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AB-1831 State government: appointments: infrastructure. (2017-2018)

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Assembly Bill No. 1831

CHAPTER 43

An act to amend Section 69511 of the Education Code, to amend Section 3312 of the Food and Agricultural Code, to add Article 2.1 (commencing with Section 13105) to Chapter 2 of Part 3 of Division 3 of Title 2 of the Government Code, to amend Section 50661 of the Health and Safety Code, to amend Section 185020 of the Public Utilities Code, and to amend Section 10202.5 of the Unemployment Insurance Code, relating to state government, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 27, 2018. Filed with Secretary of State June 27, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1831, Committee on Budget. State government: appointments: infrastructure.

(1) Existing law prescribes that every office, the term of which is not specified in law, is held at the pleasure of the appointing power. Existing law specifies the length of terms of appointive members of the Student Aid Commission, except student representatives, the governing body of the California Exposition and State Fair, and the High-Speed Rail Authority as 4 years, and appointive members of the Employment Training Panel as 2 years.

This bill would delete the length of terms of the members appointed by the Speaker of the Assembly to the Student Aid Commission, the governing body of the California Exposition and State Fair, the High-Speed Rail Authority, and the Employment Training Panel, and would make conforming changes.

(2) Existing provisions of the California Constitution, approved by the electors on November, 4, 2014, establish the Budget Stabilization Account in the General Fund and require the Controller, on or before October 1 of the 2015–16 fiscal year and each fiscal year thereafter, to transfer from the General Fund to the Budget Stabilization Account amounts that include a sum equal to 1.5% of the estimated amount of General Fund revenues for that fiscal year. These existing provisions prohibit for each fiscal year transfers to the account that would cause the balance in the account to exceed 10% of the amount of General Fund proceeds of taxes for the fiscal year as estimated by the Department of Finance. These existing provisions authorize, for any fiscal year, General Fund proceeds of taxes that, but for the above prohibition, would have been transferred to the account, to be expended only for infrastructure, as prescribed.

Existing law creates the Housing Rehabilitation Loan Fund, which is continuously appropriated for specified purposes relating to housing rehabilitation.

This bill would provide that the amount estimated to be available for infrastructure under the constitutional provisions shall be appropriated by the Legislature in the annual budget process. The bill would require the Controller, upon the order of the department, for infrastructure amounts attributable to the 2019–20 to the 2021–22 fiscal year, inclusive, to transfer the amount from the General Fund to the Infrastructure Stabilization Fund, which the bill would create as a continuously appropriated fund,

thereby making an appropriation. The Infrastructure Stabilization Fund would receive transfers pursuant to the bill's provisions or from any other funds upon appropriation by the Legislature and moneys in this fund would be continuously appropriated and distributed, upon order of the department, to the State Infrastructure and Maintenance Fund created by the bill if below \$415,000,000, or, if at or above that threshold, to that fund up to \$415,000,000 with the excess over the threshold split evenly between a Rail Infrastructure Account, established by the bill, and the existing Housing Rehabilitation Loan Fund. By establishing a new source of moneys for the Housing Rehabilitation Loan Fund, a continuously appropriated fund, the bill would make an appropriation. The bill would restrict the use of moneys transferred from the Infrastructure Stabilization Fund to the Housing Rehabilitation Loan Fund to infrastructure within the Multifamily Housing Program.

The bill would create the State Infrastructure and Maintenance Fund in the State Treasury for the purposes of funding state capital outlay, lease payments related to state capital outlay, and deferred maintenance, upon appropriation by the Legislature. Under the bill, the fund would receive transfers from the Infrastructure Stabilization Fund, pursuant to the bill, or from any other funds upon appropriation by the Legislature.

The bill would create the Rail Infrastructure Account in the State Transportation Fund for the purposes of funding projects in the Rail Modernization Improvement Program, which the bill would create, as prescribed. Under the bill, moneys in the account would be continuously appropriated to the Transportation Agency for specific rail infrastructure project purposes. By creating a continuously appropriated fund, the bill would make an appropriation.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 69511 of the Education Code is amended to read:

69511. (a) (1) Except as provided in subdivision (b), each member of the commission, other than a student member and a member appointed pursuant to subdivision (h) of Section 69510, shall have a four-year term. Members appointed pursuant to subdivision (h) of Section 69510 shall serve at the pleasure of the Speaker of the Assembly.

(2) (A) A student member appointed pursuant to subdivision (d) of Section 69510 shall have a term of two academic years.

(B) Upon expiration of the student member's two-year term, if the Governor has not appointed a successor, the student member may remain in office for one additional year or until the Governor appoints a successor, whichever occurs first. The requirements of subdivision (d) of Section 69510 do not apply to a student in the additional year under this paragraph.

(C) The commission shall notify the appropriate student organization for each segment, as described in Section 69511.5, of a pending student member vacancy no less than three months before the expiration of the term, and of the appropriate student organization's opportunity to submit a list of nominees pursuant to Section 69511.5.

(b) The term of one member appointed pursuant to subdivision (g) of Section 69510, effective January 1, 1991, shall be for five years. Each subsequent term for members appointed pursuant to this subdivision shall be for four years.

(c) At no time shall both student representatives be enrolled in the same segment of postsecondary education in California. For purposes of this subdivision, each postsecondary education program listed in subdivisions (a), (b), and (c) of Section 69510 is a segment of postsecondary education in California.

(d) Appointment to the commission of members appointed pursuant to subdivisions (a) to (f), inclusive, of Section 69510 shall be made by the Governor subject to confirmation by the Senate.

(e) Any vacancy shall be filled by the appointment of a person who will have the same status as the predecessor of the appointee. Except for appointees appointed by the Speaker of the Assembly, the appointee shall hold office only for the balance of the unexpired term.

(f) (1) Each member of the commission shall receive a stipend of one hundred dollars (\$100) for each day in which he or she attends any meeting of the commission or any meeting of any committee or subcommittee of the commission, of which committee or subcommittee he or she is a member, and which committee or subcommittee meeting is conducted for the purpose of carrying out the powers and duties of the commission. In addition, each member shall receive his or her actual and necessary traveling expenses incurred in the course of his or her duties.

(2) In addition, if a student member who attends a qualifying institution, as defined in Section 69432.7, is not the recipient of a Cal Grant award, the qualifying institution, as a condition of participation in the Cal Grant program, shall waive the student member's tuition, up to the maximum award amount for that institution, for the duration of the student member's term of office.

(g) (1) If an act of Congress establishes a program of scholarships or grants for undergraduate students and permits administration of the program within a state by a state agency, the Student Aid Commission, as established by Section 69510, shall administer the act within the state if the Governor and the Student Aid Commission, by a majority vote of its entire membership, determine that the participation by the state in the federal scholarship or grant program under the act would not interfere with or jeopardize the continuation of the scholarship program established under Chapter 1.7 (commencing with Section 69430) of Part 42 of Division 5 of Title 3.

(2) The commission shall constitute the state commission on federal scholarships or grants and is hereby empowered to formulate a plan for development and administration of any federal scholarship or grant program within the state.

(3) Subject to the provisions of this chapter, the commission is hereby vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof, in the administration of any act of Congress establishing a scholarship or grant program and the rules and regulations adopted thereunder.

(4) Before adopting a state plan, the commission, acting as the state commission on federal scholarships or grants, shall hold public hearings as provided in the California Administrative Procedure Act.

SEC. 2. Section 3312 of the Food and Agricultural Code is amended to read:

3312. (a) The governing body of the California Exposition and State Fair shall be an 11-member board of directors. The directors shall be residents of California and shall be appointed as follows:

(1) Nine directors shall be appointed by the Governor with the consent of the Senate. The directors appointed by the Governor shall have general knowledge of, interest in, and expertise in one or more of the following areas: fair management, city or county government, horseracing, the arts, exhibiting, the media, education, youth, commerce and commercial products of the state, industry and industrial products of the state, agricultural production and forest industries, the entertainment industry, livestock and poultry, sports, recreation, fisheries, oceanography, organized labor, and finance and banking.

(A) Five of the directors appointed by the Governor shall be knowledgeable in the production, processing, or marketing of agricultural products and may be appointed from lists of nominees submitted for consideration to the Governor from California agricultural organizations, district agricultural associations, and county and citrus fruit fairs.

(B) One of the directors appointed by the Governor shall be a public member.

(C) Three of the directors appointed by the Governor shall be representative, to the extent possible, of areas of knowledge, interest, and expertise enumerated in this paragraph.

(2) One director shall be appointed by the Speaker of the Assembly and one director shall be appointed by the Senate Committee on Rules. These persons shall be representative, to the extent possible, of areas of knowledge, interest, and expertise enumerated in paragraph (1).

(b) Except for directors appointed by the Speaker of the Assembly, the directors shall be appointed for four-year terms. The appointing authority shall appoint directors to fill vacancies which occur during a term, and except for directors appointed by the Speaker of the Assembly, the appointments shall be for the remainder of the unexpired term. Of the four vacancies that will occur on December 31, 1986, two of the vacancies shall be filled by persons appointed pursuant to paragraph (2) of subdivision (a).

SEC. 3. Article 2.1 (commencing with Section 13105) is added to Chapter 2 of Part 3 of Division 3 of Title 2 of the Government Code, to read:

Article 2.1. Infrastructure Funding

13105. (a) The amount estimated to be available for infrastructure pursuant to subdivision (e) of Section 20 of Article XVI of the California Constitution shall be appropriated by the Legislature in the annual budget process. Upon the order of the department, the Controller shall transfer the amount from the General Fund to the Infrastructure Stabilization Fund created in Section 13106.

(b) In the event the initial estimated amount for a fiscal year as described in subdivision (a) is greater than the final updated amount as determined by subdivisions (b) and (e) of Section 20 of Article XVI of the California Constitution, the excess shall be credited towards the infrastructure amounts in one or more subsequent fiscal years.

(c) In the event the initial estimated amount for a fiscal year as described in subdivision (a) is less than the final updated amount as determined by subdivisions (b) and (e) of Section 20 of Article XVI of the California Constitution, upon appropriation by the Legislature and upon the order of the department, the Controller shall transfer the remaining amount from the General Fund to the Infrastructure Stabilization Fund.

(d) This section applies to the infrastructure amounts attributable to the 2019–20 to the 2021–22 fiscal year, inclusive, pursuant to subdivision (e) of Section 20 of Article XVI of the California Constitution. Pursuant to subdivision (b) of Section 20 of Article XVI of the California Constitution, the updates of the amount for each relevant fiscal year will be made in the two subsequent fiscal years.

(e) Consistent with Section 20 of Article XVI of the California Constitution, the department shall perform the estimates and calculations in this section.

13106. (a) The Infrastructure Stabilization Fund is hereby created in the State Treasury for the infrastructure purposes described in subdivision (e) of Section 20 of Article XVI of the California Constitution.

(b) This fund shall receive transfers pursuant to Section 13105 or from any other funds upon appropriation by the Legislature. Moneys in this fund shall be continuously appropriated and shall be distributed, upon order of the department, as follows:

(1) If the transfer received is less than four hundred fifteen million dollars (\$415,000,000), the entire amount shall be transferred to the State Infrastructure and Maintenance Fund established in Section 13107.

(2) If the transfer received is equal to or greater than four hundred fifteen million dollars (\$415,000,000), four hundred fifteen million dollars (\$415,000,000) shall be transferred to the State Infrastructure and Maintenance Fund established in Section 13107. Any amount over four hundred fifteen million dollars (\$415,000,000) shall be distributed 50 percent to the Rail Infrastructure Account established in Section 13108 and 50 percent to the Housing Rehabilitation Loan Fund established in Section 50661 of the Health and Safety Code.

13107. (a) The State Infrastructure and Maintenance Fund is hereby created in the State Treasury for the purposes of funding state capital outlay, lease payments related to state capital outlay, and deferred maintenance, upon appropriation by the Legislature.

(b) This fund shall receive transfers from the Infrastructure Stabilization Fund, pursuant to Section 13106, or from any other funds upon appropriation by the Legislature.

13108. (a) The Rail Infrastructure Account is hereby created in the State Transportation Fund for the purposes of funding projects in the Rail Modernization Improvement Program. Moneys in this fund shall be continuously appropriated to the Transportation Agency for the purposes described in subdivision (b).

(1) Transfers from the Infrastructure Stabilization Fund pursuant to Section 13106, or other appropriations by the Legislature, shall be deposited into the account created in subdivision (a).

(2) The Transportation Agency shall be the account administrator.

(3) Revenue in the account is available for allocation and expenditure by the Secretary of Transportation.

(b) The Rail Modernization Improvement Program is hereby created to fund rail infrastructure projects.

(1) Eligible projects shall benefit high-priority rail corridors as follows:

(A) Rail corridor investments that are shared use corridors.

(B) Rail corridor investments statewide to benefit freight if those investments also provide passenger rail benefits in the corridors specified in subparagraph (A).

(C) Rail station planning investments for shared use station areas to maximize connectivity between state-run or state-administered passenger rail services and locally or regionally operated services.

(2) Funds appropriated for the purposes of this program may be allocated by the Transportation Agency to a state department or a local agency acting as a project sponsor overseeing or administering an eligible project.

(3) Any project sponsor receiving funding pursuant to this program shall report to the Transportation Agency annually on or before September 1 of each year regarding the status and progress of the project, expenditures to date, anticipated benefit to the state, and upon completion, realized benefit to the state.

(4) The Transportation Agency shall report to the Legislature by November 1 of each year regarding the projects funded, and for each project the anticipated benefit to the state, the planned cashflow schedule, and a summary of the information reported by project sponsors. This report shall be submitted pursuant to Section 9795.

13109. Notwithstanding any other provision of law, the Controller may use the funds in the Infrastructure Stabilization Fund, the State Infrastructure and Maintenance Fund, and the Rail Infrastructure Account for cash flow loans to the General Fund as provided in Sections 16310 and 16381.

SEC. 4. Section 50661 of the Health and Safety Code is amended to read:

50661. (a) There is hereby created in the State Treasury the Housing Rehabilitation Loan Fund. All interest or other increments resulting from the investment of moneys in the Housing Rehabilitation Loan Fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department for the following purposes:

(1) For making deferred-payment rehabilitation loans for financing all or a portion of the cost of rehabilitating existing housing to meet rehabilitation standards as provided in this chapter.

(2) For making deferred payment loans as provided in Sections 50668.5, 50669, and 50670.

(3) For making deferred payment loans pursuant to Sections 50662.5 and 50671.

(4) Subject to the restrictions of Section 53131, if applicable, for administrative expenses of the department made pursuant to this chapter, Article 3 (commencing with Section 50693) of Chapter 7.5, and Chapter 10 (commencing with Section 50775).

(5) For related administrative costs of nonprofit corporations and local public entities contracting with the department pursuant to Section 50663 in an amount, if any, as determined by the department, to enable the entities and corporations to implement a program pursuant to this chapter. The department shall ensure that not less than 20 percent of the funds loaned pursuant to this chapter shall be allocated to rural areas. For purposes of this chapter, "rural area" shall have the same meaning as in Section 50199.21.

(6) To the extent no other funding sources are available, ten million dollars (\$10,000,000), as provided in Section 4 of Chapter 3 of the Statutes of 2014, may be used for the purposes of Section 34085.

(7) To the extent that funds are made available by the Legislature, moneys in the fund may be used for the purposes described in Chapter 4 (commencing with Section 34090) of Part 1.6 of Division 24. Any funds made available for these purposes that are not encumbered on or before June 30, 2017, shall revert to the General Fund.

(b) There shall be paid into the fund the following:

(1) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(2) Any moneys that the department receives in repayment of loans made from the fund, including any interest thereon.

(3) Any other moneys that may be made available to the department for the purposes of this chapter from any other source or sources.

(4) Moneys transferred or deposited to the fund pursuant to Sections 50661.5 and 50778.

(5) Transfers from the Infrastructure Stabilization Fund, pursuant to Section 13106 of the Government Code. Any moneys transferred from the Infrastructure Stabilization Fund shall be used only for infrastructure, as defined in Section 13101 of the Government Code, within the Multifamily Housing Program established by Chapter 6.7 (commencing with Section 50675).

(c) Notwithstanding any other law, any interest or other increment earned by the investment or deposit of moneys appropriated by subdivision (b) of Section 3 of Chapter 2 of the Statutes of the 1987–88 First Extraordinary Session, or Section 7 of Chapter 4 of the Statutes of the 1987–88 First Extraordinary Session, shall be deposited in a special account in the Housing Rehabilitation Loan Fund and shall be used exclusively for purposes of Sections 50662.5 and 50671.

(d) Notwithstanding any other law, effective with the date of the act adding this subdivision, appropriations authorized by the Budget Act of 1996 for support of the Department of Housing and Community Development from the California Disaster Housing Repair Fund and the California Homeownership Assistance Fund shall instead be authorized for expenditure from the Housing Rehabilitation Loan Fund.

(e) Effective July 1, 2014, the California Housing Trust Fund in the State Treasury is abolished and any remaining balance, assets, liabilities, and encumbrances shall be transferred to, and become part of, the Housing Rehabilitation Loan Fund. Notwithstanding Section 13340 of the Government Code, all transferred amounts are continuously appropriated to the department for the purpose of satisfying any liabilities and encumbrances and the purposes specified in this section.

SEC. 5. Section 185020 of the Public Utilities Code is amended to read:

185020. (a) There is in the Transportation Agency a High-Speed Rail Authority.

(b) (1) The authority is composed of 11 members as follows:

(A) Five members appointed by the Governor.

(B) Two members appointed by the Senate Committee on Rules.

(C) Two members appointed by the Speaker of the Assembly.

(D) One Member of the Senate appointed by the Senate Committee on Rules and one Member of the Assembly appointed by the Speaker of the Assembly shall be ex officio members without vote and shall participate in the activities of the authority to the extent that participation is not incompatible with their positions as Members of the Legislature.

(2) For the purposes of making appointments to the authority pursuant to subparagraphs (A), (B), and (C) of paragraph (1), the Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall take into consideration geographical diversity to ensure that all regions of the state are adequately represented.

(c) Except as provided in subdivision (d), and until their successors are appointed, members of the authority, other than members appointed pursuant to subparagraphs (C) and (D) of paragraph (1) of subdivision (b), shall hold office for terms of four years. A vacancy shall be filled by the appointing power making the original appointment, by appointing a member to serve the remainder of the term or, in the case of a member appointed by the Speaker of the Assembly, at the pleasure of the Speaker of the Assembly.

(d) (1) In order to provide for evenly staggered terms, persons appointed or reappointed to the authority by the Governor and the Senate Committee on Rules after January 1, 2001, shall be appointed to initial terms to expire as follows:

(A) Of the five persons appointed by the Governor, one shall be appointed to a term that expires on December 31, 2002, one shall be appointed to a term that expires on December 31, 2003, one shall be appointed to a term that expires on December 31, 2004, and two shall be appointed to terms that expire on December 31, 2005.

(B) Of the two persons appointed by the Senate Committee on Rules, one shall be appointed to a term that expires on December 31, 2002, and one shall be appointed to a term that expires on December 31, 2004.

(2) Following expiration of each of the initial terms provided for in this subdivision, the term shall expire every four years thereafter on December 31.

(e) Members of the authority are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(f) From among its voting members, the authority shall elect a chairperson, who shall preside at all meetings of the authority, and a vice chairperson to preside in the absence of the chairperson. The chairperson shall serve a term of one year.

(g) Five voting members of the authority constitute a quorum for taking any action by the authority.

SEC. 6. Section 10202.5 of the Unemployment Insurance Code is amended to read:

10202.5. (a) The panel shall consist of eight persons, seven of whom shall be appointed as provided in subdivision (b), and shall have experience and a demonstrated interest in business management and employment relations. The Director of the Governor's Office of Business and Economic Development, or his or her designee, shall also serve on the panel as an ex officio, voting member.

(b) (1) Two members of the panel shall be appointed by the Speaker of the Assembly. One of those members shall be a private sector labor representative and the other member shall be a business representative.

(2) Two members of the panel shall be appointed by the President pro Tempore of the Senate. One of those members shall be a private sector labor representative and the other member shall be a business representative.

(3) Three members of the panel shall be appointed by the Governor. One of those members shall be a private sector labor representative, one member shall be a business representative, and one member shall be a public member.

(4) Labor appointments shall be made from nominations from state labor federations. Business appointments shall be made from nominations from state business organizations and business trade associations.

(5) The Governor shall designate a member to chair the panel, and the person so designated shall serve as the chair of the panel at the pleasure of the Governor.

(c) The appointive members of the panel, except members appointed by the Speaker of the Assembly, shall serve for two-year terms. The appointive members of the panel appointed by the Speaker of the Assembly shall serve at the pleasure of the Speaker of the Assembly.

(d) Appointive members of the panel shall receive the necessary traveling and other expenses incurred by them in the performance of their official duties out of appropriations made for the support of the panel. In addition, each appointive member of the panel shall receive one hundred dollars (\$100) for each day attending meetings of the panel, and may receive one hundred dollars (\$100) for each day spent conducting other official business of the panel, but not exceeding a maximum of three hundred dollars (\$300) per month.

SEC. 7. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.