

AMENDED IN ASSEMBLY AUGUST 24, 2006

SENATE BILL

No. 1687

Introduced by Senator Murray

February 24, 2006

An act to amend Section ~~130350.5~~ 20221 of the Public Contract Code, and to amend Sections 130232 and 130243 of the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1687, as amended, Murray. Los Angeles County Metropolitan Transportation Authority: *San Francisco Bay Area Rapid Transit District*.

Existing law establishes various regional transportation authorities, including the Los Angeles County Metropolitan Transportation Authority (MTA) and the San Francisco Bay Area Rapid Transit District (BART). Existing law provides that, with respect to MTA and BART, the purchase of all supplies, equipment, and materials, when the expenditure required exceeds \$40,000, shall be by contract let to the lowest responsible bidder.

This bill instead would require those purchases, when the expenditure required exceeds \$100,000, adjusted annually as provided under federal law, to be by contract let to the lowest responsible bidder or to the responsible bidder who submits a proposal that provides the best value, as defined. The bill would make related, conforming changes.

~~Existing law establishes various regional transportation authorities, including the Los Angeles County Metropolitan Transportation Authority (MTA) and empowers the MTA to impose a transactions and use tax for the purpose of funding specified transportation projects~~

for ~~6 1/2~~ years or less, subject to voter approval and other requirements:

This bill would authorize the MTA to impose the tax for 7 years or less, subject to voter approval and other requirements. The bill would also extend the completion date for two of the projects, the Metro Center Connector and the Metro Red Line Extension to Fairfax Avenue, from 2012 to 2014.

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

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

1 SECTION 1. Section 20221 of the Public Contract Code is
2 amended to read:

3 20221. (a) The purchase of all supplies, equipment, and
4 materials when the expenditure required exceeds ~~forty thousand~~
5 ~~dollars (\$40,000), and the one hundred thousand dollars~~
6 ~~(\$100,000), adjusted annually consistent with Chapter 1 of Title~~
7 ~~48 of the Code of Federal Regulations, shall be by contract let to~~
8 ~~the lowest responsible bidder or, in the district's discretion, to~~
9 ~~the responsible bidder who submitted a proposal that provides~~
10 ~~the best value to the district on the basis of the factors identified~~
11 ~~in the solicitation. "Best value" means the overall combination~~
12 ~~of quality, price, and other elements of a proposal that, when~~
13 ~~considered together, provide the greatest overall benefit in~~
14 ~~response to requirements described in the solicitation documents.~~
15 The construction of facilities and works when the expenditure
16 required exceeds ten thousand dollars (\$10,000) shall be by
17 contract let to the lowest responsible bidder. Notice requesting
18 bids shall be published at least once in a newspaper of general
19 circulation. This publication shall be made at least 10 days before
20 the bids are received. The board may reject any and all bids and
21 readvertise in its discretion.

22 (b) Whenever the expected procurement required exceeds two
23 thousand five hundred dollars (\$2,500), *adjusted annually*
24 *consistent with Chapter 1 of Title 48 of the Code of Federal*
25 *Regulations*, and, in the case of the construction of facilities and
26 works does not exceed ten thousand dollars (\$10,000) or in the
27 case of the purchase of supplies, equipment, or materials does not
28 exceed ~~forty thousand dollars (\$40,000) one hundred thousand~~

1 dollars (\$100,000), adjusted annually consistent with Chapter 1
2 of Title 48 of the Code of Federal Regulations, the district shall
3 obtain a minimum of three quotations, either written or oral, that
4 permit prices and terms to be compared.

5 (c) Where the expenditure required by the bid price is less than
6 one hundred thousand dollars (\$100,000), the general manager
7 may act for the board. When acting pursuant to this subdivision,
8 the general manager shall, in each instance, promptly notify the
9 board of the action taken.

10 SEC. 2. Section 130232 of the Public Utilities Code is
11 amended to read:

12 130232. (a) Except as provided in subdivision (f), purchase
13 of all supplies, equipment, and materials, and the construction of
14 all facilities and works, when the expenditure required exceeds
15 twenty-five thousand dollars (\$25,000), shall be by contract let to
16 the lowest responsible bidder. Notice requesting bids shall be
17 published at least once in a newspaper of general circulation. The
18 publication shall be made at least 10 days before the date for the
19 receipt of the bids. The commission, at its discretion, may reject
20 any and all bids and readvertise.

21 (b) Except as provided for in subdivision (f), whenever the
22 expected expenditure required exceeds one thousand dollars
23 (\$1,000), but not twenty-five thousand dollars (\$25,000), the
24 commission shall obtain a minimum of three quotations, either
25 written or oral, which permit prices and terms to be compared.

26 (c) Where the expenditure required by the bid price is less than
27 fifty thousand dollars (\$50,000), the executive director may act
28 for the commission.

29 (d) All bids for construction work submitted pursuant to this
30 section shall be presented under sealed cover and shall be
31 accompanied by one of the following forms of bidder's security:

32 (1) Cash.

33 (2) A cashier's check made payable to the commission.

34 (3) A certified check made payable to the commission.

35 (4) A bidder's bond executed by an admitted surety insurer,
36 made payable to the commission.

37 (e) Upon an award to the lowest bidder, the security of an
38 unsuccessful bidder shall be returned in a reasonable period of
39 time, but in no event shall that security be held by the

1 commission beyond 60 days from the date that the award was
2 made.

3 (f) The following provisions apply only to the Los Angeles
4 County Metropolitan Transportation Authority:

5 (1) The contract shall be let to the lowest responsible bidder
6 *or, in the commission's discretion, to the responsible bidder who*
7 *submitted a proposal that provides the best value to the*
8 *commission on the basis of the factors identified in the*
9 *solicitation when the purchase price of all supplies, equipment,*
10 *and materials exceeds ~~forty thousand dollars (\$40,000), and the~~*
11 *one hundred thousand dollars (\$100,000), adjusted annually*
12 *consistent with Chapter 1 of Title 48 of the Code of Federal*
13 *Regulations. "Best value" means the overall combination of*
14 *quality, price, and other elements of a proposal that, when*
15 *considered together, provide the greatest overall benefit in*
16 *response to requirements described in the solicitation documents.*
17 *The contract shall be let to the lowest responsible bidder when*
18 *the purchase price of the construction of all facilities exceeds*
19 *twenty-five thousand dollars (\$25,000).*

20 (2) The commission shall obtain a minimum of three
21 quotations, whether written or oral that permit prices and terms to
22 be compared whenever the expected expenditure required
23 exceeds two thousand five hundred dollars (\$2,500), ~~but not forty~~
24 ~~thousand dollars (\$40,000)~~ *adjusted annually consistent with*
25 *Chapter 1 of Title 48 of the Code of Federal Regulations, but not*
26 *one hundred thousand dollars (\$100,000), adjusted annually*
27 *consistent with Chapter 1 of Title 48 of the Code of Federal*
28 *Regulations.*

29 *SEC. 3. Section 130243 of the Public Utilities Code is*
30 *amended to read:*

31 130243. The Los Angeles County Metropolitan
32 Transportation Authority shall adopt a change order procedure
33 for contracts awarded by the authority that includes each of the
34 following requirements:

35 (a) When a change order is proposed, the contract
36 administrator of the authority shall be notified and shall
37 determine whether a change order is required. After consulting
38 with the general counsel of the authority and appropriate
39 technical advisers, the contract administrator shall either approve
40 or disapprove the proposed contract change order.

1 (b) The general counsel of the authority shall be consulted on
2 the proposed change order at the earliest possible time to
3 consider and render advice on the legal implications of the
4 proposed change. The contract administrator shall not approve a
5 proposed change order unless the general counsel recommends
6 changing the terms of the contract.

7 (c) The contract administrator shall require the contractor to
8 submit certified cost and pricing data for the proposed change,
9 and shall require an internal fiscal audit of any proposed change
10 order ~~that would cost in excess of one hundred thousand dollars~~
11 ~~(\$100,000) to implement~~ *when cost and pricing data would be*
12 *required under federal acquisition regulations contained in*
13 *Subpart 15.4 of Part 15 of Subchapter C of Chapter 1 of Title 48*
14 *of the Code of Federal Regulations.*

15 (d) The opinions of informed individuals working on the
16 contract who oppose the adoption of a proposed change order
17 shall be documented and be taken into consideration by the
18 authority's change control board when determining whether a
19 contract change is warranted.

20 ~~SECTION 1. Section 130350.5 of the Public Utilities Code is~~
21 ~~amended to read:~~

22 ~~130350.5. (a) In addition to any other tax that it is authorized~~
23 ~~by law to impose, the Los Angeles County Metropolitan~~
24 ~~Transportation Authority (MTA) may impose, in compliance~~
25 ~~with subdivision (b), a transactions and use tax at a rate of 0.5~~
26 ~~percent that is applicable in the incorporated and unincorporated~~
27 ~~areas of the county.~~

28 ~~(b) For purposes of the taxing authority set forth in subdivision~~
29 ~~(a), all of the following apply:~~

30 ~~(1) The tax shall be proposed in a transactions and use tax~~
31 ~~ordinance, that conforms with Chapter 2 (commencing with~~
32 ~~Section 7261) to Chapter 4 (commencing with Section 7275),~~
33 ~~inclusive, of the Transactions and Use Tax Law (Part 1.6~~
34 ~~(commencing with Section 7251) of Division 2 of the Revenue~~
35 ~~and Taxation Code), and that is approved by a majority of the~~
36 ~~entire membership of the authority.~~

37 ~~(2) The tax may be imposed only if the proposing ordinance is~~
38 ~~approved by the voters in the manner as otherwise required by~~
39 ~~law and, if so approved, shall become operative as provided in~~
40 ~~Section 130352.~~

1 ~~(3) The proposing ordinance shall specify, in addition to the~~
2 ~~rate of tax and other matters as required by the Transactions and~~
3 ~~Use Tax Law, that the tax is to be imposed for a period of seven~~
4 ~~years or less and that the revenues derived from the tax, net of~~
5 ~~refunds and costs of administration, are to be administered by the~~
6 ~~MTA exclusively for the purposes of the “Capital Projects,” as~~
7 ~~described and in the amounts set forth in subparagraph (A), and~~
8 ~~for the purposes of the “Capital Programs,” as described and in~~
9 ~~the amounts set forth in subparagraph (B).~~

10 ~~(A) Capital Projects.~~

11 ~~(i) Exposition Boulevard Light Rail Transit Project from~~
12 ~~downtown Los Angeles to Santa Monica. The sum of nine~~
13 ~~hundred twenty-five million dollars (\$925,000,000). This project~~
14 ~~shall be completed by 2011, and shall be the first priority for~~
15 ~~federal funding received for the capital projects in this~~
16 ~~subparagraph.~~

17 ~~(ii) Crenshaw Metro Rapidway from Wilshire Boulevard to~~
18 ~~Los Angeles International Airport along Crenshaw Boulevard.~~
19 ~~The sum of two hundred thirty-five million five hundred~~
20 ~~thousand dollars (\$235,500,000). This project shall be completed~~
21 ~~by 2008.~~

22 ~~(iii) San Fernando Valley North-South Rapidways. The sum of~~
23 ~~one hundred million five hundred thousand dollars~~
24 ~~(\$100,500,000). This project shall be completed by 2009.~~

25 ~~(iv) Metro Gold Line (Pasadena to Irwindale) Light Rail~~
26 ~~Transit Extension. The sum of three hundred twenty-eight~~
27 ~~million dollars (\$328,000,000). This project shall be completed~~
28 ~~by 2012, and shall be the second priority for federal funding~~
29 ~~received for the capital projects in this subparagraph.~~

30 ~~(v) Metro Center Connector. The sum of one hundred sixty~~
31 ~~million dollars (\$160,000,000). This project shall be completed~~
32 ~~by 2014.~~

33 ~~(vi) Metro Red Line Extension to Fairfax Avenue. The sum of~~
34 ~~nine hundred million dollars (\$900,000,000). This project shall~~
35 ~~be completed by 2014.~~

36 ~~(vii) State Highway Route 5 Carmenita Road Interchange~~
37 ~~Improvement. The sum of one hundred thirty-eight million~~
38 ~~dollars (\$138,000,000).~~

39 ~~(viii) State Highway Route 5 Capacity Enhancement (State~~
40 ~~Highway Route 134 to State Highway Route 170, including~~

1 access improvement for Empire Avenue). The sum of two
2 hundred seventy-one million five hundred thousand dollars
3 (\$271,500,000).
4 (ix) State Highway Route 5 Capacity Enhancement (State
5 Highway Route 605 to the Orange County line, including
6 improvements to the Valley View Interchange). The sum of two
7 hundred sixty-four million eight hundred thousand dollars
8 (\$264,800,000).
9 (x) State Highway Route 5/State Highway Route 14 Capacity
10 Enhancement. The sum of ninety million eight hundred thousand
11 dollars (\$90,800,000).
12 (xi) Capital Project Contingency Fund. The sum of one
13 hundred seventy-three million dollars (\$173,000,000).
14 (B) Capital Programs:
15 (i) Alameda Corridor East Grade Separations. The sum of two
16 hundred million dollars (\$200,000,000).
17 (ii) MTA and Municipal Regional Clean Fuel Bus Capital
18 (Facilities and Rolling Stock). The sum of one hundred fifty
19 million dollars (\$150,000,000). The first priority for the
20 expenditure of these funds shall be satisfaction by the MTA of
21 the requirements of the Consent Decree between the MTA and
22 the Labor Community and Strategy Center, et al., including the
23 purchase of the entire number of buses required to comply with
24 the decree.
25 (iii) Countywide Soundwall Construction (MTA Regional List
26 and Monterey Park/State Highway Route 60). The sum of two
27 hundred fifty million dollars (\$250,000,000).
28 (iv) Local return for major street resurfacing, rehabilitation,
29 and reconstruction. The sum of two hundred fifty million dollars
30 (\$250,000,000).
31 (v) Metrolink Capital Improvements. The sum of seventy
32 million dollars (\$70,000,000).
33 (vi) Eastside Light Rail Access. The sum of thirty million
34 dollars (\$30,000,000).
35 (vii) Capital Program administration. The sum of ten million
36 dollars (\$10,000,000). The MTA shall use these funds for the
37 administration of the Capital Program.
38 (e) The MTA may not incur bonded indebtedness payable
39 from the proceeds of the tax provided by this section for the
40 funding of the projects and programs specified in this section, or

1 ~~loan money from the proceeds to other projects or programs in~~
2 ~~advance of completing the projects and programs in~~
3 ~~subparagraphs (A) and (B) of paragraph (3) of subdivision (b).~~
4 ~~The MTA shall complete all projects and programs in~~
5 ~~subparagraphs (A) and (B) of paragraph (3) of subdivision (b) as~~
6 ~~a condition of the use and expenditure of the proceeds of the tax.~~
7 ~~The MTA shall maintain the current amount of any funding for~~
8 ~~the projects and programs specified in this section received from~~
9 ~~its sources other than the proceeds of the tax, and may not~~
10 ~~reallocate money that is already allocated for those projects and~~
11 ~~programs to other projects or uses.~~

12 ~~(d) Notwithstanding Section 7251.1 of the Revenue and~~
13 ~~Taxation Code, the tax rate authorized by this section may not be~~
14 ~~considered for purposes of the combined rate limit established by~~
15 ~~that section.~~

16 ~~(e) A jurisdiction or recipient is eligible to receive funds from~~
17 ~~the local return program, described in clause (iv) of subparagraph~~
18 ~~(B) of paragraph (3) of subdivision (b), only if it continues to~~
19 ~~contribute to that program an amount that is equal to its existing~~
20 ~~commitment of local funds or other available funds. The MTA~~
21 ~~may develop guidelines which, at a minimum, specify~~
22 ~~maintenance of effort requirements for the local return program,~~
23 ~~matching funds, and administrative requirements for the~~
24 ~~recipients of revenue derived from the tax.~~

25 ~~(f) Prior to submitting the ordinance to the voters, the MTA~~
26 ~~shall adopt an expenditure plan for the revenues derived from the~~
27 ~~tax. The expenditure plan shall describe the specified projects~~
28 ~~and programs listed in paragraph (3) of subdivision (b), the~~
29 ~~estimated total cost for each project and program, funds other~~
30 ~~than the tax revenues that the MTA anticipates will be expended~~
31 ~~on the projects and programs, and the schedule during which the~~
32 ~~MTA anticipates funds will be available for each project and~~
33 ~~program. To be eligible for proceeds from the tax, an agency~~
34 ~~sponsoring a capital project or capital program shall submit to the~~
35 ~~MTA an expenditure plan for its project or program containing~~
36 ~~the same elements as the expenditure plan that MTA is required~~
37 ~~by this subdivision to prepare.~~

38 ~~(g) The MTA shall establish and administer the Capital Project~~
39 ~~Development Fund. The revenue derived from the tax shall be~~
40 ~~deposited into this fund. The moneys in the fund shall be~~

1 available to the MTA only to meet expenditure and cashflow
2 needs of the capital projects and capital programs described in
3 subparagraphs (A) and (B) of paragraph (3) of subdivision (b);
4 including the replacement of federal or state funds if the amount
5 of federal or state funds received by the MTA is less than
6 anticipated in the expenditure plan. If the sales tax revenue from
7 this section is less than that needed to meet these expenditure and
8 cashflow needs, the MTA shall supplement the sales tax revenue
9 with money from other sources available to the MTA. Any funds
10 remaining in the fund shall be allocated in equal amounts of 25
11 percent each to the MTA and to the Municipal Clean Fuel Bus
12 Capital, local return, and Countywide Soundwall programs as
13 described in subparagraph (B) of paragraph (3) of subdivision
14 (b).

15 (h) If the total amount of revenue received from the tax
16 exceeds the amount in the MTA's expenditures plan or if other
17 funds, including, but not limited to, funds under the Traffic
18 Congestion Relief Act of 2000 (Chapter 4.5 (commencing with
19 Section 14556) of Part 5.3 of Division 3 of Title 2 of the
20 Government Code), become available and are allocated to
21 complete capital projects or capital programs, as described in
22 subparagraphs (A) and (B) of paragraph (3) of subdivision (b),
23 the MTA may expend the surplus tax revenue on its next highest
24 priority projects.

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