

Calif. Bullet Train in Limbo After Legal Setbacks

Juliet Williams, Associated Press, 1-2-13

SACRAMENTO — Officials overseeing California's \$68 billion high-speed rail project have taken pains in recent weeks to assure the public that construction plans are moving ahead, characterizing a series of recent setbacks as "a bump in the road."

That optimism comes despite recent court rulings against the project, creating confusion about the bullet train's prospects.

A Sacramento County judge rescinded the rail authority's funding plan, forced it to show how it will pay for the first 300 miles of construction and rejected a request from the authority that would allow the state treasurer to sell \$8.6 billion in bonds.

But members of the California High-Speed Rail Authority board seemed undaunted during their December meeting. They praised staff for filling key positions at the agency and pointed to a nearly \$1 billion construction contract signed in 2013 as evidence of progress.

"They just paint a rosy picture, charge ahead, without acknowledging they have any serious issues to deal with or addressing how they're going to deal with it," said Michael Brady, one of the attorneys representing a group of Kings County residents who sued the state, leading to the judge's rulings.

Challenges also are mounting outside the courts.

Republicans in Congress have vowed to block any further funding for the rail line and will hold a railroad subcommittee hearing in January to investigate the state's spending of \$3.3 billion in federal funds that are supposed to be matched by the state.

Rail authority board Chairman Dan Richard has said California has an agreement with federal officials allowing it to spend the federal money first while the state bond money is in limbo. Richard said officials hope to have shovels in the ground in the Central Valley in January or February and projected that the federal money might last through "late spring."

"The state cannot sell bonds in the current legal environment," said Tom Dresslar, a spokesman for state Treasurer Bill Lockyer, who sought the so-called validation lawsuit the state filed to seek blanket authority to sell the bonds, which the judge rejected.

What happens next in the legal saga is up in the air, after Sacramento County Superior Court Judge Michael Kenny ruled that the rail plan no longer complies with the promises made to state voters when they approved \$10 billion in rail bonds in 2008.

That ballot measure promised that the state would have all the funding in hand for the first useable segment of rail and have all the necessary environmental clearances before construction started. Kenny said it failed to do that.

Rail officials appear poised to deliver a new funding plan to their own high-speed rail board for approval, while the plaintiffs who sued believe the plan needs to go before the state Legislature, which approved a 2012 funding bill that squeaked through the Senate with only one vote to spare.

"I think there was a lot of assumptions by my colleagues when we voted that there was a pretty good chance of getting more federal funds and a pretty good chance of getting private funds, neither of which has materialized," said Sen. Mark DeSaulnier, D-Concord, chairman of the Senate Transportation Committee, who voted against the 2012 legislation.

DeSaulnier's committee plans a hearing on the project in February.

Gov. Jerry Brown, a Democrat, remains a strong supporter of high-speed rail and has appointed top advisers to the board, including Richard. Democrats also control both houses of the state Legislature and many of them are supportive.

If a new vote is needed, some might be wary of funneling money to a massive project that appears on the ropes, especially in an election year.

"The climate has changed in the last year. You might see people in the Legislature saying, 'We should cut our losses and just move on,'" said Brady, the attorney representing Kings County plaintiffs.

Rep. Kevin McCarthy, a Bakersfield Republican who has sought to block federal funding for the project, said now is a good time for Brown to reflect on his high-speed rail dream and back out. He said it's becoming clear that "it will not fulfill the promises made to voters."

There is still more legal wrangling, including the second phase of the lawsuit in which plaintiffs have asked the judge to block the state from all high-speed rail spending.

They will argue that the state can no longer fulfill several of the promises made to voters at the time of the bond vote, including sending passengers between San Francisco and Los Angeles in 2 hours and 40 minutes and operating the trains without public subsidies.

At the same time, supporters are eager to launch construction, which would make it harder to pull the plug. Richard said the worst result of the negative legal decisions has been the public perception that the project is stalled.

"Nothing in those rulings changes our ability to move forward," he said. "We're ready to build this project."

Rod Diridon, a former board chairman who remains supportive and is now executive director of the Mineta Transportation Institute at San Jose State University, noted that the judge allowed the signed construction contracts to stand, showing that he did not intend to kill the project.