

New law may delay railroad project

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The railroad oversight measure passed by the Arizona Legislature last month and signed into law by Gov. Janet Napolitano doesn't give the state any more regulatory power over railroad projects.



Larry Lockhart/Dispatch (2007), A westbound Union Pacific train crosses Toltec Road in the Eloy area.

What it does give the state is a greater role in the information-gathering process leading up to approval - or disapproval - by regulators at the Federal Railroad Administration in the Department of Transportation. And it may add one more round of public hearings to the approval process.

The legislation requires that railroads make certain disclosures and that the state hold a hearing on new projects. It was passed by the Legislature last week and signed by the governor last Friday. Napolitano vetoed a similar bill in 2007 that she said infringed on the federal government's role in regulating railroads.

The current measure almost certainly will affect a proposed Union Pacific Railroad switching yard at Red Rock, southeast of Picacho Peak. The 1,500-acre facility would help the railroad serve customers in Casa Grande, Eloy, Coolidge and Maricopa, as well as Phoenix, Tucson and Nogales. The facility is expected to employ up to 290 workers, including about 100 new jobs.

"The Tucson, Phoenix, Nogales, Casa Grande market has had 42 percent growth since 1999," Luis Heredia, Union Pacific's director of public affairs for Arizona and New Mexico, told the Casa Grande Dispatch in November. "That's close to 45,000 cars" of additional traffic annually.

The yard would provide a closer staging area for incoming and outgoing carloads, speeding service and providing much more storage capacity than existing yards scattered throughout southern Arizona. UP has said the yard itself would take up only about 585 acres, with the remaining land providing a buffer and room for possible growth.

The railroad had planned to begin construction in 2009 and open the yard in 2010. The yard not only would provide storage for cars going to and from area businesses, it would include facilities for fueling, car repair and crew changes.

While regulation of rail projects remains with the federal government, the state legislation is meant to provide the public with an opportunity to be heard. Public hearings would be conducted by the Arizona Department of Transportation.

"We would just facilitate a meeting between the railroad and the community," said Kevin Biesty, government relations director for ADOT. "We would use our public involvement process to help facilitate that. We have a very effective process that we've developed over the last few years."

Biesty said ADOT is just beginning to lay out its guidelines for "a couple of dozen bills we have to implement."

"We've been involved in this bill from the get-go to make it workable for everyone involved," Biesty said. "We did

have a concern that there would be an expectation in the community that there would be some sort of decision-making process. The state has no authority to make (the railroads) pick a different route or whatever. This is strictly an information-gathering and -sharing process, unlike our projects where we can make changes in a road project as a result. We'll have someone gather information, share it at the meeting, gather comment and it will be forwarded to the appropriate federal agency."

The new law isn't scheduled to take effect until Sept. 26, 90 days after it was signed into law. It isn't known yet if Union Pacific plans to challenge the law and seek a court injunction to prevent implementation.

"We're still reviewing and evaluating our next step as it relates to the bill that was signed into law," Heredia said Wednesday. He said UP hopes the planned 2009 construction start won't be delayed but noted that no date has been set yet for public auction of the land, currently held by the State Land Department. Proceeds from State Land auctions are used to support education.

"I know that Pinal County has supported this (Red Rock yard) project," said Heather Murphy, public information officer for Pinal County and formerly for the Arizona Corporation Commission. "We certainly wouldn't oppose something that provides more public input. If there's some way to balance the project and the public interest, we're all for that."

Lionel Ruiz, Pinal County supervisor for District 1, which includes the Red Rock area, feels that already has been done and, through a spokeswoman, expressed disappointment in potential delays as a result of the legislation.

"We had our own public hearing where the public had an opportunity to offer input, and did," Ruiz said. He decried any unnecessary delay to "a valuable and important engine for Pinal County. It's not just the jobs that come from the rail yard being constructed, but all the other industry and business that may accompany having such a facility in Pinal County when we need economic development and jobs now."

The ongoing double-tracking of Union Pacific's Sunset Route mainline across southern Arizona probably won't be affected, several sources said. The railroad already owns the right of way and therefore doesn't need to acquire land for the project, which would speed train traffic between El Paso, Texas, and Los Angeles by allowing trains to pass in opposite directions without pulling into sidings. The state does have some regulatory authority, however, since the Corporation Commission oversees rail crossing safety and must approve any new crossings.

The ACC encouraged UP to reach agreements with local governments regarding overpasses or underpasses to help traffic flow on major roads as train traffic increases. Pinal County joined forces with Casa Grande, Maricopa and Eloy to negotiate an agreement for UP to help pay for several overpasses or underpasses at sites to be determined.