

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

SECTION 1. The heading of Division 19.7 (commencing with Section 187000) of the Public Utilities Code is amended to read:

DIVISION 19.7. Office of the Inspector General, High-Speed Rail

SEC 2. Section 187010 of the Public Utilities Code is amended to read:

Section 187010. Unless the context requires otherwise, for purposes of this division, the following definitions apply:

(a) “Inspector General” means the ~~High-Speed Rail Authority Inspector General~~ Inspector General of the High-Speed Rail appointed pursuant to Section 187020.

(b) “Merced to Bakersfield segment” means a 171-mile electrified dual-track segment that is usable for high-speed rail service in the central valley from Merced to Bakersfield, with a new combined station in downtown Merced, and connections to the Amtrak San Joaquin and the Altamont Corridor Express

(c) “Office” means the ~~High-Speed Rail Authority~~ Office of the Inspector ~~General~~ General, High-Speed Rail established pursuant to Section 187020.

(d) “Personnel issues” means matters specific to the employment relationship between the High-Speed Rail Authority and its employees, including, but not limited to, hiring and promotional decisions, performance reviews, progressive discipline, adverse actions, grievances, merit issue complaints, workplace harassment, discrimination, or possible wage or supply theft having an immaterial effect, as determined by the Inspector General, on the planning, delivery, and operation of the project. For purposes of this division, “personnel issues” does not mean fraud, waste, abuse, or mismanagement by the High-Speed Rail Authority or its employees having a material effect, as determined by the Inspector General, on the planning, delivery, and operation of the project.

(e) “Proposed agreements” includes any draft agreement, contract, contract amendment, or solicitation that is pending, under consideration, or review by Authority personnel, including any and all agreements associated with private financing or public-private partnerships.

~~(e)~~ (f) “Project” means the high-speed rail project undertaken by the High-Speed Rail Authority pursuant to Division 19 (commencing with Section 185000) of this code and Chapter 20 (commencing with Section 2704) and Chapter 20.5 (commencing with Section 2704.75) of Division 3 of the Streets and Highways Code.

SEC 3. The heading of Chapter 2 (commencing with Section 187020) of Division 19.7 of the Public Utilities Code is amended to read:

CHAPTER 2. Office of the Inspector General, High-Speed Rail

SEC 4. Section 187020 of the Public Utilities Code is amended to read:

187020. (a) (1) There is hereby created the ~~High-Speed Rail Authority~~ Office of the Inspector ~~General~~ General, High-Speed Rail.

(2) The Governor shall appoint the ~~High-Speed Rail Authority Inspector General~~ Inspector General of the High-Speed Rail to a four-year term from a list of three qualified individuals nominated by the Joint Legislative Audit Committee. The

Joint Legislative Audit Committee shall select the three qualified individuals from a pool of candidates after conducting a comprehensive search for qualified individuals. The Joint Legislative Audit Committee shall provide at least 120 days' notice that it is seeking applicants for nomination by providing notice in the Journals of the Senate and the Assembly and by advertising in appropriate newspapers and with nationally acknowledged professional journals and associations. Names for consideration by the Joint Legislative Audit Committee may be submitted by members of the Legislature, professional organizations, individuals, and other entities. The Inspector General shall be chosen without reference to party affiliation and solely on the ground of fitness to perform the duties of the ~~High-Speed Rail Authority Inspector General~~. Inspector General of the High-Speed Rail.

(3) The Legislature and the Governor may provide suggested qualifications to the Joint Legislative Audit Committee to consider when making its nominations.

(b) ~~The Office of the Inspector General~~ office shall not be a subdivision of any other governmental entity.

(c) The Inspector General may not be removed from office by the Governor during that term, except for good cause.

SEC 5. Section 187024 of the Public Utilities Code is amended to read:

187024. (a) Subject to applicable law, the Inspector General shall select, appoint, and employ officers and employees necessary to carry out the functions of the office. In making these selections, the Inspector General shall ensure that those officers and employees have the requisite training and experience to enable the Inspector General to carry out their duties effectively.

(b) To recruit and retain qualified officers and employees with the relatively higher level of education, expertise, knowledge, and ability necessary to perform time-sensitive, technically complex reviews of the project, the Inspector General may, notwithstanding any other law, adopt and make use of the classifications, associated salary ranges, and other forms of compensation established or otherwise used by other state agencies identified by the Inspector General as performing comparable oversight work, so long as the Inspector General determines that any individual to be hired meets or exceeds applicable eligibility requirements and minimum qualifications.

SEC 6. Section 187026 is added to the Public Utilities Code, to read:

187026. (a) The Inspector General may contract for goods and services that the Inspector General deems necessary for the furtherance of the purposes of the office.

(b) For a contract up to one million dollars (\$1,000,000) in value, the Inspector General shall be exempt from all contract requirements of the Public Contract Code that require oversight, review, or approval by the Department of General Services or any other state agency.

SEC 8. Section 187034 of the Public Utilities Code is amended to read:

187034. (a) Notwithstanding any other law, the Inspector General during regular business hours or at any other time determined necessary by the Inspector General shall have access to and authority to examine and reproduce any and all books, accounts, reports, vouchers, correspondence, files, documents, and other records, and to examine the bank accounts, money, or other property of the High-Speed Rail Authority in

connection with duties authorized by this division. Any officer or employee of any agency or entity having these records or property in their possession or under their control shall permit access to, and examination and reproduction thereof consistent with the provisions of this division, upon the request of the Inspector General or the Inspector General's authorized representative.

(b) The High-Speed Rail Authority shall ensure that the right-of-access provisions described in subdivision (a) are included in all of its contracts or amendments executed on or after July 1, 2024, in which project funds will be expended—, and shall notify the Inspector General of any proposed agreement under review or consideration by the Authority and provide sufficient time for the Inspector General to perform the duty described in section 187030 (b)(8) before the Authority issues, awards, executes, or otherwise takes final action on the proposed agreement.

(c) Providing confidential information to the Inspector General pursuant to this section, including, but not limited to, confidential information that is subject to a privilege, shall not constitute a waiver of that confidentiality.

SEC. 9. Section 187035 is added to the Public Utilities Code, to read:

187035. (a) The Inspector General shall not destroy any papers or memoranda used to support a completed audit or review sooner than three years after the corresponding report is published or delivered pursuant to Section 187037.

(b) All books, papers, records, and correspondence of the office pertaining to its work are public records subject to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code and shall be filed at any of the regularly maintained offices of the Inspector General, except that none of the following items or papers of which these items are a part shall be released to the public by the Inspector General or the employees of the Inspector General:

(1) Personal papers and correspondence of any person providing assistance to the Inspector General for purposes of paragraph (3) of subdivision (a) of Section 187032 when that person has requested in writing that their papers and correspondence be kept private and confidential. Consistent with subparagraph (A) of paragraph (3) of subdivision (a) of Section 187032, those papers and correspondence shall become public records if the written request is withdrawn, or upon the order of the Inspector General.

(2) Papers, correspondence, memoranda, or any substantive information pertaining to any audit or review not completed.

(3) Papers, correspondence, or memoranda pertaining to any audit or review that has been completed, which papers, correspondence, or memoranda are not used in support of any report resulting from the audit or review.

(4) Any survey of public employees or contracted staff that the Inspector General determines should be kept confidential to deter retaliation if the employees or staff respond to the survey.

(5) Any record of an investigation conducted under this division, including, but not limited to, all investigative files and work product, except that the Inspector General, whenever the Inspector General determines it necessary to serve the interests of the

state, may issue a public report of the results of an investigation that has substantiated a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Except as provided in subparagraph (A) of paragraph (3) of subdivision (a) of Section 187032, the Inspector General may also release any findings or evidence supporting any findings resulting from an investigation conducted pursuant to this division whenever the Inspector General determines it necessary to serve the interests of the state.

(c) The restrictions on public disclosure described in subdivision (b) shall only apply to records in the possession or control of the Inspector General, and shall not alter the responsibility of any other state or local agency to comply with all applicable laws regarding the disclosure of public records.

SEC. 10. Section 187037 is added to the Public Utilities Code, to read:

187037. (a) Except as provided in subdivision (b), upon completion of an audit or review conducted pursuant to subdivision (a) of Section 187030, the Inspector General shall do all of the following:

(1) Publish a complete report on its internet website.

(2) Provide, in compliance with policies developed by the Inspector General, notification of the published report to the Governor and the High-Speed Rail Authority.

(3) Submit a copy of the published report to the Legislature in compliance with Section 9795 of the Government Code.

(b) (1) The Inspector General may hold a report, or a portion of a report, confidential for the period of time described in paragraph (3) if the Inspector General determines that the report, or a portion of the report, would describe or otherwise reveal weaknesses, including those involving information security, physical security, fraud detection controls, or pending litigation, that would pose a substantial and articulable risk to the project or to state operations if publicly disclosed.

(2) If the Inspector General makes a determination pursuant to paragraph (1), the Inspector General shall do all of the following:

(A) Make publicly available any reasonably segregable portion of the report that does not pose the substantial and articulable risk identified pursuant to paragraph (1).

(B) Publicly disclose that a report, or a portion of the report, has been held confidential and provide the rationale for the determination.

(C) Deliver a confidential report, or a confidential portion of the report, that describes and makes recommendations to resolve the identified weaknesses to state officials with oversight of the project, which may include the executive director and board chair of the High-Speed Rail Authority, the chairs of the Assembly Committee on Transportation and the Senate Committee on Transportation, or the Governor. The report, or portion of the report, delivered pursuant to this subparagraph shall remain confidential only so long as the Inspector General determines that public disclosure would continue to pose the substantial and articulable risk identified pursuant to paragraph (1).

(3) Within 120 days after making a determination pursuant to paragraph (1), and at least every 120 days thereafter while a report, or a portion of a report, is held confidential, the Inspector General shall reassess whether continued confidentiality is warranted. Upon each reassessment, the Inspector General shall either publicly release

the report, or the portion of the report, that is held confidential or issue a written determination explaining why continued confidentiality remains necessary.

SEC. 11. Section 187038 of the Public Utilities Code is amended to read:

187038. (a) ~~Notwithstanding Section 10231.5 of the Government Code, the~~ The Inspector General shall report at least annually to the Legislature and the Governor a summary of its findings, positive and negative, of any reviews, investigations, or audits ~~conducted published pursuant to this division, when the High-Speed Rail Authority provides statutorily required documents to the Legislature, Section 187037~~ at the beginning of each fiscal year and upon request of the Legislature or Governor. The summary shall be posted on the office's internet website and otherwise made available to the public upon its release to the Legislature and the Governor. The summary shall include, but not be limited to, significant problems discovered by the office, and whether previous recommendations the office has made have been implemented.

(b) ~~Notwithstanding Section 10231.5 of the Government Code, the~~ The Inspector General shall report annually to the Legislature and the Governor on findings related to the High-Speed Rail Authority's planning and delivery of the project. This report shall include updates on the High-Speed Rail Authority's efforts to remedy any identified findings, and whether any identified findings have been addressed.

(c) The Inspector General shall maintain a list of identified findings, and the status of the High-Speed Rail Authority's efforts to address them, and shall post that list on the office's internet website.

(d) Reports to be submitted to the Legislature pursuant to subdivisions (a) and (b) shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 12. The Legislature finds and declares that Sections 9 and 10 of this act, which add Sections 187035 and 187037 to the Public Utilities Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

Keeping certain records and reports of the High-Speed Rail Authority Inspector General confidential is necessary to enable the Inspector General to fully conduct audits and investigations and may be necessary, under certain circumstances, to ensure the security of the high-speed rail project. Under these circumstances, keeping these records and reports confidential outweighs the interest in public disclosure of the information contained in these records and reports.