

Amendment No. CA20

Conference Committee Amendment to (BDR 58-576)
Senate Bill No. 508 Second Reprint

Proposed by: Conference Committee

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

DLJ/BJE



Date: 6/3/2013

S.B. No. 508—Revises provisions relating to trains. (BDR 58-576)



SENATE BILL NO. 508—COMMITTEE ON TRANSPORTATION

(ON BEHALF OF THE LEGISLATIVE COMMISSION)

MARCH 25, 2013

Referred to Committee on Transportation

SUMMARY—Revises provisions relating to trains. (BDR 58-576)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to trains; revising provisions relating to the California-Nevada Super Speed Ground Transportation System to provide for the Nevada High-Speed Rail System; repealing provisions relating to the employment of certain employees of railroad companies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a California-Nevada Super Speed Ground Transportation Commission, charged with pursuing the development of a Super Speed Ground Transportation System connecting southern California with southern Nevada. (NRS 705.4291, 705.4293) **Sections 1-3.8, 5 and 6** of this bill remove references to California's participation on the Commission and reorganize the System under the State of Nevada. **Section 3** creates the Nevada High-Speed Rail Authority, and requires that the members of the Authority be appointed by the Governor. ~~the Majority Leader of the Senate and the Speaker of the Assembly.~~ **Section 3.1** charges the Authority with pursuing the development of the Nevada High-Speed Rail System connecting southern California with southern Nevada. **Section 3.2** gives the Authority the authority to perform various tasks related to the planning and development of the System. **Section 3.3** allows the Authority to incorporate, and **section 3.4** authorizes the Authority to issue bonds, notes, obligations or other evidences of borrowing to finance construction of the System. **Section 3.5** requires the Governor to issue a proclamation declaring the completion of the System. **Sections 3.6-3.8 and 6** provide that the provisions of law relating to the System and the Authority expire by limitation upon the proclamation of the Governor that the System has been completed. **Section 5** provides staggered initial terms for the members of the Authority, and provides for the transfer to the Authority of any rights, obligations and property of the California-Nevada Super Speed Ground Transportation Commission.

Existing law requires the Legislative Counsel and the Research Director of the Legislative Counsel Bureau to work collaboratively to develop recommendations for the elimination of obsolete or antiquated provisions of the Nevada Revised Statutes. (NRS 220.085) **Section 4** of this bill repeals certain obsolete provisions of existing law which prohibit the employment of certain engineers or engine drivers to run a locomotive or train and the discharging from employment of certain flaggers and trainmen. (NRS 705.240, 705.390, 705.420)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 705.4291 is hereby amended to read as follows:

705.4291 The Legislature finds and declares that:

1. Passage of NRS 705.4291 to 705.4296, inclusive, is a declaration of legislative intent that the ~~{States of California and Nevada jointly}~~ *State of Nevada* ~~{consider and, if justified, pursue the development}~~ *pursue the implementation* of a ~~{Super Speed Ground Transportation}~~ *High-Speed Rail* System connecting southern California with southern Nevada.

2. The System will:

(a) Provide economic benefits to both southern California and southern Nevada.

(b) Reduce reliance on gasoline- and diesel-fueled engines and encourage the use of alternative energy sources.

(c) Reduce congestion on Interstate Highway No. 15 between southern California and Las Vegas.

(d) Provide a working example for a transportation system that could play an essential role in the development of future commuter *and high-speed rail* service in the Los Angeles Basin and the Las Vegas Valley.

(e) Provide quick and convenient transportation service for residents and visitors in southern California and southern Nevada.

Sec. 2. NRS 705.4292 is hereby amended to read as follows:

705.4292 As used in NRS 705.4291 to 705.4296, inclusive, unless the context otherwise requires:

1. ~~{“Commission” means the California-Nevada Super Speed Ground Transportation Commission}~~ *“Authority” means the Nevada High-Speed Rail Authority created by NRS 705.4293.*

2. *“High-Speed Rail System” means a system that:*

(a) Is capable of sustained speeds of at least 150 miles per hour, or the speed established by the United States Department of Transportation and the Federal Railroad Administration’s plans and policies for high-speed rail express service;

(b) Carries primarily passengers;

(c) Operates on dedicated and exclusive standard gauge tracks for the purpose of high-speed rail service;

(d) Allows for interoperability with existing and planned rail systems; and

(e) Is certified by the Surface Transportation Board of the United States Department of Transportation as an interstate passenger railroad to construct and operate.

3. “Southern California” means the counties of Los Angeles, Orange, Riverside and San Bernardino.

~~{3. “Super Speed Ground Transportation System” means a system that:~~

~~(a) Is capable of sustained speeds of at least 240 miles per hour;~~

~~(b) Uses magnetic levitation technology;~~

~~(c) Carries primarily passengers; and~~

~~(d) Operates on a grade-separated, dedicated guideway.}~~

Sec. 3. NRS 705.4293 is hereby amended to read as follows:

705.4293 1. There is hereby created the ~~{California-Nevada Super Speed Ground Transportation Commission}~~ *Nevada High-Speed Rail Authority* as a

separate legal entity. The governing body of the ~~{Commission}~~ **Authority** consists of ~~+~~

~~(a) The members from California appointed pursuant to the law of California and the bylaws of the Commission.~~

~~(b) The same number of members from Nevada as are from California; five~~
members appointed by the Governor of Nevada, as follows:

~~(a) The Governor shall appoint one member;~~

~~(b) The Majority Leader of the Senate shall appoint two members; and~~

~~(c) The Speaker of the Assembly shall appoint two members.~~

→ The members must be residents of the State of Nevada and must be appointed based upon their knowledge, expertise or experience in the areas of rail transportation and high-speed rail service.

2. ~~{The}~~ **After their initial terms, the** members ~~{from Nevada}~~ serve for terms of 4 years and may be reappointed ~~++~~ **at the pleasure of the Governor.**

3. The ~~{Commission}~~ **Authority** shall elect one of its members as Chair.

Sec. 3.1. NRS 705.42935 is hereby amended to read as follows:

705.42935 The ~~{Commission}~~ **Authority** is hereby designated as an agency of the State of Nevada for the purposes of carrying out the provisions of NRS 705.4291 to 705.4296, inclusive.

Sec. 3.2. NRS 705.4294 is hereby amended to read as follows:

705.4294 ~~1. The Commission may:~~

~~— (a) Subject to the provisions of subsection 2, secure~~ **The Authority may:**

1. Secure a right-of-way and award a franchise for the construction and operation of a ~~{Super-Speed-Ground-Transportation}~~ **High-Speed Rail** System principally following the route of Interstate Highway No. 15 between Las Vegas, Nevada, and a point in southern California.

~~{(b)}~~ **2.** Acquire or gain control or use of land for rights-of-way, stations and ancillary uses through purchase, gift, lease, use permit or easement.

~~{(c)}~~ **3.** Conduct engineering and other studies related to the selection and acquisition of rights-of-way and the selection of a franchisee, including, but not limited to, environmental impact studies, socioeconomic impact studies and financial feasibility studies. All local, state and federal environmental requirements must be met by the ~~{Commission}~~

~~— (d) Evaluate alternative technologies, systems and operators for a Super-Speed Ground Transportation System, and select~~ **Authority.**

4. Select a franchisee to construct and operate the ~~{Super-Speed-Ground-Transportation}~~ **High-Speed Rail** System between southern California and Las Vegas.

~~{(e)}~~ **5.** Establish criteria for the award of the franchise ~~+~~

~~— (f)~~ **, which must include, without limitation:**

(a) The extent to which environmental studies have been completed;

(b) The level of private investment that has been made or committed;

(c) Construction readiness; and

(d) Pending or completed permit applications to implement a High-Speed Rail System.

6. Accept grants, gifts, fees and allocations from Nevada or its political subdivisions, the Federal Government, foreign governments and any private source.

~~{(g)}~~ **7.** Issue debt, but this debt does not constitute an obligation of the ~~{State of California or the}~~ State of Nevada, or any of ~~{their}~~ **its** political subdivisions.

~~{(h)}~~ **8.** Hire an Executive Officer, other staff and any consultants deemed appropriate.

~~{(i)}~~ **Select the exact route and terminal sites.**

1 ~~—(j) 9.~~ Obtain, or assist the selected franchisee in obtaining, all necessary
2 permits and certificates from governmental entities in California and Nevada ~~†~~

3 ~~—2. Before the:~~

4 ~~—(a) Commission or a franchisee begins construction in Nevada; and~~

5 ~~—(b) Receipt of any final certificates and permits necessary for the construction~~
6 ~~or use of a public right of way;~~

7 ~~→ the route and terminals selected by the Commission must be approved by the~~
8 ~~appropriate local, regional and state governmental entities in Nevada which have~~
9 ~~jurisdiction over the route and terminals located in this state. As a condition of~~
10 ~~awarding a franchise, the Commission shall require the franchisee to comply with~~
11 ~~this subsection.~~

12 ~~—3. Before the:~~

13 ~~—(a) Commission or a franchisee begins construction in California; and~~

14 ~~—(b) Receipt of any final certificates and permits necessary for the construction~~
15 ~~or use of a public right of way;~~

16 ~~→ the route and terminals selected by the Commission must be approved by the~~
17 ~~appropriate local, regional and state governmental entities in California which have~~
18 ~~jurisdiction over the route and terminals located in that state. As a condition of~~
19 ~~awarding a franchise, the Commission shall require the franchisee to comply with~~
20 ~~this subsection.] , recognizing the preemptive federal authority of the Surface~~
21 ~~Transportation Board of the United States Department of Transportation over~~
22 ~~interstate passenger railroads.~~

23 *10. Negotiate, enter into and execute all necessary local, regional and state*
24 *governmental agreements to allow for the construction and implementation of the*
25 *High-Speed Rail System.*

26 **Sec. 3.3.** NRS 705.4295 is hereby amended to read as follows:

27 705.4295 1. The ~~{Commission}~~ *Authority* may incorporate under the
28 general incorporation laws of either this state or the State of California, whichever
29 the ~~{Commission}~~ *Authority* determines to be in its best interests. Copies of its
30 proceedings, records and acts, when authenticated, are admissible in evidence in all
31 courts of either State and are prima facie evidence of the truth of all statements
32 therein.

33 2. The members of the ~~{Commission}~~ *Authority* and its agents and employees
34 are not liable for any damages that result from any act or omission in the
35 performance of their duties or the exercise of their powers pursuant to NRS
36 705.4291 to 705.4296, inclusive.

37 **Sec. 3.4.** NRS 705.42955 is hereby amended to read as follows:

38 705.42955 1. The ~~{Commission}~~ *Authority*, or a corporation formed by the
39 ~~{Commission}~~ *Authority* pursuant to the laws of this state or the State of California,
40 as the ~~{Commission}~~ *Authority* deems appropriate, may issue bonds, notes,
41 obligations or other evidences of borrowing to finance all or a part of the
42 construction of all or a part of the ~~{Super Speed Ground Transportation}~~ *High-*
43 *Speed Rail* System. For purposes of issuing bonds, notes, obligations or other
44 evidences of borrowing pursuant to this section, the ~~{Commission}~~ *Authority* and
45 any corporation formed by the ~~{Commission}~~ *Authority* are constituted authorities
46 for the purposes of regulations enacted by the Internal Revenue Service pursuant to
47 26 U.S.C. §§ 103 and 141 to 150, inclusive.

48 2. Bonds, notes, obligations or other evidences of borrowing issued by the
49 ~~{Commission}~~ *Authority* or any corporation formed by the ~~{Commission}~~ *Authority*
50 which are issued to finance all or any part of the construction of all or a part of the
51 ~~{Super Speed Ground Transportation}~~ *High-Speed Rail* System may be payable
52 from and secured by:

(a) A pledge of property of the ~~{Commission}~~ *Authority* or a corporation formed by the ~~{Commission}~~ *Authority* pursuant to this section;

(b) A pledge of any revenue of the ~~{Super-Speed-Ground-Transportation}~~ *High-Speed Rail* System, including revenue from fares, revenue from advertising and all other revenue of the System; and

(c) A pledge of any other money made available to the ~~{Commission}~~ *Authority* or a corporation formed by the ~~{Commission}~~ *Authority* pursuant to this section by:

(1) Grants from the Federal Government or any other federal funds as may be available to pay costs of the ~~{Super-Speed-Ground-Transportation}~~ *High-Speed Rail* System or debt service on any borrowing;

(2) Any company, public or private; or

(3) Any local government or governmental entity in this state or in the State of California pursuant to an intergovernmental agreement or otherwise.

3. The ~~{Commission}~~ *Authority* may enter into agreements with any person, local government or governmental entity for the provision of resources or assistance to the ~~{Commission}~~ *Authority* or a corporation formed by the ~~{Commission}~~ *Authority* concerning the financing of the ~~{Super-Speed-Ground-Transportation}~~ *High-Speed Rail* System.

4. The ~~{Commission}~~ *Authority* or any corporation formed by the ~~{Commission}~~ *Authority* pursuant to this section may issue obligations to refund any obligations issued pursuant to the provisions of this section and NRS 705.4291 to 705.4296, inclusive, for any purpose the ~~{Commission}~~ *Authority* determines to be sufficient.

5. Nothing in this section authorizes the ~~{Commission}~~ *Authority* or any corporation formed by the ~~{Commission}~~ *Authority* to obligate this state or the State of California or any political subdivision thereof unless such State or political subdivision has obligated itself to the ~~{Commission}~~ *Authority* or a corporation created by the ~~{Commission}~~ *Authority* through an intergovernmental agreement.

6. ~~{Unless a specific statute of this state or the State of California requires otherwise, upon dissolution of the Commission, all property of the Commission must be distributed between this state and the State of California in an equitable manner as agreed upon by the States.}~~

~~7.~~ The creation, perfection, priority and enforcement of any lien on pledged revenue or other money established to secure any bond, note, obligation or other evidence of borrowing issued pursuant to this section, must be as specified in this section and in the instruments approved by the ~~{Commission}~~ *Authority* pertaining to that bond, note, obligation or other evidence of borrowing. It is the purpose of this section to provide expressly for the creation, perfection, priority and enforcement of a security interest created by the ~~{Commission}~~ *Authority* in pledged revenues or other money in connection with bonds, notes, obligations or other evidences of borrowing issued pursuant to this section, as provided for in paragraph (n) of subsection 4 of NRS 104.9109. Any lien on pledged revenue or other money created to secure any bond, note, obligation or other evidence of borrowing issued pursuant to this section has priority over any lien thereon created pursuant to the provisions of chapter 104 of NRS unless otherwise provided in the instrument creating the lien to secure such bond, note, obligation or other evidence of borrowing issued pursuant to the provisions of this section.

Sec. 3.5. NRS 705.4296 is hereby amended to read as follows:

705.4296 The Governor shall declare, by public proclamation on the date of completion of the ~~{Super-Speed-Ground-Transportation}~~ *High-Speed Rail* System

connecting southern California with Southern Nevada, that the System has been completed.

Sec. 3.53. NRS 709.050 is hereby amended to read as follows:

709.050 1. The board of county commissioners may grant to any person, company, corporation or association the franchise, right and privilege to construct, install, operate and maintain street railways, electric light, heat and power lines, gas and water mains, telephone and telegraph lines, and all necessary or proper appliances used in connection therewith or appurtenant thereto, in the streets, alleys, avenues and other places in any unincorporated town in the county, and along the public roads and highways of the county, when the applicant complies with the terms and provisions of NRS 709.050 to 709.170, inclusive.

2. The board of county commissioners shall not:

(a) Impose any terms or conditions on a franchise granted pursuant to subsection 1 for the provision of telecommunication service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides telecommunication service or interactive computer service to obtain a franchise if it provides telecommunication service over the telephone or telegraph lines owned by another company.

3. As used in NRS 709.050 to 709.170, inclusive:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § 230(f)(2), as that section existed on January 1, 2007.

(b) "Street railway" means:

(1) A system of public transportation operating over fixed rails on the surface of the ground; or

(2) An overhead or underground system, other than a monorail, used for public transportation.

➤ The term does not include a ~~super speed ground transportation system~~ **High-Speed Rail System** as defined in NRS 705.4292.

(c) "Telecommunication service" has the meaning ascribed to it in NRS 704.028.

4. As used in this section, "monorail" has the meaning ascribed to it in NRS 705.650.

Sec. 3.57. NRS 709.290 is hereby amended to read as follows:

709.290 1. The county commissioners, town trustees, supervisors or other governing body directly entrusted with the management of affairs of any town or city in this State are authorized to sell to the highest responsible bidder any franchise for a street railway through and over any street or streets of such town, according to the provisions of NRS 709.310.

2. As used in NRS 709.290 to 709.360, inclusive, "street railway" means:

(a) A system of public transportation operating over fixed rails on the surface of the ground; or

(b) An overhead or underground system, other than a monorail, used for public transportation.

➤ The term does not include a ~~Super Speed Ground Transportation~~ **High-Speed Rail System** as defined in NRS 705.4292.

3. As used in this section, "monorail" has the meaning ascribed to it in NRS 705.650.

1 **Sec. 3.6.** Section 3.5 of chapter 88, Statutes of Nevada 2001, as added by
2 section 7 of chapter 2, Statutes of Nevada 2003, at page 6, is hereby amended to
3 read as follows:

4 Sec. 3.5. NRS 705.4291, 705.4292, 705.4293, 705.4294, 705.4295
5 and 705.4296 expire by limitation:

6 1. One year after the date on which the governor declares by public
7 proclamation that the ~~{super speed ground transportation system}~~ **High-**
8 **Speed Rail System** connecting southern California with southern Nevada
9 has been completed; or

10 2. On the date all borrowing made pursuant to section 1 of this act is
11 retired,
12 whichever is later.

13 **Sec. 3.7.** Section 4 of chapter 88, Statutes of Nevada 2001, at page 560, is
14 hereby amended to read as follows:

15 Sec. 4. 1. This act becomes effective on July 1, 2001.

16 2. Sections 1 and 2 of this act expire by limitation:

17 (a) One year after the date on which the governor declares by public
18 proclamation that the ~~{super speed ground transportation system}~~ **High-**
19 **Speed Rail System** connecting southern California with southern Nevada
20 has been completed; or

21 (b) On the date all borrowing made pursuant to section 1 of this act is
22 retired,
23 whichever is later.

24 **Sec. 3.8.** Section 5 of chapter 209, Statutes of Nevada 2003, at page 1173, is
25 hereby amended to read as follows:

26 Sec. 5. 1. This act becomes effective on July 1, 2003.

27 2. Sections 1 to 4, inclusive, of this act expire by limitation:

28 (a) One year after the date on which the Governor declares by public
29 proclamation that the ~~{Super Speed Ground Transportation}~~ **High-Speed**
30 **Rail System** connecting southern California with southern Nevada has been
31 completed; or

32 (b) On the date all borrowing made pursuant to NRS 705.42955 is
33 retired,
34 whichever is later.

35 **Sec. 4.** NRS 705.240, 705.390 and 705.420 are hereby repealed.

36 **Sec. 5.** On the effective date of this act:

37 1. The rights, obligations and property of the State of Nevada in the
38 California-Nevada Super Speed Ground Transportation Commission, if any,
39 become the rights, obligations and property of the Nevada High-Speed Rail
40 Authority.

41 2. The terms of the Nevada members of the California-Nevada Super Speed
42 Ground Transportation Commission expire. The initial appointments to the Nevada
43 High-Speed Rail Authority must be made as follows:

44 (a) The Governor shall appoint one member to a term beginning on October 1,
45 2013, and ending on September 30, 2015; ~~and~~

46 (b) The ~~{Majority Leader of the Senate and the Speaker of the Assembly shall~~
47 ~~each appoint:~~

48 ~~(1) One member to a term;~~ **Governor shall appoint two members to**
49 **terms** beginning on October 1, 2013, and ending on September 30, 2016; and

50 ~~(2) One member to a term;~~
51 **(c) The Governor shall appoint two members to terms** beginning on
52 October 1, 2013, and ending on September 30, 2017.

1 3. Any agreements entered into by the California-Nevada Super Speed
2 Ground Transportation Commission terminate.

3 **Sec. 6.** 1. This act becomes effective upon passage and approval.

4 2. Sections 1 to 3.5, inclusive, of this act expire by limitation:

5 (a) One year after the date on which the Governor declares by public
6 proclamation that the High-Speed Rail System connecting southern California with
7 southern Nevada has been completed; or

8 (b) On the date all borrowing made pursuant to NRS 705.42955 is retired,
9 ↳ whichever is later.

TEXT OF REPEALED SECTIONS

705.240 Engineer required to be able to read timetables and ordinary handwriting; penalty.

1. It shall be unlawful for any person, as an officer of a corporation or otherwise, knowingly to employ an engineer or engine driver to run a locomotive or train on any railway if such engineer or engine driver cannot read timetables and ordinary handwriting.

2. It shall be unlawful for any person who cannot read timetables and ordinary handwriting to act as an engineer or run a locomotive or train on any railway.

3. Any person who violates any provision of this section shall be guilty of a gross misdemeanor.

705.390 Protection of flagger and trainman employed on certain dates from discharge or loss of employment. No person employed as a flagger on any railroad in this State on April 1, 1963, may be discharged or lose such employment by reason of the provisions of chapter 176, Statutes of Nevada 1963. No person holding seniority as a trainman on any railroad in this State on July 1, 1985, may be discharged or lose such employment by reason of the provisions of chapter 358, Statutes of Nevada 1985. But if a flagger or a trainman retires, terminates or voluntarily leaves such employment, the railroad company need not replace the position so vacated.

705.420 Penalty. Any railroad company or receiver of any railroad company, and any person engaged in the business of common carrier doing business in the State of Nevada, which violates any of the provisions of NRS 705.390 is liable to the Public Utilities Commission of Nevada for a penalty of \$500 for each violation.