

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 16, 2007

To: The Commission
(Meeting of May 24, 2007)

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

Subject: **AB 633 (Galgiani) Grade separation projects.**
As amended: April 25, 2007

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: NEUTRAL

SUMMARY OF BILL:

This bill would require the California Public Utilities Commission (CPUC), jointly with the California Department of Transportation (Caltrans), to issue a report to the Legislature by September 1, 2008, evaluating the grade separation program and recommending improvements to the program, including a hardship application.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

The State Auditor was recently tasked by the Joint Legislative Audit Committee to evaluate the grade separation program and report her findings to the Legislature. She expects to deliver her report this Fall. While the Commission supports improving the program, this bill would require the CPUC to duplicate the State Auditor's efforts, which would be an unnecessary use of staff resources.

SUMMARY OF SUGGESTED AMENDMENTS (if any):

None.

DIVISION ANALYSIS (OGA):

- For over a decade, CPUC staff within the Rail Crossing Branch have identified problems with the grade separation program and provided analyses both formally and informally to Legislators and their staff. While the Commission is willing, if necessary, to do the formal evaluation required by this bill, the Legislature is ultimately responsible for enacting meaningful reform of the program.

- Of particular note, this bill would require the CPUC and Caltrans to recommend a hardship application process so that local entities that are unable to fully fund their portion of a project's costs could receive special assistance under severe circumstances. This provision underscores the problem at the heart of the grade separation program – lack of funding.
- The Commission has concluded in the past that the overriding problem with the grade separation program is a lack of funding. The existing annual allocation of \$15 million from the State Highway Account was established over 25 years ago and is woefully inadequate to provide meaningful financial assistance to local entities wishing to grade separate a railroad crossing. Increases in the cost of land acquisition (particularly in urban areas) and construction have resulted in the fixed allocation funding fewer projects over time.
- Decision 98-06-072 indicated that the Commission's priority list of 41 crossing projects eligible for Grade Separation program funds for the 1998-99 fiscal year had a total cost approaching \$600 million. The Decision stated "(w)ith so many projects proposed for grade separation, the Commission considers the fund in desperate need of an increase to keep pace with inflation and to adequately fund grade separations at locations with potential safety hazards." (D.98-06-072, issued June 18, 1998, p.4)
- Currently, Commission staff estimates that \$165 million is needed to provide funding for the same number of grade separations as the \$15 million provided in 1974.

PROGRAM BACKGROUND:

- The optimal safety improvement for a highway-rail crossing is the complete separation of the railroad tracks from the highway. Although costly, a grade separation maximizes safety by eliminating train-vehicle collisions and reducing highway congestion and delay.
- To help local agencies with the high cost of separating grade crossings, the legislature introduced the Grade Separation Program in 1957, with an original funding level of \$5 million. Currently, and since 1974, Section 190 of the S&H Code requires the State's annual budget to include \$15 million for funding these projects.
- Section 2450 et seq. of the Streets & Highway (S&H) Code sets out the procedure for allocating and administering these funds. S&H Code Section 2452 requires the Public Utilities Commission, by July 1 of each year, to establish the priority list for projects most urgently in need of separation or alteration and furnish it to the California Transportation Commission (CTC) for use in the upcoming fiscal year. Section 2453 gives the CTC responsibility for allocating the funds to qualified projects from the prioritization list that also meet the other Caltrans requirements for an allocation.

- The ranking on the priority list does not guarantee that the project will be funded by Section 190. The proponent must provide Department of Transportation (Caltrans) prescribed documentation that the project is ready to proceed by no later than by April 1 of each year. Required documentation includes agreements with the affected railroad, (e.g., evidence that the railroad will contribute 10% of the project cost), environmental documents, and certification by the local governing body that sufficient local funds are available to complete the project, etc. (Title 21 C.C.R. § 1554.)
- In recent years, local governments have consistently failed to complete the required documentation by Caltrans' April 1 deadline. For example, no new projects were funded by the Section 190 program in the 2005-06 FY because local governments did not submit the necessary documentation prior to the April 1, 2005 deadline.
- Furthermore, in prior years, projects ranking as low as number 52 received funding because projects ranking higher on the priority list were not ready to proceed by the April 1 deadline. Unfortunately, even though Caltrans may allocate funds for a project, unless the local government is prepared to proceed to construction within the contract period, the funds not used are automatically reverted back to the Section 190 program account.
- The CPUC has established the following formula for prioritizing at-grade crossings:

Formula For Crossing Nominated For Separation Or Elimination

$$P = \frac{V * (T + 0.1 * LRT) * (AH + 1)}{C} + SCF$$

- Where:
- P** - Priority Index Number
 - V** - Average 24-Hour Vehicular Volume (1 point per vehicle)
 - T** - Average 24-Hour Train Volume (1 point per train)
 - C** - Project Cost Share to be Allocated from Grade Separation Fund (1 point per thousand dollars)
 - LRT**- Average 24-Hour Light Rail Train Volume (1 point per train)
 - AH** - Accident History (up to 3 points per accident)
 - SCF**- Special Conditions Factor = BD+VS+RS+CG+PT+OF (up to 58 pts)
 - BD** - Crossing Blocking Delay (up to 5 points)
 - VS** - Vehicular Speed Limit (up to 5 points)
 - RS** -Railroad Prevailing Maximum Speed (up to 7 pts)
 - CG** - Crossing Geometrics (up to 17 points)
 - PT** - Passenger Trains (up to 10 points)
 - OF** - Other Factors: passenger buses, school buses, trains carrying hazardous materials trains and trucks, and community impact (up to 14 points)

C = Project Cost Share to be Allocated from Grade Separation Fund

Up to five million dollars per project will be allocated (S&H Code § 2454(g)) per fiscal year, unless the applicant is seeking multiple-year funding as prescribed in S&H Code § 2454(h). Local agencies are eligible to receive up to \$5 million each year, over a period of 5 years. The total amount they may receive is \$20 million, not to exceed 80% of the cost, if an at-grade crossing is closed and the project meets other specific requirements. If a crossing is not closed, the maximum allocation is \$5 million.

AH = Accident History (last 10 years from application filing due date)

Points are awarded as follows for accidents involving trains at crossings with the Crossing Protection Factor (CPF) based on the crossing's warning devices:

Points = (1 + 2 x No. Killed + No. Injured) x CPF

STANDARD	9	8	3	1
CPF	1.0	0.4	0.2	0.1

Note 1: No more than three points shall be allowed for each accident prior to modification by the protection factor.

Note 2: Each accident is rated separately and modified by a factor based on the warning devices in existence at time of the accident.

SCF = Special Conditions Factor = BD+VS+RS+CG+PT+OF

BD = Blocking Delay Per Train (The time in which vehicular traffic is delayed to allow a train to pass at a crossing.) The blocking delay, for a typical day, is the elapse time in minutes when trains pass the crossing. The delay is measured from the point that the warning devices are activated at the crossing to the time after the train has cleared the crossing and the warning devices are reset. The BD points are the total delay time, valued in a range from 0 to 5 points.

VS = Vehicular Speed Limit - Posted Speed Limit

SPEED-MPH	0-30	31-35	36-40	41-45	46-50	51+
POINTS	0	1	2	3	4	5

RS = Railroad Maximum Speed

SPEED-MPH	0-25	26-35	36-45	46-55	56-65	66-75	76-85	86+
POINTS	0	1	2	3	4	5	6	7

CG = Crossing Geometrics - 0 - 17 points are awarded to each crossing based on the relative severity of physical conditions, i.e. grade, alignment, site distance, track skew angle, traffic signals, entrances and exits, etc.

PT = Passenger Trains – Additional points are given to projects that have passenger trains, including light rail transit, traveling through the crossing based on the following:

NO. OF TRAINS	1-2	3-5	6-10	11-20	21-30	31-40	41-50	51-60	61-70	70+
POINTS	1	2	3	4	5	6	7	8	9	10

OF = Other Factors- Other Factors are valued in a range from 0 to 14 points based on:

CATEGORY	POINTS
SCHOOL BUSES	0-3
PASSENGER BUSES	0-3
HAZ-MAT TRUCKS*	0-3
COMMUNITY IMPACT	0-5

*Hazardous material trucks must display the placard with a clearly visible diamond-shaped sign to be counted for this category.

(See: I.05-07-016, App. 1; and Title 21 C.C.R. § 1554
http://www.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/48239.htm;
and Title 21 C.C.R. § 1554.)

LEGISLATIVE HISTORY:

AB 357 (1999) was sponsored by the CPUC and would have increased the annual appropriation for grade separation projects from \$15 million to \$60 million. Failed to pass the Senate Transportation Committee.

AB 453 (c. 298, 2005) provided on additional year to local agencies to complete state-funded grade separation projects.

AB 1785 (2006) would have increased the annual budget allocation for rail/highway grade separation projects from \$15 million to \$70 million annually. Held on suspense in Senate Appropriations Committee.

AB 1853 (2006) would have required the CPUC to account for emergency vehicle blocking delays when calculating a project’s ranking on the grade separation priority list. Author held her bill at the CPUC’s request, and introduced ACR 151 instead.

ACR 151 (Res. Ch. 133, 2006) requested that the CPUC revise its prioritization formula for grade separation projects to include a factor for blocking delays that disproportionately affect emergency vehicles. The CPUC has already received comments from interested parties on this proposed change and will consider implementing the change in the Order Instituting Investigation set to open in July 2007.

FISCAL IMPACT:

If this bill is enacted, the CPUC will need to divert 25% of one Utilities Engineer (Range D) and 10% of one Program & Project Supervisor in order to conduct the research and complete the report required by AB 633 at a cost of \$55,644.

STATUS:

This bill is on the Assembly Appropriation Committee's suspense file.

SUPPORT/OPPOSITION:

None of file.

STAFF CONTACTS:

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Date completed: May 16, 2007.

BILL LANGUAGE:

BILL NUMBER: AB 633 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY APRIL 25, 2007
AMENDED IN ASSEMBLY APRIL 10, 2007

INTRODUCED BY Assembly Member Galgiani

FEBRUARY 21, 2007

An act to add Section 2462 to the Streets and Highways Code,
relating to grade separation projects.

LEGISLATIVE COUNSEL'S DIGEST

AB 633, as amended, Galgiani. Grade separation projects.

Existing law requires the Public Utilities Commission to develop and maintain a priority list of railroad-highway grade crossings determined to be most urgently in need of separation or alteration. Existing law requires each annual proposed budget prepared by the Department of Transportation to include \$15,000,000 for grade separation projects. Existing law requires the California Transportation Commission to allocate available funding to projects pursuant to the priority list prepared by the Public Utilities Commission, and requires certain matching funds to be provided from nonstate funds and by the affected railroad. Under existing law, an allocation may only be made to a local agency if it furnishes evidence that sufficient local funds will be made available as the grade separation project progresses.

~~This bill would authorize a city, county, or city and county to apply for funding assistance if it has an unmet need for grade separation projects and it does not have sufficient local funding, as specified. The bill would authorize the California Transportation Commission to provide a city, county, or city and county meeting certain requirements with funding and to adjust or defer the local funding requirement. The bill would also authorize this commission to adopt specified regulations.~~

This bill would require the Public Utilities Commission and the Department of Transportation to issue a joint public report to the appropriate policy and fiscal committees of the Legislature no later than September 1, 2008. The bill would require the report to include, among other things, an evaluation of the grade separation project funding program and recommendations for establishing a hardship application process allowing for the adjustment or deferral of local financial participation in severe circumstances.

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. The Legislature finds and declares all of the

following:

(a) For decades, the greatest cause of fatalities associated with railroads in the United States has been collisions between trains and motor vehicles at railroad-highway grade crossings. Collisions at these crossings are the most critical rail-related safety problem.

(b) The California Highway Patrol, in its collision and train accident report, has identified over 700 collisions with more than 600 victims either injured or killed since 2001.

(c) According to the Federal Railroad Administration, California ranks fifth in the nation for public grade crossing accidents and fatalities with 130 collisions in 2004 alone.

(d) There are significant public safety concerns relating to the juxtaposition of railroad crossings to emergency services where railroad traffic adversely affects the delivery of emergency services and can result in death.

(e) It is therefore appropriate to provide funding to eliminate railroad-highway grade crossings in the state that endanger the public.

SEC. 2. Section 2462 is added to the Streets and Highways Code, to read:

~~2462. (a) A city, county, or city and county, may apply for funding assistance in order to satisfy the requirements of Section 2456 if sufficient local funding is not available and the city, county, or city and county has met the requirements of subdivision (b).~~

~~(b) A city, county, or city and county applying for funding assistance pursuant to this section shall meet the following requirements:~~

~~(1) That due to extreme financial, disaster related, safety related, or any other hardship, the city, county, or city and county has an unmet need for grade separation projects.~~

~~(2) That the city, county, or city and county does not have the sufficient local funding otherwise required for state participation, that the city, county, or city and county has made all reasonable efforts to impose all levels of local debt capacity and development fees, and that the city, county, or city and county is, therefore, unable to participate in the grade separation projects pursuant to this chapter except as specified in this section.~~

~~(c) The California Transportation Commission, pursuant to Section 190, may provide state funding to a city, county, or city and county meeting the requirements of subdivisions (a) and (b) and may adjust or defer the local funding requirement.~~

~~(d) The California Transportation Commission shall adopt regulations for determining the amount of state funding that may be provided to a city, county, or city and county and the eligibility and prioritization of funding under this section.~~

2462. (a) No later than September 1, 2008, the Public Utilities Commission and the Department of Transportation shall issue a joint report to the appropriate policy and fiscal committees of the Legislature. The report shall include, but not be limited to, all of the following:

(1) An evaluation of the program established pursuant to this chapter, which shall include an evaluation of any problems the California Transportation Commission has encountered in carrying out its duties under this chapter and any problems local agencies have encountered when seeking to obtain approval of or funding for a project.

(2) *An evaluation of factors that increase the cost for projects and suggested actions to lower the overall cost of projects.*

(3) *Recommendations for streamlining and improving the program established pursuant to this chapter.*

(4) *Recommendations for establishing a hardship application process in which the California Transportation Commission may, in severe circumstances, adjust or defer the local financial participation required under Section 2456.*

(b) *In developing the report required by this section, the Public Utilities Commission and the Department of Transportation may consult with local agencies and railroad companies.*