

AMENDED IN SENATE JULY 13, 2011

AMENDED IN SENATE JUNE 21, 2011

AMENDED IN ASSEMBLY JUNE 1, 2011

AMENDED IN ASSEMBLY MARCH 16, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 145

**Introduced by Assembly Members Galgiani, Bonnie Lowenthal,
and Gordon**

January 13, 2011

An act to amend Section 13975 of the Government Code, and 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 145, as amended, Galgiani. High-speed rail.

Existing law, the California High-Speed ~~Train~~ *Rail* Act, creates the High-Speed Rail Authority with 9 members to develop and implement a high-speed train system in the state, with specified powers and duties. *Existing law, pursuant to that act, specifies the powers and duties of the authority, which include entering into contracts with private and public entities for the design, construction, and operation of high-speed trains, the acquisition of rights-of-way through purchase or eminent domain, and the relocation of highways and utilities, among other things. Existing law requires the authority to adopt and submit to the Legislature, every 2 years, a business plan. Existing law authorizes the authority to appoint an executive director, and authorizes the Governor to appoint up to 6 additional persons exempt from civil service. Existing*

law provides for the authority to establish an independent peer review group. 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. Existing law requires the authority to adopt and submit to the Legislature, every two years, a business plan.

This bill would revise and recast these provisions by repealing and reenacting the California High-Speed Train Act repeal all of the provisions of the California High-Speed Rail Act. The bill would enact a new California High-Speed Rail Act. The bill would continue the High-Speed Rail Authority in existence with limited responsibilities and would place the authority within the Business, Transportation and Housing Agency. The 5 members of the authority appointed by the Governor would be subject to Senate confirmation, but existing members could continue to serve the remainder of their terms. The bill would create the Department of High-Speed Trains within the Business, Transportation and Housing Agency. The bill would transfer certain of the existing powers and responsibilities of the authority to the department and would specify additional powers and duties of the department relative to implementation of the high-speed rail project. The bill would require the department to prepare the existing high-speed train business plan and a new high-speed train capital program every 2 years, which would both be reviewed and adopted by the authority after a public hearing prior to submittal to the Legislature. The director of the department would be appointed by the Governor, subject to Senate confirmation. The bill would authorize the authority to appoint an executive director, and would provide for the Governor to appoint up to 6 additional individuals exempt from civil service as authority staff. The bill would require the authority to adopt policies directing the development and implementation of high-speed rail, prepare and adopt a business plan and high-speed train capital program, establish a peer review group, select alignments for the routes of the high-speed train system established by law, adopt criteria for the award of franchises, and set fares or establish guidelines for the setting of fares. 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 and~~
16 ~~places the authority~~ within the Business, Transportation and
17 Housing Agency; ~~apportions between the authority and the new~~
18 ~~department existing and new powers, duties, rights, and obligations;~~
19 ~~and defines the relationship between the authority and the new~~
20 ~~department.~~

21 SEC. 2. Section 13975 of the Government Code is amended
22 to read:

23 13975. The Business and Transportation Agency in state
24 government is hereby renamed the Business, Transportation and
25 Housing Agency. The agency consists of the State Department of
26 Alcoholic Beverage Control, the Department of the California
27 Highway Patrol, the Department of Corporations, the Department
28 of Housing and Community Development, the Department of
29 Motor Vehicles, the Department of Real Estate, the Department
30 of Transportation, ~~the Department of High-Speed Trains,~~ the
31 Department of Financial Institutions, the Department of Managed
32 Health Care, ~~and~~ the Board of Pilot Commissioners for the Bays
33 of San Francisco, San Pablo, and Suisun; *the High-Speed Rail*
34 *Authority*; and the California Housing Finance Agency is also
35 located within the Business, Transportation and Housing Agency,
36 as specified in Division 31 (commencing with Section 50000) of
37 the Health and Safety Code.

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

3 SEC. 4. Division 19.5 (commencing with Section 185000) is
4 added to the Public Utilities Code, to read:

5
6 DIVISION 19.5. CALIFORNIA HIGH-SPEED RAIL ACT

7
8 CHAPTER 1. GENERAL PROVISIONS, FINDINGS, AND DEFINITIONS

9
10 185000. This division shall be known, and may be cited, as
11 the California High-Speed Rail Act.

12 185002. The Legislature hereby finds and declares all of the
13 following:

14 (a) California, over the past decades, has built an extensive
15 network of freeways and airports to meet the state’s growing
16 transportation needs.

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

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

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

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

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

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

35 (h) In order for the state to have a comprehensive network of
36 high-speed intercity train systems by the year 2020, similar to
37 California’s former freeway plan, it is necessary to designate an
38 entity with stable and predictable funding sources to implement
39 the plan.

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

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

9 185004. As used in this division, unless the context requires
10 otherwise, the following terms have the following meanings:

11 (a) “Authority” means the High-Speed Rail Authority. The
12 members of the authority constitute the board of the authority.

13 ~~(b) “Department” means the Department of High-Speed Trains.~~
14 ~~(c)~~

15 (b) “High-speed train” means intercity passenger train service
16 that utilizes an alignment and technology that makes it capable of
17 sustained speeds of ~~125~~ 200 miles per hour or greater.

18 ~~(d)~~

19 (c) “Secretary” means the Secretary of Business, Transportation
20 and Housing.

21
22 CHAPTER 2. THE HIGH-SPEED RAIL AUTHORITY

23
24 Article 1. Members of the Authority

25
26 185110. (a) The High-Speed Rail Authority in state
27 government is hereby continued in existence.

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

29 (A) Five members appointed by the Governor, with the advice
30 and consent of the Senate.

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 ~~185114. The authority shall appoint an executive director for~~
25 ~~the authority who shall serve at the pleasure of the authority. The~~
26 ~~executive director shall receive the salary established by the~~
27 ~~Director of Finance for exempt officials.~~

28 ~~185115. The executive director shall administer the affairs of~~
29 ~~the authority as directed by the authority and shall direct the staff~~
30 ~~of the authority.~~

31 ~~185116. The executive director may appoint, with the approval~~
32 ~~of the authority, such staff as necessary to carry out the provisions~~
33 ~~of this chapter. The authority may request the department, and the~~
34 ~~department shall have the authority to perform such work as the~~
35 ~~authority deems necessary to carry out its duties and~~
36 ~~responsibilities. The authority shall consider the expertise and~~
37 ~~resources available in the department for purposes of carrying out~~
38 ~~its duties and responsibilities. However, this does not preclude the~~
39 ~~authority from utilizing the services of other public or private~~
40 ~~entities.~~

1 185114. (a) *The authority shall appoint an executive director,*
2 *exempt from civil service, who shall serve at the pleasure of the*
3 *authority, to administer the affairs of the authority as directed by*
4 *the authority.*

5 (b) *For purposes of managing and administering the ongoing*
6 *work of the authority in implementing the high-speed train project,*
7 *the Governor, upon the recommendation of the executive director,*
8 *may appoint up to six additional individuals, exempt from civil*
9 *service, who shall serve at the pleasure of the executive director.*
10 *Pursuant to this subdivision, the Governor may appoint persons*
11 *only for the following positions:*

12 (1) *Chief program manager.*

13 (2) *Up to three regional directors.*

14 (3) *Chief financial officer.*

15 (4) *Director of risk management and project controls.*

16 (c) *The compensation of the executive director and the*
17 *additional persons authorized by subdivision (b) shall be*
18 *established by the authority, and approved by the Department of*
19 *Personnel Administration, in an amount that is reasonably*
20 *necessary, in the discretion of the authority, to attract and hold a*
21 *person of superior qualifications. The authority shall cause to be*
22 *conducted, through the use of independent outside advisers, a*
23 *salary survey to determine the compensation for the positions*
24 *under this subdivision. The Department of Personnel*
25 *Administration may, in its discretion, accept a previously completed*
26 *salary survey that meets the requirements of this subdivision, and*
27 *shall review the methodology used in the survey. The salary survey*
28 *shall consider both of the following:*

29 (1) *Other state, regional, and local transportation agencies that*
30 *are most comparable to the authority and its responsibilities.*

31 (2) *Other relevant labor pools.*

32 *The compensation set by the authority shall not exceed the*
33 *highest comparable compensation for a position of that type, as*
34 *determined by the salary survey. Based on the salary survey, these*
35 *positions shall be paid a salary established by the authority and*
36 *approved by the Department of Personnel Administration.*

37 (d) *The executive director may, as authorized by the authority,*
38 *appoint necessary staff to carry out the provisions of this part.*

39 185117. *The authority may sue or be sued.*

Article 2. Policies of the Authority

1
 2
 3 185120. ~~In consultation with the department, the~~*The* authority
 4 shall establish policies directing the development and
 5 implementation of intercity high-speed train service that is fully
 6 integrated with the state’s existing intercity rail and bus network,
 7 consisting of interlinked conventional and high-speed train lines
 8 and associated feeder buses. The intercity network in turn shall be
 9 fully coordinated and connected with commuter train lines and
 10 urban transit lines developed by local agencies, as well as other
 11 transit services, through the use of common station facilities
 12 whenever possible. ~~The department shall implement those policies.~~

13 185122. (a) The authority shall establish an independent peer
 14 review group for the purpose of reviewing the planning,
 15 engineering, financing, and other elements of the authority’s plans
 16 and issuing an analysis of appropriateness and accuracy of the
 17 authority’s assumptions and an analysis of the viability of the
 18 authority’s financing plan, including the funding plan for each
 19 corridor required pursuant to subdivision (c) of Section 2704.08
 20 of the Streets and Highways Code.

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

22 (1) Two individuals with experience in the construction or
 23 operation of high-speed trains in Europe, Asia, or both, designated
 24 by the Treasurer.

25 (2) Two individuals, one with experience in engineering and
 26 construction of high-speed trains and one with experience in project
 27 finance, designated by the Controller.

28 (3) One representative from a financial services or financial
 29 consulting firm who shall not have been a contractor or
 30 subcontractor of the authority for the previous three years,
 31 designated by the Director of Finance.

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

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

37 (c) The peer review group shall evaluate the authority’s funding
 38 plans and prepare its independent judgment as to the feasibility
 39 and reasonableness of the plans, appropriateness of assumptions,

1 analyses, and estimates, and any other observations or evaluations
2 it deems necessary.

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

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

9

10 Article 3. Powers, Duties, and Responsibilities of the Authority

11

12 185130. The authority has all of the following powers, duties,
13 and responsibilities:

14 (a) ~~The authority shall adopt criteria for the selection of the~~
15 ~~routes of the high-speed train system~~ *select the alignments for the*
16 *routes of the high-speed train system established pursuant to*
17 *Section 2704.04 of the Streets and Highways Code.*

18 (b) The authority shall serve as the governing body ~~of the~~
19 ~~department~~, within the meaning of Section 1245.210 of the Code
20 of Civil Procedure, for purposes of the adoption of resolutions of
21 necessity.

22 (c) The authority shall advise the secretary ~~and the director~~
23 concerning high-speed rail matters, ~~which advice shall be~~
24 ~~considered by the department in exercising its powers and duties~~
25 ~~pursuant to this division.~~

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

27 (e) The authority shall set fares or establish guidelines for the
28 setting of fares.

29 ~~185131. The authority shall not be involved with the day-to-day~~
30 ~~operation of the department and is specifically prohibited from~~
31 ~~taking part in the employment of department personnel.~~

32 *185131. (a) The authority shall prepare, publish, adopt, and*
33 *submit to the Legislature, not later than January 1, 2012, and*
34 *every two years thereafter, a business plan. At least 60 days prior*
35 *to the publication of the plan, the authority shall publish a draft*
36 *business plan for public review and comment. The draft plan shall*
37 *also be submitted to the Senate Committee on Transportation and*
38 *Housing, the Assembly Committee on Transportation, the Senate*
39 *Committee on Budget and Fiscal Review, and the Assembly*
40 *Committee on Budget. The business plan shall identify all of the*

1 following: the type of service the authority anticipates it will
2 develop, such as local, express, commuter, regional, or
3 interregional; a description of the primary benefits the system will
4 provide; a forecast of the anticipated patronage, operating and
5 maintenance costs, and capital costs for the system; an estimate
6 and description of the total anticipated federal, state, local, and
7 other funds the authority intends to access to fund the construction
8 and operation of the system; and the proposed chronology for the
9 construction of the eligible corridors of the statewide high-speed
10 train system. The business plan shall also include a discussion of
11 all reasonably foreseeable risks the project may encounter;
12 including, but not limited to, risks associated with the project's
13 finances, patronage, right-of-way acquisition, environmental
14 clearances, construction, equipment, and technology, and other
15 risks associated with the project's development. The plan shall
16 describe the authority's strategies, processes, or other actions it
17 intends to utilize to manage those risks.

18 (b) (1) In addition to the requirements of subdivision (a), the
19 business plan shall include, but need not be limited to, all of the
20 following elements:

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

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

37 (C) Identify the expected schedule for completing environmental
38 review, and initiating and completing construction for each
39 segment of Phase 1.

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

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

9 (F) Identify alternative public-private development strategies
10 for the implementation of Phase 1.

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

23 185132. The authority shall hold at least one public hearing
24 on the business plan prepared by the department pursuant to Section
25 ~~185224~~. The authority shall review the plan, and adopt the plan at
26 a regularly scheduled meeting. When reviewing and adopting the
27 plan, the authority shall take into consideration comments from
28 the public at the public hearing, written comments that it receives
29 in that regard, and comments from any hearings that the Legislature
30 may hold prior to adoption by the authority.

31 185133. (a) The authority shall prepare, publish, and adopt,
32 and subsequently submit to the Legislature and the Governor, not
33 later than November 1 of each even-numbered year, a high-speed
34 train capital program. The program shall cover a period of six
35 fiscal years, beginning July 1 of the year following the year it is
36 submitted, and shall be a statement of intent by the authority to
37 request funding in the annual Budget Act for the following six
38 years. The program shall be submitted pursuant to this section
39 notwithstanding Section 10231.5 of the Government Code.

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

5 (c) For each segment, the program shall specify the expenditure
6 amount and the expenditure year for each of the following project
7 components:

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

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

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

12 (4) Construction and construction management and engineering,
13 including surveys and inspection.

14 (5) Any additional components the authority may deem
15 appropriate.

16 ~~185133.~~

17 185134. The authority shall hold at least one public hearing
18 on the high-speed train capital program prepared by the department
19 pursuant to Section 185226. The authority shall review the
20 program, and adopt the program at a regularly scheduled meeting.
21 When reviewing and adopting the program, the authority shall take
22 into consideration comments from the public at the public hearing
23 and written comments that it receives in that regard.

24

25 ~~CHAPTER 3. DEPARTMENT OF HIGH-SPEED TRAINS~~

26

27 ~~Article 1. Organization of the Department~~

28

29 ~~185210. There is in the Business, Transportation and Housing~~
30 ~~Agency a Department of High-Speed Trains.~~

31 ~~185211. The department is under the control of a director~~
32 ~~known as the Director of High-Speed Trains.~~

33 ~~185212. The director shall be appointed by the Governor, with~~
34 ~~the advice and consent of the Senate, and hold office at the pleasure~~
35 ~~of the Governor.~~

36 ~~185213. The director shall perform all duties, exercise all~~
37 ~~powers and jurisdiction, assume and discharge all responsibilities,~~
38 ~~and carry out and effect all purposes vested by law in the~~
39 ~~department, except as otherwise expressly provided by law.~~

1 185214. The director shall organize the department from time
2 to time in the manner the director deems necessary to properly
3 segregate and conduct the work of the department. The director
4 may organize the department into as many divisions as, in the
5 director's judgment, will provide for the efficient administration
6 of the high-speed train project and planning, construction, and
7 operation of the high-speed train system.

8 185215. (a) For purposes of managing and administering the
9 ongoing work of the department in implementing the high-speed
10 train project, the Governor, upon the recommendation of the
11 director, may appoint up to six additional individuals, exempt from
12 civil service, who shall serve at the pleasure of the director.
13 Pursuant to this subdivision, the Governor may appoint persons
14 only for the following positions:

- 15 (1) Chief program manager.
- 16 (2) Up to three regional directors.
- 17 (3) Chief financial officer.
- 18 (4) Director of risk management and project controls.

19 (b) The compensation of the director and the additional persons
20 authorized by subdivision (a) shall be established by the
21 Department of Personnel Administration in an amount that is
22 reasonably necessary to attract and hold a person of superior
23 qualifications. The Department of Personnel Administration shall
24 cause to be conducted, through the use of independent outside
25 advisers, a salary survey to determine the compensation for the
26 positions under Section 185212 and this section. The Department
27 of Personnel Administration may, in its discretion, accept a
28 previously completed salary survey that meets the requirements
29 of this subdivision, and shall review the methodology used in the
30 survey. The salary survey shall consider both of the following:

- 31 (1) Other state, regional, and local transportation agencies that
32 are most comparable to the authority and its responsibilities.
- 33 (2) Other relevant labor pools.

34 The compensation set by the Department of Personnel
35 Administration shall not exceed the highest comparable
36 compensation for a position of that type, as determined by the
37 salary survey. Based on the salary survey, these positions shall be
38 paid a salary established and approved by the Department of
39 Personnel Administration.

1 ~~(e) Persons appointed for the six additional positions by the~~
2 ~~authority pursuant to subdivisions (b) and (c) of former Section~~
3 ~~185024, as amended by Chapter 6 of the Statutes of 2011, may be~~
4 ~~retained by the department to serve at the pleasure of the director~~
5 ~~in the capacities referenced in subdivision (a) without the~~
6 ~~requirement for reappointment.~~

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

19 ~~185218. (a) The authorization and responsibility for planning,~~
20 ~~construction, and operation of high-speed passenger train service~~
21 ~~at speeds exceeding 125 miles per hour in this state is exclusively~~
22 ~~granted to the department.~~

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

27
28 ~~Article 2. Powers and Duties of the Department~~
29

30 ~~185220. (a) The department shall have all the powers, duties,~~
31 ~~and responsibilities of the authority under the Safe, Reliable~~
32 ~~High-Speed Passenger Train Bond Act for the 21st Century~~
33 ~~(Chapter 20 (commencing with Section 2704) of Division 3 of the~~
34 ~~Streets and Highways Code), and the department shall be the~~
35 ~~successor of the authority pursuant to subdivision (b) of Section~~
36 ~~2704.01 of the Streets and Highways Code for all purposes under~~
37 ~~that bond act. However, nothing in this section modifies Section~~
38 ~~2704.12 of the Streets and Highways Code.~~

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

- 1 ~~(1) Conduct engineering and other studies related to the selection~~
2 ~~and acquisition of rights-of-way and the selection of a franchisee,~~
3 ~~including, but not limited to, environmental impact studies,~~
4 ~~socioeconomic impact studies, and financial feasibility studies.~~
- 5 ~~(2) Evaluate alternative high-speed train technologies, systems~~
6 ~~and operators, and select an appropriate high-speed train system.~~
- 7 ~~(3) Accept grants, fees, and allocations from the state, from~~
8 ~~political subdivisions of the state, or from the federal government,~~
9 ~~foreign governments, and private sources.~~
- 10 ~~(4) Select franchisees, routes, and terminal sites consistent with~~
11 ~~criteria adopted by the authority.~~
- 12 ~~(5) Enter into contracts with public and private entities for the~~
13 ~~preparation of high-speed train system plans.~~
- 14 ~~(6) Prepare a detailed financing plan, including any necessary~~
15 ~~taxes, fees, or bonds to pay for the construction of the high-speed~~
16 ~~train network.~~
- 17 ~~(7) Develop a proposed high-speed train financial plan, including~~
18 ~~necessary taxes, bonds, or both, or other indebtedness, and submit~~
19 ~~the plan to the Legislature and to the Governor.~~
- 20 ~~(8) Keep the public informed of its activities.~~
- 21 ~~(9) Enter into contracts with private or public entities, including~~
22 ~~contracts for the design, construction, and operation of high-speed~~
23 ~~trains. The contracts may be separated into individual tasks or~~
24 ~~segments or may include all tasks and segments, including any~~
25 ~~combination of one or more of such tasks as design, build, finance,~~
26 ~~operate, and maintain.~~
- 27 ~~(10) Acquire rights-of-way through purchase or eminent domain.~~
- 28 ~~(11) Subject to approval by the authority board, issue debt,~~
29 ~~secured by pledges of state funds, federal grants, or project~~
30 ~~revenues. The pledge of state funds shall be limited to those funds~~
31 ~~expressly authorized by statute or voter-approved initiatives.~~
- 32 ~~(12) Enter into cooperative or joint development agreements~~
33 ~~with local governments or private entities.~~
- 34 ~~(13) Relocate highways and utilities.~~
- 35 ~~(14) Plan, construct, and operate the high-speed train system,~~
36 ~~or enter into contracts for the planning, construction, or operation~~
37 ~~of the system, including the acquisition of equipment, including~~
38 ~~rolling stock, necessary for the operation of the system.~~
- 39 ~~(15) Acquire, sell, and lease passenger rail rolling stock, power~~
40 ~~units, and associated equipment.~~

1 ~~(16) Acquire, lease, design, construct, and improve track lines~~
2 ~~and related facilities, and contract with the private sector for the~~
3 ~~design, improvement, or construction of track lines and related~~
4 ~~facilities.~~

5 ~~185222. (a) Notwithstanding any other provision of law, for~~
6 ~~any project along the high-speed rail network, the department may~~
7 ~~contract with the Department of Transportation to perform project~~
8 ~~design and engineering services, including construction inspection~~
9 ~~services.~~

10 ~~(b) For purposes of this section, “project design and engineering~~
11 ~~services, including construction inspection services” means~~
12 ~~preliminary engineering, planning, prebid services, right-of-way~~
13 ~~acquisitions, preparation of environmental documents, preparation~~
14 ~~of plans, specifications, and estimates, construction inspection~~
15 ~~including surveying and materials testing, quality control inspection~~
16 ~~including highway and utility relocation, and grade separations.~~

17 ~~185224. (a) The department shall prepare, publish, and submit~~
18 ~~to the authority for review and adoption, and subsequent submittal~~
19 ~~to the Legislature, not later than January 1, 2012, and September~~
20 ~~1, 2014, and every two years thereafter, a business plan. At least~~
21 ~~60 days prior to the publication of the plan, the department shall~~
22 ~~publish a draft business plan for public review and comment. The~~
23 ~~draft plan shall also be submitted to the Senate Committee on~~
24 ~~Transportation and Housing, the Assembly Committee on~~
25 ~~Transportation, the Senate Committee on Budget and Fiscal~~
26 ~~Review, and the Assembly Committee on Budget. The business~~
27 ~~plan shall identify all of the following: the type of service the~~
28 ~~department anticipates it will develop, such as local, express,~~
29 ~~commuter, regional, or interregional; a description of the primary~~
30 ~~benefits the system will provide; a forecast of the anticipated~~
31 ~~patronage, operating and maintenance costs, and capital costs for~~
32 ~~the system; an estimate and description of the total anticipated~~
33 ~~federal, state, local, and other funds the department intends to~~
34 ~~access to fund the construction and operation of the system; and~~
35 ~~the proposed chronology for the construction of the eligible~~
36 ~~corridors of the statewide high-speed train system. The business~~
37 ~~plan shall also include a discussion of all reasonably foreseeable~~
38 ~~risks the project may encounter, including, but not limited to, risks~~
39 ~~associated with the project’s finances, patronage, right-of-way~~
40 ~~acquisition, environmental clearances, construction, equipment,~~

1 technology, and other risks associated with the project's
2 development. The business plan shall describe the department's
3 strategies, processes, or other actions it intends to utilize to manage
4 those risks. The business plan shall be submitted pursuant to this
5 section notwithstanding Section 10231.5 of the Government Code.

6 (b) (1) In addition to the requirements of subdivision (a), the
7 business plan shall include, but need not be limited to, all of the
8 following elements:

9 (A) Using the most recent patronage forecast for the system,
10 develop a forecast of the expected patronage and service levels
11 for the Phase 1 corridor as identified in paragraph (2) of subdivision
12 (b) of Section 2704.04 of the Streets and Highways Code and by
13 each segment or combination of segments for which a project level
14 environmental analysis is being prepared for Phase 1. The forecast
15 shall assume a high, medium, and low level of patronage and a
16 realistic operating planning scenario for each level of service.
17 Alternative fare structures shall be considered when determining
18 the level of patronage.

19 (B) Based on the patronage forecast in subparagraph (A),
20 develop alternative financial pro formas for the different levels of
21 service, and identify the operating break-even points for each
22 alternative. Each pro forma shall assume the terms of subparagraph
23 (J) of paragraph (2) of subdivision (c) of Section 2704.08 of the
24 Streets and Highways Code.

25 (C) Identify the expected schedule for completing environmental
26 review, and initiating and completing construction for each segment
27 of Phase 1.

28 (D) Identify the source of federal, state, and local funds available
29 for the project that will augment funds from the bond act and the
30 level of confidence for obtaining each type of funding.

31 (E) Identify written agreements with public or private entities
32 to fund components of the high-speed rail system, including
33 stations and terminals, any impediments to the completion of the
34 system, such as the inability to gain access to existing railroad
35 rights-of-way.

36 (F) Identify alternative public-private development strategies
37 for the implementation of Phase 1.

38 (2) To the extent feasible, the business plan should draw upon
39 information and material developed according to other
40 requirements, including, but not limited to, the preappropriation

1 review process and the preexpenditure review process in the Safe,
2 Reliable High-Speed Passenger Train Bond Act for the 21st
3 Century pursuant to Section 2704.08 of the Streets and Highways
4 Code.

5 185226. (a) The department shall prepare, publish, and submit
6 to the authority for review and adoption, and subsequent submittal
7 to the Legislature and the Governor, not later than November 1 of
8 each even-numbered year, a high-speed train capital program. The
9 program shall cover a period of six fiscal years, beginning July 1
10 of the year following the year it is submitted, and shall be a
11 statement of intent by the department to request funding in the
12 annual Budget Act for the following six years. The program shall
13 be submitted pursuant to this section notwithstanding Section
14 10231.5 of the Government Code.

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

19 (c) For each segment, the program shall specify the expenditure
20 amount and the expenditure year for each of the following project
21 components:

- 22 (1) Completion of all permits and environmental studies.
- 23 (2) Preparation of plans, specifications, and estimates.
- 24 (3) The acquisition of rights-of-way, including, but not limited
25 to, support activities.
- 26 (4) Construction and construction management and engineering,
27 including surveys and inspection.
- 28 (5) Any additional components the department may deem
29 appropriate.

30
31 CHAPTER 4.3. LEGAL MATTERS
32

33 185300. Any legal or equitable action brought against the
34 authority or the department shall be brought in a court of competent
35 jurisdiction in the County of Sacramento. For purposes of this
36 section, subdivision (1) of Section 401 of the Code of Civil
37 Procedure does not apply.

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