

AMENDED IN SENATE APRIL 21, 2010
AMENDED IN ASSEMBLY JANUARY 15, 2010
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1375

Introduced by Assembly Member Galgiani

February 27, 2009

An act to repeal and add Division 19.5 (commencing with Section 185000) of the Public Utilities Code, relating to high-speed rail.

LEGISLATIVE COUNSEL'S DIGEST

AB 1375, as amended, Galgiani. High-speed rail.

Existing law, the California High-Speed Train Act, creates the High-Speed Rail Authority to develop and implement a high-speed train system in the state, with specified powers and duties. Existing law, 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 in general obligation bonds for high-speed rail and related purposes.

This bill would revise and recast these provisions by repealing and reenacting the California High-Speed Train Act. The bill would continue the High-Speed Rail Authority in existence to ~~make policy decisions relative to implementation of high-speed rail consistent with Proposition 1A~~ *establish compensation of certain employees of the department, advise the Secretary of Business, Transportation and Housing and the Director of the Department of Railroads concerning high-speed rail matters, and annually adopt a 6-year high-speed train program for submission to the Governor and the Legislature.* The bill would create the Department of ~~High-Speed Trains~~ *Railroads* within the Business,

Transportation and Housing Agency, which would ~~implement those policies. The bill would transfer certain of~~ *succeed to most of* the existing powers and responsibilities of the authority ~~to the department and would specify additional powers and duties of the authority and department relative to implementation of the high-speed rail project, including the annual submission of a 6-year high-speed train capital improvement program and progress report to the Legislature and would be responsible for implementing the high-speed train project.~~ The director of the department would be appointed by the Governor, who would serve at the pleasure of the ~~authority~~ Governor, and the Governor would be authorized to appoint up to 10 executive employees of the department who would be exempt from civil service and serve at the pleasure of the director. The bill would provide for acquisition and disposition by the department of rights-of-way for the high-speed rail project. *The bill would transfer the existing employees of the authority, other than the executive director, to the department.* The bill would enact other related provisions.

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. (a) It is the intent of the Legislature to do all of
- 2 the following:
- 3 (1) Further the transportation system of the state through the
- 4 successful development and construction of the 800-mile
- 5 high-speed train system described in Proposition 1A, approved by
- 6 the voters on November 4, 2008.
- 7 (2) Protect the state's interests and provide for the exercise of
- 8 continuing oversight of the funds to be invested in the high-speed
- 9 train project following voter approval of Proposition 1A.
- 10 (3) Ensure that an adequate public forum maintains the
- 11 transparency of the development of the high-speed train project.
- 12 (4) Provide an efficient governmental structure for the
- 13 development of high-speed train operations in the state.
- 14 (b) This act continues in existence the High-Speed Rail
- 15 Authority, creates a new Department of ~~High-Speed Trains~~
- 16 *Railroads* within the Business, Transportation and Housing
- 17 Agency, apportions between the authority and the new department
- 18 existing as well as new powers, duties, rights, and obligations, and

1 defines the relationship between the authority and the new
2 department.

3 SEC. 2. Division 19.5 (commencing with Section 185000) of
4 the Public Utilities Code is repealed.

5 SEC. 3. Division 19.5 (commencing with Section 185000) is
6 added to the Public Utilities Code, to read:

7
8 DIVISION 19.5. CALIFORNIA HIGH-SPEED RAIL
9 SERVICE

10
11 CHAPTER 1. GENERAL PROVISIONS, FINDINGS, AND DEFINITIONS
12

13 185000. This division shall be known, and may be cited, as
14 the California High-Speed Rail Act.

15 185002. The Legislature hereby finds and declares all of the
16 following:

17 (a) California, over the past decades, has built an extensive
18 network of freeways and airports to meet the state's growing
19 transportation needs.

20 (b) These facilities are not adequate to meet the mobility needs
21 of the current population.

22 (c) The population of the state and the travel demands of its
23 citizens are expected to continue to grow at a rapid rate.

24 (d) The cost of expanding the current network of highways and
25 airports fully to meet current and future transportation needs is
26 prohibitive, and a total expansion strategy would be detrimental
27 to air quality.

28 (e) Intercity train service, when coordinated with urban transit
29 and airports, is an efficient, practical, and less polluting
30 transportation mode that can fill the gap between future demand
31 and present capacity.

32 (f) Advances in rail and train technologies have allowed intercity
33 train systems in Europe and Japan to attain speeds of up to 220
34 miles per hour and compete effectively with air travel for trips in
35 the 200- to 500-mile range.

36 (g) Development of a high-speed train system is a necessary
37 and viable alternative to automobile and air travel in the state.

38 (h) In order for the state to have a comprehensive network of
39 high-speed intercity train systems by the year 2020, similar to
40 California's former freeway plan, it is necessary to designate an

1 entity with stable and predictable funding sources to implement
2 the plan.

3 (i) Utilizing existing human and manufacturing resources to
4 build a large network of high-speed trains will generate jobs and
5 economic growth for today's population and produce a
6 transportation network for future generations.

7 (j) Upon confirmation of the need and costs by detailed studies,
8 the private sector, together with the state, can build and operate
9 new high-speed intercity train systems utilizing private and public
10 financing.

11 185004. As used in this division, unless the context requires
12 otherwise, the following terms have the following meanings:

13 (a) "Authority" means the High-Speed Rail Authority. The
14 members of the authority constitute the board of the authority.

15 (b) "Department" means the Department of ~~High-Speed Trains~~
16 *Railroads*.

17 (c) "High-speed train" means intercity passenger train service
18 that utilizes an alignment and technology that makes it capable of
19 sustained speeds of ~~200~~ 125 miles per hour or greater.

20 (d) "Secretary" means the Secretary of Business, Transportation
21 and Housing.

22 23 CHAPTER 2. THE HIGH-SPEED RAIL AUTHORITY

24 25 Article 1. Members of the Authority

26
27 185110. (a) The High-Speed Rail Authority in state
28 government is hereby continued in existence.

29 (b) (1) The authority is composed of nine members as follows:

30 (A) Five members appointed by the Governor.

31 (B) Two members appointed by the Senate Committee on Rules.

32 (C) Two members appointed by the Speaker of the Assembly.

33 (2) For the purposes of making appointments to the authority,
34 the Governor, the Senate Committee on Rules, and the Speaker of
35 the Assembly shall take into consideration geographical diversity
36 to ensure that all regions of the state are adequately represented.

37 (c) Members of the authority shall hold office for terms of four
38 years, and until their successors are appointed. A vacancy shall be
39 filled by the appointing power making the original appointment,
40 by appointing a member to serve the remainder of the term.

1 (d) The term of a member shall expire on December 31 of the
2 fourth year of the member's term.

3 (e) Members of the authority are subject to the Political Reform
4 Act of 1974 (Title 9 (commencing with Section 81000)).

5 (f) From among its members, the authority shall elect a
6 chairperson, who shall preside at all meetings of the authority, and
7 a vice chairperson to preside in the absence of the chairperson.
8 The chairperson shall serve a term of one year.

9 (g) Five members of the authority constitute a quorum for taking
10 any action by the authority. *Nothing in the foregoing shall limit*
11 *any law requiring a vote of more than a simple majority for the*
12 *taking of any action by the authority.*

13 (h) *Nothing in this section shall require the existing membership*
14 *of the authority on the effective date of this section to be*
15 *reconstituted as of that date.*

16 185112. (a) Each member of the authority shall receive
17 compensation of one hundred dollars (\$100) for each day that the
18 member is attending to the business of the authority, but shall not
19 receive more than five hundred dollars (\$500) in any calendar
20 month.

21 (b) Members of the authority shall be reimbursed for their actual
22 travel expenses incurred in attending to the business of the
23 authority.
24

25 Article 2. Policies of the Authority

26
27 ~~185120. In consultation with the department, the authority shall~~
28 ~~establish policies directing the development and implementation~~
29 ~~of intercity high-speed train service that is fully integrated with~~
30 ~~the state's existing intercity rail and bus network, consisting of~~
31 ~~interlinked conventional and high-speed train lines and associated~~
32 ~~feeder buses. The intercity network in turn shall be fully~~
33 ~~coordinated and connected with commuter train lines and urban~~
34 ~~transit lines developed by local agencies, as well as other transit~~
35 ~~services, through the use of common station facilities whenever~~
36 ~~possible. The department shall implement those policies.~~

37 ~~185122. (a) The authority shall establish an independent peer~~
38 ~~review group for the purpose of reviewing the planning,~~
39 ~~engineering, financing, and other elements of the authority's plans~~
40 ~~and issuing an analysis of appropriateness and accuracy of the~~

~~1 authority's assumptions and an analysis of the viability of the
2 authority's financing plan, including the funding plan for each
3 corridor required pursuant to subdivision (b) of Section 2704.08
4 of the Streets and Highways Code.~~

~~5 (b) The peer review group shall include all of the following:~~

~~6 (1) Two individuals with experience in the construction or
7 operation of high-speed trains in Europe, Asia, or both, designated
8 by the Treasurer.~~

~~9 (2) Two individuals, one with experience in engineering and
10 construction of high-speed trains and one with experience in project
11 finance, designated by the Controller.~~

~~12 (3) One representative from a financial services or financial
13 consulting firm who shall not have been a contractor or
14 subcontractor of the authority for the previous three years,
15 designated by the Director of Finance.~~

~~16 (4) One representative with experience in environmental
17 planning, designated by the secretary.~~

~~18 (5) Two expert representatives from agencies providing intercity
19 or commuter passenger train services in California, designated by
20 the secretary.~~

~~21 (c) The peer review group shall evaluate the authority's funding
22 plans and prepare its independent judgment as to the feasibility
23 and reasonableness of the plans, appropriateness of assumptions,
24 analyses, and estimates, and any other observations or evaluations
25 it deems necessary.~~

~~26 (d) The authority and the department shall provide the peer
27 review group any and all information that the peer review group
28 may request to carry out its responsibilities.~~

~~29 (e) The peer review group shall report its findings and
30 conclusions to the Legislature no later than 60 days after receiving
31 the plans.~~

~~32~~
~~33 Article 3. 2. Powers, Duties, and Responsibilities of the
34 Authority~~

~~35~~
~~36 185130. The authority has the following powers, duties, and
37 responsibilities:~~

~~38 (a) The authority shall select the routes of the high-speed train
39 system.~~

1 ~~(b) The authority shall serve as the governing body of the~~
2 ~~department, within the meaning of Section 1245.210 of the Code~~
3 ~~of Civil Procedure, for purposes of the adoption of resolutions of~~
4 ~~necessity.~~

5 ~~(c)~~

6 185130. (a) The authority shall advise the secretary and the
7 director concerning high-speed rail matters, which advice shall be
8 considered by the department in exercising its powers and duties
9 pursuant to this division.

10 ~~(d) The authority shall adopt criteria for the award of franchises.~~

11 ~~(e) The authority shall set fares or establish guidelines for the~~
12 ~~setting of fares.~~

13 *(b) The authority shall establish the compensation of certain*
14 *department employees as set forth in Section 185215.*

15 185132. (a) The authority shall adopt and submit to the
16 Legislature and the Governor, not later than October 1 each year,
17 a high-speed train program. The program shall cover a period of
18 six fiscal years, beginning July 1 of the year following the year it
19 is adopted, and shall be a statement of intent by the department to
20 request funding in the annual Budget Act for the following six
21 years.

22 (b) The high-speed train program shall include a listing of all
23 capital improvement projects that are expected to require
24 appropriation in the annual Budget Act, including state, federal,
25 local, and private funds, during the following six fiscal years.

26 (c) For each segment, the program shall specify the expenditure
27 amount and the expenditure year for each of the following project
28 components:

29 (1) Completion of all permits and environmental studies.

30 (2) Preparation of plans, specifications, and estimates.

31 (3) The acquisition of rights-of-way, including, but not limited
32 to, support activities.

33 (4) Construction and construction management and engineering,
34 including surveys and inspection.

35 (5) *Any additional components the authority may deem to be*
36 *appropriate.*

37 185134. *The department shall provide staff support to the*
38 *authority. The duties of staff to the authority shall include, but not*
39 *be limited to, providing assistance in the conduct of the salary*
40 *surveys described in Section 185215.*

1 185136. *The authority may request and review reports of the*
2 *department that pertain to high-speed rail issues that the authority*
3 *determines require special study. The department shall supply any*
4 *reports and other information as the authority may reasonably*
5 *request for the exercise of the authority's powers and duties.*

6
7 CHAPTER 3. DEPARTMENT OF ~~HIGH-SPEED TRAINS~~ RAILROADS

8
9 Article 1. Organization of the Department

10
11 185210. There is in the Business, Transportation and Housing
12 Agency a Department of ~~High-Speed Trains~~ Railroads.

13 185211. The department is under the control of a director
14 known as the Director of ~~High-Speed Trains~~ Railroads.

15 185212. The director shall be appointed by the Governor, and
16 hold office at the pleasure of the ~~authority~~ Governor.

17 185213. The director shall perform all duties, exercise all
18 powers and jurisdiction, assume and discharge all responsibilities,
19 and carry out and effect all purposes vested by law in the
20 department, except as otherwise expressly provided by law.

21 185214. The director shall organize the department from time
22 to time in the manner the director deems necessary to properly
23 segregate and conduct the work of the department. The director
24 may organize the department into as many divisions as, in the
25 director's judgment, will provide for the efficient administration
26 of the high-speed train project and planning, construction, and
27 operation of the high-speed train system.

28 185215. (a) For purposes of overseeing the ongoing work of
29 the department, the organization of the department may include
30 provision for up to 10 employees exempt from civil service who
31 shall constitute the executive staff of the department, who shall be
32 appointed by the Governor, and who shall serve at the pleasure of
33 the director.

34 (b) Notwithstanding Sections 19816 and 19825 of the
35 Government Code, the compensation of key exempt management,
36 including the director and the exempt positions described in
37 subdivision (a), shall be established by the authority board in
38 amounts that are reasonably necessary, in the discretion of the
39 board, to attract and hold a person of superior qualifications.

(c) (1) To determine the compensation for the positions described in this section, the authority shall cause to be conducted, through the use of independent outside advisers, salary surveys of both of the following:

(A) Other state, regional, and local transportation agencies that are most comparable to the department.

(B) Other relevant labor pools.

(2) The salaries so set by the board shall not exceed the highest comparable salary for a position of that type, as determined by the survey.

(d) The Department of Personnel Administration shall review the methodology used in these salary surveys.

185216. The Governor, the secretary, and the department may enter into any agreements, execute any documents, establish and manage any accounts and deposits, and take any other action that may be appropriate, in accordance with federal law and rules and regulations, to receive and expend funds from the federal government in connection with mass transportation programs and projects for which federal funds are available.

185217. The department shall prepare and submit to the Legislature and to the authority board an annual report, no later than December 1 of each year. The report shall include a description of the progress made ~~and on the high-speed train~~ program adopted by the authority.

185218. (a) The authorization and responsibility for planning, construction, and operation of high-speed ~~passenger train~~ *train* passenger service at speeds exceeding 125 miles per hour in this state is exclusively granted to the department.

(b) Except as provided in paragraph (a), nothing in this chapter precludes other local, regional, or state agencies from exercising powers provided by law with regard to planning or operating, or both, passenger rail service.

Article 2. Powers and Duties of the Department

185220. (a) The department shall have ~~those~~ *all the* powers, duties, and responsibilities ~~delegated to of the authority pursuant to under the Safe, Reliable High-Speed Passenger Train Bond Act of 2008 for the 21st Century~~ (Chapter 20 (commencing with Section 2704) of Division 3 of the Streets and Highways Code),

1 ~~except as provided otherwise in Article 3 (commencing with~~
2 ~~Section 185130) of Chapter 2. In that regard and to that extent,~~
3 ~~and the department shall be the successor of the authority pursuant~~
4 ~~to subdivision (b) of Section 2704.01 of the Streets and Highways~~
5 ~~Code for all purposes under that bond act. Subject However,~~
6 ~~nothing in this section modifies Section 2704.12 of the Streets and~~
7 ~~Highways Code.~~

8 (b) Subject to the other provisions of this division, the
9 department shall have the powers and duties to do the following:

10 (a)
11 (1) Conduct engineering and other studies related to the selection
12 and acquisition of rights-of-way and the selection of a franchisee,
13 including, but not limited to, environmental impact studies,
14 socioeconomic impact studies, and financial feasibility studies.

15 (b)
16 (2) Evaluate alternative high-speed train technologies, systems
17 and operators, and select an appropriate high-speed train system.

18 (c)
19 (3) Award franchises ~~consistent with criteria adopted by the~~
20 ~~authority in connection with the high-speed train system or portions~~
21 ~~thereof.~~

22 (d)
23 (4) Accept grants, fees, and allocations from the state, from
24 political subdivisions of the state, or from the federal government,
25 foreign governments, and private sources.

26 (e)
27 (5) ~~Select a proposed franchisee, a proposed route, and proposed~~
28 ~~franchisees, routes, and terminal sites.~~

29 (f)
30 (6) Enter into contracts with public and private entities for the
31 preparation of ~~the plan~~ *high-speed train system plans*.

32 (g)
33 (7) Prepare a detailed financing plan, including any necessary
34 taxes, fees, or bonds to pay for the construction of the high-speed
35 train network.

36 (h)
37 (8) Develop a proposed high-speed train financial plan, including
38 necessary taxes, bonds, or both, or other indebtedness, and submit
39 the plan to the Legislature and to the Governor.

40 (i)

(9) Keep the public informed of its activities.

~~(j)~~

(10) Enter into contracts with private or public entities, including contracts for the design, construction, and operation of high-speed trains. The contracts may be separated into individual tasks or segments or may include all tasks and segments, including any combination of one or more of such tasks as design, build, finance, operate, and maintain.

~~(k)~~

(11) Acquire rights-of-way through purchase or eminent domain.

~~(l)~~

(12) Subject to approval by the authority board, issue debt, secured by pledges of state funds, federal grants, or project revenues. The pledge of state funds shall be limited to those funds expressly authorized by statute or voter-approved initiatives.

~~(m)~~

(13) Enter into cooperative or joint development agreements with local governments or private entities.

~~(n)~~

(14) Relocate highways and utilities.

~~(o)~~

(15) Plan, construct, and operate the high-speed train system, or enter into contracts for the planning, construction, or operation of the system, including the acquisition of equipment, including rolling stock, necessary for the operation of the system.

~~(p)~~

(16) Acquire, sell, and lease passenger rail rolling stock, power units, and associated equipment.

~~(q)~~

(17) Acquire, lease, design, construct, and improve track lines and related facilities, and contract with the private sector for the design, improvement, or construction of track lines and related facilities.

185222. (a) Notwithstanding any other provision of law, ~~and subject to approval by the authority board,~~ for any project along the high-speed rail network, the department may contract with the Department of Transportation to perform project design and engineering services, including construction inspection services.

(b) For purposes of this section, “project design and engineering services, including construction inspection services” means

1 preliminary engineering, planning, prebid services, right-of-way
2 acquisitions, preparation of environmental documents, preparation
3 of plans, specifications, and estimates, construction inspection
4 including surveying and materials testing, quality control inspection
5 including highway and utility relocation, and grade separations.

6 185224. *The department may adopt, amend, and repeal rules*
7 *and regulations governing the exercise of its powers and duties*
8 *and to otherwise implement the provisions of this division as*
9 *emergency regulations in accordance with the rulemaking*
10 *provisions of the Administrative Procedure Act (Chapter 3.5*
11 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
12 *2 of the Government Code). Notwithstanding subdivision (e) of*
13 *Section 11346.1 of the Government Code, for the purposes of the*
14 *Administrative Procedure Act, including Section 11349.6, the*
15 *adoption of the regulations shall be deemed to be an emergency*
16 *and necessary for the immediate preservation of the public peace,*
17 *health and safety, or general welfare. Notwithstanding subdivision*
18 *(e) of Section 11346.1 of the Government Code, any regulation*
19 *adopted pursuant to this section shall not remain in effect more*
20 *than 180 days unless the department complies with the*
21 *nonemergency rulemaking provisions of the Administrative*
22 *Procedure Act.*

23 185226. (a) *The department shall establish an independent*
24 *peer review group for the purpose of reviewing the planning,*
25 *engineering, financing, and other elements of the authority's plans*
26 *and issuing an analysis of appropriateness and accuracy of the*
27 *department's assumptions and an analysis of the viability of the*
28 *department's financing plan, including the funding plan for each*
29 *corridor required pursuant to subdivision (b) of Section 2704.08*
30 *of the Streets and Highways Code.*

31 (b) *The peer review group shall include all of the following:*

32 (1) *Two individuals with experience in the construction or*
33 *operation of high-speed trains in Europe, Asia, or both, designated*
34 *by the Treasurer.*

35 (2) *Two individuals, one with experience in engineering and*
36 *construction of high-speed trains and one with experience in*
37 *project finance, designated by the Controller.*

38 (3) *One representative from a financial services or financial*
39 *consulting firm who shall not have been a contractor or*

1 subcontractor of the authority for the previous three years,
2 designated by the Director of Finance.

3 (4) One representative with experience in environmental
4 planning, designated by the secretary.

5 (5) Two expert representatives from agencies providing intercity
6 or commuter passenger train services in California, designated
7 by the secretary.

8 (c) The peer review group shall evaluate the department's
9 funding plans and prepare its independent judgment as to the
10 feasibility and reasonableness of the plans, appropriateness of
11 assumptions, analyses, and estimates, and any other observations
12 or evaluations it deems necessary.

13 (d) The department shall provide the peer review group any
14 and all information that the peer review group may request to
15 carry out its responsibilities.

16 (e) The peer review group shall report its findings and
17 conclusions to the Legislature no later than 60 days after receiving
18 the plans.

19
20 Article 3. Rights-of-Way
21

22 ~~185230. (a) If the department determines that real property or~~
23 ~~an interest therein, previously or hereafter acquired by the state~~
24 ~~for high-speed rail purposes, is no longer necessary for those~~
25 ~~purposes, the department may sell, contract to sell, sell by trust~~
26 ~~deed, or exchange the real property or interest therein in the manner~~
27 ~~and upon terms, standards, and conditions established by the~~
28 ~~authority. The payment period in a contract of sale or sale by trust~~
29 ~~deed shall not extend longer than 10 years from the time the~~
30 ~~contract of sale or trust deed is executed, and a transaction~~
31 ~~involving a contract of sale or sale by trust deed to private parties~~
32 ~~shall require a downpayment of at least 30 percent of the purchase~~
33 ~~price.~~

34 ~~(b) A conveyance under this section shall be approved by the~~
35 ~~authority and shall be executed on behalf of the state by the director~~
36 ~~and the purchase price shall be paid into the State Treasury to the~~
37 ~~credit of any fund, available to the department for high-speed rail~~
38 ~~purposes, that the authority designates.~~

39 ~~(c) Any real property or interest therein may in like manner be~~
40 ~~exchanged, either as whole or part consideration, for any other~~

1 ~~real property or interest therein as needed for high-speed rail~~
2 ~~purposes.~~

3 185230. (a) If the department determines that real property
4 or an interest therein, previously or hereafter acquired by the state
5 for high-speed rail purposes, is no longer necessary for those
6 purposes, the department may sell or exchange the real property
7 or interest therein at fair market value in the manner set forth in
8 this section.

9 (b) The department may sell the property to an adjoining
10 landowner if the director makes either of the following two
11 findings:

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

26 (2) That the sale of the excess parcel to other than the adjoining
27 owner would deprive the adjoining owner of an existing vested
28 right of access to a public highway and thereby create a possible
29 cause of action against the department or the state.

30 A sale to an adjoining landowner pursuant to this subdivision
31 may be by contract to sell or trust deed. The payment period in a
32 contract of sale or sale by trust deed shall not extend longer than
33 10 years from the time the contract of sale or trust deed is executed,
34 and a transaction involving a contract of sale or sale by trust deed
35 to private parties shall require a downpayment of at least 30
36 percent of the purchase price.

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

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

5 (e) Any real property or interest therein may in like manner be
6 exchanged, either as whole or part consideration, for any other
7 real property or interest therein as needed for high-speed rail
8 purposes. This provision does not authorize exchanges where the
9 value of the state-owned property exceeds the value of the property
10 the department seeks to acquire, unless the excess value is
11 incidental and subdivision of the state-owned property, in order
12 to produce a smaller parcel of equal value to the value of the
13 property the department seeks to acquire, would reduce the total
14 value of the state-owned property.

15 (f) Except as otherwise provided in this section, property shall
16 be sold either by receipt of competitive sealed bids, or at public
17 auction, whichever method is determined by the director to be
18 more likely to achieve the higher sales price.

19 185232. The director may sell or lease excess right-of-way
20 parcels to municipalities or other local agencies for public purposes,
21 and may accept as all or part of the consideration for the sale or
22 lease any substantial benefits the state will derive from the
23 municipality or other local agency's undertaking maintenance or
24 landscaping costs that would otherwise be the obligation of the
25 state.

26 185234. The director may lease nonoperating right-of-way
27 areas to municipalities or other local agencies for public purposes,
28 and may contribute toward the cost of developing local parks and
29 other recreational facilities on those areas. The director may accept
30 as all or part of the consideration for the lease or for the state
31 contribution any substantial benefits the state will derive from the
32 municipality or other local agency's undertaking maintenance or
33 landscaping costs that would otherwise be the obligation of the
34 state. Those leases shall contain a provision that whenever the
35 leased land is needed for high-speed rail operating purposes the
36 lease shall terminate. The department is authorized to classify
37 portions of high-speed rail rights-of-way as nonoperating.

38 185236. (a) The department may acquire, by purchase, lease,
39 or eminent domain, any property necessary for the development
40 and implementation of the state's high-speed train program. The

1 power of eminent domain shall be exercised in accordance with
2 Title 7 (commencing with Section 1230.010) of Part 3 of the Code
3 of Civil Procedure.

4 (b) ~~The~~ *Notwithstanding any other provision of law, the*
5 authority constitutes the department's "governing body" within
6 the meaning of Section 1245.210 of the Code of Civil Procedure,
7 for purposes of the adoption of resolutions of necessity. *All*
8 *provisions of Title 7 (commencing with Section 1230.010) of Part*
9 *3 of the Code of Civil Procedure shall apply to the authority and*
10 *the department.*

11 (c) To the extent that the activities authorized by subdivision
12 (a) exceed the capacity of the department's existing workforce,
13 the department may contract with qualified individuals or firms
14 for engineering, surveying, and related technical services in
15 exercising its authority pursuant to subdivision (a).

16
17 CHAPTER 4. LEGAL MATTERS
18

19 185300. The department may employ its own legal staff or
20 contract with other state agencies for legal services, or both. The
21 department's legal counsel may represent the authority and the
22 department in any judicial proceeding.

23 185302. Any legal or equitable action brought against the
24 authority or the department shall be brought in a court of competent
25 jurisdiction in the County of Sacramento. For purposes of this
26 section, subdivision (1) of Section 401 of the Code of Civil
27 Procedure does not apply.

28
29 CHAPTER 5. TRANSITION PROVISIONS
30

31 185400. *The department shall assume and shall observe, keep,*
32 *and perform all of the responsibilities, liabilities, and obligations*
33 *of the authority existing, as of the effective date of this division,*
34 *under any law, except as otherwise set forth in this division, and*
35 *under any contract, bond, indenture, or other document, and the*
36 *assumption of those responsibilities, liabilities, and obligations of*
37 *the authority shall occur without any execution or filing of any*
38 *paper or any further act. Any reference to the authority in any law,*
39 *except as otherwise set forth in this division and subject to Section*
40 *185220, and in any contract, bond, indenture, or other document*

1 shall be deemed, on and after the effective date of this division, to
2 mean the department.

3 185402. All persons employed by the authority immediately
4 prior to the effective date of this division, except the executive
5 director, shall become employees of the department on the effective
6 date of this division on the same terms and conditions of
7 employment.

8 185404. If, as of the effective date of this division, the Governor
9 has not appointed a person to serve as director of the department,
10 the person serving as executive director of the authority
11 immediately prior to the effective date of this division shall become
12 the director on the effective date of this division. If, as of the
13 effective date of this division, the Governor has appointed a person
14 to serve as director of the department, that person shall become
15 the director upon the effective date of this division, and upon taking
16 office, and the person serving as executive director of the authority
17 immediately prior to the effective date of this division shall serve
18 as interim director of the department until the Governor's
19 appointee takes office.