

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 528

Introduced by Assembly Member Lowenthal

February 20, 2013

An act to ~~amend~~ *repeal and add* Section 14036 of the Government Code, and to *amend* Section 185033 of the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 528, as amended, Lowenthal. State Rail ~~Plan~~. *Plan: High-Speed Rail Authority business plan.*

Existing law requires the Department of Transportation to prepare a 10-year State Rail Plan biennially for submission to the Legislature, Governor, and specified entities. The plan consists of 2 elements, a passenger rail element and a freight rail element, and sets forth various items that are required to be included in each element. *Existing law requires the High-Speed Rail Authority to prepare, publish, adopt, and submit to the Legislature, not later than January 1, 2012, and every 2 years thereafter, a specified business plan, with specified elements, and to publish, at least 60 days prior to the publication of the plan, a draft business plan for public review and comment, as specified.*

This bill would revise and recast the items required to be included in the 2 elements of the State Rail Plan and would change the date to May 1, 2014, by which the High-Speed Rail Authority is required to prepare, publish, adopt, and submit to the Legislature, and every 2 years thereafter, a specified business plan. The bill would make changes to the specified elements required to be included in the business plan.

~~This bill would make a nonsubstantive change to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
 State-mandated local program: no.

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

1 SECTION 1. *The Legislature finds and declares all of the*
 2 *following:*
 3 (a) *Passage of the federal Passenger Rail Investment and*
 4 *Improvement Act of 2008 (PRIIA; 49 U.S.C. Sec. 22701 et seq.)*
 5 *requires comprehensive rail plans in order for states to be eligible*
 6 *for new federal rail capital grants. To comply with federal law,*
 7 *the state rail plan must include, at a minimum, all of the following:*
 8 (1) *An inventory of the existing transportation system and rail*
 9 *services and facilities within the state, and an analysis of the role*
 10 *of rail transportation within the state’s surface transportation*
 11 *system.*
 12 (2) *A review of all rail lines within the state, including proposed*
 13 *high-speed rail corridors.*
 14 (3) *A statement of the state’s passenger rail objectives.*
 15 (4) *A general analysis of the transportation, economic, and*
 16 *environmental impacts of rail in the state, including congestion*
 17 *mitigation, trade and economic development, air quality, land use,*
 18 *energy use, and community impacts.*
 19 (5) *A long-range investment program for current and future*
 20 *freight and passenger rail infrastructure in the state.*
 21 (b) *The Department of Transportation, pursuant to Section*
 22 *14036 of the Government Code, is responsible for the preparation*
 23 *of a 10-year state rail plan. Furthermore, the department has been*
 24 *designated by the Federal Railroad Administration as the*
 25 *responsible agency for development of the federally required state*
 26 *rail plan.*
 27 SEC. 2. *Section 14036 of the Government Code is repealed.*
 28 14036. ~~(a) The department shall prepare a 10-year State Rail~~
 29 ~~Plan biennially for submission to the Legislature, the Governor,~~
 30 ~~the Public Utilities Commission, and the California Transportation~~
 31 ~~Commission. The plan shall be submitted to the California~~
 32 ~~Transportation Commission on or before October 1, 1995, and on~~
 33 ~~or before October 1 of each odd-numbered year thereafter, for its~~
 34 ~~advice and consent, and to the Legislature, the Governor, and the~~

1 ~~Public Utilities Commission by the following March 1. The plan~~
2 ~~shall consist of a passenger rail element and a freight rail element.~~

3 ~~(b) The passenger rail element shall contain all of the following:~~

4 ~~(1) For capital and operating subsidies and costs, all actual~~
5 ~~encumbrances for the prior two fiscal years; and for state~~
6 ~~operations, all actual expenditures for the prior two fiscal years.~~

7 ~~All revenues shall be identified by source.~~

8 ~~(2) For capital and operating subsidies, estimated encumbrances~~
9 ~~and revenues for the current year; and for state operations,~~
10 ~~estimated expenditures for the current year. The department shall~~
11 ~~use the same format as is required for prior year expenditures~~
12 ~~pursuant to paragraph (1).~~

13 ~~(3) For the budget year and the nine following fiscal years,~~
14 ~~proposed encumbrances for capital and operating subsidies and~~
15 ~~costs shall be reported in the same format as is required for the~~
16 ~~prior year's expenditures. For state operations, proposed~~
17 ~~expenditures for the budget year shall be reported.~~

18 ~~(4) The identification and cost of capital facilities necessary to~~
19 ~~enhance competitiveness of rail passenger services, including, for~~
20 ~~each intercity route, a list of at least the three highest priority~~
21 ~~capital improvement projects, with cost estimates and a funding~~
22 ~~plan.~~

23 ~~(5) A performance evaluation of all services in operation for~~
24 ~~the two prior years, including performance trends, potential for~~
25 ~~efficiency and effectiveness, possible improvements, and strategies~~
26 ~~to achieve that potential. This shall include an evaluation of all~~
27 ~~feeder bus services, using, among other things, criteria based on~~
28 ~~ridership levels, break-even points, and levels of growth in service~~
29 ~~utilization. The number of daily feeder bus runs, if any, that failed~~
30 ~~to carry even one passenger shall be identified.~~

31 ~~(6) A recommendation of a level of and program for services~~
32 ~~over a 10-year period, including a list of service enhancements on~~
33 ~~existing and additional routes, with funding and priority~~
34 ~~recommendations. This shall include identification of feeder bus~~
35 ~~service improvements and a management and operating plan for~~
36 ~~achieving these improvements.~~

37 ~~(7) An evaluation of reports by regional planning agencies and~~
38 ~~county transportation commissions on commuter service~~
39 ~~alternatives in their regions, including presentation of their~~
40 ~~recommendations.~~

1 ~~(8) A map showing all existing intercity and commuter~~
2 ~~passenger rail routes and services, all proposed intercity and~~
3 ~~commuter passenger rail routes and services, and all intercity and~~
4 ~~commuter passenger rail routes and services that are the subject~~
5 ~~of feasibility studies.~~

6 ~~(9) A report on the expenditure of marketing activities funds~~
7 ~~for purchases of media advertising of rail passenger services.~~

8 ~~This report shall be prepared in consultation with the Public~~
9 ~~Utilities Commission and the National Rail Passenger Corporation.~~
10 ~~The department may consult with other agencies, organizations,~~
11 ~~and persons with expertise. The department shall employ realistic~~
12 ~~assumptions, using Public Utilities Commission cost data whenever~~
13 ~~possible, with respect to the level of services it can provide and~~
14 ~~the cost of these services when developing the program.~~

15 ~~(10) A discussion of the department's overall marketing strategy~~
16 ~~as it relates to the intercity rail passenger service, including feeder~~
17 ~~bus service, and a report on the expenditure of marketing activities~~
18 ~~funds for purchases of media advertising of rail passenger services.~~

19 ~~(11) A discussion of fare policies and practices, including all~~
20 ~~of the following:~~

21 ~~(A) The relationship of fare policies to ridership and yield,~~
22 ~~including the impact of (A) a variety of regular fares, including~~
23 ~~fares such as midweek and other off-peak discounts, (B) discount~~
24 ~~fare blackouts during certain holiday travel periods on yield and~~
25 ~~ridership, and (C) discount fares for small groups traveling~~
26 ~~together.~~

27 ~~(B) Lightly traveled route segments where current fares are too~~
28 ~~high for the demand, and where ridership or yield, or both, would~~
29 ~~increase with lower fares.~~

30 ~~(C) A potential fare policy that would maximize both ridership~~
31 ~~and yield.~~

32 ~~(D) A summary of discussions with Amtrak on the subject of~~
33 ~~fares.~~

34 ~~(e) The freight rail element shall contain all of the following:~~

35 ~~(1) Environmental aspects, which shall include air quality, land~~
36 ~~use, and community impacts.~~

37 ~~(2) Financing issues, which shall include a means to obtain~~
38 ~~federal and state funding.~~

39 ~~(3) Rail issues, which shall include regional, intrastate, and~~
40 ~~interstate issues.~~

1 ~~(4) Intermodal connections, which shall include seaports and~~
2 ~~intermodal terminals.~~

3 ~~(5) Current system deficiencies.~~

4 ~~(6) Service objectives, such as improving efficiency,~~
5 ~~accessibility, and safety.~~

6 ~~(7) New technology, which shall include logistics and process~~
7 ~~improvement.~~

8 ~~(8) Light density rail line analyses, which shall include traffic~~
9 ~~density, track characteristics, project selection criteria, and~~
10 ~~benefit-cost criteria.~~

11 *SEC. 3. Section 14036 is added to the Government Code, to*
12 *read:*

13 *14036. (a) The department shall prepare a 10-year State Rail*
14 *Plan. Pursuant to Section 22702 of Title 49 of the United States*
15 *Code, the department is designated as the state rail transportation*
16 *authority to prepare, maintain, coordinate, and administer the*
17 *plan.*

18 *(b) The passenger rail element shall contain all of the following:*

19 *(1) A statement of compliance with the requirements set forth*
20 *in the federal Passenger Rail Investment and Improvement Act of*
21 *2008 (PRIIA; Public Law 110-432; 49 U.S.C. Sec. 22701 et seq.).*

22 *(2) Plans for a comprehensive and integrated statewide*
23 *passenger rail system, including high-speed rail, conventional*
24 *intercity and commuter rail, and connections to urban rail systems.*

25 *(3) A review of all high-speed rail routes, the rail freight system,*
26 *conventional intercity and commuter rail systems, and urban rail*
27 *system connections to high-speed rail and conventional intercity*
28 *and commuter rail systems, including a statement of the state's*
29 *passenger rail objectives for routes in the state.*

30 *(4) In consultation with the freight railroad industry, an*
31 *identification of the improvements that have utility to both rail*
32 *freight and passenger rail services in the state.*

33 *(5) An inventory of the existing rail transportation system and*
34 *rail services and facilities in the state, and an analysis of the role*
35 *of rail transportation within the state's overall transportation*
36 *system.*

37 *(c) The freight rail element shall contain all of the following:*

38 *(1) Environmental aspects that include air quality, land use,*
39 *and community impacts.*

1 (2) *Financing issues that include a means to obtain federal and*
2 *state funding.*

3 (3) *Rail issues that include regional, intrastate, and interstate*
4 *issues.*

5 (4) *Intermodal connections that include seaports and intermodal*
6 *terminals.*

7 (5) *A statement of current system deficiencies.*

8 (6) *Service objectives that improve efficiency, accessibility, and*
9 *safety.*

10 (7) *New technology that includes logistics and process*
11 *improvement.*

12 (8) *Light density rail line analyses that include traffic density,*
13 *track characteristics, project selection criteria, and benefit-cost*
14 *criteria.*

15 (d) *The final plan shall be submitted to the Transportation*
16 *Agency for approval pursuant to Section 22702 of Title 49 of the*
17 *United States Code. On or before March 1, 2017, the approved*
18 *plan shall thereafter be submitted to the Legislature, the Governor,*
19 *the Public Utilities Commission, the High-Speed Rail Authority,*
20 *and the commission.*

21 (e) *The plan shall be updated, at a minimum, every five years*
22 *thereafter.*

23 SEC. 4. *Section 185033 of the Public Utilities Code is amended*
24 *to read:*

25 185033. (a) The authority shall prepare, publish, adopt, and
26 submit to the Legislature, not later than ~~January 1, 2012~~ *May 1,*
27 *2014*, and every two years thereafter, a business plan. At least 60
28 days prior to the publication of the plan, the authority shall publish
29 a draft business plan for public review and comment. The draft
30 plan shall also be submitted to the Senate Committee on
31 Transportation and Housing, the Assembly Committee on
32 Transportation, the Senate Committee on Budget and Fiscal
33 Review, and the Assembly Committee on Budget. ~~The business~~
34 ~~plan shall identify all of the following: the type of service the~~
35 ~~authority anticipates it will develop, such as local, express,~~
36 ~~commuter, regional, or interregional; a description of the primary~~
37 ~~benefits the system will provide; a forecast of the anticipated~~
38 ~~patronage, operating and maintenance costs, and capital costs for~~
39 ~~the system; an estimate and description of the total anticipated~~
40 ~~federal, state, local, and other funds the authority intends to access~~

1 to fund the construction and operation of the system; and the
2 proposed chronology for the construction of the eligible corridors
3 of the statewide high-speed train system. The business plan shall
4 also include a discussion of all reasonably foreseeable risks the
5 project may encounter, including, but not limited to, risks
6 associated with the project's finances, patronage, right-of-way
7 acquisition, environmental clearances, construction, equipment,
8 and technology, and other risks associated with the project's
9 development. The plan shall describe the authority's strategies,
10 processes, or other actions it intends to utilize to manage those
11 risks.

12 (b) (1) ~~In addition to the requirements of subdivision (a), the~~
13 *The* business plan shall include, but need not be limited to, all of
14 the following elements:

15 (A) *The type of service the authority is developing and the*
16 *proposed chronology for the construction of the statewide*
17 *high-speed rail system.*

18 ~~(A)~~

19 (B) Using the most recent patronage forecast for the system,
20 develop a forecast of the expected patronage and, service levels,
21 and operating and maintenance costs for the Phase 1 corridor as
22 identified in paragraph (2) of subdivision (b) of Section 2704.04
23 of the Streets and Highways Code and by each segment or
24 combination of segments for which a project level environmental
25 analysis is being prepared for Phase 1. The forecast shall assume
26 a high, medium, and low level of patronage and a realistic operating
27 planning scenario for each level of service. ~~Alternative fare~~
28 ~~structures shall be considered when determining the level of~~
29 ~~patronage.~~

30 ~~(B)~~

31 (C) Based on the patronage forecast in subparagraph (A),
32 develop alternative financial ~~pro formas~~ *scenarios* for the different
33 levels of service, and identify the operating break-even points for
34 each alternative. Each ~~pro forma~~ *scenario* shall assume the terms
35 of subparagraph (J) of paragraph (2) of subdivision (c) of Section
36 2704.08 of the Streets and Highways Code.

37 ~~(C)~~

38 (D) Identify the expected schedule for completing environmental
39 review, and initiating and completing construction for each segment
40 or combination of segments of Phase 1.

1 ~~(D)~~
 2 (E) Identify the source of federal, state, and local funds available
 3 for the project that will augment funds from the bond act and the
 4 level of confidence for obtaining each type of funding. *act.*

5 ~~(E)~~
 6 (F) Identify written agreements with public or private entities
 7 to fund components of the high-speed rail system, including
 8 stations and terminals, *and identify* any impediments to the
 9 completion of the system, ~~such as the inability to gain access to~~
 10 ~~existing railroad rights-of-way.~~ *system.*

11 ~~(F)~~
 12 (G) Identify alternative public-private development strategies
 13 for the implementation of Phase 1.

14 (H) *A discussion of all reasonably foreseeable risks the project*
 15 *may encounter, including, but not limited to, risks associated with*
 16 *the project's finances, patronage, right-of-way acquisition,*
 17 *environmental clearances, construction, equipment, and*
 18 *technology, and other risks associated with the project's*
 19 *development. The plan shall describe the authority's strategies,*
 20 *processes, or other actions it intends to utilize to manage those*
 21 *risks.*

22 (2) To the extent feasible, the business plan should draw upon
 23 information and material developed according to other
 24 requirements, including, but not limited to, the preappropriation
 25 review process and the preexpenditure review process in the Safe,
 26 Reliable High-Speed Passenger Train Bond Act for the 21st
 27 Century pursuant to Section 2704.08 of the Streets and Highways
 28 Code. The authority shall hold at least one public hearing on the
 29 business plan and shall adopt the plan at a regularly scheduled
 30 meeting. When adopting the plan, the authority shall take into
 31 consideration comments from the public hearing and written
 32 comments that it receives in that regard, and any hearings that the
 33 Legislature may hold prior to adoption of the plan.

34 ~~SECTION 1. Section 14036 of the Government Code is~~
 35 ~~amended to read:~~

36 ~~14036. (a) The department shall prepare a 10-year State Rail~~
 37 ~~Plan biennially for submission to the Legislature, the Governor,~~
 38 ~~the Public Utilities Commission, and the California Transportation~~
 39 ~~Commission. The plan shall be submitted to the California~~
 40 ~~Transportation Commission on or before October 1, 1995, and on~~

1 or before October 1 of each odd-numbered year thereafter, for its
2 advice and consent, and to the Legislature, the Governor, and the
3 Public Utilities Commission by the following March 1. The plan
4 shall consist of a passenger rail element and a freight rail element.

5 (b) The passenger rail element shall contain all of the following:

6 (1) ~~For capital and operating subsidies and costs, all actual~~
7 ~~encumbrances for the prior two fiscal years; and for state~~
8 ~~operations, all actual expenditures for the prior two fiscal years.~~
9 ~~All revenues shall be identified by source.~~

10 (2) ~~For capital and operating subsidies, estimated encumbrances~~
11 ~~and revenues for the current year; and for state operations,~~
12 ~~estimated expenditures for the current year. The department shall~~
13 ~~use the same format as is required for prior year expenditures~~
14 ~~pursuant to paragraph (1).~~

15 (3) ~~For the budget year and the nine following fiscal years,~~
16 ~~proposed encumbrances for capital and operating subsidies and~~
17 ~~costs, reported in the same format as is required for the prior year's~~
18 ~~expenditures. For state operations, proposed expenditures for the~~
19 ~~budget year shall be reported.~~

20 (4) ~~The identification and cost of capital facilities necessary to~~
21 ~~enhance competitiveness of rail passenger services, including, for~~
22 ~~each intercity route, a list of at least the three highest priority~~
23 ~~capital improvement projects, with cost estimates and a funding~~
24 ~~plan.~~

25 (5) ~~A performance evaluation of all services in operation for~~
26 ~~the two prior years, including performance trends, potential for~~
27 ~~efficiency and effectiveness, possible improvements, and strategies~~
28 ~~to achieve that potential. This shall include an evaluation of all~~
29 ~~feeder bus services, using, among other things, criteria based on~~
30 ~~ridership levels, break-even points, and levels of growth in service~~
31 ~~utilization. The number of daily feeder bus runs, if any, that failed~~
32 ~~to carry even one passenger shall be identified.~~

33 (6) ~~A recommendation of a level of and program for services~~
34 ~~over a 10-year period, including a list of service enhancements on~~
35 ~~existing and additional routes, with funding and priority~~
36 ~~recommendations. This shall include identification of feeder bus~~
37 ~~service improvements and a management and operating plan for~~
38 ~~achieving these improvements.~~

39 (7) ~~An evaluation of reports by regional planning agencies and~~
40 ~~county transportation commissions on commuter service~~

1 alternatives in their regions, including presentation of their
2 recommendations.

3 (8) A map showing all existing intercity and commuter
4 passenger rail routes and services, all proposed intercity and
5 commuter passenger rail routes and services, and all intercity and
6 commuter passenger rail routes and services that are the subject
7 of feasibility studies.

8 (9) A report on the expenditure of marketing activities funds
9 for purchases of media advertising of rail passenger services.

10 This report shall be prepared in consultation with the Public
11 Utilities Commission and the National Rail Passenger Corporation.
12 The department may consult with other agencies, organizations,
13 and persons with expertise. The department shall employ realistic
14 assumptions, using Public Utilities Commission cost data whenever
15 possible, with respect to the level of services it can provide and
16 the cost of these services when developing the program.

17 (10) A discussion of the department's overall marketing strategy
18 as it relates to the intercity rail passenger service, including feeder
19 bus service, and a report on the expenditure of marketing activities
20 funds for purchases of media advertising of rail passenger services.

21 (11) A discussion of fare policies and practices, including all
22 of the following:

23 (A) The relationship of fare policies to ridership and yield,
24 including the impact of (A) a variety of regular fares, including
25 fares such as midweek and other off-peak discounts, (B) discount
26 fare blackouts during certain holiday travel periods on yield and
27 ridership, and (C) discount fares for small groups traveling
28 together.

29 (B) Lightly traveled route segments where current fares are too
30 high for the demand, and where ridership or yield, or both, would
31 increase with lower fares.

32 (C) A potential fare policy that would maximize both ridership
33 and yield.

34 (D) A summary of discussions with Amtrak on the subject of
35 fares.

36 (e) The freight rail element shall contain all of the following:

37 (1) Environmental aspects, which shall include air quality, land
38 use, and community impacts.

39 (2) Financing issues, which shall include a means to obtain
40 federal and state funding.

- 1 ~~(3) Rail issues, which shall include regional, intrastate, and~~
- 2 ~~interstate issues.~~
- 3 ~~(4) Intermodal connections, which shall include seaports and~~
- 4 ~~intermodal terminals.~~
- 5 ~~(5) Current system deficiencies.~~
- 6 ~~(6) Service objectives, such as improving efficiency,~~
- 7 ~~accessibility, and safety.~~
- 8 ~~(7) New technology, which shall include logistics and process~~
- 9 ~~improvement.~~
- 10 ~~(8) Light density rail line analyses, which shall include traffic~~
- 11 ~~density, track characteristics, project selection criteria, and~~
- 12 ~~benefit-cost criteria.~~

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