

AMENDED IN SENATE JUNE 12, 2013

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 481**

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**Introduced by Assembly Member Lowenthal**

February 19, 2013

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An act to amend Sections 11007.1, 14255, 14662, 14666, 14666.6, 14666.8, and 14667 of the Government 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 amended, 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, *sales*, or other conveyances of property *owned or* controlled by the authority to be deposited in the High-Speed Rail Property Fund created by the bill, and would provide that the funds shall be available to the authority upon appropriation by the Legislature for specified purposes.

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 11007.1 of the Government Code is  
2 amended to read:

3 11007.1. (a) The Department of Transportation, when it has  
4 acquired title to any real property for highway purposes and leases  
5 that property for commercial or business uses to the former owner  
6 for 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 (b) The High-Speed Rail Authority, when it has acquired title  
11 to any real property for high-speed rail purposes and leases that  
12 property for commercial or business uses to the former owner for  
13 a term exceeding six months, may secure insurance against the  
14 risk of damage or destruction by fire where the former owner  
15 requests this coverage and the premium therefor is included in the  
16 rental agreed to be paid.

17 SEC. 2. Section 14255 of the Government Code is amended  
18 to read:

19 14255. Whenever provision is made by law for any project  
20 that is not under the jurisdiction of the Department of Water

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

9 SEC. 3. Section 14662 of the Government Code is amended  
10 to read:

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

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

18 SEC. 4. Section 14666 of the Government Code is amended  
19 to read:

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

34 SEC. 5. 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 *Chief Executive Officer of the* High-Speed Rail Authority  
18 shall negotiate, in the name of the state, access to state-owned  
19 high-speed rail rights-of-way for those purposes and subject to  
20 those conditions, limitations, restrictions, and reservations  
21 determined by the *chief executive officer of the* authority to be in  
22 the best interest of the state. To the extent permitted under existing  
23 law, the *chief executive officer of the* authority shall determine the  
24 amount of consideration for that access, and any means of access,  
25 which means shall include, but not be limited to, any of the  
26 following: lease, permit, or other form of providing a monetary or  
27 service consideration for the access.

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

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

1 ~~185044~~ 185045 of the Public Utilities Code, and shall be available  
2 to the authority upon appropriation by the Legislature as provided  
3 in that section.

4 SEC. 6. Section 14666.8 of the Government Code is amended  
5 to read:

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

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

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

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

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

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

37 (4) Facilitate, to the greatest extent possible, agreements among  
38 providers of wireless telecommunications services for ~~collocation~~  
39 *collocation* 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. 7. 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,  
23 and interest of the state in and to easements and rights-of-way  
24 owned by the state, other than those acquired for highway purposes  
25 or for high-speed rail purposes, which 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 disposing of that easement or right-of-way, shall  
4 make a reasonable effort to obtain as the price for the sale thereof  
5 an amount approximately equivalent to the current market value  
6 at the time of disposition.

7 SEC. 8. Chapter 4 (commencing with Section 185040) is added  
8 to Division 19.5 of the Public Utilities Code, to read:

9  
10 CHAPTER 4. RIGHTS-OF-WAY

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

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

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

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

38 A sale to an adjoining landowner pursuant to this subdivision  
39 may be by contract to sell or trust deed. The payment period in a  
40 contract of sale or sale by trust deed shall not extend longer than

1 10 years from the time the contract of sale or trust deed is executed,  
2 and a transaction involving a contract of sale or sale by trust deed  
3 to private parties shall require a downpayment of at least 30 percent  
4 of the purchase price.

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

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

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

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

27 (g) *Any payments received under this section for the sale of real*  
28 *property no longer necessary for high-speed rail purposes shall*  
29 *be deposited in the High-Speed Rail Property Fund created*  
30 *pursuant to Section 185045, and shall be available to the authority*  
31 *upon appropriation as provided in that section.*

32 185041. The authority may sell or lease excess right-of-way  
33 parcels to municipalities or other local agencies for public purposes,  
34 and may accept as all or part of the consideration for the sale or  
35 lease any substantial benefits the state will derive from the  
36 municipality or other local agency's undertaking maintenance or  
37 landscaping costs that would otherwise be the obligation of the  
38 state.

39 185042. The authority may lease nonoperating right-of-way  
40 areas to municipalities or other local agencies for public purposes,



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

11 185044. The authority may lease to public agencies or private  
12 entities or individuals for any term not to exceed 99 years the use  
13 of areas above or below operating rights-of-way and portions of  
14 property not currently being used as operating rights-of-way,  
15 subject to any reservations, restrictions, and conditions that it  
16 deems necessary to ensure adequate protection of the safety and  
17 adequacy of high-speed rail facilities and of abutting or adjacent  
18 land uses. Prior to entering into any lease, the authority shall  
19 determine that the proposed use is not in conflict with the zoning  
20 regulations of the local government concerned. The leases shall  
21 be made in accordance with procedures to be prescribed by the  
22 authority, except that, in the cases of leases with private entities  
23 or individuals, the leases shall be made only after competitive  
24 bidding. The possibilities of entering into the leases, and the  
25 consequent benefits to be derived therefrom, may be considered  
26 by the authority in designing and constructing the high-speed rail  
27 system. Revenues from the leases shall be deposited in the  
28 High-Speed Rail Property Fund, which is hereby created in the  
29 State Treasury, and shall be available to the authority, upon  
30 appropriation by the Legislature, for use in the development,  
31 improvement, and maintenance of the high-speed rail system *Fund*  
32 *created pursuant to Section 185045.*

33 185045. *The High-Speed Rail Property Fund is hereby created*  
34 *in the State Treasury for the deposit of revenue received from the*  
35 *sale, lease, or grant of any interest in or use of real property owned*  
36 *or managed by the High-Speed Rail Authority. Revenues in the*  
37 *fund shall be available to the authority, upon appropriation by the*  
38 *Legislature, for use in the development, improvement, and*  
39 *maintenance of the high-speed rail system, consistent with*  
40 *appropriate uses for each funding source.*

O