

Date of Hearing: March 25, 2019

ASSEMBLY COMMITTEE ON TRANSPORTATION  
Jim Frazier, Chair  
AB 422 (Frazier) – As Introduced February 7, 2019

**SUBJECT:** High-speed rail: performance measurement dashboards

**SUMMARY:** Requires the California High-Speed Rail Authority (Authority), in consultation with the independent Peer Review Group, to develop a set of performance measurement dashboards and post them on its website. Specifically, **this bill:**

- 1) Requires the Authority, in consultation with the Peer Review Group, to develop and update quarterly a set of summary performance measurement dashboards that show ongoing performance of the project.
- 2) Requires the Authority to post full sets of the summary performance measurement dashboards and updates on its internet website.

**EXISTING LAW:**

- 1) Establishes the Authority and vests with it the responsibility to develop and implement a high-speed rail system in California.
- 2) 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.
- 3) Continuously appropriates 25% of the state's cap and trade program funds for the high-speed rail project.
- 4) Requires the Authority to create an independent Peer Review Group, as specified, for the purpose of reviewing the planning, engineering, financing, and other elements of the authority's plans and issuing an analysis of appropriateness and accuracy of the authority's assumptions and an analysis of the viability of the authority's financing plans.
- 5) Requires the Peer Review Group to evaluate the Authority's funding plans and prepare its independent judgment as to the feasibility and reasonableness of the plans, appropriateness of assumptions, analyses, and estimates, and any other observations or evaluations it deems necessary.
- 6) Requires the Authority to provide the Peer Review Group any and all information that it may request to carry out its responsibilities.
- 8) Requires the Peer Review Group to report its findings and conclusions to the Legislature no later than 60 days after receiving the plans.

9) Requires the Authority to prepare a Business Plan, as specified, by May 1, 2014, and every two years, thereafter. 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.

10) Requires the Authority to prepare a Project Update Report, as specified, on March 1, 2017, and every two years thereafter.

**FISCAL EFFECT:** Unknown

**COMMENTS:** 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 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. Since then, estimated costs for the project have risen markedly. The Authority's most recent Business Plan estimates costs for Phase I to be \$77.3 billion using the blended approach of relying in part on existing tracks in the Bay Area and parts of Los Angeles.

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. Additionally, as part of the 2014-15 state budget, 25 percent of cap and trade revenues were dedicated to the project.

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 so-called “Valley to Valley” line. The Business Plan also adjusted the cost estimates for Phase I down from \$68 billion to \$64 billion.

In June 2018, the Authority approved 2018 Business Plan which continues the commitment to a northern IOS. Additionally, the plan reflects work directed by the Authority's Board of Directors in 2017 for a comprehensive review of the current Central Valley construction contracts and cost estimates for the Valley to Valley Line and full Phase I of the system. This new cost review was first unveiled in November 2017, when the Authority revealed that costs for the Central Valley segment had risen over \$2.8 billion from previous estimates, due primarily to right-of way acquisition delays and so-called third party agreements with freight railroads and utilities. The new cost estimates are reflected in the plan. The updated cost for full Phase I of the system is \$77.3 billion.

At the part of the legislation that put Proposition 1A on the ballot, the Legislature also created the independent Peer Review Group made up of eight members with specific backgrounds in infrastructure project planning, construction, management, and finance. The Peer Review

Group's mission is to review and analyze the planning, engineering, financing, and other elements of the Authority's plans for the high-speed rail program, including the accuracy of the Authority's assumptions and the viability of the Authority's financial plans. The Peer Review Group's main task is to review the Authority's business plans, project update reports and financial plans. The Peer Review Group reports to the Legislature on these and other matters related to the high-speed rail program.

A recent state audit of the high-speed rail program found that flawed decision making and poor contract management contributed to billions in cost overruns and construction delays. The auditor made numerous recommendations to increase oversight of the project, focusing on the delivery of the Central Valley segment currently under construction, by strengthening internal Authority controls, such as contract management. The auditor also recommended increasing transparency and reporting. Specifically, one of the recommendations was for the Authority to develop a quarterly update to the Legislature on progress in the Central Valley to better inform policymakers and the public.

In February 2019, Governor Gavin Newsom delivered his State of the State address and he appeared to signal a change in project, shifting emphasis to completing a workable rail line in the Central Valley, but casting doubt over the completion of full Phase I. He outlined a new Central Valley construction plan, including extending the current line north to Merced and south to Bakersfield.

In response to Governor Newsom's address, the Federal Railroad Administration (FRA) issued a letter stating that it plans to "de-obligate \$929 million in federal funding for the project." The letter details what the FRA contends are the Authority's failure to comply with the terms of federal grant agreement. The Authority responded with a rebuttal letter in March 2019, and the situation remains unresolved. It is unclear what impact the FRA action could have on the project and the anticipated Project Update Report due to the Legislature in May 2019.

Additionally, as part of his address, Governor Newsom stated, "there's been too little oversight and not enough transparency." He went on to announce new transparency measures, "we're going to hold contractors and consultants accountable to explain how taxpayer dollars are spent – including change orders, cost overruns, even travel expenses. It's going online, for everybody to see."

Currently, high-speed rail project managers must develop and use reports of ongoing progress that can be far too detailed and complex. Broader legislative oversight and public transparency requires a set of summary progress indicators that identify parts of the project that are on schedule and budget, and highlight areas where problems may be emerging. A common and useful management technique used by project managers is "dashboards," which use simple visual status indicators to give a summary picture. Although dashboard indicators do not give full explanations of problems or issues, they do highlight anticipated problems and risks and where attention should be focused.

AB 422 requires the Authority, in consultation with the Peer Review Group, to develop and update quarterly a set of summary performance measurement dashboards that show ongoing performance of the project. Additionally, the bill requires the Authority to post the full set of the summary performance measurement dashboards and updates on its website for transparency.

According to the author, “the size and complexity of the California high-speed rail program requires consistent, careful oversight and transparency for the public. Over the past few years, the Authority has developed dashboard indicators for their Board of Directors. AB 422 would require the development of suitable indicators for legislative use and public transparency, which will help bolster additional oversight of the development and construction of the high-speed rail system.”

*Related Legislation:* AB 1148 (Patterson) would require the peer review group to study and annually report to the Legislature on alternative uses for high-speed rail project infrastructure that is located in the project’s Central Valley corridor. AB 1148 is awaiting hearing in this committee.

*Previous Legislation:* AB 95 (Committee on Budget), Chapter 12, Statutes of 2015, made changes to the required backgrounds of the member of the independent Peer Review Group.

AB 58 (Galgiani) of 2010, would have required the Authority to appoint a staff liaison to the Peer Review Group and authorized compensation for Peer Review Group members for meeting. AB 58 was held in the Assembly Transportation Committee.

SB 854 (Committee of Budget and Fiscal Review) of 2010, would have required the Authority to appoint a staff liaison to the Peer Review Group and authorized compensation for Peer Review Group members for meeting. SB 854 died in Budget Conference Committee.

AB 3034 (Galgiani), Chapter 267, Statutes of 2008, required the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century to be placed on the ballot, which became Proposition 1A of 2008. AB 3034 established the Peer Review Group.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

None on file

### **Opposition**

None on file

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