

AMENDED IN SENATE JANUARY 23, 2006

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 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. *For these purposes, "public utility" is defined as including the transportation of persons or property.*

This 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, or enter into other leases or contracts relating to the financing, construction, operation, or use of an intermodal rail facility, *subject to certain conditions and requirements*. 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~~ *Utilities* Commission, to the Department of Transportation, and to the State Air Resources Board, annually on or before July 1. The bill would require the commission and the

department to develop procedures to define and report track utilization and capacity.

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: 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 lines
2 in the state may have sufficient available unused capacity on those
3 lines to permit the movement of additional trains or traffic over
4 those lines without unreasonably interfering with the ability of the
5 owner or operator to provide safe and efficient service to its
6 existing customers.

7 (b) It is the policy of this state to encourage owners or operators
8 of rail lines with available unused capacity to permit the use of
9 these lines for international traffic that originates in, or is destined
10 for consumption, manufacturing, warehousing or other value-added
11 purposes within, the state, or to permit other rail carriers to use the
12 lines to move traffic via rail that would otherwise move over
13 highways, thus reducing congestion on the roads and contributing
14 to reductions in air and noise pollution.

15 (c) The public interest is served by arrangements as described
16 in subdivision (b).

17 SEC. 2. Section 7665 is added to the Public Utilities Code, to
18 read:

19 7665. A freight railroad that owns or operates a line in the state
20 shall prepare and submit to the commission, to the Department of
21 Transportation, and to the State Air Resources Board annually on
22 or before July 1, a report on track utilization and capacity, in order
23 to provide data to be used in the regulation of air pollution and
24 other purposes within the authority of the Department of
25 Transportation and the State Air Resources Board. The commission
26 and the Department of Transportation shall develop procedures to
27 define and report track utilization and capacity.

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

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

(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.

(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), 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) (1) *The Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) is applicable to the proceedings of the governing body of the intermodal rail facility.*

(2) *The California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) is applicable to the operation of the intermodal rail facility by the City of Shafter pursuant to this section.*

(d) (1) *A member of any separate governing body established pursuant to paragraph (1) of subdivision (a), shall be required to file financial disclosure statements with the Fair Political Practices Commission.*

(2) *A member of any separate governing body established pursuant to paragraph (1) of subdivision (a), shall comply with*

1 *the conflict of interest provisions of Article 1 (commencing with*
2 *Section 87100) of Chapter 7 of Title 9 of the Government Code.*

3 *(e) (1) All funding for the intermodal rail facility shall be*
4 *provided by the City of Shafter. The governing body of the*
5 *intermodal rail facility established pursuant to paragraph (1) of*
6 *subdivision (a), shall not levy any tax, assessment, fee, or other*
7 *charge or exaction.*

8 *(2) The governing body of the intermodal rail facility of the City*
9 *of Shafter established pursuant to paragraph (1) of subdivision*
10 *(a), shall, according to accepted accounting practices, prepare*
11 *and submit a budget to the governing board of the City of Shafter;*
12 *for its approval, that sets forth in reasonable detail the proposed*
13 *expenditures necessary to carry out the functions authorized by*
14 *this section. The proposed budget shall be adopted by the*
15 *governing body by majority vote at a public meeting after providing*
16 *at least 30 days notice of the proposed budget to the public. Any*
17 *moneys received by the intermodal rail facility from private sources*
18 *shall come through the City of Shafter and their expenditure shall*
19 *be approved in a budget approved by the governing board of the*
20 *City of Shafter.*

21 *(3) All rates, fees, or other charges for intermodal rail facility*
22 *services supplied pursuant to this section shall be established by*
23 *the governing board for the City of Shafter.*

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