

Date of Hearing: July 9, 2025

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Cottie Petrie-Norris, Chair

SB 544 (Laird) – As Introduced February 20, 2025

SENATE VOTE: 37-0

SUBJECT: Railroad crossings: permit applications: review

SUMMARY: Requires applications for a railroad crossing to include specific information and establishes the authority for the California Public Utilities Commission (CPUC) to institute an expedited review process for applications as long as they are uncontested and the commission determines there is no need for an evidentiary hearing.

Specifically, **this bill:**

- 1) Requires an application for a railroad crossing to include:
 - a. A description of the location;
 - b. A map showing the proposed crossing relative to existing roads and railroads;
 - c. A profile showing the ground line, grade line, rate of grades on all highways and railroads affected by the crossing;
 - d. A copy of the franchise or permit allowing the railroad to cross the road, highway or street;
 - e. Any applicable safety and regulatory measures required.
- 2) Requires the commission to exempt railroad crossing applications from the rules of normal CPUC proceedings, allowing for the establishment of an expedited review and approval process, unless
 - a. The application is subject to a valid protest;
 - b. The commission determines the application requires an evidentiary hearing.

EXISTING LAW:

- 1) Requires approval of the CPUC before any public road, highway or street is constructed across a railroad track. (Public Utilities Code § 1201)
- 2) Provides the CPUC with the exclusive power to determine and prescribe the manner and terms of installation, operation, maintenance, use, and protection of specified railroad grade crossings. (Public Utilities Code § 1202)

- 3) Establishes regulations governing the standards for warning devices for at-grade highway-rail crossings for motor vehicles, pedestrians, and/or bicycles (CPUC General Order No. 75-D)
- 4) Requires the commission to determine whether each proceeding is a quasi-legislative, an adjudication, a ratesetting or catastrophic wildfire proceeding. Upon initiating an adjudication proceeding or ratesetting proceeding, the commission must assign one or more commissioners to oversee and preside over the case and an administrative law judge when appropriate. (Public Utilities Code §§ 1701.1(a) - 1701.1(b))
- 5) Requires the division of the CPUC responsible for railroad safety to be responsible for inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads and public mass transit guideways, and for enforcing state and federal laws, regulations, orders, and directives relating to transportation of persons or commodities, or both, of any nature or description by rail. (Public Utilities Code § 309.7)

FISCAL EFFECT: This bill is keyed fiscal and will be referred to the Assembly Committee on Appropriations. This bill passed out of Senate Appropriations under Senate Rule 28.8.

CONSUMER COST IMPACTS: Unknown.

BACKGROUND:

CPUC Authority Over Railroad Crossings – The CPUC has legal regulatory authority over rail safety within California. CPUC rail operations and safety staff are responsible for enforcing both state and federal laws, regulations, CPUC general orders, and directives relating to rail transportation. The CPUC Rail Crossings and Engineering Branch (RCEB) engineers evaluate requests to construct new rail crossings or modify existing crossings. CPUC staff ensure that highway-rail and pathway-rail crossings are safely designed, constructed, and maintained. RCEB staff also evaluate rail crossings configuration after train-related incidents occur at rail crossings, and review complaints regarding rail crossings and rail crossings safety or conditions. However, federal agencies also play a role: the Federal Railroad Administration and the Federal Highway Administration (FHWA) both have authority to regulate safety measures at railroad crossings, which preempts the regulatory authority of the CPUC.

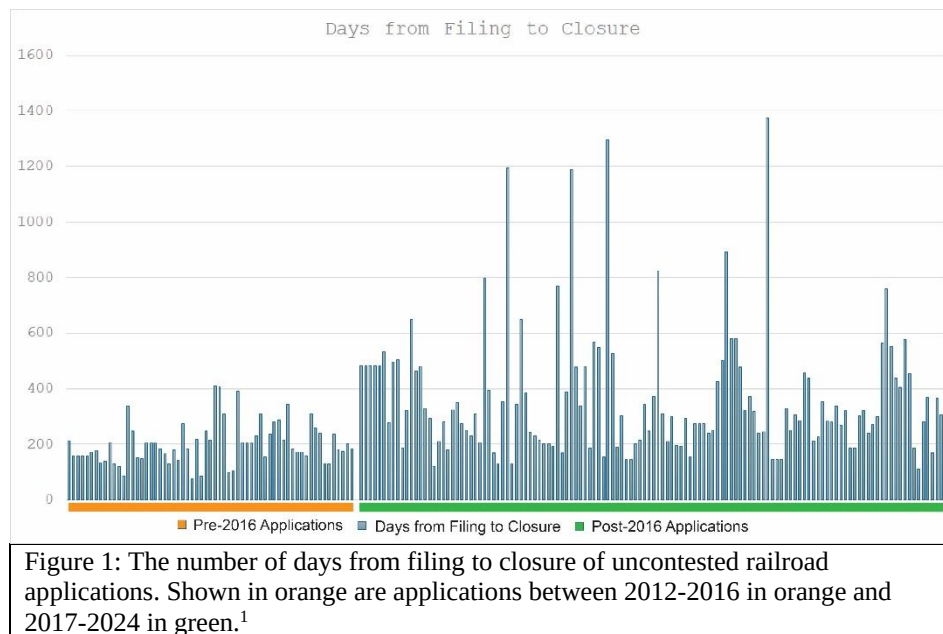
Legislative Reform of the CPUC – In 2016, the Legislature passed SB 215 (Leno, Chapter 807, Statutes of 2016) to increase disclosure requirements regarding ex-parte communications and reform CPUC proceeding requirements. This legislation followed concerns about extensive ex-parte communications occurring between utility officers and certain CPUC staff and commissioners at that time. Ex-parte communication occurs when substantive discussions occur between a CPUC decision-maker and a stakeholder that has an interest in a proceeding before the CPUC. In addition to enhancing disclosure of ex-parte communication, SB 215 also specified that every CPUC adjudication or rate-setting proceeding must start with a pre-hearing conference and a scoping memo setting forth the issues that will be considered in the proceeding.

COMMENTS:

- 1) *Author's Statement.* According to the author: "Senate Bill 544 creates a more efficient review process for uncontested rail crossing applications, minimizing delays that could

jeopardize time-sensitive funding. In 2016, Senate Bill 215 (Leno, Chapter 807) created procedural requirements for any California Public Utilities Commission (CPUC) rate setting or adjudicatory proceeding. While it improved transparency and accountability, it also extended the workload and timeline for the application approvals, including for rail crossing applications that don't receive any opposition. Many rail projects rely on time-sensitive funding that could be lost if applications are not approved in a timely manner. Senate Bill 544 allows the CPUC to create an expedited review process for uncontested rail crossing applications, increasing efficiency without compromising the review procedure for more complex or contested applications.”

- 2) *Purpose of the Bill.* Since the enactment of the pre-hearing conference and scoping memo requirements in SB 215, the length of certain CPUC proceedings have increased. Prior to the implementation of the pre-hearing conference and scoping memo requirements in SB 215, the CPUC generally adjudicated uncontested rail crossing applications within six months. After 2016, these rail applications have taken longer, on average, largely impacted by a number of exceptional applications that stretched much longer than 6 months. This change in filing-to-closure time is shown in Figure 1.



- 3) *The Exempted Railroad Crossing Application Approval Process.* A railroad crossing application is a ratesetting proceeding and is governed by PUC § 1701.1, which outlines the process of these proceedings. The committee is sensitive to both the problem outlined by the authors, as well as the Legislature's desire to have these proceedings be transparent and accessible to the public, which prompted the passage of SB 215. **With this in mind, the committee recommends that details of the exempted application approval process put forward in this measure be articulated in greater detail. This includes:**

¹ Data provided by the CPUC, June 6, 2025

- *Reviewing the processes itself, including considering input from stakeholders.*
- *Requiring a public notice of the application, and service of the application to stakeholders.*
- *Requiring the resolution to be publicly noticed on the commissions voting agenda and subject to public comment*
- *Defining an exempted railroad crossing application as one with clear public benefit, without valid protest objecting, in whole or in part, to the application, and where the commission determines there is no need for evidentiary hearing or a more comprehensive review*

Although the details of this Exempted Railroad Crossing Application process are placed in PUC § 1205.5, the Committee also recommends including a subdivision in PUC § 1701.1 to identify this exemption to ratesetting proceedings and reference the portion of code that outlines this exempted process in statute.

4) *Related Legislation.*

AB 420 (Petrie-Norris) allows certain real estate transactions, as specified, undertaken by investor-owned utilities (IOUs) that have a value of \$100,000 or less to bypass California Public Utilities Commission (CPUC) review and approval. Authorizes the value threshold to increase with the cost of inflation. Status: Awaiting hearing in the Senate Committee on Energy, Utilities and Communications.

5) *Prior Legislation.*

SB 506 (Laird) This bill requires the CPUC to develop and implement a pilot project to test the efficacy of pavement markings painted in color at one or more at-grade highway-railroad crossings, if permissible under federal law or regulation, by January 1, 2026.

SB 599 (Hueso) made various changes to existing law governing ex-parte communications that occur outside the official record of a CPUC proceeding. Specifically, the bill clarified law regarding the quiet period occurring three days before a CPUC voting meeting. The bill made other conforming changes. Status: Chapter 703, Statutes of 2022.

SB 605 (Hueso, 2020) would modify requirements for “quiet periods” during ratesetting and catastrophic wildfire proceedings. The bill would have also shifted certain pre-hearing conference requirements from mandatory to permissive and allowed remote participation in pre-hearing conferences when practicable. Status: The bill died in the Assembly.

SB 1054 (Holden) made a number of changes to existing law regarding utility wildfire mitigation and recovery, including defining “catastrophic wildfire proceedings” and requiring the CPUC to establish procedures for these proceedings. Status: Chapter 79, Statutes of 2019.

SB 1358 (Hueso), among other changes, required the assigned commissioner, rather than the full CPUC commission, to determine whether a proceeding requires a hearing. Status: Chapter 519, Statutes of 2018.

SB 215 (Leno) made various modifications to law governing the CPUC's rules of practice and procedure to expand transparency for proceedings and reform rules for ex-parte communication occurring outside the official record of a proceeding. Status: Chapter 807, Statutes of 2016.

REGISTERED SUPPORT / OPPOSITION:**Support**

None on file.

Opposition

None on file.

Analysis Prepared by: Kristen Koenig / U. & E. / (916) 319-2083