

# Memorandum

**To:** Chair and Commissioners

**Date:** February 16, 2010

**From:** BIMLA G. RHINEHART  
Executive Director

Reference No. 4.1  
ACTION

**Ref:** State and Federal Legislation

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**Issue:**

Should the Commission take a position on the bill(s) presented or provide additional guidance to staff? Staff will also report on relevant bills introduced since this memo was prepared.

**Recommendation:**

Commission staff recommends that the Commission:

- Direct staff to continue working with Legislative staff on SB 409 (Ducheny) to express the Commission concerns with the bill. Commission staff will monitor similar bills (AB 289, AB 1375, AB 1747, SB 455 and SB 965) dealing with high-speed rail that could potentially be amended to include a role for the Commission.

Staff concerns with SB 409 are that the bill proposes:

- That the Commission review and approve the annual funding plan prepared by the High-Speed Rail Authority (HSRA).

The bill does not clarify what happens if the Commission does not approve the annual funding plan or if the Commission can require that the HSRA to revise the funding plan to address Commission concerns. The bill does not indicate if the Commission should inform the Legislature or others of its findings regarding approval or disapproval of the HSRA plan. The bill requires a discussion in the funding plan of the investments and bond sales needed for the investments. Commission approval does not change what the state financial control agencies or the Legislature will do. The Commission has no role in allocating funds to the HSRA, as the funding is appropriated by the Legislature to the HSRA. Clarification is needed regarding the intent of the legislation.

- That the Business, Transportation, and Housing (BTH) Agency prepare and submit by September 2011 a statewide five-year Strategic Rail Connectivity Plan to the Commission for approval. Upon approval of the Connectivity Plan, the Commission, for each

transportation project subject to Commission approval and implicated by the plan, would be required to make a determination that the project is consistent with the Plan.

Rail projects, as well as some highway projects, would be in the Plan. It appears that the Commission, when programming projects in the State Transportation Improvement Program or other programs under its purview would assess individual projects to ensure that the projects are consistent with the adopted Connectivity Plan. If a project is not consistent, it would not be programmed.

SB 409 would also provide that the Commission, for good cause, may approve a project that is not consistent with the Connectivity Plan, subject to a waiver granted by the Secretary of Business, Transportation and Housing. It is unclear what happens if the Commission thinks that a project should not be granted a waiver and the Secretary does. Further, the relationship among other state and regional transportation plans with the Connectivity Plan and which plan takes precedence needs to be clarified.

### **Background:**

**SB 409 (Ducheny)** makes a number of changes regarding strategic planning for passenger rail programs. The bill places the HSRA within the BTH Agency. Of the nine authority members, the bill requires that the five authority members appointed by the Governor to be appointed with the advice and consent of the Senate. The remaining members (two each) are appointed respectively by the Assembly and the Senate. SB 409 would require the High-Speed Rail Authority to annually submit a funding plan to the Commission for approval, identifying the need for investments during the fiscal year and the amount of bond sales necessary to accommodate those investments.

SB 409 requires the BTH Agency to prepare and submit to the Commission a statewide five-year Strategic Rail Connectivity Plan that identifies opportunities for passenger rail system improvements and linkages between high-speed and conventional intercity rail, commuter rail, and rail transit. SB 409 requires coordination in planning and the capital investments necessary for those linkages, as well as identifying future right-of-way needs of passenger rail lines in connection with state and local highway system improvements. The Connectivity Plan would be developed in consultation with transportation planning agencies and the agencies and entities responsible for the various rail and highway systems. BTH must submit the Connectivity Plan to the California Transportation Commission for approval on September 1, 2011, and every 5 years thereafter.

### **2010 Legislative Schedule:**

Bills must be introduced by the Legislature's February 19, 2010 deadline. On January 8, 2010, the Governor declared a fiscal emergency. By statute, the Legislature must send to the Governor a bill or bills within 45 days of the Governor's declaration of a fiscal emergency. Accordingly, if the Legislature has not acted by February 22, 2010, it may not act on any other bill, nor may it adjourn for a joint recess, until a bill or bills have been passed and sent to the Governor. The non-budget bills considered by the Legislature could slow dramatically, while the Administration and the Legislature deals with the shortfall in the FY 2009-10 Budget and the upcoming FY 2010-11 Budget.

CALIFORNIA TRANSPORTATION COMMISSION  
Status of Legislation  
Commission Meeting February 24-25, 2010

	Bill #	Author	Bill Title	Subject	Current Status	CTC Position	Program
				<b>ASSEMBLY</b>			
1	AB X8 39	SOLORIO	Transportation: General Obligation Bonds	Existing law authorizes a regional or local agency that is a lead agency for a project to be funded under the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 to apply to the administrative agency for a letter of no prejudice that permits the applicant to spend its own resources on the project and then to be reimbursed at a later date when bond funds become available, subject to various requirements and conditions. This bill would enact similar provisions applicable to regional or local agencies relative to projects to be funded by the Clean Air and Transportation Improvement Act of 1990	2/11/10 - INTRO	Staff Monitoring	Prop116
2	AB 289	GALGIANI	<del>California-Environmental-Quality Act- exemptions High Speed Rail</del>	<del>CEQA provides for various exemptions from the requirements of the act including an exemption for certain railroad grade separation projects. This bill would specifically provide that this exemption includes grade separation projects that are a component of the California high-speed rail system. This bill would require the HSRA to the extent possible to use the proceeds of bonds from Prop 1A to match the federal funds made available from the Recovery Act of 2009. <u>This bill would authorize the Governor to appoint up to 5 deputy directors exempt from civil service who would serve at the pleasure of the executive director.</u></del>	1/25/10 Amend; 2nd Read; to Rules 8/17/09 2nd Read- Amend; to Rules 6/4/04 to EQ Cmte 5/18/03 3rd Read- Pass; To Senate 4/29/09 2nd Read to 3rd Read 4/27/09 Hearing Pass 4/14/09 2nd Read; Amend 4/13/09 to Trans Cmte 2/13/09 - INTRO	Staff Monitoring	Rail
3	AB 1375	GALGIANI	High-speed Rail	The bill would continue the High-Speed Rail Authority in existence to make policy decisions relative to implementation of high-speed rail consistent with Proposition 1A. The bill would create the Department of High-Speed Trains within the Business, Transportation and Housing Agency, which would implement those policies. The bill would transfer certain of the existing powers and responsibilities of the authority to the department, and would specify additional powers and duties of the authority and department relative to implementation of the high-speed rail project, including the annual submission of a 6-year high-speed train capital improvement program and progress report to the Legislature. The director of the department would be appointed by the <del>authority</del> <u>Governor</u> , who would serve at the pleasure of the authority, and the Governor would be authorized to appoint up to 10 executive employees of the department who would be exempt from civil service and serve at the pleasure of the director. The bill would provide for acquisition and disposition by the department of rights-of-way for the high-speed rail project. Includes other related provisions.	2/11/10 to T&H and Ris Cmte's 1/28/09 1st Rd; to Rules 1/27/10 3rd rd; Pass to <b>Senate</b> 1/25/09 2nd Rd; to 3rd Rd. 1/21/10 1st Rd, referred to Appr Suspense file; pass comte 1/15/10 Amend, Re-fer to Appr 4/27/09 - Hearing- PASS; to Appr Cmte; 3/31/09 to Trans Cmte 02/27/09 - INTRO	Staff Monitoring	Rail
4	AB 1747	GALGIANI	High-Speed Rail Authority	Authorizes the High Speed Rail Authority to consider, to the extent permitted by federal and state law, the creation of jobs in California when awarding major contracts or purchasing high-speed trains.	2/8/10 - INTRO	Staff Monitoring	Rail

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	Bill #	Author	Bill Title	Subject	Current Status	CTC Position	Program
5	AB 1760	BLUMENFIELD	Design-Sequencing Contracts	Amends existing law that authorizes the Department of Transportation to conduct a pilot project to let design-sequencing contracts for design and construction of not more than 12 transportation projects. Reenacts similar provisions, applicable to up to 10 transportation projects. Requires a report to the Legislature describing and evaluating the outcome of the contracts undertaken pursuant to these provisions.	2/8/10 - INTRO	Staff Monitoring	
<b>SENATE</b>							
6	SB X8 36	LOWENTHAL	Federal Transportation Economic Stimulus funds: 2nd Round	This bill would require the Department of Transportation to work with local transportation agencies to develop a list of potential projects that may be awarded within a 90-day period of the award to the state of 2nd round federal transportation economic stimulus funds. The bill would require the department to submit a monthly status report to the Legislature, as specified, with respect to certain milestones for expenditure of these funds. The bill would make related legislative findings and declarations.	2/5/10 - INTRO	Staff Monitoring	Federal Stimulus
7	SB 409	DUCHENY	Department of Railroads- Passenger rail programs; strategic planning	<i><b>This bill would place the High Speed Rail Authority within BT&amp;H. Would require the 5 members of the Authority appointed by the Governor be appointed w/advice and consent of the Senate. Would require the Authority to annually submit a funding plan to the CTC for approval, identifying the need for investment during the FY and the amts of bond sales necessary to accomodate those investments. Creates the Department of Railroads in the Business, Transportation and Housing Agency. Transfers to the department responsibility for various state railroad programs currently administered by other agencies. Provides that the department shall be the only state agency eligible to apply for and receive grant and loan funds from the federal government for intercity rail, high-speed rail, or freight rail purposes. Director shall be appointed by the Governor subject to Senate confirmation. BT&amp;H will convene a joint task force cochaired by Director of Transportation, Director of Railroads and a rep from the PUC to resolve overlapping jurisdictions with other agencies. This bill would revise the appointments of HSRRA by requiring one of the appointees to be the Director of Railroads and serve as chairperson for the authority. The authority would be the division of the Dept of Railroads with the Chief nominated by the Director of Railroads and approved by the authroity. Delete th provision for an Executive Director.</b></i>	2/11/10 to Trans Cmte 1/28/10 1st Rd. Held at desk. 1/28/10 3rd Rd; Pass; to Assembly 1/26/10 3rd Rd; Amend; to 2nd Rd 9/1/09 to 3rd Read 8/27/09 Pass Senate Appr Cmte 7/23/09 JR 62(a) Suspended. To Suspense File 6/9/09 Pass; to Appr Cmte 5/28/09 Joint Rules 61 Suspended 5/21/09 2nd Read- Amend; to T&H Cmte 4/14/09 - Hearing postponed 3/12/09 to Transp	Staff Monitoring	Rail

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	Bill #	Author	Bill Title	Subject	Current Status	CTC Position	Program
8	SB 455	LOWENTHAL	High-Speed Rail	Relates to a High-speed rail authority membership. Require the members of the authority at a scheduled board meeting, to cause to be prepared an overall project schedule with project delivery milestones on a quarterly basis, and to approve a quarterly contract status report beginning at the 1st brd mtg after 3/1/10. Require members of the authority to approve all contract amendments at a sched brd mtg. Requires the authority to ensure that projects undertaken including projects for acquisition of right-of-way, are consistent with specified criteria. Relates to real property obtained for high-speed rail purposes by the authority	7/23/09 to Inactive File 7/16/09 2nd Read to 3rd Read 7/15/09 Pass to the Floor 6/29/09 Pass; to Appr; Cmte 6/18/09 to Trans Cmte 6/2/09 3rd Read-Pass; to <b>Senate</b> 5/28/09 2nd Read; to 3rd Read 5/26/09 Pass Appr Cmte 5/4/09 Hearing Cancelled 4/21/09 Pass; re-refer'd to Appr cmte 4/16/09 2nd Read: AMEND	Staff Monitoring	Rail
9	SB 901	ASHBURN	Transportation: Bond Funded Projects: No Prejudice	Amends existing law that authorizes a regional or local agency that is a lead agency for certain transportation projects or project components for which bond funding has been programmed or approved by the administrative agency to apply for a letter of no prejudice that makes the regional or local agency eligible to be reimbursed from bonds funds for project expenditures. Authorizes those regional and local agencies to apply for such letter for funding of grade separation and railroad crossing projects.	1/26/10 - INTRO	Staff Monitoring	Programming
10	SB 965	DESAULIER	Public Utilities: Transportation: Federal Funds	Authorizes the High-Speed Rail Authority to receive and expend any federal funds awarded to the authority. Requires the authority to submit to the Legislature an expenditure plan for such federal funds.	2/5/10 - INTRO	Staff Monitoring	Rail