

AMENDED IN SENATE APRIL 25, 2011

**SENATE BILL**

**No. 517**

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**Introduced by Senator Lowenthal  
(Coauthor: Senator DeSaulnier)**

February 17, 2011

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An act to amend Section 13975 of, and to add Section 13976.1 to, the Government Code, and to amend Sections 185020 and 185024 of the Public Utilities Code, relating to high-speed rail.

LEGISLATIVE COUNSEL'S DIGEST

SB 517, as amended, Lowenthal. High-Speed Rail Authority.

Existing law creates the High-Speed Rail Authority in state government with specified powers and duties relative to development and implementation of a high-speed train system. The authority is composed of 9 members, including 5 members appointed by the Governor.

Existing law creates the Business, Transportation and Housing Agency, which consists of various state agencies, including the Department of Transportation.

This bill would place the High-Speed Rail Authority within the Business, Transportation and Housing Agency. The bill would provide for the Secretary of Business, Transportation and Housing to serve on the authority as a nonvoting, ex officio member. The bill would require the secretary to propose an annual budget for the authority upon consultation with the authority. The bill would require the members of the authority appointed by the Governor to be appointed with the advice and consent of the Senate. The bill would provide for the members that are appointed to have specified background or experience, as specified.

Existing law provides that the terms of authority members expire every 4 years on December 31.

This bill would vacate the membership of the authority and provide for the appointment or reappointment of members as of January 31, 2012, for staggered terms, as specified. This bill would thereafter provide that the terms expire every 4 years on ~~the first Monday in January after January 1~~ December 31.

Existing law provides for the authority to appoint an executive director to serve at the pleasure of the authority and who is exempt from civil service.

This bill would provide that the executive director is subject to appointment with the advice and consent of the Senate. The bill would provide that an employment agreement for the executive director shall be agreed to but not executed until Senate confirmation.

This bill would enact various conflict-of-interest provisions applicable to members of the authority and its staff, as specified, and would prohibit a person from serving on the authority in certain circumstances.

This 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. Section 13975 of the Government Code is  
2 amended to read:  
3 13975. The Business and Transportation Agency in state  
4 government is hereby renamed the Business, Transportation and  
5 Housing Agency. The agency consists of the ~~State~~ Department of  
6 Alcoholic Beverage Control, the Department of the California  
7 Highway Patrol, the Department of Corporations, the Department  
8 of Housing and Community Development, the Department of  
9 Motor Vehicles, the Department of Real Estate, the Department  
10 of Transportation, the Department of Financial Institutions, the  
11 Department of Managed Health Care, the High-Speed Rail  
12 Authority, and the Board of Pilot Commissioners for the Bays of  
13 San Francisco, San Pablo, and Suisun; and the California Housing  
14 Finance Agency is also located within the Business, Transportation  
15 and Housing Agency, as specified in Division 31 (commencing  
16 with Section 50000) of the Health and Safety Code.

1 SEC. 2. Section 13976.1 is added to the Government Code, to  
2 read:

3 13976.1. The Secretary of Business, Transportation and  
4 Housing shall propose an annual budget for the High-Speed Rail  
5 Authority upon consultation with the authority.

6 SEC. 3. Section 185020 of the Public Utilities Code is amended  
7 to read:

8 185020. (a) There is in the Business, Transportation and  
9 Housing Agency the High-Speed Rail Authority.

10 (b) (1) The authority is composed of 10 members as follows:

11 (A) Five members appointed by the Governor, with the advice  
12 and consent of the Senate. Of the members appointed by the  
13 Governor, one shall be an engineer with experience in the planning  
14 and design of large, ~~one-of-a-kind~~ transportation infrastructure  
15 projects; one shall be an economist with background and  
16 experience in the field of transportation economics; one shall have  
17 background and experience in the field of environmental protection  
18 or the study of ecosystems; one shall ~~be a local elected official~~  
19 ~~who is a member of a city council or county board of supervisors~~  
20 ~~but who is not serving on the board of a transit district or regional~~  
21 ~~transportation planning agency~~ *have expertise in project financing*;  
22 and one shall be an attorney with experience in dealing with the  
23 legal issues associated with procurement strategies and construction  
24 issues associated with large, one-of-a-kind infrastructure projects.

25 (B) Two members appointed by the Senate Committee on Rules,  
26 ~~and two members appointed by the Speaker of the Assembly. Of~~  
27 ~~these members, one shall be a representative of labor; one shall~~  
28 ~~be a representative of the state's business community, including~~  
29 ~~agriculture, and two shall be public members. *one of whom shall*~~  
30 ~~*represent organized labor.*~~

31 (C) *Two members appointed by the Speaker of the Assembly,*  
32 *one of whom shall represent organized labor.*

33 (E)

34 (D) The Secretary of Business, Transportation and Housing,  
35 who shall be a nonvoting, ex officio member.

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

1 (c) Except as provided in subdivision (d), and until their  
2 successors are appointed, members of the authority shall hold  
3 office for terms of four years. A vacancy shall be filled by the  
4 appointing power making the original appointment, by appointing  
5 a member to serve the remainder of the term.

6 (d) (1) On January ~~31~~ 1, 2012, the terms of all persons who are  
7 then members of the authority shall expire, but those members  
8 may continue to serve until they are reappointed or until their  
9 successors are appointed. Appointing powers may designate  
10 appointees to fill the positions to be vacated on January ~~31~~ 1, 2012,  
11 prior to that date, and the Senate may act to confirm appointees of  
12 the Governor prior to that date. In order to provide for evenly  
13 staggered terms, persons appointed or reappointed to the authority  
14 on or after January ~~31~~ 1, 2012, shall be appointed to initial terms  
15 to expire as follows:

16 (A) Of the five persons appointed by the Governor, one shall  
17 be appointed to a term which expires on ~~the first Monday of~~  
18 ~~January 2013 after January 1~~ *December 31, 2012*, one shall be  
19 appointed to a term which expires on ~~the first Monday of January~~  
20 ~~2014 after January 1~~ *December 31, 2013*, one shall be appointed  
21 to a term which expires on ~~the first Monday of January 2015 after~~  
22 ~~January 1~~ *December 31, 2014*, and two shall be appointed to terms  
23 which expire on ~~the first Monday of January 2016 after January 1~~  
24 *December 31, 2015*.

25 (B) Of the two persons appointed by the Senate Committee on  
26 Rules, one shall be appointed to a term which expires on ~~the first~~  
27 ~~Monday of January 2014 after January 1~~ *December 31, 2012*, and  
28 one shall be appointed to a term which expires on ~~the first Monday~~  
29 ~~of January 2016 after January 1~~ *December 31, 2014*.

30 (C) Of the two persons appointed by the Speaker of the  
31 Assembly, one shall be appointed to a term which expires on ~~the~~  
32 ~~first Monday of January 2015 after January 1~~ *December 31, 2013*,  
33 and one shall be appointed to a term which expires on ~~the first~~  
34 ~~Monday of January 2017 after January 1~~ *December 31, 2015*.

35 (2) Following expiration of each of the initial terms provided  
36 for in this subdivision, the term shall expire every four years  
37 thereafter on ~~the first Monday of January after January 1~~ *December*  
38 *31*.

39 (e) Members of the authority are subject to the Political Reform  
40 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 voting members of the authority constitute a quorum  
6 for taking any action by the authority.

7 (h) (1) The members of the authority shall have an affirmative  
8 duty to carry out the terms and conditions of the Safe, Reliable  
9 High-Speed Passenger Train Bond Act for the 21st Century  
10 (Chapter 20 (commencing with Section 2704) of Division 3 of the  
11 Streets and Highways Code).

12 (2) While serving on the authority, the members shall exercise  
13 their independent judgment as officers of the state on behalf of the  
14 interests of the entire state in furthering the purposes of this  
15 division.

16 (3) No person shall be a member of the authority if the person  
17 holds any other elected or appointed public office, except as  
18 otherwise provided in subparagraph (A) or (C) of paragraph (1)  
19 of subdivision (a). No person shall be a member of the authority  
20 if the person has, during the two years prior to appointment as a  
21 member, received any substantial portion of his or her income  
22 directly or indirectly from any firm that is under contract with the  
23 authority at the time of appointment or that supplies or  
24 manufactures rolling stock or other equipment particular to, or  
25 essentially particular to, construction and implementation of a  
26 high-speed rail system.

27 (4) A member of the authority shall not be employed by any  
28 contractor or supplier of the authority or any firm that supplies or  
29 manufactures rolling stock or other equipment particular to, or  
30 essentially particular to, construction and implementation of a  
31 high-speed rail system within two years after he or she ceases to  
32 be a member of the authority.

33 (5) A member of the authority shall not participate in decisions  
34 of, formulating recommendations of, or rendering advice to the  
35 authority if the member, his or her spouse, minor child, or partner,  
36 to the best of the member's knowledge, has had a direct or indirect  
37 financial interest in the matter that is the subject of the decision,  
38 recommendations, or advice within two years of his or her  
39 appointment.

1     ~~SEC. 4. Section 185024 of the Public Utilities Code is amended~~  
2     ~~to read:~~

3     ~~185024. (a) The authority shall appoint an executive director,~~  
4     ~~who shall serve at the pleasure of the authority, to administer the~~  
5     ~~affairs of the authority as directed by the authority. The executive~~  
6     ~~director shall be appointed with the advice and consent of the~~  
7     ~~Senate.~~

8     ~~(b) The executive director is exempt from civil service and shall~~  
9     ~~be paid a salary established by the authority and approved by the~~  
10    ~~Department of Personnel Administration. The employment~~  
11    ~~agreement of the executive director may be agreed to by the~~  
12    ~~authority but shall not be executed until the appointment is~~  
13    ~~confirmed by the Senate. With respect to the incumbent executive~~  
14    ~~director as of the date the act amending this section in the 2011-12~~  
15    ~~Regular Session of the Legislature becomes operative, an extension~~  
16    ~~or modification of the employment agreement pertaining to that~~  
17    ~~person shall not be entered into by the authority unless the~~  
18    ~~appointment of that person is submitted to and confirmed by the~~  
19    ~~Senate.~~

20    ~~(c) The executive director may, as authorized by the authority,~~  
21    ~~appoint necessary staff to carry out the provisions of this part.~~

22    ~~(d) No person shall be an employee or contract employee of the~~  
23    ~~authority if the person has, during the two years prior to~~  
24    ~~appointment as an employee or contract employee, received any~~  
25    ~~substantial portion of his or her income directly or indirectly from~~  
26    ~~any firm that is under contract with the authority at the time of~~  
27    ~~appointment or that supplies or manufactures rolling stock or other~~  
28    ~~equipment particular to, or essentially particular to, construction~~  
29    ~~and implementation of a high-speed rail system.~~

30    ~~(e) An employee of the authority shall not participate in~~  
31    ~~decisions of, formulating recommendations of, or rendering advice~~  
32    ~~to the authority if the employee, his or her spouse, minor child, or~~  
33    ~~partner, to the best of the employee's knowledge, has had a direct~~  
34    ~~or indirect financial interest in the matter that is the subject of the~~  
35    ~~decision, recommendations, or advice within two years of his or~~  
36    ~~her appointment.~~

37    ~~SEC. 4. Section 185024 of the Public Utilities Code is amended~~  
38    ~~to read:~~

39    ~~185024. (a) The authority shall appoint an executive director,~~  
40    ~~exempt from civil service, who shall serve at the pleasure of the~~

1 authority, to administer the affairs of the authority as directed by  
2 the authority. *The executive director shall be appointed with the*  
3 *advice and consent of the Senate.*

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

- 11 (1) Chief program manager.
- 12 (2) Up to three regional directors.
- 13 (3) Chief financial officer.
- 14 (4) Director of risk management and project controls.

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

- 28 (1) Other state, regional, and local transportation agencies that  
29 are most comparable to the authority and its responsibilities.
- 30 (2) Other relevant labor pools.

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

36 (d) *The employment agreement of the executive director may*  
37 *be agreed to by the authority but shall not be executed until the*  
38 *appointment is confirmed by the Senate. With respect to the*  
39 *incumbent executive director as of the date the act amending this*  
40 *section in the 2011–12 Regular Session of the Legislature becomes*

1 *operative, an extension or modification of the employment*  
2 *agreement pertaining to that person shall not be entered into by*  
3 *the authority unless the appointment of that person is submitted*  
4 *to and confirmed by the Senate.*

5 ~~(d)~~

6 *(e) The executive director may, as authorized by the authority,*  
7 *appoint necessary staff to carry out the provisions of this part.*

8 *(f) No person shall be an employee or contract employee of the*  
9 *authority if the person has, during the two years prior to*  
10 *appointment as an employee or contract employee, received any*  
11 *substantial portion of his or her income directly or indirectly from*  
12 *any firm that is under contract with the authority at the time of*  
13 *appointment or that supplies or manufactures rolling stock or*  
14 *other equipment particular to, or essentially particular to,*  
15 *construction and implementation of a high-speed rail system.*

16 *(g) An employee of the authority shall not participate in*  
17 *decisions of, formulating recommendations of, or rendering advice*  
18 *to the authority if the employee, his or her spouse, minor child, or*  
19 *partner, to the best of the employee's knowledge, has had a direct*  
20 *or indirect financial interest in the matter that is the subject of the*  
21 *decision, recommendations, or advice within two years of his or*  
22 *her appointment.*