

Date of Hearing: June 29, 2015

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

SB 400 (Lara) – As Amended June 1, 2015

**SENATE VOTE:** 27-9

**SUBJECT:** California Global Warming Solutions Act of 2006: Greenhouse Gas Reduction Fund.

**SUMMARY:** Requires the High Speed Rail Authority (HSRA) to fund projects that offset construction impacts of the high speed rail project. Specifically, **this bill:**

- 1) Requires HSRA to allocate 25% of appropriated cap-and-trade funds to projects that reduce greenhouse gas (GHG) emissions and improve air quality in disadvantaged communities and designated non-attainment areas. Suggested qualifying projects include, but are not limited to:
  - a) Public transit improvements that reduce congestion;
  - b) Transportation improvements that reduce congestion;
  - c) Alternative transportation options;
  - d) Natural systems such as rural and urban forests that reduce GHG emissions or increase the sequestration of carbon; and,
  - e) Use of low- and zero-emission equipment for transportation construction.
- 2) Makes related, technical amendments.

**EXISTING LAW:**

- 1) Created HSRA in 1996 to direct development and implementation of an intercity high-speed rail service that is fully coordinated with other public transportation services. In 2008, voters approved Proposition 1A authorizing \$9.95 billion in general obligation bonds for the high-speed rail program and related commuter rail services.
- 2) Requires, pursuant to AB 32 (Nunez), Chapter 488, Statutes of 2006, the California Air Resources Board (ARB) to adopt GHG emissions reductions measures to achieve the goal of reducing GHG emissions to 1990 levels by 2020, including market-based mechanisms (e.g., cap-and-trade program).
- 3) Established the Greenhouse Gas Reduction Fund (GGRF) in the State Treasury and required all cap-and trade proceeds to be deposited into the fund
- 4) Requires the Department of Finance (DOF) to develop a three-year investment plan guide expenditure of cap-and-trade auction revenues to achieve GHG emissions reductions consistent with AB 32.

- 5) Requires the GGRF investment plan to allocate, at a minimum, 25% GGRF money to benefit disadvantaged communities and to allocate 10% of GGRF moneys within disadvantaged communities.
- 6) Continuously appropriates 25% of the GGRF to HSRA for acquisition, construction, environmental review and design of the initial operating segment and Phase I Blended System.

**FISCAL EFFECT:** Unknown

**COMMENTS:** The communities along the high-speed rail corridor through California's Central Valley suffer from some of the state's worst air quality. In fact last year, the American Lung Association noted that, despite vast improvements over the last few decades, the Central Valley still has the nation's highest levels of ozone and fine particle pollution.

The author introduced SB 400 out of concern for communities like these that are already burdened by nearby, heavily congested highway corridors. He notes that, while the high-speed rail project will eventually reduce GHG emissions and air pollution, the project will be detrimental to the Central Valley in the short-term due to the environmental impacts from construction.

Recognizing concerns such as these, HSRA committed to achieving zero-net GHG emissions related to construction activities, material deliveries, and worker travel. For example, the authority has committed to planting trees to offset the first phases of construction. Furthermore, HSRA is working with the San Joaquin Unified Air Pollution Control District (District) to provide additional mitigation for construction emissions. Under a Memorandum of Understanding (MOU) between HSRA and the District, each quarter the HSRA construction contractor will submit a list of equipment that has been used during the quarter along with the number of miles driven or hours used. HSRA will then pay the District a dollar value equivalent to be used for programs to, for example, replace aging farm and other high-polluting equipment. This mitigation is intended to complement requirements that HSRA already imposes on its construction contractor to use clean construction vehicles. HSRA expects that it could pay the District approximately \$40 million under the terms of the MOU. HSRA has undertaken these measures despite the fact that the U.S. Transportation Board ruled that California's environmental review laws are federally pre-empted; consequently, the project is not required to comply with the California Environmental Quality Act, including requirements to mitigate environmental impacts.

The author appears to believe these efforts by HSRA are insufficient; hence he introduced SB 400 to direct 25% of the cap-and-trade money directed to the high-speed rail project (or \$125 million if cap-and-trade auctions bring in \$2 billion annually as anticipated) to projects that benefit communities in designated extreme non-attainment areas.

*Committee concerns:* The author's frustration about the impacts to disadvantaged communities in the Central Valley and elsewhere are understandable. However, SB 400 raises a number of legitimate concerns:

- 1) Re-directing 25% from HSRA's only steady funding source could threaten completion of the project and jeopardize any future environmental benefits that might be realized. The project is already sorely underfunded and SB 400 would exacerbate that problem.
- 2) SB 400 is intended to offset environmental impacts due to construction but does not impose any requirement that the re-directed dollars be spent in communities near the construction zones. Instead, SB 400 requires monies to be spent in areas designated as extreme non-attainment areas. California has two extreme non-attainment areas: the San Joaquin Valley and the South Coast Air Basin. Conceivably, SB 400 could result in millions of dollars being spent in Southern California, hundreds of miles from the high-speed rail construction sites.
- 3) The amount of mitigation required by SB 400 (worth about \$125 million annually) may have little or no relation to the actual construction-related environmental impacts and will significantly drive up the cost of the high-speed rail project.

The committee may wish to consider the following dichotomy: Should high-speed rail project dollars be spent to achieve definitive, near-term environmental benefits in the state's most disadvantaged communities or should those dollars be spent to increase the likelihood that the high-speed rail project will be completed and its promised environmental benefits potentially realized?

*Double referral:* This bill will be referred to the Assembly Natural Resources Committee should it pass out of this committee

*Previous legislation:* AB 32 (Nunez), Chapter 488, Statutes of 2006, required ARB to develop a plan of how to reduce emissions to 1990 levels by 2020.

SB 535 (De Leon), Chapter 830, Statutes of 2012, required DOF, when developing the three-year investment plan for cap-and-trade to allocate 25% of these funds to projects that provide benefits to disadvantaged communities and to allocate a minimum of 10% to projects located in disadvantaged communities.

SB 862 (Committee on Budget and Fiscal Review), Chapter 36, Statutes of 2014, established a long-term cap-and-trade expenditure plan by continuous appropriation and designated 25% of annual cap-and-trade proceeds to the HSRA.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

Coalition For Clean Air

##### **Opposition**

None on file

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