

HIGH-SPEED PASSENGER TRAIN FINANCE COMMITTEE

RESOLUTION V (2010)

(Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century; Proposition 1A)

Resolution Amending the Provisions of Resolution III Authorizing the Issuance of State of California High-Speed Passenger Train Bonds or Commercial Paper Notes in the Principal Amount Not to Exceed \$480,800,000, to Reflect Certain Changes to the General Obligation Bond Law and Other Technical Amendments

WHEREAS, the Legislature of the State of California adopted the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century (Chapter 267, Statutes of 2008; Proposition 1A) (the "Act"), including the State General Obligation Bond Law (Section 16720 *et seq.* of the California Government Code) (the "General Obligation Bond Law") as incorporated therein; and

WHEREAS, the People of the State of California, at an election held on November 4, 2008, approved the Act; and

WHEREAS, to carry out the purposes of the Act, on April 15, 2009, the High-Speed Passenger Train Finance Committee (the "Committee") adopted its Resolution III authorizing the issuance of State of California High-Speed Passenger Train Bonds or Commercial Paper Notes in the principal amount not to exceed \$480,800,000 ("Resolution III"); and.

WHEREAS, the Committee has determined that it is necessary and desirable to amend Resolution III to reflect certain changes to the General Obligation Bond Law that became effective on January 1, 2010, and other technical amendments;

NOW, THEREFORE, BE IT RESOLVED by the Committee, as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. Unless the context otherwise requires, the terms used below and any terms defined in the recitals above, for all purposes of this Resolution and of any Supplemental Resolution have the meanings specified in Resolution III as amended hereby.

ARTICLE II

AMENDMENTS TO RESOLUTION III

Section 2.01 Amendment to Section 1.01.

Pursuant to Section 8.01 of Resolution III, the State may modify or amend Resolution III with respect to any outstanding general obligation bonds or commercial paper notes issued thereunder and the rights and obligations of the holders of such outstanding obligations and the State at any time by a Supplemental Resolution, without notice to or the consent of any holders of such obligations, for the purpose of curing, correcting or supplementing any defective provision contained therein as the Committee may deem necessary or desirable and not inconsistent with Resolution III, and which shall not adversely affect the interests of the holders of the affected obligations or the Credit Providers under any Credit Agreements relating to the affected obligations, if any.

In accordance with Section 8.01 of Resolution III, the Committee deems it desirable, not inconsistent with Resolution III, and that it will not adversely affect the interests of the holders of the affected obligations or the Credit Providers under any Credit Agreements relating to the affected obligations to amend the definition of "Available Funds" in Resolution III as follows (additions shown in italics):

"Available Funds" means amounts which are legally available for payment of the Obligations consisting:

(i) in the case of principal of the Notes, of proceeds of general obligation bonds or commercial paper notes issued under the Act and authorized by the Committee to refund such Notes; and

(ii) in the case of principal or Purchase Price of or interest on any Obligations, of (a) any money in the General Fund of the State, subject only to the prior application of such money to the support of the public school systems and public institutions of higher education and, (b) *as applicable, any money made available for the payment of Obligations pursuant to the terms of a Credit Agreement.*

Section 2.02 Amendment to Section 4.04.

Subsection (b) of Section 4.04 of Resolution XII is hereby amended to read in full as follows (changes shown in italics and deletions shown in strikethrough):

(b) The Treasurer shall maintain a Credit Agreement in effect while any Notes are outstanding under this Resolution, and shall not have outstanding an aggregate amount of ~~Notes under this Resolution and commercial paper notes under similar resolutions adopted by other finance committees, which,~~ *general obligation commercial paper notes* that together with the accrued interest thereon is in excess of the aggregate amount covered by the Credit Agreement then in effect. The Treasurer shall not terminate or modify any Credit Agreement in a manner which would adversely affect the credit rating for any outstanding Notes. *If the Credit Agreement then in effect provides that a letter of credit issued pursuant thereto may be terminated at the request of the Treasurer and prior to the termination of such Credit Agreement, the Treasurer will not request termination of such letter of credit unless no Notes supported by such letter of credit will be Outstanding on the termination date of the related letter of credit or all of the Owners of any Notes supported by such letter of credit that will be Outstanding on such termination date have been or will be notified of the possibility of such termination prior to the issuance of such Notes.* The Treasurer will give or cause to be given the following notices to the DTC, with the request that such notice be communicated to any Holder of outstanding Notes: (i) notice of any change in the composition of the Credit Providers under any Credit Agreement for any issue of Notes no less than 15 days prior to such change, (ii) notice of the termination of any Credit Agreement for any issue of Notes no less than 15 days prior to such termination, and (iii) immediate notice of the occurrence of any event of default as described in any Credit Agreement for any issue of Notes which would cause the immediate termination of the Credit Providers' obligation to purchase Notes or otherwise provide credit enhancement for Notes.

Section 2.03 Amendment to Section 5.02.

Clause (v) of subsection (a) of Section 5.02 of Resolution III is hereby amended to read as follows (additions shown in italics and deletions shown in strikethrough):

(v) Annual Rate of Interest and Interest Payment Dates: The annual rate of interest on the Bonds shall not exceed the greater of (a) 11% per annum or (b) the maximum rate allowed by law at the time of sale of the Bonds. The rate or rates of interest shall be determined at the time of the sale of the Bonds on the basis of the lowest true interest cost to the State or as negotiated by the Treasurer. The rate or rates of interest need not be uniform for all of the Bonds, but shall be in multiples of one-eighth or ~~one-twentieth~~ *one-hundredth* of one percent. Interest shall be payable ~~semi-annually~~ on dates to be selected by the Treasurer and the first interest payment date may be any date within one year after the date of the Bonds.

Subsection (c) of Section 5.02 of Resolution III is hereby amended to read as follows (additions shown in italics and deletions shown in strikethrough):

(c) Use of Proceeds

If proceeds of the sale of any Bonds (~~net of costs of issuance~~) are used to repay maturing Notes or Resolution I Notes, ~~the such proceeds of such Bonds~~ shall be deposited into the Refunding Escrow Fund of the State Treasury pursuant to Section 16784 of the California Government Code and invested in Defeasance Obligations. The proceeds of the sale of any Bonds (net of costs of issuance) which are not used to repay maturing Notes or Resolution I Notes shall be deposited in the Fund (as defined in the Act) and used for any purposes permitted by the Act, *except that amounts derived from premium on the sale of any Bonds (net of costs of issuance paid therefrom, if any) is available for transfer to the General Fund as provided in the Act.*

Section 2.04 Amendment to Section 8.02.

Subsection (d) of Section 8.02 of Resolution III is hereby amended to read as follows (additions shown in italics):

(d) The Committee, acting on behalf of the State, hereby declares that it is the State's official intent to use proceeds of Obligations, if the interest on such Obligations is to be excludable from gross income for federal income tax purposes, in an amount not to exceed the amount stated in Section 2.01, to reimburse the GF or PMIA *or any other lawfully available source* for Project expenditures which the Agencies may incur after the date of this Resolution. This Section of the Resolution is adopted by the Committee solely for the purposes of establishing compliance with Treasury Regulations Section 1.150-2, and does not bind the State to incur any indebtedness, or bind any Agency to proceed with any Project.

Section 2.05 Amendment to Section 8.08.

Section 8.08 of Resolution III is hereby amended by adding the following sentence to the end of the Section:

The provisions of Section 8.02 of Resolution I relating to the State's intent to reimburse the GF or PMIA for Project expenditures shall continue in full force and effect until such time as no Project expenditures incurred after the date of adoption of Resolution I and prior to the adoption of this Resolution are eligible for reimbursement in accordance with the Code, provided that such reimbursements shall be paid from Obligations.

Section 2.06 Amendment to Appendix C.

The initial sentence following the heading “**GOOD FAITH DEPOSIT**” in Appendix C of Resolution III is hereby amended to read as follows (additions shown in italics and deletions shown in strikethrough):

Each bidder is required to provide to the State Treasurer a good faith deposit of *at least* one-half of one percent of the principal amount of the Bonds (~~(\$ _____)~~ *with such deposit to be based upon the principal amount of the Bonds offered for sale as publicly announced at least one day prior to receipt of bids.*

Section 2.07 Additional Actions. The Treasurer is hereby authorized and directed to do any and all things and to execute and deliver any and all documents which the Treasurer may deem necessary or advisable to consummate the issuance, sale and delivery of the Obligations and otherwise to effectuate the purposes of this Resolution.

Section 2.08 Effective Date of Resolution. This Resolution shall take effect immediately upon adoption; provided, however, the amendment to Section 4.04(b) adopted herein shall not apply to any Notes issued prior to the effective date hereof, and as to such Notes, Section 4.04(b) shall apply as if unchanged by the provisions hereof.

Section 2.09 Effect on Resolution III. As supplemented and amended hereby, Resolution III is in all respects ratified and confirmed and Resolution III as so supplemented and amended hereby shall be read, taken and construed as one and the same instrument.

**HIGH-SPEED PASSENGER TRAIN FINANCE COMMITTEE
RESOLUTION V (2010)**

(Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century; Proposition 1A)

SECRETARY'S CERTIFICATE

I, Geoff Palmertree, Secretary of the High-Speed Passenger Train Finance Committee (the "Committee"), hereby certify as follows:

The foregoing is a full, true and correct copy of the Committee's Resolution V (the "Resolution"), duly adopted at a meeting of the Committee duly and legally held on January 20, 2010, of which meeting all of the members of the Committee had due notice and at which a majority thereof was present.

At said meeting the Resolution was adopted, and the vote was as follows:

MEMBER	VOTE
Treasurer of the State of California By: <u>Francisco Lujano</u>	<u>AYE</u>
Controller of the State of California By: <u>Richard Chivaro</u>	<u>AYE</u>
Director of Finance of the State of California By: <u>Jennifer Rockwell</u>	<u>AYE</u>
Secretary of the Business, Transportation and Housing Agency of the State of California By: <u>Carol Farris</u>	<u>AYE</u>
Chairperson of the High-Speed Rail Authority By: <u>Carrie Pourvahidi</u>	<u>AYE</u>

Dated: January 20, 2010

By: 
Secretary of the High-Speed Passenger Train Finance Committee or Authorized Designee