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Metropolitan Transportation Authority

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**EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE
JUNE 18, 2009**

SUBJECT: STATE LEGISLATION

ACTION: ADOPT STAFF RECOMMENDED POSITIONS

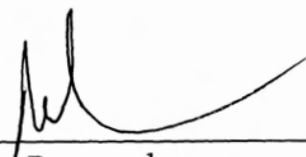
RECOMMENDATION

A) SB 409 (Ducheny) – Which would create a Department of Railroads in the Business, Transportation and Housing Agency. **WORK WITH AUTHOR**

ATTACHMENT

Attachment A

Prepared by: Michael Turner, Government Relations Manager
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BILL: SB 409

AUTHOR: SENATOR DENISE DUCHENY
(D – SAN DIEGO)

SUBJECT: DEPARTMENT OF RAILROADS

STATUS: SENATE TRANSPORTATION AND HOUSING

ACTION: WORK WITH AUTHOR

RECOMMENDATION

Adopt a “Work With Author” position on SB 409 (Ducheny), which would create a Department of Railroads in the Business, Transportation and Housing Agency.

ISSUE

SB 409, would create the Department of Rail (DOR) within the Business, Transportation and Housing Agency and would transfer the California High Speed Rail Authority (CHSRA), Caltrans’ intercity rail responsibilities, grade separation funding and the Public Utilities Code (PUC) grade crossing approval process into the new department.

PROVISIONS

Existing law creates the Department of Transportation in the Business, Transportation and Housing Agency, with various powers and duties relative to the intercity rail passenger program, among other transportation programs. Existing law creates the California High-Speed Rail Authority, with various powers and duties relative to development and implementation of a high-speed passenger train system. Existing law creates the Public Utilities Commission, with various powers and duties relative to railroads, among other responsibilities. Existing law provides for the Governor to appoint 5 members of the High-Speed Rail Authority. Existing law provides for the authority to elect a chairperson from among its members and to appoint an executive director.

Specifically, SB 409 would:

- Create the Department of Railroads in the Business, Transportation and Housing Agency, and create the positions of director and deputy director within the department, to be appointed by the Governor, as specified. The director would be subject to Senate confirmation;
- Transfer to the department responsibility for various state railroad programs currently administered by the above-referenced agencies;
- Specify new duties of the department relative to an analysis of the state's freight rail transportation system;

- Provide that the department shall be the only state agency eligible to apply for and receive grant and loan funds from the federal government for intercity rail, high-speed rail, or freight rail purposes;
- Require the Secretary of Business, Transportation and Housing to convene a joint task force co-chaired by the Director of Transportation, the Director of Railroads, and a representative of the Public Utilities Commission for the purpose of resolving issues relative to overlapping jurisdiction of the agencies;
- Revise these provisions by requiring one of these appointees to be the Director of Railroads, who would be subject to Senate confirmation. The Director of Railroads would serve as the chairperson of the authority;
- Reconstitute the authority as a division of the Department of Railroads, with the chief of the division to be nominated by the Director of Railroads and approved by the authority, and would delete the provision for an executive director.

IMPACT ANALYSIS

Senator Denise Ducheny (D - San Diego) has introduced SB 409 which would create a Department of Rail in the Business Transportation and Housing Agency. Creating a department would increase the priority of rail transportation State bureaucracy and provide greater oversight by the Legislature. The new DOR would assume responsibility over several rail matters including:

High Speed Rail - The CHSRA would be transferred to the DOR and designates the Director of DOR to be the chair of the CHSRA. The annual CHSRA budget would be developed jointly by DOR and CHSRA.

Intercity Rail – Intercity rail responsibilities would be transferred from Caltrans to DOR including responsibility for contracting with Amtrak for passenger rail service and feeder bus service.

At-Grade Crossing/Grade Separations – The DOR would obtain regulatory oversight of railroad at-grade crossings and grade separations between railroads and local streets, light rail transit systems and installation and maintenance of at-grade crossing devices. In addition, SB 409 would transfer the responsibility of establishing a priority list for the Grade Separation Fund. These responsibilities are currently under the jurisdiction of the PUC.

SB 409 would also limit the DOR to be the only state agency that would be eligible to apply for and receive grants and loans from the federal government or other sources for intercity rail, high-speed rail, or freight rail purposes. This provision raises concerns for us because it limits these various funding sources to one state agency. We are concerned that this limitation could also limit opportunities to obtain funding for critical rail funding.

SB 409 could provide an opportunity to establish a non-judicial approval process for at-grade crossings and grade separations. While the ability to utilize a more streamlined approval process could facilitate projects, the PUC would still retain authority over the rest of a rail project. This would complicate the process for obtaining full approval of a rail line in that projects would have to proceed through both a PUC process and an administrative process through the DOR.

SB 409 provides both opportunities and challenges. Having one state agency responsible for rail in California could provide an opportunity to facilitate the development of rail transportation in California. This increased focus could facilitate projects important to Los Angeles and Southern California such as the development of rail transit projects, freight rail improvements and High Speed Rail. The ability to create a streamlined grade crossing approval process could also facilitate the development of light rail projects in Los Angeles County in particular.

The challenges come in three main areas. First, is that the combination of the CHSRA into a larger department could appear to diminish the position of the project as a priority of the State. Maintaining a single purpose, dedicated entity, so long as it coordinated appropriately with its state and local partners, would serve to keep the project as a high priority. Second, is that declaring that the DOR is sole eligible applicant for various funds jeopardizes the ability of local agencies to compete for future funding. Lastly, in moving the grade crossing approval authority from the PUC to the DOR, local agencies would have seek approval from two agencies for rail transit projects. Any benefits of the grade crossing process would have to be viewed against the challenges of the other aspects of the bill.

SB 409 has been approved by the State Senate and will soon begin consideration in the Assembly. Staff would like to work with Senator Ducheny to address the issues outlined above. In general we would seek to create opportunities to streamline approval processes as it relates to the current PUC functions improved coordination with local entities in other areas. The High Speed Rail functions of the state should be coordinated with local agencies such as county transportation commissions, rail operators and regardless of the location of that function. In general, should the state create a new department of rail, we would want to stress that all of its functions should be well coordinated with local agencies.

The only recorded opposition to the bill is from the California Public Utilities Commission. There is no recorded support.