

Amendment No. 357

Assembly Amendment to Assembly Bill No. 360 (BDR 35-885)

Proposed by: Assembly Committee on Transportation

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

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 360 (§ 2).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of *green bold underlining* is language proposed to be added 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 proposed to be retained in this amendment.

DLJ/JRS



Date: 4/18/2017

A.B. No. 360—Revises provisions governing transportation. (BDR 35-885)



ASSEMBLY BILL NO. 360—ASSEMBLYMAN MARCHANT

MARCH 20, 2017

Referred to Committee on Transportation

SUMMARY—Revises provisions governing transportation. (BDR 35-885)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Contains Appropriation not included in Executive Budget.

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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 transportation; revising provisions concerning the authority to approve certain requests relating to transportation facilities; authorizing the Department of Transportation to solicit from a person a proposal to enter into an agreement with the Department to develop, construct, improve, maintain or operate a transportation facility under certain circumstances; requiring the Department to ~~enter into a contract to conduct a feasibility study of~~ consider certain factors for establishing a high-speed ~~rail~~ ground transportation system between Las Vegas and Reno, Nevada; ~~making an appropriation;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Department of Transportation to authorize a person to develop, construct, improve, maintain or operate, or any combination thereof, a transportation facility. (NRS 408.5473) If the Department receives a request for such a project, the Department may request other persons to submit proposals for the project. (NRS 408.548) Before the Department may approve a request or a proposal for such a project, the Department must determine if the transportation facility serves a public purpose. (NRS 408.5483) **Section 1** of this bill authorizes the Department to solicit from a person a proposal to enter into an agreement with the Department to develop, construct, improve, maintain or operate, or any combination thereof, a transportation facility. **Sections 1 and 2** of this bill require the Department, before approving a request or proposal for such a project, or before entering into an agreement for such a project, to determine that there will be a public benefit. ~~from the transportation facility.~~ **Section 2** also sets forth certain requirements for an agreement that the Department enters into for such a project. **Sections 3 and 4** of this bill make conforming changes.

Section 5 of this bill ~~appropriates \$20,000,000 to~~ requires the Department, in coordination with the Office of Economic Development, to ~~conduct a study of the feasibility of~~ evaluate opportunities for establishing a high-speed ~~rail~~ ground transportation system between Las Vegas and Reno, Nevada. **Section 6** of this bill requires the Department to ~~enter into a contract with a qualified consultant to conduct such a study.~~ consider such high-speed ground transportation in its planning activities. **Section 6** also sets forth the minimum ~~requirements for the study.~~ factors for such consideration. **Section 7** of this bill requires the Department to: (1) present the findings of ~~the feasibility study.~~ such

considerations to the Board of Directors of the Department; and (2) submit a report on the ~~study~~ same, together with any recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the 80th Session of the Nevada Legislature.

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

Section 1. NRS 408.548 is hereby amended to read as follows:

408.548 1. If the Department receives a request regarding a transportation facility pursuant to NRS 408.5475 and the Department determines pursuant to the provisions of subsection 1 of NRS 408.5483 that *there will be a public benefit from the transportation facility and that the transportation facility* serves a public purpose, the Department may request other persons to submit proposals to develop, construct, improve, maintain or operate, or any combination thereof, the transportation facility.

2. *The Department may solicit from a person, including, without limitation, an entity or a telecommunication provider, a proposal to enter into an agreement with the Department to develop, construct, improve, maintain or operate, or any combination thereof, a transportation facility, if the Department determines pursuant to the provisions of subsection 1 of NRS 408.5483 that there will be a public benefit from a transportation facility and that the transportation facility serves a public purpose.*

3. The Department shall adopt regulations establishing:

(a) The procedures for requesting other persons to submit proposals to the Department ~~and~~ *pursuant to subsection 1;*

(b) The procedures for other persons to submit proposals to the Department ~~pursuant to subsection 1; and~~

(c) The procedures for soliciting proposals from persons to enter into an agreement with the Department pursuant to subsection 2.

4. *As used in this section, "telecommunication provider" has the meaning ascribed to it in NRS 711.131.*

Sec. 2. NRS 408.5483 is hereby amended to read as follows:

408.5483 1. The Department may approve a request or proposal submitted pursuant to NRS 408.5475 or *subsection 1 of NRS 408.548 or approve* ~~an agreement~~ *a proposal solicited pursuant to subsection 2 of NRS 408.548* if the Department determines that *there will be a public benefit from the transportation facility and that the transportation facility* serves a public purpose. In determining whether the transportation facility serves a public purpose, the Department shall consider whether:

(a) There is a public need for the type of transportation facility that is proposed;

(b) The proposed interconnections between the transportation facility and existing transportation facilities and the plans of the person submitting the request ~~or the agreement~~ *proposal solicited by the Department* for the operation of the transportation facility are reasonable and compatible with any statewide or regional program for the improvement of transportation and with the transportation plans of any other governmental entity in the jurisdiction of which any portion of the transportation facility will be located;

(c) The estimated cost of the transportation facility is reasonable in relation to similar transportation facilities, as determined by an analysis of the cost performed by a professional engineer who is licensed pursuant to chapter 625 of NRS;

(d) The plans of the person submitting the request ~~or the agreement~~ proposal solicited by the Department will result in the timely development or construction of or improvement to the transportation facility or its more efficient operation;

(e) The plans of the person submitting the request ~~or the agreement~~ proposal solicited by the Department contain any penalties for the failure of the person submitting the request ~~or entering into the agreement~~ proposal to meet any deadline which results in the untimely development or construction of or improvement to the transportation facility or failure to meet any deadline for its more efficient operation; and

(f) The long-term quality of the transportation facility will meet a level of performance established by the Department over a sufficient duration of time to provide real value to the public.

2. In evaluating a request or proposal submitted pursuant to NRS 408.5475 or subsection 1 of NRS 408.548 ~~or a proposed agreement~~ proposal solicited pursuant to subsection 2 of NRS 408.548, the Department may consider internal staff reports prepared by personnel of the Department who are familiar with the operation of similar transportation facilities or the advice of outside advisors or consultants with relevant experience.

3. The Department shall request that a person who submitted a request or proposal pursuant to NRS 408.5475 or subsection 1 of NRS 408.548 ~~or a person who submitted a proposed agreement~~ proposal solicited pursuant to subsection 2 of NRS 408.548 furnish a copy of the request, ~~or~~ proposal ~~or proposed agreement~~ to each governmental entity that has jurisdiction over an area in which any part of the transportation facility is located. Within 30 days after receipt of such a request, ~~or~~ proposal ~~or proposed agreement~~, the governmental entity shall submit in writing to the Department, for consideration by the Department, any comments that the governmental entity has concerning the transportation facility and shall indicate whether the transportation facility is compatible with any local, regional or statewide transportation plan or program that is applicable to the governmental entity.

4. The Department shall charge a reasonable fee to cover the costs of processing, reviewing and evaluating a request or proposal submitted pursuant to NRS 408.5475 or subsection 1 of NRS 408.548 ~~or a proposed agreement~~ proposal solicited pursuant to subsection 2 of NRS 408.548, including, without limitation, reasonable fees for the services of an attorney or a financial or other consultant or advisor, to be collected before the Department accepts the request, ~~or~~ proposal ~~or proposed agreement~~ for processing, review and evaluation.

5. The approval of a request or proposal submitted pursuant to NRS 408.5475 or subsection 1 of NRS 408.548 by the Department is contingent on the person who submitted the request or proposal entering into an agreement with the Department. In such an agreement, the Department shall include, without limitation:

(a) Criteria that address the long-term quality of the transportation facility.

(b) The date of termination of the authority and duties pursuant to NRS 408.5471 to 408.549, inclusive, of the person whose request or proposal was approved by the Department with respect to the transportation facility and for the dedication of the transportation facility to the Department on that date.

(c) Provision for the imposition by the person whose request or proposal was approved by the Department of such rates, fees or other charges as may be established from time to time by agreement of the parties for use of all or a portion of a transportation facility, other than a bridge or road.

6. *Before entering into an agreement ~~with~~ proposed by a person solicited by the Department pursuant to subsection 2 of NRS 408.548, the Department shall ensure that the agreement includes, without limitation:*

(a) Criteria that address the long-term quality of the transportation facility.

(b) The date of termination of the authority and duties specified in NRS 408.5471 to 408.549, inclusive, of the person with whom the Department enters into the agreement with respect to the transportation facility and for the dedication of the transportation facility to the Department on that date.

(c) A provision for the imposition of any rates, fees or other charges established periodically by agreement of the parties for the use of all or a portion of a transportation facility, other than a bridge or road.

7. In connection with the approval of a transportation facility, the Department shall establish a date for the development of or the commencement of the construction of, or improvements to, the transportation facility. The Department may extend the date from time to time.

Sec. 3. NRS 408.5484 is hereby amended to read as follows:

408.5484 1. Any document or other information submitted to the Department in response to ~~that~~:

(a) A request for proposals pursuant to subsection 1 of NRS 408.548 by a person seeking a contract to develop, construct, improve, maintain or operate, or any combination thereof, a transportation facility pursuant to NRS 408.5471 to 408.549, inclusive ~~that~~; or

(b) A solicitation for ~~an agreement~~ a proposal pursuant to subsection 2 of NRS 408.548 by a person, entity or telecommunication provider seeking an agreement to develop, construct, improve, maintain or operate, or any combination thereof, a transportation facility pursuant to those sections,

is confidential and may not be disclosed until notice of intent to award the contract or to enter into the agreement is issued.

2. As used in this section, the term "document or other information" means any submittal by a person to the Department in response to a request for proposals pursuant to *subsection 1 of NRS 408.548 or a solicitation for ~~an agreement~~ a proposal pursuant to subsection 2 of NRS 408.548* and includes, without limitation, a proposal made pursuant to *subsection 1 of NRS 408.548 or a response to a solicitation submitted pursuant to subsection 2 of NRS 408.548*, and any submittal required by regulations promulgated by the Department pursuant to NRS 408.548.

Sec. 4. NRS 408.5485 is hereby amended to read as follows:

408.5485 The Department may contract with a person whose request, ~~for~~ proposal or *proposed agreement* is approved pursuant to NRS 408.5483 for transportation services to be provided by the transportation facility in exchange for such payments for service and other consideration as the Department may deem appropriate.

Sec. 5. ~~1. There is hereby appropriated from the State General Fund to the Department of Transportation the sum of \$30,000,000 to enter into a contract to conduct a feasibility study regarding the establishment of a~~ *in coordination with the Office of Economic Development, shall evaluate opportunities for the development of high-speed ~~train system~~ ground transportation* between Las Vegas and Reno, Nevada. ~~1. pursuant to the provisions of section 6 of this act.~~

~~2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2019, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 30, 2019, by any~~

entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 20, 2019.

Sec. 6. 1. The Department of Transportation shall ~~issue a request for proposals and enter into a contract with a qualified and independent consultant to conduct a study of the feasibility of establishing a~~ consider high-speed ~~rail system~~ ground transportation between Las Vegas and Reno, Nevada.

2. ~~A study conducted pursuant to subsection 1 must~~ in current and future planning activities, including, without limitation, the Statewide Transportation Plan prepared by the Department of Transportation and in planning related to the proposed corridor for U.S. Interstate Highway No. 11 in southern Nevada and may include, without limitation, analysis consideration of:

(a) ~~The costs and benefits of:~~

~~(1) Various route options, including, without limitation, costs relating to obtaining rights-of-way, costs of construction, and the physical feasibility of constructing a high-speed rail~~ ground transportation system along various corridors in this State; ~~and~~

~~(2) Various system options, including, without limitation, a comparison between a high-speed rail system and a system that uses magnetic levitation technology.~~

(b) The anticipated ridership of ~~the~~ a high-speed ground transportation system, including, without limitation, an analysis of the placement of stops in various communities along the route and the manner in which the stops would affect ridership; ~~and the costs of riding to and from the various stops.~~

(c) The economic impact in this State of the development of a high-speed ~~rail~~ ground transportation system; ~~and~~

(d) The environmental impact of ~~the~~ a high-speed ground transportation system, which includes, without limitation;

~~(1) Identification~~ identification of potential environmental impacts in this State of a high-speed ~~rail~~ ground transportation system; ~~and~~

~~(2) Those requirements of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 et seq., which are relevant to the development of a high-speed rail system in this State.~~

(e) Potential funding options for a high-speed ~~rail~~ ground transportation system, including: ~~without limitation;~~

(1) Available federal funds or matching funds;

(2) Public-private partnerships;

(3) Debt financing, including ~~without limitation,~~ the issuance of long-term bonds or other obligations and evidences of indebtedness; and

(4) Pledges of funds from local or state governmental agencies; and

~~(5) An option that would require a project developer to repay to the State General Fund the costs of the feasibility study conducted pursuant to this section.~~

(f) ~~Legal issues and considerations~~ Considerations related to obtaining rights-of-way, construction, operation and maintenance of a high-speed ~~rail~~ ground transportation system.

~~(g) The establishment of a governing structure to assume project management, responsibility for future planning and coordination with the Department of Transportation or any other relevant local, state or federal entity, including recommendations for the establishment of the governing structure.~~

3. ~~The consultant selected by the Department of Transportation pursuant to subsection 1 may consult with the Department, regional transportation commissions, boards of county commissioners or any other local, state or federal entity related to transportation or the construction of a high-speed rail system that the consultant determines is relevant for information and input into the study.~~

~~4. The consultant selected by the Department of Transportation must submit the feasibility study conducted pursuant to this section to the Department on or before February 1, 2019.~~

~~5.~~ 2. As used in this section, “high-speed ~~rail~~ ground transportation system” means a high-speed passenger ~~rail~~ system that:

(a) Is capable of 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 services;

(b) Carries primarily passengers between southern Nevada and northern Nevada; and

(c) Operates on dedicated and exclusive standard gauge tracks for the purpose of high-speed service. ~~1. and~~

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

Sec. 7. On or before February 15, 2019, the Department of Transportation shall:

1. Present the findings of the ~~feasibility study conducted~~ considerations made pursuant to section 6 of this act to the Board of Directors of the Department of Transportation; and

2. Submit a report on the findings of the ~~feasibility study conducted~~ considerations made pursuant to section 6 of this act and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the 80th Session of the Nevada Legislature.

Sec. 8. This act becomes effective on July 1, 2017.