

Memorandum

To: Chairman and Commissioners

Date: October 12, 2004

Diane C. Eidam
From: Diane C. Eidam
Executive Director

File No: Ref. Agenda #4.16

ACTION

Ref: **ANNUAL \$4.1 MILLION ALLOCATION SET-ASIDE FOR THE PUBLIC UTILITY COMMISSION RAILROAD GRADE CROSSING PROTECTION MAINTENANCE PROGRAM FOR FY 2005-06 RESOLUTION G-04-**

Issue:

Should the Commission support the Public Utilities Commission's (PUC) request (Attachment A) to increase the statutorily required \$1 million allocation set-aside in the upcoming FY 2005-06 State Budget to a \$4.1 million allocation set-aside for its Railroad Grade Crossing Maintenance Program, as permitted by Public Utilities Code Section 1231.1?

Recommendation:

In past years when the PUC requested additional funds in the upcoming budget, the Commission would consider the projected revenues estimated to be available in the State Highway Account. This year, the Commission is aware of the current and projected cash flow problems in the State Highway Account. Although it is important to maintain grade crossing protection devices at the interface of road/rail transportation systems, the Commission must take into account the funding of all of the programs under its purview. Accordingly, staff recommends that only \$1 million of the \$4.1 million request be approved for the proposed FY 2005-06 Budget for the Railroad Grade Crossing Maintenance Program by adopting the attached resolution (Attachment B).

Background:

The Automatic Grade Crossing Protection Maintenance Fund was established in 1965 by the State Legislature to pay the locals' share of the cost for maintaining automatic grade crossing protection devices installed by the railroad corporations after October 1, 1965. Initially, the \$1 million annually appropriated for maintenance of warning devices was sufficient to cover all claims filed by the railroad and street railroad corporations. In 1973, changes to the federal grade crossing protection funding program resulted in the increased installation and upgrading of automatic grade crossing protection devices. Consequently claims began exceeding the funds available in Calendar Year 1977 and thereafter. The maintenance fund claims for calendar year 2003 are expected to be about \$4.21 million for 2,805 crossings. Projected claims actually reimbursed are estimated to be about \$4.1 million.

The cities' and counties' share for maintaining automatic grade crossings, which is paid for by the State through this grade crossing maintenance program, represents typically only 50% of the total project cost; the remaining 50% is borne by the railroad corporations. This 50-50-payment split presumes that rail and roadway users equally share the crossing and should therefore equally share the cost of maintaining the crossing devices, unless prescribed otherwise by the PUC. The reimbursement of claims in FY 2005-06 would be limited to the amount recommended for allocation by the Commission.

Attachments

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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division
Rail Transit and Crossings Branch
Rail Crossings Engineering Section

Resolution SX-64
September 02, 2004

R E S O L U T I O N

RECOMMENDATION TO THE CALIFORNIA TRANSPORTATION
COMMISSION TO SET ASIDE THE FUNDING FOR MAINTAINING
AUTOMATIC GRADE - CROSSING PROTECTION DEVICES UNDER PUBLIC
UTILITIES CODE SECTION 1231.1

Summary

This resolution recommends to the California Transportation Commission (CTC) to set aside the sum of \$4,100,000 for the 2005-06 fiscal year (FY). The funding is for the purpose of paying the local government's share of the cost of maintaining automatic grade crossing warning devices.

Background

The Grade Crossing Protection Maintenance Fund was established by the Legislature in 1965 to pay railroad corporations the local government share of the cost of maintaining automatic warning devices installed or upgraded after October 1, 1965. Public Utilities Code Section 1231.1 requires the Department of Transportation (CALTRANS) to set aside a minimum of \$1,000,000 for allocation to the Public Utilities Commission (PUC).

In 1988, an amendment to Public Utilities Code Section 1231.1¹ was enacted which specifies that the PUC may recommend a sum greater than \$1,000,000 be set aside if it finds that the \$1,000,000 is not sufficient due to an increase in the number of grade -crossing warning devices or an increase in the cost of maintenance of those devices. The specific amount of the total allocation shall be determined by the CTC.

¹ AB 3065, (Polanco) September 29, 1988.

Discussion

When the automatic grade-crossing protection maintenance fund was first established in 1965, the maximum annual allocation of \$1,000,000 was sufficient to cover all claims filed by railroad and street railroad corporations. However, the increase in the number of crossing warning devices and the increase in cost for maintaining these devices caused claims to exceed the funds available for calendar years 1977 and thereafter.

The railroads perform the required maintenance during a given calendar year, and then file a claim with the PUC for reimbursement. These claims are paid from fiscal year budget. Claims and payments for the past five years were as follows:

CY*	FY*	Total Claims Submitted by Railroads (\$)	Number of Crossings Approved	Total Claims Approved (\$)	Prorated Percentage of Payment to Railroads Subject to Fund Limit (%)	Total Paid (\$)
1999	99-00	N/A	3,104	4,465,069	95.18%	4,250,000
2000	99-00	N/A	3,087	4,489,062	94.67%	4,250,000
2001	00-01	N/A	2,975	4,348,183	97.74%	4,250,000
2002	01-02	4,422,787	2,814	4,076,295	100.00%	4,076,295
2003	02-03	4,212,713	2,805	4,088,563	100.00%	4,088,563

*CY-Calendar Year

*FY-Fiscal Year

Last year, the staff of the Commission's Consumer Protection and Safety Division (CPSD), Rail Crossings Engineering Section (RCES) inspected most crossings that the railroads submitted for reimbursement. Based upon these inspections, the staff rejected \$346,492 in claims. Reasons for the rejections include crossing closed, no warning devices, crossing claimed by more than one railroad, no warning devices because crossing is grade separated, duplicate claims for the same crossing, and no current rail service. This year, staff recommended the acceptance of \$4,088,563 of the railroads' claims and the rejection of the \$124,150 of the railroads' claims.

As a result, for calendar years 2002 and 2003, staff approved total claims that were less than the budgeted \$4,250,000 for FY 2002-03 and 2003-04. The maintenance fund claims for calendar year 2005 are expected to be at or near the claims for calendar year 2003. Therefore, an allocation of \$4,100,000 will be needed for the 2005-06 fiscal year.

Finding

For the 2005-06 fiscal year, the sum of \$4,100,000 will be needed to pay the local governments' share of the costs of maintaining automatic grade-crossing warning devices.

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

THEREFORE, IT IS ORDERED that:

In accordance with Public Utilities Code Section 1231.1, the Public Utilities Commission recommends to the California Transportation Commission that a sum of \$4,100,000 be allocated for the 2005-06 fiscal year for the purpose of paying to railroad or street railroad corporations the share of the costs to cities and counties of maintaining automatic grade-crossing devices.

I hereby certify that this Resolution be adopted by the Public Utilities Commission at its regular meeting on September 02, 2004. The following Commissioners approved it:

STEVE LARSON
Executive Director

CALIFORNIA TRANSPORTATION COMMISSION

California Public Utilities Commission
Railroad Grade Crossing Protection Maintenance Program
Allocation Set-Aside for \$1 Million

Resolution #G-04-__

- 1.1 WHEREAS, the Automatic Grade Crossing Protection Maintenance Fund was established by the Legislature in 1965 (PUC Section 1231.1) to pay the cities' and counties' share of the cost of maintaining automatic grade crossing protection devices installed by railroad corporations after October 1, 1965; and
- 1.2 WHEREAS, since 1967 a minimum of \$1 million per year has been appropriated by the State Legislature and allocated by the California Transportation Commission to the PUC for its Railroad Grade Crossing Protection Maintenance Program; and
- 1.3 WHEREAS, in 1973 the federal law changed which resulted in the increased installation and upgrading of automatic grade crossing protection devices; and
- 1.4 WHEREAS, the total claims submitted by the railroad corporations have substantially exceeded the \$1 million cap since 1977; and
- 1.5 WHEREAS, the anticipated claims to be submitted to the PUC for FY 2005-06 are estimated to be about \$4.1 million, which exceeds the annual \$1 million cap by \$3.1 million; and
- 1.6 WHEREAS, the Commission considered the cash flow in the State Highway Account; and
- 1.7 WHEREAS, the Commission has determined that the cash flow over the next fiscal year is insufficient to fund the \$4.1 million PUC request.
- 2.1 NOW THEREFORE BE IT RESOLVED, that the California Transportation Commission only supports a \$1.0 million allocation set-aside in the upcoming FY 2005-06 Budget for use in the PUC grade crossing protection maintenance program as revenues are not available to fund the requested allocation set-aside of \$4.1 million.