Date of Hearing: January 8, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION
Jim Frazier, Chair
AB 65 (Patterson) – As Amended January 3, 2018

SUBJECT: Transportation bond debt service

SUMMARY: Prohibits the payment of debt service on bonds issued for high-speed rail purposes, pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century (Proposition 1A of 2008), with truck weight fee revenues. Also deletes the loaning of excess weight fee revenues to the General Fund for future transportation debt service payments.

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, real property and equipment acquisition.

5) Appropriates $1.1 billion of the $9 billion in high-speed rail bonds for use on bookend projects, including projects in the San Francisco Bay Area (Caltrain), and the Los Angeles region.

FISCAL EFFECT: The estimate for Proposition 1A debt service is $313 million for the 2018-19 fiscal year. This debt service would have to be paid by the General Fund. Additionally, this bill would not allow loans of excess weight fees for payment of future debt service, which could require additional monies from the General Fund to cover yearly transportation debt service costs.

COMMENTS:
Background: 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 1), with service eventually extended to Sacramento, the Inland Empire, and San Diego (Phase II).

When the bonds were approved in 2008, according to the Authority's Business Plan, costs for the entire project were estimated to be $33 billion, to be paid by a mix of state bonds, federal grants, and private investments. The debt service on the $9.95 billion bond was estimated to be $650 million per year for 30 years. 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 Governor Brown signed into law 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 May 2016, the Authority approved the 2016 Business Plan which switched the focus of the Initial Operating Segment (IOS) from the Los Angeles Basin to Northern California with a terminus in San Jose. The business plan also adjusted the cost estimates for Phase I down from $68 billion to $64 billion.

Numerous court cases have been litigated related to the issuance of the Proposition 1A bonds, which has slowed the sale of the bonds for use on construction for both the Central Valley segment and the bookend projects. In January 2017, the Authority submitted funding plans to the Department of Finance and the Joint Legislative Budget Committee for the Central Valley segment, the first segment of high-speed rail, and the Caltrain electrification project, a bookend project in the San Francisco Bay Area. In June 2017, the Authority also submitted a funding plan for the Rosecrans – Marquardt rail grade separation project, a bookend project in the Los Angeles region. The so-called "funding plan (d)," is required by Proposition 1A prior to any expenditure of bond funds for capital construction and must contained specific elements, including details of funding for and construction cost projections for the segment.

Following the submission of the funding plans for the Central Valley and Caltrain, a lawsuit was immediately filed to block the issuance of the bonds citing that the funding plans did not meet the standards in Proposition 1A. Although the court denied a request for a temporary restraining order to stop the sale of Proportion 1A bonds, the court case is still pending.

To date, the state has sold roughly $2 billion in Proposition 1A bonds to fund the high speed rail and bookend projects, and over $600 million for connectivity projects. As mentioned, the Department of Finance estimates that the bond debt service for Proposition 1A bonds will be approximately $313 million in the 2018-19 fiscal year. As the remaining Proposition 1A bonds are appropriated and cleared of legal hurdles for sale by the state, the debt service costs will likely increase.

Gas Tax Swap and Debt Service: Currently, the debt on Proposition 1A bonds, and other transportation-related bonds, is being paid with weight fees in order to alleviate the responsibility of the General Fund to pay the debt service. The use of weight fees to pay this debt service is part of a larger budgetary and statutory arrangement referred to as the "Gas Tax Swap," (Swap). ABX8 6 (Committee on Budget), Chapter 11, Statutes of 2010, enacted the original Swap.

ABX8 6 eliminated the sales tax on gasoline and replaced it with an increase in gasoline excise tax, called the Price Based Excise Tax (PBET), designed to generate an equivalent amount of revenue. The PBET was set at 17.3 cents per gallon at the time of passage and the Swap included a mechanism requiring the Board of Equalization (BOE), to adjust that amount annually to equal the amount that would have been generated by the sales tax on gasoline. The original Swap created a new, non-General Fund revenue stream from the PBET to repay the General Fund's cost of debt service on transportation bonds.

Later in 2010, voters approved Proposition 22, which further restricted the state's use of certain state and local funds. Specifically, the proposition prohibits excise tax revenues from being used for General Fund relief, including paying debt service on transportation bonds. Additionally, in 2010, voters also approved Proposition 26, which required that any state tax increase approved by a majority vote in 2010 be subject to reenactment with a two-thirds vote.

As a result of these restrictions, the provisions of the newly-enacted Swap were in jeopardy. In response, the Legislature passed by a 2/3 vote and Governor Brown signed a reconstituted Swap, AB 105 (Committee on Budget), Chapter 6, Statutes of 2012. Under the reenacted swap, weight fee revenue, rather than excise tax revenue, is used to provide General Fund relief for debt service on transportation bonds, which is allowable under the State Constitution.

Additionally, a subsequent budget bill authorized the loaning or "banking" of weight fee revenue for future transportation debt service payments. In essence, if all weight fee revenue is not needed for debt service payments, the additional amount is loaned to the General Fund. The Department of Finance can then utilize these "banked" funds in future years when the weight fee revenue would not cover the full debt service amount. There is approximately $1.4 billion in weight fees "banked" as of the 2017-18 fiscal year.

This bill restricts the state from using weight fee revenues to pay for Proposition 1A debt service. This change results in General Fund revenues funding all future Proposition 1A bond debt service. Additionally, this bill would delete the ability to "bank" weight fee revenues to pay for future debt service. Therefore, if more weight fee revenue is collected than is needed for transportation debt service, the remaining weight fee revenue would be retained in the State Highway Account and distributed by the statutory formula for the PBET of 44% for the State Transportation Improvement Program (STIP), 44% for Local Streets and Roads, and 12% for the State Highway Operations Protection Program (SHOPP).

According to the author, "AB 65 seeks to prevent money intended for California's deteriorating roads and highways from being siphoned away from roads to fund high-speed rail debt. There is a well-documented need for improvement on California's roads, highways and infrastructure and the weight fee diversion exasperates the funding shortfall. Another funding diversion away from roads and highways will be devastating to California's infrastructure." He further states that, "April of this year marked the first sale of bonds being sold for construction purposes, … and, by beginning the sale and spending of Prop 1A funds under existing law, Californians will suffer even more by continuing the diversion of resources for infrastructure on our highways and roads by approximately $650 million per year for the next 30 years, the estimated cost from the ballot summary for principle and debt payments. Other than transportation, no other general obligation bonds are funded through special funds."

Writing in opposition to the bill, The California Labor Federation states, "This bill is yet another effort to stop this historic public works project by removing a payment source for debt service on a bond approved by a majority of voters in this state. High-speed rail is the most cost efficient public investment option available to bring our transportation system into the modern era, similar to many other countries with economies such as California."

REGISTERED SUPPORT / OPPOSITION:

(Letters submitted for the December 13, 2016 version of the bill)

Support

California Delivery Association
Howard Jarvis Taxpayers Association
Save Angeles Forest for Everyone

Opposition

California Labor Federation

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