain the current short run of freight in the southern portion of the line where it currently exists, and the railbanking process he is anticipating for the rest of this project will keep the right of way available to trains for all time. If NCRA goes away without a proactive plan for the line, the adjacent property owners would have a very good case that the easement contracts have been violated and they could be cancelled. Sadly, freight rail has not been successful or financially viable on the northern portions of this right-of-way since the mid-1970s and it’s hard to imagine it happening any time in the future.

Committee Comments:

- 1) One of the largest unknowns related to this bill is the amount of financial liability associated with NCRA, and what the outcomes of that liability may be with or without this legislation. Related to the NCRA’s proposed strategic plan presented to CTC, questions arose regarding the following:
 - a) Federal and state approvals required, including the cost, schedule, and plan to obtain approvals;
 - b) Environmental remediation necessary, including the cost, barriers and timeline to remediate;
 - c) Easements or other subordinated property interests that create a barrier to constructing and operating a trail;

- d) Funding source(s) secured or to be secured for implementation and operation of any rail service;
- e) Responsibility for construction, maintenance and operation of the trail;
- f) Partnerships that must be formed or approvals required from federal, state, local and private stakeholders; and,
- g) Market analysis, projected costs/revenues, funds required to pay outstanding debts, likelihood of private funding, and identification of any state or federal subsidies that may be required to maintain and expand operations.

While NCRA seemed to have no answers to these pertinent questions, it appears this bill suffers from a similar lack of details. It is clear that something needs to be done with NCRA as it is flatly unsustainable and any delay in addressing the problem only exacerbates the potential costs associated with it. As the author continues to pursue this measure, he will need to resolve concerns related to these financial unknowns and what the state's role in the outstanding liabilities may become.

- 2) In addition to the financial uncertainties related to this bill, it is unclear how the administration of the new agency will be accomplished and with what funding. The author is attempting to resolve this concern by balancing the need for effective, experienced administrators with shielding any potential new entity from the debts and obligations of the existing agency. Before becoming law, the author will have to resolve this issue.

REGISTERED SUPPORT / OPPOSITION:

Support

Adventure Cycling Association
 California Bicycle Association
 California Transportation Commission
 CalTrout
 CalWild
 Coalition for Responsible Transportation Priorities
 Environmental Protection Information Center
 Friends of the Eel River
 Greenbelt Alliance
 Humboldt County Association of Governments
 Humboldt Baykeeper
 Humboldt Trails Council
 Marin County Board of Supervisors
 Mendocino Council of Governments
 Northcoast Environmental Center
 Pacific Forest Trust
 Rails to Trails Conservancy
 Redwood Community Action Agency
 Redwood Region Audubon Society
 Save the Redwoods League

Sierra Club
Sonoma County Board of Supervisors
Sonoma County Regional Parks
Sonoma-Marín Area Rail Transit District (SMART)
Wildlands Conservancy

Opposition

California Farm Bureau Federation
Train Riders Association of California

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