



DEPARTMENT OF
FINANCE
OFFICE OF THE DIRECTOR

EDMUND G. BROWN JR. • GOVERNOR
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Honorable Mark Leno, Chair
Senate Budget and Fiscal Review Committee

Attention: Ms. Keely Bosler, Staff Director (2)

Honorable Bob Blumenfield, Chair
Assembly Budget Committee

Attention: Mr. Christian Griffith, Chief Consultant (2)

Amendment to and Addition of Various Budget Bill Items, Support and Trailer Bill Language, Department of Transportation and High-Speed Rail Authority

Public Transportation Account Loan to Cover State Operations Costs (Issue 103)—It is requested that Item 2665-011-0046 be added in the amount of \$26,199,000 to provide a one-time loan to the High-Speed Passenger Train Bond Fund to cover the High-Speed Rail Authority's (Authority) state operations costs. In order to streamline and mitigate against litigation, the Authority is pursuing a validation action to affirm in court that the proposed project funding is consistent with the Proposition 1A Bond Act. As with all litigation, there is a certain level of uncertainty regarding how long the validation process will take, which makes it necessary to fund the Authority's support costs from an alternate source.

Conversion of Project Delivery Functions to State Staff (Issue 100)—It is requested that Item 2665-004-6043 be increased by \$265,000 to support 41.0 new positions (with staggered effective dates) to bring project management and project oversight activities in house. The positions will be funded primarily by redirecting expenditure authority originally proposed in the Governor's Budget for project management and oversight contracts. Additionally, it is requested that Budget Bill language be added to Items 2665-004-6043 and 2660-001-0042 to provide optional reimbursement authority for the Department of Transportation (Caltrans) and the Authority for up to \$10 million in planning workload, allowing the departments to better utilize the expertise of existing state staff in the planning of the high-speed rail system.

The requested language to be added for Item 2665-011-0046 can be found in Attachment 1 and Items 2665-004-6043 and 2660-001-0042 can be found in Attachment 2.

Increased Administrative Staff to Support the High-Speed Rail Project (Issue 101)—It is also requested an additional amount of \$4,828,000 be added to Item 2665-004-6043 to support a net increase of 44.0 positions, a baseline salary adjustment (\$826,000), and office space for new and existing staff (\$631,000). Additionally, this request includes the elimination of 1.5 positions (1.0 Accounting Technician and 0.5 Office Technician) and \$77,000 in associated funding. The additional resources will provide much-needed administrative support for the Authority. In previous years, the Authority has focused on planning, environmental, and design activities, but is now engaged in new activities associated with construction and right-of-way

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acquisition. This increase in workload will result in the Authority taking over activities previously addressed using contractors and other agencies, new workload related to a substantial increase in both the number and the frequency of claims submitted to the federal government, and workload driven by increased accounting and reporting requirements.

Proposed Trailer Bill Language—It is requested that trailer bill language be added for the Authority to establish a process and rules for the relocation of utilities outside of the right-of-way for the high speed rail project. This legislation has been modeled after existing language used by Caltrans for the relocation of utilities in other transportation projects. Without this language, relocations may be delayed or incur unnecessary costs. As this language already exists for the Caltrans projects, utility companies are familiar with and accept the current procedures.

The proposed trailer bill language can be found in Attachment 3.

If you have any questions or need additional information regarding this matter, please call Robert Nelson, Budget Analyst, at (916) 322-2263. For questions related to the trailer bill language please call Theresa Gunn, Principal Program Budget Analyst, at (916) 445-9694.

ANA J. MATOSANTOS
Director
By:

/s/ Michael Cohen

MICHAEL COHEN
Chief Deputy Director

Attachment

cc: Honorable Kevin de León, Chair, Senate Appropriations Committee
Attention: Mr. Mark McKenzie, Staff Director
Honorable Bill Emmerson, Vice Chair, Senate Budget and Fiscal Review Committee
Attention: Mr. Seren Taylor, Staff Director
Honorable Mike Gatto, Chair, Assembly Appropriations Committee
Attention: Mr. Geoff Long, Chief Consultant
Honorable Jeff Gorell, Vice Chair, Assembly Budget Committee
Attention: Mr. Eric Swanson, Staff Director
Honorable Jim Beall, Chair, Senate Budget and Fiscal Review Subcommittee No. 2
Honorable Richard Bloom, Chair, Assembly Budget Subcommittee No. 3
Mr. Mac Taylor, Legislative Analyst (4)
Mr. Craig Cornett, Senate President pro Tempore's Office (2)
Mr. Christopher W. Woods, Assembly Speaker's Office (2)
Ms. Deborah Gonzalez, Policy and Fiscal Director, Assembly Republican Leader's Office
Mr. Dan Richard, Chair, High Speed Rail Authority Board
Mr. Jeff Morales, Director, High Speed Rail Authority
Mr. Dennis Trujillo, Chief Deputy Director, High Speed Rail Authority
Mr. Matt Robinson, Deputy Director, Legislation, High Speed Rail Authority
Ms. Norma Ortega, Chief Financial Officer, Department of Transportation
Mr. Steven Keck, Chief, Budgets, Department of Transportation

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Attachment 1

Proposed Budget Bill Language

2665-011-0046—For transfer by the Controller, upon order of the Director of Finance, from the Public Transportation Account, State Transportation Fund, to the High-Speed Passenger Train Bond Fund as a loan.....(26,199,000)

Provisions:

1. The Director of Finance may transfer up to \$26,199,000 as a loan from the Public Transportation Account, State Transportation Fund to the High-Speed Passenger Train Bond Fund. The Director of Finance shall order the repayment of all or a portion of this loan if he or she determines that either of the following circumstances exists: (a) the fund or account from which the loan was made has a need for the moneys, or (b) there is no longer a need for the moneys in the fund or account that received the loan. This loan shall be repaid with the interest calculated at the rate earned by the Pooled Money Investment Account at that time of transfer.

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Attachment 2

Add Provision to Item 2665-004-6043

4. Expenditure authority in this item, or other department items of appropriation, may be augmented by a cumulative total not to exceed \$10,000,000 to reflect reimbursements to the High-Speed Rail Authority from the Department of Transportation. This budget authority is intended to allow additional efficiencies and coordinated work between the Department of Transportation and the High-Speed Rail Authority, as those opportunities are identified. The Department of Finance shall authorize the reimbursement not sooner than 30 days after notification in writing to the Chairperson of the Joint Legislative Budget Committee.

Add Provision to Item 2660-001-0042

XX. Expenditure authority in this item, or other department items of appropriation, may be augmented by a cumulative total not to exceed \$10,000,000 to reflect reimbursements to the Department of Transportation from the High-Speed Rail Authority. This budget authority is intended to allow additional efficiencies and coordinated work between the Department of Transportation and the High-Speed Rail Authority, as those opportunities are identified. The Department of Finance shall authorize the reimbursement not sooner than 30 days after notification in writing to the Chairperson of the Joint Legislative Budget Committee.

Attachment 3

Proposed Trailer Bill Language:

SECTION 1. Chapter 5 (commencing with Section 185500) is added to Division 19.5 of the Public Utilities Code, to read:

Chapter 5 - Relocation of Utilities

185500.

(a) "Person" means any individual person, firm, partnership, association, corporation, organization, limited liability company, or business trust, and includes any city, county, public corporation, or public district.

(b) "Utility" means any person maintaining any utility facility.

(c) "Utility facility" means any pole, pole line, pipe, pipeline, conduit, cable, aqueduct, or other structure or appurtenance thereof used for public or privately owned utility services or used by any mutual organization supplying water or telephone service to its members.

(d) "High-speed rail property" means real property or an interest therein, previously or hereafter acquired by the state for high-speed rail purposes.

185501.

Whenever the authority requires any utility to remove any utility facility lawfully maintained in the right of way of any high-speed rail property to a location entirely outside the high-speed rail property right of way, the authority shall pay the reasonable and necessary cost of such removal. This includes both the cost of removal and the cost of relocation in a new location outside of the high-speed rail property right of way.

This section does not apply to the relocation of the utility facility from one point in a high-speed rail property to another point in the high-speed rail property, including the relocation in any service road of the high-speed rail property or from one point of crossing of the high-speed rail property to another and reasonable point of crossing.

185502.

Whenever the authority requires a publicly owned utility to relocate within a high-speed rail property any utility facility lawfully maintained in any high-speed rail property which was not used for high-speed rail purposes at the time such utility facility was originally installed therein, the authority shall pay the cost of such relocation.

Whenever the authority requires a privately owned utility to relocate within a high-speed rail property any utility facility used solely to supply water, which facility is lawfully maintained in any high-speed rail property which was not used for high-speed rail purposes at the time such utility facility was originally installed therein, the authority shall pay the cost of such relocation.

Whenever the authority requires a privately owned utility to relocate within a high-speed rail property any utility facility, other than one used solely to supply water, which facility is lawfully maintained in any high-speed rail property which was not used for high-speed rail purposes at the time such utility facility was originally installed therein, and it is established by the utility that it is not under express contractual obligation to relocate such facility at its own expense, the authority shall pay the cost of such relocation.

A permit containing a contractual obligation which was accepted by the utility for maintenance or minor improvement of the facility after such property became high-speed rail property shall not constitute a contractual obligation within the meaning of this section.

Publicly owned sewers and fire hydrants and any street lighting structure, whether publicly or privately owned, in any high-speed rail property shall be relocated, where necessary, at the expense of the authority.

185503.

If the authority requires the relocation within the right of way of any utility facility more than once within a period of 10 years, the authority shall pay the cost of the second relocation and any subsequent relocation within such 10-year period.

185504.

In any case in which the authority is required under the provisions of this chapter to pay the cost of removal or relocation of any utility facility, it shall be entitled to credits as follows:

- (1) In the amount of any betterment to the utility facility resulting from such removal or relocation, not in excess of the cost of the increased capacity of the facility.
- (2) The salvage value of any materials or parts salvaged and retained by the utility.
- (3) If a new facility or portion thereof is constructed to accomplish such removal or relocation, an allowance of an amount bearing the same proportion to the original cost of the displaced facility or portion thereof as the age thereof bears to the normal expected life thereof.

A credit shall not be allowed against any portion of the cost which is otherwise chargeable to the utility.

A credit allowance for age shall not be applied to publicly owned sewers.

185505.

The authority and any utility required to remove a utility facility or to relocate any utility facility may, by agreement, provide for the respective amounts of the cost to be borne by each. The authority may, without prejudice to its rights under Section 185506, advance the cost of removal or relocation and if the authority advances such cost, it is the duty of the utility to move its facilities as soon as reasonably possible so as not to delay high-speed rail property construction. In the case of any utility which is not financially able to bear the costs of removal or relocation, the authority may by agreement provide for the work to be done on condition that the utility's portion of the costs be repaid to the authority over a period of time not exceeding 10 years.

Either party may maintain an action in a court of competent jurisdiction for an adjudication as to the obligations and costs to be borne by each party under such provisions of said contract at any time within four years after the cause of action first arose thereunder. Such a cause of action shall be deemed to arise upon and at the time of the completion by the utility of the removal or relocation in question, or at the time of breach of the agreement by either party. The filing of a claim with any state agency shall not be deemed a condition precedent to the maintenance by the utility of any such action.

185506.

In the event of failure to reach an agreement as provided in Section 185505, the utility or the authority may bring an action in a court of competent jurisdiction for apportionment of the cost between them in accordance with the provisions of this article. Such an action may be commenced within three years from the date of completion by the utility of the removal or

relocation in question. The filing of a claim with any state agency shall not be deemed a condition precedent to the maintenance by the utility of any such action.

185507.

(a) The authority and any utility as defined in Section 185500 of this code may enter into a contract providing for or apportioning the obligations and costs to be borne by each party as to either or both of the following subject matters:

(1) Any or all removals or relocations of any utility facilities completed by the utility prior to the effective date of such contract as required by notice given by the authority wherever necessary to accommodate any or all state high-speed rail construction, where: (A) the obligations or costs in respect thereto to be borne by each party is in dispute; and (B) the claim of the utility is: (i) founded upon a removal or relocation completed by the utility not longer than three years immediately preceding the effective date of such contract; or (ii) involved in an action pending in a court of competent jurisdiction if such action was commenced within three years after completion by the utility of the removal or relocation in question; and

(2) Any or all removals or relocations of any utility facilities to be undertaken or completed by the utility after the effective date of such contract as required by notice given by the authority wherever necessary to accommodate any or all state high-speed rail construction.

(b) Those provisions of any such contract settling the claims of the parties in respect to any or all removals or relocations of any utility facilities completed by the utility prior to the effective date of such contract, as authorized in subdivision (a) (1) of this section, shall be irrevocable after the execution of such contract, except as the same may be changed or modified by mutual consent of the parties in writing; and either party may maintain an action in a court of competent jurisdiction upon such provisions of said contract at any time within two years after the effective date of such contract, and the utility need file no claim with any state agency as a condition precedent to the maintenance of any such action.

(c) Those provisions of any such contract dealing with any or all removals or relocations of any utility facilities to be undertaken or completed by the utility after the effective date of such contract, as authorized in subdivision (a) (2) of this section, shall be under and subject to the following limitations and requirements:

(1) While such provisions of said contract remain in effect, such provisions shall govern exclusively the determination of the obligations and costs to be borne by each party in regard to every removal or relocation covered thereby undertaken or completed by the utility after the effective date of such contract, whether notice in respect thereto was given by the authority to the utility before or after the effective date of such contract, in lieu of the determination thereof under the foregoing provisions of this article as now or hereafter existing and any and all other laws which would be applicable to said subject matter but for said contract, save to the extent that any such laws may be referred to, retained, and made applicable by, such provisions of said contracts; provided:

(A) where before the effective date of a contract entered into under this section the parties executed an agreement in respect to the obligations and costs to be borne by each party as to a particular removal or relocation under a notice given by the authority, the provisions of such last mentioned agreement shall govern as to the obligations and costs to be borne by each party in respect thereto; and

(B) where a particular notice given by the authority before the effective date of a contract entered into under this section specifies a removal or relocation to be made at the expense of the utility, the utility shall be and remain bound thereby unless the utility advised the authority in writing of its disagreement with such determination within the time specified in any agreement then in effect between the authority and the utility in respect to the procedure to be followed in such cases, or, if none, within a reasonable time after receipt by the utility of said notice.

(2) Either party may maintain an action in a court of competent jurisdiction for an adjudication as to the obligations and costs to be borne by each party under such provisions of said contract at any time within four years after the cause of action first arose thereunder. Such a cause of action shall be deemed to arise upon and at the time of the completion by the utility of the removal or relocation in question. The filing of a claim with any state agency shall not be deemed a condition precedent to the maintenance by the utility of any such action.

(3) Such provisions of said contract shall terminate: (i) automatically upon the repeal of this section or of subdivisions (a) (2) and (c) hereof; and (ii) also, unless sooner so automatically terminated, at such time or in such manner as may be provided in said contract; and in the event of either such termination, the laws applicable to the subject matter of such provisions of said contract as existing at the time of such termination shall thereafter govern, save as to removals or relocations theretofore required of the utility by the authority under notice mailed or delivered to the utility prior to such termination, whether work upon such removal or relocation has theretofore commenced, is in progress, or has been completed.

185508.

Every utility is entitled to a permit for such reasonable crossings of any high-speed rail property, as may be required for the proper discharge of the utility's service to the public.

185509.

The authority shall exercise a reasonable discretion in acting on applications of utilities for permits to occupy high-speed rail property for longitudinal locations of facilities, as may be required for the proper discharge of their services to the public. The authority may, however, refuse to grant any applications for any such longitudinal installation which would be inconsistent with public safety or the continued unobstructed use of the high-speed rail property for vehicular traffic, or for any type of utility structure inconsistent with the aesthetic values of any landscaped high-speed rail property within, or approaching within one mile of, the limits of any city.

185510.

The authority, in acting upon applications for utility permits, shall consider both the interests of the traveling public upon the high-speed rail property and the needs of consumers for public utility services.

185511.

Nothing in this chapter is intended to prevent the authority from making reasonable rules and regulations and requiring reasonable conditions in permits concerning the place, manner and method of location of utility facilities in, under, over or along high-speed rail property.