

Date of Hearing: January 8, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION
Jim Frazier, Chair
AB 66 (Patterson) – As Introduced December 13, 2016

FOR VOTE ONLY

SUBJECT: High-Speed Rail Authority: reports

SUMMARY: Adds additional required elements for inclusion in the California High-Speed Rail Authority's (Authority) Business Plan and Project Update Report. Specifically, **this bill:**

- 1) Requires the Authority to include projected financing costs if financing is expected for a proposed segment or combination of segments, in the business plan.
- 2) Requires the Authority to identify any significant changes in scope for segments identified in the previous business plan or project update report, and provide an explanation of adjustments in cost and schedule attributable to those changes.

EXISTING LAW: Establishes the Authority and vests with it the responsibility to develop and implement a high-speed rail system in California.

- 1) Enacts the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century (High-Speed Rail Bond Act). The High-Speed Rail Bond Act, approved as Proposition 1A in November 2008, provides \$9.95 billion in general obligation bond authority to fund the planning and construction of a high-speed passenger train system and complementary improvements to other specified rail systems in the state.
- 2) Continuously appropriates 25% of the state's cap and trade program funds for the high-speed rail project.
- 3) Requires the Authority to prepare a business plan by May 1, 2014, and every two years thereafter, that includes:
 - a) The types of services it expects to develop and a chronology for construction;
 - b) A forecast of the expected patronage, service level, and operating and maintenance costs for Phase I of the system;
 - c) Alternative financing scenarios for different levels of service;
 - d) Expected schedule of completing environmental review and initialing and completing construction for segments of Phase I;
 - e) An estimate, description, and confidence level of the total anticipated federal, state, local and other funds;
 - f) Any written agreements with public and private entities to fund components of the system;

- g) Alternative public-private development strategies for Phase I; and,
- h) Risks associated with construction, technology, financing and other aspects of the project, and the Authority's strategy for managing risks.

Additionally, the Authority must publish a draft business plan 60 days prior to May 1 of every even numbered year, for public review and comment.

- 4) Requires the Authority to prepare a Project Update Report on March 1, 2017, and every two years thereafter that includes:
 - a) A summary of the progress on the project;
 - b) The baseline budget for all project phase costs by segment or contract;
 - c) The current and projected budget for all project phase costs;
 - d) All expenditures to date for all project costs;
 - e) A comparison of the current and projected work schedule and the baseline schedule contained in the Revised 2012 Business Plan;
 - f) A summary of milestones achieved during the prior two-year period and ones expected in the future;
 - g) Any issues identified in the prior two year period and actions taken to address them; and,
 - h) A discussion of risks to the projects and steps taken to mitigate them.

FISCAL EFFECT: Unknown

COMMENTS: In February of 2016, the Authority released its Draft 2016 Business Plan, which signaled a major shift in its proposed planning and construction of the high-speed rail system. Rather than pursue a south-oriented Initial Operating Segment (IOS) from the City of Merced in the Central Valley through the Tehachapi Mountains to the San Fernando Valley in Los Angeles County, the Authority is now proposing a north-oriented IOS, from the Central Valley to San Jose. The Authority also updated its plans, cost estimates, and schedule for the remainder of Phase I (San Francisco to Los Angeles/Anaheim by 2029) and eventually Phase II (Sacramento and San Diego). The Authority adopted their final 2016 Business Plan in May 2016.

In reaction to the draft Business Plan, in March 2016, the Legislative Analyst Office's (LAO) released a report, "*Review of the High-Speed Rail Draft 2016 Business Plan.*" The LAO recommended additional items that could be added to the business plan to better inform the Legislature and help maintain oversight of the project. This bill will implement these recommendations. Specifically, this bill will add some new requirements for the Authority to include in both the biennial business plan and project update report.

According to the author, this bill will improve the quality of information reported to the Legislature so that oversight can actually be provided in a meaningful way and track the accuracy and ability of the Authority to stay within a budget over time. He further states that to expand the type of costs that are reported to the Legislature so that an accurate and complete picture of the costs to construct the high-speed rail project can be better understood not only for policymakers, but for the people who are paying for this project.

Specifically, this bill requires the Authority to identify any significant changes in scope of segments described in previous reports and provide an explanation of any adjustments of costs and schedule attributable to the changes. The LAO notes that “the information provided by HSRA [High-Speed Rail Authority] in the business plan and other documents can be difficult to compare over time.” The LAO cites a specific example, “since beginning work on the ICS [initial construction section], the scope, cost, and schedule of the project has changed, making it difficult to determine how well HSRA is adhering to the budget for that segment. The length of the ICS was reduced to 118 miles from 130 miles. The projected cost of the ICS assumed in the draft 2016 business plan is \$7.3 billion, compared to the initially planned \$5.9 billion cost. However, based on the information provided by HSRA, it is difficult to determine the extent to which the change in costs is related to the changes in scope or other factors.” Essentially, if the scope of project segments change from one report to the next, it is impossible to make an “apples-to-apples” comparison of costs and schedule and to identify any concerns or trends.

Second, this bill requires the Authority to include all projected finance costs, for any financing proposed for a segment or combination of segments. The main funding source for the project is \$9 billion in general obligation bonds approved by the voters in Proposition 1A of 2008. At the time of the passage of the proposition, the LAO noted that debt service on the bonds would be roughly \$19.4 billion or \$647 million per year over 30 years. Additionally, the 2016 Business Plan proposes to fund part of the IOS by financing future cap and trade proceeds continuously appropriated for the project. Specifically, \$5.2 billion would be generated by utilizing some type of financing mechanism, possibly revenue bonds or federal loans, to be paid back over 25 years.

This bill is a reintroduction of AB 2847 (Patterson) of 2016. AB 2847 was vetoed by Governor Brown, who noted in his veto message, “I believe this bill is unnecessary, particularly in view of the passage of Assembly Bill 1813, which adds two legislative members to the Authority. As with other projects of this magnitude, state law requires strict standards of accountability and transparency and I have every expectation that the Authority will meet these high standards.”

In July 2016, Governor Brown signed into law AB 1813 (Frazier), which adds two legislative, ex-officio, non-voting members to the Authority Board of Directors, one from the Senate and one from the Assembly. The intent of AB 1813 was to mirror numerous other state boards including the California Transportation Commission, and provide the Legislature with more direct oversight and input on the high-speed rail program. In 2017, Senate Transportation and Housing Chair Jim Beall and Assemblymember Dr. Joaquin Arambula were appointed to fill the seats.

The author notes that it is unclear how the addition of two legislative members to the Authority via AB 1813 renders this bill unnecessary. He further states that the implication of the veto message is that perhaps those two members will have access to the information that this bill requires. And continues that if so; as a matter of transparency, good governance and honesty to California citizens- who voted and passed Prop 1A- then accurate information should be

available to all, especially given the unprecedented size and magnitude of the Authority's mandate and its impact to all of California.

In writing in support of this bill, Fresno City Council President Clinton Olivier notes that in order to ensure oversight, the Legislature needs the ability to track and discern the HSRA's budgets and schedules over time.

Writing in opposition to this bill, the State Building and Construction Trades Council argues that this bill would add one more unneeded layer of oversight to the existing strict and far-reaching oversight that the HSRA is already subject to. They continue stating that the bill sets a bad precedent for not only the high-speed rail project, but all future large and complex public works construction projects.

The business plans and the project update reports are the Legislature's, and the public's, most complete source of information about the high-speed rail project. The state, through a voter-approved initiative and appropriations, have committed billions of dollars in public resources to this major project. Adding members of the Legislature to the Authority Board of Directors will help provide additional information to members regarding the ongoing activities of the project, as the Governor noted in his veto message of AB 2847 last year.

The Authority will release a draft 2018 Business Plan early next year, which will include an updated schedule, financial projections, and ridership estimates.

Previous legislation: AB 2847 (Patterson) of 2017, would have added additional required elements for inclusion in Authority Business Plan and Project Update Report. AB 2847 was vetoed by Governor Brown.

AB 528 (Lowenthal), Chapter 237, Statutes of 2013, added new elements to the California state rail plan and the Authority's business plan.

REGISTERED SUPPORT / OPPOSITION:

Support

Honorable Clint Olivier, Council President, District 7, City of Fresno
Monte Verde Ranch
Tos Farms, Inc.
Transportation Solutions Defense and Education Fund

Opposition

California Labor Federation
State Building and Construction Trades Council of California

Analysis Prepared by: Melissa White / TRANS. /