

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 and Bonnie Lowenthal,
Bonnie Lowenthal, and Gordon
(Coauthor: Assembly Member 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 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, 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. The bill would continue the High-Speed Rail Authority in existence ~~solely as an advisory body,~~ notwithstanding any other provision of law *with limited responsibilities.*

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, ~~and the Governor would be authorized to appoint up to 10 officers 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, *subject to Senate confirmation.* 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 within
- 16 the Business, Transportation and Housing Agency; apportions
- 17 between the authority and the new department existing and new

1 powers, duties, rights, and obligations; and defines the relationship
2 between the authority and the new department.

3 *SEC. 2. Section 13975 of the Government Code is amended to*
4 *read:*

5 13975. The Business and Transportation Agency in state
6 government is hereby renamed the Business, Transportation and
7 Housing Agency. The agency consists of the State Department of
8 Alcoholic Beverage Control, the Department of the California
9 Highway Patrol, the Department of Corporations, the Department
10 of Housing and Community Development, the Department of
11 Motor Vehicles, the Department of Real Estate, the Department
12 of Transportation, *the Department of High-Speed Trains*, the
13 Department of Financial Institutions, the Department of Managed
14 Health Care, and the Board of Pilot Commissioners for the Bays
15 of San Francisco, San Pablo, and Suisun; and the California
16 Housing Finance Agency is also located within the Business,
17 Transportation and Housing Agency, as specified in Division 31
18 (commencing with Section 50000) of the Health and Safety Code.

19 ~~SEC. 2.~~

20 *SEC. 3.* Division 19.5 (commencing with Section 185000) of
21 the Public Utilities Code is repealed.

22 ~~SEC. 3.~~

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

25

26 DIVISION 19.5. CALIFORNIA HIGH-SPEED RAIL ACT

27

28 CHAPTER 1. GENERAL PROVISIONS, FINDINGS, AND DEFINITIONS

29

30 185000. This division shall be known, and may be cited, as
31 the California High-Speed Rail Act.

32 185002. The Legislature hereby finds and declares all of the
33 following:

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

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

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

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

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

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

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

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

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

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

28 185004. As used in this division, unless the context requires
29 otherwise, the following terms have the following meanings:

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

32 (b) “Department” means the Department of High-Speed Trains.

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

36 (d) “Secretary” means the Secretary of Business, Transportation
37 and Housing.

1 CHAPTER 2. THE HIGH-SPEED RAIL AUTHORITY

2
3 Article 1. Members of the Authority

4
5 185110. (a) The High-Speed Rail Authority in state
6 government is hereby continued in existence.

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

8 (A) Five members appointed by the Governor, *with the advice*
9 *and consent of the Senate.*

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

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

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

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

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

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

24 (f) From among its members, the authority shall elect a
25 chairperson, who shall preside at all meetings of the authority, and
26 a vice chairperson to preside in the absence of the chairperson.
27 The chairperson shall serve a term of one year.

28 (g) Five members of the authority constitute a quorum for taking
29 any action by the authority. *Nothing in the foregoing shall limit*
30 *any law requiring a vote of more than a simple majority for the*
31 *taking of any action by the authority.*

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

35 185112. (a) Each member of the authority shall receive
36 compensation of one hundred dollars (\$100) for each day that the
37 member is attending to the business of the authority, but shall not
38 receive more than five hundred dollars (\$500) in any calendar
39 month.

1 (b) Members of the authority shall be reimbursed for their actual
2 travel expenses incurred in attending to the business of the
3 authority.

4 ~~185113. Notwithstanding any other provision of law, including,
5 but not limited to, Article 2 (commencing with Section 185120)
6 and Article 3 (commencing with Section 185130) of this chapter,
7 and Chapter 3 (commencing with Section 185210), the authority
8 is solely an advisory body, and shall exercise no state powers or
9 responsibilities other than to provide advice. This section shall
10 supersede, and take precedence over, any other provision of law
11 inconsistent with this section.~~

12 *185114. The authority shall appoint an executive director for
13 the authority who shall serve at the pleasure of the authority. The
14 executive director shall receive the salary established by the
15 Director of Finance for exempt officials.*

16 *185115. The executive director shall administer the affairs of
17 the authority as directed by the authority and shall direct the staff
18 of the authority.*

19 *185116. The executive director may appoint, with the approval
20 of the authority, such staff as necessary to carry out the provisions
21 of this chapter. The authority may request the department, and the
22 department shall have the authority to perform such work as the
23 authority deems necessary to carry out its duties and
24 responsibilities. The authority shall consider the expertise and
25 resources available in the department for purposes of carrying
26 out its duties and responsibilities. However, this does not preclude
27 the authority from utilizing the services of other public or private
28 entities.*

29 *185117. The authority may sue or be sued.*

30

31 Article 2. Policies of the Authority

32

33 185120. In consultation with the department, the authority shall
34 establish policies directing the development and implementation
35 of intercity high-speed train service that is fully integrated with
36 the state’s existing intercity rail and bus network, consisting of
37 interlinked conventional and high-speed train lines and associated
38 feeder buses. The intercity network in turn shall be fully
39 coordinated and connected with commuter train lines and urban
40 transit lines developed by local agencies, as well as other transit

1 services, through the use of common station facilities whenever
2 possible. The department shall implement those policies.

3 185122. (a) The authority shall establish an independent peer
4 review group for the purpose of reviewing the planning,
5 engineering, financing, and other elements of the authority's plans
6 and issuing an analysis of appropriateness and accuracy of the
7 authority's assumptions and an analysis of the viability of the
8 authority's financing plan, including the funding plan for each
9 corridor required pursuant to subdivision (c) of Section 2704.08
10 of the Streets and Highways Code.

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

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

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

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

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

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

27 (c) The peer review group shall evaluate the authority's funding
28 plans and prepare its independent judgment as to the feasibility
29 and reasonableness of the plans, appropriateness of assumptions,
30 analyses, and estimates, and any other observations or evaluations
31 it deems necessary.

32 (d) The authority and the department shall provide the peer
33 review group any and all information that the peer review group
34 may request to carry out its responsibilities.

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

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

2

3 185130. The authority has all of the following powers, duties,
4 and responsibilities:

5 (a) The authority shall ~~select~~ *adopt criteria for the selection of*
6 the routes of the high-speed train system.

7 (b) The authority shall serve as the governing body of the
8 department, within the meaning of Section 1245.210 of the Code
9 of Civil Procedure, for purposes of the adoption of resolutions of
10 necessity.

11 (c) The authority shall advise the secretary and the director
12 concerning high-speed rail matters, which advice shall be
13 considered by the department in exercising its powers and duties
14 pursuant to this division.

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

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

18 ~~185132. (a) The authority shall adopt and submit to the~~
19 ~~Legislature and the Governor, not later than October 1 each year,~~
20 ~~a high-speed train program. The program shall cover a period of~~
21 ~~six fiscal years, beginning July 1 of the year following the year it~~
22 ~~is adopted, and shall be a statement of intent by the department to~~
23 ~~request funding in the annual Budget Act for the following six~~
24 ~~years. The program shall be submitted annually notwithstanding~~
25 ~~Section 10231.5 of the Government Code.~~

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

30 ~~(c) For each segment, the program shall specify the expenditure~~
31 ~~amount and the expenditure year for each of the following project~~
32 ~~components:~~

33 ~~(1) Completion of all permits and environmental studies.~~

34 ~~(2) Preparation of plans, specifications, and estimates.~~

35 ~~(3) The acquisition of rights-of-way, including, but not limited~~
36 ~~to, support activities.~~

37 ~~(4) Construction and construction management and engineering,~~
38 ~~including surveys and inspection.~~

1 185131. *The authority shall not be involved with the day-to-day*
2 *operation of the department and is specifically prohibited from*
3 *taking part in the employment of department personnel.*

4 185132. *The authority shall hold at least one public hearing*
5 *on the business plan prepared by the department pursuant to*
6 *Section 185224. The authority shall review the plan, and adopt*
7 *the plan at a regularly scheduled meeting. When reviewing and*
8 *adopting the plan, the authority shall take into consideration*
9 *comments from the public at the public hearing, written comments*
10 *that it receives in that regard, and comments from any hearings*
11 *that the Legislature may hold prior to adoption by the authority.*

12 185133. *The authority shall hold at least one public hearing*
13 *on the high-speed train capital program prepared by the*
14 *department pursuant to Section 185226. The authority shall review*
15 *the program, and adopt the program at a regularly scheduled*
16 *meeting. When reviewing and adopting the program, the authority*
17 *shall take into consideration comments from the public at the*
18 *public hearing and written comments that it receives in that regard.*

19
20 CHAPTER 3. DEPARTMENT OF HIGH-SPEED TRAINS

21
22 Article 1. Organization of the Department

23
24 185210. There is in the Business, Transportation and Housing
25 Agency a Department of High-Speed Trains.

26 185211. The department is under the control of a director
27 known as the Director of High-Speed Trains.

28 185212. The director shall be appointed by the Governor, *with*
29 *the advice and consent of the Senate*, and hold office at the pleasure
30 of the ~~authority~~ Governor.

31 185213. The director shall perform all duties, exercise all
32 powers and jurisdiction, assume and discharge all responsibilities,
33 and carry out and effect all purposes vested by law in the
34 department, except as otherwise expressly provided by law.

35 185214. The director shall organize the department from time
36 to time in the manner the director deems necessary to properly
37 segregate and conduct the work of the department. The director
38 may organize the department into as many divisions as, in the
39 director's judgment, will provide for the efficient administration

1 of the high-speed train project and planning, construction, and
2 operation of the high-speed train system.

3 ~~185215. (a) For purposes of overseeing the ongoing work of~~
4 ~~the department, the organization of the department may include~~
5 ~~provision for up to 10 officers exempt from civil service who shall~~
6 ~~constitute the executive staff of the department, who shall be~~
7 ~~appointed by the Governor, and who shall serve at the pleasure of~~
8 ~~the director.~~

9 ~~(b) Notwithstanding Sections 19816 and 19825 of the~~
10 ~~Government Code, the compensation of key exempt management,~~
11 ~~including the director and the exempt positions described in~~
12 ~~subdivision (a), shall be established by the authority board in~~
13 ~~amounts that are reasonably necessary, in the discretion of the~~
14 ~~board, to attract and hold a person of superior qualifications.~~

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

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

21 ~~(B) Other relevant labor pools.~~

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

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

27 ~~185216. The Governor, the secretary, and the department may~~
28 ~~enter into any agreements, execute any documents, establish and~~
29 ~~manage any accounts and deposits, and take any other action that~~
30 ~~may be appropriate, in accordance with federal law and rules and~~
31 ~~regulations, to receive and expend funds from the federal~~
32 ~~government in connection with mass transportation programs and~~
33 ~~projects for which federal funds are available.~~

34 ~~185217. The department shall prepare and submit to the~~
35 ~~Legislature and to the authority board an annual report, no later~~
36 ~~than December 1 of each year. The report shall include a~~
37 ~~description of the progress made and the high-speed train program~~
38 ~~adopted by the authority. The report shall be submitted annually,~~
39 ~~notwithstanding Section 10231.5 of the Government Code.~~

1 185215. (a) For purposes of managing and administering the
2 ongoing work of the department in implementing the high-speed
3 train project, the Governor, upon the recommendation of the
4 director, may appoint up to six additional individuals, exempt from
5 civil service, who shall serve at the pleasure of the director.
6 Pursuant to this subdivision, the Governor may appoint persons
7 only for the following positions:

- 8 (1) Chief program manager.
- 9 (2) Up to three regional directors.
- 10 (3) Chief financial officer.
- 11 (4) Director of risk management and project controls.

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

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

27 The compensation set by the Department of Personnel
28 Administration shall not exceed the highest comparable
29 compensation for a position of that type, as determined by the
30 salary survey. Based on the salary survey, these positions shall be
31 paid a salary established and approved by the Department of
32 Personnel Administration.

33 (c) Persons appointed for the six additional positions by the
34 authority pursuant to subdivisions (b) and (c) of former Section
35 185024, as amended by Chapter 6 of the Statutes of 2011, may be
36 retained by the department to serve at the pleasure of the director
37 in the capacities referenced in subdivision (a) without the
38 requirement for reappointment.

39 (d) If, as of the effective date of this division, the Governor has
40 not appointed a person to serve as director of the department, the

1 *person serving as executive director of the authority immediately*
 2 *prior to the effective date of this division shall become the director*
 3 *on the effective date of this division. If, as of the effective date of*
 4 *this division, the Governor has appointed a person to serve as*
 5 *director of the department, that person shall become the director*
 6 *upon the effective date of this division, and upon taking office, and*
 7 *the person serving as executive director of the authority*
 8 *immediately prior to the effective date of this division shall serve*
 9 *as interim director of the department until the Governor's*
 10 *appointee takes office.*

11 185218. (a) The authorization and responsibility for planning,
 12 construction, and operation of high-speed passenger train service
 13 at speeds exceeding 125 miles per hour in this state is exclusively
 14 granted to the department.

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

19
 20

Article 2. Powers and Duties of the Department

21

22 185220. (a) The department shall have ~~those~~ *all the* powers,
 23 duties, and responsibilities ~~delegated to~~ *of the authority pursuant*
 24 ~~to~~ *under the Safe, Reliable High-Speed Passenger Train Bond Act*
 25 ~~of 2008 for the 21st Century~~ (Chapter 20 (commencing with
 26 Section 2704) of Division 3 of the Streets and Highways Code),
 27 ~~except as provided otherwise in Article 3 (commencing with~~
 28 ~~Section 185130) of Chapter 2. In that regard and to that extent,~~
 29 *and the department shall be the successor of the authority pursuant*
 30 *to subdivision (b) of Section 2704.01 of the Streets and Highways*
 31 *Code for all purposes under that bond act. Subject However,*
 32 *nothing in this section modifies Section 2704.12 of the Streets and*
 33 *Highways Code.*

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

36 (a)

37 (1) Conduct engineering and other studies related to the selection
 38 and acquisition of rights-of-way and the selection of a franchisee,
 39 including, but not limited to, environmental impact studies,
 40 socioeconomic impact studies, and financial feasibility studies.

- 1 ~~(b)~~
- 2 (2) Evaluate alternative high-speed train technologies, systems
- 3 and operators, and select an appropriate high-speed train system.
- 4 ~~(c) Award franchises consistent with criteria adopted by the~~
- 5 ~~authority.~~
- 6 ~~(d)~~
- 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 ~~(e)~~
- 11 ~~(4) Select a proposed franchisee, a proposed route, and proposed~~
- 12 ~~franchisees, routes, and terminal sites consistent with criteria~~
- 13 ~~adopted by the authority.~~
- 14 ~~(f)~~
- 15 (5) Enter into contracts with public and private entities for the
- 16 preparation of the ~~plan~~ *high-speed train system plans*.
- 17 ~~(g)~~
- 18 (6) Prepare a detailed financing plan, including any necessary
- 19 taxes, fees, or bonds to pay for the construction of the high-speed
- 20 train network.
- 21 ~~(h)~~
- 22 (7) Develop a proposed high-speed train financial plan, including
- 23 necessary taxes, bonds, or both, or other indebtedness, and submit
- 24 the plan to the Legislature and to the Governor.
- 25 ~~(i)~~
- 26 (8) Keep the public informed of its activities.
- 27 ~~(j)~~
- 28 (9) Enter into contracts with private or public entities, including
- 29 contracts for the design, construction, and operation of high-speed
- 30 trains. The contracts may be separated into individual tasks or
- 31 segments or may include all tasks and segments, including any
- 32 combination of one or more of such tasks as design, build, finance,
- 33 operate, and maintain.
- 34 ~~(k)~~
- 35 (10) Acquire rights-of-way through purchase or eminent domain.
- 36 ~~(l)~~
- 37 (11) Subject to approval by the authority board, issue debt,
- 38 secured by pledges of state funds, federal grants, or project
- 39 revenues. The pledge of state funds shall be limited to those funds
- 40 expressly authorized by statute or voter-approved initiatives.

1 ~~(m)~~
2 (12) Enter into cooperative or joint development agreements
3 with local governments or private entities.

4 ~~(n)~~
5 (13) Relocate highways and utilities.

6 ~~(o)~~
7 (14) Plan, construct, and operate the high-speed train system,
8 or enter into contracts for the planning, construction, or operation
9 of the system, including the acquisition of equipment, including
10 rolling stock, necessary for the operation of the system.

11 ~~(p)~~
12 (15) Acquire, sell, and lease passenger rail rolling stock, power
13 units, and associated equipment.

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

19 185222. (a) Notwithstanding any other provision of law, ~~and~~
20 ~~subject to approval by the authority board,~~ for any project along
21 the high-speed rail network, the department may contract with the
22 Department of Transportation to perform project design and
23 engineering services, including construction inspection services.

24 (b) For purposes of this section, “project design and engineering
25 services, including construction inspection services” means
26 preliminary engineering, planning, prebid services, right-of-way
27 acquisitions, preparation of environmental documents, preparation
28 of plans, specifications, and estimates, construction inspection
29 including surveying and materials testing, quality control inspection
30 including highway and utility relocation, and grade separations.

31
32 ~~Article 3. Rights-of-Way~~

33
34 185230. ~~(a) If the department determines that real property or~~
35 ~~an interest therein, previously or hereafter acquired by the state~~
36 ~~for high-speed rail purposes, is no longer necessary for those~~
37 ~~purposes, the department may sell, contract to sell, sell by trust~~
38 ~~deed, or exchange the real property or interest therein in the manner~~
39 ~~and upon terms, standards, and conditions established by the~~
40 ~~authority. The payment period in a contract of sale or sale by trust~~

1 deed shall not extend longer than 10 years from the time the
2 contract of sale or trust deed is executed, and a transaction
3 involving a contract of sale or sale by trust deed to private parties
4 shall require a downpayment of at least 30 percent of the purchase
5 price.

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

11 (c) ~~Any real property or interest therein may in like manner be~~
12 ~~exchanged, either as whole or part consideration, for any other~~
13 ~~real property or interest therein as needed for high-speed rail~~
14 ~~purposes.~~

15 185232. ~~The director may sell or lease excess right-of-way~~
16 ~~parcels to municipalities or other local agencies for public purposes,~~
17 ~~and may accept as all or part of the consideration for the sale or~~
18 ~~lease any substantial benefits the state will derive from the~~
19 ~~municipality or other local agency's undertaking maintenance or~~
20 ~~landscaping costs that would otherwise be the obligation of the~~
21 ~~state.~~

22 185234. ~~The director may lease nonoperating right-of-way~~
23 ~~areas to municipalities or other local agencies for public purposes,~~
24 ~~and may contribute toward the cost of developing local parks and~~
25 ~~other recreational facilities on those areas. The director may accept~~
26 ~~as all or part of the consideration for the lease or for the state~~
27 ~~contribution any substantial benefits the state will derive from the~~
28 ~~municipality or other local agency's undertaking maintenance or~~
29 ~~landscaping costs that would otherwise be the obligation of the~~
30 ~~state. Those leases shall contain a provision that whenever the~~
31 ~~leased land is needed for high-speed rail operating purposes the~~
32 ~~lease shall terminate. The department is authorized to classify~~
33 ~~portions of high-speed rail rights-of-way as nonoperating.~~

34 185236. (a) ~~The department may acquire, by purchase, lease,~~
35 ~~or eminent domain, any property necessary for the development~~
36 ~~and implementation of the state's high-speed train program. The~~
37 ~~power of eminent domain shall be exercised in accordance with~~
38 ~~Title 7 (commencing with Section 1230.010) of Part 3 of the Code~~
39 ~~of Civil Procedure.~~

1 ~~(b) The authority constitutes the department’s “governing body”~~
 2 ~~within the meaning of Section 1245.210 of the Code of Civil~~
 3 ~~Procedure, for purposes of the adoption of resolutions of necessity.~~

4 ~~(e) To the extent that the activities authorized by subdivision~~
 5 ~~(a) exceed the capacity of the department’s existing workforce,~~
 6 ~~the department may contract with qualified individuals or firms~~
 7 ~~for engineering, surveying, and related technical services in~~
 8 ~~exercising its authority pursuant to subdivision (a).~~

9 *185224. (a) The department shall prepare, publish, and submit*
 10 *to the authority for review and adoption, and subsequent submittal*
 11 *to the Legislature, not later than January 1, 2012, and September*
 12 *1, 2014, and every two years thereafter, a business plan. At least*
 13 *60 days prior to the publication of the plan, the department shall*
 14 *publish a draft business plan for public review and comment. The*
 15 *draft plan shall also be submitted to the Senate Committee on*
 16 *Transportation and Housing, the Assembly Committee on*
 17 *Transportation, the Senate Committee on Budget and Fiscal*
 18 *Review, and the Assembly Committee on Budget. The business*
 19 *plan shall identify all of the following: the type of service the*
 20 *department anticipates it will develop, such as local, express,*
 21 *commuter, regional, or interregional; a description of the primary*
 22 *benefits the system will provide; a forecast of the anticipated*
 23 *patronage, operating and maintenance costs, and capital costs for*
 24 *the system; an estimate and description of the total anticipated*
 25 *federal, state, local, and other funds the department intends to*
 26 *access to fund the construction and operation of the system; and*
 27 *the proposed chronology for the construction of the eligible*
 28 *corridors of the statewide high-speed train system. The business*
 29 *plan shall also include a discussion of all reasonably foreseeable*
 30 *risks the project may encounter, including, but not limited to, risks*
 31 *associated with the project’s finances, patronage, right-of-way*
 32 *acquisition, environmental clearances, construction, equipment,*
 33 *technology, and other risks associated with the project’s*
 34 *development. The business plan shall describe the department’s*
 35 *strategies, processes, or other actions it intends to utilize to manage*
 36 *those risks. The business plan shall be submitted pursuant to this*
 37 *section notwithstanding Section 10231.5 of the Government Code.*

38 *(b) (1) In addition to the requirements of subdivision (a), the*
 39 *business plan shall include, but need not be limited to, all of the*
 40 *following elements:*

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

11 (B) Based on the patronage forecast in subparagraph (A),
12 develop alternative financial pro formas for the different levels of
13 service, and identify the operating break-even points for each
14 alternative. Each pro forma shall assume the terms of
15 subparagraph (J) of paragraph (2) of subdivision (c) of Section
16 2704.08 of the Streets and Highways Code.

17 (C) Identify the expected schedule for completing environmental
18 review, and initiating and completing construction for each
19 segment of Phase 1.

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

23 (E) Identify written agreements with public or private entities
24 to fund components of the high-speed rail system, including stations
25 and terminals, any impediments to the completion of the system,
26 such as the inability to gain access to existing railroad
27 rights-of-way.

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

30 (2) To the extent feasible, the business plan should draw upon
31 information and material developed according to other
32 requirements, including, but not limited to, the preappropriation
33 review process and the preexpenditure review process in the Safe,
34 Reliable High-Speed Passenger Train Bond Act for the 21st
35 Century pursuant to Section 2704.08 of the Streets and Highways
36 Code.

37 185226. (a) The department shall prepare, publish, and submit
38 to the authority for review and adoption, and subsequent submittal
39 to the Legislature and the Governor, not later than November 1
40 of each even-numbered year, a high-speed train capital program.

1 *The program shall cover a period of six fiscal years, beginning*
2 *July 1 of the year following the year it is submitted, and shall be*
3 *a statement of intent by the department to request funding in the*
4 *annual Budget Act for the following six years. The program shall*
5 *be submitted pursuant to this section notwithstanding Section*
6 *10231.5 of the Government Code.*

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

11 *(c) For each segment, the program shall specify the expenditure*
12 *amount and the expenditure year for each of the following project*
13 *components:*

- 14 *(1) Completion of all permits and environmental studies.*
- 15 *(2) Preparation of plans, specifications, and estimates.*
- 16 *(3) The acquisition of rights-of-way, including, but not limited*
17 *to, support activities.*
- 18 *(4) Construction and construction management and engineering,*
19 *including surveys and inspection.*
- 20 *(5) Any additional components the department may deem*
21 *appropriate.*

22
23 CHAPTER 4. LEGAL MATTERS
24

25 ~~185300. The department may employ its own legal staff or~~
26 ~~contract with other state agencies for legal services, or both. The~~
27 ~~department's legal counsel may represent the authority and the~~
28 ~~department in any judicial proceeding.~~

29 ~~185302.~~

30 *185300. Any legal or equitable action brought against the*
31 *authority or the department shall be brought in a court of competent*
32 *jurisdiction in the County of Sacramento. For purposes of this*
33 *section, subdivision (1) of Section 401 of the Code of Civil*
34 *Procedure does not apply.*

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