

Date of Hearing: April 11, 2016

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 1768 (Gallagher) – As Amended February 25, 2016

**SUBJECT:** Bonds: transportation

**SUMMARY:** Directs that a referendum be placed on the ballot related to high-speed rail bonds. Specifically, **this bill:**

- 1) Directs the Secretary of State to put on the November 2016 general election ballot a measure which, if approved, would:
  - a) Prohibit further issuance and sale of any authorized bonds for high-speed rail, except for early improvement projects (a.k.a. bookend projects) in the Phase 1 blended system for which appropriations have already been made.
  - b) Redirect the proceeds of any outstanding bonds issued and sold, except for those related to the bookend projects, to debt retirement.
  - c) Reauthorize the issuance and sale of any unissued bonds, upon appropriation by the Legislature, to fund projects in the State Highway Operation and Protection Program (SHOPP).
- 2) Does not affect the authorization of \$950 million in bonds for connectivity projects.
- 3) Is an urgency measure.

**EXISTING LAW:**

- 1) Establishes the California High-Speed Rail Authority (Authority) and vests with it the responsibility to develop and implement a high-speed rail system in California.
- 2) Authorizes the sale of \$9 billion in general obligation bonds to partially fund the development and construction of California's high-speed rail system.
- 3) Authorizes the expenditure of an additional \$950 million in general obligation bonds for capital projects on other passenger rail lines to provide connectivity to the high-speed rail system as well as for capacity enhancements and safety improvements to those lines.
- 4) Requires the Authority to complete and submit to the Legislature funding plans and financial analyses prior to requesting an appropriation of bond funds for eligible capital costs and prior to committing bond proceeds for expenditure for construction and real property and equipment acquisition.
- 5) Appropriates \$1.1 billion of the \$9 billion in high-speed rail bonds for use on bookend projects.

**FISCAL EFFECT:** According to the Authority, \$1.027 billion in Proposition 1A bonds have been issued to date. Of that total, \$444.9 million (of \$9 billion) have been issued for the high-speed rail project and \$581.8 million (of \$950 million) have been issued for connectivity projects.

**COMMENTS:** In 2008, voters approved Proposition 1A, the Safe, Reliable, High-Speed Passenger Train Bond Act, a \$9.95 billion general obligation bond to fund the proposed California high-speed rail project and related improvements. As envisioned at the time of the ballot measure, the project was to consist of an 800-mile dedicated high-speed passenger rail system capable of speeds up to 220 miles per hour, initially serving the major metropolitan market of San Francisco through the Central Valley into Los Angeles and Anaheim (Phase I) with service eventually extended to Sacramento, the Inland Empire, and San Diego (Phase II).

When the bonds were approved in 2008, costs for the entire project were estimated to be \$45 billion, to be paid by a mix of state bonds, federal grants, and private investments. Since then, estimated costs for the project have risen markedly. The Authority's most recent business plan estimates costs for Phase 1 to be \$64 billion using the blended approach of relying in part on existing tracks in the Bay Area and parts of Los Angeles. Furthermore, federal contributions to date are limited to \$3.3 billion and there have been no private investments.

In 2012, the Legislature passed and the Governor signed SB 1029 (Committee on Budget and Fiscal Review), Chapter 152, Statutes of 2012, to appropriate \$8 billion to the Authority (\$4.7 billion in Proposition 1A state bond funds and \$3.3 billion in federal funds) to initiate construction of the high-speed rail project. This amount included \$1.1 billion of Proposition 1A bond funding for the bookend projects in the San Francisco Peninsula and the Los Angeles Basin.

In February, the High-Speed Rail Authority released the Draft 2016 Business Plan which switched the focus of the Initial Operating Segment (IOS) from the LA Basin to Northern California with a terminus in San Jose. The business plan also adjusted the cost estimates for Phase I down to from \$68 billion to \$64 billion.

Two relevant court cases were litigated in 2013 regarding issuance of Proposition 1A bonds. Specifically, one case challenged the funding plan that submitted to the Legislature prior to the appropriation as required by Proposition 1A. The lower court found that the plan did not meet the requirements set forth in Proposition 1A. However, the appellate court found that the purpose of the funding plan was to inform the Legislature and if the Legislature acts on the plan, the plan is presumed to have been sufficient. Additionally, the Authority filed a validation suit to clear any potential legal hurdles to issuance of the Proposition 1A bonds. The lower court ruled against the Authority noting that the Authority had not met the legal standards for issuing taxpayer bonds. The ruling was overturned by the California Supreme Court and the lower court was directed to issue an order validating the issuance of the bonds.

With the continued threat of litigation on the issuance and expenditure of the Proposition 1A bonds, the funds approved by the voters remain in question. To begin construction work in the Central Valley and move forward on the other project sections, the Authority renegotiated its funding agreement with the federal government to allow a "tapered match"—i.e., to allow federal dollars to be spent first and state matching dollars to be spent later. Additionally, the 2014-15 state budget SB 862 (Committee on Budget and Fiscal Review), Chapter 36, Statutes of 2014,

continuously appropriated 25% of the revenues derived from the state's cap and trade program to the project. This equates to roughly \$500 million annually.

The author introduced AB 1768 because "the upkeep of California's roads is drastically underfunded." Governor Brown identified the \$59 billion backlog of maintenance on the state highway system as a priority in his State of the State address in both 2014 and 2015. Additionally, in June 2015, the Governor called a Special Legislative Session on transportation directing the Legislature to act on a permanent, sustainable funding source for state and local transportation infrastructure.

According to the author, "Californians deserve better than the crumbling roads and bridges they travel on every day. We know what needs to be fixed and this bill will put funds toward road projects that will benefit all Californians."

*Committee concerns:* The release of the business plan signaled a more concrete funding plan for the development of the IOS. However, the Authority continues to face funding and legal challenges and their outcomes are unclear. The high-speed rail project is under construction and proceeding and its unsteady beginning is not without precedent among mega-projects. While the project is not progressing as smoothly as hoped, it is progressing and is better off today than it was when the Legislature committed to the project.

Stopping the project now by redirecting the bonds will cause hundreds of millions of dollars of work and study to be wasted. The Legislature should continue its stringent oversight of the project and work to improve its likelihood of success.

*Related legislation:* AB 1866 (Wilk), requires the Secretary of State to put on the November 2016 general election ballot a legislative referendum which, if approved by the voters, would prohibit the sale of any additional high-speed rail bonds and authorize the remaining bonds be issued to fund the construction of water capital projects. AB 1866 is set to be heard by this committee on April 11, 2016.

AB 2049 (Melendez), requires the Secretary of State to put on the November 2016 general election ballot a legislative referendum which, if approved by the voters, would prohibit the sale of any additional high-speed rail bonds and authorize the remaining bonds be issued to fund the construction of the SHOPP, STIP, and TCIF. AB 2049 is set to be heard by this committee on April 11, 2016.

*Previous legislation:* AB 6 (Wilk), would have required the Secretary of State to put on the November 2016 general election ballot a legislative referendum which, if approved by the voters, would prohibit the sale of any additional high-speed rail bonds and authorize the remaining bonds be issued to fund the construction of school facilities for K-12 and higher education. AB 6 failed passage in this committee on April 20, 2015.

AB 397 (Mathis), would have required the Secretary of State to put on the November 2016 general election ballot a legislative referendum which, if approved by the voters, would prohibit the sale of any additional high-speed rail bonds and authorize the remaining bonds be issued to fund the construction of water capital projects. AB 397 failed passage in this committee on April 27, 2015 and was granted reconsideration and failed passage on reconsideration on January 11, 2016.

All of the following bills would have reduced the amount of authorized indebtedness for the Authority:

AB 2650 (Conway) of 2014, failed passage in the Assembly Transportation Committee

AB 1501 (Patterson) of 2014, failed passage in the Assembly Transportation Committee.

SB 901 (Vidak) of 2014, failed passage in Senate Transportation and Housing Committee.

AB 842 (Donnelly) of 2013, failed passage in the Assembly Transportation Committee.

AB 1455 (Harkey) of 2012, failed passage in the Assembly Transportation Committee;

SB 22 (LaMalfa) of 2012, failed passage in the Senate Transportation and Housing Committee;

AB 76 (Harkey) of 2011, failed passage in the Assembly Transportation Committee; and,

AB 2121 (Harkey) of 2010, died in the Senate Rules Committee.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Howard Jarvis Taxpayers Association

**Opposition**

California Conference of Machinists

California Teamsters Public Affairs Council

State Building and Construction Trades Council, AFL-CIO

**Analysis Prepared by:** Melissa White / TRANS. / (916) 319-2093