



CITIZENS FOR CALIFORNIA HIGH SPEED RAIL ACCOUNTABILITY
Post Office Box 881 Hanford Ca form a 93232

frank.oveira@me.com

559-469-6685

cchsra.org Website

@CCHSRA Twitter

January 27, 2016

California Assembly Budget Subcommittee-3 Resources and Transportation

P.O. Box 942849, Room 2003

Sacramento, CA 94249-0050

916-319-2050

Attention: **Richard Bloom, Chair**

Regarding: **Paper-4: The Truth About Public and Private Financing for the California's HSR System**

Dear Assembly Budget Subcommittee-3 Members,

There must be more oversight applied to the California High-Speed Train Project.

The project has not been planned well enough to be successful and is grossly lacking the capital needed to overcome its deficiencies.

The California High-Speed Rail Authority and its Board have routinely misled the public and the Legislature in an effort to justify funding and the need for the project to proceed with construction.

For the better part of two decades the California High-Speed Rail Authority has promised Californians that the California High-Speed Rail System would be funded substantially by the Federal Government and by private funding.

We have attached an analysis that traces the likelihood of federal and private funding for California's High-Speed Rail project going back nearly twenty years to the days of the Intercity High-Speed Rail Commission in the 1990's and forward to today's quest for funding. The analysis details how the Commission recognized that federal and private funds would not be a significant funding source as well as the Commission's outgoing recommendations to the incoming California High-Speed Rail Authority on how best to proceed towards securing a prime funding source.

The analysis then discusses how the Authority disregarded the advice of the Commission and the warnings of its own financial consultants, never secured a prime funding source, and by continuing to mislead Californians about funding prospects has brought all Californians to the brink of a high-speed rail construction quagmire.

**Pushing Back on the California High-Speed Rail Authority's Myths About High-Speed Rail
Paper-4: The Truth About Public and Private Financing for the California's HSR System**

January 27, 2016

Page-2 of 2

Lastly, the analysis summarizes monies spent to date, the huge unspent remaining costs, and suggests a way out of the current predicament.

We would gladly compare this analysis against any documents that the Authority has produced to date on this subject.

Proper oversight of the Authority would prevent the Authority from manipulating the public and Legislature out of billions of dollars that could be more effectively used elsewhere.

Sincerely,

Frank Oliveira
8835 22nd Avenue
Lemoore, California 93245
frank.oliveira@me.com
559-469-6685

Attachment: Pushing Back on the California High-Speed Rail Authority's Myths About High-Speed Rail
Paper-4: The Truth About Public and Private Financing for the California's HSR System

cc: Edmund Gerald Brown, Governor State of California
Toni G. Atkins, California Speaker or the Assembly
Media
Mark Powell
File

**Pushing Back on the California High-Speed Rail Authority's Myths
About High-Speed Rail**

Paper 4

**The Truth About Public and Private
Financing for the California HSR System**

by Mark Robert Powell
January 25, 2016

Paper 4

The Truth About Public and Private Financing for the California's HSR System

Abstract

For the better part of two decades the California High-Speed Rail Authority has promised Californians that the California High-Speed Rail System would be funded substantially by the Federal Government and by private funding.

This paper traces the likelihood of federal and private funding for California's high-speed rail project going back nearly twenty years to the days of the Intercity High-Speed Rail Commission in the 1990's and forward to today's quest for funding. It details how the Commission recognized that federal and private funds would not be a significant funding source as well as the Commission's outgoing recommendations to the incoming California High-Speed Rail Authority on how best to proceed towards securing a prime funding source.

The paper then discusses how the Authority disregarded the advice of the Commission and the warnings of its own financial consultants, never secured a prime funding source, and by continuing to mislead Californians about funding prospects has brought all Californians to the brink of a high-speed rail construction quagmire.

Lastly, the paper summarizes monies spent to date, the huge unspent remaining costs, and suggests a way out of the current predicament.

Pushing Back on the Authority's Myths About High-Speed Rail

Paper 4 - The Truth About Public and Private Financing for the California HSR System

1993-1996 The Commission's Honest Appraisal of Funding Sources:

Twenty-three years ago Senate Concurrent Resolution 6 (Kopp) created the Intercity High-Speed Rail Commission. It cited the need for “*the preparation of a 20-year high-speed intercity rail plan similar to California's former freeway plan*” and “*an entity with stable and predictable funding sources to implement the plan*”.¹ SCR 6 tasked the Commission with preparing a financing plan that would include, but not be limited to, private funds, state general obligation bonds, revenue bonds backed by incremental increases in the gasoline tax, airport funds, and potential alternative public funding sources.²

The nine members of the Commission with backgrounds in construction, finance, banking, law, engineering, railroads, and some experience in the public sector³ completed five technical studies and a Public Participation Program⁴ in addition to a report summarizing the Commission's work; *The High-Speed Rail Summary Report and Action Plan*, released December 13, 1996. The Commission recommended a network of high-speed rail similar to the one presented to the voters nearly 12 years later; a segment linking the centers of San Francisco and Los Angeles, mostly following State Highway 99 through the Central Valley before swinging southeast to run through Palmdale and with additional segments connecting to Sacramento and San Diego. It was estimated to cost between \$12.1 and \$16.5 billion for the San Francisco to Los Angeles segment and between \$19.8 and \$24.6 billion (in 1996 dollars) for the entire statewide system.⁵

The Commission sought to establish a “base funding source” that could reliably furnish 70-85%⁶ of the capital required for construction. Quoting from the Summary Report:

“In order to qualify as a base funding source, the source must be able to substantially finance the construction of the system, secure debt against the revenue source, and provide funding irrespective of the construction status or operational readiness of the system. In addition, the source must have a stable and reliable revenue growth potential.”⁷

After analyzing sales taxes, gas taxes, airport taxes, highway tolls, federal funding, and state funding, the Commission found that only a 5 cent increase in the state's gasoline tax, or a ¼% increase in the state sales tax levied statewide, or a ½% increase in the state sales tax levied only in counties served by high speed rail met the Commission's criteria to “provide a realistic means of funding the project”.⁸ Of these options, the Commission seemed to favor a sales tax because of their concern over Section 1(b) of Article 19 of the California Constitution limiting the purposes for which gasoline taxes may be used.⁹ However, the Commission left it up to the incoming California High-Speed Rail Authority to make the final decision.

Private funding was not considered a possibility because of the project's risk, but was thought of as a way to finance extensions to Sacramento and San Diego once the San Francisco to Los Angeles portion was shown to be profitable.¹⁰ In other words, future profits of a proven operating line could be sold to investors in return for a portion of the capital needed to construct the extensions. The Commission also noted that federal high-speed rail programs amounted to only \$15 to \$25 million per year under the then-current authorizations that were scheduled to end in 1997 and therefore could not be considered a significant or predictable funding source.¹¹

With no private or federal support for the initial Los Angeles to San Francisco route, the Commission recognized an obvious fact; if Californians wanted a high-speed rail system, they would have to pay for it themselves. To implement the system, the Commission's first recommendation was that the Authority secure the statutory authority and the base funding source for the system. Quoting from the Commission's 1996 report: "There can be no significant progress on high-speed rail implementation nor can a private partner be selected until the voters have approved a source of base funding."¹²

1997 – 1999 The California High-Speed Rail Authority:

Beginning in 1997 and continuing through 1999 the Authority, using many of the same contractors used by Commission, repeated the Commission's work and came to largely the same conclusions. With the December 1999 deadline for release of the 2000 Business Plan approaching, the Authority was forced to select a preferred funding strategy. It did not choose wisely. Resolution HSRA 99-8 *Motions on Recommendations to the Authority to Become Part of the Business Plan* detailing a preferred funding strategy was brought up at the November 17th Board Meeting and approved unanimously (9-0).¹³ The motion "recommended to the Governor and the Legislature that California not proceed to fund the project fully in 2000, either through legislative action or by placing a full-funding proposal on the November 2000 ballot for the voters to decide." Instead, it called for "incremental development and funding of the project" coupled with "an aggressive statewide effort to increase federal funding for both conventional and high-speed trains in California."

Notably missing from HSRA 99-8 was any mention of the prospect of private funding. However, this should come as no surprise as the Authority's financial consultant, Public Financial Management Inc., wrote in 1999, "as impressive as the HSR operating surpluses are (projected to be)...private equity would insist upon a minimum return of between 15% and 20%. This effectively reduces the equity that can be supported (by operating surpluses) to approximately \$808 million¹⁴. Only parking facilities at station sites and concessionaire and vendor areas within the stations were identified as areas where private vendor financing might be appropriate¹⁵.

A potential state sales tax to fund the project was mentioned in the 2000 Business Plan, but only the recommended strategy of incremental funding has been followed by the Authority since 2000. Stating that Californians would perhaps need to pay for “only about one-third of the total project cost”¹⁶, although totally unsupported in the plan, fit well with subsequent legislation scheduling a vote on the issuance of \$9 billion in high-speed rail bonds in November 2004.¹⁷ The Authority’s hoped-for significant private funds or grants from non-existent federal programs to create a “phased-funding plan” ignored the Authority’s mandate still found in Section 185010 of the Public Utilities Code¹⁸, which reads as follows:

“185010(h) *In order for the state to have a comprehensive network of high-speed intercity rail systems by the year 2020, it must begin preparation of a high-speed intercity rail plan similar to California's former freeway plan and designate an entity with stable and predictable funding sources to implement the plan.*”

Leery of levying more taxes on Californians, Governor Gray Davis never supported a sales tax that could have created a stable and predictable funding source to pay for high-speed rail. Instead, he would support the “car tax” to help solve the state’s fiscal woes and be recalled from office in 2003.

The Authority’s 2008 Business Plan:

In March of 2008, eight months prior to the issuance of the 2008 Business Plan, the Authority’s financial consultant, Infrastructure Management Group, Inc., issued a *Request for Expressions of Interest for Private Participation in the Development of a High-Speed Train System in California*. The primary purpose of this RFEI “was to better understand how the private sector could assist in developing and financing all or portion(s) of the project.”¹⁹ Thirty responses were received and summarized in IMG’s *Report of Responses to the RFEI* and also rolled into IMG’s *Financial Plan for the CHSRA San Francisco to Anaheim Segment* which was also published in October 2008. In this financial plan IMG concluded:

Private funds would most likely come after the initial operating portions (i.e. SF to LA) were showing a profit.²⁰ Furthermore, private funds were in general conditioned upon a “revenue guarantee” or “availability payments”²¹

IMG’s Financial Plan dealt with possible federal funding by stating that “new funding sources specifically for high-speed rail, along with an expansion of existing transit programs, will need to be created in order to provide adequate support for the HSR Project”²²

In the face of these sobering statements made by its own financial consultant, the Authority’s 2008 Business Plan was released shortly thereafter touting a financial plan for the San Francisco to Anaheim Segment (Phase 1 of the statewide system) projected to cost \$33.6 billion (2008\$) that showed roughly a third of the necessary funding coming from private sources, a third from non-existent federal programs, and the remaining third from the recently passed Proposition 1A bond measure.²³

2008-2015 The Authority’s Attempts at Securing Federal and Private Funding:

No new federal programs to support the high-speed rail project, other than one-time funds allocated as part of a nearly trillion dollar federal stimulus spending bill passed by Congress in 2009, were enacted. The one-time federal funds allocated to California’s project, about \$4 billion, did not even cover projected cost increases since 2008 as the cost of Phase 1 ballooned to \$98-\$118 billion before the project was trimmed back to “Phase 1 Blended” shown in the 2012 Business Plan as costing between \$68 and \$80 billion.²⁴

Private funding also failed to materialize. Still searching for private funds in 2015 the Authority issued a second *RFEI for Delivery of an Initial Operating Segment* on September 28, 2015²⁵. Thirty-six replies were received and none showed a willingness to provide private funding. It is worth noting that of the thirty-six respondents, only nine had also responded to the Authority’s 2008 RFEI. Twenty-seven were new respondents and now brought to fifty-seven the total number of private firms to publicly decline to invest in California’s high-speed rail project.

A Path Out of Today’s High-Speed Rail Quagmire:

There is still a substantial minority of California’s population that would like to see a high-speed rail system built in California. However, many of these people and the groups who represent them (ex. Californians Advocating Responsible Rail Design – CARRD) want to see high-speed rail “built right” and may have lost faith that the current effort will lead to a successful system. Moreover, a recent Hoover Institution Golden State Poll shows that “continuing the state’s high-speed rail project” polls last of twenty-one issues surveyed when Californians are asked if this should be a “top priority” of the state²⁶.

It has been nearly eleven years since the Authority certified its 2005 *Final Program EIR/EIS for the Proposed California High-Speed Train System* (2005 Program EIR) which openly and transparently studied the need for, and the benefits and costs (monetary and environmental) of the proposed statewide system. To date, nearly \$1.5 billion²⁷ has been expended with very little to show for it. Project Level environmental clearances for Phase 1 Blended are still years in the offing²⁸ and as this paper is being written the public is learning that the Authority is reversing nearly four years of planning and will now seek to build its Initial Operating Section north from Bakersfield to the Bay Area rather than south from Merced to the Los Angeles Basin.

The \$1.5 billion spent to date will not have been wasted if Californians someday reconstruct this project on a more stable financial and environmental footing. But before that can happen and before more funds are spent, the new information gained about the need for, and costs of, a high-speed rail system need to be examined in a new statewide program EIR.

Much has been learned since the 2005 Program EIR was certified by the Authority. California's population failed to increase at the rate envisioned in the 2005 Program EIR. Consequently the projected need for additional freeway lanes and airport infrastructure failed to materialize. In the 2005 Program EIR it was envisioned that the "core segment" connecting Los Angeles and San Francisco would be completed by January 1, 2016 with the remainder of the system completed by January 1, 2019²⁹. In the last ten years the former date has been pushed off thirteen years and the Authority does not even know by how much the latter date has been delayed. Increased construction costs coupled with the lack of federal or private funding now may result in Californians' expenditure for HSR rising to the level of our state's currently unfunded state employee pension liability, and Californians may wish to reconsider their decision to invest in HSR. But one new need for a high-speed rail system has come to light. That need stems from today's increased awareness of the potential cost of greenhouse gas emissions from automobiles and airplanes. Unfortunately this concern has come to the forefront after 2005 and was never studied in the 2005 Program EIR nor was the proposed train system designed to minimize GHG emissions.

Surely it would take immense political courage for the Authority, or an individual board member, to call for a suspension of work coupled with a proposal for a new statewide program EIR, but in light of today's financial and environmental questions about high-speed rail this may be the best option for moving forward and the best hope for the eventual construction of a high-speed rail system in California.

-
- ¹ Senate Concurrent Resolution 6, Filed with Secretary of State July 20, 1993, Whereas Section, paragraph 9. See http://www.leginfo.ca.gov/pub/93-94/bill/sen/sb_0001-0050/scr_6_bill_930720_chaptered
- ² Senate Concurrent Resolution 6, Filed with Secretary of State July 20, 1993, Resolved Section, paragraph 13, items 1-5
- ³ *High Speed Rail Summary Report and Action Plan*, Published by Intercity High-Speed Rail Commission December 13, 1996, Appendix B, Document available at Claremont Colleges, Honnold/Mudd Library, Claremont, CA.
- ⁴ *High Speed Rail Summary Report and Action Plan*, Published by Intercity High-Speed Rail Commission December 13, 1996, Executive Summary, page 1
- ⁵ *High Speed Rail Summary Report and Action Plan*, Published by Intercity High-Speed Rail Commission December 13, 1996, Capital Cost Summary Tables, pages 3-25 and 3-27
- ⁶ *High Speed Rail Summary Report and Action Plan*, Published by Intercity High-Speed Rail Commission December 13, 1996, Major Secondary and Supplemental Funding Sources, pages 5-7 to 5-10, Secondary Funding Sources expected to each contribute less than 2% to the construction costs and Supplemental Funding Sources each expected to contribute less than 1% to the construction costs, the total was expected to close the funding gap left by the base or “primary funding source”.
- ⁷ *High Speed Rail Summary Report and Action Plan*, Published by Intercity High-Speed Rail Commission December 13, 1996, Overview of Funding Sources, page 5-2
- ⁸ *High Speed Rail Summary Report and Action Plan*, Published by Intercity High-Speed Rail Commission December 13, 1996, Base Funding Options, page 5-3
- ⁹ *High Speed Rail Summary Report and Action Plan*, Published by Intercity High-Speed Rail Commission December 13, 1996, Base Funding Options, page 5-5
- ¹⁰ *High Speed Rail Summary Report and Action Plan*, Published by Intercity High-Speed Rail Commission December 13, 1996, Financing the System – Introduction, page 5-1
- ¹¹ *High Speed Rail Summary Report and Action Plan*, Published by Intercity High-Speed Rail Commission December 13, 1996, Base Funding Options, page 5-6
- ¹² *High Speed Rail Summary Report and Action Plan*, Published by Intercity High-Speed Rail Commission December 13, 1996, Executive Summary, page ES-16
- ¹³ FAX from Executive Director Mehdi Morshed to Congressman Jim Costa, Resolution HSRA 99-8 *Motion on Recommendations to the Authority to Become Part of the Business Plan*. Located in California State Archives and not found on the Authority’s website.
- ¹⁴ Financial Plan Prepared by Public Financial Management Inc, November 2, 1999, page 4
http://www.hsr.ca.gov/docs/about/business_plans/BPlan_2000_TS_FinPlan.pdf
- ¹⁵ Financial Plan Prepared by Public Financial Management Inc, November 2, 1999, page 15
- ¹⁶ Cover Letter to 2000 Business Plan
http://www.hsr.ca.gov/docs/about/business_plans/BPlan_2000_FullRpt.pdf
- ¹⁷ Senate Bill 1856 (Costa), Safe Reliable High-Speed Passenger Train Bond Act, Division 3 of Streets and Highway Code, Chapter 20, Article 3, SEC. 4(a) See: http://www.leginfo.ca.gov/pub/01-02/bill/sen/sb_1851-1900/sb_1856_bill_20020919_chaptered.pdf
- ¹⁸ California Public Utilities Code, Section 185010(h)
<http://codes.findlaw.com/ca/public-utilities-code/puc-sect-185010.html>
- ¹⁹ Report of Responses to the Request for Expressions of Interest for Private Participation in the Development of a High-Speed Train System in California, prepared by IMG, Inc., October 2008, page 1
http://www.hsr.ca.gov/docs/about/business_plans/BPlan_2008_SRC_ExpressInterest.pdf
- ²⁰ Financial Plan prepared by Infrastructure Management Group, Inc., Oct. 27, 2008, page 12
http://www.hsr.ca.gov/docs/about/business_plans/BPlan_2008_SRC_FinPlan.pdf
- ²¹ Financial Plan prepared by Infrastructure Management Group, Inc., Oct. 27, 2008, page 11
- ²² Financial Plan prepared by Infrastructure Management Group, Inc., Oct. 27, 2008, page 5
http://www.hsr.ca.gov/docs/about/business_plans/BPlan_2008_SRC_FinPlan.pdf
- ²³ 2008 Business Plan, page 21, Figure 26
http://www.hsr.ca.gov/docs/about/business_plans/BPlan_2008_FullRpt.pdf
- ²⁴ 2012 Revised Business Plan, page 3-11, Exhibits 3-7 and 3-8
http://www.hsr.ca.gov/docs/about/business_plans/BPlan_2012_rpt.pdf
- ²⁵ Expression of Interest in the Delivery of an Initial Operating Segment, Sept. 28, 2015
http://www.hsr.ca.gov/docs/about/doing_business/EOI/EOI_Barclays_Bank_PLC.pdf
- ²⁶ Hoover Institution Golden State Poll, conducted Nov. 30-Dec.13, pages 25-26
http://www.hoover.org/sites/default/files/hoover_gsp_january_2016_release_public_results_final_011216.pdf
- ²⁷ Authority Finance Committee Exhibit, Total Project Expenditures with Forecasts, Dec. 2015
- ²⁸ Authority Finance Committee Exhibit, Environmental Milestones Schedule, Dec. 2015
- ²⁹ *California High-Speed Train Final Program EIR/EIS*, Economic Growth and Related Impacts section, page 5-5
http://www.hsr.ca.gov/docs/programs/eir-eis/statewide_final_EIR_vol1ch5.pdf