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Darrell E. Johnson
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August 28, 2018

The Honorable Anthony J. Portantino
California State Senate
State Capitol Building
Room 3086
Sacramento, California 95814-4900

Subject: SB 502 – SUPPORT

Dear Senator Portantino:

The Orange County Transportation Authority (OCTA) Board of Directors is pleased to inform you that the amendments adopted on August 27, 2018, allow us to remove our opposition to SB 502 and support the bill. These amendments clarify how the Construction Manager/General Contractor (CM/GC) project delivery method will be used on Metrolink commuter rail improvements, recognizing the existing practices of Metrolink and its member agencies in constructing those projects. The amendments specify that this unique project delivery tool will be available to the Metrolink joint powers authority, with the approval of the county transportation commission in which the project is being completed, or to the appropriate county transportation commission. These amendments ensure that the use of CM/GC authority leverages the expertise and local decision-making processes of county transportation commissions in the region, all of which have extensive histories successfully delivering projects in the Metrolink service area.

OCTA owns 42 miles of continuous rail right-of-way in Orange County, on which Metrolink operates. Under existing policy, OCTA is the primary construction lead on major capital improvements to the regional commuter rail system on its right-of-way. If not amended, the legislation would have adversely affected OCTA's prerogative to maintain local control over the delivery of improvements to the commuter rail system on its property. As amended, SB 502 maintains that structure, while also providing for the goal to expedite the delivery of Metrolink improvement projects that will that improve mobility and reduce congestion throughout Southern California.

A support position is consistent with OCTA's 2017-18 State Legislative Platform principle to "support efforts to expand, extend, and preserve new and existing alternative project delivery methods such as design-build, public-private partnership authority, and construction manager/general contractor authority,

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including expanding mode and funding eligibility, while allowing the appropriate balance of partnership between the state and local agencies.”

If you or your staff have any questions regarding OCTA's position on SB 502, please contact Kristin Essner, Manager of State and Federal Relations, at (714) 560-5754 or kessner@octa.net.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa Bartlett".

Lisa A. Bartlett
Chairwoman

LAB:djs

c: Darrell E. Johnson, Chief Executive Officer
Orange County Legislative Delegation
Platinum Advisors, LLC

AMENDED IN ASSEMBLY AUGUST 27, 2018
AMENDED IN ASSEMBLY AUGUST 23, 2018
AMENDED IN ASSEMBLY JUNE 20, 2018
AMENDED IN ASSEMBLY MAY 31, 2018
AMENDED IN ASSEMBLY SEPTEMBER 7, 2017
AMENDED IN SENATE MARCH 29, 2017

SENATE BILL

No. 502

Introduced by Senator Portantino

*(Coauthors: Assembly Members Cervantes, Frazier, Friedman, Gipson,
Harper, Medina, Quirk-Silva, and Santiago)*

February 16, 2017

An act to amend Section 6971 of the Public Contract Code, and to add Section 99175 to the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 502, as amended, Portantino. Commuter rail systems: availability of automated external defibrillators: Construction Manager/General Contractor Project delivery method: ~~Southern California Regional Rail Authority~~. *Metrolink commuter rail projects*.

(1) Existing law governing public contracting authorizes regional transportation agencies, as defined, to use the Construction Manager/General Contractor (CM/GC) project delivery method, as specified, to design and construct certain projects if there is an evaluation of the traditional design-bid-build method of construction and of the CM/GC method and the board of the regional transportation agency adopts the CM/GC method in a public meeting. Existing law defines

“project” for these purposes to mean the construction of an expressway that is not on the state highway system, the construction of specified bridges that are not on the state highway system, specified projects in the County of Riverside, and the construction, alteration, repair, rehabilitation, or improvement of the Golden Gate Bridge. Existing law defines the term “regional transportation agency” for these purposes to include specified entities and specified categories of entities. Existing law requires that specified information provided to a regional transportation agency under the CM/GC method be verified under oath.

This bill would include in the definition of “project” a Metrolink commuter rail ~~project under the jurisdiction of the Southern California Regional Rail Authority (SCRRA). The bill would include the SCRRA in the definition of “regional transportation agency.”~~ *project*. By expanding the scope of the existing crime of perjury, the bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for ~~the Southern California Regional Rail Authority (SCRRA).~~ *Metrolink commuter rail projects*.

(2) Existing law exempts from civil liability any person who, in good faith and not for compensation, renders emergency care or treatment by the use of an automated external defibrillator (AED) at the scene of an emergency, except in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who renders emergency care or treatment. Existing law also exempts from civil liability a person or entity that acquires an AED for emergency use and a health care professional who is involved with the selection, placement, or installation of the AED, as specified.

This bill would require a public entity that operates, or contracts for the operation of, a commuter rail system, by July 1, 2020, to ensure that each train has an AED as part of its safety equipment subject to specified requirements, except as specified, and to transmit confirmation of its compliance in writing to the Public Utilities Commission. The bill would exempt an affected public entity that acquires an AED for emergency care from liability for any civil damages resulting from any acts or omissions in the rendering of the emergency care by use of the AED if the public entity has complied with certain requirements.

(3) By imposing new duties on local public officials, the bill would create a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 6971 of the Public Contract Code is
2 amended to read:

3 6971. (a) The Legislature finds and declares that the County
4 of Riverside should be considered a transportation planning agency
5 for the purposes of this chapter in order to effectuate the
6 construction of the railroad grade separations and bridge
7 rehabilitations and replacements specified in subparagraph (C) of
8 paragraph (4) of subdivision (b) using Construction
9 Manager/General Contractor authority. The passage of the Road
10 Repair and Accountability Act of 2017 (Chapter 5 of the Statutes
11 of 2017) provides additional transportation revenue to help close
12 the significant funding shortfalls and address the substantial
13 backlog of infrastructure projects that are in need of repair. The
14 geography, topography, and location of these railroad grade
15 separations and bridge rehabilitations and replacements projects
16 present many potential complex challenges, and the Construction
17 Manager/General Contractor method could reduce delays and
18 ensure that those challenges are fully understood at the outset of
19 construction.

20 (b) For purposes of this chapter, the following definitions apply:

21 (1) "Construction manager" means a partnership, corporation,
22 or other legal entity that is able to provide appropriately licensed
23 contracting and engineering services as needed pursuant to a
24 Construction Manager/General Contractor method contract.

25 (2) "Construction Manager/General Contractor method" means
26 a project delivery method in which a construction manager is

1 procured to provide preconstruction services during the design
2 phase of the project and construction services during the
3 construction phase of the project. The contract for construction
4 services may be entered into at the same time as the contract for
5 preconstruction services, or at a later time. The execution of the
6 design and the construction of the project may be in sequential
7 phases or concurrent phases.

8 (3) “Preconstruction services” means advice during the design
9 phase, including, but not limited to, scheduling, pricing, and
10 phasing to assist the regional transportation agency to design a
11 more constructible project.

12 (4) “Project” means any of the following:

13 (A) The construction of an expressway that is not on the state
14 highway system.

15 (B) The construction of the following bridges that are not on
16 the state highway system:

17 (i) Yerba Buena Island (YBI) West Side Bridges Seismic
18 Retrofit Project.

19 (ii) Yankee Jims Road Bridge Project in the County of Placer
20 (Replacement/Rehabilitation).

21 (C) The construction of railroad grade separations and bridge
22 rehabilitations and replacements in the County of Riverside, as
23 specified in Item 2660-110-0042 of Section 2.00 of the Budget
24 Act of 2016, as amended by Chapter 7 of the Statutes of 2017.

25 (D) The construction, alteration, repair, rehabilitation, or
26 improvement of the Golden Gate Bridge, as defined in Section
27 27502 of the Streets and Highways Code.

28 (E) A Metrolink commuter rail project under the jurisdiction of
29 the Southern California Regional Rail Authority (SCRRA) project.

30 (5) “Regional transportation agency” means any of the
31 following:

32 (A) A transportation planning agency described in Section 29532
33 or 29532.1 of the Government Code.

34 (B) A county transportation commission established under
35 Section 130050, 130050.1, or 130050.2 of the Public Utilities
36 Code.

37 (C) Any other local or regional transportation entity that is
38 designated by statute as a regional transportation agency.

39 (D) A joint exercise of powers authority established pursuant
40 to Chapter 5 (commencing with Section 6500) of Division 7 of

1 Title 1 of the Government Code, with the consent of a
2 transportation planning agency or a county transportation
3 commission for the jurisdiction in which the transportation project
4 will be developed.

5 (E) A local transportation authority created or designated
6 pursuant to Division 12.5 (commencing with Section 131000) or
7 Division 19 (commencing with Section 180000) of the Public
8 Utilities Code.

9 (F) The Santa Clara Valley Transportation Authority established
10 pursuant to Part 12 (commencing with Section 100000) of Division
11 10 of the Public Utilities Code.

12 (G) The County of Placer.

13 (H) The County of Riverside.

14 (I) The Golden Gate Bridge, Highway and Transportation
15 District established pursuant to Chapter 18 (commencing with
16 Section 27500) of Part 3 of Division 16 of the Streets and
17 Highways Code

18 ~~(J) The Southern California Regional Rail Authority (SCRRA)~~
19 ~~as described in paragraph (1) of subdivision (a) of Section 99314.2~~
20 ~~of the Public Utilities Code.~~

21 (c) Nothing in this section shall extend any other authority to
22 the County of ~~Riverside~~, *Riverside* or the Golden Gate Bridge,
23 Highway and Transportation District, ~~or the SCRRA~~, as a
24 transportation planning agency under any other law.

25 SEC. 2. Section 99175 is added to the Public Utilities Code,
26 to read:

27 99175. (a) A public entity that operates, or contracts for the
28 operation of, a commuter rail system shall ensure that each train
29 has an automated external defibrillator (AED) as part of its safety
30 equipment subject to the requirements in Section 1797.196 of the
31 Health and Safety Code. As used in this subdivision, “commuter
32 rail system” does not include intercity passenger rail services,
33 including state-funded intercity passenger rail services managed
34 under an interagency transfer agreement by the LOSSAN Rail
35 Corridor Agency, the San Joaquin Joint Powers Authority, or the
36 Capitol Corridor Joint Powers Authority, and does not include
37 light rail or rapid transit services managed by local agencies.

38 (b) An affected public entity may provide training for their
39 employees on the use of the AEDs as part of their regularly
40 scheduled safety or other training sessions.

1 (c) (1) An affected public entity shall install AEDs pursuant to
2 this section by July 1, 2020.

3 (2) The Peninsula Corridor Joint Powers Board shall be exempt
4 from paragraph (1) and shall instead ensure that trainsets procured
5 as part of the Caltrain Electrification Project are equipped with
6 AEDs.

7 (d) (1) Upon completion of the installation of AEDs, the public
8 entity shall transmit confirmation of its compliance in writing to
9 the Public Utilities Commission.

10 (2) If an affected public entity is in compliance with the
11 requirements of this section when it becomes effective, it shall
12 notify the Public Utilities Commission pursuant to paragraph (1).

13 (e) An affected public entity that acquires an AED for
14 emergency care pursuant to this section shall not be liable for any
15 civil damages resulting from any acts or omissions in the rendering
16 of the emergency care by use of an AED if the public entity has
17 complied with paragraph (1) of subdivision (b) of Section 1797.196
18 of the Health and Safety Code.

19 SEC. 3. In regard to Section 1 of this act, the Legislature finds
20 and declares that a special statute is necessary and that a general
21 statute cannot be made applicable within the meaning of Section
22 16 of Article IV of the California Constitution because of the
23 unique circumstances regarding ~~the Southern California Regional~~
24 ~~Rail Authority (SCRRA).~~ *Metrolink commuter rail projects.*

25 SEC. 4. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution for certain
27 costs that may be incurred by a local agency or school district
28 because, in that regard, this act creates a new crime or infraction,
29 eliminates a crime or infraction, or changes the penalty for a crime
30 or infraction, within the meaning of Section 17556 of the
31 Government Code, or changes the definition of a crime within the
32 meaning of Section 6 of Article XIII B of the California
33 Constitution.

34 However, if the Commission on State Mandates determines that
35 this act contains other costs mandated by the state, reimbursement
36 to local agencies and school districts for those costs shall be made
37 pursuant to Part 7 (commencing with Section 17500) of Division
38 4 of Title 2 of the Government Code.

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2 **CORRECTIONS:**
3 **Heading—Line 2.**
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