

Date of Hearing: January 8, 2024

ASSEMBLY COMMITTEE ON TRANSPORTATION

Lori D. Wilson, Chair

AB 501 (Vince Fong) – As Amended January 3, 2024

**SUBJECT:** Greenhouse Gas Reduction Fund: High-Speed Rail Authority: rural road safety: transfer and loan

**SUMMARY:** Transfers Greenhouse Gas Reduction Funds (GGRF) currently provided to the High-Speed Rail Authority (HSRA) to the state's General Fund (GF) and makes the funding available for rural road safety. Specifically, **this bill:**

- 1) Suspends the continuous appropriation of 25% of GGRF funds collected annually to HSRA for the 2025-26 and 2026-27 fiscal years, requires the transfer of these funds to the GF, and makes the funding available for rural road safety.
- 2) Transfers \$2.4 billion of unencumbered moneys appropriated to HSRA before the 2024-25 fiscal year from the GGRF to the GF as a loan to augment funding for rural road safety.
- 3) Appropriates \$2.4 billion from the High-Speed Rail Passenger Train Bond Fund (Proposition 1A) for the sole purpose of completing the minimum scope of work necessary to meet federal grant requirements and satisfy existing regional commitment as described in the 2020 High-Speed Rail Authority Draft Business Plan.

**EXISTING LAW:**

- 1) Creates the High-Speed Rail Authority in state government. (Public Utilities Code [PUC] 185000)
- 2) Requires CARB, pursuant to California Global Warming Solutions Act of 2006 (AB 32 [Núñez] Chapter 488, Statutes of 2006), to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to 1990 levels by 2020 and to develop a scoping plan for achieving the maximum technologically feasible and cost effective reductions in GHGs. (Health and Safety Code [HSC] 38500)
- 3) Authorizes CARB to adopt a regulation that establishes a system of market-based declining annual aggregate emissions limits for sources or categories of sources that emit GHGs, applicable from January 1, 2012 to December 31, 2030. (HSC 38562)
- 4) Beginning in the 2015-16 fiscal year, continuously appropriates, without regard to fiscal years, 25% of the annual proceeds of the GGRF to HSRA for the initial operating segment and Phase 1 Blended System as described in the 2012 HSRA Business Plan. (HSC 39719)
- 5) Establishes the HSRA Office of the Inspector General to initiate audits and reviews related to the delivery of the project and selection of contractors, monitor the progress towards meeting milestones, and identify best practices in the delivery of capital projects and recommend policies to adopt these when possible, among other duties. (PUC 187030)

**FISCAL EFFECT:** Unknown

**COMMENTS:** Chapter 796 of 1996 (SB 1420, Kopp) established HSRA to plan and construct a high-speed rail system that would link the state's major population centers. In November 2008, voters approved Proposition 1A, which authorized the state to sell \$10 billion in general obligation bonds to partially fund the system, as well as related projects. \$9 billion is for the high-speed rail system itself, with the remainder to support connectivity projects. Of the \$9 billion, HSRA has set aside \$1.1 billion to contribute to locally administered bookend projects.

Proposition 1A also specified certain criteria and conditions that the system must ultimately achieve. For example, the measure requires that the system must be designed to be capable of specified travel times along certain routes, such as nonstop travel from San Francisco to Los Angeles (Phase 1) within two hours and forty minutes. The measure also specifies that passenger rail service operated by HSRA, or pursuant to its authority, will not require an operating subsidy.

In 2014, the state began providing cap-and-trade auction proceeds—which are deposited into the GGRF—for the high-speed rail project. Since 2015-16, the project has received a continuous appropriation of about 25% of annual cap-and-trade revenues. Through September 30, 2023, the project has received about \$6.2 billion from GGRF, of which HSRA has spent about \$3.7 billion, leaving about \$2.5 billion available for expenditure. The cap-and-trade program currently is authorized to continue through 2030 and HSRA in its 2023 Project Update Report estimated that the project will receive between \$750 million to \$1 billion annually from cap-and-trade revenues.

The Legislature appropriated the last of the Proposition 1A bond funds as part of the 2022-23 budget process. To date, HSRA and partner agencies have spent about \$6 billion of these funds—roughly \$5.2 billion on the high-speed rail project and about \$830 million on connectivity projects in Los Angeles and the Bay Area. As a result, about \$3.9 billion Proposition 1A funds remains to be expended.

The federal government provided the state large grants in 2009 and 2010 totaling \$3.5 billion to begin construction in the Central Valley. As part of the conditions of receiving federal funding for the project, the state is required to (1) use the funds to support the construction of a segment usable for passenger intercity rail, and (2) complete all of the environmental reviews for Phase 1.

In 2023, the state received additional federal grants including \$49 million for improvements near Wasco and for design of the Merced extension; \$20 million for the historic Fresno Depot and station site, \$202 million from the U.S. Department of Transportation to expand construction of high-speed rail by completing six grade separations; and most recently (December 2023) \$3.1 billion to continue construction in the Central Valley.

Since the project's inception it has struggled and as summarized by the High-Speed Rail Peer Review Group's March 23, 2023 letter "In reviewing past letters and testimony, a consistent theme emerges: 1) project costs, schedules, and ridership estimates are uncertain and subject to significant risk of deteriorating, a typical experience for mega-projects; 2) the project is underfunded, and its financing is unstable, raising costs and making effective management difficult, if not impossible; 3) more legislative oversight is needed.

On April 12, 2023 the joint hearing of the Assembly Transportation Committee and Assembly Budget Subcommittee #3 raised many concerns. It found that project costs have risen year after year, and they continue with no end in sight; schedules for completion continue to stretch; ridership estimates have fallen; the unfunded gap continues to grow and will likely grow beyond

\$10 billion for completion of the segment between Merced and Bakersfield; and there is no federal funding partner or funding plan for the project beyond Merced to Bakersfield, whose costs could easily exceed \$150 billion for completion of the project from San Francisco to Anaheim.

According to the author, “After 15 years of mismanagement and billions of dollars wasted, the California High Speed Rail project has yet to deliver on any of its promises made to voters. The program is now decades behind schedule and is projected to cost the taxpayers \$128 billion, which means the High Speed Rail project is \$98 billion over budget. Facing a \$68 billion deficit, the Legislature needs to stop wasting taxpayer money on this failing project and redirect the billion dollar yearly funding to more pressing priorities rural road safety projects like installing passing lanes, barriers, and shoulders that will protect lives and Californian communities. Taxpayers are getting swindled. Facing out of control costs, delays and mismanagement, it is time for the Legislature to stop wasting taxpayer dollars and bolster California’s existing infrastructure to protect Californian drivers and passengers.”

Writing in strong opposition, the California-Nevada Conference of Operating Engineers states “While we fully understand and support the need for additional road safety, our support does not diminish or deter our commitment to providing and supporting on-going resources for California’s transportation infrastructure, specifically California High Speed Rail. To date, California High Speed Rail has created over 12,000 high-quality construction jobs and has ensured life changing apprenticeship opportunities that have uplifted workers across the central valley. The project has additionally received national support recently, with the Biden-Harris Administration devoting nearly \$3.1 billion in federal funding to ensure our States monumental project moves forward. The fact that our High-Speed rail project has a standalone continuous source of revenue was a major selling point in ensuring support from the federal government.”

*Staff concerns:*

The actions this bill proposes could essentially stop construction of the high-speed rail project in the Central Valley because GGRF funds would not be available to match the Proposition 1A funds as required by the bond act, or federal funds as required by grant agreements. This bill would provide total funding of roughly \$3 billion to \$4 billion for rural road safety. To do so, this bill would take the GGRF that would be appropriated to HSRA in 2025-26 and 2026-27 which is estimated to total between \$1.5 billion to \$2 billion, and \$2.4 billion of the GGRF that was appropriated to HSRA before the 2024-25 fiscal year, but not expended.

As discussed above, the high-speed rail project faces many challenges, the greatest challenge being a lack of a reliable stream of funding. However, it is premature to make the decision to stop the project and the Legislature needs more information before making such a decision.

The state recently was awarded \$3.1 billion in federal funds that will be matched with approximately \$800 million of state Cap and Trade funds. It is unlikely that even with this additional funding the state will have enough money to complete the Merced to Bakersfield segment of the project. The Legislature will have critical information about the cost of the project when HSRA releases its 2024 Business Plan. This plan will have the additional benefit of oversight from the newly created independent High-Speed Rail Inspector General. The Legislature established this office with the intent that it could provide it with critical independent

information it needs to make key decisions about the project. It would be prudent to hear from this office before taking a drastic step such as passing this bill which could defund the project.

However, even the continuation of construction of the segment between Merced and Bakersfield is contingent upon a commitment to build the complete Phase 1 system. According to the HSRA Peer Review Group, “there are few who would argue that completing this section (Merced to Bakersfield), by itself, at a cost of up to \$35 billion, can be justified.” This makes the need for the state to have conversations with the federal government to determine if it has a future federal funding partner that would provide a stable and reliable stream of funding for the completion of Phase 1 of the project from San Francisco to Anaheim critical. Otherwise, the state needs to ask itself if it wants to fill the funding gap of roughly \$100 billion (which could easily grow to \$150 billion to \$200 billion) for Phase 1 on its own.

Finally, the Peer Review Group recently recommended that the Legislature commission an independent review of the economic and financial justifications of the project and ability to operate without a subsidy before committing to the full phase 1 of the Project. The last economic analysis was done in 2012 and it was incomplete.

In an attempt to facilitate making a decision in the future, the Legislature may want to consider requiring an independent entity to conduct a thorough benefit/cost analysis of the project and an analysis of options and tradeoffs.

*Previous legislation:*

SB 198 (Committee on Budget and Fiscal Review), Chapter 71, Statutes of 2022 expanded the required elements of the Project Update Report and established the HSRA Inspector General.

Kopp (SB 1420), Chapter 796, Statutes of 1996 creates HSRA in state government and prescribes the membership and development of the project.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

California-Nevada Conference of Operating Engineers

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