

ON A MOVE TO CHANGE HIGH-SPEED RAIL'S FINANCIAL PERFORMANCE METRICS Brief Note #23 – August 15th 2011

From the authors of *The Financial Risks Of California's Proposed High-Speed Rail Project*, six subsequent Briefing Papers, and *The Financial Analysis of Proposed CHSR Project*. At www.cc-hsr.org

Finding: What's a law worth if the rules for high-speed rail can be changed?

Background: AB3034 outlined the proposed project's potential social benefits:

*" . . . provide Californians a safe, convenient, affordable, and reliable alternative to driving and high gas prices; to provide good-paying jobs and improve California's economy while reducing air pollution, global warming greenhouse gases, and our dependence on foreign oil, shall \$9.95 billion in bonds be issued to establish a clean, efficient [sic] high-speed train service."*¹

It would be 'icing on the cake' if these social benefits were achieved. But AB3034 takes precedence, and it stipulated the train may not operate with a subsidy. Subsequently Prop1A's ballot description stated "no new taxes" and the "users will pay for the system."² Only after the train meets the statutory requirements of unsubsidized financial sustainability can it address social benefits.

But there is a move afoot to devalue that financial rigor. It's a seductive argument since bridges, ports and airports, and rail projects create social benefits and perhaps had or have subsidies. But it's a false analogy because creating social benefits was not part of the legal contract between the Legislature and the people of California for high-speed rail.

In July 2011 an official Peer Review group said the project is unlikely to be able to service the capital costs of building the project. Since the operator was required by AB3034 to service all debt (excluding Federal grants), their statement is an admission the project cannot operate without a subsidy.³ The Peers then called for new project metrics:

*"More critically, the approach implies, but does not state explicitly, that a significant part, perhaps all, of the Authority's infrastructure investment will not be recovered from the operator(s). If this is correct, **then the Authority's measurement of public benefits should be fully developed and carefully reviewed in order to justify the net public outlay**"* (emphasis in original)⁴

Why do the rules governing the project's performance need to be "fully developed" three years after AB3034 and Prop1A? In 2008 the Legislature and voters chose what they thought was a fully developed set of rules. That's what is in AB3034, and the ballot descriptions of Prop1A. Having social benefits rule the project's performance is a very different proposition, requiring a return to the voters to change the project's governing law.

Conclusions: One must ask whether the Peers are trying to pass the costs of building the project from the CHSRA and operator(s) to California's taxpayers. This raises serious questions about the Peers' role as umpires versus advocates. Taxpayers authorized \$9Billion for construction costs, no more, no less. Without this limitation, the taxpayers would be liable for whatever CHSRA and the private builders and operators spend building the project. That would be 'a blank check on the General Fund in the name of social goods'

¹ See: Section 11 (c) of AB3034 for the quotation.

² Section 2704.08(J) says no operating subsidy. The Official Voter Information Guide says "no new taxes" and "the users pay for the system." See: <http://www.voterguide.sos.ca.gov/past/2008/general/argu-rebut/argu-rebutt1a.htm>

³ Not only did the Legislature in the run up to AB3034 in Section 2704.04. (a) (5) clearly state that the State's liability to fund construction was limited to the \$9Billion authorization of GO bonds, the Authority's own financing plans outline where the remainder of capital financing is to come from. This is detailed in Brief Note #19, found at <http://www.cc-hsr.org/>

⁴ See: Peer Review Group Report, 1 July 2011, pg. 3. Find at: http://smdailyjournal.com/article_preview.php?id=162672&title=Report:%20High-speed%20rail%20project%20facing%20serious%20concerns