

Date of Hearing: May 4, 2020

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 3278 (Patterson) – As Amended May 4, 2020

SUBJECT: High-speed rail

SUMMARY: Clarifies that the prohibition contained in Proposition 1A of 2008 on operating subsidies for passenger train service applies to high-speed train service using the high-speed train system owned by the California High Speed Rail Authority (HSRA), regardless of whether the service is provided directly by HSRA or provided by a third party pursuant to a lease agreement with HSRA.

EXISTING LAW:

- 1) Creates HSRA to direct the development and implementation of intercity high-speed rail service that is fully integrated with the state's existing intercity rail and bus network.
- 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) Continuously appropriates 25% of the state's Cap and Trade program funds for the high-speed rail project.
- 4) Requires HSRA to complete and submit to the Legislature funding plans and financial analyses, as specified, prior to requesting an appropriation of bond funds for eligible capital costs and prior to committing bond proceeds for expenditure for construction, real property and equipment acquisition.
- 5) Requires HSRA, specifically, to submit to the Legislature a report prepared by an independent financial services firm which indicates, among other things, that the planned passenger train service to be provided by HSRA, or pursuant to its authority, will not require an operating subsidy.

FISCAL EFFECT: Unknown

COMMENTS: Development of high-speed rail in California began more than 20 years ago. SB 1420 (Kopp), Chapter 796, Statutes of 1996, created HSRA to direct development and implementation of intercity high-speed rail service that would be fully coordinated with other public transportation services. HSRA reports to the California State Transportation Agency (CalSTA) and is governed by an eleven-member Board of Directors. The Governor appoints five members of the board, the Senate Rules Committee appoints two, and the Assembly Speaker appoints two. Additionally, the board includes two ex-officio, non-voting members, one member of the Assembly and one member of the Senate.

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 extending 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. HSRA's most recent estimate for Phase I is \$80 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 February 2019, Governor Newsom delivered his first State of the State address and he appeared to signal a change in the project, shifting emphasis to completing a workable rail line in the Central Valley, but casting doubt over the completion of the full Phase I. Specifically, Newsom noted, "the project, as currently planned, would cost too much and take too long. There's been too little oversight and not enough transparency." He outlined a new Central Valley construction plan, including extending the line currently under construction north to Merced and south to Bakersfield.

On May 1, 2019, HSRA released its 2019 Project Update Report (PUR). Chairman of HSRA Lenny Mendonca stated very clearly in the PUR that, "this report focuses the limited resources the state has identified to get a working section that can demonstrate the viability of the broader project." The 2019 PUR put forth a plan to fund and deliver a high-speed rail line in the Central Valley alone. The proposed Central Valley Line is a 171-mile high-speed rail line from Merced to Bakersfield, with stations planned for Merced, Madera, Fresno, Kings/Tulare (future), and F Street in Bakersfield.

Most recently, HSRA's Draft 2020 Business Plan identifies total funding available to the project of between \$20.6 and \$23.4 billion, depending on how much future auction revenue is generated by the state's Cap-and-Trade program between now and 2030. The \$20.4 billion cost to complete and begin operating the Central Valley Line by 2029, complete the Phase I environmental work, and finish funding the bookend projects, which was outlined in the 2019 PUR, remains unchanged in the Draft 2020 Business Plan.

In order to institute tight oversight mechanisms on the bond funding, Proposition 1A included language requiring HSRA to submit a number of reports with various elements to the Legislature at different times in the funding process. Prior to the expenditure of bond proceeds on construction, HSRA is required to submit two reports: 1) a detailed funding plan identifying the corridor, the source of funding, the estimated costs and ridership estimates, and any agreements necessary to operate the proposed system, and 2) a report by an independent financial services firm indicating that the estimates look reasonable, the risks and mitigation strategies appear appropriate, and that the planned passenger train service to be provided by HSRA, or pursuant to its authority, will not require an operating subsidy. The issue of an operating subsidy is critical, as HSRA committed to the voters to build a high-speed rail service so attractive to riders that it would never cost the taxpayers any money to operate.

In its Draft 2020 Business Plan, HSRA describes a scheme in which it can complete the track and systems, and procure trainsets, in the Central Valley but avoid the prohibition of operating the system without a subsidy by leasing out its infrastructure to another entity that can be

subsidized, such as the existing San Joaquin Regional Rail Commission (SJRRRC). SJRRRC currently operates the San Joaquin intercity rail line through the Central Valley, which is subsidized by the state. According to HSRA, as long as it is not accepting the subsidy, then the service is not violating the voter approved language prohibiting an operating subsidy.

According to the author, “The Authority has spent bond funds to build an initial operating system that cannot operate without a subsidy. AB 3278 declares the Legislature’s intent to uphold the no-subsidy requirement of Prop 1A, and declares that the Authority’s current business plan is in violation of this requirement. This bill will protect the intent of Prop 1A and ensure that Californians who voted for the project are not victims of a ‘bait and switch.’”

Committee comments. This bill clarifies the Legislature’s intent when it wrote the 2008 bond language prohibiting any operating subsidy for high-speed rail service in the state, because the most recent HSRA business plan proposes a system with an operating subsidy. Everyone can agree that the project proposed today is nowhere near what the voters approved at the ballot; the Legislature can, however, attempt to hold HSRA accountable for the promises it made. Given the protections promised to the voters in the 2008 bond measure, it seems reasonable for the Legislature to clarify the intent of the language in Proposition 1A.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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