

AMENDED IN SENATE AUGUST 2, 2010

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE JUNE 22, 2010

AMENDED IN SENATE MAY 28, 2010

AMENDED IN SENATE APRIL 21, 2010

AMENDED IN SENATE JANUARY 25, 2010

AMENDED IN SENATE AUGUST 17, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 289

Introduced by Assembly Member Galgiani

(Coauthors: Assembly Members Adams, Arambula, Bass, Beall, Bill Berryhill, Tom Berryhill, Bradford, Brownley, Buchanan, Charles Calderon, Davis, Eng, Hayashi, Hill, Jones, Lieu, Portantino, Salas, Solorio, Torres, and Torrico)

February 13, 2009

An act to amend Section 185024 of the Public Utilities Code, and to add Chapter 20.1 (commencing with Section 2704.25) to Division 3 of the Streets and Highways Code, relating to high-speed rail, *making an appropriation therefor*, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 289, as amended, Galgiani. High-speed rail.

Existing law, the California High-Speed Rail Act, creates the High-Speed Rail Authority to develop and implement a high-speed rail system in the state, with specified powers and duties. Existing law, pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, approved by the voters as Proposition 1A at the November 4, 2008, general election, provides for the issuance of \$9.95 billion in general obligation bonds for high-speed rail and related purposes. The federal Passenger Rail Investment and Improvement Act of 2008 (PRIIA) and the federal American Recovery and Reinvestment Act of 2009 (ARRA) provide funding for allocation nationally to high-speed rail projects.

This bill would appropriate \$221,571,000 from the High-Speed Passenger Train Bond Fund and federal ARRA funds to the authority for support of the authority and capital outlay for high-speed rail purposes. The bill would require federal high-speed rail funds received on a reimbursement basis from ARRA to be deposited in the federal trust fund.

This bill would identify the corridors eligible for *additional* ARRA and PRIIA funds, upon appropriation by the Legislature, and require the authority to work with the Federal Railroad Administration to create a plan for expenditure of the ARRA funds. These provisions would not apply to the portion of ARRA funds awarded to the Transbay Terminal project in San Francisco.

Existing law provides for appointment of an executive director by the authority, who is exempt from civil service and serves at the pleasure of the authority. Under existing law, the salary of the executive director is established by the authority and approved by the Department of Personnel Administration.

This bill, for purposes of managing and administering the ongoing work of the authority in implementing the high-speed rail project, would authorize the Governor, upon recommendation of the executive director, to appoint up to 6 additional executive staff exempt from civil service who would serve in specified positions at the pleasure of the executive director. The bill would require the authority to cause a salary survey to be conducted to determine the compensation for the executive director and additional exempt staff, and would require the salaries to be approved by the Department of Personnel Administration.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: ~~no~~-yes. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) With the enactment of the federal American Recovery and
4 Reinvestment Act (ARRA) (Public Law 111-5) on February 17,
5 2009, the federal government made available a grant program in
6 which states could apply for up to \$8 billion in federal funds for
7 the development of high-speed rail throughout the nation.
8 (b) On October 2, 2009, the High-Speed Rail Authority (HSRA)
9 submitted to the Federal Railroad Administration (FRA) of the
10 United States Department of Transportation an application for
11 \$4.73 billion in federal funds to further the development of
12 high-speed rail in California.
13 (c) On January 28, 2010, the federal government awarded the
14 HSRA \$2.25 billion to advance the development of a high-speed
15 rail system in this state.
16 (d) The HSRA estimates that 90,000 jobs will be created or
17 maintained by the investment of these ARRA funds, along with
18 matching state bond funds, in the dozens of construction projects
19 along the eligible corridors throughout California.
20 (e) It is necessary to provide the HSRA with unambiguous
21 statutory authority to receive and expend federal funds awarded
22 to the HSRA for the purposes described in its application of
23 October 2, 2009, and consistent with the award of those federal
24 funds.
25 (f) Moreover, it is in the state's interest to obligate and expend
26 awarded funds as expeditiously as possible and in a manner
27 consistent with the voters' expectations when they approved the
28 Safe, Reliable High-Speed Passenger Train Bond Act for the 21st
29 Century (Chapter 20 (commencing with Section 2704) of Division
30 3 of the Streets and Highways Code) in November 2008, in order
31 to expand job creation and to complete vital infrastructure
32 improvements as soon as possible.
33 SEC. 2. Section 185024 of the Public Utilities Code is amended
34 to read:

1 185024. (a) The authority shall appoint an executive director,
2 exempt from civil service, who shall serve at the pleasure of the
3 authority, to administer the affairs of the authority as directed by
4 the authority.

5 (b) For purposes of managing and administering the ongoing
6 work of the authority in implementing the high-speed train project,
7 upon recommendation of the executive director, the Governor may
8 appoint up to six additional employees, exempt from civil service,
9 who shall serve at the pleasure of the executive director. Pursuant
10 to this subdivision, the Governor may appoint employees only for
11 the following positions:

12 (1) Chief program manager.

13 (2) Regional director.

14 (3) Chief financial officer.

15 (4) Director of risk management and project controls.

16 (c) The compensation of the executive director and the additional
17 employees authorized by subdivision (b) shall be established by
18 the authority, and approved by the Department of Personnel
19 Administration, in an amount that is reasonably necessary, in the
20 discretion of the authority, to attract and hold a person of superior
21 qualifications. The authority shall cause to be conducted, through
22 the use of independent outside advisers, a salary survey to
23 determine the compensation for the positions under this
24 subdivision. The Department of Personnel Administration may,
25 in its discretion, accept a previously completed salary survey that
26 meets the requirements of this subdivision, and shall review the
27 methodology used in the survey. The salary survey shall consider
28 both of the following:

29 (1) Other state, regional, and local transportation agencies that
30 are most comparable to the authority and its responsibilities.

31 (2) Other relevant labor pools.

32 The compensation set by the authority shall not exceed the
33 highest comparable compensation for a position of that type, as
34 determined by the salary survey. Based on the salary survey, these
35 positions shall be paid a salary established by the authority and
36 approved by the Department of Personnel Administration.

37 (d) The executive director may, as authorized by the authority,
38 appoint necessary staff to carry out the provisions of this part.

39 SEC. 3. Chapter 20.1 (commencing with Section 2704.25) is
40 added to Division 3 of the Streets and Highways Code, to read:

CHAPTER 20.1. HIGH-SPEED RAIL IMPLEMENTATION AND
OVERSIGHT

Article 1. General Provisions

2704.25. As used in this chapter, the following terms have the following meanings:

(a) “ARRA” means the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(b) “Authority” means the High-Speed Rail Authority created pursuant to Section 185020 of the Public Utilities Code, or its successor.

(c) “Bond act” means the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century (Chapter 20 (commencing with Section 2704)).

*Article 2. Implementation of the Safe, Reliable High-Speed
Passenger Train Bond Act for the 21st Century*

2704.30. The sum of one hundred forty-four million seventy-one thousand dollars (\$144,071,000) is hereby appropriated from the High-Speed Passenger Train Bond Fund to the authority for high-speed rail purposes consistent with the bond act. Of this amount, fifty-seven million three hundred twenty-one thousand dollars (\$57,321,000) shall be for support of the authority and eighty-six million seven hundred fifty thousand dollars (\$86,750,000) shall be for capital outlay. Federal funds received on a reimbursement basis from Title XII of ARRA shall be deposited in the federal trust fund. The sum of seventy-seven million five hundred thousand dollars (\$77,500,000) of federal funds from ARRA in the federal trust Fund is hereby appropriated to the authority for high-speed rail purposes consistent with federal law and regulations and the bond act. This amount shall be for capital outlay. To the extent funds are appropriated in the Budget Act of 2010 from these sources to the authority, that act shall supersede the appropriations in this section.

Article 2.3. Federal High-Speed Rail Funds

1 2704.50. The sum of two billion two hundred fifty million
2 dollars (\$2,250,000,000) in federal funds made available to the
3 state for high-speed rail purposes pursuant to Title XII of Division
4 A of ARRA shall, upon appropriation by the Legislature, be used
5 for (a) planning and engineering for the high-speed train system
6 and (b) capital costs, consistent with federal guidelines, rules, and
7 regulations, and consistent with the bond act and this chapter.

8 2704.51. The authority shall take those actions necessary to
9 ensure that federal ARRA funds awarded to the state for high-speed
10 rail purposes are expended and used in a manner that meets all
11 applicable federal guidelines, rules, and regulations.

12 2704.52. (a) The ARRA funds to be appropriated pursuant to
13 Section 2704.50 shall be available for preliminary engineering,
14 project-level environmental work, mitigation, final design, and
15 construction *for projects in the authority's ARRA fund application*
16 for the following corridors that were approved by the Federal
17 Railroad Administration, without reference to any individual
18 corridor or corridors:

- 19 (1) San Francisco to San Jose.
- 20 (2) Merced to Fresno.
- 21 (3) Fresno to Bakersfield.
- 22 (4) Los Angeles to Anaheim.

23 (b) Funds received from the Passenger Rail Investment and
24 Improvement Act of 2008 (PRIIA; Public Law 110-432) for
25 2010–11 shall, upon appropriation, be available for planning and
26 engineering for any of the following corridors, without reference
27 to any individual corridor or corridors:

- 28 (1) Merced to Sacramento.
- 29 (2) Los Angeles to San Diego.
- 30 (3) The Altamont Corridor.

31 2704.53. The authority shall work with the Federal Railroad
32 Administration to establish priorities among the four corridors
33 specified in subdivision (a) of Section 2704.52 and to create a plan
34 for expenditure of ARRA funds to be appropriated pursuant to
35 Section 2704.50. Upon finalizing the expenditure plan, the
36 authority shall submit a copy of the plan to the Director of Finance
37 and to the policy committees with jurisdiction over transportation
38 matters and to the fiscal committees in both houses of the
39 Legislature.

1 2704.54. This article shall not apply to ARRA high-speed rail
2 funds awarded to the Transbay Joint Powers Authority for purposes
3 of constructing the Transbay Terminal in San Francisco.

4 SEC. 4. This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety within
6 the meaning of Article IV of the Constitution and shall go into
7 immediate effect. The facts constituting the necessity are:

8 In order to ensure that California may secure the maximum
9 amount of funds available for high-speed rail development and to
10 provide for necessary staff in that regard as quickly as possible, it
11 is necessary that this act take effect immediately.