



**January 16, 2020**

**To:** Legislative and Communications Committee

**From:** Darrell E. Johnson, Chief Executive Officer

**Subject:** State Legislative Status Report

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### **Overview**

An update is provided on the High-Speed Rail Project. A recommendation is included to authorize staff to engage in discussions with relevant stakeholders to advocate for investment in rail improvements in Southern California. A verbal update will be provided on the Governor's proposed fiscal year 2020-21 state budget.

### **Recommendation**

Authorize staff to engage in discussions related to use and timing of funding for the High-Speed Rail project and seek opportunities to allow for investment in Southern California rail improvements.

### **Discussion**

#### **California High-Speed Rail Authority Update**

The California High-Speed Rail Project was approved by the voters through Proposition 1A (2008), a \$9.9 billion bond, and it is supplemented by other funding sources, including \$3.5 billion in grants secured through the federal government and an appropriation of 25 percent of the State's cap-and-trade program annual proceeds. The project has experienced significant cost increases since 2008 that have resulted in an estimated \$50 billion funding gap to complete Phase I of the project, which would run from San Francisco to Anaheim.

In the 2019 State of the State speech, Governor Gavin Newsom signaled a shift in California's approach to the High-Speed Rail Project. Specifically, the Governor announced his intention to utilize the existing funding to complete the segment of the project between Merced and Bakersfield, while also continuing work on the environmental reviews for the remainder of Phase I, which includes

segments from San Francisco to San Jose and Burbank to Anaheim. It was unclear when later phases of the project would be completed or how they would be funded.

In response to the Governor's announcement, the Federal Railroad Administration (FRA) announced its intention to cancel a \$929 million federal grant appropriated in 2009. In the letter (Attachment A), the FRA argued that the California High-Speed Rail Authority (CHSRA) has failed to meet the terms of the cooperative agreement entered into with the FRA when the grant was executed. The FRA has also considered legal options to get back another \$2.5 billion federal grant that the CHSRA has already spent on the project. On March 4, 2019, the CHSRA responded to the FRA in a letter included as Attachment B. In this letter, the CHSRA explains how the agency is focused on meeting the conditions laid out in the federal grant agreement. Specifically, the letter discussed the progress made on the project, which includes 119 miles of construction, and the advancing of environmental permits. In addition, the letter notes that the CHSRA fulfilled its commitment to fully expend the other \$2.5 billion in federal funds discussed in connection with the FRA's letter.

#### California High-Speed Rail Side-By-Side Analysis of Three Regions

Given the increased uncertainty about when investments will be made within Southern California, certain members of the California Legislature have advocated for expedited investments in the Burbank-to-Anaheim segment of the project. On June 3, 2019, Assembly Member Tom Daly (D-Anaheim) sent a letter to the CHSRA supporting the motion made on May 21, 2019, by the CHSRA Board of Directors (Board) to provide a side-by-side analysis of the Central, Bay Area, and Los Angeles/Anaheim high-speed rail corridors (Attachment C). Assembly Member Daly argued that with more than 22 million residents in Southern California and amidst recent commitments to provide greater transparency regarding the high-speed rail project, it would be most productive to thoroughly analyze the three regions comparatively.

On October 15, 2019, the CHSRA Board received an update on this side-by-side interim analysis, comparing potential high-speed rail service options in these three regions. Preliminary findings in this report include the following: incremental ridership benefits will be significantly higher if all connecting services are concurrently improved with the Burbank-Anaheim high-speed rail section; both Northern California and Southern California regional benefits can only be realized with concurrent new regional capital investment; and, in the Central Valley, early high-speed rail services will create significant value. The final report is expected to include detailed projections for ridership, revenue, capital expenditures, construction schedule, and operating costs. It is expected that the report will be finalized in early 2020.

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**Assembly Committee on Transportation: Oversight Hearing, Review of the California High-Speed Rail Project**

On August 6, 2019, Metrolink received a request from the CHSRA to provide information regarding investments that could be made in the Southern California rail network that would benefit future high-speed rail deployment within the Burbank-to-Anaheim corridor. This information was to be used to inform CHSRA's corridor comparison analysis. Metrolink identified approximately \$7 billion in capital projects and \$2.5 billion in rolling stock deployments which would allow for the Burbank-to-Anaheim corridor to initiate a high-speed rail ready service. Metrolink's project list is included as Attachment D. Metrolink found that these investments would help operating efficiencies and benefit the Los Angeles-San Diego-San Luis Obispo Rail Corridor by providing additional capacity, flexibility, and reliability. In addition, the investments would provide several benefits such as attracting new customers, reducing greenhouse gas emissions, and reducing vehicle miles traveled.

Metrolink also discussed interest from private sector entities to fund certain portions of the various high-speed rail projects in California, such as the project being pursued by DesertXpress Enterprises, an affiliate of Virgin Trains USA. On October 23, 2019, DesertXpress Enterprises acquired a \$3.2 billion bond from the California Infrastructure and Economic Development Bank to assist in constructing a high-speed train from Victorville to Las Vegas. The funding will go toward the 135 miles of project within the state of California and is expected to be complete in 2023. This project is unrelated to and funded differently from the High-Speed Rail project, but demonstrates alternative funding availability that may exist.

As funding and regulatory hurdles have arisen, the Assembly Transportation Committee set out to discuss whether or not the project can meet its intended purpose and to evaluate how future investment decisions should be made. On November 12, 2019, the Assembly Transportation Committee held an oversight hearing on the California High-Speed Rail Project. Of particular interest, members and panelists discussed federal environmental review challenges, recommendations of the State Auditor, and various analyses of potential investment strategies for completing the project. Metrolink's input aforementioned was a critical component of this discussion, noting the benefits of investing in the Burbank to Anaheim corridor.

**High-Speed Rail Track and Systems Bid Request Correspondence**

Most recently, on December 9, 2019, the FRA sent a letter (Attachment E) to the CHSRA disapproving the release of its track and systems bid, arguing that it is inconsistent with the requirements set forth in the cooperative agreement the



CHSRA signed with FRA. Specifically, FRA has not approved a contingency plan for the financing, building, and operating of the line. Furthermore, the letter stated that it is premature for the CHSRA to undertake another design-build contract because of delays on the current construction contract.

CHSRA responded in a letter (Attachment F), on December 10, 2019, by detailing its efforts to engage with the FRA. The letter also addresses the FRA's claim that the project cannot move forward until its first plan is approved. CHSRA states that they submitted this plan in 2016 and again in 2019, arguing that the FRA has refused to act. The letter also reiterates the time constraints attached to federal funds, mentioning they do not have the luxury to wait. Additionally, they discuss that board actions and policies have set forth a plan to implement a fully electrified rail. To that end, they see no inconsistencies. The FRA has said they will review CHSRA's response letter. On December 10, 2019, the CHSRA Board approved the track and systems bid request.

#### Engagement in Timely Investment Conversations in Southern California

The timing to engage in ongoing discussions regarding how funding for high-speed rail in California will be used and the timing for such is critical. It is appropriate to ensure the Orange County Transportation Authority (OCTA) is at the table if funding becomes available in order to promote regional benefits and invest in improvements within Orange County and Southern California. OCTA's 2019-20 State Legislative Platform requires staff to "monitor and evaluate plans and progress of high-speed rail and its funding." Staff is recommending that additional authorization be provided to allow staff to provide input on how funding can be used in Southern California to provide rail improvements that would afford immediate regional mobility benefits.

#### Governor's Proposed Fiscal Year 2020-21 State Budget

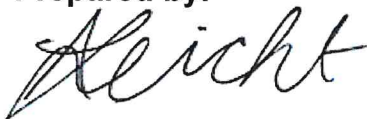
As required by the state constitution, the Governor's proposed budget for fiscal year 2020-21 is required to be introduced by January 10, 2020. While a memo outlining the proposed budget has been provided to the OCTA Board, a verbal update will be included as part of the January 16, 2020, meeting of the OCTA Legislative and Communications Committee.

**Summary**

An update is provided on the High-Speed Rail Project. A request is made to authorize staff to engage in conversations with stakeholders to advocate for investment in the Southern California segments to provide robust, regional benefits. A verbal update will be provided on the state budget.

**Attachments**

- A. Letter from Ronald L. Batory, Administrator, Federal Railroad Administration, to Brian Kelly, Chief Executive Officer, California High-Speed Rail Authority, dated February 19, 2019, re: Notice of Intent to Terminate Cooperative Agreement No. FR-HSR-0118-12-01-01
- B. Letter from Brian P. Kelly, Chief Executive Officer, California High-Speed Rail Authority, to Jamie Rennert, Director, Office of Program Delivery, Federal Railroad Administration, dated March 4, 2019, re: Notice of Intent to Terminate Cooperative Agreement No. FR-HSR-0118-12-01-01
- C. Letter from Assembly Member Tom Daly (D-Anaheim) to Brian Kelly, Chief Executive Officer, California High-Speed Rail Authority, dated June 3, 2019, re: High-Speed Rail Study for Southern California
- D. Getting Southern California High Speed Rail-Ready with an investment in Metrolink's Burbank to Anaheim Corridor
- E. Letter from Juliana Shu Barnes, Project Manager, Federal Railroad Administration to Brian Kelly, Chief Executive Officer, California High-Speed Rail Authority, dated December 9, 2019, re: FRA Review of Draft TS 01 Request for Proposal Terms and Conditions
- F. Letter from Brian P. Kelly, Chief Executive Officer, California High-Speed Rail Authority to Juliana Barnes, Project Manager, Federal Railroad Administration, dated December 10, 2019
- G. Orange County Transportation Authority Legislative Matrix

**Prepared by:**

Alexis Leicht  
Associate Government Relations Representative,  
Government Relations  
(714) 560-5475

**Approved by:**

Lance M. Larson  
Executive Director,  
Government Relations  
(714) 560-5908