

**ASSEMBLY BILL**

**No. 481**

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**Introduced by Assembly Member Lowenthal**

February 19, 2013

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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 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 481, as introduced, 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 and authorizations 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. 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 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.

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 1245.210 of the Code of Civil Procedure
- 2 is amended to read:
- 3 1245.210. As used in this article, “governing body” means:

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

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

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

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

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

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

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

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

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

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

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

30 (l) *In the case of a taking by the High-Speed Rail Authority, the*  
31 *High-Speed Rail Authority.*

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

34 11005. (a) Unless the Legislature specifically provides that  
35 approval is not required, every gift or dedication to the state of  
36 personal property, or every gift to the state of real property in fee  
37 or in any lesser estate or interest, shall be approved by the Director  
38 of Finance, and every contract for the acquisition or hiring of real  
39 property in fee or in any lesser estate or interest, entered into by  
40 or on behalf of the state, shall be approved by the Director of

1 General Services. Any contract entered into in violation of this  
2 section is void. This section applies to any state agency that, by  
3 general or specific statute, is expressly or impliedly authorized to  
4 enter into transactions referred to in this section.

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

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

27 11005.2. Unless the Legislature specifically provides that  
28 approval by the Director of General Services is not required, every  
29 conveyance, contract, or agreement whereby an interest of the state  
30 in any real property is conveyed, demised, or let to any person,  
31 shall, before the conveyance, contract, or agreement is executed  
32 or entered into, be approved by the Director of General Services.  
33 Any conveyance, contract, or agreement executed or entered into  
34 in violation of this section is void. This section shall apply to any  
35 state agency which, by general or specific statute, is expressly or  
36 impliedly authorized to enter into transactions referred to in this  
37 section.

38 This section does not apply to real property acquired by the  
39 Department of Transportation for highway purposes, *real property*  
40 *acquired by the High-Speed Rail Authority for high-speed rail*

1 *purposes*, or real property administered by the State Lands  
2 Commission, the Controller, or the State Compensation Insurance  
3 Fund.

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

6 11007.1. (a) The Department of Transportation, when it has  
7 acquired title to any real property for highway purposes and leases  
8 ~~such~~ *that* property for commercial or business uses to the former  
9 owner for a term exceeding six months, may secure insurance  
10 against the risk of damage or destruction by fire where the former  
11 owner requests this coverage and the premium therefor is included  
12 in the rental agreed to be paid.

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

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

22 11011.13. For purposes of Section 11011.15, the following  
23 definitions shall apply:

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

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

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

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

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

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

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

4 SEC. 6. Section 13332.11 of the Government Code is amended  
5 to read:

6 13332.11. (a) (1) Except as otherwise specified in paragraph  
7 (2), no funds appropriated for capital outlay may be expended by  
8 any state agency, including the University of California, the  
9 California State University, the California Community Colleges,  
10 and the Judicial Council until the Department of Finance and the  
11 State Public Works Board have approved preliminary plans for  
12 the project to be funded from a capital outlay appropriation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 SEC. 7. Section 13332.12 of the Government Code is amended  
25 to read:

26 13332.12. (a) Any acquisition of land or other real property  
27 authorized in any appropriation, except an appropriation from the  
28 California Water Fund ~~and~~ *or* an appropriation to the Department  
29 of Transportation *or the High-Speed Rail Authority* for capital  
30 outlay purposes, shall be subject to the provisions of the Property  
31 Acquisition Law. Nothing in this section shall be construed as  
32 exempting the California Coastal Commission from this section.

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

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

38 14255. Whenever provision is made by law for any project  
39 ~~which~~ *that* is not under the jurisdiction of the Department of Water  
40 Resources, the Department of Boating and Waterways pursuant

1 to Article 2.5 (commencing with Section 65) of Chapter 2 of  
2 Division 1 of the Harbors and Navigation Code, the Department  
3 of Corrections *and Rehabilitation* pursuant to Chapter 11  
4 (commencing with Section 7000) of Title 7 of Part 3 of the Penal  
5 Code, *the High-Speed Rail Authority*, or the Department of General  
6 Services, the project shall be under the sole charge and direct  
7 control of the Department of Transportation.

8 SEC. 9. Section 14662 of the Government Code is amended  
9 to read:

10 14662. The Director of General Services may acquire any  
11 easements or rights-of-way which ~~he~~ *the director* determines to  
12 be necessary for the proper utilization of real property owned or  
13 being acquired by the state.

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

17 SEC. 10. Section 14666 of the Government Code is amended  
18 to read:

19 14666. With the approval of the state agency concerned, the  
20 director may grant and convey in the name of the state, easements  
21 and rights-of-way across real property belonging to the state not  
22 used for highway rights-of-way *or high-speed rail rights-of-way*,  
23 for ~~such~~ *those* purposes and upon ~~such~~ *that* consideration and  
24 subject to ~~such~~ *those* conditions, limitations, restrictions, and  
25 reservations as ~~he~~ *the director* deems are in the interest of the state.  
26 All revenue received in connection with the granting and conveying  
27 of ~~such~~ *those* easements and rights-of-way, including charges made  
28 for administrative costs, shall be deposited in the General Fund  
29 for appropriation as provided in Section 15863. Any expenditure  
30 in connection with the granting and conveying of ~~said~~ *those*  
31 easements and rights-of-way or investigating proposed gifts of  
32 real property to the state may be allocated from the appropriation  
33 made pursuant to Section 15863.

34 SEC. 11. Section 14666.6 of the Government Code is amended  
35 to read:

36 14666.6. (a) With the approval of the state agency concerned,  
37 the director shall negotiate in the name of the state, access to  
38 state-owned property, not used for highway *or high-speed rail*  
39 purposes, for those purposes and subject to those conditions,  
40 limitations, restrictions, and reservations determined by the director

1 to be in the best interest of the state. To the extent permitted under  
2 existing law, the director shall determine the amount of  
3 consideration for, and means of access, which means shall include,  
4 but not be limited to, any of the following: lease, permit, or other  
5 form of providing a monetary or service consideration for the  
6 access.

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

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

27 (e)

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

31 (d)

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

37 (f) *Any payments received under the provisions of this section*  
38 *for a grant or conveyance through land or facilities controlled by*  
39 *the High-Speed Rail Authority, including, but not limited to,*  
40 *rights-of-way along the high-speed rail system, shall be deposited*

1 *with the authority for use in the development, improvement, and*  
2 *maintenance of the high-speed rail system.*

3 SEC. 12. Section 14666.8 of the Government Code is amended  
4 to read:

5 14666.8. (a) The director shall, within 120 days of the  
6 operative date of this section, compile and maintain an inventory  
7 of state-owned real property that may be available for lease to  
8 providers of wireless telecommunications services for location of  
9 wireless telecommunications facilities. This inventory shall be the  
10 state's sole inventory of state-owned real property available for  
11 this purpose. The term "state-owned real property," as used in this  
12 section, excludes property owned or managed by the Department  
13 of Transportation, *property owned or managed by the High-Speed*  
14 *Rail Authority*, and property subject to Section 7901 of the Public  
15 Utilities Code.

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

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

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

27 (2) Designate a lease term that is acceptable to the director and  
28 the state agency that has control over the property. The duration  
29 of the initial lease term for any wireless facility may not exceed  
30 10 years, and the lease may provide for a negotiated number of  
31 renewal terms, not to exceed five years for each term.

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

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

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

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

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

19 SEC. 13. Section 14667 of the Government Code is amended  
20 to read:

21 14667. With the approval of the state agency concerned, the  
22 director may quitclaim in the name of the state, the right, title and  
23 interest of the state in and to easements and rights-of-way owned  
24 by the state, other than those acquired for highway purposes *or*  
25 *for high-speed rail purposes*, which ~~he~~ *the director* determines are  
26 no longer needed for state purposes.

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

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

7 SEC. 14. Section 10106 of the Public Contract Code is amended  
8 to read:

9 10106. For purposes of this chapter:

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

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

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

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

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

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

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

27 ~~(6)~~

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

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

32 SEC. 15. Section 10107 of the Public Contract Code is amended  
33 to read:

34 10107. Whenever provision is made by law for any project  
35 that is not under the jurisdiction of the Department of Water  
36 Resources, the Department of Boating and Waterways pursuant  
37 to Article 2.5 (commencing with Section 65) of Chapter 2 of  
38 Division 1 of the Harbors and Navigation Code, the Department  
39 of Corrections and Rehabilitation pursuant to Chapter 11  
40 (commencing with Section 7000) of Title 7 of Part 3 of the Penal

1 Code, the Department of Transportation, *the High-Speed Rail*  
2 *Authority*, or the Military Department, the project shall be under  
3 the sole charge and direct control of the Department of General  
4 Services.

5 SEC. 16. Chapter 4 (commencing with Section 185040) is  
6 added to Division 19.5 of the Public Utilities Code, to read:

7  
8  
9

CHAPTER 4. RIGHTS-OF-WAY

10 185040. (a) If the authority determines that real property or  
11 an interest therein, previously or hereafter acquired by the state  
12 for high-speed rail purposes, is no longer necessary for those  
13 purposes, the authority may sell or exchange the real property or  
14 interest therein at fair market value in the manner set forth in this  
15 section.

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

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

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

36 A sale to an adjoining landowner pursuant to this subdivision  
37 may be by contract to sell or trust deed. The payment period in a  
38 contract of sale or sale by trust deed shall not extend longer than  
39 10 years from the time the contract of sale or trust deed is executed,  
40 and a transaction involving a contract of sale or sale by trust deed

1 to private parties shall require a downpayment of at least 30 percent  
2 of the purchase price.

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

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

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

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

25 185041. The authority may sell or lease excess right-of-way  
26 parcels to municipalities or other local agencies for public purposes,  
27 and may accept as all or part of the consideration for the sale or  
28 lease any substantial benefits the state will derive from the  
29 municipality or other local agency's undertaking maintenance or  
30 landscaping costs that would otherwise be the obligation of the  
31 state.

32 185042. The authority may lease nonoperating right-of-way  
33 areas to municipalities or other local agencies for public purposes,  
34 and may contribute toward the cost of developing local parks and  
35 other recreational facilities on those areas. The authority may  
36 accept as all or part of the consideration for the lease or for the  
37 state contribution any substantial benefits the state will derive from  
38 the municipality or other local agency's undertaking maintenance  
39 or landscaping costs that would otherwise be the obligation of the  
40 state. Those leases shall contain a provision that whenever the

1 leased land is needed for high-speed rail operating purposes the  
2 lease shall terminate. The authority is authorized to classify  
3 portions of high-speed rail rights-of-way as nonoperating.

4 185043. The authority may acquire, by purchase, lease, or  
5 eminent domain, any property necessary for the development and  
6 implementation of the state’s high-speed train program. The power  
7 of eminent domain shall be exercised in accordance with Title 7  
8 (commencing with Section 1230.010) of Part 3 of the Code of  
9 Civil Procedure.

10 185044. The authority may lease to public agencies or private  
11 entities or individuals for any term not to exceed 99 years the use  
12 of areas above or below operating rights-of-way and portions of  
13 property not currently being used as operating rights-of-way,  
14 subject to any reservations, restrictions, and conditions that it  
15 deems necessary to ensure adequate protection of the safety and  
16 adequacy of high-speed rail facilities and of abutting or adjacent  
17 land uses. Prior to entering into any lease, the authority shall  
18 determine that the proposed use is not in conflict with the zoning  
19 regulations of the local government concerned. The leases shall  
20 be made in accordance with procedures to be prescribed by the  
21 authority, except that, in the cases of leases with private entities  
22 or individuals, the leases shall be made only after competitive  
23 bidding. The possibilities of entering into the leases, and the  
24 consequent benefits to be derived therefrom, may be considered  
25 by the authority in designing and constructing the high-speed rail  
26 system. Revenues from the leases shall be deposited with the  
27 authority for use in the development, improvement, and  
28 maintenance of the high-speed rail system.

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