

Senate Bill No. 915

CHAPTER 714

An act to amend Sections 66540.14, 66540.16, 66540.20, 66540.40, and 66540.72 of, to add Sections 66540.21, 66540.27, and 66540.29 to, and to repeal Sections 66540.22 and 66540.23 of, the Government Code, relating to transportation.

[Approved by Governor October 8, 2003. Filed with
Secretary of State October 9, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 915, Perata. San Francisco Bay Area Water Transit Authority.

Existing law creates the San Francisco Bay Area Water Transit Authority with specified powers and duties relative to the development of a plan for implementation and operation of a water transit system on San Francisco Bay. Existing law provides that the authority may not operate a water transit system until the plan has been statutorily approved by the Legislature. Existing law also provides that the authority shall be funded from appropriations in the annual Budget Act and imposes restrictions on the regional transportation funds that the authority may apply for to fund operation of the water transit system.

This bill would delete the requirement that the authority's plan be statutorily approved prior to commencement of operation of the water transit system. The bill would delete the requirement to fund the authority through the annual Budget Act and would require that the authority be funded from increases in bridge tolls, as proposed by SB 916. The bill would require the authority to dedicate at least one vessel to employ biodiesel fuel. The bill would require new vessels mandated in the authority's plan to exceed certain federal air quality standards for marine engines by at least 85%. The bill would revise the process for negotiations between the authority and transit operators relative to implementation of water transit services and related ground transportation terminal access services. The bill would make other related changes. The bill would make any duties and responsibilities imposed by the bill contingent upon funding for those purposes being provided from increases in tolls on state-owned toll bridges in the bay area pursuant to the expenditure plan in SB 916.



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

SECTION 1. Section 66540.14 of the Government Code is amended to read:

66540.14. There shall be a community advisory committee, which shall meet on a regular basis, and which shall include one member representing each local jurisdiction in which a water transit terminal exists or is proposed, and one member representing each special district providing public water transit services. Unless appointed under subparagraph (B) of paragraph (2) of subdivision (a) of Section 66540.2, one member shall be appointed by the city council of each city in which a water transit terminal is located or is proposed to be located, or by the county board of supervisors if the terminal is located or is proposed to be located in an unincorporated area, with one member appointed by the Golden Gate Bridge, Highway and Transportation District. The community advisory committee shall appoint one of its members to the board.

SEC. 2. Section 66540.16 of the Government Code is amended to read:

66540.16. (a) There shall be a technical advisory committee, which shall meet on a regular basis, and which shall consist of members representing local, regional, state, and federal agencies, operating ground transportation agencies, and operating water transit services.

(b) Additional members shall include at least one member who represents each of the following interests: fish and wildlife, recreational boating, private environmental protection entities, business, real estate development, architecture, urban planning, private sector vessel operators, and organized labor, as well as the public at large.

SEC. 3. Section 66540.20 of the Government Code is amended to read:

66540.20. (a) On July 10, 2003, the authority adopted the San Francisco Bay Area Water Transit Implementation and Operations Plan, consistent with the requirements of this title. The plan includes all appropriate landside, vessel, and support elements, operational and performance standards, and policies. The authority shall update the plan, as needed, subject to a public hearing.

(b) (1) Consistent with the requirements of this title, the authority certified the Final Programmatic Environmental Impact Report analyzing the expansion of ferry transit service in the San Francisco Bay area. The authority prepared the Final Programmatic Environmental Impact Report, adopted the Findings of Fact and Statement of Overriding Considerations, and the Mitigation Monitoring Plan in conformance with California Environmental Quality Act (CEQA)



guidelines. An independent evaluation conducted by the Bay Area Air Quality Management District required by this title was also completed.

(2) The authority shall be authorized to operate a comprehensive San Francisco Bay area regional public water transit system consistent with Section 66540.24.

(c) The primary focus of the authority and the plan shall be to provide new or expanded water transit services and related ground transportation terminal access services that were not in operation as of June 30, 1999. The authority shall seek to cooperatively involve in the implementation, planning, and operations all existing water transit services and related ground transportation agencies in whose jurisdictions existing or planned water transit terminals are located. The authority shall operate in good faith to avoid negatively impacting water transit services and related ground transportation terminal access services in existence as of June 30, 1999. The authority may not request an allocation of any funds that were available to the Metropolitan Transportation Commission for allocation on June 30, 1999, including the revenues dedicated from state-owned bridges to ferry services as of June 30, 1999, and revenues derived continuously from sources in the amounts and manner as specified in law in effect as of June 30, 1999, unless the request is for service transferred to the authority for vessels in operation as of January 1, 2003.

(d) The authority may not operate water transit services that are scheduled at the same time, from the same origin, and to the same destination as publicly sponsored services, if those public services were in operation as of June 30, 1999. The authority shall provide ferry services at only those terminals in which docking rights have been obtained with the consent of the owner of those rights.

(e) The authority shall negotiate in good faith, as described below, with public sponsors of existing water transit services and related ground transportation terminal access services to provide services in the approved plan that would expand or augment existing services in their service district, as defined by law, or in plans of the Metropolitan Transportation Commission that existed and were in effect as of June 30, 1999. Good faith negotiations shall include all of the following steps:

(1) Notification by certified mail from the authority to the public sponsor of existing water transit services or related ground transportation terminal access services, hereafter referred to as the notified agency, setting forth the specific services to be negotiated, including performance standards and conditions and cost reimbursement available according to the plan approved by the Legislature.



(2) A period of 30 days from receipt of the notification required under paragraph (1) for the notified agency to declare in writing to the authority by certified mail their intent to negotiate in good faith. If the notified agency does not so declare in writing to the authority within 30 days, the notified agency shall be deemed not interested in negotiating for the service and the authority may announce a competitive bid process or take actions to directly operate the service if the board of directors of the authority makes a public finding that the action is in the public interest.

(3) A period of 90 days from declaration of intent to negotiate by the notified agency for the authority and notified agency to negotiate in good faith to reach agreement.

(4) The authority and notified agency, by mutual agreement, may extend the period for good faith negotiations.

(5) Notwithstanding the procedure described in subdivision (f), if at the end of 90 days or the mutually agreed-upon extension period for negotiations, the authority and the notified agency have not reached agreement for operation of the service, the authority may announce a competitive bid process. The notified agency may participate in that competitive bid process.

(f) If at the conclusion of the good faith negotiations process there is a dispute between the authority and the notified agency as to the impact of proposed new services on existing services, the matter shall be submitted to the Metropolitan Transportation Commission for resolution pursuant to Section 66516.5 of the Government Code. The Metropolitan Transportation Commission shall make a determination based on the demand model adopted by the authority as to whether the proposed new service will have a minor or major impact on services existing as of June 30, 1999. A minor impact means an impact that reasonably and potentially diverts less than 15 percent of the passengers using services that were in existence as of June 30, 1999. A major impact means an impact that reasonably and potentially diverts 15 percent or more of the passengers using services that were in existence as of June 30, 1999. If the proposed new service will have a major impact, the authority may not operate a water transit service in that location without mutual agreement between the authority and the notified agency. If the proposed new service will have a minor impact, the authority may initiate service according to the procedures contained in subdivision (e).

SEC. 4. Section 66540.21 is added to the Government Code, to read:

66540.21. (a) If the authority does not receive notification to negotiate for water transit service proposed by the authority pursuant to subdivision (e) of Section 66540.20, the authority shall notify by certified mail a transit district that would provide bus service to a terminal specified in the plan to also provide water transit service at that



terminal. The authority shall set forth in the notice the specific services to be provided, including performance standards and conditions and cost reimbursement available according to the plan and availability of funding.

(b) The authority shall negotiate with the transit district pursuant to the following steps:

(1) Within 30 days of receiving the notice, the transit district shall notify the authority by certified mail of its intent to negotiate in good faith. If the transit district does not respond by certified mail within 30 days, the authority may announce a competitive bid process or take action to directly operate the service.

(2) The transit district and the authority shall have 90 days to conduct good faith negotiations. The 90-day negotiating period shall commence on the day that the authority receives the notification from the transit district. This 90-day period may be extended by mutual agreement of the authority and the transit district.

(3) The transit district's proposal shall be presented to the authority's board of directors for consideration and the authority may accept the proposal and authorize staff to prepare an agreement for operation of services.

(4) If the authority rejects the proposal, it shall make findings stating the reasons why the proposal does not satisfy the conditions set forth by the authority in the initial notification of proposed water transit service.

(5) If the authority rejects the proposal, the authority may announce a competitive bid process, or take action to directly operate the service. The transit district may participate in the competitive bid process.

(c) For purposes of this section, "transit district" does not include a transit district that is notified by the authority pursuant to Section 66540.20 for the operation of water transit service.

SEC. 5. Section 66540.22 of the Government Code is repealed.

SEC. 6. Section 66540.23 of the Government Code is repealed.

SEC. 7. Section 66540.27 is added to the Government Code, to read:

66540.27. The air emission standard for new vessels mandated in the authority's plan shall exceed the federal Environmental Protection Agency's air quality standards for Tier II 2007 marine engines by at least 85 percent as recommended in the authority's programmatic environmental review impact report.

SEC. 8. Section 66540.29 is added to the Government Code, to read:

66540.29. The authority shall dedicate at least one new vessel, subject to engine manufacturers' warranties, to employ biodiesel fuel (B20) to assess the practical application of using renewable fuels. If further funding becomes available for this application from regional, state, or federal funding sources, the authority shall consider increasing



use of biodiesel fuel to demonstrate reduction in greenhouse gas emissions. The air emission standards set by the authority pursuant to this title shall apply to the use of biodiesel fuel.

SEC. 9. Section 66540.40 of the Government Code is amended to read:

66540.40. The authority may acquire, own, lease, construct, and operate water transit vessels and equipment, including, but not limited to, real and personal property, and equipment, and any facilities of the authority, except those facilities providing access to units of the national park system.

SEC. 10. Section 66540.72 of the Government Code is amended to read:

66540.72. The authority shall be funded from funds derived from proposed increases in tolls on state-owned toll bridges in the bay area pursuant to the expenditure plan approved by the Legislature in Senate Bill No. 916. The authority shall not be an eligible claimant for local transportation funds or state transportation assistance funds pursuant to the Transportation Development Act (Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code).

SEC. 11. This act is intended to serve as the approval by the Legislature of the San Francisco Bay Area Water Transit Implementation and Operations Plan as required by Section 66540.20 of the Government Code, as that section existed prior to the enactment of this act.

SEC. 12. Any duties and responsibilities imposed by this act shall be contingent upon funding for those purposes being derived from increases in tolls on state-owned toll bridges in the bay area pursuant to the expenditure plan in Senate Bill 916.

