

Senate Bill No. 1847

CHAPTER 1021

An act to add Chapter 6 (commencing with Section 132400) to Division 12.7 of the Public Utilities Code, relating to transportation.

[Approved by Governor September 30, 1998. Filed with Secretary of State September 30, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1847, Schiff. Transportation: Los Angeles County Metropolitan Transportation Authority: Pasadena Metro Blue Line Construction Authority.

(1) Existing law establishes the Los Angeles County Metropolitan Transportation Authority (hereafter the LACMTA) as the single successor agency to the Southern California Rapid Transit District and the Los Angeles County Transportation Commission. The LACMTA is responsible for most transit guideway projects in Los Angeles County and has specified duties and responsibilities with regard to transportation.

This bill would establish the Pasadena Metro Blue Line Construction Authority for the purpose of awarding and overseeing all design and construction contracts for completion of the Los Angeles-Pasadena Metro Blue Line light rail project from Union Station in the City of Los Angeles to Sierra Madre Villa Boulevard in the City of Pasadena and any mass transit guideway that may be planned east of Sierra Madre Villa Boulevard along the rail right-of-way extending to the City of Claremont.

The bill would require the construction authority to (a) conduct the financial studies and the planning and engineering necessary for completion of the project, (b) adopt an administrative code, including a specified code of conduct, not later than 60 days after establishment of the construction authority, for administration of the construction authority in accordance with laws relating to open meetings of public entities, contracting and procurement, contracting goals for minority and women business participation, and political reform, and (c) complete a detailed management, implementation, safety, and financial plan for the project and submit the plan to the Governor, the Legislature, and the California Transportation Commission not later than 90 days after establishment of the construction authority.

The bill would require that the construction authority be governed by a board consisting of 5 voting members and one nonvoting member, appointed to terms of 4 years. Three members would be appointed by the City Councils of the Cities of Los Angeles,

Pasadena, and South Pasadena, with each city council appointing one member by a majority vote of the membership of that city council. One member would be appointed by the President of the Governing Board of the San Gabriel Valley Council of Governments, subject to confirmation by that board. One member would be appointed by the LACMTA. The nonvoting member would be appointed by the Governor.

The bill would permit the governing board to appoint an executive director to serve at the pleasure of the construction authority. The executive director would be authorized to appoint staff or retain consultants as necessary to carry out the duties of the construction authority. The bill would require that all contracts approved and awarded by the executive director be awarded in accordance with state law relating to procurement. The bill would require that the awards be based on price or competitive negotiation, or on both of those things.

The bill would require the LACMTA to identify and expeditiously enter into an agreement with the construction authority to hold in trust with the construction authority all real and personal property, and any other assets, accumulated in the planning, design, and construction of the project, including, but not limited to, rights-of-way, documents, third-party agreements, contracts, and design documents, as necessary for completion of the project.

The bill would require the LACMTA to return the unencumbered balance of all local funds currently programmed for completion of the project and that have been identified in the Restructuring Plan adopted by the LACMTA Board of Directors on May 13, 1998, to the construction authority for completion of the project. The bill would authorize the construction authority to receive allocations of state funds for the project, and would require the unencumbered balance of state funds that have been programmed or allocated to the LACMTA for completion of the project and have been identified in the Restructuring Plan adopted by the LACMTA Board of Directors on May 13, 1998, to be allocated to the construction authority for completion of the project. Any transfer of the specified funds would be subject to the terms of a specified memorandum of understanding entered into between the LACMTA and the commission.

The bill would require the construction authority to enter into a memorandum of understanding with the LACMTA that specifically addresses the ability of the LACMTA to review any significant changes in the scope of the design or construction, or both design and construction, of the project, as specified.

The bill would prohibit the construction authority from encumbering any future farebox revenue anticipated from the operation of the project.

The bill would prohibit the construction authority from encumbering the project with any obligation that is transferable to

the LACMTA upon completion of the design and construction of the project, except as specified.

The bill would require the authority to be dissolved upon completion of the project. The LACMTA would assume responsibility for operating the project upon dissolution of the authority.

The bill would create a state-mandated local program by imposing these additional duties upon local governmental entities.

(2) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

SECTION 1. Chapter 6 (commencing with Section 132400) is added to Division 12.7 of the Public Utilities Code, to read:

CHAPTER 6. PASADENA METRO BLUE LINE CONSTRUCTION
AUTHORITY

132400. For purposes of this chapter, the following terms have the following meanings:

- (a) The "authority" is the Pasadena Metro Blue Line Construction Authority created under this chapter.
- (b) The "board" is the governing board of the authority.
- (c) The "commission" is the California Transportation Commission.
- (d) The "LACMTA" is the Los Angeles County Metropolitan Transportation Authority.
- (e) The "project" is the Los Angeles-Pasadena Metro Blue Line light rail project extending from Union Station in the City of Los Angeles to Sierra Madre Villa Boulevard in the City of Pasadena and any mass transit guideway that may be planned east of Sierra Madre Villa Boulevard along the rail right-of-way extending to the City of Claremont.

132405. The authority is hereby created for the purpose of awarding and overseeing all design and construction contracts for completion of the project.

132410. (a) The authority has all of the powers necessary for planning, acquiring, leasing, developing, jointly developing, owning, controlling, using, jointly using, disposing of, designing, procuring, and building the project, including, but not limited to, all of the following:

(1) Acceptance of grants, fees, and allocations from the state, local agencies, and private entities.

(2) Acquiring, through purchase or through eminent domain proceedings, any property necessary for, incidental to, or convenient for, the exercise of the powers of the authority.

(3) Incurring indebtedness, secured by pledges of revenue available for project completion.

(4) Contracting with public and private entities for the planning, design, and construction of the project. These contracts may be assigned separately or may be combined to include any or all tasks necessary for completion of the project.

(5) Entering into cooperative or joint development agreements with local governments or private entities. These agreements may be entered into for the purpose of sharing costs, selling or leasing land, air, or development rights, providing for the transferring of passengers, making pooling arrangements, or for any other purpose that is necessary for, incidental to, or convenient for the full exercise of the powers granted the authority. For purposes of this paragraph, "joint development" includes, but is not limited to, an agreement with any person, firm, corporation, association, or organization for the operation of facilities or development of projects adjacent to, or physically or functionally related to, the project.

(6) Relocation of utilities, as necessary for completion of the project.

(b) The duties of the authority include, but are not limited to, all of the following:

(1) Conducting the financial studies and the planning and engineering necessary for completion of the project.

(2) (A) Adoption of an administrative code, not later than 60 days after establishment of the authority, for administration of the authority in accordance with any applicable laws, including, but not limited to, the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), contracting and procurement laws, laws relating to contracting goals for minority and women business participation, and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(B) (i) The administrative code adopted under subparagraph (A) shall include a code of conduct for employees and board members that is consistent with Sections 84308 and 87103 of the Government Code and prohibits board members and staff from

accepting gifts valued at ten dollars (\$10) or more from contractors, potential contractors, or their subcontractors.

(ii) The code shall require the disclosure, on the record, of the proceedings by the officer of the agency who receives a contribution within the preceding 24 months in an amount of more than two hundred fifty dollars (\$250) from a party or participant to a proceeding, and the disclosure by the party or participant.

(iii) The code shall provide that no officer of the agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding, as described in Section 84308 of the Government Code, if the officer has willfully or knowingly received a contribution in the amount of more than two hundred fifty dollars (\$250) within the preceding 24 months from a party or his or her agent, or from any participant or his or her agent if the participant has a financial interest in the decision.

(iv) Any officer deemed ineligible to participate in a proceeding due to the provisions of this code of conduct may be replaced for the purposes of that proceeding by an appointee chosen by the appropriate appointing authority.

(v) Under the code of conduct, board members shall be deemed to have a financial interest in a decision within the meaning of Section 87100 of the Government Code if the decision involves the donor of, or intermediary or agent for a donor of, a gift or gifts aggregating ten dollars (\$10) or more in value within the 12 months prior to the time the decision was made.

(3) Completion of a detailed management, implementation, safety, and financial plan, including, but not limited to, a full funding program, for the project and submission of the plan to the Governor, the Legislature, and the commission not later than 90 days after establishment of the authority.

(c) The authority shall make reasonable progress, as determined by the commission, in the design and construction of the project within the timetable imposed under the 1998 State Transportation Improvement Program.

132415. (a) The authority shall be governed by a board consisting of five voting members and one nonvoting member who shall be appointed as follows:

(1) Three members shall be appointed by the City Councils of the Cities of Los Angeles, Pasadena, and South Pasadena, with each city council appointing one member by a majority vote of the membership of that city council.

(2) One member shall be appointed by the President of the Governing Board of the San Gabriel Valley Council of Governments, subject to confirmation by that board.

(3) One member shall be appointed by the LACMTA.

(4) The nonvoting member shall be appointed by the Governor.

(b) All members shall serve a term of not more than four years, with no limit on the number of terms that may be served by any person.

(c) If the position of a voting member becomes vacant, an alternate voting member may be appointed by a majority vote of the board to serve until the position is filled as required under subdivision (a).

(d) Members of the board are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(e) Three members of the board shall constitute a quorum.

(f) The board shall elect a chairperson and vice chairperson from among the membership of the board.

(g) Each member of the board may be compensated at a rate of not more than one hundred fifty dollars (\$150) per day spent attending to the business of the authority. Compensation, if paid, shall not exceed six hundred dollars (\$600) per month, plus expenses directly related to the performance of duties imposed by the authority, including, but not limited to, travel and personal expenses.

132420. (a) The board may appoint an executive director to serve at the pleasure of the authority.

(b) The executive director is exempt from all civil service provisions and shall be paid a salary established by the board.

(c) The executive director may appoint staff or retain consultants as necessary to carry out the duties of the authority.

(d) All contracts approved and awarded by the executive director shall be awarded in accordance with state law relating to procurement. Awards shall be based on price or competitive negotiation, or on both of those things.

132425. The LACMTA shall identify and expeditiously enter into an agreement with the authority to hold in trust with the authority all real and personal property, and any other assets accumulated in the planning, design, and construction of the project, including, but not limited to, rights-of-way, documents, third-party agreements, contracts, and design documents, as necessary for completion of the project.

132430. (a) The LACMTA shall transfer the unencumbered balance of all local funds programmed for completion of the project and that have been identified in the Restructuring Plan adopted by the LACMTA Board of Directors on May 13, 1998, to the authority for completion of the project.

(b) The authority is eligible to receive allocations of state funds for the project. The unencumbered balance of funds currently programmed or allocated to the LACMTA for completion of the project and that have been identified in the Restructuring Plan adopted by the LACMTA Board of Directors on May 13, 1998, shall be allocated to the authority for completion of the project.

(c) Any transfer of funds by the LACMTA under this section shall be subject to the terms of the memorandum of understanding entered into between the LACMTA and the commission on June 2, 1998.

132435. The authority shall enter into a memorandum of understanding with the LACMTA that shall specifically address the ability of the LACMTA to review any significant changes in the scope of the design or construction, or both design and construction, of the project. For purposes of this section, the term "significant change" means any change of mode or technology, or any other substantive change that affects the connectivity and operation of the project as part of the overall transit system operated by the LACMTA, or any combination of those things. Design and construction of a light rail project that is consistent with the current scope of the project shall not be deemed to be a significant change in the scope of the project and shall not require concurrence by the LACMTA.

132440. The authority shall not encumber any future farebox revenue anticipated from the operation of the project.

132445. The authority shall not encumber the project with any obligation that is transferable to the LACMTA upon completion of the design and construction of the project. The design and construction to be administered by the authority does not include rolling stock, which is a component of the operation of the project and shall be administered by the LACMTA. This section does not apply to any joint development programs, as authorized under paragraph (5) of subdivision (a) of Section 132410, that may be utilized to contribute to the financing of project design and construction.

132450. The authority shall be dissolved upon completion of construction of the light rail project. The LACMTA shall assume responsibility for operating the project upon dissolution of the authority.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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