January 7, 2016

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

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. 15-0109, Amendment #1).

Background

High-Speed Rail Authority (HSRA) Established in 1996. The California HSRA was established by Chapter 796 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 180.

Voters Approved Funding for High-Speed Rail in 2008. In November 2008, voters approved Proposition 1A, which authorized the state to sell up to $9.95 billion in general obligation bonds for the development and construction of a high-speed rail system. Of this amount, $9 billion is available to support planning, engineering, and capital costs for the system. The remaining $950 million in bond funds is available for capital improvements to existing passenger rail service—specifically, intercity, commuter, and urban rail systems. 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. A total of about $5 billion in Proposition 1A funds have been appropriated to date, with a total of about $1 billion of bonds sold to date (leaving about $8.9 billion in unsold Proposition 1A bond funds).

Proposition 1A also established certain criteria for the high-speed rail system to ultimately achieve. These include requiring electric trains capable of operating at speeds of at least 200 miles an hour and specifying maximum travel times along specific routes. For example, Proposition 1A requires that nonstop travel from San Francisco to Los Angeles be no more than two hours and forty minutes.

Other State Funds for High-Speed Rail. In 2014, the state began providing cap-and-trade auction proceeds to HSRA for the high-speed rail project, including committing 25 percent of all future revenues to HSRA annually. (Cap-and-trade auction proceeds are revenue generated by the state from the sale of emission allowances as part of the state's efforts to reduce greenhouse gas emissions.) The actual amount of cap-and-trade auction revenue available each year to HSRA depends on the number and price of allowances sold at quarterly auctions each year. In 2015-16, HSRA is estimated to receive roughly $500 million in auction revenue for the high-speed rail project.

Federal Funds for High-Speed Rail. In addition, HSRA has received $3.5 billion in federal funds for planning, engineering, and construction of high-speed rail in the Central Valley, which require matching state funds. All of the federal funds have been appropriated to HSRA, which began construction of the high-speed rail system in the Central Valley in 2014 using these funds. Currently, about $670 million of the federal funds have been spent. Of the remaining $2.8 billion in unspent federal funds, about $1.9 billion is available to the state through September 30, 2017. The roughly $900 million in remaining federal funds must be spent before December 31, 2018, under the terms of the current federal agreement.

Proposal

Prevents Sale of Proposition 1A Bond Funds. This measure prevents the further issuance and sale of all Proposition 1A bond funds for the construction of high-speed rail and improvements to existing passenger rail services. In addition, the measure states that any unspent bond proceeds shall be used to pay back outstanding debt from the issuance and sale of Proposition 1A bonds. However, the measure specifies that unspent bond proceeds could be used for a different purpose if approved by the voters at the same election as this measure.

Significantly Limits Authority of HSRA. This measure also limits the authority of the HSRA. For example, the measure eliminates HSRA's authority to enter into contracts or purchase land to continue the current construction of the high-speed rail system in the Central Valley. This would effectively stop construction of the project once existing contracts are completed (to the extent allowable under the measure). In addition, the measure prevents HSRA from disposing of its assets, including the property HSRA has already acquired for the project.

The measure does allow HSRA to study the feasibility of a high-speed rail system that is consistent with the criteria established in Proposition 1A and an undefined "voter-approved" budget. For example, as mentioned above, Proposition 1A required certain travel speeds and travel times. In addition, the measure specifies that the feasibility study must be funded from other "state general funds" (not Proposition 1A bond proceeds). If the feasibility of the system is not completed by December 31, 2025, HSRA must be dissolved after it has paid its outstanding obligations.

Fiscal Effects

Savings in Debt-Service Costs. This measure would prevent the sale of up to $8.9 billion in bond funds previously authorized by Proposition 1A. The actual reduction in bond sales would depend on (1) the amount of bonds that would have been sold in the future absent the measure and (2) how much additional state funding is appropriated and spent on high-speed rail prior to the passage of the measure. It may be, for example, that the state would otherwise be unable to sell all state bonds due to an inability to meet some of the requirements of Proposition 1A. Assuming, however, that all 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 by up to about $700 million annually.

Other Fiscal Effects. Other fiscal effects of the measure would largely depend on whether the state pursued a high-speed rail project in the future. For example, if the state were to pursue a high-speed rail project, the state would require additional funding to complete the project. On the other hand, if the state were to not continue with a high-speed rail project, it could achieve significant savings by relieving the need for future state funding for the project. However, the state might need to fund other transportation projects to replace the capacity that the high-speed rail system would have provided. Additionally, the state would likely lose the remaining federal funds that it has received to construct a high-speed rail system, and could be required to repay the federal funds that have already been spent.

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

- State savings of up to about $700 million annually in debt-service costs, depending on the actual reduction in bond funds spent as a result of this measure.
- Other potential fiscal effects (such as changes in state spending and loss of federal funds), depending on whether the state continued to pursue a high-speed rail project in the future.

Sincerely,

Mac Taylor
Legislative Analyst

Michael Cohen
Director of Finance