

AMENDED IN SENATE APRIL 12, 2016

AMENDED IN SENATE MARCH 9, 2016

SENATE BILL

No. 940

Introduced by Senator Vidak

February 3, 2016

An act to amend Section 185040 of the Public Utilities Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 940, as amended, Vidak. High-Speed Rail Authority: eminent domain: right of first refusal.

Existing law creates the High-Speed Rail Authority with specified powers, including the power to acquire rights-of-way through purchase or eminent domain, and duties relating to the development and implementation of an intercity high-speed rail system. Existing law, pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, authorizes \$9.95 billion in general obligation bonds for high-speed rail development and other related purposes.

Under existing law, if the authority determines that real property or an interest therein acquired by the state for high-speed rail purposes is no longer necessary for those purposes, the authority is authorized to sell or exchange the real property or interest therein at fair market value as specified.

~~This bill would instead require the authority to sell or exchange the real property or interest therein if it is no longer necessary for high-speed rail purposes. The bill would also require the authority to offer the person, or his or her next of kin, from whom the real property or interest therein was acquired the right of first refusal to purchase the property~~

at fair market value, unless the authority acting in good faith is unable to locate the person, or his or her next of kin, within 180 days of the authority's initial attempt to locate the person. *authority, if selling the real property or interest therein, to send notification by certified mail to the last known owner of the real property or interest therein at his or her last known address, advising him or her that the real property or interest therein will be offered for sale. The bill would require the authority to wait at least 30 days after the notification has been sent to sell the real property or interest therein.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 185040 of the Public Utilities Code is
2 amended to read:

3 185040. (a) If the authority determines that real property or
4 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 authority ~~shall~~ *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) ~~(1) Notwithstanding subdivision (c) and prior~~ *Prior* to
10 selling the real property or interest therein in any other manner
11 authorized under this section, the authority shall ~~offer the person,~~
12 ~~or his or her next of kin, from whom the real property or interest~~
13 ~~therein was acquired the right of first refusal to purchase the~~
14 ~~property at fair market value.~~ *send notification by certified mail*
15 *to the last known owner of the real property or interest therein at*
16 *his or her last known address, advising him or her that the real*
17 *property or interest therein will be offered for sale. The authority*
18 *shall not sell the real property or interest therein until at least 30*
19 *days after the notification has been sent.*

20 ~~(2) This requirement shall be met if the person, or his or her~~
21 ~~next of kin, from whom the real property or interest therein was~~
22 ~~acquired does not choose to purchase the property within a~~
23 ~~reasonable time and at fair market value, or if the authority acting~~
24 ~~in good faith is unable to locate the person, or his or her next of~~

1 ~~kin, from whom the property was acquired within 180 days of the~~
2 ~~authority's initial attempt to locate the person.~~

3 (c) The authority may sell the property to an adjoining
4 landowner if it makes either of the following findings:

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

19 (2) (A) That the sale of the excess parcel to other than the
20 adjoining owner would deprive the adjoining owner of an existing
21 vested right of access to a public highway and thereby create a
22 possible cause of action against the authority or the state.

23 (B) A sale to an adjoining landowner pursuant to this subdivision
24 may be by contract to sell or trust deed. The payment period in a
25 contract of sale or sale by trust deed shall not extend longer than
26 10 years from the time the contract of sale or trust deed is executed,
27 and a transaction involving a contract of sale or sale by trust deed
28 to private parties shall require a downpayment of at least 30 percent
29 of the purchase price.

30 (d) The authority may sell the property to municipalities or other
31 local agencies at their request, without calling for competitive bids,
32 at a price representing the fair market value thereof, and upon a
33 determination that the intended use is for a public purpose.

34 (e) If it is improved property, the property may be sold to a
35 former owner who has remained in occupancy, or to a residential
36 tenant of a tenure of five years or more with all rent obligations
37 current or paid in full.

38 (f) Any real property or interest therein may in like manner be
39 exchanged, either as whole or part consideration, for any other
40 real property or interest therein as needed for high-speed rail

1 purposes. This provision does not authorize exchanges where the
2 value of the state-owned property exceeds the value of the property
3 the authority seeks to acquire, unless the excess value is incidental
4 and subdivision of the state-owned property, in order to produce
5 a smaller parcel of equal value to the value of the property the
6 authority seeks to acquire, would reduce the total value of the
7 state-owned property.

8 (g) Except as otherwise provided in this section, property shall
9 be sold either by receipt of competitive sealed bids, or at public
10 auction, whichever method is determined by the authority to be
11 more likely to achieve the higher sales price.

12 (h) Any payments received under this section for the sale of
13 real property no longer necessary for high-speed rail purposes shall
14 be deposited in the High-Speed Rail Property Fund created
15 pursuant to Section 185045, and shall be available to the authority
16 upon appropriation as provided in that section.

17 SEC. 2. This act is an urgency statute necessary for the
18 immediate preservation of the public peace, health, or safety within
19 the meaning of Article IV of the Constitution and shall go into
20 immediate effect. The facts constituting the necessity are:

21 In order to protect private property rights, it is necessary for this
22 act to take effect immediately.