

March 17, 2009

The High-Speed Rail Authority

L E G I S L A T I V E A N A L Y S T ' S O F F I C E

Presented to:

Senate Transportation and Housing Committee

Hon. Alan Lowenthal, Chair





High-Speed Rail Authority Overview



Responsibility/Role. The High-Speed Rail Authority (authority) is an independent authority tasked with planning, construction, and operation of intercity high-speed trains in California. In particular, the authority is responsible for the development of an intercity train system that can operate at speeds of 200 miles per hour (mph) or faster to connect the major metropolitan areas of California, and provide service between Northern and Southern California.



Staffing. The authority currently has 9.5 authorized positions. Because it intends to maintain a minimal level of state staff, the authority proposes to perform all system development work with consultants. For 2008-09, the authority estimates it will spend roughly \$45 million on consulting services.



2008-09 Funding. The 2008-09 budget appropriated a total of \$46.5 million for the operation of the authority. The sources of this funding include:

- \$5.7 million from the Public Transportation Account.
- \$8.2 million from Proposition 116 (2000) bond funds.
- \$29.1 million from the High-Speed Passenger Train Bond Fund (Proposition 1A passed in November, 2008).
- \$3 million in reimbursements.



High-Speed Rail Authority Overview

(Continued)

- Proposition 1A of 2008.** In November 2008, voters approved Proposition 1A, which allows the state to sell \$9 billion in general obligation bonds to partially fund the development and construction of the high-speed train system. (Proposition 1A also authorizes \$950 million in bond funds for the improvement of other passenger rail systems in the state.)
- **Funding Constraints.** Bond proceeds cannot fund more than 50 percent of construction costs for any corridor or usable segment thereof. The remaining construction funding must come from other sources—including federal, local, or private sources. Up to 10 percent of the bond money (\$900 million) may be used for environmental review and preliminary engineering and design, while 2.5 percent of the funds (\$225 million) may be used for administrative costs.
- **Accountability Measures.** Proposition 1A specifies requirements that the authority must meet before it can request, and subsequently encumber, the bond funds for specified capital costs. Current law also requires additional accountability measures including the submission of an updated business plan and the formation of a peer review group to review project funding plans.
- **Phase I of Project.** Proposition 1A identifies the first phase of the project as the corridor between the San Francisco Transbay Terminal and the Los Angeles Union Station and Anaheim. Bond funds may be used to develop other high-speed corridors only if doing so does not adversely impact the first phase of the project.



Updated Business Plan Required



Revised Business Plan Required. Current law required the authority to submit, by September 1, 2008, a revised business plan reflecting updated projections and assumptions. The plan was to be similar to a financial prospectus prepared for investors and not an advocacy document. The authority submitted the revised plan November 7, 2008.



Statutorily Required Elements. The business plan was to include:

- A description of the anticipated system as well as its primary benefits.
- A forecast of anticipated patronage, operating, and capital costs for the system.
- An estimate and description of the total anticipated federal, state, and other funds necessary for construction and operation.
- A proposed chronology for construction of the eligible corridors in the system.
- A discussion of all reasonably foreseeable risks as well as the authority's strategies, processes, or possible actions to mitigate those risks.



Business Plan Lacks Specific Details

Business Plan Fails to Provide Many Details

Statutory Requirements	Sample of Missing Details
Description of the anticipated system	<ul style="list-style-type: none"> • What are the expected service levels, by segment? • What is the assumed train capacity?
Forecast of patronage, operating, and capital costs	<ul style="list-style-type: none"> • How are the ridership estimates projected? • What is the operating break-even point? • How will costs be distributed by segment route?
Estimate of necessary federal, state, and local funds	<ul style="list-style-type: none"> • How would funds be secured? • What level of confidence is there for receiving each type of funding?
Proposed construction timeline for each segment	<ul style="list-style-type: none"> • What is the proposed schedule, by segment, for completing design/environmental clearance? • For beginning/completing construction?
Discussion of risks and mitigation strategies	<ul style="list-style-type: none"> • How would each type of risk impact the project? • What specific mitigation strategies are planned to be deployed?



Plan Lacks Specifics. The information provided by the revised plan is very general and does not provide specifics that are included in typical business plans. In particular, the plan does not provide any better sense of how the authority would accomplish the objective of developing, constructing, and operating a high-speed rail system.



Legislature Should Require More Details From Authority.

Before bond funds are appropriated for 2009-10, more specific information should be provided including, at a minimum:

- System details, such as route selection and anticipated ridership levels by phase.
- A thorough description of the steps being pursued to secure financing, both at the federal and private level.
- A timeline with specific, achievable milestones for each phase of the project.
- In-depth discussions of what strategies the authority would pursue to mitigate the project's various risks and threats.



Accountability Requirements



Statutory Requirements. Current law includes several accountability requirements related to the use of Proposition 1A bond funds for capital costs. These include:

- **Detailed Funding Plan.** At least 90 days prior to the initial request for bond funds to be appropriated for capital costs on each corridor (or segment), the authority must submit a detailed funding plan to the Legislature, Department of Finance (DOF), and peer review group. The peer review group must evaluate and prepare an independent assessment of the feasibility and reasonableness of the funding plan, as well as the appropriateness of any assumptions, analyses, and estimates relating to that plan.
- **Updated Funding Plan and Independent Financial Report.** Before appropriated bond funds can be committed, the authority must submit an updated funding plan to both DOF and the Joint Legislative Budget Committee. The authority must also provide a report prepared by an independent financial services firm or consultant indicating that construction can be completed as proposed, the corridor would be suitable and ready for high-speed train operation, service providers can begin using the tracks upon completion, and the planned service will not require an operating subsidy.



Requirements Do Not Apply to Noncapital Costs. Current law does not include any specific accountability requirements for the use of Proposition 1A funds for noncapital costs. There are also no accountability provisions relating to any additional state or federal funds spent on the project.



Additional Measures To Increase Accountability



Project Selection Criteria Should Encourage Immediate Mobility Benefits. The authority plans to commit the majority of the Proposition 1A bond funds early in the project. It is important that the funds be spent on projects that benefit the state's overall transportation system in case the high-speed train program is delayed or suspended. We recommend that the authority be required to adopt project selection criteria that prioritizes the use of bond funds to the delivery of projects with the greatest immediate mobility benefits.



Annual Reporting. In order to ensure that all public funds are being spent effectively once appropriated and committed, we recommend the enactment of legislation directing the authority to report annually to the Legislature. The report should include, at a minimum:

- A plan identifying what work has been accomplished and what work is anticipated in the budget year.
- Program funding status and projected funding sources (specifically state and federal funding) for the budget and future years, by segment.
- Future contract obligations and expected schedule of costs.
- A timeline including baseline comparisons from prior years and any projected adjustments.
- Any changes in planning or financial assumptions that may improve or hinder the progress of the project.



Hold Joint Legislative Hearings. We further recommend that the policy committees and budget subcommittees of the Legislature hold periodic joint hearings in which the authority report on the use of bond funds, the availability of other funds, and the timeliness of project delivery.



2009-10 Budget Requests

Proposed 2009-10 Contracts for High-Speed Rail Authority

(In Millions)

	2009-10
Project-level design and environmental review	\$95.0
Program management services	22.6
Financial plan and public-private partnership program	2.0
New ridership and revenue forecasts	2.0
Other miscellaneous contracts	1.4
Total	\$123.0



Budget Requests. The Governor's budget requests \$125 million in Proposition 1A bond money to fund the authority's activities in 2009-10. No federal or other state funds are included in the budget. The requested amount includes:

- \$123 million for various consulting contracts.
- \$2.2 million for administrative costs.



Budget Requests Lack Justification

- Lack of Justification for Contract Amounts.** While the general types of proposed contract work appear reasonable, the authority provides almost no justification for the specific amounts requested for each contract. For instance, no information was provided on the work to be accomplished over the budget year, nor how that work fits into the total development of the system.
- **More Contract Details Needed.** Before the Legislature decides on the amount of contract funding to appropriate for 2009-10, the authority should provide supplemental information for each proposed contract describing the amount of work to be accomplished in the budget year, and how that work fits into the overall development of the high-speed system.
- Engineering Review Workload Not Yet Known.** The authority is requesting funding for two full-time engineers to review project design documents for legal compliance. It is unclear whether there is enough work for these engineers on a workload basis. We recommend the Legislature provide funding for the authority to contract with Caltrans to perform review of documents. This would allow time for the authority to establish the need for in-house engineers on a workload basis.



Federal Stimulus— American Recovery and Reinvestment Act

- High-Speed Rail Funding.** The American Recovery and Reinvestment Act provides \$8 billion in capital assistance for high-speed rail corridors and intercity passenger rail service nationwide to be distributed as discretionary grants. The federal government defines high-speed rail as intercity passenger rail that is reasonably expected to reach speeds of 110 mph.
- Strategic Plan.** The U.S. Secretary of Transportation has until April 18, 2009 to submit to Congress a strategic plan that describes how this funding will best be allocated to improve and deploy high-speed rail systems. Application guidelines should be available by June 17, 2009. The money is to remain available for obligation until September 30, 2012.
- Three Eligible Rail Grant Programs.** The funds are available through three separate grant programs. Presumably, the strategic plan and interim guidance provided by the federal government will specify the amounts to be available under each program. The three programs include:
 - **High-Speed Rail Corridor Development**—Acquiring; constructing; or improving equipment, track, or facilities for the primary benefit of high-speed rail service. The California Department of Transportation (Caltrans) or the high-speed rail authority are eligible recipients of this funding.
 - **Intercity Rail Service Corridor Capital Assistance**—Rehabilitating or overhauling rolling stock and facilities used primarily in intercity passenger rail service. Caltrans is eligible to apply for this funding.
 - **Intercity Rail Congestion Grants**—Includes capital costs of facilities, infrastructure, and equipment for high-priority rail corridor projects necessary to reduce congestion or facilitate ridership growth in intercity passenger rail transportation. Caltrans or Amtrak are eligible recipients of this funding.



Federal Stimulus— Legislative Considerations

- Influence the Strategic Plan.** The state could increase the amount of stimulus funding it receives depending on the development of the strategic plan. If the plan gives preference to higher-speed trains, or systems with available matching funds, California could increase its share of the federal stimulus funding.
- Coordinate Effort With Caltrans.** The authority is responsible for trains that travel over 125 mph, while Caltrans is responsible for passenger train traffic at slower speeds. Additionally, two of the three grants are not available to the authority, but all are available to Caltrans. The state could benefit by coordinating the application for funds for both Caltrans' intercity rail program and the authority's capital needs.
- Federal Funding Accountability.** Unlike the use of Proposition 1A bond funds for capital costs, current state law does not impose any accountability requirements on federal money allocated to the authority for high-speed rail development. In addition to complying with federal requirements, the Legislature should consider requiring the authority to report on federal funds in a manner similar to current law requirements for certain Proposition 1A funds. The report should include, at a minimum:
 - The projects that would be funded with any federal dollars, including stimulus funding, and any other funding (such as local funds) that may be included for each project.
 - How each project fits into the particular segment and overall construction of the system.
 - The mobility improvements each project would provide.
 - How the federal funding fits into the overall funding strategy for the high-speed train system and to what extent it fulfills the original plan for federal dollars.