

Assembly Bill No. 528

Passed the Assembly August 22, 2013

Chief Clerk of the Assembly

Passed the Senate August 19, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, Lowenthal. State Rail 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, 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 business plan, 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 the items required to be included in the State Rail Plan and the business 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.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Passage of the federal Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. Sec. 22701 et seq.) requires comprehensive rail plans in order for states to be eligible for new federal rail capital grants. To comply with federal law, the state rail plan must include, at a minimum, all of the following:

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

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

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

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

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

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

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

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

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

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

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

(b) The plan shall contain all of the following:

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

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

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

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

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

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

(E) A discussion of fare policies and practices.

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

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

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

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

(A) Environmental impacts that include air quality, land use, and community impacts.

(B) Financing issues that include the planned means to obtain federal and state funding.

(C) Rail issues that include regional, intrastate, and interstate issues.

(D) Intermodal connections that include seaports and intermodal terminals.

(E) A statement of current system deficiencies.

(F) Service objectives that improve efficiency, accessibility, and safety.

(G) New technology that includes logistics and process improvement.

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

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

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

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

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

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

185033. (a) The authority shall prepare, publish, adopt, and submit to the Legislature, not later than May 1, 2014, and every two years thereafter, a business plan. At least 60 days prior to the publication of the plan, the authority shall publish a draft business plan for public review and comment. The draft plan shall also be submitted to the Senate Committee on Transportation and Housing, the Assembly Committee on Transportation, the Senate Committee on Budget and Fiscal Review, and the Assembly Committee on Budget.

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

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

(B) A forecast of the expected patronage, service levels, and operating and maintenance costs for the Phase 1 corridor as identified in paragraph (2) of subdivision (b) of Section 2704.04 of the Streets and Highways Code and by each segment or combination of segments for which a project level environmental analysis is being prepared for Phase 1. The forecast shall assume a high, medium, and low level of patronage and a realistic operating planning scenario for each level of service.

(C) Alternative financial scenarios for different levels of service, based on the patronage forecast in subparagraph (B), and the operating break-even points for each alternative. Each scenario shall assume the terms of subparagraph (J) of paragraph (2) of subdivision (c) of Section 2704.08 of the Streets and Highways Code.

(D) The expected schedule for completing environmental review, and initiating and completing construction for each segment or combination of segments of Phase 1.

(E) An estimate and description of the total anticipated federal, state, local, and other funds the authority intends to access to fund

the construction and operation of the system, and the level of confidence for obtaining each type of funding.

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

(G) Alternative public-private development strategies for the implementation of Phase 1.

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

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

Approved _____, 2013

Governor