

AMENDED IN ASSEMBLY APRIL 25, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 528**

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**Introduced by Assembly Member Lowenthal**

February 20, 2013

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An act to repeal Sections 14036.2 and 14036.3 of, and to 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: High-Speed Rail Authority business plan.

(1) Existing law requires the Department of Transportation to prepare a ~~10-year~~ 10-year State Rail Plan biennially for submission to the Legislature, Governor, and specified entities. ~~The Existing law requires the plan consists to consist~~ 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 separately 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 ~~10-year~~ State Rail Plan *and in the elements of the business plan*, and would eliminate the 10-year timeframe for the State

Rail Plan. The bill would change, *from January 1 to May 1 of each even-numbered year*, ~~the first date to May 1, 2014~~, by which the High-Speed Rail Authority is required to prepare, publish, adopt, and submit *the business plan* to the Legislature ~~the business plan~~. ~~The bill would also make changes to the elements required to be included in the business plan.~~

(2) Existing law requires the department to identify in the rail passenger development plan the 3 most decrepit intercity rail passenger stations in the state used by trains operated by the National Railroad Passenger Corporation (AMTRAK) and those rail passenger stations that require upgraded parking facilities, as specified. Existing law requires the department to consider and estimate the cost of specified types of rail service improvements to the San Joaquin Amtrak route, and to report its findings in the rail passenger development plan submitted in 1991 pursuant to the provisions governing the preparation of the State Rail Plan.

This bill would repeal these requirements.

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. 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 ~~(PRHA, 49~~ (49 U.S.C. Sec. 22701 et
- 5 ~~seq.)~~ *seq.*). requires comprehensive rail plans in order for states
- 6 to be eligible for new federal rail capital grants. To comply with
- 7 federal law, the state rail plan must include, at a minimum, all of
- 8 the following:
- 9 (1) An inventory of the existing rail transportation system and
- 10 rail services and facilities within the state, and an analysis of the
- 11 role of rail transportation within the state’s surface transportation
- 12 system.
- 13 (2) A review of all rail lines within the state, including proposed
- 14 high-speed rail corridors.
- 15 (3) A statement of the state’s passenger rail objectives.
- 16 (4) A general analysis of the transportation, economic, and
- 17 environmental impacts of rail in the state, including congestion

1 mitigation, trade and economic development, air quality, land use,  
2 energy use, and community impacts.

3 (5) A long-range investment program for current and future  
4 freight and passenger rail infrastructure in the state.

5 (b) The Department of Transportation, pursuant to Section 14036  
6 of the Government Code, is responsible for the preparation of a  
7 state rail plan. Furthermore, the department has been designated  
8 by the Federal Railroad Administration as the responsible agency  
9 for development of the federally required state rail plan.

10 (c) Implementation of any recommended passenger rail services  
11 identified in the plan is contingent upon a negotiated agreement  
12 between a freight rail operator and the passenger service sponsor  
13 or operator.

14 (d) Used and unused capacity of freight railroads is important  
15 to the economic well-being of the state as it supports the state's  
16 role as the nation's gateway for international trade, provides an  
17 environmentally preferred alternative for the movement of goods,  
18 and supports employment opportunities in the goods movement  
19 logistics industry.

20 SEC. 2. Section 14036 of the Government Code is repealed.

21 SEC. 3. Section 14036 is added to the Government Code, to  
22 read:

23 14036. (a) The department shall prepare a State Rail Plan.  
24 Pursuant to Section 22702 of Title 49 of the United States Code,  
25 the department is designated as the state rail transportation  
26 authority to prepare, maintain, coordinate, and administer the plan.

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

28 (1) A statement of compliance with the requirements set forth  
29 in the federal Passenger Rail Investment and Improvement Act of  
30 2008 (~~PRRA~~; ~~Public~~ (*Public* Law 110-432; 49 U.S.C. Sec. 22701  
31 et seq.).

32 (2) Plans for a comprehensive and integrated statewide passenger  
33 rail system, including high-speed rail, conventional intercity and  
34 commuter rail, and connections to urban rail systems.

35 (3) A review of all high-speed rail routes, the rail freight system,  
36 conventional intercity and commuter rail systems, and urban rail  
37 system connections to high-speed rail and conventional intercity  
38 and commuter rail systems, including a statement of the state's  
39 passenger rail objectives for routes in the state.

1 (4) In consultation with the freight railroad industry, an  
2 identification of the improvements that have utility to both rail  
3 freight and passenger rail services in the state.

4 (5) An inventory of the existing rail transportation system and  
5 rail services and facilities in the state, and an analysis of the role  
6 of rail transportation within the state’s overall transportation  
7 system.

8 (c) The freight rail element shall contain *discussions of* all of  
9 the following:

10 (1) Environmental ~~aspects~~ *impacts* that include air quality, land  
11 use, and community impacts.

12 (2) Financing issues that include ~~a~~ *the planned* means to obtain  
13 federal and state funding.

14 (3) Rail issues that include regional, intrastate, and interstate  
15 issues.

16 (4) Intermodal connections that include seaports and intermodal  
17 terminals.

18 (5) A statement of current system deficiencies.

19 (6) Service objectives that improve efficiency, accessibility,  
20 and safety.

21 (7) New technology that includes logistics and process  
22 improvement.

23 (8) Light density rail line analyses that include traffic density,  
24 track characteristics, project selection criteria, and benefit-cost  
25 criteria.

26 (d) The final plan shall be submitted to the Transportation  
27 Agency for approval pursuant to Section 22702 of Title 49 of the  
28 United States Code. On or before March 1, 2017, the approved  
29 plan shall ~~thereafter~~ be submitted to the Legislature *pursuant to*  
30 *Section 9795*, the Governor, the Public Utilities Commission, the  
31 High-Speed Rail Authority, and the commission.

32 (e) The plan shall be updated, at a minimum, every five years  
33 thereafter.

34 SEC. 4. Section 14036.2 of the Government Code is repealed.

35 SEC. 5. Section 14036.3 of the Government Code is repealed.

36 SEC. 6. Section 185033 of the Public Utilities Code is amended  
37 to read:

38 185033. (a) The authority shall prepare, publish, adopt, and  
39 submit to the Legislature, not later than May 1, 2014, and every  
40 two years thereafter, a business plan. At least 60 days prior to the

1 publication of the plan, the authority shall publish a draft business  
2 plan for public review and comment. The draft plan shall also be  
3 submitted to the Senate Committee on Transportation and Housing,  
4 the Assembly Committee on Transportation, the Senate Committee  
5 on Budget and Fiscal Review, and the Assembly Committee on  
6 Budget.

7 (b) (1) The business plan shall include, but need not be limited  
8 to, all of the following elements:

9 (A) The type of service the authority is developing and the  
10 proposed chronology for the construction of the statewide  
11 high-speed rail system, *and the estimated capital costs for each*  
12 *segment or combination of segments.*

13 (B) Using the most recent patronage forecast for the system,  
14 develop a forecast of the expected patronage, service levels, and  
15 operating and maintenance costs for the Phase 1 corridor as  
16 identified in paragraph (2) of subdivision (b) of Section 2704.04  
17 of the Streets and Highways Code and by each segment or  
18 combination of segments for which a project level environmental  
19 analysis is being prepared for Phase 1. The forecast shall assume  
20 a high, medium, and low level of patronage and a realistic operating  
21 planning scenario for each level of service.

22 (C) Based on the patronage forecast in subparagraph (A),  
23 develop alternative financial scenarios for the different levels of  
24 service, and identify the operating break-even points for each  
25 alternative. Each scenario shall assume the terms of subparagraph  
26 (J) of paragraph (2) of subdivision (c) of Section 2704.08 of the  
27 Streets and Highways Code.

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

31 ~~(E) Identify the source of federal, state, and local funds available~~  
32 ~~for the project that will augment funds from the bond act.~~

33 (E) *An estimate and description of the total anticipated federal,*  
34 *state, local, and other funds the authority intends to access to fund*  
35 *the construction and operation of the system, and the level of*  
36 *confidence for obtaining each type of funding.*

37 (F) Identify written agreements with public or private entities  
38 to fund components of the high-speed rail system, including  
39 stations and terminals, and identify any impediments to the  
40 completion of the system.

1 (G) Identify alternative public-private development strategies  
2 for the implementation of Phase 1.

3 (H) A discussion of all reasonably foreseeable risks the project  
4 may encounter, including, but not limited to, risks associated with  
5 the project's finances, patronage, right-of-way acquisition,  
6 environmental clearances, construction, equipment, and technology,  
7 and other risks associated with the project's development. The  
8 plan shall describe the authority's strategies, processes, or other  
9 actions it intends to utilize to manage those risks.

10 (2) To the extent feasible, the business plan should draw upon  
11 information and material developed according to other  
12 requirements, including, but not limited to, the preappropriation  
13 review process and the preexpenditure review process in the Safe,  
14 Reliable High-Speed Passenger Train Bond Act for the 21st  
15 Century pursuant to Section 2704.08 of the Streets and Highways  
16 Code. The authority shall hold at least one public hearing on the  
17 business plan and shall adopt the plan at a regularly scheduled  
18 meeting. When adopting the plan, the authority shall take into  
19 consideration comments from the public hearing and written  
20 comments that it receives in that regard, and any hearings that the  
21 Legislature may hold prior to adoption of the plan.