

Date of Hearing: July 5, 2021

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

SB 69 (McGuire) – As Amended June 22, 2021

**SENATE VOTE:** 39-0

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

**SUMMARY:** Reorganizes the North Coast Rail Authority (NCRA) into the Great Redwood Trail Agency (GRTA), transfers its authority related to rail and freight to the Sonoma-Marín Area rail Transit District (SMART), and establishes GRTA's new mission of developing the Great Redwood Trail. Specifically, **this bill:**

- 1) Requires SMART to retain and maintain all common carrier rights and obligations received from NCRA or a successor agency.
- 2) Requires, on or before July 1, 2022, NCRA to transfer all of its rights, interests, privileges, and responsibilities relating to its right-of-way north of the dividing line, including any associated real property, rail easements, branch or spur lines, leases, contracts, licenses, and certificates or public convenience and necessity, common carrier obligations held by NCRA, or an associated freight operator, and railroad assets the authority owns, to its successor agency, the GRTA.
- 3) Specifies that, upon making the transfers to SMART and the GRTA described above, and a majority of the GRTA's board of directing being appointed, the NCRA's board of directors shall dissolve.
- 4) Creates the GRTA on or before July 1, 2022. Specifies that if a majority of the agency's board of directors are not appointed on or before July 1, 2022, the NCRA's board of directors shall oversee GTRA's operation until a majority of the agency's board of directors are appointed.
- 5) Establishes the goal of the GTRA as using the exiting right-of-way, or paths parallel to the right-of-way, to plan, design, construct, operate, and maintain the northern portion of the of the Great Redwood Trail in, or parallel to, the right of way.
- 6) Specifies that the agency shall assume, own, and manage all aspects of the rail operation from NCRA north of the dividing line, including but not limited to, the common carrier license, rail easements, licenses, and contracts.
- 7) Creates a Board of Directors for GTRA, as specified.

- 8) Requires GTRA to do the following, to the extent funding is available:
  - a) Initiate or complete, the federal Surface Transportation Board's railbanking process north of the dividing line,
  - b) Inventory any parcel, easement, or contract related to the right-of-way,
  - c) Plan, design, construct, operate, and maintain a trail in, or parallel to, the right-of-way and complete an environmental assessment of the conditions of the right-of way,
  - d) Engage with the community, as specified.
  - e) Honor exiting trail licenses and work with local and state governments and community groups to expeditiously provide new trail license agreements that meet the goal of this chapter,
  - f) Use the services of the California Conservation Corps and conservation organizations, wherever feasible,
  - g) Prepare a master plan for the northern portion of the Great Redwood Trail, and;
  - h) Before January 1, 2024, and annually thereafter, submit a report to the Legislature describing the agency's progress towards fulfilling the requirements and goal related to the right-of-way Regulate public access to each segment of the right-of-way until the construction of the trail segment is completed, as determined by the agency.
- 9) Authorizes GRTA to transfer its responsibilities to an appropriate state agency.
- 10) Subjects GRTA to the Brown Act and the California Public Records Act.
- 11) Expands the duty and powers of SMART to include freight.

**EXISTING LAW:**

- 1) Establishes the NCRA which encompasses the Counties of Humboldt, Mendocino, Sonoma, and Trinity, and if it elects to join, the County of Marin.
- 2) Finds and declares that it is in the public interest to dissolve the NCRA, and to transfer its rights-of-way to other entities for the purpose of potentially developing a trail that could include railbanking and continuing freight where it was operational on January 1, 2018.
- 3) Requires the California Transportation Agency (CalSTA), in conjunction with California Natural Resources Agency (CNRA), to conduct an assessment of NCRA to provide the information necessary to determine the most appropriate way to dissolve NCRA and dispense with its assets and liabilities, and report to the Legislature before July 1, 2020 with its findings and recommendations.

- 4) Creates SMART and establishes a comprehensive set of powers and duties regarding the formation, governance, organization, maintenance, operation and potential dissolution of the district. Authorizes SMART to provide passenger rail service in the counties of Sonoma and Marin and is governed by a 12-member board of directors.
- 5) Authorizes SMART to provide a rail transit systems and provision of freight service by rail.

**FISCAL EFFECT:** According to the Senate Appropriations Committee:

- Unknown, very major cost pressures, potentially as high as \$1 billion over a number of years based on project phasing and priorities, to plan, design, construct, operate, and maintain a 252-mile Great Redwood Trail system. Actual costs would depend upon the trail design option that is constructed, which would likely vary throughout the system (gravel, dirt, paved, or other). Staff notes funding the activities of the GRTA, including the development of the trail itself, is contingent upon the availability of funds unknown combination of General Fund, state bond funds, federal funds, local funds, private funds).
- Transfer of at least \$25 million in liabilities from NCRA to the GRTA, including negative assets of \$7.2 million, liabilities of \$7.4 million, and at least \$11 million in contingent liabilities. The amount of state funding (potentially General Fund, federal funds, local funds) necessary to cover these liabilities is unknown.
- Unknown major cost pressures to pay for environmental remediation costs throughout the right-of-way. Staff notes that the 2020 assessment of the corridor estimates environmental remediation, mitigation, and liability costs could be as high as \$4 billion, but that assumes that \$3.9 billion would be needed to remove and clean off-site the entirety of rail ballast (gravel in railbed), which appears highly unlikely. Apart from removal and cleaning of ballast materials, environmental remediation, such as wetland mitigation and removing hazardous waste materials, could exceed \$100 million. (General Fund, special funds, bond funds, federal funds, local funds)
- Unknown, significant administrative costs, at least in the high hundreds of thousands of dollars to provide adequate staffing for the GRTA. The bill provides that staffing could be provided by the California Coastal Conservancy (CCC) or another state agency. For illustrative purposes, the CCC currently provides staffing services for the San Francisco Bay Restoration Authority at a contract cost of approximately \$550,000 annually. Costs to provide staffing resources to the GRTA could be much higher, especially initially, in order to conduct an assessment of all properties in the corridor, as specified in the 2020 assessment. (General Fund, special funds, local funds)
- Unknown, potentially significant ongoing costs in future years to operate and maintain the trail, upon completion. These costs could be partially offset by revenues from fees charged to trail users and/or revenues from leases that GRTA may enter into for use of certain parcels in the corridor. (General Fund, special fund, local funds, private funds)

**COMMENTS:**

In the late 1800s, the Northwestern Pacific Railroad was built, spanning approximately 316 miles from the Ferry Building in San Francisco in the south to Humboldt County in the north. The line carried passengers and lumber between the two locations and was operated by a series of private owner-operators until the 1980s when the timber industry began to decline. Eureka Southern Railroad, a private company that owned the northern portion of the line, sought federal authority to abandon the rail line from the California Public Utilities Commission (CPUC), but was denied. They filed for bankruptcy in 1986.

In order to preserve the rail corridor, the California Legislature enacted the North Coast Railroad Authority Act, creating NCRA to provide passenger and freight railroad service in Humboldt, Trinity, Mendocino, Sonoma, and Marin Counties. The State began to purchase the line one segment at a time, starting in 1992. NCRA began operating freight service and a short lived passenger rail service on the northern portion of the line when disaster hit. Severe storm damage caused landslides and collapsed tunnels in 1998. To this day railcars remain in the Eel River from the storm. This damage compelled the Federal Railroad Administration to close the entire NCRA railroad from Arcata to Schellville for public safety reasons in 1998.

When the Legislature created NCRA, it did not designate it as a state or local agency and did not appropriate funding for its operations. NCRA covered its expenses from rail revenues; state grant funding; public and private loans; proceeds from lease agreements; and leasing or sale of assets.

NCRA has accumulated over \$7 million in liabilities over the years. In addition, contingent liabilities are estimated to total at least \$11 million, but many are unknown and could total additional millions of dollars.

In 2018, the Legislature passed SB 1029 (McGuire), Chapter 934. The act directed CalSTA, in consultation with the CNRA, to conduct an assessment of the NCRA to provide information necessary to determine the most appropriate way to dissolve NCRA and dispense with its assets and liabilities, as well as a preliminary assessment of the viability of constructing a trail on the entirety of, or a portion of, the property.

According to the author, “SB 1029 was signed into law in 2018 and set the stage to once-and-for-all resolve the longstanding issues surrounding the North Coast Railroad Authority. For nearly 30 years, this agency has floundered with their mission to achieve rail north of Windsor, and it had become clear that we needed to create a path for the closure of the Authority and a new mission for the 300-mile-long Right of Way. SB 1029 altered NCRA’s mission to be focused on the Great Redwood Trail required an audit and assessment of their significant debts and other liabilities, as well as their assets, possible successor agencies, and a shutdown plan. This audit and assessment have been completed by the Administration and transmitted to the Legislature, and most of NCRA’s debts have been accounted for, paid, or are funded. SB 69 takes the next steps needed to finally shut down the NCRA and create the successor agency.”

CalSTA's SB 1029 report lays out five scenarios for handling the northern portion of NCRA, while transferring the southern portion to SMART, as this bill lays out, and as of the writing of this analysis, has already occurred.

These scenarios include:

- Scenario 1: NCRA is dissolved, and its right-of-way is liquidated.
- Scenario 2: NCRA is dissolved, and its right-of-way is converted to a trail.
- Scenario 3: NCRA is not dissolved, and its mission is amended.
- Scenario 4: Do nothing.
- Scenario 5: A new railroad company buys out NCRA.

*Work is Already Underway:* Much of the work this bill lays out is already underway. In May of 2020, NCRA transferred its freight contract to SMART and extended NCRA owned right-of-way and scope of operations to SMART. On January 28 of 2021, CTC awarded SMART \$1.45 million to partially fund a \$2.9 million freight rail investment package.

In December of 2020, CTC approved railbanking NCRA rail corridor in the northern portion of its right-of-way. At CTC's most recent June 2021 meeting, CTC amended that action to extend the railbanking authority an additional three miles south.

The County of Marin, writing in support of this bill, argues "After 30 years of attempts to bring rail back to the North Coast, the Legislature approved SB 1029 (2018) that, once and for all time, changed the NCRA mission from freight rail to one focused on the establishment of the Great Redwood Trail. SB 69 is the natural conclusion to that process as it completes the shift of NCRA's assets to the Sonoma Marin Area Rail Transit and to the Great Redwood Trail Agency."

*Restructured as a Quasi State Agency [BF1] Without a Funding Source:* According to the SB 1029 report, "NCRA's creation left its staff with the challenge of rehabilitating an aged and decrepit railroad with no dedicated funding source. The result was an ineffective, quasi-governmental agency that limped along on a shoestring budget for nearly 30 years.

If NCRA is expected to shift gears and take on a new trail management mandate, it is vital that NCRA be restructured to avoid the management and oversight problems. A restructured NCRA should 1) clarify the type of entity it is (local, state, private, special district etc.); 2) identify a source of funding to satisfy all outstanding debt; 3) identify a reliable funding source to adequately cover ongoing staffing and maintenance needs; and 4) identify potential sources of capital project funding. Any public fund involvement should include an oversight agency, be auditable, and assist NCRA to lift its "High-Risk Grantee" designation from the California Department of Transportation (Caltrans)."

Unlike the NCRA Board, which consisted entirely of local members, the new Board of Directors for the GRTA will consist of state representatives. The Governor will appoint three board members, subject to Senate approval, from CNRA, Caltrans, and a member of the public knowledgeable about trails, parks, or rivers. In addition, Senate Rules Committee and the Speaker of the Assembly will each have an appointment. The composition of GTRA may make it clearer that GRTA is a state agency, transferring the liabilities of NCRA to the State of California.

This bill does not identify a source of funding to satisfy all outstanding debt, identify a reliable funding source to adequately cover ongoing staffing and maintenance needs, nor identify potential sources of capital project funding. Instead, it grants GRTA powers “to the extent funding is available.”

*Trail feasibility:* According to the SB 1029 report, “The potential trail corridor contains significant feasibility challenges in certain locations, particularly in remote segments within and close to the Eel River Canyon. Key constraints include segments with steep, unstable slopes that destabilize hundreds and occasionally thousands of feet of the corridor; existing right-of-way obstructions that in some locations fully block the corridor; former rail infrastructure (i.e., bridges, trestles, tunnels, and major culverts) that have been dilapidated or destroyed by years of deferred maintenance; and the significant cost of developing a public trail. Despite these constraints most of the 252-mile corridor is generally intact with good physical conditions for trail construction.”

In the meantime, if funding is available, the new GTRA will be tasked with completing the Federal Surface Transportation Board’s railbanking process, completing environmental assessments of the right-of-way for purposes of trail development’ plan, design, construct, operate, and maintain a trail in, or parallel to, the right-of-way; and prepare and implement a master plan for the northern portion of the Great Redwood Trail, including any environmental analysis.

The Train Riders Association of California, writing in opposition, argue “It is penny-wise and pound-foolish to tear out tracks in the North to save a few dollars, while the State is spending billions elsewhere to build new rails.”

*Previous Legislation:* SB 1029 (McGuire, Chapter 934, Statutes of 2018) required CalSTA to conduct an assessment of the NCRA in order to provide the findings necessary to determine the most appropriate way to dissolve NCRA and dispense with its assets and liabilities, as specified.

SB 356 (McGuire, 2019) would have authorized SMART to operate both passenger and freight rail service, as well as consider potential alternatives to help address the housing needs of existing and potential employees. The bill died on the Assembly Inactive File.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

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### **Opposition**

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