An act to amend Section 187038 of, and to add Sections 187035 and 187037 to, the Public Utilities Code, relating to transportation.

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

SECTION 1. 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 when that person has requested in writing that their papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn, or upon the order of the Inspector General.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 papers, correspondence, memoranda, electronic communications, or other documents pertaining to internal discussions between the Inspector General and the Inspector General's staff, or between staff members of the Inspector General, or any personal notes of the Inspector General or the Inspector General's staff.

(6) 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.

SEC. 2. 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.

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(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 shall not make a report publicly available pursuant to subdivision (a) 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 could be exploited by individuals attempting to harm the interests of the state or inappropriately benefit from the project.

(2) If the Inspector General makes a determination pursuant to paragraph (1), the Inspector General shall deliver a confidential report, or a confidential portion of the completed 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.

SEC. 3. Section 187038 of the Public Utilities Code is amended to read:

187038. (a) Notwithstanding Section 10231.5 of the Government Code, 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 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. 4. The Legislature finds and declares that Sections 1 and 2 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

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and reports confidential outweighs the interest in public disclosure of the information contained in these records and reports.

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LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.
General Subject: High-Speed Rail Authority Office of the Inspector General.

Existing law creates the High-Speed Rail Authority to develop and implement a high-speed rail system in the state. Existing law creates the High-Speed Rail Authority Office of the Inspector General and authorizes the High-Speed Rail Authority Inspector General to initiate an audit or review regarding oversight related to delivery of the high-speed rail project undertaken by the authority and the selection and oversight of contractors related to that project.

This bill would require the Inspector General, upon completion of an audit or review, to publish a complete report on its internet website, provide notification of the published report to the Governor and the High-Speed Rail Authority, and submit a copy of the report to the Legislature. The bill would prohibit the Inspector General from making that report publicly available if it determines that the report would describe or otherwise reveal weaknesses that could be exploited by individuals attempting to harm the interests of the state or inappropriately benefit from the project. If the Inspector General makes that determination, the bill would require the Inspector General to deliver a confidential report to state officials with oversight of the project, as specified.

This bill would require all books, papers, records, and correspondence of the office to be public records subject to the California Public Records Act, but would prohibit the Inspector General or the employees of the Inspector General from releasing certain types of records to the public, except under specified circumstances. The bill would prohibit the Inspector General from destroying any papers or memoranda used to support a completed audit or review sooner than 3 years after the corresponding report is published or delivered, as specified.

Existing law requires the Inspector General to report at least annually to the Legislature and the Governor a summary of its findings of any reviews, investigations, or audits, when the High-Speed Rail Authority provides statutorily required documents to the Legislature, and upon request of the Legislature or Governor.

This bill would instead require the Inspector General to report at least annually to the Legislature and the Governor a summary of its findings of any reviews, investigations, or audits published pursuant to the above-described provisions at the beginning of each fiscal year and upon request of the Legislature or Governor.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.