AMENDED IN ASSEMBLY APRIL 28, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

california legislature—2011–12 regular session

ASSEMBLY BILL No. 615

Introduced by Assembly Member Bonnie Lowenthal

February 16, 2011

An act to amend Section 1245.210 of the Code of Civil Procedure, to amend Sections 11005, 11005.2, 11007.1, 11011.13, 13332.11, 13332.12, 14255, 14662, 14666, 14666.6, 14666.8, and 14667 of, *and to add Section 11011.23 to,* the Government Code, to amend Sections 10106 and 10107 of the Public Contract Code, and to add Chapter 4 (commencing with Section 185040) to Division 19.5 of the Public Utilities Code, relating to high-speed rail.

legislative counsel's digest

AB 615, as amended, Bonnie Lowenthal. High-speed rail.

Existing law creates the High-Speed Rail Authority with specified powers and duties relative to development and implementation of a high-speed train system, including the acquisition of rights-of-way through purchase and eminent domain. 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 for high-speed train capital projects and other associated purposes.

Existing law generally requires the approval of the Department of General Services before a state agency may acquire, hire, dispose of, or let real property in fee or in a lesser interest, subject to certain exceptions, including real property obtained for highway purposes by the Department of Transportation. Existing law requires the Department of General Services to inventory state-owned property, other than property owned by the Department of Transportation and certain other state agencies. Existing law provides that property acquired by the Department of Transportation for highway purposes and leased back for commercial or business uses to the former owner for a term exceeding 6 months may be insured for loss by fire at the request of the former owner with the premium for the insurance included in the rent.

This bill would enact similar exceptions, authorizations, and exemptions relative to real property obtained for high-speed rail purposes by the High-Speed Rail Authority. The bill would make various additional conforming changes. The bill would also enact new provisions governing acquisition or disposal of right-of-way property by the authority*, and would require the authority to provide a record of real property parcels it owns to the Department of General Services by July 1, 2014, and annually thereafter*. The bill would require payments for leases or other conveyances of property controlled by the authority to be deposited with the authority for use in development, improvement, and maintenance of the high-speed rail system.

Existing law requires a resolution of necessity to be adopted by the governing body of a public entity before the entity may commence an eminent domain proceeding for the taking of property.

This bill would provide that the governing body in the case of a taking by the *Department of High-Speed Trains is the* High-Speed Rail Authority ~~is the authority~~.

Existing law generally requires the approval of the Department of Finance and the State Public Works Board before a state agency may expend funds from an appropriation for capital outlay purposes. These provisions do not apply to the Department of Transportation and certain other state agencies.

This bill would also make these provisions inapplicable to the High-Speed Rail Authority.

Existing law provides that the Department of General Services is the responsible agency for projects for various purposes under the Public Contract Code, except with respect to projects under the jurisdiction of other specified state agencies.

This bill would provide that the High-Speed Rail Authority is the responsible agency for projects under its jurisdiction.

This bill would provide that it shall not become operative unless AB 145 is also enacted and becomes operative.

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

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

SECTION 1. Section 1245.210 of the Code of Civil Procedure is amended to read:

1245.210. As used in this article, "governing body" means:

(a) In the case of a taking by a local public entity, the legislative body of the local public entity.

(b) In the case of a taking by the Sacramento and San Joaquin Drainage District, the State Reclamation Board.

(c) In the case of a taking by the State Public Works Board pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code), the State Public Works Board.

(d) In the case of a taking by the Department of Fish and Game pursuant to Section 1348 of the Fish and Game Code, the Wildlife Conservation Board.

(e) In the case of a taking by the Department of Transportation (other than a taking pursuant to Section 21633 of the Public Utilities Code or Section 30100 of the Streets and Highways Code), the California Transportation Commission.

(f) In the case of a taking by the Department of Transportation pursuant to Section 21633 of the Public Utilities Code, the California Transportation Commission.

(g) In the case of a taking by the Department of Transportation pursuant to Section 30100 of the Streets and Highways Code, the California Transportation Commission.

(h) In the case of a taking by the Department of Water Resources, the California Water Commission.

(i) In the case of a taking by the University of California, the Regents of the University of California.

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

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

(*l*) In the case of a taking by the ~~High-Speed Rail Authority~~ *Department of High-Speed Trains*, the High-Speed Rail Authority.

SEC. 2. Section 11005 of the Government Code is amended to read:

11005. (a) Unless the Legislature specifically provides that approval is not required, every gift or dedication to the state of personal property, or every gift to the state of real property in fee or in any lesser estate or interest, shall be approved by the Director of Finance, and every contract for the acquisition or hiring of real property in fee or in any lesser estate or interest, entered into by or on behalf of the state, shall be approved by the Director of General Services. Any contract entered into in violation of this section is void. This section applies to any state agency that, by general or specific statute, is expressly or impliedly authorized to enter into transactions referred to in this section.

(b) This section does not apply (1) to unconditional gifts of money, (2) to the acquisition or hiring by the Department of Transportation of real property in fee or in any lesser estate or interest for highway purposes, but does apply to the hiring by that department of office space in any office building, (3) to contracts entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, (4) to the receipt of donated, unencumbered personal property from private sources received in conjunction with the administration of the Federal Surplus Personal Property Program by the Department of General Services, (5) to the receipt of gifts of personal property in the form of interpretive or historical objects, each valued at fifteen thousand dollars ($15,000) or less, by the Department of Parks and Recreation, (6) to the acceptance by the State Coastal Conservancy of offers to dedicate public accessways made pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code, or (7) to the acquisition or hiring by the High-Speed Rail Authority of real property in fee or in any lesser estate or interest for high-speed rail purposes, but does apply to the hiring by that authority of office space in any office building.

SEC. 3. Section 11005.2 of the Government Code is amended to read:

11005.2. Unless the Legislature specifically provides that approval by the Director of General Services is not required, every conveyance, contract, or agreement whereby an interest of the state in any real property is conveyed, demised, or let to any person, shall, before the conveyance, contract, or agreement is executed or entered into, be approved by the Director of General Services. Any conveyance, contract, or agreement executed or entered into in violation of this section is void. This section shall apply to any state agency which, by general or specific statute, is expressly or impliedly authorized to enter into transactions referred to in this section.

This section does not apply to real property acquired by the Department of Transportation for highway purposes, real property acquired by the High-Speed Rail Authority for high-speed rail purposes, or real property administered by the State Lands Commission, the Controller, or the State Compensation Insurance Fund.

SEC. 4. Section 11007.1 of the Government Code is amended to read:

11007.1. (a) The Department of Transportation, when it has acquired title to any real property for highway purposes and leases that property for commercial or business uses to the former owner for a term exceeding six months, may secure insurance against the risk of damage or destruction by fire where the former owner requests this coverage and the premium therefor is included in the rental agreed to be paid.

(b) The High-Speed Rail Authority, when it has acquired title to any real property for high-speed rail purposes and leases that property for commercial or business uses to the former owner for a term exceeding six months, may secure insurance against the risk of damage or destruction by fire where the former owner requests this coverage and the premium therefor is included in the rental agreed to be paid.

SEC. 5. Section 11011.13 of the Government Code is amended to read:

11011.13. For purposes of Section 11011.15, the following definitions shall apply:

(a) “Agency” means a state agency, department, division, bureau, board, commission, district agricultural association, and the California State University. “Agency” does not mean the Legislature, the University of California, the State Lands Commission, the Department of Transportation, or the High-Speed Rail Authority.

(b) "Fully utilized" means that 100 percent of the property is being appropriately utilized by a program of an agency every business day of the year.

(c) "Partially utilized" means one or more of the following:

(1) Less than 100 percent of the property is appropriately utilized by a program of an agency.

(2) The property is not used every business day of the year by an agency.

(3) The property is used by other nonstate governmental entities or private parties.

(d) "Excess land" means property that is no longer needed for either an existing or ongoing state program or a function of an agency.

SEC. 6. Section 11011.23 is added to the Government Code, to read:

11011.23. (a) The High-Speed Rail Authority, on or before July 1, 2014, shall furnish to the Department of General Services a record of each parcel of real property that it possesses, including lands, buildings, office buildings, maintenance stations, equipment yards, and parking facilities. This requirement shall not apply to right-of-way property associated with existing trackage and alignments of the high-speed passenger train system. The record shall be furnished by the authority to the department in a uniform format specified by the department. The department shall consult with the authority on the development of the uniform format. The authority shall update its record of these real property holdings, reflecting any changes, by July 1 of each year.

(b) The record prepared pursuant to subdivision (a) shall include all of the following information:

(1) The location of the property, including the county in which it is located and the size of the property in acres, and any other relevant property data.

(2) The manner in which the property was acquired and the purchase price, if available.

(3) A description of the current uses of the property and any projected future uses, if available.

(4) A concise description of each major structure on the property.

~~SEC. 6.~~

SEC. 7. Section 13332.11 of the Government Code is amended to read:

13332.11. (a) (1) Except as otherwise specified in paragraph (2), no funds appropriated for capital outlay may be expended by any state agency, including the University of California, the California State University, the California Community Colleges, and the Judicial Council until the Department of Finance and the State Public Works Board have approved preliminary plans for the project to be funded from a capital outlay appropriation.

(2) Paragraph (1) shall not apply to any of the following:

(A) Amounts for acquisition of real property in fee, or any other lesser interest.

(B) Amounts for equipment or minor capital outlay projects.

(C) Amounts appropriated for preliminary plans, surveys, and studies.

(b) Notwithstanding subdivision (a), approvals by the State Public Works Board and the Department of Finance for the University of California and the California Community Colleges shall apply only to the allocation of state capital outlay funds appropriated by the Legislature, including land acquisition and equipment funds.

(c) Any appropriated amounts for working drawings or construction where the working drawings or construction have been started by any state agency prior to approval of the preliminary plans by the State Public Works Board shall be reverted to the fund from which the appropriation was made, as approved by the Department of Finance. No major project for which a capital outlay appropriation is made shall be put out to bid until the working drawings have been approved by the Department of Finance. No substantial change shall be made to the approved preliminary plans or approved working drawings without written approval by the Department of Finance. Any proposed construction bid alternates shall be approved by the Department of Finance.

(d) The Department of Finance shall approve the use of funds from a capital outlay appropriation for the purchase of any significant unit of equipment.

(e) The State Public Works Board may augment a major project in an amount of up to 20 percent of the total of the capital outlay appropriations for the project, irrespective of whether any such appropriation has reverted. For projects authorized through multiple fund sources, including, but not limited to, general obligation bonds and lease-revenue bonds, to the extent otherwise permissible, the Department of Finance shall have full authority to determine which of the fund sources will bear all or part of an augmentation. The board shall defer all augmentations in excess of 20 percent of the amount appropriated for each capital outlay project until the Legislature makes additional funds available for the specific project.

(f) In addition to the powers provided by Section 15849.6, the State Public Works Board may further increase the additional amount in Section 15849.6 to include a reasonable construction reserve within the construction fund for any capital outlay project without augmenting the project. The amount of the construction reserve shall be within the 20 percent augmentation limitation. The board may use this amount to augment the project, when and if necessary, after the lease revenue bonds are sold to assure completion of the project. Upon completion of the project, any amount remaining in the construction reserve funds shall be used to offset rental payments.

(g) Augmentations in excess of 10 percent of the amount appropriated for each capital outlay project shall be reported to the Chairperson of the Joint Legislative Budget Committee, or his or her designee, 20 days prior to board approval, or not sooner than whatever lesser time the chairperson, or his or her designee, may in each instance determine.

(h) (1) The Department of Finance may change the administratively or legislatively approved scope for major capital outlay projects.

(2) If the Department of Finance changes the approved scope pursuant to paragraph (1), the department shall report the changes and associated cost implications to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the respective fiscal committees, and the legislative advisers of the State Public Works Board 20 days prior to the proposed board action to recognize the scope change.

(i) The State Public Works Board shall defer action with respect to approval of an acquisition project, when it is determined that the estimated cost of the total acquisition project, as approved by the Legislature is in excess of 20 percent of the amount appropriated, unless it is determined that a lesser portion of the property is sufficient to meet the objectives of the project approved by the Legislature, and the Chairperson of the Joint Legislative Budget Committee, or his or her designee, is provided a 20-day prior notification of the proposed reductions in the acquisition project, or whatever lesser period the chairperson, or his or her designee, may in each instance determine.

(j) The Department of Finance shall report to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the respective fiscal committees, and legislative advisers of the State Public Works Board 20 days prior to the proposed board approval of preliminary plans when it is determined that the estimated cost of the total capital outlay construction project is in excess of 20 percent of the amount recognized by the Legislature.

(k) Nothing in this section shall be construed to limit or control the Department of Transportation, the High-Speed Rail Authority, or the California Exposition and State Fair in the expenditure of all funds appropriated to any of these entities for capital outlay purposes.

~~SEC. 7.~~

SEC. 8. Section 13332.12 of the Government Code is amended to read:

13332.12. (a) Any acquisition of land or other real property authorized in any appropriation, except an appropriation from the California Water Fund or an appropriation to the Department of Transportation or the High-Speed Rail Authority for capital outlay purposes, shall be subject to the provisions of the Property Acquisition Law. Nothing in this section shall be construed as exempting the California Coastal Commission from this section.

(b) All property acquisitions, including those exempted pursuant to subdivision (a), shall be reported to the State Public Works Board.

~~SEC. 8.~~

SEC. 9. Section 14255 of the Government Code is amended to read:

14255. Whenever provision is made by law for any project that is not under the jurisdiction of the Department of Water Resources, the Department of Boating and Waterways pursuant to Article 2.5 (commencing with Section 65) of Chapter 2 of Division 1 of the Harbors and Navigation Code, the Department of Corrections and Rehabilitation pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code, the High-Speed Rail Authority, or the Department of General Services, the project shall be under the sole charge and direct control of the Department of Transportation.

~~SEC. 9.~~

SEC. 10. Section 14662 of the Government Code is amended to read:

14662. The Director of General Services may acquire any easements or rights-of-way which the director determines to be necessary for the proper utilization of real property owned or being acquired by the state.

This section does not apply to land, easements, or rights-of-way to be acquired by the Department of Transportation or the High-Speed Rail Authority.

~~SEC. 10.~~

SEC. 11. Section 14666 of the Government Code is amended to read:

14666. With the approval of the state agency concerned, the director may grant and convey in the name of the state, easements and rights-of-way across real property belonging to the state not used for highway rights-of-way or high-speed rail rights-of-way, for those purposes and upon that consideration and subject to those conditions, limitations, restrictions, and reservations as the director deems are in the interest of the state. All revenue received in connection with the granting and conveying of those easements and rights-of-way, including charges made for administrative costs, shall be deposited in the General Fund for appropriation as provided in Section 15863. Any expenditure in connection with the granting and conveying of those easements and rights-of-way or investigating proposed gifts of real property to the state may be allocated from the appropriation made pursuant to Section 15863.

~~SEC. 11.~~

SEC. 12. Section 14666.6 of the Government Code is amended to read:

14666.6. (a) With the approval of the state agency concerned, the director shall negotiate in the name of the state, access to state-owned property, not used for highway or high-speed rail purposes, for those purposes and subject to those conditions, limitations, restrictions, and reservations determined by the director to be in the best interest of the state. To the extent permitted under existing law, the director shall determine the amount of consideration for, and means of access, which means shall include, but not be limited to, any of the following: lease, permit, or other form of providing a monetary or service consideration for the access.

(b) The Director of Transportation shall negotiate in the name of the state, access to state-owned highway rights-of-way, for those purposes and subject to those conditions, limitations, restrictions, and reservations determined by the Director of Transportation to be in the best interest of the state. To the extent permitted under existing law, the Director of Transportation shall determine the amount of consideration for, and means of access, which means shall include, but not be limited to, any of the following: lease, permit, or other form of providing a monetary or service consideration for the access.

(c) The High-Speed Rail Authority shall negotiate, in the name of the state, access to state-owned high-speed rail rights-of-way for those purposes and subject to those conditions, limitations, restrictions, and reservations determined by the authority to be in the best interest of the state. To the extent permitted under existing law, the authority shall determine the amount of consideration for that access, and any means of access, which means shall include, but not be limited to, any of the following: lease, permit, or other form of providing a monetary or service consideration for the access.

(d) This section applies to various telecommunications and information technologies, including, but not limited to, voice data, video, and fiber-optic technologies.

(e) Any payments received under the provisions of this section for a grant or conveyance through land or facilities controlled by the Department of Transportation, including, but not limited to, rights-of-way along the state highway system, shall be deposited in the State Transportation Fund.

(f) Any payments received under the provisions of this section for a grant or conveyance through land or facilities controlled by the High-Speed Rail Authority, including, but not limited to, rights-of-way along the high-speed rail system, shall be deposited with the authority for use in the development, improvement, and maintenance of the high-speed rail system.

~~SEC. 12.~~

SEC. 13. Section 14666.8 of the Government Code is amended to read:

14666.8. (a) The director shall, within 120 days of the operative date of this section, compile and maintain an inventory of state-owned real property that may be available for lease to providers of wireless telecommunications services for location of wireless telecommunications facilities. This inventory shall be the state's sole inventory of state-owned real property available for this purpose. The term "state-owned real property," as used in this section, excludes property owned or managed by the Department of Transportation, property owned or managed by the High-Speed Rail Authority, and property subject to Section 7901 of the Public Utilities Code.

(b) The director shall provide, in a cost-effective manner, upon payment of any applicable fee, a requesting party a copy of the inventory.

(c) On behalf of the state, the director may negotiate and enter into an agreement to lease department-managed and state-owned real property to any provider of wireless telecommunications services for location of its facilities. A lease for this purpose shall do all of the following:

(1) Provide for fair market value to be paid by the provider of wireless telecommunications service to the state to the extent permitted under existing state law.

(2) Designate a lease term that is acceptable to the director and the state agency that has control over the property. The duration of the initial lease term for any wireless facility may not exceed 10 years, and the lease may provide for a negotiated number of renewal terms, not to exceed five years for each term.

(3) Provide for the use of the wireless provider's facilities located on the state-owned real property by any appropriate state agency if technically, legally, aesthetically, and economically feasible.

(4) Facilitate, to the greatest extent possible, agreements among providers of wireless telecommunications services for colocation of their facilities on state-owned real property.

(d) Nothing in this section alters any existing rights of telegraph or telephone corporations pursuant to Section 7901 of the Public Utilities Code.

(e) Notwithstanding any other provision of law, any revenue collected from a lease entered into pursuant to this section to use property that was acquired with money from a fund other than the General Fund shall be deposited into the fund from which the money was obtained. Money received and deposited into a fund pursuant to this section shall be available upon appropriation by the Legislature, notwithstanding any other provision of law.

(f) Before making any state-owned real property that is part of the State Water Resources Development System, as described in Section 12931 of the Water Code, available for leasing under this section, the director shall consult with the Department of Water Resources as to whether the proposed location of a wireless telecommunication facility is technically, legally, environmentally, and economically feasible for wireless telecommunication purposes.

~~SEC. 13.~~

SEC. 14. Section 14667 of the Government Code is amended to read:

14667. With the approval of the state agency concerned, the director may quitclaim in the name of the state, the right, title and interest of the state in and to easements and rights-of-way owned by the state, other than those acquired for highway purposes or for high-speed rail purposes, which the director determines are no longer needed for state purposes.

(a) Unless the conveyance of the easement or right-of-way is made to the federal government, or an agency thereof, or to a county, city, district, or other local governmental agency of this state, the director shall comply with the provisions of this subdivision. Prior to the disposition of any easement or right-of-way owned by the state pursuant to this section, notice thereof shall be published pursuant to Section 6061 of the Government Code in a newspaper published in the county in which the easement or right-of-way is situated, and if there is no newspaper published in such county, notice shall be published in a newspaper published in an adjoining county and shall be posted in at least three public places in the county in which the easement or right-of-way is situated, including one posting on the real property in which the easement or right-of-way is located.

(b) If the easement or right-of-way was acquired by the state for a price approximating its market value at the time of acquisition, the director, when disposing of that easement or right-of-way, shall make a reasonable effort to obtain as the price for the sale thereof an amount approximately equivalent to the current market value at the time of disposition.

~~SEC. 14.~~

SEC. 15. Section 10106 of the Public Contract Code is amended to read:

10106. For purposes of this chapter:

(a) "Department" means any of the following:

(1) The Department of Water Resources as to any project under the jurisdiction of that department.

(2) The Department of Transportation as to any project under the jurisdiction of that department.

(3) The Department of Boating and Waterways as to any project under the jurisdiction of that department pursuant to Article 2.5 (commencing with Section 65) of Chapter 2 of Division 1 of the Harbors and Navigation Code.

(4) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(5) The Military Department as to any project under the jurisdiction of that department.

(6) The High-Speed Rail Authority as to any project under the jurisdiction of that authority.

(7) The Department of General Services as to all other projects.

(b) "Director" means the director of each department as defined herein respectively, or the executive director in the case of the High-Speed Rail Authority.

~~SEC. 15.~~

SEC. 16. Section 10107 of the Public Contract Code is amended to read:

10107. Whenever provision is made by law for any project that is not under the jurisdiction of the Department of Water Resources, the Department of Boating and Waterways pursuant to Article 2.5 (commencing with Section 65) of Chapter 2 of Division 1 of the Harbors and Navigation Code, the Department of Corrections and Rehabilitation pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code, the Department of Transportation, the High-Speed Rail

Authority, or the Military Department, the project shall be under the sole charge and direct control of the Department of General Services.

~~SEC. 16.~~

SEC. 17. Chapter 4 (commencing with Section 185040) is added to Division 19.5 of the Public Utilities Code, to read:

Chapter 4. Rights-of-Way

185040. (a) If the authority determines that real property or an interest therein, previously or hereafter acquired by the state for high-speed rail purposes, is no longer necessary for those purposes, the authority may sell or exchange the real property or interest therein at fair market value in the manner set forth in this section.

(b) The authority may sell the property to an adjoining landowner if it makes either of the following two findings:

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

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

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

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

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

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

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

185041. The authority may sell or lease excess right-of-way parcels to municipalities or other local agencies for public purposes, and may accept as all or part of the consideration for the sale or lease any substantial benefits the state will derive from the municipality or other local agency's undertaking maintenance or landscaping costs that would otherwise be the obligation of the state.

185042. The authority may lease nonoperating right-of-way areas to municipalities or other local agencies for public purposes, and may contribute toward the cost of developing local parks and other recreational facilities on those areas. The authority may accept as all or part of the consideration for the lease or for the state contribution any substantial benefits the state will derive from the municipality or other local agency's undertaking maintenance or landscaping costs that would otherwise be the obligation of the state. Those leases shall contain a provision that whenever the leased land is needed for high-speed rail operating purposes the lease shall terminate. The authority is authorized to classify portions of high-speed rail rights-of-way as nonoperating.

185043. The authority may acquire, by purchase, lease, or eminent domain, any property necessary for the development and implementation of the state's high-speed train program. The power of eminent domain shall be exercised in accordance with Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure.

185044. The authority may lease to public agencies or private entities or individuals for any term not to exceed 99 years the use of areas above or below operating rights-of-way and portions of property not currently being used as operating rights-of-way, subject to any reservations, restrictions, and conditions that it deems necessary to ensure adequate protection of the safety and adequacy of high-speed rail facilities and of abutting or adjacent land uses. Prior to entering into any lease, the authority shall determine that the proposed use is not in conflict with the zoning regulations of the local government concerned. The leases shall be made in accordance with procedures to be prescribed by the authority, except that, in the cases of leases with private entities or individuals, the leases shall be made only after competitive bidding. The possibilities of entering into the leases, and the consequent benefits to be derived therefrom, may be considered by the authority in designing and constructing the high-speed rail system. Revenues from the leases shall be deposited with the authority for use in the development, improvement, and maintenance of the high-speed rail system.

SEC. 18. This act shall not become operative unless Assembly Bill No. 145 of the 2011–12 Regular Session is also enacted and becomes operative.

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