

AMENDED IN SENATE SEPTEMBER 2, 2011

AMENDED IN SENATE AUGUST 31, 2011

AMENDED IN SENATE JULY 13, 2011

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
(Coauthor: Assembly Member Perea)**

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 185400) to Division 19.5 of the Public Utilities Code, An act relating to high-speed rail, and making an appropriation therefor.~~

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. The bill would create the High-Speed Rail Property Fund in the State Treasury for deposit of payments received by the authority from property transactions, with moneys in the fund to be available to the authority upon appropriation. The bill would require the authority to exercise all of these powers pursuant to a contract between the authority and the Department of Transportation, and would require the department to manage the activities relating to the exercise of those powers on behalf of the authority pursuant to that contract.~~

~~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 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.~~

The Budget Act of 2011 appropriates various amounts from the High-Speed Passenger Train Bond Fund to the High-Speed Rail Authority for high-speed rail purposes on specified segments, subject to certain conditions and provisions.

This bill would supplement these ~~budget act~~ *Budget Act* appropriations by appropriating \$4,000,000 from the High-Speed Passenger Train Bond Fund to the authority for the Los Angeles to San Diego segment, subject to similar conditions and provisions.

Vote: majority. Appropriation: yes. 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.~~

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

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

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

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

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

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

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

19 ~~(l) In the case of a taking by the High-Speed Rail Authority, the~~
20 ~~High-Speed Rail Authority.~~

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

23 ~~11005. (a) Unless the Legislature specifically provides that~~
24 ~~approval is not required, every gift or dedication to the state of~~
25 ~~personal property, or every gift to the state of real property in fee~~
26 ~~or in any lesser estate or interest, shall be approved by the Director~~
27 ~~of Finance, and every contract for the acquisition or hiring of real~~
28 ~~property in fee or in any lesser estate or interest, entered into by~~
29 ~~or on behalf of the state, shall be approved by the Director of~~
30 ~~General Services. Any contract entered into in violation of this~~
31 ~~section is void. This section applies to any state agency that, by~~
32 ~~general or specific statute, is expressly or impliedly authorized to~~
33 ~~enter into transactions referred to in this section.~~

34 ~~(b) This section does not apply (1) to unconditional gifts of~~
35 ~~money, (2) to the acquisition or hiring by the Department of~~
36 ~~Transportation of real property in fee or in any lesser estate or~~
37 ~~interest for highway purposes, but does apply to the hiring by that~~
38 ~~department of office space in any office building, (3) to contracts~~
39 ~~entered into under the authority of Chapter 4 (commencing with~~
40 ~~Section 11770) of Part 3 of Division 2 of the Insurance Code, (4)~~

1 to the receipt of donated, unencumbered personal property from
2 private sources received in conjunction with the administration of
3 the Federal Surplus Personal Property Program by the Department
4 of General Services, (5) to the receipt of gifts of personal property
5 in the form of interpretive or historical objects, each valued at
6 fifteen thousand dollars (\$15,000) or less, by the Department of
7 Parks and Recreation, (6) to the acceptance by the State Coastal
8 Conservancy of offers to dedicate public accessways made pursuant
9 to Division 20 (commencing with Section 30000) of the Public
10 Resources Code, or (7) to the acquisition or hiring by the
11 High-Speed Rail Authority of real property in fee or in any lesser
12 estate or interest for high-speed rail purposes, but does apply to
13 the hiring by that authority of office space in any office building.

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

16 11005.2. Unless the Legislature specifically provides that
17 approval by the Director of General Services is not required, every
18 conveyance, contract, or agreement whereby an interest of the state
19 in any real property is conveyed, demised, or let to any person,
20 shall, before the conveyance, contract, or agreement is executed
21 or entered into, be approved by the Director of General Services.
22 Any conveyance, contract, or agreement executed or entered into
23 in violation of this section is void. This section shall apply to any
24 state agency which, by general or specific statute, is expressly or
25 impliedly authorized to enter into transactions referred to in this
26 section.

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

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

35 11007.1. (a) The Department of Transportation, when it has
36 acquired title to any real property for highway purposes and leases
37 that property for commercial or business uses to the former owner
38 for a term exceeding six months, may secure insurance against the
39 risk of damage or destruction by fire where the former owner

1 requests this coverage and the premium therefor is included in the
2 rental agreed to be paid.

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

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

12 ~~11011.13. For purposes of Section 11011.15, the following~~
13 ~~definitions shall apply:~~

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

20 ~~(b) “Fully utilized” means that 100 percent of the property is~~
21 ~~being appropriately utilized by a program of an agency every~~
22 ~~business day of the year.~~

23 ~~(c) “Partially utilized” means one or more of the following:~~

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

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

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

30 ~~(d) “Excess land” means property that is no longer needed for~~
31 ~~either an existing or ongoing state program or a function of an~~
32 ~~agency.~~

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

35 ~~11011.23. (a) The High-Speed Rail Authority, on or before~~
36 ~~July 1, 2014, shall furnish to the Department of General Services~~
37 ~~a record of each parcel of real property that it possesses, including~~
38 ~~lands, buildings, office buildings, maintenance stations, equipment~~
39 ~~yards, and parking facilities. This requirement shall not apply to~~
40 ~~right-of-way property associated with existing trackage and~~

1 alignments of the high-speed passenger train system. The record
2 shall be furnished by the authority to the department in a uniform
3 format specified by the department. The department shall consult
4 with the authority on the development of the uniform format. The
5 authority shall update its record of these real property holdings,
6 reflecting any changes, by July 1 of each year.

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

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

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

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

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

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

20 13332.11. (a) (1) Except as otherwise specified in paragraph
21 (2), no funds appropriated for capital outlay may be expended by
22 any state agency, including the University of California, the
23 California State University, the California Community Colleges,
24 and the Judicial Council until the Department of Finance and the
25 State Public Works Board have approved preliminary plans for
26 the project to be funded from a capital outlay appropriation.

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

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

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

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

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

39 (c) Any appropriated amounts for working drawings or
40 construction where the working drawings or construction have

1 ~~been started by any state agency prior to approval of the~~
2 ~~preliminary plans by the State Public Works Board shall be reverted~~
3 ~~to the fund from which the appropriation was made, as approved~~
4 ~~by the Department of Finance. No major project for which a capital~~
5 ~~outlay appropriation is made shall be put out to bid until the~~
6 ~~working drawings have been approved by the Department of~~
7 ~~Finance. No substantial change shall be made to the approved~~
8 ~~preliminary plans or approved working drawings without written~~
9 ~~approval by the Department of Finance. Any proposed construction~~
10 ~~bid alternates shall be approved by the Department of Finance.~~

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

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

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

37 ~~(g) Augmentations in excess of 10 percent of the amount~~
38 ~~appropriated for each capital outlay project shall be reported to~~
39 ~~the Chairperson of the Joint Legislative Budget Committee, or his~~
40 ~~or her designee, 20 days prior to board approval, or not sooner~~

1 than whatever lesser time the chairperson, or his or her designee,
2 may in each instance determine.

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

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

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

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

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

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

38 ~~13332.12. (a) Any acquisition of land or other real property~~
39 ~~authorized in any appropriation, except an appropriation from the~~
40 ~~California Water Fund or an appropriation to the Department of~~

1 Transportation or the High-Speed Rail Authority for capital outlay
2 purposes, shall be subject to the provisions of the Property
3 Acquisition Law. Nothing in this section shall be construed as
4 exempting the California Coastal Commission from this section.

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

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

10 14255. Whenever provision is made by law for any project
11 that is not under the jurisdiction of the Department of Water
12 Resources, the Department of Boating and Waterways pursuant
13 to Article 2.5 (commencing with Section 65) of Chapter 2 of
14 Division 1 of the Harbors and Navigation Code, the Department
15 of Corrections and Rehabilitation pursuant to Chapter 11
16 (commencing with Section 7000) of Title 7 of Part 3 of the Penal
17 Code, the High-Speed Rail Authority, or the Department of General
18 Services, the project shall be under the sole charge and direct
19 control of the Department of Transportation.

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

22 14662. The Director of General Services may acquire any
23 easements or rights-of-way which the director determines to be
24 necessary for the proper utilization of real property owned or being
25 acquired by the state.

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

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

31 14666. With the approval of the state agency concerned, the
32 director may grant and convey in the name of the state, easements
33 and rights-of-way across real property belonging to the state not
34 used for highway rights-of-way or high-speed rail rights-of-way,
35 for those purposes and upon that consideration and subject to those
36 conditions, limitations, restrictions, and reservations as the director
37 deems are in the interest of the state. All revenue received in
38 connection with the granting and conveying of those easements
39 and rights-of-way, including charges made for administrative costs,
40 shall be deposited in the General Fund for appropriation as

1 provided in Section 15863. Any expenditure in connection with
2 the granting and conveying of those easements and rights-of-way
3 or investigating proposed gifts of real property to the state may be
4 allocated from the appropriation made pursuant to Section 15863.

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

7 14666.6. (a) With the approval of the state agency concerned,
8 the director shall negotiate in the name of the state, access to
9 state-owned property, not used for highway or high-speed rail
10 purposes, for those purposes and subject to those conditions,
11 limitations, restrictions, and reservations determined by the director
12 to be in the best interest of the state. To the extent permitted under
13 existing law, the director shall determine the amount of
14 consideration for, and means of access, which means shall include,
15 but not be limited to, any of the following: lease, permit, or other
16 form of providing a monetary or service consideration for the
17 access.

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

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

38 (d) This section applies to various telecommunications and
39 information technologies, including, but not limited to, voice data,
40 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 in the High-Speed Rail Property Fund, created pursuant to Section 185404 of the Public Utilities Code, and shall be available to the authority upon appropriation by the Legislature for use in the development, improvement, and maintenance of the high-speed rail system.~~

~~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~~

1 of the initial lease term for any wireless facility may not exceed
2 10 years, and the lease may provide for a negotiated number of
3 renewal terms, not to exceed five years for each term.

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

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

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

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

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

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

31 ~~14667. With the approval of the state agency concerned, the~~
32 ~~director may quitclaim in the name of the state, the right, title and~~
33 ~~interest of the state in and to easements and rights-of-way owned~~
34 ~~by the state, other than those acquired for highway purposes or for~~
35 ~~high-speed rail purposes, which the director determines are no~~
36 ~~longer needed for state purposes.~~

37 ~~(a) Unless the conveyance of the easement or right-of-way is~~
38 ~~made to the federal government, or an agency thereof, or to a~~
39 ~~county, city, district, or other local governmental agency of this~~
40 ~~state, the director shall comply with the provisions of this~~

1 subdivision. Prior to the disposition of any easement or
2 right-of-way owned by the state pursuant to this section, notice
3 thereof shall be published pursuant to Section 6061 of the
4 Government Code in a newspaper published in the county in which
5 the easement or right-of-way is situated, and if there is no
6 newspaper published in such county, notice shall be published in
7 a newspaper published in an adjoining county and shall be posted
8 in at least three public places in the county in which the easement
9 or right-of-way is situated, including one posting on the real
10 property in which the easement or right-of-way is located.

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

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

19 10106. For purposes of this chapter:

20 (a) “Department” means any of the following:

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

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

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

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

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

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

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

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

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

3 ~~10107. Whenever provision is made by law for any project~~
4 ~~that is not under the jurisdiction of the Department of Water~~
5 ~~Resources, the Department of Boating and Waterways pursuant~~
6 ~~to Article 2.5 (commencing with Section 65) of Chapter 2 of~~
7 ~~Division 1 of the Harbors and Navigation Code, the Department~~
8 ~~of Corrections and Rehabilitation pursuant to Chapter 11~~
9 ~~(commencing with Section 7000) of Title 7 of Part 3 of the Penal~~
10 ~~Code, the Department of Transportation, the High-Speed Rail~~
11 ~~Authority, or the Military Department, the project shall be under~~
12 ~~the sole charge and direct control of the Department of General~~
13 ~~Services.~~

14 SEC. 17. ~~Chapter 4 (commencing with Section 185400) is~~
15 ~~added to Division 19.5 of the Public Utilities Code, to read:~~

16
17 CHAPTER 4. ~~RIGHTS-OF-WAY~~
18

19 ~~185400. (a) If the authority determines that real property or~~
20 ~~an interest therein, previously or hereafter acquired by the state~~
21 ~~for high-speed rail purposes, is no longer necessary for those~~
22 ~~purposes, the authority may sell or exchange the real property or~~
23 ~~interest therein at fair market value in the manner set forth in this~~
24 ~~section.~~

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

27 ~~(1) (A) That the property is of a size or shape that it is below~~
28 ~~the average normal standard size and shape of other privately~~
29 ~~owned properties in the immediate neighborhood, and that if the~~
30 ~~property were sold to other than the adjoining owner, it would give~~
31 ~~rise to a land use development thereof that would be below and~~
32 ~~not consistent with the normal land use of other properties in that~~
33 ~~neighborhood, (B) that the sale of the property to a party other~~
34 ~~than the adjoining owner may cause an undue or unfair hardship~~
35 ~~to the adjoining owner in the normal land use development or~~
36 ~~operation of his or her property, (C) that the property considered~~
37 ~~as part of the adjoining property would have a higher and better~~
38 ~~use than under separate ownership, and (D) that the fair market~~
39 ~~value of the property considered as part of the adjoining property~~
40 ~~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.~~

~~(e) 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.~~

~~185401.— 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.~~

1 ~~185402. The authority may lease nonoperating right-of-way~~
2 ~~areas to municipalities or other local agencies for public purposes;~~
3 ~~and may contribute toward the cost of developing local parks and~~
4 ~~other recreational facilities on those areas. The authority may~~
5 ~~accept as all or part of the consideration for the lease or for the~~
6 ~~state contribution any substantial benefits the state will derive from~~
7 ~~the municipality or other local agency's undertaking maintenance~~
8 ~~or landscaping costs that would otherwise be the obligation of the~~
9 ~~state. Those leases shall contain a provision that whenever the~~
10 ~~leased land is needed for high-speed rail operating purposes the~~
11 ~~lease shall terminate. The authority is authorized to classify~~
12 ~~portions of high-speed rail rights-of-way as nonoperating.~~

13 ~~185403. The authority may acquire, by purchase, lease, or~~
14 ~~eminent domain, any property necessary for the development and~~
15 ~~implementation of the state's high-speed train program. The power~~
16 ~~of eminent domain shall be exercised in accordance with Title 7~~
17 ~~(commencing with Section 1230.010) of Part 3 of the Code of~~
18 ~~Civil Procedure.~~

19 ~~185404. The authority may lease to public agencies or private~~
20 ~~entities or individuals for any term not to exceed 99 years the use~~
21 ~~of areas above or below operating rights-of-way and portions of~~
22 ~~property not currently being used as operating rights-of-way,~~
23 ~~subject to any reservations, restrictions, and conditions that it~~
24 ~~deems necessary to ensure adequate protection of the safety and~~
25 ~~adequacy of high-speed rail facilities and of abutting or adjacent~~
26 ~~land uses. Prior to entering into any lease, the authority shall~~
27 ~~determine that the proposed use is not in conflict with the zoning~~
28 ~~regulations of the local government concerned. The leases shall~~
29 ~~be made in accordance with procedures to be prescribed by the~~
30 ~~authority, except that, in the cases of leases with private entities~~
31 ~~or individuals, the leases shall be made only after competitive~~
32 ~~bidding. The possibilities of entering into the leases, and the~~
33 ~~consequent benefits to be derived therefrom, may be considered~~
34 ~~by the authority in designing and constructing the high-speed rail~~
35 ~~system. Revenues from the leases shall be deposited in the~~
36 ~~High-Speed Rail Property Fund, which is hereby established in~~
37 ~~the State Treasury, and shall be available to the authority upon~~
38 ~~appropriation by the Legislature for use in the development,~~
39 ~~improvement, and maintenance of the high-speed rail system.~~

~~185405. With respect to the powers granted to the authority pursuant to this chapter, and pursuant to Sections 11005, 11007.1, 11011.13, 11011.23, 14255, 14662, 14666, 14666.6, 14666.8, and 14667 of the Government Code, the authority shall exercise those powers pursuant to a contract between the authority and the Department of Transportation, and the department shall manage the activities relating to the exercise of those powers on behalf of the authority pursuant to that contract.~~

~~SEC. 18.~~

SECTION 1. The sum of four million dollars (\$4,000,000) is hereby appropriated from the High-Speed Passenger Train Bond Fund, to be allocated as follows:

(a) (1) One million two hundred thousand dollars (\$1,200,000) shall be available to supplement the amount appropriated by Item 2665-304-6043 of Section 2.00 of the Budget Act of 2011.

(2) The amount provided in paragraph (1) shall be available only for the Los Angeles to San Diego segment.

(3) (A) Provisions 1 to 5, inclusive, of Item 2665-304-6043 of Section 2.00 of the Budget Act of 2011 shall also apply to the amount made available by this subdivision.

(B) Consistent with Provision 3 of Item 2665-304-6043 of Section 2.00 of the Budget Act of 2011, funds made available in this subdivision may be transferred and expended for the purposes of subdivision (b). These transfers shall require the prior approval of the Department of Finance.

(b) (1) Two million eight hundred thousand dollars (\$2,800,000) shall be available to supplement the amount appropriated by Item 2665-305-6043 of Section 2.00 of the Budget Act of 2011.

(2) The amount provided in paragraph (1) shall be available only for the Los Angeles to San Diego segment.

(3) (A) Provisions 1 to 6, inclusive, of Item 2665-305-6043 of Section 2.00 of the Budget Act of 2011 shall also apply to the amount made available by this subdivision.

(B) Consistent with Provision 4 of Item 2665-305-6043 of Section 2.00 of the Budget Act of 2011, funds made available in this subdivision may be transferred and expended for the purposes of subdivision (a). These transfers shall require the prior approval of the Department of Finance.

O