LAO

February 7, 2014

Hon. Kamala D. Harris
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OF

Attention: Ms. Ashley Johansson
Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed a proposed statutory initiative related to high-speed rail (A.G. File No. 14-0001).

Background

High-Speed Rail Authority (HSRA) Established in 1996. The California HSRA was established by Chapter 796, Statutes of 1996 (SB 1420, Kopp), to plan and construct an intercity high-speed train system to link the state's major population centers. The HSRA is an independent authority consisting of a nine-member board appointed by the Legislature and Governor. In addition, the HSRA has an executive director appointed by the board and a current staff of about 100.

Voters Approved Funding for High-Speed Rail in 2008. In November 2008, voters approved Proposition 1A, which authorizes the state to sell up to $9.95 billion in general obligation bonds to partially fund the development and construction of a high-speed rail system. Of this amount, $9 billion is available to support planning, engineering, and construction of the system. The remaining $950 million in bond funds are available for capital improvements to existing passenger rail services that will provide connectivity to high-speed rail. The bond funds authorized in Proposition 1A require a match of at least 50 percent from other funding sources such as the state, federal, and local governments, or the private sector. About $3.1 billion in Proposition 1A funds have been appropriated to HSRA to support the construction of high-speed rail, with a total of about $400 million in bonds sold to date (leaving $8.6 billion in unsold Proposition 1A bond funds).

Federal Funds for High-Speed Rail. The HSRA has received $3.5 billion in federal funds for the planning, engineering, and construction of high-speed rail in the Central Valley, which require matching state funds. Of the federal funds received, about $3.3 billion have been appropriated to HSRA. Currently, the HSRA expects to begin construction of the high-speed rail system in the Central Valley in spring 2014.

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Right-of-Way for Transportation Projects. The state has the ability to acquire private property within the alignment of a proposed transportation project through the right-of-way process. The costs of acquiring right-of-way includes the value of the land acquired, the costs of relocating property owners, and the costs of preparing the land for construction (such as the clearance and demolition of structures).

Proposal

Future Sale of Proposition 1A Bonds for High-Speed Rail Construction. The measure states that no Proposition 1A bonds shall be sold to pay the capital costs associated with construction of high-speed rail, except for "any segment" under construction at the time the measure is enacted. (The measure does not specifically define what would constitute a segment.) The measure also states that HSRA, with the consent of the Legislature, may continue construction of the "first segment" of the high-speed rail system for the purpose of comparison with other transportation technologies, which we describe in more detail below.

Transportation Pilot Projects. The measure requires the California Public Utility Commission (CPUC) to administer and regulate the construction and operation of high-speed and/or high-efficient transportation pilot projects. Under the measure, private developers would be responsible for funding the construction and operation of these pilot projects. According to the measure, however, CPUC shall make existing right-of-way owned or maintained by the state available, as well as acquire new right-of-way, for private developers to use for the construction of the pilot projects. The measure does not specify whether the state would be reimbursed by private developers for providing the right-of-way. The measure authorizes the commission to impose fees on private developers to cover its costs to regulate and oversee the pilot projects. The measure also requires CPUC to report to the Legislature on the effectiveness of the pilot projects.

Fiscal Effects

Potential Savings in Debt-Service Costs. As of the effective date of this measure, the state could only sell additional Proposition 1A bonds to complete a segment under construction. Any reduction in bond sales would depend on three primary factors. First, it would depend on if any segment of the system is determined to be under construction at the time this measure is enacted and the cost to complete the segment. Second, the reduction in bond sales would also depend on the amount of bonds that would have been sold in the future absent the measure. It may be, for example, that the state would otherwise be unable to sell all the state bonds due to an inability to raise the necessary matching funds. Finally, it would depend on how much additional Proposition 1A bond funds are sold and spent on the development of high-speed rail prior to the passage of the measure.

The impact of the measure on future debt-service costs would depend on the amount of Proposition 1A bonds that are not sold as a result of this measure. On the one hand, it is possible that the measure would have no impact on state costs. For example, this would be the case if the project began construction on a segment prior to enactment of this measure and that segment required the use of all available Proposition 1A bond funds. On the other hand, it is possible that the measure would result in major savings to the state. For instance, this would be the case if prior to enactment of this measure, construction on any segment of the project had not begun and no additional Proposition 1A bonds were sold. Thus, the measure could prevent the sale of up to $8.6 billion in currently available bond funds. Assuming the bonds would have been sold at an average taxable interest rate of 6.5 percent and repaid over a period of 30 years, the measure could reduce state debt-service costs of up to about $650 million annually.

Potential Right-of-Way Costs. To the extent that the state is not reimbursed by private developers for any right-of-way provided for the development of the transportation pilot projects authorized under the measure, the state would incur increased costs. The magnitude of these costs would depend on the amount and location of the right-of-way acquired, but could be in the hundreds of millions of dollars.

Loss of Federal Funds. The state has received $3.5 billion in federal funds dedicated to high-speed rail that require matching state funds. To the extent that the measure prevents Proposition 1A bond funds from being sold to satisfy this match requirement, the state would lose this infusion of federal funds. This loss in federal funds could in turn reduce the level of economic activity in the state, resulting in a reduction in state and local tax revenues of tens of millions of dollars annually for a few years.

Summary of Fiscal Effects. We estimate the measure would have the following major fiscal effects on state and local governments:

- Impact to state debt-service savings ranging from zero to about $650 million annually from not using state bond funds to construct high-speed rail, depending on how this measure is interpreted and the resulting reduction in bond funds spent.
- Potential state costs in the hundreds of millions of dollars to the extent that the state is not reimbursed by private developers for right-of-way acquisition for the development of transportation pilot projects.
- Potential reduction in state and local tax revenues of tens of millions of dollars annually for a few years, resulting from a loss of federal matching funds.

Sincerely,

for Mac Taylor
Legislative Analyst

for Michael Cohen
Director of Finance