

AMENDED IN SENATE JUNE 4, 2013
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

Introduced by Assembly Member Lowenthal

February 20, 2013

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~~: *Plan and High-Speed Rail Authority business plan.*

(1) 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, and requires the department to submit the State Rail Plan to the California Transportation Commission for its advice and consent on or before October 1 of each odd-numbered year prior to submitting the State Rail Plan to the Legislature, the Governor, and other entities by the following March.~~ Existing law requires the plan 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 that includes~~ 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 in the elements of the business plan, and would eliminate the 10-year timeframe for the State Rail Plan.~~ *The bill would require the State Rail Plan to be submitted to the commission for advice 6 months prior to submitting the final State Rail Plan to the Transportation Agency for approval, and, on or before March 1, 2017, would require the approved State Rail Plan to be submitted to the Legislature, the Governor, and other specified entities. The bill would require the state rail plan to be updated, at a minimum, every 5 years.* The bill would change, from January 1 to May 1 of each even-numbered year, the date by which the High-Speed Rail Authority is required to prepare, publish, adopt, and submit the business plan to the Legislature.

(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 (49 U.S.C. Sec. 22701 ~~et seq.~~ *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:

1 (1) An inventory of the existing rail transportation system and
2 rail services and facilities within the state, and an analysis of the
3 role of rail transportation within the state’s surface transportation
4 system.

5 (2) A review of all rail lines within the state, including proposed
6 high-speed rail corridors.

7 (3) A statement of the state’s passenger rail objectives.

8 (4) A general analysis of the transportation, economic, and
9 environmental impacts of rail in the state, including congestion
10 mitigation, trade and economic development, air quality, land use,
11 energy use, and community impacts.

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

14 (b) The Department of Transportation, pursuant to Section 14036
15 of the Government Code, is responsible for the preparation of a
16 state rail plan. Furthermore, the department has been designated
17 by the Federal Railroad Administration as the responsible agency
18 for development of the federally required state rail plan.

19 (c) Implementation of any recommended passenger rail services
20 identified in the plan is contingent upon a negotiated agreement
21 between a freight rail operator and the passenger service sponsor
22 or operator.

23 (d) Used and unused capacity of freight railroads is important
24 to the economic well-being of the state as it supports the state’s
25 role as the nation’s gateway for international trade, provides an
26 environmentally preferred alternative for the movement of goods,
27 and supports employment opportunities in the goods movement
28 logistics industry.

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

30 SEC. 3. Section 14036 is added to the Government Code, to
31 read:

32 14036. (a) The department shall prepare a State Rail Plan. *The*
33 *plan shall be submitted to the California Transportation*
34 *Commission for its advice six months prior to the submission of*
35 *the plan pursuant to subdivisions (c) and (d).* Pursuant to Section
36 22702 of Title 49 of the United States Code, the department is
37 designated as the state rail transportation authority to prepare,
38 maintain, coordinate, and administer the plan.

39 (b) ~~The passenger rail element~~ *plan* shall contain all of the
40 following:

1 (1) A statement of compliance with the requirements set forth
 2 in the federal Passenger Rail Investment and Improvement Act of
 3 2008 (Public Law 110-432; 49 U.S.C. Sec. 22701 et seq.).

4 (2) Plans for a comprehensive and integrated statewide passenger
 5 rail system, including high-speed rail, conventional intercity and
 6 commuter rail, and connections to urban rail systems. *Related to*
 7 *the conventional intercity passenger rail program, these plans*
 8 *shall include all of the following:*

9 (A) *Recommendations for service levels of, and a capital*
 10 *program for, existing and proposed intercity passenger rail*
 11 *services over a 10-year period, including a list of service*
 12 *enhancements on existing and additional routes, with*
 13 *recommendations regarding funding and priority. The plans shall*
 14 *explain how the recommended service levels support the*
 15 *comprehensive and integrated passenger rail system.*

16 (B) *All actual capital and operating expenditures over the prior*
 17 *five years.*

18 (C) *All proposed capital and operating expenditures for the*
 19 *next five years.*

20 (D) *A performance evaluation for the prior five years for each*
 21 *existing route.*

22 (E) *A discussion of fare policies and practices.*

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

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

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

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

38 (6) *A freight rail element that contains all of the following:*

39 (†)

- 1 (A) Environmental impacts that include air quality, land use,
2 and community impacts.
3 ~~(2)~~
- 4 (B) Financing issues that include the planned means to obtain
5 federal and state funding.
6 ~~(3)~~
- 7 (C) Rail issues that include regional, intrastate, and interstate
8 issues.
9 ~~(4)~~
- 10 (D) Intermodal connections that include seaports and intermodal
11 terminals.
12 ~~(5)~~
- 13 (E) A statement of current system deficiencies.
14 ~~(6)~~
- 15 (F) Service objectives that improve efficiency, accessibility,
16 and safety.
17 ~~(7)~~
- 18 (G) New technology that includes logistics and process
19 improvement.
20 ~~(8)~~
- 21 (H) Light density rail line analyses that include traffic density,
22 track characteristics, project selection criteria, and benefit-cost
23 criteria.
24 ~~(I)~~
- 25 (c) The final plan shall be submitted to the Transportation
26 Agency for approval pursuant to Section 22702 of Title 49 of the
27 United States Code. On or before March 1, 2017, the approved
28 plan shall be submitted to the Legislature pursuant to Section 9795,
29 the Governor, the Public Utilities Commission, the High-Speed
30 Rail Authority, and the commission.
31 ~~(e)~~
- 32 (d) 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~~ *A description of the type of service the authority is*
10 *developing and the proposed chronology for the construction of*
11 *the statewide high-speed rail system, and the estimated capital*
12 *costs for each segment or combination of segments.*

13 (B) ~~Using the most recent patronage forecast for the system,~~
14 ~~develop a~~ *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~~ *Alternative financial scenarios for the different*
24 *levels of service, based on the patronage forecast in subparagraph*
25 *(B), and identify the operating break-even points for each*
26 *alternative. Each scenario shall assume the terms of subparagraph*
27 *(J) of paragraph (2) of subdivision (c) of Section 2704.08 of the*
28 *Streets and Highways Code.*

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

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

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

1 (G) ~~Identify alternative~~ *Alternative* public-private development
2 strategies 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.