

**Revised – As Amended RN1817677**

## SENATE THIRD READING

SB 502 (Portantino)

As Amended June 20, 2018

Majority vote

SENATE VOTE: 40-0

<b>Committee</b>	<b>Votes</b>	<b>Ayes</b>	<b>Noes</b>
<b>Rules</b>	9-0	Cooley, Cunningham, Carrillo, Gallagher, Grayson, Mayes, Nazarian, Salas, Waldron	
<b>Transportation</b>	14-0	Frazier, Fong, Aguiar-Curry, Baker, Berman, Chu, Daly, Friedman, Gipson, Harper, Mathis, Medina, Nazarian, O'Donnell	
<b>Judiciary</b>	10-0	Mark Stone, Cunningham, Chau, Chiu, Holden, Kalra, Kiley, Maienschein, Reyes, Gonzalez Fletcher	
<b>Appropriations</b>	17-0	Gonzalez Fletcher, Bigelow, Bloom, Bonta, Brough, Calderon, Carrillo, Chau, Eggman, Fong, Friedman, Gallagher, Eduardo Garcia, Nazarian, Obernolte, Quirk, Reyes	

**SUMMARY:** Requires all operators of commuter rail systems, by July 1, 2020, to ensure that each train be equipped with an Automated External Defibrillator (AED) and authorizes the Southern California Regional Rail Authority (Metrolink) to utilize the construction manager/general contractor (CM/GC) procurement method.

- 1) Requires a public entity that operates, or contracts for the operation of, a commuter rail system to ensure that each train has an AED as part of its safety equipment.
- 2) Specifies that “commuter rail” does not include intercity passenger rail services, as defined, light rail or rapid transit services.
- 3) Requires commuter rail operators to comply by July 1, 2020, and requires operators to confirm, in writing, their compliance with AED requirement to the California State Transportation Agency (CalSTA).

- 4) Exempts the Peninsula Joint Powers Authority (Caltrain) from this requirement and instead requires Caltrain to ensure new trainsets acquired as part of its electrification project are equipped with AEDs.
- 5) Authorizes a commuter rail operator to provide training for their employees on the use of AEDs as part of regularly scheduled safety training sessions.
- 6) Exempts the commuter rail operator from civil liability for the use of an AED, if the current required maintenance schedule is followed.
- 7) Authorizes Metrolink to utilize the CM/GC procurement method for construction projects by including Metrolink in the definition of “regional transportation agency” and a Metrolink commuter rail project in the definition of “project.”

**FISCAL EFFECT:** According to the Assembly Appropriations Committee, significant, potentially reimbursable onetime mandated costs, likely in the hundreds of thousands of dollars, for the four commuter rail systems—Altamont Corridor Express, Coaster, Sonoma-Marín Area Rail Transit, and Metrolink—required to have AEDs. Some of these commuter rail systems already have AEDs on rail cars. Because this bill requires each train to have an AED, the state may have to reimburse the costs of AEDs. Assuming a cost of \$3,500 to purchase each AED, install the AED, and train staff, and assuming commuter rail agencies purchase roughly 200 AEDs for rail cars, the onetime costs will be \$700,000. In addition, the four commuter rail systems may have ongoing costs to maintain or replace AEDs, as necessary. Ongoing costs will be minor compared to the initial onetime costs.

**COMMENTS:** SB 502 does two things related to the state’s commuter rail systems. First, this bill requires all operators of commuter rail systems, by July 1, 2020, to ensure that each train be equipped with an AED. Second, this bill authorizes Metrolink to utilize the CM/GC procurement method for construction projects.

*Requiring AEDs on Commuter Trains:* In the summer of 2017, a passenger on a Metrolink commuter train in Southern California died after suffering a cardiac arrest while onboard. Many believe that if an AED device had been available for use, it may have helped save his life. Although, at the time, Metrolink noted that their conductors are trained in first aid and cardiopulmonary resuscitation (CPR), the trains do not contain AEDs.

An AED is a lightweight, battery-operated portable device that checks the heart rhythm and can deliver an electric shock through the chest to the heart to try to restore a normal heart rhythm. AEDs are used to treat Sudden Cardiac Arrest (SCA).

Currently, California requires AEDs be installed and available for use in health studios and certain new buildings. Current law also outlines the parameters for the proper upkeep of AEDs and required training and procedures, including for employees in K-12 private and public schools. Overall exemptions are provided from any civil liability for good samaritans and other trained personnel who render emergency care or treatment by the use of an AED at the scene of an emergency. There is no requirement for AEDs to be installed on the state’s public transportation system.

This bill would require the state's commuter rail operators to install AEDs on trains by July 1, 2020, and extends civil liberty exemptions for the operators. Commuter rail operators would have to certify, in writing, to CalSTA when they have complied with the requirement. Please see the policy committee analysis for full discussion of this portion of this bill.

*Authorizing Metrolink to Utilize CM/GC:* For decades, the traditional process for procuring contracts for the construction of public works projects has been the design-bid-build process. This process relies on the public entity (like Caltrans): 1) preparing, or causing to be prepared, a package of complete project design specifications and estimates; 2) putting the complete package out to bid for construction; and, 3) awarding the construction contract to the lowest responsible bidder. The design-bid-build process was developed to protect taxpayers from extravagance, corruption, and other improper practices by public officials as well as to secure a fair and reasonable price for public works construction by injecting competition amongst bidders into the process.

In 2015, AB 1171 (Linder), Chapter 752, Statutes of 2015, authorized all regional transportation agencies to utilize the CM/GC procurement method to design and construct projects under certain limited circumstances. CM/GC was, at the time, an emerging project delivery method that allowed public agencies to engage a design and construction management consultant (or construction manager) to act as its consultant during the pre-construction phase and also as the general contractor during construction. During the design phase, the construction manager acts in an advisory role, providing constructability reviews, value engineering suggestions, construction estimates, and other construction-related recommendations. Later, the public agency and the construction manager can agree that the project design has progressed to a sufficient enough point that construction may begin. The two parties then work out mutually agreeable terms and conditions for the construction contract, and, if all goes well, the construction manager becomes the general contractor and construction on the project commences, often before design is entirely complete.

The CM/GC process provides continuity and collaboration between the design and construction phases of the project. Construction managers have an incentive to provide input during the design phase that will enhance ease of construction later because they know that they will have the opportunity to become the general contractor for the project. Furthermore, CM/GC promises to save project delivery time, provide earlier cost certainty, and transfer risks from a public agency to the contractor. Additionally, CM/GC allows the public agency to design the project to compliment the CM/GC's strengths and capabilities, thereby avoiding the need to over-design the project to provide maximum competitiveness in a low-bid procurement.

This bill expands the definition of "regional transportation agency" in order to give Metrolink the authority to utilize CM/GC and take advantage of the benefits of this alternative construction procurement method.