

Date of Hearing: April 24, 2023

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

AB 501 (Vince Fong) – As Amended April 13, 2023

SUBJECT: Greenhouse Gas Reduction Fund: High-Speed Rail Authority: water infrastructure: transfer and loan

SUMMARY: Makes various changes to direct funding currently provided to the High-Speed Rail Authority (HSRA) available to fund water conveyance, water storage infrastructure, and flood prevention. Specifically, **this bill:**

- 1) Suspends the continuous appropriation to HSRA for the 2024-25 and 2025-26 fiscal years and requires the transfer of these funds to the General Fund (GF) and makes the funding available for water conveyance, water storage infrastructure, and flood prevention.
- 2) Transfers \$2.4 billion of unencumbered moneys appropriated to HSRA before the 2023-24 fiscal year from the GGRF to the GF as a loan to augment funding for water conveyance, water storage infrastructure, and flood prevention.
- 3) Appropriates \$2.4 billion from the High-Speed Rail Passenger Train Bond Fund (Proposition 1A) for the sole purpose of completing the minimum scope of work necessary to meet federal grant requirements and satisfy existing regional commitment as described in the 2020 High-Speed Rail Authority Draft Business Plan.

EXISTING LAW:

- 1) Creates the High-Speed Rail Authority in state government. (Public Utilities Code (PUC) 185000)
- 2) Requires CARB, pursuant to California Global Warming Solutions Act of 2006 (AB 32 (Núñez) Chapter 488, Statutes of 2006), to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to 1990 levels by 2020 and to develop a scoping plan for achieving the maximum technologically feasible and cost effective reductions in GHGs. (Health and Safety Code (HSC) 38500)
- 3) Authorizes CARB to adopt a regulation that establishes a system of market-based declining annual aggregate emissions limits for sources or categories of sources that emit GHGs, applicable from January 1, 2012 to December 31, 2030. (HSC 38562)
- 4) Beginning in the 2015-16 fiscal year, continuously appropriates, without regard to fiscal years, 25% of the annual proceeds of the Greenhouse Gas Reduction Fund (GGRF) to HSRA for the initial operating segment and Phase 1 Blended System as described in the 2012 HSRA Business Plan. (HSC 39719)

- 5) Establishes the HSRA Office of the Inspector General to initiate audits and reviews related to the delivery of the project and selection of contractors, monitor the progress towards meeting milestones, and identify best practices in the delivery of capital projects and recommend policies to adopt these when possible, among other duties. (PUC 187030)

FISCAL EFFECT: Unknown

COMMENTS: Chapter 796 of 1996 (SB 1420, Kopp) established HSRA to plan and construct a high-speed rail system that would link the state's major population centers. In November 2008, voters approved Proposition 1A, which authorized the state to sell \$10 billion in general obligation bonds to partially fund the system, as well as related projects. \$9 billion is for the high-speed rail system itself, with the remainder to support connectivity projects. Of the \$9 billion, HSRA has set aside \$1.1 billion to contribute to locally administered bookend projects.

Proposition 1A also specified certain criteria and conditions that the system must ultimately achieve. For example, the measure requires that the system must be designed to be capable of specified travel times along certain routes, such as nonstop travel from San Francisco to Los Angeles (Phase 1) within two hours and forty minutes. The measure also specifies that passenger rail service operated by HSRA, or pursuant to its authority, will not require an operating subsidy.

In 2014, the state began providing cap-and-trade auction proceeds—which are deposited into the Greenhouse Gas Reduction Fund (GGRF)—for the high-speed rail project. Since 2015-16, the project has received a continuous appropriation of about 25% of annual cap-and-trade revenues. Through December 31, 2022, the project has received about \$5.5 billion from GGRF, of which HSRA has spent about \$3.7 billion. The cap-and-trade program currently is authorized to continue through 2030 and HSRA in its 2023 Project Update Report estimates that the project will receive between \$750 million to \$1 billion annually from cap and trade revenues. Previous estimates have been lower.

The Legislature appropriated the last of the Proposition 1A bond funds as part of the 2022-23 budget process. To date, HSRA and partner agencies have spent about \$4.9 billion of the Prop 1A funds—just over \$4 billion on the high-speed rail project (including on the “bookend” projects in Los Angeles and the Bay Area) and about \$825 million on connectivity projects. As a result, about \$5.1 billion remains to be expended.

The federal government provided the state large grants in 2009 and 2010 totaling \$3.5 billion to begin construction in the Central Valley. As part of the conditions of receiving federal funding for the project the state is required to (1) use the funds to support the construction of a segment usable for passenger intercity rail, and (2) complete all of the environmental reviews for Phase 1.

In addition, recently the state has received a few small federal grants totaling \$49 million for improvements near Wasco and for design of the Merced extension.

Since the project's inception it has struggled and as summarized by the High-Speed Rail Peer Review Group's March 23, 2023 letter “In reviewing past letters and testimony, a consistent theme emerges: 1) project costs, schedules, and ridership estimates are uncertain and subject to significant risk of deteriorating, a typical experience for mega-projects; 2) the project is underfunded, and its financing is unstable, raising costs and making effective management difficult, if not impossible; 3) more legislative oversight is needed.

On April 12, 2023 the joint hearing of the Assembly Transportation Committee and Assembly Budget Subcommittee #3 raised many concerns. It found that project costs have risen year after year, and they continue with no end in sight; schedules for completion continue to stretch; ridership estimates have fallen; the unfunded gap continues to grow and will likely grow beyond \$10 billion; and there is no federal funding partner or funding plan for the project beyond Merced to Bakersfield, whose costs could easily exceed \$150 billion for completion of the project from San Francisco to Anaheim.

According to the author, “The California High Speed Rail project has yet to deliver on any of its promises made to voters in 2008. The program is now decades behind schedule and is projected to cost the taxpayers \$128 billion, which means the High Speed Rail project is \$98 billion over budget. Facing an estimated \$25 billion deficit, the Legislature needs to stop wasting taxpayer money on this failing project and redirect the billion dollar yearly funding to more pressing priorities like hardening levies, water storage and conveyance that will protect lives and Californian communities. Taxpayers are getting swindled. Facing out of control costs, delays and mismanagement, it is time for the Legislature to stop wasting taxpayer dollars and bolster California’s existing infrastructure to protect our state from natural disasters.”

Writing in opposition, the State Building and Construction Trades Council states “The SBCTC has always supported dedicated funding for water infrastructure. For example, the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1), which authorized \$7.545 billion in general obligation bonds to fund surface and groundwater storage and drinking water protection projects... We supported all of these efforts for funding water infrastructure and are ready to discuss options for supporting more funding. However, our recognition and support for funding of water infrastructure does NOT diminish or deter our rock-solid commitment to providing and supporting ongoing resources for California’s transportation infrastructure, specifically California High-Speed Rail.”

Staff concerns:

The actions this bill proposes to take could essentially stop construction of the project in the Central Valley because GGRF funds would not be available to match the Prop 1A funds as required by the bond act. This bill would provide total funding of roughly \$3 billion to \$4 billion for water conveyance, water storage infrastructure, and flood prevention. To do so, this bill would take the GGFF that would be appropriated to HSRA in 2024-25 and 2025-26 which is estimated to be between \$1.5 billion to \$2 billion and the GGRF that has been appropriated to HSRA, but not expended, which is estimated to be about \$1.8 billion as of December 2022.

As discussed above, the high-speed rail project faces many challenges, including the greatest challenge which is a lack of a reliable stream of funding. However, it is premature to make the decision to stop the project and the Legislature needs more information before making such a decision.

The state is on the cusp of a critical decision-making time for the project. HSRA is submitting a federal grant application for \$2.8 billion (matched with \$706 million of state Cap and Trade funds) to complete the useable segment of Merced to Bakersfield. HSRA also is submitting an application for \$193.6 million in federal funds (matched with \$48.4 million state Cap and Trade funds). Whether the state is awarded these funds, or not, will provide important information about if it should proceed with the Merced to Bakersfield segment of the project, or not.

However, even the continuation of construction of the segment between Merced and Bakersfield is contingent upon a commitment to build the complete Phase 1 system. According to the HSRA Peer Review Group, “there are few who would argue that completing this section (Merced to Bakersfield), by itself, at a cost of up to \$35 billion, can be justified.” This makes the need for the state to have conversations with the federal government to determine if it has a future federal funding partner that would provide a stable and reliable stream of funding for the completion of Phase 1 of the project from San Francisco to Anaheim critical. Otherwise, the state needs to ask itself if it wants to fill the funding gap of roughly \$100 billion (which could easily grow to \$150 billion to \$200 billion) for Phase 1 on its own.

In addition, the selection of the HSRA independent Inspector General is underway. The Legislature established this office with the intent that it could provide it with critical independent information it needs about the project to make key decisions. It would be prudent to hear from this office before taking a drastic step that could defund the project.

Finally, the Peer Review Group recently recommended that the Legislature commission an independent review of the economic and financial justifications of the project and ability to operate without a subsidy before committing to the full phase 1 of the project. The last economic analysis was done in 2012 and it was incomplete.

In an attempt to facilitate making a decision in the future, the Legislature may want to consider requiring HSRA to provide the benefit/cost analysis HSRA performs for Federal Railroad Administration/ Department of Transportation to the new Inspector General, Legislative Analyst’s Office (LAO), the Peer Review Group, and the University of California Institute for Transportation Studies for review and report to the Assembly Transportation Committee.

The author may wish to request the LAO or another appropriate agency conduct an analysis of the options and tradeoffs available to the Legislature for how to fund the gap for completion of the Merced to Bakersfield section. The analysis should also provide options for funding the gap between this section and the remainder of the Phase I system in order to facilitate future decision-making.

Previous legislation:

SB 198 (Committee on Budget and Fiscal Review), Chapter 71, Statutes of 2022 expanded the required elements of the Project Update Report and established the HSRA Inspector General.

Kopp (SB 1420), Chapter 796, Statutes of 1996 creates HSRA in state government and prescribes the membership and development of the project.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

Association of California High Speed Trains
District Council of Iron Workers of the State of California and Vicinity
State Building and Construction Trades Council of CA

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