

Date of Hearing: July 16, 2025

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

SB 445 (Wiener) – As Amended July 9, 2025

SENATE VOTE: 34-1

SUBJECT: High-speed rail: third-party permits and approvals: regulations

SUMMARY: Requires the California High-Speed Rail Authority (CHSRA) to develop and adopt regulations for governing third-party permits and approvals that are necessary to deliver the project. Specifically, **this bill:**

- 1) Requires CHSRA, by January 1, 2026, to develop and adopt regulations for governing third-party permits and approvals that are necessary to deliver the high-speed rail project and ensure that the regulations do all of the following:
 - a) Require early engagement between third parties and CHSRA.
 - b) Identify the circumstances under which CHSRA shall seek to enter into a cooperative agreement with each applicable third party that serves as the framework for all future project interactions and, where relevant, identifies who is responsible for specific utility relocations and the associated costs.
 - c) Require regular meetings with third parties during the planning, design, and construction phases.
 - d) Require CHSRA to establish cost estimates with conservative contingency budgets for each utility relocation and to not oversimplify the utility costs and potential risks by bundling those costs into a single item.
 - e) Require regular communication and documentation of contracting terms, conditions, and decisions during construction.
 - f) Define options that can govern a third-party review process for permits and approvals.
 - g) Consider ways to reduce permitting and approval delays.
 - h) Establish a binding dispute resolution process.
 - i) Exempt gas corporations and electrical corporations that the California Public Utilities Commission (CPUC) regulates from the dispute resolution process.
 - j) Prohibit third-party entities from insisting on exactions or betterments from CHSRA that are unrelated to ensuring that health and safety standards are met, unless otherwise stipulated by a cooperative agreement, as a condition for permits and approvals.

- k) Consider reimbursement of third-party staff time and third-party time and materials to relocate the utility.
- l) Define the terms “betterment” and “cooperative agreement” for purposes of the regulation.
- 2) Requires CHSRA to consult with all of the following entities when developing the regulations: California Department of Transportation (Caltrans); CPUC; local government stakeholders; local publicly owned utilities (POUs), gas corporations, and electrical corporations; water districts; telecommunications companies; passenger and freight railroads; and any other relevant entities with expertise in transportation infrastructure project delivery.
- 3) Requires CHSRA to hold at least two public hearings regarding the proposed regulations before adopting them.
- 4) Requires CHSRA to post a public notice on its website when it adopts the regulations and not enter into a third-party agreement until 30 days after the public notice is posted.
- 5) Prohibits CHSRA from implementing these regulations until it completes the development and implementation of a process to review third-party agreements in a timely manner as recommended by the High-Speed Rail Authority Office of the Inspector General (OIG-HSR) in Recommendation 25-R-02-02.
- 6) Contains a number of definitions, including that “third party” means a local agency or utility, including, but not limited to, an electrical corporation, gas corporation, local POU, or private telecommunications provider.
- 7) Includes a severability clause.
- 8) Contains findings and declarations regarding its purpose.
- 9) Provides that no reimbursement is required by this bill pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill, within the meaning of Section 17556 of the Government Code.

EXISTING LAW:

- 1) Creates CHSRA in the California State Transportation Agency with 11 members: five appointed by the Governor, two appointed by the Senate Committee on Rules, two appointed by the Speaker of the Assembly, and one each ex-officio member appointed by the Senate and Assembly. (Public Utilities Code (PUC) §185020)
- 2) Requires CHSRA to direct the development and implementation of an intercity high-speed rail service. (PUC § 185030)
- 3) Requires CHSRA to reimburse utilities for relocation costs under specified circumstances. It also requires the utility “to move its facilities as soon as reasonable possible so as not to delay high-speed rail construction” under specified circumstances. (PUC § 185505)

- 4) Requires Caltrans to specify for a utility relocation a reasonable time within which the work of relocation shall commence. (Streets and Highways Code (SHC) § 680)
- 5) Establishes special provisions and requirements for Caltrans when relocating utilities within and outside freeways. (SHC §§ 700-707.5)
- 6) Creates the OIG-HSR to initiate an audit or review regarding oversight related to delivery of the high-speed rail project undertaken by CHSRA, and the selection and oversight of contractors related to the project. (PUC § 187000, *et seq.*)

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

- 1) **Bill Summary.** This bill requires CHSRA to develop and adopt regulations for governing third-party permits and approvals that are necessary to deliver the high-speed rail project, with specified objectives, by January 1, 2026.

CHSRA must consult with all of the following entities when developing the regulations: Caltrans; CPUC; local government stakeholders; local publicly owned utilities, gas corporations, and electrical corporations; water districts; telecommunications companies; passenger and freight railroads; and any other relevant entities with expertise in transportation infrastructure project delivery.

CHSRA must hold at least two public hearings regarding the proposed regulations before adopting them, and must post a public notice on its website when it adopts the regulations and not enter into a third-party agreement until 30 days after the public notice is posted.

This bill prohibits CHSRA from implementing the regulations until it completes the development and implementation of a process to review third-party agreements in a timely manner as recommended by OIG-HSR in Recommendation 25-R-02-02.

This bill is sponsored by Streets for All.

- 2) **Author's Statement.** According to the author, "California High-Speed Rail is critical for our state's future. The project is already combating climate change, fostering transit-oriented developing, and creating thousands of good-paying union jobs. The project is essential for an abundant, affordable, zero-emission future. It is imperative to help the project cut through permitting and approval-related red tape in order to prevent project cost increases and accelerate project delivery. It shouldn't be this hard to go through design review and approvals or to relocate utilities. There shouldn't be so many veto-points that empower project skeptics or opponents to stall the delivery – particularly after the voters approved funding for the project and design and construction are underway. SB 445 implements a High-Speed Rail inspector general recommendation to cut red tape, streamline the project delivery process, curtail veto-points, and reduce and contain project costs. The bill will result in improved and more cost-effective delivery of California High-Speed Rail, ensuring that public dollars are wisely spent on the project."

- 3) **Background.** Utility relocation poses risks to the scope, schedule, and cost of transit and rail projects. A wide variety of private, public, or cooperatively-owned utilities for water, natural gas, fuel, chemical feeds, stormwater, wastewater, electrical power, telephone, cable/TV/Internet fiber, street lighting, and traffic signaling are built under, on or over city streets and other rights-of-way. Some of these require special care such as fiber optic given the practice of threading the fiber through older, abandoned utilities such as gas lines. Projects with alignments near federal buildings such as court houses, or near public or law enforcement agencies may encounter communications lines or other infrastructure that are not readily identified. These buildings and their utilities require special handling.

Transit and rail projects often involve modification to existing underground and overhead infrastructure. The need to relocate or remove existing utilities on transit and rail project sets up encounters with known, unknown, unmarked, or abandoned utilities. The design of utility relocations must accommodate track slabs, rail-tie-ballast track roadbed, catenary poles, signal masts, gravity flow stormwater drainage, station platforms, signage, lighting, signaling, communications lines, power lines, bridge abutments and piers, earth retaining walls, noise walls, streetscaping, landscaping, and other new infrastructure. Relocation of utilities under intersections and sidewalks is even more complicated and overhead contact systems must consider the potential for electrical interference between the traction power wires and other overhead, non-transit, high voltage lines.

Pre-construction activities for transportation infrastructure projects—often referred to as early works—generally includes project sponsors negotiating agreements with various third parties, such as utility owners, railroad companies, and local jurisdictions, before initiating construction. Project sponsors must work with various third parties to acquire right of way and relocate utilities located in the system’s path, and manage betterments. A betterment is an improvement that occurs to the utility during the relocation process that increases capacity and is not otherwise required in order to successfully relocate the utility as a result of the project.

- 4) **Local Permitting.** The California Constitution allows cities and counties to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public – including land use authority.

Cities and counties enforce their land use authority through zoning regulations and their control of the entitlement process, which is the process by which a city or county grants permission for a proposed development to be built (most often in the context of a housing project). Zoning and entitlement can both involve the process of issuing various types of permits, such as use permits, variances, encroachment permits, building permits, and so forth. Locally-owned utilities, also called POUs, frequently become involved in the process of issuing permits when a permit requires approvals for electric, water or other utility services or the approval of a utility to move or “relocate” any of its infrastructure.

- 5) **The Federal Transit Administration (FTA) Best Practices.** The FTA Project Management Oversight Program, Utility Relocation - Challenges and Proposed Solutions report of March 2022 identified best practices to address utility relocation challenges. These include active, on-going implementation of mitigations such as meetings, tracking, following-up on action

items to maintain accountability, schedule workarounds, communication, cost negotiations, enforcement of compliance with federal regulations, and dedicated attention throughout the project.

The FTA's best practices for utility relocations include:

- a) **Preplanning:** early in a project, all project stakeholders draft and agree to the terms of a Third-Party Utility Relocation Agreement. This agreement serves as the groundwork for all future project interactions between and among the stakeholders and identifies who is responsible for specific utility relocations and the costs associated with those relocations.
 - b) **Meet regularly:** Hold regular (weekly) meetings with utility companies during the planning, design, and construction phases.
 - c) **Cost estimates:** Project Sponsors should establish cost estimates with conservative contingency budgets for each utility relocation and not oversimplify the utility costs and potential risks by "bundling" them into a single item.
 - d) **Partnering sessions:** Define roles and responsibilities of the partners and clarify lines of communication so the decision-making process is understood.
 - e) **Segments:** For above ground transit and rail projects costs, break the project into segments so that as a segment is cleared of existing utilities new construction can begin.
 - f) **Continue regular communication and documentation of contracting terms, conditions, and decisions during construction.**
- 6) **CHSRA.** SB 1420 (Kopp), Chapter 796, Statutes of 1996, established CHSRA 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. Proposition 1A also specified certain criteria and conditions that the system must ultimately achieve. For example, the measure requires that the system be designed to be capable of specified travel times along certain routes, such as nonstop travel from San Francisco to Los Angeles within two hours and forty minutes.

Over the years, the project has faced many challenges largely stemming from a lack of adequate funding to complete even a segment of the project, and delays caused by right of way acquisition and utility relocations. As of May 31, 2025, \$14.4 billion has been spent on the project, mostly on work between Merced and Bakersfield.

- 7) **OIG-HSR.** SB 198 (Committee on Budget and Fiscal Review), Chapter 71, Statutes of 2022, established the OIG-HSR. Since its inception, OIG-HSR has completed six reviews of the high-speed rail project. In its February 21, 2025 review of "Preconstruction Activities for the Merced to Bakersfield Extensions" the OIG-HSR recommended that the Legislature authorize CHSRA to promulgate regulations governing third-party review and approval timeframes for agreements and designs.

The OIG-HSR found that “...procedures do not fundamentally improve the Authority’s ability to get third parties to engage in what can be a time-consuming process. As a potential result, early works on the Merced and Bakersfield extensions have been hindered by delays in executing utility-owner reimbursement agreements, which are generally necessary for utility owners to review and approve utility relocation designs before the Authority can begin construction. In fact, some negotiations have been ongoing for nearly two years without reaching agreement. The Authority’s often time-consuming internal review process, disagreement over contract terms, and little incentive for utility owners to engage in the process in a timely manner have caused the delays. Consequently, the Authority is currently proceeding with utility relocation designs without owner approval, which could lead to more redesigns later.”

The OIG-HSR also found, “During our review, Authority staff described what they believe are some causes of challenges in negotiating timely agreements with third parties. Authority staff responsible for working with third parties and overseeing design of the extensions indicated to us that delays result, in part, from third parties’ lack of incentive to engage in the process, which requires work on their part that they wouldn’t otherwise perform. Further, Authority staff overseeing the Central Valley region of the system explained to us that because utility owners, for example, are not under any particular time pressure, there is a resulting imbalance in these negotiations and the Authority’s other interactions with third parties.

“Additionally, Authority staff explained that, in the past, the Authority sometimes agreed to terms that put it in a disadvantageous position—for example, agreeing to compensate third parties for their attorney costs or agreeing to overly tight timelines for construction related to relocating individual utilities. We saw documentation of this type of issue in the example described in the previous section concerning attorney fee reimbursement. Authority staff also indicated that the lack of uniform agreement terms more generally increases difficulties in efficiently reaching and executing agreements. Authority staff expressed that, although the Authority has learned from and is now trying to avoid past mistakes, the legacy of those older agreements means that some third parties expect to receive the same terms as before, making current negotiations challenging.”

- 8) **Internal Processes at CHSRA.** In its February 2025 review, the OIG-HSR found that third-party-related delays are partially attributable to CHSRA and its project management procedures being inadequate. The OIG-HSR found that CHSRA lacks defined negotiation timeframes, and “communicating those timeframes to third parties, would be helpful in making the process more efficient.”

The OIG-HSR recommended that “...by May 2025, the third-party agreements branch and the contracts and procurement branch should develop procedures with defined timeframes for their internal review processes. These should include defined timeframes for how long staff at each level should attempt to resolve an issue before escalating it.” OIG-HSR also recommended that CHSRA improve internal tracking tools and hire additional legal staff if needed by May 2025. CHSRA agreed with these recommendations.

- 9) **Policy Considerations.** This bill was substantially amended on July 9, 2025, which provided very little time for stakeholders to update their positions on the current version of the bill. Concerns could include:

- a) **Which “third-party entities” should be subject to regulations?** Should regulations apply to all local agencies, or only to POUs? Should regulations apply to all utilities, or only to investor-owned utilities or POUs?
- b) **Which permits or approvals should be subject to regulations?** What does the evidence indicate regarding the types of permits or approvals that are actually or potentially delaying the high-speed rail project?
- c) **Who is regulating?** Should CHSRA or a different entity adopt regulations for the high-speed rail project?
- d) **Should there be parameters around binding arbitration?** Should this bill provide more details regarding what the binding arbitration process entails, who will administer it, and if it would include any appeals process?
- e) **Who pays for utility relocations?** Should this bill clarify who is responsible for the costs of utility relocations?
- f) **What about reliability of service?** Should this bill provide more specificity regarding the ability for a utility to continue delivering services reliably in the process of a utility relocation?

These and other debates could arise from the recent amendments to this bill. The Committee may wish to consider the extent to which additional amendments should be adopted moving forward to address any questions, concerns or opposition raised regarding the bill in print.

- 10) **Arguments in Support.** Streets for All, sponsor of this bill, writes, “SB 445 requires the High-Speed Rail Authority to develop and adopt regulations that outline requirements for third party permits and approvals necessary for the project. In doing so, the bill helps the project get built faster and on budget, effectively spending public funds.

“The transportation sector is the largest contributor to greenhouse gas emissions in the state, and the high-speed rail project will drastically reduce these emissions by an estimated 84 to 102 million metric tons of carbon dioxide equivalent over the first 50 years of operation. In order for the project to be built on schedule and on budget, it is imperative that it not be held up by thousands of individual veto points after the decision has been made to fund, design, and construct the project.”

- 11) **Arguments in Opposition.** The current version of this bill, amended July 9, 2025, substantially amended the bill. All opposition letters address the prior version of this bill, and it is unclear if opposition arguments remain relevant.
- 12) **Triple-Referral.** This bill is triple-referred to the Transportation Committee, where it was heard on July 14, 2025, and the Utilities and Energy Committee, where it is scheduled to be heard on July 16, 2025.

REGISTERED SUPPORT / OPPOSITION:**Support**

Streets for All [SPONSOR]
350 Bay Area Action (prior version)
California YIMBY (prior version)
SPUR (prior version)

Opposition

*The current version of this bill, amended July 9, 2025, substantially amended the bill.
Organizations listed in opposition submitted their positions to the prior version of this bill.*

Association of California Water Agencies
CalBroadband
California Association of Sanitation Agencies
California Municipal Utilities Association
California Special Districts Association
California State Association of Counties
City of Arcata
City of Artesia
City of Burbank
City of Chino
City of Colton
City of Cypress
City of Downey
City of El Segundo
City of La Palma
City of Laguna Niguel
City of Lakewood
City of Los Alamitos
City of Manteca
City of Menifee
City of Merced
City of Mission Viejo
City of Moreno Valley
City of Morgan Hill
City of Novato
City of Ontario
City of Palm Desert
City of Rancho Cucamonga
City of San Luis Obispo
City of Stanton
City of Suisun City
City of Thousand Oaks
City of Torrance
City of Vernon
League of California Cities

Los Angeles County Sanitation Districts
Marin County Council of Mayors and Councilmembers
Pacific Gas and Electric Company
Rural County Representatives of California (RCRC)
San Diego Gas and Electric Company
Southern California Edison
Southern California Gas Company
Town of Mammoth Lakes
Urban Counties of California (UCC)
USTelecom - The Broadband Association
Wateruse California

Oppose Unless Amended

City of Tustin (prior version)

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