

SENATE BILL NO. 457—COMMITTEE ON TRANSPORTATION

MARCH 23, 2015

Referred to Committee on Transportation

SUMMARY—Revises provisions relating to the Super Speed Ground Transportation System. (BDR 58-1106)

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

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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 Super Speed Ground Transportation System to provide for the Nevada High-Speed Rail System; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the 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) This bill removes the references to California's participation on the Commission and reorganizes the System under the State of Nevada. **Section 3** of this bill creates the Nevada High-Speed Rail Authority, and requires that the members of the Authority be appointed by the Governor. Three of the five members of the Authority must be residents of a county whose population is 700,000 or more (currently only Clark County). **Section 4** of this bill charges the Authority with pursuing the implementation of the Nevada High-Speed Rail System connecting southern California with southern Nevada. **Section 5** of this bill requires the Authority to select a franchisee to construct and operate the High-Speed Rail System. **Section 5** also provides the criteria that the Authority must use to select a franchisee and requires the Authority and the franchisee selected by the Authority to perform various tasks related to the planning and development of the System. **Section 6** of this bill allows the Authority to incorporate, and **section 7** of this bill authorizes the Authority to issue bonds, notes, obligations or other evidences of borrowing to finance construction of the System. **Section 8** of this bill requires the Governor to issue a proclamation declaring the completion of the System. **Sections 11-13 and 16** of this bill 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 14** of this bill provides for 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. **Section 15** of



26 this bill requires the Authority to select a franchisee to construct and operate the
27 High-Speed Rail System on or before October 1, 2015.

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

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

3 705.4291 The Legislature finds and declares that:

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

10 2. The System will:

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

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

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

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

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

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

24 705.4292 As used in NRS 705.4291 to 705.4296, inclusive,
25 unless the context otherwise requires:

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

29 2. **“High-Speed Rail System” means a high-speed passenger**
30 **rail system that:**

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

35 (b) **Carries primarily passengers between southern Nevada**
36 **and southern California;**

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



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

(e) Is certified or authorized by the Surface Transportation Board of the United States Department of Transportation as an interstate passenger railroad to construct and operate its route between southern Nevada and southern California.

3. "Southern California" means the counties of Kern, 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.] and San Diego.~~

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.]~~ **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 services. Three of the members must be residents of a county whose population is 700,000 or more.**

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.

4. **The members of the Authority serve without compensation but are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the official business of the Authority.**

Sec. 4. 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. 5. NRS 705.4294 is hereby amended to read as follows:

705.4294 1. The ~~[Commission may:]~~



1 ~~—(a) Subject~~ Authority shall, subject to the provisions of
2 subsection 2, ~~{secure a right-of-way and award}~~ select a ~~{franchise}~~
3 ~~franchisee~~ for the construction and operation of a ~~{Super-Speed}~~
4 ~~Ground-Transportation}~~ High-Speed Rail System principally
5 following the route of Interstate Highway No. 15 between Las
6 Vegas, Nevada, and a point in southern California.

7 ~~{(b)}~~ 2. The Authority shall select a franchisee as required by
8 subsection 1 based on criteria which must include, without
9 limitation:

10 (a) The extent to which environmental studies have been
11 completed by or on behalf of a potential franchisee;

12 (b) Confirmation by a potential franchisee of the level of
13 private investment that has been made or committed for the High-
14 Speed Rail System;

15 (c) A review of the readiness of a potential franchisee for the
16 High-Speed Rail System to engage in construction of that System;
17 and

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

20 3. A franchisee selected pursuant to this section may, with the
21 assistance of the Authority:

22 (a) Acquire or gain control or use of land for rights-of-way,
23 stations and ancillary uses through purchase, gift, lease, use permit
24 or easement.

25 ~~{(e)}~~ (b) Conduct engineering and other studies related to the
26 selection and acquisition of rights-of-way , ~~{and the selection of a}~~
27 ~~franchisee,~~ including, but not limited to, environmental impact
28 studies, socioeconomic impact studies and financial feasibility
29 studies. All local, state and federal environmental requirements must
30 be met by the ~~{Commission}~~.

31 ~~—(d) Evaluate alternative technologies, systems and operators for~~
32 ~~a Super Speed Ground Transportation System, and select a~~
33 ~~franchisee to construct and operate the Super Speed Ground~~
34 ~~Transportation System between southern California and Las Vegas.~~

35 ~~—(e) Establish criteria for the award of the franchise.~~

36 ~~—(f)}~~ franchisee.

37 (c) Accept grants, gifts, fees and allocations from Nevada or its
38 political subdivisions, the Federal Government, foreign
39 governments and any private source.

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

43 ~~{(h)}~~ (e) Hire ~~{an Executive Officer, other}~~ such staff and any
44 consultants as deemed appropriate.

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



1 ~~—(j) (f) Obtain [or assist the selected franchisee in obtaining,]~~
2 all necessary permits and certificates from governmental entities in
3 California and Nevada ~~[-~~

4 ~~—2. Before the:~~

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

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

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

15 ~~—3. Before the:~~

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

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

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

28 *(g) Negotiate, enter into and execute all necessary local,*
29 *regional and state governmental agreements to allow for the*
30 *construction and implementation of the High-Speed Rail System.*

31 *4. The franchisee selected pursuant to this section must*
32 *coordinate the implementation of the High-Speed Rail System with*
33 *all governmental entities that have jurisdiction over the High-*
34 *Speed Rail System, including, without limitation, the relevant*
35 *counties and the Department of Transportation.*

36 **Sec. 6.** NRS 705.4295 is hereby amended to read as follows:

37 705.4295 1. The **[Commission] Authority** may incorporate
38 under the general incorporation laws of either this state or the State
39 of California, whichever the **[Commission] Authority** determines to
40 be in its best interests. Copies of its proceedings, records and acts,
41 when authenticated, are admissible in evidence in all courts of either
42 State and are prima facie evidence of the truth of all statements
43 therein.

44 2. The members of the **[Commission] Authority** and its agents
45 and employees are not liable for any damages that result from any



act or omission in the performance of their duties or the exercise of their powers pursuant to NRS 705.4291 to 705.4296, inclusive.

Sec. 7. NRS 705.42955 is hereby amended to read as follows:

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

2. Bonds, notes, obligations or other evidences of borrowing issued by the ~~{Commission}~~ **Authority** or any corporation formed by the ~~{Commission}~~ **Authority** which are issued to finance all or any part of the construction of all or a part of the ~~{Super-Speed-Ground-Transportation}~~ **High-Speed Rail** System may be payable 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, in coordination with the franchisee selected pursuant to NRS 705.4294**, 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



1 ~~{Commission}~~ Authority concerning the financing of the ~~{Super~~
2 ~~Speed Ground Transportation}~~ High-Speed Rail System.

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

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

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

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

39 **Sec. 8.** NRS 705.4296 is hereby amended to read as follows:

40 705.4296 The Governor shall declare, by public proclamation
41 on the date of completion of the ~~{Super Speed Ground~~
42 ~~Transportation}~~ High-Speed Rail System connecting southern
43 California with Southern Nevada, that the System has been
44 completed.



Sec. 9. 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 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 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 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. 10. 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.

Sec. 11. Section 3.5 of chapter 88, Statutes of Nevada 2001, as added by section 7 of chapter 2, Statutes of Nevada 2003, at page 6, is hereby amended to read as follows:

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

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

2. On the date all borrowing made pursuant to section 1 of this act is retired,

↪ whichever is later.

Sec. 12. Section 4 of chapter 88, Statutes of Nevada 2001, at page 560, is hereby amended to read as follows:

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

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

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

(b) On the date all borrowing made pursuant to section 1 of this act is retired,

↪ whichever is later.

Sec. 13. Section 5 of chapter 209, Statutes of Nevada 2003, at page 1173, is hereby amended to read as follows:

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

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

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



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

Sec. 14. On the effective date of this act:

1. The rights, obligations and property of the State of Nevada in the California-Nevada Super Speed Ground Transportation Commission, if any, become the rights, obligations and property of the Nevada High-Speed Rail Authority created by NRS 705.4293, as amended by section 3 of this act.

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

(a) The Governor shall appoint one member to a term beginning on July 1, 2015, and ending on June 30, 2017;

(b) The Governor shall appoint two members to terms beginning on July 1, 2015, and ending on June 30, 2018; and

(c) The Governor shall appoint one member to a term beginning on July 1, 2015, and ending on June 30, 2019.

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

Sec. 15. The Nevada High-Speed Rail Authority shall, on or before October 1, 2015, select a franchisee as required by NRS 705.4294, as amended by section 5 of this act.

Sec. 16. 1. This act becomes effective upon passage and approval.

2. Sections 1 to 10, inclusive, of this act expire by limitation:

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

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

