

AMENDED IN SENATE MAY 24, 2010

AMENDED IN SENATE APRIL 21, 2010

AMENDED IN ASSEMBLY JANUARY 15, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1375

Introduced by Assembly Member Galgiani

February 27, 2009

An act to repeal and add Division 19.5 (commencing with Section 185000) of the Public Utilities Code, relating to high-speed rail.

LEGISLATIVE COUNSEL'S DIGEST

AB 1375, as amended, Galgiani. High-speed rail.

Existing law, the California High-Speed Train Act, creates the High-Speed Rail Authority to develop and implement a high-speed train system in the state, with specified powers and duties. Existing law, 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.

This bill would revise and recast these provisions by repealing and reenacting the California High-Speed Train Act. The bill would continue the High-Speed Rail Authority in existence to establish compensation of certain employees of the department, advise the Secretary of Business, Transportation and Housing and the Director of the Department of Railroads concerning high-speed rail matters, and annually adopt a 6-year high-speed train program for submission to the Governor and the Legislature. The bill would create the Department of Railroads within the Business, Transportation and Housing Agency, which would

succeed to most of the existing powers and responsibilities of the authority and would be responsible for implementing the high-speed train project. The director of the department would be appointed by the Governor, who would serve at the pleasure of the Governor, and the Governor would be authorized to appoint up to 10 executive employees of the department who would be exempt from civil service and serve at the pleasure of the director. The bill would provide for acquisition and disposition by the department of rights-of-way for the high-speed rail project. *The bill would limit the department’s authority to use eminent domain to the powers previously granted to the authority in that regard, as specified.* The bill would transfer the existing employees of the authority, other than the executive director, to the department. The bill would enact other related provisions.

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. (a) It is the intent of the Legislature to do all of
- 2 the following:
- 3 (1) Further the transportation system of the state through the
- 4 successful development and construction of the 800-mile
- 5 high-speed train system described in Proposition 1A, approved by
- 6 the voters on November 4, 2008.
- 7 (2) Protect the state’s interests and provide for the exercise of
- 8 continuing oversight of the funds to be invested in the high-speed
- 9 train project following voter approval of Proposition 1A.
- 10 (3) Ensure that an adequate public forum maintains the
- 11 transparency of the development of the high-speed train project.
- 12 (4) Provide an efficient governmental structure for the
- 13 development of high-speed train operations in the state.
- 14 (b) This act continues in existence the High-Speed Rail
- 15 Authority, creates a new Department of Railroads within the
- 16 Business, Transportation and Housing Agency, apportions between
- 17 the authority and the new department existing as well as new
- 18 powers, duties, rights, and obligations, and defines the relationship
- 19 between the authority and the new department.
- 20 SEC. 2. Division 19.5 (commencing with Section 185000) of
- 21 the Public Utilities Code is repealed.

1 SEC. 3. Division 19.5 (commencing with Section 185000) is
2 added to the Public Utilities Code, to read:

3
4 DIVISION 19.5. CALIFORNIA HIGH-SPEED RAIL
5 SERVICE

6
7 CHAPTER 1. GENERAL PROVISIONS, FINDINGS, AND DEFINITIONS

8
9 185000. This division shall be known, and may be cited, as
10 the California High-Speed Rail Act.

11 185002. The Legislature hereby finds and declares all of the
12 following:

13 (a) California, over the past decades, has built an extensive
14 network of freeways and airports to meet the state's growing
15 transportation needs.

16 (b) These facilities are not adequate to meet the mobility needs
17 of the current population.

18 (c) The population of the state and the travel demands of its
19 citizens are expected to continue to grow at a rapid rate.

20 (d) The cost of expanding the current network of highways and
21 airports fully to meet current and future transportation needs is
22 prohibitive, and a total expansion strategy would be detrimental
23 to air quality.

24 (e) Intercity train service, when coordinated with urban transit
25 and airports, is an efficient, practical, and less polluting
26 transportation mode that can fill the gap between future demand
27 and present capacity.

28 (f) Advances in rail and train technologies have allowed intercity
29 train systems in Europe and Japan to attain speeds of up to 220
30 miles per hour and compete effectively with air travel for trips in
31 the 200- to 500-mile range.

32 (g) Development of a high-speed train system is a necessary
33 and viable alternative to automobile and air travel in the state.

34 (h) In order for the state to have a comprehensive network of
35 high-speed intercity train systems by the year 2020, similar to
36 California's former freeway plan, it is necessary to designate an
37 entity with stable and predictable funding sources to implement
38 the plan.

39 (i) Utilizing existing human and manufacturing resources to
40 build a large network of high-speed trains will generate jobs and

1 economic growth for today’s population and produce a
 2 transportation network for future generations.

3 (j) Upon confirmation of the need and costs by detailed studies,
 4 the private sector, together with the state, can build and operate
 5 new high-speed intercity train systems utilizing private and public
 6 financing.

7 185004. As used in this division, unless the context requires
 8 otherwise, the following terms have the following meanings:

9 (a) “Authority” means the High-Speed Rail Authority. The
 10 members of the authority constitute the board of the authority.

11 (b) “Department” means the Department of Railroads.

12 (c) “High-speed train” means intercity passenger train service
 13 that utilizes an alignment and technology that makes it capable of
 14 sustained speeds of 125 miles per hour or greater.

15 (d) “Secretary” means the Secretary of Business, Transportation
 16 and Housing.

17
 18 CHAPTER 2. THE HIGH-SPEED RAIL AUTHORITY

19
 20 Article 1. Members of the Authority

21
 22 185110. (a) The High-Speed Rail Authority in state
 23 government is hereby continued in existence.

24 (b) (1) The authority is composed of nine members as follows:

25 (A) Five members appointed by the Governor.

26 (B) Two members appointed by the Senate Committee on Rules.

27 (C) Two members appointed by the Speaker of the Assembly.

28 (2) For the purposes of making appointments to the authority,
 29 the Governor, the Senate Committee on Rules, and the Speaker of
 30 the Assembly shall take into consideration geographical diversity
 31 to ensure that all regions of the state are adequately represented.

32 (c) Members of the authority shall hold office for terms of four
 33 years, and until their successors are appointed. A vacancy shall be
 34 filled by the appointing power making the original appointment,
 35 by appointing a member to serve the remainder of the term.

36 (d) The term of a member shall expire on December 31 of the
 37 fourth year of the member’s term.

38 (e) Members of the authority are subject to the Political Reform
 39 Act of 1974 (Title 9 (commencing with Section 81000)).

1 (f) From among its members, the authority shall elect a
2 chairperson, who shall preside at all meetings of the authority, and
3 a vice chairperson to preside in the absence of the chairperson.
4 The chairperson shall serve a term of one year.

5 (g) Five members of the authority constitute a quorum for taking
6 any action by the authority. Nothing in the foregoing shall limit
7 any law requiring a vote of more than a simple majority for the
8 taking of any action by the authority.

9 (h) Nothing in this section shall require the existing membership
10 of the authority on the effective date of this section to be
11 reconstituted as of that date.

12 185112. (a) Each member of the authority shall receive
13 compensation of one hundred dollars (\$100) for each day that the
14 member is attending to the business of the authority, but shall not
15 receive more than five hundred dollars (\$500) in any calendar
16 month.

17 (b) Members of the authority shall be reimbursed for their actual
18 travel expenses incurred in attending to the business of the
19 authority.

20
21 Article 2. Powers, Duties, and Responsibilities of the Authority

22
23 185130. (a) The authority shall advise the secretary and the
24 director concerning high-speed rail matters, which advice shall be
25 considered by the department in exercising its powers and duties
26 pursuant to this division.

27 (b) The authority shall establish the compensation of certain
28 department employees as set forth in Section 185215.

29 185132. (a) The authority shall adopt and submit to the
30 Legislature and the Governor, not later than October 1 each year,
31 a high-speed train program. The program shall cover a period of
32 six fiscal years, beginning July 1 of the year following the year it
33 is adopted, and shall be a statement of intent by the department to
34 request funding in the annual Budget Act for the following six
35 years.

36 (b) The high-speed train program shall include a listing of all
37 capital improvement projects that are expected to require
38 appropriation in the annual Budget Act, including state, federal,
39 local, and private funds, during the following six fiscal years.

1 (c) For each segment, the program shall specify the expenditure
2 amount and the expenditure year for each of the following project
3 components:

- 4 (1) Completion of all permits and environmental studies.
- 5 (2) Preparation of plans, specifications, and estimates.
- 6 (3) The acquisition of rights-of-way, including, but not limited
7 to, support activities.
- 8 (4) Construction and construction management and engineering,
9 including surveys and inspection.
- 10 (5) Any additional components the authority may deem to be
11 appropriate.

12 185134. The department shall provide staff support to the
13 authority. The duties of staff to the authority shall include, but not
14 be limited to, providing assistance in the conduct of the salary
15 surveys described in Section 185215.

16 185136. The authority may request and review reports of the
17 department that pertain to high-speed rail issues that the authority
18 determines require special study. The department shall supply any
19 reports and other information as the authority may reasonably
20 request for the exercise of the authority’s powers and duties.

21
22 CHAPTER 3. DEPARTMENT OF RAILROADS

23
24 Article 1. Organization of the Department

25
26 185210. There is in the Business, Transportation and Housing
27 Agency a Department of Railroads.

28 185211. The department is under the control of a director
29 known as the Director of Railroads.

30 185212. The director shall be appointed by the Governor, and
31 hold office at the pleasure of the Governor.

32 185213. The director shall perform all duties, exercise all
33 powers and jurisdiction, assume and discharge all responsibilities,
34 and carry out and effect all purposes vested by law in the
35 department, except as otherwise expressly provided by law.

36 185214. The director shall organize the department from time
37 to time in the manner the director deems necessary to properly
38 segregate and conduct the work of the department. The director
39 may organize the department into as many divisions as, in the
40 director’s judgment, will provide for the efficient administration

1 of the high-speed train project and planning, construction, and
2 operation of the high-speed train system.

3 185215. (a) For purposes of overseeing the ongoing work of
4 the department, the organization of the department may include
5 provision for up to 10 employees exempt from civil service who
6 shall constitute the executive staff of the department, who shall be
7 appointed by the Governor, and who shall serve at the pleasure of
8 the director.

9 (b) Notwithstanding Sections 19816 and 19825 of the
10 Government Code, the compensation of key exempt management,
11 including the director and the exempt positions described in
12 subdivision (a), shall be established by the authority board in
13 amounts that are reasonably necessary, in the discretion of the
14 board, to attract and hold a person of superior qualifications.

15 (c) (1) To determine the compensation for the positions
16 described in this section, the authority shall cause to be conducted,
17 through the use of independent outside advisers, salary surveys of
18 both of the following:

19 (A) Other state, regional, and local transportation agencies that
20 are most comparable to the department.

21 (B) Other relevant labor pools.

22 (2) The salaries so set by the board shall not exceed the highest
23 comparable salary for a position of that type, as determined by the
24 survey.

25 (d) The Department of Personnel Administration shall review
26 the methodology used in these salary surveys.

27 185216. The Governor, the secretary, and the department may
28 enter into any agreements, execute any documents, establish and
29 manage any accounts and deposits, and take any other action that
30 may be appropriate, in accordance with federal law and rules and
31 regulations, to receive and expend funds from the federal
32 government in connection with mass transportation programs and
33 projects for which federal funds are available.

34 185217. The department shall prepare and submit to the
35 Legislature and to the authority board an annual report, no later
36 than December 1 of each year. The report shall include a
37 description of the progress made on the high-speed train program
38 adopted by the authority.

39 185218. (a) The authorization and responsibility for planning,
40 construction, and operation of high-speed train passenger service

1 at speeds exceeding 125 miles per hour in this state is exclusively
 2 granted to the department.
 3 (b) Except as provided in paragraph (a), nothing in this chapter
 4 precludes other local, regional, or state agencies from exercising
 5 powers provided by law with regard to planning or operating, or
 6 both, passenger rail service.

7
 8 Article 2. Powers and Duties of the Department
 9

10 185220. (a) The department shall have all the powers, duties,
 11 and responsibilities of the authority under the Safe, Reliable
 12 High-Speed Passenger Train Bond Act for the 21st Century
 13 (Chapter 20 (commencing with Section 2704) of Division 3 of the
 14 Streets and Highways Code), and the department shall be the
 15 successor of the authority pursuant to subdivision (b) of Section
 16 2704.01 of the Streets and Highways Code for all purposes under
 17 that bond act. However, nothing in this section modifies Section
 18 2704.12 of the Streets and Highways Code.

19 (b) Subject to the other provisions of this division, the
 20 department shall have the powers and duties to do the following:

21 (1) Conduct engineering and other studies related to the selection
 22 and acquisition of rights-of-way and the selection of a franchisee,
 23 including, but not limited to, environmental impact studies,
 24 socioeconomic impact studies, and financial feasibility studies.

25 (2) Evaluate alternative high-speed train technologies, systems
 26 and operators, and select an appropriate high-speed train system.

27 (3) Award franchises in connection with the high-speed train
 28 system or portions thereof.

29 (4) Accept grants, fees, and allocations from the state, from
 30 political subdivisions of the state, or from the federal government,
 31 foreign governments, and private sources.

32 (5) Select franchisees, routes, and terminal sites.

33 (6) Enter into contracts with public and private entities for the
 34 preparation of high-speed train system plans.

35 (7) Prepare a detailed financing plan, including any necessary
 36 taxes, fees, or bonds to pay for the construction of the high-speed
 37 train network.

38 (8) Develop a proposed high-speed train financial plan, including
 39 necessary taxes, bonds, or both, or other indebtedness, and submit
 40 the plan to the Legislature and to the Governor.

1 (9) Keep the public informed of its activities.

2 (10) Enter into contracts with private or public entities, including
3 contracts for the design, construction, and operation of high-speed
4 trains. The contracts may be separated into individual tasks or
5 segments or may include all tasks and segments, including any
6 combination of one or more of such tasks as design, build, finance,
7 operate, and maintain.

8 (11) ~~Acquire rights-of-way through purchase or eminent domain.~~

9 (12) Subject to approval by the authority board, issue debt,
10 secured by pledges of state funds, federal grants, or project
11 revenues. The pledge of state funds shall be limited to those funds
12 expressly authorized by statute or voter-approved initiatives.

13 (13) Enter into cooperative or joint development agreements
14 with local governments or private entities.

15 (14) Relocate highways and utilities.

16 (15) Plan, construct, and operate the high-speed train system,
17 or enter into contracts for the planning, construction, or operation
18 of the system, including the acquisition of equipment, including
19 rolling stock, necessary for the operation of the system.

20 (16) Acquire, sell, and lease passenger rail rolling stock, power
21 units, and associated equipment.

22 (17) Acquire, lease, design, construct, and improve track lines
23 and related facilities, and contract with the private sector for the
24 design, improvement, or construction of track lines and related
25 facilities.

26 185222. (a) Notwithstanding any other provision of law, for
27 any project along the high-speed rail network, the department may
28 contract with the Department of Transportation to perform project
29 design and engineering services, including construction inspection
30 services.

31 (b) For purposes of this section, “project design and engineering
32 services, including construction inspection services” means
33 preliminary engineering, planning, prebid services, right-of-way
34 acquisitions, preparation of environmental documents, preparation
35 of plans, specifications, and estimates, construction inspection
36 including surveying and materials testing, quality control inspection
37 including highway and utility relocation, and grade separations.

38 185224. The department may adopt, amend, and repeal rules
39 and regulations governing the exercise of its powers and duties
40 and to otherwise implement the provisions of this division as

1 emergency regulations in accordance with the rulemaking
2 provisions of the Administrative Procedure Act (Chapter 3.5
3 (commencing with Section 11340) of Part 1 of Division 3 of Title
4 2 of the Government Code). Notwithstanding subdivision (e) of
5 Section 11346.1 of the Government Code, for the purposes of the
6 Administrative Procedure Act, including Section 11349.6, the
7 adoption of the regulations shall be deemed to be an emergency
8 and necessary for the immediate preservation of the public peace,
9 health and safety, or general welfare. Notwithstanding subdivision
10 (e) of Section 11346.1 of the Government Code, any regulation
11 adopted pursuant to this section shall not remain in effect more
12 than 180 days unless the department complies with the
13 nonemergency rulemaking provisions of the Administrative
14 Procedure Act.

15 185226. (a) The department shall establish an independent
16 peer review group for the purpose of reviewing the planning,
17 engineering, financing, and other elements of the authority's plans
18 and issuing an analysis of appropriateness and accuracy of the
19 department's assumptions and an analysis of the viability of the
20 department's financing plan, including the funding plan for each
21 corridor required pursuant to subdivision (b) of Section 2704.08
22 of the Streets and Highways Code.

23 (b) The peer review group shall include all of the following:

24 (1) Two individuals with experience in the construction or
25 operation of high-speed trains in Europe, Asia, or both, designated
26 by the Treasurer.

27 (2) Two individuals, one with experience in engineering and
28 construction of high-speed trains and one with experience in project
29 finance, designated by the Controller.

30 (3) One representative from a financial services or financial
31 consulting firm who shall not have been a contractor or
32 subcontractor of the authority for the previous three years,
33 designated by the Director of Finance.

34 (4) One representative with experience in environmental
35 planning, designated by the secretary.

36 (5) Two expert representatives from agencies providing intercity
37 or commuter passenger train services in California, designated by
38 the secretary.

39 (c) The peer review group shall evaluate the department's
40 funding plans and prepare its independent judgment as to the

1 feasibility and reasonableness of the plans, appropriateness of
2 assumptions, analyses, and estimates, and any other observations
3 or evaluations it deems necessary.

4 (d) The department shall provide the peer review group any and
5 all information that the peer review group may request to carry
6 out its responsibilities.

7 (e) The peer review group shall report its findings and
8 conclusions to the Legislature no later than 60 days after receiving
9 the plans.

10

11

Article 3. Rights-of-Way

12

13 185230. (a) If the department determines that real property or
14 an interest therein, previously or hereafter acquired by the state
15 for high-speed rail purposes, is no longer necessary for those
16 purposes, the department may sell or exchange the real property
17 or interest therein at fair market value in the manner set forth in
18 this section.

19 (b) The department may sell the property to an adjoining
20 landowner if the director makes either of the following two
21 findings:

22 (1) (A) That the property is of such size or shape that it is below
23 the average normal standard size and shape of other privately
24 owned properties in the immediate neighborhood, and that if the
25 property were sold to other than the adjoining owner, it would give
26 rise to a land use development thereof that would be below and
27 not consistent with the normal land use of other properties in that
28 neighborhood, (B) that the sale of the property to a party other
29 than the adjoining owner may cause an undue or unfair hardship
30 to the adjoining owner in the normal land use development or
31 operation of his or her property, (C) that the property considered
32 as part of the adjoining property would have a higher and better
33 use than under separate ownership, and (D) that the fair market
34 value of the property considered as part of the adjoining property
35 would be higher than under separate ownership.

36 (2) That the sale of the excess parcel to other than the adjoining
37 owner would deprive the adjoining owner of an existing vested
38 right of access to a public highway and thereby create a possible
39 cause of action against the department or the state.

1 A sale to an adjoining landowner pursuant to this subdivision
2 may be by contract to sell or trust deed. The payment period in a
3 contract of sale or sale by trust deed shall not extend longer than
4 10 years from the time the contract of sale or trust deed is executed,
5 and a transaction involving a contract of sale or sale by trust deed
6 to private parties shall require a downpayment of at least 30 percent
7 of the purchase price.

8 (c) The department may sell the property to municipalities or
9 other local agencies at their request, without calling for competitive
10 bids, at a price representing the fair market value thereof, and upon
11 a determination that the intended use is for a public purpose.

12 (d) If it is improved property, the property may be sold to a
13 former owner who has remained in occupancy, or to a residential
14 tenant of a tenure of five years or more with all rent obligations
15 current or paid in full.

16 (e) Any real property or interest therein may in like manner be
17 exchanged, either as whole or part consideration, for any other
18 real property or interest therein as needed for high-speed rail
19 purposes. This provision does not authorize exchanges where the
20 value of the state-owned property exceeds the value of the property
21 the department seeks to acquire, unless the excess value is
22 incidental and subdivision of the state-owned property, in order
23 to produce a smaller parcel of equal value to the value of the
24 property the department seeks to acquire, would reduce the total
25 value of the state-owned property.

26 (f) Except as otherwise provided in this section, property shall
27 be sold either by receipt of competitive sealed bids, or at public
28 auction, whichever method is determined by the director to be
29 more likely to achieve the higher sales price.

30 185232. The director may sell or lease excess right-of-way
31 parcels to municipalities or other local agencies for public purposes,
32 and may accept as all or part of the consideration for the sale or
33 lease any substantial benefits the state will derive from the
34 municipality or other local agency's undertaking maintenance or
35 landscaping costs that would otherwise be the obligation of the
36 state.

37 185234. The director may lease nonoperating right-of-way
38 areas to municipalities or other local agencies for public purposes,
39 and may contribute toward the cost of developing local parks and
40 other recreational facilities on those areas. The director may accept

1 as all or part of the consideration for the lease or for the state
2 contribution any substantial benefits the state will derive from the
3 municipality or other local agency's undertaking maintenance or
4 landscaping costs that would otherwise be the obligation of the
5 state. Those leases shall contain a provision that whenever the
6 leased land is needed for high-speed rail operating purposes the
7 lease shall terminate. The department is authorized to classify
8 portions of high-speed rail rights-of-way as nonoperating.

9 185236. (a) The department may acquire, by purchase, lease,
10 or eminent domain, any property necessary for the development
11 and implementation of the state's high-speed train program. The
12 ~~power of eminent domain shall be exercised in accordance with~~
13 ~~Title 7 (commencing with Section 1230.010) of Part 3 of the Code~~
14 ~~of Civil Procedure.~~

15 ~~(b) Notwithstanding any other provision of law, the authority~~
16 ~~constitutes the department's "governing body" within the meaning~~
17 ~~of Section 1245.210 of the Code of Civil Procedure, for purposes~~
18 ~~of the adoption of resolutions of necessity. All provisions of Title~~
19 ~~7 (commencing with Section 1230.010) of Part 3 of the Code of~~
20 ~~Civil Procedure shall apply to the authority and the department.~~
21 *department's authority to use eminent domain shall not exceed,*
22 *but shall be equivalent to, the powers previously granted to the*
23 *authority in that regard pursuant to former Section 185036, as*
24 *repealed by the act enacting this section, and pursuant to Section*
25 *13 of Chapter 267 of the Statutes of 2008.*

26 (e)

27 (b) To the extent that the activities authorized by subdivision
28 (a) exceed the capacity of the department's existing workforce,
29 the department may contract with qualified individuals or firms
30 for engineering, surveying, and related technical services in
31 exercising its authority pursuant to subdivision (a).

32
33 CHAPTER 4. LEGAL MATTERS
34

35 185300. The department may employ its own legal staff or
36 contract with other state agencies for legal services, or both. The
37 department's legal counsel may represent the authority and the
38 department in any judicial proceeding.

39 185302. Any legal or equitable action brought against the
40 authority or the department shall be brought in a court of competent

1 jurisdiction in the County of Sacramento. For purposes of this
2 section, subdivision (1) of Section 401 of the Code of Civil
3 Procedure does not apply.

4
5
6

CHAPTER 5. TRANSITION PROVISIONS

7 185400. The department shall assume and shall observe, keep,
8 and perform all of the responsibilities, liabilities, and obligations
9 of the authority existing, as of the effective date of this division,
10 under any law, except as otherwise set forth in this division, and
11 under any contract, bond, indenture, or other document, and the
12 assumption of those responsibilities, liabilities, and obligations of
13 the authority shall occur without any execution or filing of any
14 paper or any further act. Any reference to the authority in any law,
15 except as otherwise set forth in this division and subject to Section
16 185220, and in any contract, bond, indenture, or other document
17 shall be deemed, on and after the effective date of this division, to
18 mean the department.

19 185402. All persons employed by the authority immediately
20 prior to the effective date of this division, except the executive
21 director, shall become employees of the department on the effective
22 date of this division on the same terms and conditions of
23 employment.

24 185404. If, as of the effective date of this division, the Governor
25 has not appointed a person to serve as director of the department,
26 the person serving as executive director of the authority
27 immediately prior to the effective date of this division shall become
28 the director on the effective date of this division. If, as of the
29 effective date of this division, the Governor has appointed a person
30 to serve as director of the department, that person shall become
31 the director upon the effective date of this division, and upon taking
32 office, and the person serving as executive director of the authority
33 immediately prior to the effective date of this division shall serve
34 as interim director of the department until the Governor's appointee
35 takes office.

O