

Senate Bill No. 1225

CHAPTER 802

An act to amend Sections 14031.8, 14070.2, 14070.4, and 14070.6 of, to add Section 14070.7 to, and to repeal and add Article 5.2 (commencing with Section 14072) of Chapter 1 of Part 5 of Division 3 of Title 2 of, the Government Code, relating to transportation.

[Approved by Governor September 29, 2012. Filed with
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LEGISLATIVE COUNSEL'S DIGEST

SB 1225, Padilla. Intercity rail agreements.

Existing law authorizes the Department of Transportation to contract with Amtrak for intercity rail passenger services and provides funding for these services from the Public Transportation Account. Existing law, until December 31, 1996, authorized the department, subject to approval of the Secretary of Business, Transportation and Housing, to enter into an interagency transfer agreement under which a joint powers board assumes responsibility for administering the state-funded intercity rail service in a particular corridor. Existing law, with respect to a transferred corridor, requires the board to demonstrate the ability to meet performance standards established by the secretary.

This bill would authorize the department, with approval of the secretary, to enter into interagency transfer agreements for additional intercity rail corridors, to be entered into between June 30, 2014, and June 30, 2015. The bill would require the agreements to cover the initial 3-year period after the transfer, and would authorize subsequent extensions by mutual agreement. If agreements are not entered into by the expiration of that period, the bill would require the secretary to report to the Governor and the Legislature by June 30, 2016, as specified.

This bill would specifically authorize an additional interagency transfer agreement to be entered into with respect to the LOSSAN Corridor, defined to mean the intercity passenger rail corridor between San Diego, Los Angeles, and San Luis Obispo, if the LOSSAN Agency, an existing joint powers agency, is reconstituted through an amended joint powers agreement approved by the governing boards of its members to enable that agency to enter into an interagency transfer agreement with the secretary relative to the LOSSAN Corridor.

Existing law requires the level of service to be funded by the state pursuant to a transfer agreement to not be less than the current number of intercity round trips operated in a corridor and serving the same endpoints.

This bill would require the service funded by the state to remain the same during the first 3 years following the effective date of a transfer agreement,

and would require the entity assuming responsibility for a corridor to provide that level of service. The bill would prohibit termination of feeder bus services except for specified reasons.

Existing law provides for the allocation of state funds by the secretary to a joint powers board under an interagency transfer agreement based on the annual business plan for the intercity rail corridor and subsequent appropriation of state funds. Existing law states that the interagency transfer agreement may provide that any additional funds required to operate the intercity rail service during a fiscal year shall be provided by a joint powers board from jurisdictions that receive service.

This bill, if local resources are made available for operating the intercity rail service, would require a vote of the local agency providing the resources, and would require the concurrence of the joint powers board in that regard.

This bill would authorize the secretary to adopt new performance standards for intercity rail services.

Existing law authorizes the department and any entity that assumes administrative responsibility for passenger rail services through an interagency transfer agreement to contract with specified entities for the use of tracks and other facilities and for the provision of passenger rail services.

This bill would require a contractor under an agreement described above to agree that its labor relations shall be governed by a specified federal act relating to labor relations on railroads and would add similar provisions applicable to the LOSSAN Corridor, as specified.

This bill would repeal now-obsolete provisions authorizing the Southern California Regional Rail Authority to be a party to an interagency transfer agreement for intercity rail services in specified counties.

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

SECTION 1. This act shall be known and may be cited as the Intercity Passenger Rail Act of 2012.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) An intercity passenger rail system, linking major urban centers and complemented by feeder bus services that provide access to outlying areas and destinations, is an important element of the state's transportation system, and shall remain a state-funded program.

(2) The state has a continuing interest in the provision of cost-effective intercity passenger rail services and has a responsibility to coordinate intercity passenger rail services statewide.

(3) Since 1976, the state has invested over one billion eight hundred million dollars (\$1,800,000,000) in capital improvements and operating support for intercity passenger rail service and must ensure the protection of that investment.

(4) Intercity rail service and ridership increases will result in more jobs, improve air quality, and help promote sustainable development.

(b) The Legislature, through the enactment of this act, intends all of the following:

(1) The Secretary of Business, Transportation and Housing shall be responsible for the overall planning, coordination, and budgeting of the intercity passenger rail service.

(2) If the secretary determines that transferring responsibility for intercity passenger rail service in a particular corridor or corridors to a statutorily created joint powers agency would result in administrative or operating cost reductions, the secretary may authorize the Department of Transportation to enter into an interagency transfer agreement to effect a transfer of those administrative functions, consistent with this act.

(3) Any intercity passenger rail corridor for which administrative responsibility has been transferred to a joint powers board through an interagency transfer agreement shall remain a component of the statewide system of intercity passenger rail corridors.

(4) The public interest requires expansion of the state intercity passenger rail program in order to keep pace with the needs of an expanding population.

(5) For not less than a three-year period following the effective date of the interagency transfer agreement, the level of state funding for intercity rail service in each corridor shall be maintained at a level equal to at least the level of service funded by the state in the corridor as of the effective date of the interagency transfer agreement, thus providing fiscal stability that will allow appropriate planning and operation of these services.

(6) It is in the public interest to ensure fiscal accountability that the intercity rail service operating in the LOSSAN Corridor maintain a ratio of fare revenue to operating cost of no less than 55 percent.

SEC. 3. Section 14031.8 of the Government Code is amended to read:

14031.8. (a) The Secretary of Business, Transportation and Housing shall establish, through an annual budget process, the level of state funding available for the operation of intercity passenger rail service in each corridor.

(b) Where applicable, operating funds shall be allocated by the secretary to the joint powers board in accordance with an interagency transfer agreement that includes mutually agreed-upon rail services. Funds for the administration and marketing of services, as appropriate, shall also be transferred by the secretary to the joint powers board, subject to the terms of the interagency agreement.

(c) The joint powers board or local or regional entities may augment state-provided resources to expand intercity passenger rail services, or to address funding shortfalls in achieving agreed-upon performance standards. The joint powers board or local or regional agencies may, but shall not be required to, identify and secure new supplemental sources of funding for the purpose of expanding or maintaining intercity rail passenger service levels, which may include state and federal intercity rail resources. Local resources may be available to offset any redirection, elimination, reduction, or reclassification by the state of state resources for operating intercity passenger rail services identified in subdivision (b) only if the local resources

are dedicated by a vote of the local agency providing funds, with the concurrence of the joint powers board.

(d) The department may provide any support services as may be mutually agreed upon by the joint powers board and the department.

(e) Operating costs shall be controlled by dealing with, at a minimum, the Amtrak cost allocation formula and the ability to contract out to Amtrak or other rail operators as a part of federal legislation dealing with Amtrak reauthorization.

(f) (1) Not later than June 30, 2014, the secretary shall establish a set of uniform performance standards for all corridors and operators to control cost and improve efficiency.

(2) To the extent necessary, as determined by the secretary, performance standards may be modified not later than July 30, 2015, or the effective date of the interagency transfer agreement, whichever comes first.

(3) Feeder bus services that provide connections for intercity rail passengers shall not be terminated unless the bus services fail to meet the cost-effectiveness standard described in paragraph (3) of subdivision (a) of Section 14035.2.

SEC. 4. Section 14070.2 of the Government Code is amended to read:

14070.2. (a) If authorized by the secretary, the department may, through an interagency transfer agreement, transfer to a joint powers board, and the board may assume, all responsibility for administering intercity passenger rail service in the corridor, including associated feeder bus service. Upon the date specified in the agreement, the board shall succeed to the department's powers and duties relative to that service, except that the department shall retain responsibility for developing budget requests for the service, consistent with the annual business plan as approved by the secretary for the service, through the state budget process, which shall be developed in consultation with the board, and for coordinating service in the corridor with other intercity passenger rail services in the state.

(b) An interagency transfer agreement may be executed on or after June 30, 2014, but not later than June 30, 2015, subject to negotiation and approval by the state and the board. The interagency transfer agreement between the department and the board shall cover the initial three-year period after the transfer, but may be extended thereafter by mutual agreement. If an interagency agreement is not entered into on or before June 30, 2015, the secretary shall provide a report to the Governor and the Legislature on or before June 30, 2016, explaining why an acceptable agreement has not been developed, with specific recommendations for developing an acceptable interagency agreement.

(c) The secretary shall require the board to demonstrate the ability to meet the performance standards established by the secretary pursuant to subdivision (f) of Section 14031.8.

SEC. 5. Section 14070.4 of the Government Code is amended to read:

14070.4. (a) An interagency transfer agreement between the department and a joint powers board, when approved by the secretary, shall do all of the following:

(1) Specify the date and conditions for the transfer of responsibilities and identify the annual level of funding for the initial three years following the transfer and ensure that the level of funding is consistent with and sufficient for the planned service improvements within the corridor.

(2) Identify, for the initial year and subsequent years, the funds to be transferred to the board including state operating subsidies made available for intercity rail services in the corridor, and funds currently used by the department for administration and marketing of the corridor, with the amounts adjusted annually for inflation and in accordance with the business plan.

(3) Specify the level of service to be provided, the respective responsibilities of the board and the department, the methods that the department will use to assure the coordination of services with other rail passenger and feeder bus services in the state, and the methods that the department will use for the annual review of the business plan and annual proposals on funding and appropriations.

(4) Describe the terms of use by the board of car and locomotive train sets and other equipment and property owned by the department and required for the intercity service in the corridor including, but not limited to, the number of units to be provided, liability coverage, maintenance and warranty responsibilities, and indemnification issues.

(5) Describe auditing responsibilities and process requirements, reimbursement and billing procedures, the responsibility for funding shortfalls, if any, during the course of each fiscal year, an operating contract oversight review process, performance standards and reporting procedures, the level of rail infrastructure maintenance, and other relevant monitoring procedures.

(6) Use of the annual state funding allocation, as set forth in the interagency transfer agreement, shall be described in an annual business plan submitted by the board to the secretary for review and recommendation by April 1 of each year. The business plan, when approved by the secretary, shall be deemed accepted by the state. The budget proposal developed by the department for the subsequent year shall be based upon the business plan approved by the secretary. The business plan shall be consistent with the interagency agreement and shall include a report on the recent as well as historical performance of the corridor service, an overall operating plan including proposed service enhancements to increase ridership and provide for increased traveler demands in the corridor for the upcoming year, short-term and long-term capital improvement programs, funding requirements for the upcoming fiscal year, and an action plan with specific performance goals and objectives. The business plan shall document service improvements to provide the planned level of service, inclusion of operating plans to serve peak period work trips, and consideration of other service expansions and enhancements. The initial business plan shall be consistent with the immediately previous State Rail Plan developed by the department pursuant to Section 14036 and the January 2014 business plan developed by the High-Speed Rail Authority pursuant to Section 185033 of the Public

Utilities Code. Subsequent business plans shall be consistent with the immediately previous plans developed by the department and the authority. The business plan shall clearly delineate how funding and accounting for state-sponsored intercity rail passenger services shall be separate from locally sponsored services in the corridor. Proposals to expand or modify passenger services shall be accompanied by the identification of all associated costs and ridership projections. The business plan shall establish, among other things: fares, operating strategies, capital improvements needed, and marketing and operational strategies designed to meet performance standards established in the interagency transfer agreement.

(c) Based on the annual business plan and the subsequent appropriation by the Legislature, the secretary shall allocate state funds on an annual basis to the board. As provided in the interagency agreement, any additional funds that are needed to operate the passenger rail service during the fiscal year shall be provided by the board from jurisdictions that receive service. In addition, the board may use any cost savings or farebox revenues to provide service improvements related to intercity service. In any event, the board shall report the fiscal results of the previous year's operations as part of the annual business plan.

(d) The level of service funded by the state during the first three years following the effective date of the interagency transfer agreement shall in no case be less than the number of intercity round trips operated in a corridor and serving the end points served by the intercity rail corridor as of the effective date of the interagency transfer agreement. Subject to Section 14035.2, the level of service funded by the state shall also include feeder bus service with substantially the same number of route miles as the current feeder system, to be operated in conjunction with the trains. For that same three-year period, the board shall continue to provide at least the same level of intercity rail and feeder bus services as were in operation on the effective date of the interagency transfer agreement, except that the interagency agreement shall not prohibit the board from reducing the number of feeder bus route miles if the board determines that a feeder bus route is not cost effective as provided in Section 14035.2.

(e) Nothing in this article shall be construed to preclude expansion of state-approved intercity rail service.

(f) Local resources may be available to offset any redirection, elimination, reduction, or reclassification by the state of state resources for operating intercity rail services identified in subdivision (b) only if the local resources are dedicated by a vote of the local agency providing the funds, with the concurrence of the board.

SEC. 6. Section 14070.6 of the Government Code is amended to read:

14070.6. The department and any entity that assumes administrative responsibility for intercity passenger rail services through an interagency transfer agreement, may, through a competitive solicitation process, contract with the National Railroad Passenger Corporation (Amtrak) or with organizations not precluded by state or federal law to provide intercity passenger rail services, and may contract with rail corporations and other

rail operators for the use of tracks and other facilities and for the provision of intercity passenger services on terms and conditions as the parties may agree. The department is deemed to be a third-party beneficiary of the contract, and the contract shall not contain any provision or condition that would negatively impact on or conflict with any other contracts the department has regarding intercity passenger rail services. Any entity that succeeds the department as sponsor of state-supported intercity passenger rail services through an interagency transfer agreement, is deemed an agency of the state for all purposes related to intercity passenger rail services, including Section 5311 of Title 49 of the United States Code. If the intercity passenger rail service is operated by a contractor, the contractor shall, as a condition of entering into an operating agreement with the entity, agree that its labor relations shall be governed by the federal Railway Labor Act (45 U.S.C. Sec. 151 et seq.).

SEC. 7. Section 14070.7 is added to the Government Code, to read:

14070.7. The department and the LOSSAN Rail Corridor Agency, to the extent the agency assumes administrative responsibility for intercity passenger rail services on the LOSSAN Corridor through an interagency transfer agreement, may, through a competitive solicitation process, contract with Amtrak or with organizations authorized by state or federal law to provide intercity passenger rail services, and may contract with rail corporations and other rail operators for the use of the tracks and other facilities and for the provision of intercity passenger rail services on terms and conditions as the parties may agree. The department is deemed to be a third-party beneficiary of the contract, and the contract shall not contain any provision or condition that would negatively impact on or conflict with any other contracts the department has regarding intercity passenger rail services. The LOSSAN Rail Corridor Agency, if it succeeds the department as sponsor of state-supported intercity passenger rail services on the LOSSAN Corridor through an interagency transfer agreement, is deemed to be an agency of the state for all purposes related to intercity passenger rail services, including Section 5311 of Title 49 of the United States Code. If the LOSSAN Rail Corridor Agency or the entity providing administrative services enters into a contract for the operation of those services, the contractor shall, as a condition of entering into an operating agreement with the entity providing administrative services or the LOSSAN Rail Corridor Agency, agree that its labor relations shall be governed by the federal Railway Labor Act (45 U.S.C. Sec. 151 and following).

Section 14070.6 shall not apply to the LOSSAN Corridor.

SEC. 8. Article 5.2 (commencing with Section 14072) of Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 9. Article 5.2 (commencing with Section 14072) is added to Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code, to read:

Article 5.2. LOSSAN Corridor

14072. (a) The LOSSAN Rail Corridor Agency, also known as the LOSSAN Agency, is an existing joint powers authority established to provide an organization capable of implementing the recommendations contained in the State Rail Corridor Study Group's June 1987 report entitled "Los Angeles-San Diego State Rail Corridor Study" and undertaking related efforts to improve intercity services and facilities in the corridor and to coordinate subcorridor commuter rail services with intercity services. The LOSSAN Agency is composed of voting members, as specified in the joint powers agreement.

(b) "LOSSAN Corridor" or "LOSSAN Rail Corridor" means the San Diego-Los Angeles-San Luis Obispo intercity passenger rail corridor.

14072.2. This article shall be applicable only if the members of the LOSSAN Agency enter into an amended joint powers agreement to expand the authority of the agency to permit the administration of state-funded intercity passenger rail services on the LOSSAN Corridor, and the LOSSAN Agency thereafter elects to become a party to an interagency transfer agreement pursuant to Article 5 (commencing with Section 14070). The amended joint powers agreement shall establish the terms and conditions for the joint powers agency and is subject to the approval of the governing board of each member agency of the LOSSAN Agency. Only the LOSSAN Agency operating under the amended joint powers agreement, and not the LOSSAN Agency existing on January 1, 2013, may exercise jurisdiction over intercity rail services on the LOSSAN Corridor under an interagency transfer agreement.