

M e m o r a n d u m

Date: May 16, 2006

To: The Commission
(Meeting of May 25, 2006)

From: Delaney Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 2630 (Benoit) – Grade separation project funding**
As Amended April 26, 2006

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Support

SUMMARY OF BILL:

This bill will amend Section 2454 of the Streets and Highways (S&H) Code, relating to the grade separation program. This bill would eliminate the ten year waiting period for local agencies which were allocated more than \$5 million in a prior fiscal year if the Department of Transportation (Caltrans) determines there are funds available.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

Section 190 of the Streets and Highways Code requires the State's annual budget to include \$15 million for funding grade separation projects – with a maximum of \$5 million available for funding a project in a single fiscal year. This bill would allow a project to be funded even if the local agency applying had had another project funded within the prior 10 years, as is the current restriction, but only if Caltrans determines there is funding available. This would allow for a grade separation project to proceed if there were no other projects prepared to proceed, so that allocated monies are spent as intended.

SUMMARY OF SUGGESTED AMENDMENTS (if any):

The language contained in the current version of the bill is unclear. Staff suggests the following as substitute language:

“An agency which has received an allocation for a project approved pursuant to this subdivision shall not be eligible for an allocation for another project under this subdivision for a period of 10 years from the date of approval of that project unless in

any particular year, as determined by the Department of Transportation, other eligible projects on the priority listing are not prepared to proceed by the April 1 deadline.”

This would better conform to the current deadlines and parameters of the program.

DIVISION ANALYSIS (CPSD):

- Under existing state law and CPUC practice, the CPUC annually establishes a priority list for at-grade crossings that are most immediately in need of grade separations. The elimination of the 10 year waiting period for local agencies already having received an allocation would target those existing crossings most urgently in need for separation, regardless of prior projects nominated by a particular local agency having been funded. There would be no impact on the commission’s programs, practice or policy.

PROGRAM BACKGROUND:

- S&H Code 190 of the Streets and Highways Code requires the State’s annual budget to include \$15 million for funding these projects. Section 2450 et seq. of the Code sets out the procedure for administering these funds, and Section 2453 give the California Transportation Commission (CTC) responsibility for allocating (distributing) this funds to qualified projects.
- S&H Code 2452 requires the Commission by July 1 of each year to establish the priority list for projects and furnish it to the CTC for use in the fiscal year beginning on that date. The Commission’s procedure is to promulgate the list for the first fiscal year by deleting projects for which funds were actually allocated in the first year. The Commission adopts the revised list by final decision in the second year of the proceeding, and begins the nominating cycle again the following year by instituting a new proceeding.
- For fiscal year 2006-2007 grade separation nominations, the median project cost was \$20.5 million, with the average cost closer to \$26 million, but for the top ten projects the average project cost increased to \$46.4 million. The restriction of \$5 million per project is significantly short of meeting grade separation cost needs for local agencies.
- The bill would eliminate the current restriction whereby a local agency is ineligible for a funding allocation if it has been awarded an allocation under the program within the prior 10 years.

LEGISLATIVE HISTORY:

- SB 1266 (Perata), if approved by voters in November the general obligation bond will provide \$19.9 billion for transportation related improvements throughout California, including approximately \$400 million specifically targeted for high priority grade separation projects.
- AB 453 (Benoit) Chapter 298, Statutes of 2005 provided the inclusion in statutory code of a one year extension, increasing the time period to two years in which the local agency can meet the allocation requirements set in the S&H Code. AB 453 provides one additional year in which local agencies could complete the requirements of the allocation, including securing construction and cost sharing agreements with the affected railroad(s), receiving authorization to construct the project from the Commission, completing all the required environmental impact reports for both the California Environmental Quality Act and National Environmental Policy Act with appropriate approvals, and securing sufficient local funds that will be made available as the work of the project progresses.
- AB 1067 (Frommer), Chapter 716, Statutes of 2005 authorized the CTC to allocate up to \$15 million for an individual grade separation project.

FISCAL IMPACT:

None

STATUS:

AB 2630 is currently pending hearing in the Assembly Appropriations Committee – no hearing date set.

SUPPORT/OPPOSITION:

Support: None on file

Opposition: None on file

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BILL LANGUAGE:

BILL NUMBER: AB 2630 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY APRIL 26, 2006
AMENDED IN ASSEMBLY MARCH 27, 2006

INTRODUCED BY Assembly Member Benoit

FEBRUARY 24, 2006

An act to amend Section 2454 of the Streets and Highways Code, relating to highway funds.

LEGISLATIVE COUNSEL'S DIGEST

AB 2630, as amended, Benoit Grade separation project funding.

Existing law requires the Public Utilities Commission to adopt a priority list for railroad-highway grade separation projects and requires the California Transportation Commission to allocate available funding to projects pursuant to that priority list. Existing law generally limits to \$5,000,000 an allocation to a single project; except that if the project meets certain criteria it may receive an allocation up to \$20,000,000. Existing law prohibits an agency that receives an allocation pursuant to that exception from receiving an allocation for another project pursuant to that exception for a period of 10 years. ~~Existing law prohibits an allocation from being made on projects that eliminate an existing crossing or that alter or reconstruct an existing grade separation unless the railroad agrees to contribute 10% of the cost of the project.~~

~~This bill would delete that provision prohibiting those agencies from receiving an allocation for another project for a period of 10 years. The bill would also provide that the provisions prohibiting an allocation from being made on projects that eliminate an existing crossing or that alter or reconstruct an existing grade separation unless the railroad agrees to contribute 10% of the cost do not apply if the local agency obtains funding for that 10% through other means.~~ *provide that an agency that receives an allocation pursuant to that exception may be eligible for an allocation for another project if the Department of Transportation determines that funds are available for allocation .*

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2454 of the Streets and Highways Code is amended to read:

2454. Allocations made pursuant to Section 2453 shall be made on the basis of the following:

(a) An allocation of 80 percent of the estimated cost of the project shall be made; except that whenever contributions from other sources exceed 20 percent of the estimated cost, the allocation shall be reduced by the amount in excess of 20 percent of the estimated cost.

(b) An allocation of 50 percent of the estimated cost of the project shall be made for a proposed crossing.

(c) No allocation shall be made in excess of 50 percent of the estimated cost of the project unless the grade crossing to be eliminated has been in existence for at least 10 years prior to the date of allocation.

(d) On projects that eliminate an existing crossing, or alter or reconstruct an existing grade separation, no allocation shall be made unless the railroad agrees to contribute 10 percent of the cost of the project. ~~However, if the local agency obtains funding for that 10 percent of the cost of the project through other means, the contribution from the railroad shall not be required to make the allocation.~~

(e) Where a project does not include a grade separation, but eliminates existing grade crossing or crossings, the allocation shall not exceed the estimated allocation that would have been made for the grade separation which is no longer needed because of the elimination of the grade crossing by the project and which is indicated on the priority list to be urgently in need of grade separation.

(f) Where the project includes the separation of a highway and a railroad passenger service operated by a city or county, the operating agency shall contribute 20 percent of the cost of the project. The priority listing for these projects shall be in accordance with criteria established for railroad passenger service by the Public Utilities Commission.

(g) (1) Notwithstanding subdivisions (a) to (f), inclusive, the total of these allocations for a single project shall not exceed five million dollars (\$5,000,000) without specific legislative authorization, except that the amount for a single project may be increased to either (1) an amount that includes the federal construction cost index increase each year since 1976, or (2) an amount that does not exceed one-third of the total funds appropriated for grade separation projects for the year of allocation, whichever amount is less, as determined each year by the Public Utilities Commission.

(2) Notwithstanding paragraph (1), the California Transportation Commission may allocate up to fifteen million dollars (\$15,000,000) to a single project if that project is the highest ranking project on the priority list established by the Public Utilities Commission pursuant to Section 2452.

(h) Notwithstanding subdivisions (a) to (g), inclusive, a single project in excess of five million dollars (\$5,000,000), but not exceeding twenty million dollars (\$20,000,000), shall be considered without specific legislative authority, if the project (1) is included in the Public Utilities Commission's priority list of projects scheduled to be funded, (2) eliminates the need for future related grade separation projects, (3) provides projected cost savings of at least 50 percent to the state or local jurisdiction, or both of them, by eliminating the need for future projects, and (4) alleviates traffic and safety problems or provides improved rail service not otherwise possible. Projects approved pursuant to this

subdivision shall be funded over a multiyear period, not to exceed five years, and the allocation for any one of those years shall not exceed the amount prescribed by subdivision (g) for a single project.

Not more than one-half of the total allocation available in any one fiscal year for grade separation projects may be used for the purposes of this subdivision. *An agency that has received an allocation for a project approved pursuant to this subdivision shall not be eligible for an allocation for another project under this subdivision for a period of 10 years from the date of approval of that project. However, if funds are available for allocation, as determined by the Department of Transportation, an agency may be eligible for an allocation for another project.*

(i) Notwithstanding any of the above provisions of this section or any other provision of law, when the state or local agency uses funds derived from federal sources in financing its share of project costs, the railroad contribution, where required by federal law or regulation, shall be computed pursuant to federal law. However, the allocation made pursuant to this chapter shall be computed as though that matching contribution was derived from nonfederal sources and shall be computed as though the railroad had made its contribution pursuant to state law rather than pursuant to federal law. Where the contribution of the railroad is computed according to federal law or regulation because of the use of federal funds in the allocation for a project, the allocation shall be increased by the amount the share of the railroad is reduced below 10 percent of the estimated cost of the project.