

AMENDED IN SENATE JANUARY 4, 2006
AMENDED IN SENATE SEPTEMBER 7, 2005
AMENDED IN SENATE APRIL 5, 2005

SENATE BILL

No. 1010

Introduced by Senator Florez

February 22, 2005

An act to add ~~Section~~ *Sections 7665 and 10025* to the Public Utilities Code, relating to rail service.

LEGISLATIVE COUNSEL'S DIGEST

SB 1010, as amended, Florez. Rail service: City of Shafter.

Existing law authorizes municipal corporations to acquire, construct, own, operate, or lease any public utility.

This bill would authorize the City of Shafter to ~~use certain locomotive units owned by or in the possession of the state, to operate unit intermodal railroad service between the City of Shafter and the Port of Oakland. The bill would authorize the City of Shafter to contract with a railroad that is a rail carrier providing transportation subject to the jurisdiction of the federal Surface Transportation Board, to permit that railroad to operate such a locomotive unit, or other locomotives acquired or leased by the city, to provide intermodal railroad service between the City of Shafter and the Port of Oakland, and to provide financial or other support for rail carries seeking access to specified tracks and facilities. The bill would authorize the City of Shafter to establish a separate governing body for the purpose of operating an intermodal rail facility within the City of Shafter and to obtain financing as prescribed, or enter into other leases or contracts relating to the financing, construction, operation, or use of an intermodal rail facility.~~ The bill would require the City of Shafter to

use all revenues received from the operations of an intermodal rail facility solely for public or municipal purposes, as defined.

The bill would require a freight railroad that owns or operates a line in the state to prepare and submit a report on track utilization and capacity to the *Public Utilities Commission*, to the Department of Transportation, and to the State Air Resources Board, ~~commencing on July 1, 2006, and annually thereafter~~ *annually on or before July 1*. The bill would require the *commission and the department*, ~~on or before March 1, 2006~~, to develop procedures to define and report track utilization and capacity.

~~The bill would require the State Air Resources Board, on or before July 1, 2006, to adopt regulations to require a railroad owning or operating a line between the Port of Oakland and the City of Shafter to contribute to the reduction of air pollution, as described.~~

The bill would declare that, due to the special circumstances applicable only to the City of Shafter, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary.

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

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) Rail carriers that own or operate railroad
- 2 lines in the state may have sufficient available unused capacity
- 3 on those lines to permit the movement of additional trains or
- 4 traffic over those lines without unreasonably interfering with the
- 5 ability of the owner or operator to provide safe and efficient
- 6 service to its existing customers.
- 7 (b) It is the policy of this state to encourage owners or
- 8 operators of rail lines with available unused capacity to permit
- 9 the use of these lines for international traffic that originates in, or
- 10 is destined for consumption, manufacturing, warehousing or
- 11 other value-added purposes within, the state, or to permit other
- 12 rail carriers to use the lines to move traffic via rail that would
- 13 otherwise move over highways, thus reducing congestion on the
- 14 roads and contributing to reductions in air and noise pollution.
- 15 (c) The public interest is served by arrangements as described
- 16 in subdivision (b).

1 *SEC. 2. Section 7665 is added to the Public Utilities Code, to*
2 *read:*

3 *7665. A freight railroad that owns or operates a line in the*
4 *state shall prepare and submit to the commission, to the*
5 *Department of Transportation, and to the State Air Resources*
6 *Board annually on or before July 1, a report on track utilization*
7 *and capacity, in order to provide data to be used in the*
8 *regulation of air pollution and other purposes within the*
9 *authority of the Department of Transportation and the State Air*
10 *Resources Board. The commission and the Department of*
11 *Transportation shall develop procedures to define and report*
12 *track utilization and capacity.*

13 ~~SEC. 2.~~

14 *SEC. 3. Section 10025 is added to the Public Utilities Code,*
15 *to read:*

16 10025. (a) The City of Shafter is hereby authorized to do ~~all~~
17 ~~both~~ of the following:

18 ~~(1) Use any locomotive units owned by or in the possession of~~
19 ~~the state at times that those locomotive units are not in use for~~
20 ~~commuter or intercity passenger rail or other regularly scheduled~~
21 ~~rail service, to operate unit intermodal trains, whether loaded or~~
22 ~~empty, or both, between the California Integrated Logistics~~
23 ~~Center and the Port of Oakland.~~

24 ~~(2) Enter into a contract with any railroad that is a rail carrier~~
25 ~~providing transportation subject to the jurisdiction of the federal~~
26 ~~Surface Transportation Board to permit that railroad to use the~~
27 ~~locomotives described in paragraph (1), or other locomotives that~~
28 ~~the City of Shafter may acquire or lease, for the purpose of~~
29 ~~operating unit intermodal trains, whether loaded or empty, or~~
30 ~~both, between the City of Shafter and the Port of Oakland, and~~
31 ~~between each of the terminal facility points between Shafter and~~
32 ~~Oakland.~~

33 ~~(3) Provide financial or any other form of support to any rail~~
34 ~~carrier that seeks authority from the federal Surface~~
35 ~~Transportation Board to do either of the following:~~

36 ~~(A) To use, pursuant to Section 11102(a) of Title 49 of the~~
37 ~~United States Code, the terminal facilities or main line tracks for~~
38 ~~a reasonable distance outside of a terminal owned or operated by~~
39 ~~another rail carrier.~~

~~(B) To otherwise seek authority to use tracks and facilities of another rail carrier when the purpose of that application for authority from the federal Surface Transportation Board is to secure the ability to move intermodal unit trains, whether loaded or empty, or both, between the City of Shafter and the Port of Oakland.~~

~~(4)–~~

(1) Establish a separate governing body, in whichever form it determines to be most appropriate, for the purpose of operating an intermodal rail facility within the City of Shafter, and any governing body so established shall be created, organized, and maintained in a manner that complies with all applicable laws, including, but not limited to, the charter amendment procedures provided for under state law, as applicable.

~~(5)–~~

(2) Obtain financing, or enter into other leases or contracts relating to the financing, construction, operation, or use of an intermodal rail facility. If required, the City of Shafter may take reasonable steps, including, but not limited to, the pursuit of charter amendments or other authorization under law, to obtain that financing or to enter into contracts necessary for the financing, construction, operation, or use of an intermodal rail facility.

(b) The City of Shafter shall use all revenues received from the operations of an intermodal rail facility as described in subdivision (a) ~~above~~, if any, solely for public or municipal purposes. As used in this subdivision, “public or municipal purposes” means any purpose that the legislative body of the City of Shafter determines to be for the benefit of the operation and development of the intermodal rail facility, the citizenry of the City of Shafter as a whole, or the City of Shafter in its capacity as a municipal corporation.

~~(c) A freight railroad that owns or operates a line in the state shall prepare and submit to the Department of Transportation and the State Air Resources Board, on or before July 1, 2006, and annually on or before July 1 thereafter, a report on track utilization and capacity to provide data to be used for the regulation of air pollution and other purposes within the authority of the Department of Transportation and the State Air Resources Board. On or before March 1, 2006, Department of~~

1 ~~Transportation shall develop procedures to define and report~~
2 ~~track utilization and capacity.~~

3 ~~(d) On or before July 1, 2006, the State Air Resources Board~~
4 ~~shall adopt regulations pursuant to Section 39601 of the Health~~
5 ~~and Safety Code to require a railroad owning or operating a line~~
6 ~~between the Port of Oakland and the City of Shafter to contribute~~
7 ~~to the reduction of air pollution, allowing for the increased use of~~
8 ~~rail lines along this corridor to transport intermodal trains,~~
9 ~~whether loaded or empty, or both, between the Port of Oakland~~
10 ~~and the City of Shafter, and between each of the terminal facility~~
11 ~~points between Shafter and Oakland, to supplant existing truck~~
12 ~~traffic, as authorized by Sections 110 and 116 of the federal~~
13 ~~Clean Air Act (42 U.S.C. Sees. 7410 and 7416).~~

14 ~~(e) This section shall be effective notwithstanding any other~~
15 ~~provision of law and to the extent permissible under federal law.~~
16 ~~This section does not authorize the State Air Resources Board to~~
17 ~~adopt any regulation that is within the scope of preemption~~
18 ~~established in Section 209(c) of the federal Clean Air Act (42~~
19 ~~U.S.C. Sec. 7543(e)) and Section 85.1603 of Title 40 of the Code~~
20 ~~of Federal Regulations.~~

21 ~~(f) If any provision of this section or the application thereof to~~
22 ~~any person or circumstance is held invalid, it is the intent of the~~
23 ~~Legislature that the invalidity not affect other provisions or~~
24 ~~applications of the section that can be given effect without the~~
25 ~~invalid provision or application, and to this end the provisions of~~
26 ~~this section are severable.~~

27 ~~SEC. 3.~~

28 *SEC. 4.* The Legislature finds and declares that, because of
29 the unique circumstances applicable only to the City of Shafter, a
30 statute of general applicability cannot be enacted within the
31 meaning of subdivision (b) of Section 16 of Article IV of the
32 California Constitution. Because of its proximity to agricultural
33 production, proximity to import and export distribution locations,
34 and existing rail line infrastructure, the City of Shafter is
35 uniquely situated to provide integrated logistical railroad service
36 to serve both domestic and international needs in a manner that
37 will relieve congestion in the state's harbors and on its highways.
38 Therefore, this special statute is necessary.

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