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 1, 2012, for staggered terms, as specified. This bill would thereafter provide that the terms expire every 4 years on 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.


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

SECTION 1. Section 13975 of the Government Code is amended to read:

1 13975. The Business and Transportation Agency in state government is hereby renamed the Business, Transportation and Housing Agency. The agency consists of the Department of Alcoholic Beverage Control, the Department of the California Highway Patrol, the Department of Corporations, the Department of Housing and Community Development, the Department of Motor Vehicles, the Department of Real Estate, the Department of Transportation, the Department of Financial Institutions, the Department of Managed Health Care, the High-Speed Rail Authority, and the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun; and the California Housing Finance Agency is also located within the Business, Transportation
and Housing Agency, as specified in Division 31 (commencing with Section 50000) of the Health and Safety Code.

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

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

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

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

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

(A) Five members appointed by the Governor, with the advice and consent of the Senate. Of the members appointed by the Governor, one shall be an engineer with experience in the planning and design of large transportation infrastructure projects; one shall be an economist with background and experience in the field of transportation economics; one shall have background and experience in the field of environmental protection or the study of ecosystems; one shall have expertise in project financing; and one shall be an attorney with experience in dealing with the legal issues associated with procurement strategies and construction issues associated with large infrastructure projects.

(B) Two members appointed by the Senate Committee on Rules, one of whom shall represent organized labor.

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

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

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

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

(d) (1) On January 1, 2012, the terms of all persons who are then members of the authority shall expire, but those members
may continue to serve until they are reappointed or until their
successors are appointed. Appointing powers may designate
appointees to fill the positions to be vacated on January 1, 2012,
prior to that date, and the Senate may act to confirm appointees of
the Governor prior to that date. In order to provide for evenly
staggered terms, persons appointed or reappointed to the authority
on or after January 1, 2012, shall be appointed to initial terms to
expire as follows:
(A) Of the five persons appointed by the Governor, one shall
be appointed to a term which expires on December 31, 2012, one
shall be appointed to a term which expires on December 31, 2013,
one shall be appointed to a term which expires on December 31,
2014, and two shall be appointed to terms which expire on
December 31, 2015.
(B) Of the two persons appointed by the Senate Committee on
Rules, one shall be appointed to a term which expires on December
31, 2012, and one shall be appointed to a term which expires on
December 31, 2014.
(C) Of the two persons appointed by the Speaker of the
Assembly, one shall be appointed to a term which expires on
December 31, 2013, and one shall be appointed to a term which
expires on December 31, 2015.
(2) Following expiration of each of the initial terms provided
for in this subdivision, the term shall expire every four years
thereafter on December 31.
(e) Members of the authority are subject to the Political Reform
Act of 1974 (Title 9 (commencing with Section 81000)).
(f) From among its members, the authority shall elect a
chairperson, who shall preside at all meetings of the authority, and
a vice chairperson to preside in the absence of the chairperson.
The chairperson shall serve a term of one year.
(g) Five voting members of the authority constitute a quorum
for taking any action by the authority.
(h) (1) The members of the authority shall have an affirmative
duty to carry out the terms and conditions of the Safe, Reliable
High-Speed Passenger Train Bond Act for the 21st Century
(Chapter 20 (commencing with Section 2704) of Division 3 of the
Streets and Highways Code).
(2) While serving on the authority, the members shall exercise
their independent judgment as officers of the state on behalf of the
interests of the entire state in furthering the purposes of this division.

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

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

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

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

185024. (a) The authority shall appoint an executive director, exempt from civil service, who shall serve at the pleasure of the authority, to administer the affairs of the authority as directed by the authority. The executive director shall be appointed with the advice and consent of the Senate.

(b) For purposes of managing and administering the ongoing work of the authority in implementing the high-speed train project, the Governor, upon the recommendation of the executive director, may appoint up to six additional individuals, exempt from civil service, who shall serve at the pleasure of the executive director. Pursuant to this subdivision, the Governor may appoint persons only for the following positions:
1 (1) Chief program manager.
2 (2) Up to three regional directors.
3 (3) Chief financial officer.
4 (4) Director of risk management and project controls.
5 (c) The compensation of the executive director and the additional
6 persons authorized by subdivision (b) shall be established by the
7 authority, and approved by the Department of Personnel
8 Administration, in an amount that is reasonably necessary, in the
9 discretion of the authority, to attract and hold a person of superior
10 qualifications. The authority shall cause to be conducted, through
11 the use of independent outside advisers, a salary survey to
determine the compensation for the positions under this
12 subdivision. The Department of Personnel Administration may,
in its discretion, accept a previously completed salary survey that
13 meets the requirements of this subdivision, and shall review the
14 methodology used in the survey. The salary survey shall consider
15 both of the following:
16 (1) Other state, regional, and local transportation agencies that
17 are most comparable to the authority and its responsibilities.
18 (2) Other relevant labor pools.
19 The compensation set by the authority shall not exceed the
20 highest comparable compensation for a position of that type, as
determined by the salary survey. Based on the salary survey, these
21 positions shall be paid a salary established by the authority and
22 approved by the Department of Personnel Administration.
23 (d) The employment agreement of the executive director may
24 be agreed to by the authority but shall not be executed until the
25 appointment is confirmed by the Senate. With respect to the
26 incumbent executive director as of the date the act amending this
27 section in the 2011–12 Regular Session of the Legislature becomes
28 operative, an extension or modification of the employment
29 agreement pertaining to that person shall not be entered into by
30 the authority unless the appointment of that person is submitted
to and confirmed by the Senate.
31 (e) The executive director may, as authorized by the authority,
32 appoint necessary staff to carry out the provisions of this part.
33 (f) No person shall be an employee or contract employee of the
34 authority if the person has, during the two years prior to
35 appointment as an employee or contract employee, received any
36 substantial portion of his or her income directly or indirectly from
any firm that is under contract with the authority at the time of
appointment or that supplies or manufactures rolling stock or other
equipment particular to, or essentially particular to, construction
and implementation of a high-speed rail system.

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