

ASSEMBLY BILL

No. 153

Introduced by Assembly Member Ma

January 23, 2009

An act to amend Section 1245.210 of the Code of Civil Procedure, to amend Sections 15853 and 15855 of the Government Code, and to amend Sections 185032 and 185036 of, and to add Section 185026 to, the Public Utilities Code, relating to high-speed rail.

LEGISLATIVE COUNSEL'S DIGEST

AB 153, as introduced, Ma. High-Speed Rail Authority.

(1) Existing law creates the High-Speed Rail Authority with specified powers and duties relating to the development and implementation of an intercity high-speed rail system. Existing law authorizes the authority to prepare a plan for the construction and operation of that system and to enter into contracts, acquire rights-of-way through purchase or eminent domain, and take other actions, subject to specified contingencies. Under existing law, a public entity may not commence an eminent domain proceeding until its governing body has adopted a resolution of necessity that meets certain requirements. Existing law generally prohibits a state agency from employing legal counsel other than the Attorney General unless there is a specific statute authorizing that employment.

This bill would eliminate those contingencies to the exercise of the authority's authority and would specify that the authority constitutes a "governing body" for the purpose of adopting a resolution of necessity. The bill would authorize the authority to employ its own legal staff or contract with other state agencies for legal services, or both.

(2) Existing law requires that all real property and interests in real property to be acquired by or for any state agency, with specified exceptions, be acquired by the State Public Works Board.

This bill would exclude the High-Speed Rail Authority with respect to property acquired for the construction of a high-speed rail system from the above requirement.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1245.210 of the Code of Civil Procedure
- 2 is amended to read:
- 3 1245.210. As used in this article, “governing body” means:
- 4 (a) In the case of a taking by a local public entity, the legislative
- 5 body of the local public entity.
- 6 (b) In the case of a taking by the Sacramento and San Joaquin
- 7 Drainage District, the State Reclamation Board.
- 8 (c) In the case of a taking by the State Public Works Board
- 9 pursuant to the Property Acquisition Law (Part 11 (commencing
- 10 with Section 15850) of Division 3 of Title 2 of the Government
- 11 Code), the State Public Works Board.
- 12 (d) In the case of a taking by the Department of Fish and Game
- 13 pursuant to Section 1348 of the Fish and Game Code, the Wildlife
- 14 Conservation Board.
- 15 (e) In the case of a taking by the Department of Transportation
- 16 (other than a taking pursuant to Section 21633 of the Public
- 17 Utilities Code or Section 30100 of the Streets and Highways Code),
- 18 the California Transportation Commission.
- 19 (f) In the case of a taking by the Department of Transportation
- 20 pursuant to Section 21633 of the Public Utilities Code, the
- 21 California Transportation Commission.
- 22 (g) In the case of a taking by the Department of Transportation
- 23 pursuant to Section 30100 of the Streets and Highways Code, the
- 24 California Transportation Commission.
- 25 (h) In the case of a taking by the Department of Water
- 26 Resources, the California Water Commission.
- 27 (i) In the case of a taking by the University of California, the
- 28 Regents of the University of California.

1 (j) In the case of a taking by the State Lands Commission, the
2 State Lands Commission.

3 (k) In the case of a taking by Hastings College of Law, the board
4 of directors of that college.

5 (l) *In the case of a taking by the High-Speed Rail Authority*
6 *pursuant to Section 185036 of the Public Utilities Code, the*
7 *High-Speed Rail Authority as established in Section 185020 of the*
8 *Public Utilities Code.*

9 SEC. 2. Section 15853 of the Government Code is amended
10 to read:

11 15853. (a) The board may select and acquire, in the name of
12 and on behalf of the state, with the consent of the state agency
13 concerned, the fee or any lesser right or interest in any real property
14 necessary for any state purpose or function.

15 (b) If moneys are appropriated by the Budget Act for any fiscal
16 year or by any other act for the acquisition of land or other real
17 property, either (1) subject to this part or (2) for any state agency
18 for whom property is acquired by the board, the moneys and
19 acquisitions are subject to this part and the moneys shall be
20 expended in accordance with this part, notwithstanding any other
21 provisions of law.

22 (c) Notwithstanding any other provisions of law, all land and
23 other real property to be acquired by or for any state agency, other
24 than the Department of Transportation, the Department of Water
25 Resources, the State Reclamation Board, the Department of Fish
26 and Game, the Wildlife Conservation Board, the Public Employees'
27 Retirement System, the State Teachers' Retirement System, the
28 Department of Housing and Community Development, *the*
29 *High-Speed Rail Authority*, the State Lands Commission, except
30 for property to be acquired for the State Lands Commission
31 pursuant to an appropriation from the General Fund, and the State
32 Coastal Conservancy with respect to acceptance of offers to
33 dedicate public accessways made pursuant to Division 20
34 (commencing with Section 30000) of the Public Resources Code,
35 shall be acquired by the State Public Works Board in accordance
36 with this part.

37 (d) (1) Notwithstanding subdivision (a), the board shall acquire,
38 on behalf of and for the Department of Parks and Recreation, in
39 accordance with this part, any interests in real property, including
40 options to purchase, which have been appraised, selected, and

1 settled through purchase negotiations by the Department of Parks
2 and Recreation pursuant to subdivision (b) of Section 5006 of the
3 Public Resources Code. Out of moneys appropriated for the
4 acquisition of options to purchase, no more than ten thousand
5 dollars (\$10,000) may be expended for the acquisition of any single
6 option unless otherwise provided by the Legislature.

7 (2) Notwithstanding Section 15854, purchase negotiations for
8 interests in real property for the state park system pursuant to
9 subdivision (d) of Section 5006 of the Public Resources Code shall
10 be initiated within six months of the effective date of the act that
11 appropriates funds for the acquisition. Purchase negotiations on
12 all projects not proposed pursuant to subdivision (d) of Section
13 5006 of the Public Resources Code shall be initiated within 12
14 months of the effective date of the act appropriating funds for the
15 acquisition. Either title shall be conveyed or a written agreement
16 to transfer title shall be executed within the appropriate
17 authorization period unless the Department of Parks and Recreation
18 formally abandons the acquisition prior to the conclusion of the
19 appropriate authorization period. For the purposes of this section,
20 in order for the Department of Parks and Recreation to “formally
21 abandon” an acquisition, it shall transmit written notification to
22 the board of its intent not to proceed with the acquisition.

23 (3) The board, at any time during the periods specified in
24 paragraph (2), may commence condemnation proceedings if it
25 finds it to be appropriate. However, if, during the appropriate
26 authorization period, title is not conveyed or a written agreement
27 to transfer title is not signed, the acquisition has not been formally
28 abandoned, or condemnation proceedings have not been
29 commenced, the Department of Parks and Recreation shall notify,
30 by letter, the chair of the committee in each house of the
31 Legislature that considers appropriations, the Chair of the Joint
32 Legislative Budget Committee, and the Members of the Legislature
33 within whose district any part of the land or other real property is
34 located of the status of the acquisition. For the purpose of this
35 paragraph, condemnation proceedings shall be deemed to be
36 commenced as of the date the board authorizes acquisition by
37 condemnation.

38 (4) The board may schedule special meetings as are necessary
39 to expedite the acquisition of options to purchase real property for
40 the state park system.

1 (e) The board may acquire furnishings that the owner thereof
2 agrees to sell and that are contained within improvements acquired
3 by the board. Cost of acquisition of furnishings shall be charged
4 to the appropriation available for acquisition of the real property.

5 SEC. 3. Section 15855 of the Government Code is amended
6 to read:

7 15855. (a) Notwithstanding any other provision of law, except
8 as provided in subdivision (b), the State Public Works Board is
9 the only state agency that may exercise the power of eminent
10 domain to acquire property needed by any state agency for any
11 state purpose or function.

12 (b) Subdivision (a) does not affect or limit the right of the
13 Department of Transportation, Department of Water Resources,
14 State Lands Commission, State Reclamation Board, Hastings
15 College of the Law, ~~or~~ the Regents of the University of California,
16 *or the High-Speed Rail Authority* to exercise the power of eminent
17 domain. Subdivision (a) does not affect or limit the exercise of the
18 power of eminent domain by the Department of Fish and Game
19 pursuant to Section 1348 of the Fish and Game Code.

20 SEC. 4. Section 185026 is added to the Public Utilities Code,
21 to read:

22 185026. The authority may employ its own legal staff or
23 contract with other state agencies for legal services, or both.

24 SEC. 5. Section 185032 of the Public Utilities Code is amended
25 to read:

26 185032. (a) ~~(1) Upon an appropriation in the Budget Act for~~
27 ~~that purpose, the~~ *The* authority shall prepare a plan for the
28 construction and operation of a high-speed train network for the
29 state, consistent with and continuing the work of the Intercity
30 High-Speed Rail Commission conducted prior to January 1, 1997.
31 The plan shall include an appropriate network of conventional
32 intercity passenger rail service and shall be coordinated with
33 existing and planned commuter and urban rail systems.

34 ~~(2)~~

35 (b) The authorization and responsibility for planning,
36 construction, and operation of high-speed passenger train service
37 at speeds exceeding 125 miles per hour in this state is exclusively
38 granted to the authority.

39 ~~(3)~~

- 1 (c) Except as provided in ~~paragraph (2)~~ *subdivision (b)*, nothing
 2 in this ~~subdivision~~ *section* precludes other local, regional, or state
 3 agencies from exercising powers provided by law with regard to
 4 planning or operating, or both, passenger rail service.
- 5 ~~(b) The plan, upon completion, shall be submitted to the~~
 6 ~~Legislature and the Governor for approval by the enactment of a~~
 7 ~~statute.~~
- 8 SEC. 6. Section 185036 of the Public Utilities Code is amended
 9 to read:
- 10 185036. ~~Upon approval by the Legislature, by the enactment~~
 11 ~~of a statute, or approval by the voters of a financial plan providing~~
 12 ~~the necessary funding for the construction of a high-speed network,~~
 13 ~~the~~ *The* authority may do any of the following:
- 14 (a) Enter into contracts with private or public entities for the
 15 design, *financing*, construction ~~and~~, operation, *and maintenance*
 16 of high-speed trains. The contracts may be separated into individual
 17 tasks or segments or may include all tasks and segments, including,
 18 *for example*, a design-build or ~~design-build-operate~~
 19 *design-finance-build-operate-maintenance* contract.
- 20 (b) Acquire rights-of-way through purchase or eminent domain.
- 21 (c) Issue debt, secured by pledges of state funds, federal grants,
 22 or project revenues. The pledge of state funds shall be limited to
 23 those funds expressly authorized by statute or voter-approved
 24 initiatives.
- 25 (d) Enter into cooperative or joint development agreements with
 26 local governments or private entities.
- 27 (e) ~~Set~~ *Provide for the setting of* fares and schedules.
- 28 (f) Relocate highways and utilities.