

- a) Initiate or complete, the federal Surface Transportation Board (STB)'s railbanking process on its rail right-of-way, north of the dividing line;
 - b) Inventory any parcel, easement, or contract related to the right-of-way;
 - c) Plan, design, construct, operate, and maintain a trail in, or parallel to, the right-of-way and complete an environmental assessment of the conditions of the right-of way;
 - d) Conduct a thorough community engagement process, as specified;
 - e) Honor exiting trail licenses and work with local, state, and tribal governments and community groups to expeditiously provide new trail license agreements that meet the goals of the agency;
 - f) Use the services of the California Conservation Corps or community conservation corps, wherever feasible;
 - g) Prepare and implement a master plan for the northern portion of the Great Redwood Trail, and;
 - h) Before January 1, 2024, and annually thereafter, submit a report to the Legislature describing the agency's progress towards fulfilling the requirements and goals related to the right-of-way.
- 6) Creates the Sonoma-Marín Area Rail Transit District (SMART) and establishes a comprehensive set of powers and duties regarding the formation, governance, organization, maintenance, operation and potential dissolution of the district. Authorizes SMART to provide passenger rail service in the counties of Sonoma and Marin and is governed by a 12- member board of directors.
 - 7) Requires GRTA to convey and transfer to SMART all of its rights, privileges, and title relating to its rail right-of way south of the dividing line, including common carrier obligations held by GRTA or an associated freight operator. Also, requires SMART to retain and maintain all common carrier rights and obligations received from GRTA. And, clarifies that SMART may operate, manage, and maintain a freight rail system, in addition to passenger rail.
 - 8) Establishes the Trade Corridor Enhancement Account (TCEA) administered by the California Transportation Commission (CTC) to allocate monies for infrastructure improvements on federally designated Trade Corridors of

National and Regional Significance, on the Primary Freight Network, and along other corridors that have a high volume of freight movement, as determined by CTC and as identified in the California Freight Mobility Plan. The program, known as the Trade Corridor Enhancement Program (TCEP), is funded with revenue collected from a portion of the diesel excise tax and federal funds, roughly \$400 million per year.

This bill:

- 1) Prohibits state moneys from being used to initiate or operate rail service on the NCRA's, or GRTA's, rail right-of-way north of the city of Willits.
- 2) Prohibits state moneys from being used for a project that is designed to rehabilitate, modernize, maintain, or repair an existing operation or facility, including a rail terminal, a railyard, a rail facility, and rail infrastructure, on the NCRA's, or GRTA's, rail right-of-way north of the City of Willits.
- 3) Prohibits state moneys, including proceeds from the sale of general obligation bonds, from being spent for any new bulk coal terminal project within the County of Humboldt.
- 4) Defines "new bulk coal terminal," to mean a terminal that stores, handles, or transports coal in bulk to a degree or significance that is categorized as having the potential for significant impacts in an environmental document prepared pursuant to the California Environmental Quality Act (CEQA) as a result of the storage, handling, or transport of coal in bulk.
- 5) Finds and declares that a special statute is necessary because of the unique geological and environmental conditions existing in and around the NCRA's rights-of-way north of the City of Willits and in the County of Humboldt.

COMMENTS:

- 1) *Purpose.* According to the author, "SB 307 seeks to stop one of the largest environmental threats the North Coast has seen in decades — a proposal from a secret, clandestine operation, hiding behind an anonymous LLC out of Wyoming, that wants to ship millions of tons of coal through the Northern California counties of Marin, Sonoma, Mendocino, Trinity, and Humboldt. The shadowy rail operation would utilize a portion of the now defunct North Coast rail route, which runs approximately 320 miles between Marin and Humboldt counties. The coal would then be loaded onto ships in Humboldt Bay, sold overseas, and burned.

“This toxic coal train would run through the heart of so many thriving communities and along the Russian and Eel Rivers, which are the main source of drinking water for nearly one million residents. This dangerous proposal must be stopped. This critical bill will ban any state funding from being invested to improve the rail line for coal shipments north of Willits and it bans any state funding to buildout a potential coal storage terminal at the Port of Humboldt.”

- 2) *NCRA's History*. NCRA was created in 1989 to operate freight rail service between the Bay Area and Humboldt Bay. NCRA began operating freight service, and a short lived passenger rail service, on the northern portion of the line until severe storm damage caused landslides and collapsed tunnels in 1998. To this day railcars remain in the Eel River from the storm. This damage compelled the Federal Railroad Administration to close the entire NCRA railroad from Arcata to Schellville for public safety reasons in 1998.

SB 1029 (McGuire, Chapter 934, Statutes of 2018), declared that it was in the public interest to finally dissolve NCRA and potentially establish a trail in its place. To this end, SB 1029 required CalSTA to do an assessment to provide information necessary to determine the most appropriate way to dissolve NCRA and dispense with its assets and liabilities.

The general idea assessed was that the northern portion of NCRA's right-of-way could be transferred to a successor agency for the purposes of developing the trail, while the southern portion would go to SMART, which would acquire NCRA's freight rights and could also establish a southern portion of the trail alongside the rail line. CalSTA completed the SB 1029 report in 2020. The report laid out various scenarios for handling the northern portion of NCRA, while transferring the southern portion to SMART.

- 3) *NCRA to GRTA*. Last year, the Legislature passed, and Governor Newsom signed into law, SB 69 (McGuire, Chapter 423, Statutes of 2021), to implement recommendations from the assessment and officially transition NCRA to GRTA. Specifically, SB 69 reorganizes NCRA into GRTA, as of March 1, 2022, and establishes GRTA's new mission of developing the Great Redwood Trail. The bill transfers all powers of the former NCRA to GRTA including entering into contracts, collecting fees, making grants, making real property transactions, undertaking or funding projects to carry out its directives, to sue and be sued, contract with state agencies or another organization to staff the agency, apply for and accept funding, and others. Although SB 69 does not identify an ongoing funding source for future capital and operational needs for

GRTA, the recent 2021-2022 State Budget (SB 129, Skinner, Chapter 69, Statutes of 2021), includes \$16.5 million to finalize dissolution of NCRA and make plans for reuse of its assets.

Additionally, if funding is available, SB 69 tasks the new GRTA with completing the STB railbanking process, completing environmental assessments of the right-of-way for purposes of trail development; planning, designing, constructing, operating, and maintaining a trail in, or parallel to the right-of-way; and preparing and implementing a master plan for the northern portion of the Great Redwood Trail, including any environmental analysis.

To continue to stay informed of the progress of the new GRTA, SB 69 requires the agency to submit a report to the Legislature by January 1, 2024, and annually thereafter, describing the agency's progress towards fulfilling the requirements and goals related to the right-of-way.

- 4) *Unexpected Opposition to Railbanking.* As part of the transition from NCRA to GRTA, NCRA initiated a process called railbanking with both the state and federal governments. Railbanking is a voluntary agreement between a railroad company and a trail agency to use an out-of-service rail corridor as a trail. Railbanking takes place during the rail corridor abandonment process, for which a railroad applies to the STB, the federal agency that regulates freight railroad operations. Because NCRA's line is licensed by the STB as a freight railroad common carrier, the line must receive an abandonment authorization to devote the right-of-way to an alternative public use such as a trail.

At the state level, in December 2020, NCRA requested and the CTC approved authorization to railbank NCRA's rail corridor from Outlet Station, north of Willits, through the Eel River Canyon to the Port of Humboldt Bay, including three branch lines in Humboldt County. At CTC's June 2021 meeting, CTC amended that action to extend the railbanking authority an additional three miles south.

In May 2021, NCRA applied to the STB for an abandonment authorization indicating its intention to railbank the line for use as a trail. Specifically, the filing covered approximately 170 miles of the line from Willits to the end points of its northern branches in Somoa, Korblex/Korbel, and Carlotta. NCRA did not anticipate any opposition to the request as the line had not been in use for over 20 years. Additionally, NCRA's own engineering estimates put costs of restoration of the line for rail service at roughly \$2.4 billion, not including environmental remediation. And even if restored, the rail line is historically

one of the costliest to maintain, due to terrain and climate. NCRA expected the abandonment authorization by August of 2021.

However, in any rail abandonment proceeding before the STB, other entities interested in continuing rail service have the opportunity to object to the railbanking and may file to try acquire the line. These entities must show that they intend to use the line for rail service and have the funding to do so. As part of this process, in August 2021, a company called the North Coast Railroad Company (NCRCo) opposed NCRA's motion, claiming it has access to \$1.2 billion in funds and has thoroughly developed plans to restore the line (defined as Willits to the branches in the north, a total of 175.84 miles) for transportation of high-volume shipments by rail over the line. In a reply letter to the STB, NCRA noted that NCRCo was a new company, formed in Wyoming just days prior to the filing, appeared to have only a virtual office, and had not identified any owners or managers.

After the filing, press reports surfaced that the newly created NCRCo was backed by coal interests in the states of Wyoming and Montana. The proposed rail line would transport coal from the Powder River Basin in Wyoming and Montana to Humboldt Bay. It was reported that a state senator from Utah travelled to California to meet with local officials about the idea. There has long been an interest in opening up West Coast ports to coal shipments which could be exported to Asia. In fact, numerous unsuccessful port proposals have been pursued in Washington, Oregon, and California, including Oakland.

In addition to NCRCo, Mendocino Railway, known as the Skunk Train, also opposed the NCRA abandonment filing. The Skunk Train currently operates tourist excursions south of Willits. In its filing the Skunk Train noted that it believes there is potential traffic that could move over a portion of the line to and from Fort Bragg, and it should be allowed to provide service to shippers over a portion of the line who need it. It is unclear whether the Skunk Train has the funding to restore and operate any additional rail lines.

With these objections to the NCRA's abandonment filing, the STB has put the railbanking proceeding on hold to receive additional information about the line. It is unclear when the STB will rule.

- 5) *SB 307 Hopes to Stop the "Coal Train."* To address this issue and try to protect the North Coast from the transportation of coal, SB 307 would prohibit any state moneys from being used to initiate or operate rail service on the NCRA's or GRTA's rail right-of-way north of Willits. Additionally, the bill prohibits state moneys from being used for a project that is designed to rehabilitate,

modernize, maintain, or repair an existing operation or facility, including rail facilities, north of Willits.

There are strong environmental concerns with reconstituting the NCRA line for the transportation of freight, especially coal. According to the Friends of the Eel River, writing in support of the bill, “the Eel River Canyon is simply not an appropriate location for a railroad. When it last operated over 25 years ago, the Northwest Pacific Railroad was prone to frequent derailments, the evidence of which still lie in the river, and was the most expensive line in the nation to maintain. Restoring rail service to the Eel River Canyon would devastate the progress made toward fisheries restoration and remediation of environmental harms caused by the railroad. Add coal to the equation and residents of the North Coast region would be subject to poisoned air and water; the negative impact of coal transportation and storage on public health cannot be understated. Coal is the dirtiest and most damaging source of energy out there, and it is the number one contributor to our climate crisis.”

According to NCRA, if the line was successfully reconstructed for coal operations, shipments would presumably involve tens of thousands of annual coal carloadings, with possibly multiple trains per day each way up and down the Eel River Canyon on a line originally designed for lighter loads of timber.

The reconstructed line would presumably deliver product to the Port of Humboldt Bay for export overseas. According to the California Association of Port Authorities, in 2019, the Port’s trade totaled \$12.9 million with its top export being fuel wood in logs and chips. SB 307 also prohibits state moneys from being spent for any new bulk coal terminal project with Humboldt County.

Additionally, there remains support for the development of the trail. According to Humboldt County Association of Governments (HCAOG), “one of HCAOG’s highest transportation priorities for the past decade has been to construct a connected, non-motorized rail-to-trail (or rail with trail) around Humboldt Bay in order to provide safe travel routes for pedestrians and cyclists and increase clean and active transportation. HCAOG supports investing in financially viable, non-toxic, healthy uses of the now defunct North Coast rail line north of Willits, as in railbanking and constructing and maintaining both the landmark Great Redwood Trail and a safe active transportation connection between Eureka and Arcata.”

As previously noted, the STB regulates the nation’s freight railroads and a main part of its mission is the “support of an efficient, competitive, and economically viable surface transportation network.” Since the NCRA’s activities are

regulated by the STB, as a railroad common carrier, if new freight operations were approved, it is unclear whether it would be subject to any environmental review or approval under the National Environmental Policy Act (NEPA) or CEQA, however it would be expected that the project would be exempt from CEQA and other state and local regulations.

Currently, there is no state funding pending for the NCRCo, and as mentioned the company has purported to have \$1.2 billion in assets to rehabilitate the line. SB 307 would ensure that no future state funding could go to support this or any other rail proposal on this portion of the corridor.

- 6) *California has done this before.* As mentioned, coal interests have pursued numerous possible rail routes to transport coal to a western port. In fact, in 2015, similar groups were working to initiate coal transport from Utah to the Port of Oakland. The Legislature passed and Governor Brown signed into law, SB 1279 (Hancock, Chapter 215, Statutes of 2016), which prohibited the CTC from programming or allocating funds for any new bulk-coal terminal project proposed on or after January 1, 2017. Included in that legislation are clear statements of the state's position on this issue, specifically declaring that, "to avoid the impacts of localized airborne particulate matter associated with the transportation of coal and the increased emissions of greenhouse gases associated with the use of coal, the State of California should make all reasonable and legal efforts to avoid the investment of state funds in coal-supporting transportation projects."

Additionally, "it is the intent of the Legislature that the State of California cease all investments in transportation infrastructure projects that store, transfer, or transport significant amounts of coal in bulk. While it is not the intent of the Legislature to disrupt existing, regular, and lawful interstate and international commerce involving operations that may transport coal at present, it is the intent of the Legislature to avoid making new investments in coal-supporting projects."

RELATED LEGISLATION:

SB 69 (McGuire, Chapter 423, Statutes of 2021) -- Reorganizes the NCRA into GRTA, transfers its authority related to rail and freight to SMART, and establishes GRTA's new mission of developing the Great Redwood Trail.

SB 356 (McGuire, 2019) -- Would have authorized SMART to operate both passenger and freight rail service, as well as consider potential alternatives to help

address the housing needs of existing and potential employees. The bill died on the Assembly Inactive File.

SB 1029 (McGuire, Chapter 934, Statutes of 2018) -- Required CalSTA to conduct an assessment of the NCRA in order to provide the findings necessary to determine the most appropriate way to dissolve NCRA and dispense with its assets and liabilities, as specified.

SB 1279 (Hancock, Chapter 215, Statutes of 2016) -- Prohibited the California Transportation Commission (CTC) from programming or allocating funds for any new bulk-coal terminal project proposed on or after January 1, 2017.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, December 29, 2021.)

SUPPORT:

California Bicycle Coalition
California Trout
City of Ukiah
The Climate Center
Coalition for Responsible Transportation Priorities
Mendocino County
Environmental and Energy Consulting
Environmental Protection Information Center
Friends of The Eel River
Humboldt Baykeeper
Humboldt County Association of Governments
Humboldt Trails Council
Northcoast Environmental Center
Redwood Coast Energy Authority
Sierra Club
Sonoma County Transportation Authority
Transportation Authority of Marin

OPPOSITION:

None received.