

Streets and Highways Code - Section 2450

2450. For purposes of this chapter:

(a) "Grade separation" means, for the purpose of calculating the railroad contribution to the project, the theoretical structure necessary to separate the roadway from the railroad grade for the number of lanes on the existing highway and for the full width of the railroad corridor, in accordance with the current design standards of the department.

(b) "Project" means the grade separation and other structures that actually separate the vehicular roadway from the railroad tracks, and all approaches, ramps, connections, drainage, and other construction required to make the grade separation operable and to effect the separation of grades. A grade separation project may include provision for separation of nonmotorized traffic from the vehicular roadway and the railroad tracks. If a separation of nonmotorized traffic is not to be included in a project, there shall be an affirmative finding that the separation of nonmotorized traffic is not in the public interest. On any project where there is only one railroad track in existence, the project shall be built so as to provide for expansion to two tracks when the Director of Transportation determines that the project is on an existing or potential major railroad passenger corridor. The project may consist of:

- (1) The alteration or reconstruction of existing grade separations.
- (2) The construction of new grade separations to eliminate existing grade crossings.

(c) "Highway" means city street, a county highway, or a state highway which is not a freeway as defined in Section 257.

(d) "Railroad" means a railroad corporation.

2451. *(a) For the purposes of this chapter, "local agency" includes a city, a county, a separation-of-grade district, and any public entity that provides rail passenger transportation services.*

(b) Before a separation-of-grade district may apply to the commission pursuant to this chapter for an allocation for a project, the district shall consult with and obtain the written consent of the city in which the project is located, or the county if the project is located in unincorporated territory.

2452. *Prior to July 1 of each year, the Public Utilities Commission shall establish a list, in order of priority, of projects that the commission determines to be most urgently in need of separation or alteration. The priority list shall be determined on the basis of criteria established by the Public Utilities Commission.*

2453. From the funds set aside pursuant to Section 190, as well as from any other funds that may be set aside for purposes of this chapter, the California Transportation Commission shall make allocations for projects contained in the latest priority list established pursuant to Section 2452. Such allocations shall be made for preconstruction costs and construction costs. Where allocations are made to a local agency, the requirements of Sections 2456 and 2457 shall first be met.

2453.5. The department may submit its comments and recommendations to the commission on any project for which an allocation is to be made.

2454. Allocations made pursuant to Section 2453 shall be made on the basis of the following:

(a) An allocation of 80 percent of the estimated cost of the project shall be made; except that whenever contributions from other sources exceed 20 percent of the estimated cost, the allocation shall be reduced by the amount in excess of 20 percent of the estimated cost.

(b) On projects that eliminate an existing crossing, or alter or reconstruct an existing grade separation, no allocation shall be made unless the railroad agrees to contribute 10 percent of the cost of the project.

(c) (1) Notwithstanding subdivisions (a) and (b), the total of these allocations for a single project shall not exceed five million dollars (\$5,000,000) without specific legislative authorization. Cumulative allocations to a single project shall not exceed 80 percent of the cost to construct the project.

(2) Notwithstanding paragraph (1), the California Transportation Commission may allocate up to fifteen million dollars (\$15,000,000) to a single project if that project is the highest ranking project on the priority list established by the Public Utilities Commission pursuant to Section 2452.

(d) (1) Notwithstanding subdivisions (a) to (c), inclusive, a single project in excess of five million dollars (\$5,000,000), but not exceeding twenty million dollars (\$20,000,000), shall be considered without specific legislative authority, if the project (A) is included in the Public Utilities Commission's priority list of projects scheduled to be funded, (B) eliminates the need for future related grade separation projects, (C) provides projected cost savings of at least 50 percent to the state or local jurisdiction, or both of them, by eliminating the need for future projects, and (D) alleviates traffic and safety problems or provides improved rail service not otherwise possible. Projects approved pursuant to this subdivision shall be funded over a multiyear period, not to exceed five years, and the allocation for any one of those years shall not exceed the amount prescribed by subdivision (c) for a single project.

(2) Not more than one-half of the total allocation available in any one fiscal year for grade separation projects may be used for the purposes of this subdivision. An agency that has received an allocation for a project approved pursuant to this subdivision shall not be eligible for an allocation for another project under this subdivision for a period of 10 years from the date

of approval of that project. However, if funds are available for allocation, as determined by the Department of Transportation, an agency may be eligible for an allocation for another project.

(e) Notwithstanding any of the provisions of this section or any other provision of law, when the state or a local agency uses funds derived from federal sources in financing its share of project costs, the railroad contribution, where required by federal law or regulation, shall be computed pursuant to federal law.

(f) Notwithstanding any of the provisions of this section or any other provision of law, when the state or a local agency uses state funds in financing a portion of project costs, the railroad contribution, to the extent determined pursuant to this section, shall be calculated based on the cost of the grade separation only, and not the cost of any other part of the project.

2454.2. The planned removal of trackage of the Sacramento Northern Railway, the construction of substitute tracks and track connections, the elimination of 10 existing grade crossings, the acquisition of necessary rights-of-way, and all necessary associated work and appurtenances, to enable Sacramento Northern Railway trains to operate via existing trackage of the Atchison, Topeka & Santa Fe Railway, in and adjacent to the City of Pittsburg, shall be eligible for an allocation under Section 2453. The Public Utilities Commission shall determine to what extent, if any, the railroad shall contribute to the project. Such eligibility shall not be contingent on whether the railroad agrees to contribute, and the California Highway Commission shall not deny an allocation on such grounds. The Legislature hereby finds and declares that it is necessary to enact this special law regarding the Pittsburg track removal and grade crossing elimination project because of the existence of the following special facts and circumstances: The predominant traffic carried by the Sacramento Northern Railway consists of high explosives, bombs, shells, and ammunition destined for the United States Navy ammunition depot at Port Chicago. Such trains traverse residential areas, cross 10 streets at grade, and constitute a grave hazard to the life and safety of the residents of Pittsburg. Sacramento Northern Railway is willing to remove its tracks and operate its trains via the tracks of the Atchison, Topeka & Santa Fe Railway, which is already partially grade separated and which offers a safer route. However, Sacramento Northern Railway will sacrifice certain of its own facilities, will receive no benefits, and therefore is unwilling to contribute any portion of the cost incidental to the removal of its trackage or for the construction of substitute track connections and appurtenances or for the acquisition of rights-of-way. Based on the foregoing, the Legislature therefore finds and declares that it is necessary that the Sacramento Northern track removal and relocation project in and adjacent to the City of Pittsburg shall be eligible for a grade separation allocation, and that subdivision (d) of Section 2454, relating to a contribution by the railroad, shall not apply for purposes of qualifying for an allocation under Section 2453.

2455. After an allocation is made to a local agency by the commission, the local agency and the department shall enter into an agreement concerning the handling and accounting of funds, including procedures to permit prompt payment for the work accomplished, and relative to any other phase of the work. The procedures providing for prompt payment of work accomplished

shall be drawn in such a manner as to avoid the necessity for the local agency to utilize funds in an amount greater than the local agency's share of the project costs. Such agreement may establish procedures for the programming of the work of the project in order to assure optimum cash flow utilization of funds made available by the Legislature for purposes of this chapter.

2456. An allocation for construction costs, including preconstruction costs if not already allocated, shall be made to a local agency only if it furnishes evidence satisfactory to the department that all necessary orders of the Public Utilities Commission have been executed, that sufficient local funds will be made available as the work of the project progresses, that all necessary agreements with affected railroad or railroads have been executed that, if required, all environmental impact reports have been prepared and approvals obtained, and that all other matters prerequisite to the award of the construction contract can be accomplished within two years after the allocation. Local funds shall be deemed available to the amount of any general obligation bonds authorized but unsold if it is determined that those bonds may be issued and sold by the local agency at any time.

2457. Preconstruction costs (engineering, right-of-way, preparation of environmental impact reports, and utility relocation) expended by a local agency prior to any allocation shall be included in the total cost of the project even though expended prior to an allocation. Allocations shall be made for preconstruction costs to a local agency that submits evidence satisfactory to the department that the local agency will be able to meet the requirements for an allocation for construction costs, and that preconstruction costs will exceed the local share of the cost of the project. A local agency may also proceed with the advertising for bids and the construction of a project without prejudice to its right to receive an allocation if an allocation is, in fact, made for such project within the same fiscal year that the construction contract was awarded.

2458. If a construction contract has not been awarded within two years after an allocation for construction costs, the commission may order the allocation canceled and those funds shall revert to the fund set aside for purposes of this chapter. All or any part of an allocation for preconstruction costs may be canceled and those funds shall revert to the fund set aside for purposes of this chapter upon a finding that insufficient progress is being made to complete the project. Where an allocation is canceled pursuant to this section, the local agency shall reimburse the fund set aside for purposes of this chapter the portion of the allocation that is not reverted as set forth in this section. The department shall determine, with the local agency, as to the time of repayment.

2459. If the actual cost of the project is less than estimated, the allocations made for such project shall be reduced accordingly and the excess shall revert to the fund set aside for the purposes of this chapter. If the actual and necessary cost of the project exceeds the estimate, the allocations made for such project shall be augmented proportionately by a supplemental allocation. An allocation, however, need not be made for a supplemental allocation, unless the commission is satisfied that funds would have been allocated for the project had the actual costs been used in determining its ranking on the priority list.

2460. If more projects comply with the requirements of this chapter than can be financed from funds set aside for purposes of this chapter, allocations shall be made to those projects highest on the priority list established pursuant to Section 2452. The commission may make allocations for any project when it determines, at the time of allocation, that sufficient funds are available for all projects which are higher on the priority list and which are, or are reasonably expected to become, eligible during the fiscal year.

2460.5. From funds remaining after allocations for projects higher on the priority list, the commission shall offer to allocate the remaining funds for the next eligible project on the priority list, even though the amount of the remaining funds is less than the amount the local agency is entitled to for that project. The commission, in the next fiscal year, shall allocate to the local agency an additional amount equal to the difference between the amount the local agency was eligible to receive and the amount of the reduced allocation. The total of the amount of allocations for a single project, including, but not limited to, any allocation pursuant to this section, shall not exceed the amount prescribed by subdivision (c) of Section 2454 without specific legislative authorization.

2460.7. A project that is on the priority list may be constructed by a local agency prior to the time that it reaches a high enough priority for funding under this chapter. The project shall retain its eligibility for listing on subsequent priority lists established by the Public Utilities Commission pursuant to Section 2452 by applying the traffic, accident, and other conditions existing at the project location at the time immediately preceding the start of construction. If the project subsequently reaches a high enough priority for funding under this chapter, funds shall be allocated and paid to the local agency in the same manner, and under the same terms and conditions, as any other project funded under this chapter on the basis of the cost of construction of the project. To be eligible for subsequent funding under this section, both of the following requirements shall be met:

(a) The work on the project shall be performed under terms and conditions established by the department.

(b) The project has received the prior approval of the California Transportation Commission.

2461. Allocations for specific projects on the state highway system only shall be deemed expenditures within the county in which the project is situated for the purpose of compliance by the department and the commission with Sections 188 and 188.8.