California State Senate

TRANSPORTATION AND HOUSING

JIM BEALL
CHAIR

State Capitol, Room 2209
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AGENDA

Tuesday, June 26, 2018
1:30 p.m. -- John L. Burton Hearing Room (4203)

MEASURES HEARD IN FILE ORDER

1.	AB 382	Chávez	County of Orange: joint exercise of powers agreements: toll roads.
2.	AB 448	Daly	Joint powers authorities: Orange County Housing Trust.
3.	AB 565	Bloom	Building standards: live/work units.
4.	AB 700	Jones-Sawyer	Outdoor advertising displays: arenas.
5.	AB 939	Low	Local government: taxicab transportation services.
6.	AB 1395	Chu	State highways: Department of Transportation: litter cleanup and abatement: report.
7.	AB 1405	Mullin	Digital sign demonstration pilot program.
8.	AB 1594	Bloom	Infrastructure financing: transportation: Los Angeles County Metropolitan Transportation Authority: contracting.
9.	AB 1771	Bloom	Planning and zoning: regional housing needs assessment.
10.	AB 1857	Nazarian	Building codes: earthquake safety: immediate occupancy standard.
11.	AB 1943*	Waldron	Manufactured housing: foundation systems: installation: common interest developments.(Urgency)
12.	AB 2056	Eduardo Garcia	Mobilehomes.
13.	AB 2061	Frazier	Near-zero-emission and zero-emission vehicles.
14.	AB 2161	Chiu	Housing: homeless integrated data warehouse.
15.	AB 2381	Carrillo	Vehicles: emissions: certification, auditing, and compliance.
16.	AB 2433	Salas	Department of Transportation: voluntary inspection and testing services.
17.	AB 2562	Mullin	Department of Housing and Community Development loans.
18.	AB 2588	Chu	Manufactured housing.
19.	AB 2851	Grayson	Regional transportation plans: traffic signal optimization plans.
20.	AB 2865	Chiu	High-occupancy toll lanes: Santa Clara Valley Transportation Authority: Bay Area Infrastructure Financing Authority.
21.	AB 2885	Rodriguez	Air Quality Improvement Program: Clean Vehicle Rebate Project.
22.	AB 2920	Thurmond	Transactions and use taxes: North Lake Tahoe Transportation Authority and City of Berkeley.
23.	AB 2923	Chiu	San Francisco Bay Area Rapid Transit District: transit-oriented development.
24.	AB 2989	Flora	Standup electric scooters.

25.	AB 3061	Gloria	State highways: property leases.
26.	AB 3135	Frazier	Traffic safety: state funding.
27.	AB 3177	Chávez	North County Transit District: contracting.

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 382	**Hearing Date:**	6/26/2018
Author:	Chávez		
Version:	5/8/2018 Amended		
Urgency:	No	**Fiscal:**	No
Consultant:	Manny Leon		

SUBJECT: County of Orange: joint exercise of powers agreements: toll roads

DIGEST: This bill makes various changes to the powers and duties of the Transportation Corridor Agency (TCA).

ANALYSIS:

The TCA consists of two joint powers authorities (JPA) formed under statute enacted by the legislature in 1986 to plan, finance, construct, and operate toll roads in Orange County. TCA consists of two local government agencies:

1) The San Joaquin Hills Transportation Corridor Agency which oversees the San Joaquin Hills Toll Road State Route 73 (SR-73), which stretches 15 miles from Newport Beach to San Juan Capistrano in southwest Orange County.

2) The Foothill/Eastern Transportation Corridor Agency which runs both the Foothill Toll Road and the Eastern Toll Road which include State Routes 133, 241, and 261, linking State Route 91 (SR-91) near the Orange County/Riverside County border to Interstate 5 (I-5) in Irvine and also to communities in South Orange County.

The TCA has constructed and currently operates approximately 51 miles of toll roads primarily in south Orange County and presently employs a staff of 68 agency employees. The Boards of Directors for both the San Joaquin and Foothill/Eastern agencies are comprised of local elected officials in Orange County. Total average weekday ridership is an estimated 320,000 combined for all TCA's routes and, depending on the distance traveled, toll rates range anywhere from $2 to slightly over $10.

The toll roads maintained by TCA are financed with tax exempt nonrecourse toll revenue bonds on a stand-alone basis; taxpayers are not responsible for repaying TCA debt, rather toll revenue and developer fees cover debt service obligations.

Most recent figures show debt obligations for the Foothill/Eastern system at an estimated $2.4 billion in outstanding principal and totaling an estimated $6.5 billion in principal and interest from 2018-2053. For the San Joaquin Hills system, debt obligations are at an estimated $2.1 billion in outstanding principal and totaling an estimated $5.1 billion in principal and interest from 2018-2050.

Existing law:

1) Establishes the Joint Exercise of Powers Act (Act) which generally allows two or more public agencies to jointly use their powers in common if they sign a joint powers agreement. Many times, a joint powers agreement creates a new, separate governmental agency called a joint powers authority.

2) Allows public agencies to use the Act and the related Marks-Roos Local Bond Pooling Act to form bond pools to finance public works, working capital, insurance needs, and other public benefit projects.

3) Authorizes the County of Orange and the cities within the County of Orange to form a JPA and incur indebtedness for certain purposes including the construction of bridge facilities or major thoroughfares by which toll roads may be constructed, as specified.

4) Authorizes the County of Orange and the cities within the County of Orange to impose developer fees as a condition of approving development plans or building permits for purposes of defraying the cost of constructing infrastructure projects including, but not limited to, bridges, railways, and freeways.

5) Authorizes a JPA created by the abovementioned authority to make toll revenues and developer fees available to other JPA's to pay for the cost of constructing and operating separate toll facilities, as specified.

This bill:

1) Prohibits a JPA established under the abovementioned authority from acquiring real or personal property by dedication, gift, purchase, or eminent domain on or after January 1, 2018, as specified.

2) Prohibits the establishment of a new JPA under this authority on or after January 1, 2018. Clarifies that a JPA created pursuant to the abovementioned authority prior to January 1, 2018 may continue to remain in operation, as specified.

3) Deletes provisions that allow a JPA established by the abovementioned authority to lend/make available toll revenues and development fees to another JPA for purposes of designing, financing, and constructing major thoroughfares and toll collection facilities, as specified.

4) Prohibits a JPA established under the abovementioned authority from incurring bond debt on or after January 1, 2018, as specified.

5) Provides that a JPA established under the abovementioned authority shall have the authority, rights, and powers after January 1, 2018 for only each of the following purposes:

   a) To refinance bonds or other debt incurred prior to January 1, 2018 in order to generate monetary savings or pay down existing bonds if:

      i. The interest cost to maturity and principal amount of the refinancing bonds does not exceed the total remaining interest cost and remaining principal on the bonds being refunded; and

      ii. The principal amount of the refunding bonds or other indebtedness does not exceed the amount required to defease the refunded bonds, establish debt service reserves, and pay related costs of issuance, as specified.

   b) To issue bonds or otherwise incur indebtedness to finance debt service spikes, as specified, if both of the requirements are met:

      i. The existing indebtedness is not accelerated, except to the extent necessary to achieve substantially level debt service; and,

      ii. The principal amount of the bonds or other indebtedness does not exceed the amount required to finance the debt service spikes, as specified.

6) Provides that provisions in this bill are severable and that if any provision of this bill or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

COMMENTS:

1) *Purpose.* According to the author, "The TCA has been poor stewards of the money they have bonded, and re-financed, and the fees they receive on all new homes in Orange County; All without building new toll facilities in over 20 years. Their mission when created was to design, finance, build, and the hand over toll roads to the local Transportation authority. Today, they claim to be one of the two transportation authorities for Orange County, attempting to usurp OCTA's rightful authority throughout the entire county. Combine their inappropriate attempts to go beyond their scope with essentially indefinitely refinancing their bonds, other irresponsible financial moves, and not actually building anything in over twenty years, you can see TCA no longer serves their initial purpose. They should be tasked with managing and maintaining current toll roads until they are ready to be handed over to local transportation authority."

2) *SR-241 Foothill South Extension.* Known as the "Foothill-South" extension, this extension was planned as the last segment of the SR-241 tollway connecting South Orange County to north San Diego County at I-5. The six lane extension was intended to provide an alternate route to I-5 for those traveling from Riverside, Corona and southeast Orange County to points southward as well as those traveling from North San Diego County northward. The extension and connection had been the subject of regional planning efforts for the more than 20 years.

   The point of controversy with the Foothill-South was the final four miles of the proposed tollway extension which were planned to be located on Camp Pendleton Marine Base, through a section of the San Onofre State Park, which is leased from the United States Marine Corps. The Marine Corps reserved the right to grant easements for rights of way when the lease with the California Department of Parks and Recreation was signed in 1971. The Foothill-South exension was opposed by many conservationists, environmental groups, and residents of San Clemente because of threats to water quality and damage to Trestles, a world-famous surfing spot, by the extension. Another concern was a non-compete clause which the California Department of Transportation (Caltrans) signed with TCA. The clause required Caltrans to compensate TCA for lost revenue caused by any highway improvements undertaken by Caltrans that reduce toll revenue because of competition with the tollways. The clause will expire in 2020.

   Strong opposition to the proposed extension resulted in multiple lawsuits and involvement of both the state and federal government. Ultimately, TCA

withdrew the proposed Foothill-South extension and brokered an agreement with opposition groups. The agreement allows TCA to continue to evaluate transportation alternatives in South Orange County, including connecting SR-241 to I-5 while protecting sensitive lands and cultural resources in South Orange County. The agreement also required TCA to establish a $28 million conservation fund to help protect and restore San Mateo Creek and its watersheds.

3) *Current alternatives.* TCA is currently in the process of evaluating a number of alternatives that aim to provide traffic congestion relief in South Orange County. The initial process started in 2015 with public outreach efforts which resulted in approximately 20 potential transportation ideas/proposals that were announced in early 2017. From these 20 ideas/proposals, TCA carried out an initial screening based on traffic relief performance and selected seven that will move forward for additional evaluation in a project study report presently being prepared in collaboration with Caltrans. The project study report will provide recommendations on a smaller number of alternatives (including a "no build" alternative) that will be evaluated in a Project Report/Environmental Document which will ultimately provide a "preferred alternative" for TCA.

   The proposed alternatives, however, have not avoided opposition in their own right. In May 2017, the *OC Register* wrote that developers of Rancho Mission Viejo could not support any of the proposed alternatives identified by TCA. Developers of Rancho Mission Viejo, which is a development of 14,000 homes on nearly 23,000 acres, including 17,000 acres being preserved as open space east of San Juan Capistrano stated, "regrettably, there appears to be no viable option which doesn't impact Rancho Mission Viejo residents or our South County neighbors. Therefore, we are not in support of the alternatives as currently proposed." Additionally, both residents and City officials from the City of San Clemente have expressed opposition to alternatives extending SR-241; asserting that many of the alternatives will not provide significant congestion relief as claimed by TCA. Furthermore, San Clemente officials and residents argue that these costly alternatives will unnecessarily add to TCA's existing bond debt burden while the regional transportation agency, the Orange County Transportation Authority (OCTA), should be the appropriate entity carrying out congestion relief projects in South Orange County.

4) *Orange County.* The State's involvement with assisting Orange County local government entities dates back over 20 years. In 1994, the County of Orange filed bankruptcy due to a number of high-risk investments that ultimately failed. As a result, the Legislature passed a series of bills to provide addition fiscal oversight in Orange County and established a framework to pay down various

debt obligations. The County of Orange finished paying off its bankruptcy debt obligations in 2013. Additionally, in 2002, state legislation was enacted to transfer the 91 Express Lanes franchise agreement from a private company to OCTA, which is now its owner and operator. The legislation was a result of a non-compete clause that was included in the original franchise agreement that prohibited Caltrans and OCTA from completing any congestion relief projects within the Express Lane corridor without providing compensation to the private entity. Recognizing SR-91 as one of the most congested freeways in the country, the legislation allowed OCTA to own and manage the Express Lanes while also allowing the Authority to complete congestion relief projects on SR-91. It's important to note that in both these circumstances, the Legislature passed legislation in circumstances where a critical need existed to remedy significant financial or transportation planning constraints for these local entities.

5) *Is this bill necessary?* The author and a number of supporters of this bill assert this bill was introduced due to TCA's financial mismanagement, inaccurate project costs, inaccurate ridership forecasts, and increasing tolls to cover agency expenses and debt payments. Other local stakeholders have indicated that some of TCA's proposed alternatives that are currently being studied have caused confusion as to the appropriate role TCA plays in Orange County.

However, while certain stakeholders and residents in Orange County do not approve of TCA's actions, unlike the O.C. bankruptcy or OCTA's purchasing of the 91 Express Lanes, the actual policy issue this bill aims to remedy is unclear. Why should the Legislature revoke the bonding capacity of one local agency due to a policy dispute completely unrelated to issuing bonds? TCA has never defaulted on any of its debt obligations, has never fallen below debt service coverage requirements, and has made all payments of principal and interest on time. Furthermore, no evidence exists that TCA borrowed funds from other public entities to pay operating expenses or debt service obligations. Additionally, should the Legislature revoke a single agency's debt issuance authority in response to an unrelated policy dispute, it would set a significant precedent. If a city approved a low-income housing application unpopular with some residents after complying with all relevant procedures including public participation, should the Legislature prohibit it from issuing bonds to construct infrastructure?

Additionally, mechanisms are currently in place to curb any project that receives significant opposition or extends beyond TCA's existing authority. As seen with the Foothill-South extension, opposition groups successfully gathered to reject the route extension. For the proposed alternatives currently being

studied, opposition groups could gather once again to express their concerns and request additional alternatives be considered. Furthermore, for certain highway projects Caltrans and/or OCTA would need to agree to approve and/or enter into a cooperative agreement with TCA. Thus, it would seem within reason that Caltrans or OCTA would deny any project agreement that extended beyond the scope of TCA existing authority. Lastly, both of TCA's JPAs are comprised of local elected officials who serve as the governing bodies. It would seem within reason that opposition groups and stakeholders have the ability to first express concerns and/or work with these local elected leaders to resolve these local issues prior to proposing premature statutory changes. To date, no TCA board member has been removed from their board position due to any wrongdoing or public opposition to the abovementioned assertions made by the author and supporters of this bill.

At this time, the committee may wish to hold this bill until the author and stakeholders attempt to resolve their concerns at the local level with TCA's locally elected board members before elevating these issues to the Legislature.

6) *Double referral.* This bill is also referred to the Senate Governance and Finance Committee.

RELATED LEGISLATION:

AB 2796 (Chávez, 2018) — would have designated SR-241 from SR-91 in the City of Anaheim to Oso Parkway in the City of Mission Viejo instead of its current designation to I-5 in the City of San Clemente. This bill was not heard in the Assembly Transportation Committee.

Assembly Votes. This bill was substantially amended in the Senate. Assembly votes are not relevant.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

City of San Clemente
Rancho San Clemente Community Association
76 individuals

OPPOSITION:

The Honorable Christina Shea, Mayor Pro Tem, City of Irvine
The Honorable Peggy Huang, Council Member, City of Yorba Linda
City of Irvine
City of Laguna Hills
City of Laguna Niguel
City of Laguna Woods
City of Lake Forest
City of Mission Viejo
City of Newport Beach
City of Tustin
Greater Irvine Chamber of Commerce
Los Angeles/ Orange County Building and Construction Trades Council
Orange County Taxpayers Association
South Orange County Economic Coalition
Transportation Corridor Agencies (TCA)
2 individuals

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 448	**Hearing Date:**	6/26/2018
Author:	Daly		
Version:	6/14/2018		
Urgency:	No	**Fiscal:**	No
Consultant:	Erin Riches		

SUBJECT: Joint powers authorities: Orange County Housing Trust

DIGEST: This bill authorizes Orange County, and cities within that county, to establish an Orange County Housing Trust (OCHT).

ANALYSIS:

Existing law:

1) Authorizes, under the Joint Exercise of Powers Act, two or more public agencies to use their powers in common if they sign a joint powers agreement. Such an agreement may create a new, separate government called a joint powers agency or joint powers authority (JPA). Agencies that may exercise joint powers include federal agencies, state departments, counties, cities, special districts, school districts, federally recognized Indian tribes, and even other JPAs.

2) Authorizes public agencies to use the JPA law and the related Marks-Roos Local Bond Pooling Act to form bond pools to finance public works, working capital, insurance needs, and other public benefit projects. Bond pooling saves money on interest rates and finance charges, and allows smaller local agencies to enter the bond market. Because a JPA is an entity separate from its members, bonds issued by JPAs do not have to be approved by voters.

3) Establishes the Local Housing Trust Fund (LHTF) Program under the state Department of Housing and Community Development (HCD). The LHTF program provides matching grants (dollar for dollar) to local housing trust funds that are funded on an ongoing basis from private or public sources. Cities and counties with adopted, compliant housing elements, as well as charitable non-profit organizations, are eligible to apply for LHTF program funding. Eligible activities include loans for construction of rental housing projects with units

restricted for at least 55 years to households earning less than 60% AMI and down payment assistance to qualified first-time homebuyers.

This bill:

1) Authorizes Orange County, and any cities within Orange County, to enter into a joint powers agreement to create and operate a JPA to fund housing to assist the homeless population and persons and families of extremely low, very low, and low-income in Orange County.

2) Requires this JPA, which shall be known as the Orange County Housing Trust (OCHT), to be governed by a board of directors made up of representatives from Orange County, the cities within Orange County, and other community stakeholders.

3) Authorizes the OCHT to:

   a) Fund the planning and construction of housing of all types and tenures for the homeless population and persons and families of extremely low, very low, and low-income, including but not limited to permanent supportive housing.

   b) Receive public and private financing and funds.

   c) Authorize and issue bonds, certificates of participation, or any other debt instrument repayable from funds and financing received by and pledged by the OCHT.

4) Requires the OCHT to incorporate into its joint powers agreement annual financial reporting and auditing requirements that shall maximize transparency and public information as to its receipt and use of funds.

5) Requires the OCHT's annual financial report to show how the funds have furthered the purposes of the OCHT.

COMMENTS

1) *Purpose.* The author states that Orange County is in the midst of a worsening homelessness crisis. Since 2013, the county has experienced a 53% increase in the unsheltered homeless population, many of whom have sought shelter over the last five years on the Santa Ana riverbed trails and within the Orange County Civic Center in downtown Santa Ana. The official homeless population

of the county, according to the US Department of Housing and Urban Development's 2017 Point in Time Count, is approximately 4,800. In addition, a 2017 UC Irvine study commissioned by Orange County United Way found that 68% of the county's homeless population had lived in the county for 10 years or longer. The UCI study concluded that the county could save $42 million per year on healthcare and law enforcement, among other expenses, by moving chronically homeless people from the streets into permanent supportive housing (PSH).

2) *Orange County Grand Jury report.* The author points to a report recently issued by the Orange County Grand Jury, titled *Where There's Will, There's a Way: Housing Orange County's Chronically Homeless.* The report notes that research indicates that placing the chronically homeless in PSH, which combines subsidized housing with access to supportive services, has proven particularly effective. The Grand Jury found, however, a number of "roadblocks" to developing additional PSH in Orange County, including a lack of leadership from, and collaboration between, county and city officials. The report states that each city is trying to address the homelessness problem on its own, without engaging with other cities to pool resources and knowledge. The report also notes the lack of a detailed and systemic strategic plan that lays out the number of types of housing options needed to create more housing for the homeless countywide. The Grand Jury recommended that the county and cities establish a regional body empowered to develop and implement a comprehensive business plan for siting and funding PSH development. This bill aims to implement those recommendations.

3) *Local housing trust funds*. Housing trust funds are distinct funds established by city, county, or state governments that receive ongoing dedicated sources of public funding to support the preservation and production of affordable housing, as well as increasing opportunities for families and individuals to access decent affordable homes. Housing trust funds shift affordable housing funds from budget allocations to the commitment of dedicated public revenue. While housing trust funds can also accept private donations, they are not public/private partnerships, nor are they endowed funds operating from interest and other earnings. According to the Center for Community Change, there are more than 700 state and local housing trust funds in 47 states and the District of Columbia, including 40 in California (29 city and 11 county trust funds). Housing trust funds dedicate over $1 billion each year to help address critical housing needs throughout the country.

4) *LHTF program.* In November 2006, California voters approved Proposition 1C, the Housing and Emergency Shelter Trust Fund of 2006. Proposition 1C

authorized $2.85 billion in general obligation bonds for various housing programs, including $100 million for the Affordable Housing Innovation Fund. Subsequently, SB 586 (Dutton, 2007) allocated this $100 million to four separate programs, including $35 million for the LHTF program.

Under existing law, the LHTF program matches contributions to local housing trust funds. If an awardee fails to continue funding and operating the local housing trust fund for at least five years, then it must repay HCD's award to the extent that the funds have not yet been legally encumbered to specific projects. Under SB 586, half of the $35 million allocated to the LHTF program from Proposition 1C is reserved for newly established housing trust funds. Within this set-aside is an additional 36-month set-aside for trust funds in counties with a population of less than 425,000 persons.

The most recent Notice of Funding Availability (NOFA) for the LHTF program, issued in 2014, resulted in $8.8 million in awards to 7 local housing trust funds, cities and counties. The NOFA was significantly oversubscribed, with requests totaling $19.3 million. The LHTF program is currently not funded, but funding is expected soon. Specifically, SB 3 (Beall, 2017), the Veterans and Affordable Housing Bond Act of 2018, if approved by voters in the November 6, 2018 election, will authorize the issuance of $4 billion in general obligation bonds for affordable housing programs and a veterans' homeownership program. SB 3 includes $300 million for the LHTF program.

5) *Can't they form a JPA on their own?* Local agencies do not need legislative authority to form a JPA unless it requires powers not common to all its members, or when statutory certainty and specificity is preferable to the agreement's details. The power the local agencies lack, in this case, is the ability to issue bonds repayable from public and private financing and funds received by the OCHT. The sponsor of this bill also envisions using the JPA authority to securitize Mental Health Services Act funds received annually by the county from the state (Proposition 63 of 2004), in addition to other, possibly private, revenue sources.

6) *Gut and amend.* When it left the Assembly, this bill pertained to parcel tax notice requirements. It was amended on May 31, 2018 to establish the OCHT.

7) *Amendments.* The author will amend this bill in this committee to change the name of the OCHT to the Orange County Housing Finance Trust (OCHFT) and to add language clarifying that the OCFHT must comply with the regulatory guidelines of any state funding it receives.

8) *Double referral.* This bill passed out of the Governance and Finance Committee on June 20th.

RELATED LEGISLATION:

AB 532 (Gordon, Chapter 769, Statutes of 2013) — deleted the requirement for funds in the LHTF program to revert to the Self-Help Housing Fund; makes a number of changes to the LHTF program; specified that LHTF funds will be continuously available for encumbrance and disbursement to housing trust funds; and required HCD to issue a NOFA for new housing trust funds by June 30, 2014.

SB 586 (Dutton, Chapter 652, Statutes of 2007) — programmed the $100 million available from the Proposition 1C Affordable Housing Innovation Fund as follows: $50 million for the Affordable Housing Revolving Development and Acquisition Program, $35 million for the LHTF program, $5 million for the Construction Liability Insurance Reform Pilot Program, and $10 million to the Innovative Homeownership Program.

Assembly Votes Not Relevant

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

Association of Cities, Orange County (sponsor)
Children's Cause Orange County
Community Action Partnership of Orange County
Families Forward
Gay and Lesbian Community Services Center of Orange County
Junior League of Orange County
Kaiser Permanente
Mercy House Living Centers
Orange County Business Council
Orange County Communities Organized for Responsible Development
Orange County United Way
Pathways of Hope
People for Housing Orange County
UNITE HERE Local 11

Women For: Orange County

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 565	**Hearing Date:**	6/26/2018
Author:	Bloom		
Version:	6/18/2017 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Building standards: live/work units

DIGEST: This bill requires the California Building Standards Commission (CBSC) to update the California Building Standards Code to define and clarify live/work units, as specified.

ANALYSIS:

Existing law:

1) Requires any building standard adopted or proposed by state agencies to be submitted to, and approved or adopted by, the CBSC prior to codification.

2) Requires building standards adopted by state agencies and submitted to the BSC to satisfy nine specific criteria, including that the public interest requires the adoption of the building standards and that the cost to the public is reasonable, based on the overall benefit to be derived from the building standards.

3) Authorizes a city or county to adopt alternative building standards for the conversion of commercial or industrial quarters to living and work quarters.

4) Defines" joint living and work quarters" to mean:

   a) Residential occupancy by a family maintaining a common household or by not more than four unrelated persons;

   b) One or more rooms or floors in a building originally designed for industrial or commercial occupancy;

   c) Including cooking space and sanitary facilities in conformity with local building standards; and

d) Adequate working space reserved for and regularly used by one or more persons living in the building.

5) Provides that alternative building standards for living and work quarters shall apply in geographic areas specifically designated for their occupancy or expressly permitted in a redevelopment area.

6) Provides that alternative building standards for living and work quarters are not required to comply with state building standards but must protect the public health, safety, and welfare.

This bill:

1) Requires the CBSC, in the adoption process for the next triennial edition of the California Building Standards Code adopted after January 1, 2019, to establish a definition for "live/work unit" in the California Residential Code and to update the definition of "live/work unit" in the California Building Code.

2) Requires the CBSC to develop or update, as applicable, a definition that reflects the types of combined live and work occupancy and use within residential dwelling units, including but not limited to live/work units, joint live/work quarters, artist lofts, artist-in-residence units, work/live units, home offices, home-based studios, workshops, or other entrepreneurial spaces.

3) Requires the CBSC to consider specific actions, including but not limited to:

a) Clarifying the California Building Code and the California Residential Code to reflect live/work occupancy in commercial zoning districts and home occupation occupancy in residential zoning districts.

b) Clarifying the conditions under which residential live/work dwelling units within a commercial or industrial zoning district may be constructed as Group R-3 occupancy pursuant to the California Residential Code.

c) Establishing, as a component to the 3,000-square-foot total live/work floor area in the California Building Code, a minimum floor area for the non-residential portion of a residential live/work dwelling unit in the California Residential Code.

d) Expanding the allowable occupancy of the residential portion of a live/work space to more accurately reflect individuals that may live and work in the live/work unit, for example property owners, building owners, unit owners in a common interest development, or business owners or their employees.

e) Updating accessibility criteria in combined live and work situations in a manner that considers whether a unit is open to the general public and whether or not employees are regularly working in the non-residential portion of the unit.

COMMENTS

1) *Purpose.* The author states that California currently faces a severe housing shortage. To meet the state's housing needs, we not only need to build, but to build creatively by facilitating the construction of many different kinds of housing units. One underutilized form of housing is live/work housing, which allows individuals, particularly those in creative or entrepreneurial professions, to live and work in the same unit. These units reduce the need to commute to work and encourage development of more sustainable, bicycle- and pedestrian-friendly communities. This bill aims to clarify the definitions of live/work units in the California Building Code and the California Residential Code to make it easier to build these units. The author states that just as accessory dwelling units have become a creative and unconventional housing solution in recent years; live/work housing can also help meet California's housing needs.

2) *Live/work units.* The author notes that the state building and residential codes have not kept up with the times or with each other. For example, although both the Building Code and the Residential Code allow live/work units, the Residential Code does not include a clear definition. As a result, detached live/work units and duplexes that are primarily residential in nature are often treated as commercial buildings, with occupancy and accessibility requirements that are not suited to residential units. The author states that updating the state building and residential codes, and encouraging locals to adopt conforming ordinances, will help facilitate the construction and development of these units.

3) *State building codes.* The CBSC administers a number of building codes, including the Building Standards Code, the Residential Code, the Electrical Code, the Mechanical Code, the Plumbing Code, the Energy Code, the Fire Code, the Historical Building Code, and the Green Building Standards Code. The California Building Standards Code (Title 24) serves as the basis for the design and construction of buildings in the state. California's building codes are published in their entirety every three years. Intervening code adoption cycles produce supplement pages halfway (18 months) into each triennial period. Amendments to California's building standards are subject to a lengthy and transparent public participation process throughout each code adoption cycle.

The California Building Standards Code is a compilation of three types of building criteria from three different origins:

a) Building standards that have been adopted by state agencies without change from building standards contained in national model codes;

b) Building standards that have been adopted and adapted from the national model code standards to meet California conditions; and

c) Building standards, authorized by the Legislature, that constitute extensive additions not covered by the model codes adopted to address particular California concerns.

4) *Gut and amend.* When this bill left the Assembly, it made changes to the types of alternative building standards a city and county can adopt for the conversion of commercial or industrial buildings to living and work quarters. Opponents raised concerns that fire and life safety concerns might not be adequately addressed during the alternative building standard review process. Including changes to the building code in the state building code provides for standardization; in addition, state building code adoption is a formal process involving extensive stakeholder input. To address these concerns, this bill was amended on June 18th into its current form.

5) *Committee amendments.* In its current form, this bill requires CBSC to take a number of actions related to defining and updating provisions concerning live/work units in the state building and residential codes. The author will accept committee amendments to instead direct HCD to develop proposed recommendations and submit them to the CBSC for approval, as is common practice with legislation relating to building code changes.

RELATED LEGISLATION:

AB 1239 (Holden, 2017) — would have required HCD and the BSC to research and propose for adoption mandatory building standards regarding the installation of electric vehicle capable parking spaces in existing multifamily housing projects and non-residential buildings when those buildings are being reconstructed, as specified. *This bill was vetoed by the Governor.*

AB 1738 (McCarty, 2016) — would have required HCD to develop building standards for the construction, installation, and alteration of dark graywater systems. *This bill died in the Senate Environmental Quality Committee.*

Assembly votes not relevant

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

American Institute of Architects, California Council

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 700	**Hearing Date:**	6/26/2018
Author:	Jones-Sawyer		
Version:	6/4/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Howard Posner		

SUBJECT: Outdoor advertising displays: arenas

DIGEST: This bill exempts, for an additional two years, sports arenas meeting specified criteria from most provisions of the Outdoor Advertising Act (OAA).

ANALYSIS:

Existing law:

1) Creates, under the OAA, a regulatory scheme administered by the Department of Transportation (Caltrans) to govern installation and operation of outdoor advertising displays (i.e., billboards) that are visible from state highways. The OAA and related regulations determine the size, illumination, orientation, and location of advertising displays adjacent to and within specified distances of interstate or primary highways, and, with some exceptions, specifically prohibit any advertising display from being placed or maintained on property adjacent to a section of landscaped highway.

2) Exempts from the OAA "on-premise" advertising displays, which include those advertising the sale of the property upon which they are placed or that advertise the business conducted, services rendered, or goods produced or sold on the property. Local governments regulate on-premise displays, except for certain safety requirements.

3) Exempts from the OAA any advertising display used exclusively either to advertise products, goods, or services sold by persons on the premises of an arena on a regular basis, or to advertise any products, goods, or services marketed or promoted on the premises of an arena pursuant to a sponsorship marketing plan.

4) Conditions the exemption described in #3 above upon the arena being capable of providing a venue for professional sports on a permanent basis; the arena

having a capacity of 15,000 or more seats; and the advertising display being either of the following:

a) Located on the premises of the arena.

b) Having been authorized as of January 1, 2019 by, or in accordance with, a local ordinance, including, but not limited to, a specific plan or sign district adopted in connection with the approval of the arena by the city, county, or city and county, bears the name or logo of the arena, and is visible when approaching off-ramps from the interstate, primary, or state highways used to access the premises of the arena. No arena may have more than two advertising displays permitted under this provision.

This bill extends until January 1, 2021 the current January 1, 2019 deadline for a sports arena advertising display to be authorized by local ordinance in order to qualify for an OAA exemption.

COMMENTS

1) *Author's statement.* "AB 700 is a district bill, allowing the Los Angeles Football Club more time to set up advertising around the stadium as permitted by law." He points out that the Los Angeles Football Club (LAFC) hosted their first game only this past April and will not have had ample time to complete the local permitting process before the upcoming 2019 deadline.

2) *Why are arenas exempted from the OAA?* Major sports venues are often funded primarily with public funds, but as the public becomes more reluctant to apply tax dollars to such projects, private investors are increasing their share of arena development and construction costs. (In the instance of the LAFC, their stadium is in fact completely privately funded.) To address this shift, arena promoters have looked for other means by which to finance these costly projects. Proponents determined that advertising revenue, particularly generated alongside busy interstates in front of massive sports complexes, was a reasonable and potentially lucrative alternative to public financing. In some ways, policymakers have traded direct public funding for the indirect public cost of allowing these signs to exist, including all the potential downsides such as increased driver distraction and blight.

3) *Genesis of current arena law.* Prior to the enactment of SB 31 (Padilla) in 2013, the then-current "arena exemption" contained some ambiguities which, left unaddressed, appeared headed to litigation. For example, the prior statute allowed arena displays to advertise products, goods, or services sold on the

premises of an arena. It was argued that this could include any products or services that are described in a sponsorship marketing plan agreed to on the arena premises. But Caltrans interpreted the statute as only allowing the advertisement of products or services actually sold on the premises, such as those products sold at refreshment bars within the arena. SB 31 was intended to clarify the statute and avoid costly legal costs for the state because, if the intent of the exemption was to help arena developers fund arena construction, then the OAA should make available to these developers the most effective tools possible.

4) *Banc of California Stadium.* Banc of California Stadium is a soccer-specific 22,000 seat stadium in the Exposition Park neighborhood of Los Angeles, California. It is the home of Major League Soccer's LAFC. Completed in 2018, it was the first open-air stadium built in the City of Los Angeles since 1962. Constructed on the site of the former Los Angeles Memorial Sports Arena, it is located next to the Los Angeles Memorial Coliseum and just south of the main campus of the University of Southern California. LAFC subleases the site from the University which has a master lease with the LA Memorial Coliseum Commission for operating and managing the Coliseum and stadium properties. The LAFC was established in 2016 and broke ground for a stadium later that year. The stadium opened on April 18, 2018.

5) *What is the need for this bill?* SB31 stipulated that for arenas to take advantage of this exemption, they had to receive local authorization by January 1, 2019. LAFC is in the process of applying for local billboard permits for the Banc of America Stadium but will not complete the permitting process in time to meet the current statutory deadline.

6) *Committee policy.* Over the years, legislators have introduced numerous bills to exempt stretches of road from the OAA's prohibition against having an advertising display along a landscaped freeway. Several years ago, the committee determined that continued approval of exemptions for nonconforming and prohibited advertising displays threatened to undermine and render meaningless the provisions and intent of the OAA. Therefore, in order to defend the integrity of the OAA, the committee maintains a policy that prohibits hearing any measure exempting specific advertising displays from the OAA, but includes the possibility of hearing bills reflecting legislative changes to statewide policy. This is one such bill.

RELATED LEGISLATION:

SB 31 (Padilla, Chapter 542, Statutes of 2103) — established the current authorization that allows arenas to display advertising for products, goods, or services sold on premises as well as part of a sponsorship marketing plan if the arena is on public land and has a capacity of 15,000 or more seats. SB 31 also established the 2019 deadline for these arenas to qualify for the OAA exemption by obtaining local authorization.

AB 2339 (Solorio, Chapter 439, Statutes of 2008) — exempted from the OAA displays advertising any products, goods, or services sold by persons on the premise of a publicly-owned sports arena located on public land if the arena had a capacity of 5,000 seats and had an advertising display in existence before January 1, 2009.

AB 1373 (Santiago, Chapter 853, Statutes of 2016) — exempted an area of downtown Los Angeles that contains the Convention Center and Staples Center, and an area north of that location, from the Outdoor Advertising Act OAA.

SB 405 (Mendoza, 2017) —exempts from the OAA advertising displays located in specific geographic areas in the City of Artesia. *SB 405 is currently in the Assembly Government Organization Committee.*

SB 744 (Hueso, 2017) — creates an exemption from the OAA for several existing billboards in the County of Imperial provided the advertising displays are approved by either Caltrans or the FHA. *SB 744 is currently in the Assembly Government Organization Committee.*

SB 459 (Portantino, 2017) — would have created an exemption from the OAA for two existing billboards in the City of Upland provided the advertising displays are approved by either Caltrans or the Federal Highways Administration. SB 459 was held in this committee and later gutted and amended out of the committee's jurisdiction.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

Los Angeles Football Club

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 939	**Hearing Date:**	6/26/2018
Author:	Low		
Version:	6/21/2018 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Randy Chinn		

SUBJECT: Local government: taxicab transportation services

DIGEST: This bill makes numerous technical and minor changes to recently enacted taxi regulation statues.

ANALYSIS:

Existing law:

1) Requires cities or counties to regulate a taxicab company or driver if the company or driver is substantially located in the jurisdiction, beginning January 1, 2019.

2) Requires a taxicab company to do all of the following, beginning January 1, 2019:
   a) Obtain a permit in every county in which that provider is substantially located.
   b) Maintain reasonable financial responsibility to conduct taxicab transportation services.
   c) Participate in the pull-notice program pursuant to existing law to regularly check the driving records of all taxicab drivers.
   d) Maintain a safety education and training program for all taxicab drivers.
   e) Maintain a disabled access education and training program to instruct its drivers on compliance with the Americans with Disabilities Act.
   f) Maintain its taxicabs in a safe operating condition.
   g) Provide documentation that 50 percent or more of the number of fares are generated from within a specific jurisdiction.
   h) Provide the permitting agency an address where the permitting agency can inspect documentation required to demonstrate compliance with taxicab regulations.

i) Provide for drug and alcohol testing and a fingerprint criminal history check of all drivers.

3) Allows any city or county, beginning January 1, 2019, to adopt an ordinance that imposes operating requirements for taxicab companies and drivers that do not relate to permitting or business licensing, including, but not limited to:

a) Limits on the number of taxicab service providers that may use taxistand areas or pick up street hails within that city's or county's jurisdiction, and identifies permitted providers that use taxistand areas with a window sticker.

b) Requirements on a taxicab service provider to provide services in a manner that provides equal accessibility for all populations within a jurisdiction.

c) Other public health, safety, or welfare ordinances relating to taxicabs.

This bill:

1) Clarifies the circumstances under which a local government can regulate taxi companies.

2) Requires a taxi company to give six months notice before moving to a new jurisdiction for regulatory purposes.

3) Makes numerous technical and non-substantive clarifications.

COMMENTS

1) *Author's Statement.* Prior to the passage of AB 1069 last year, California's taxi regulation process was convoluted. Taxis were fully regulated at the local level, while other for-hire transportation models have one set of statewide requirements governing their operations. AB 1069 helped create a level playing field for all models of for-hire transportation. AB 1069 allows taxis to retain their own model and character while providing the flexibility to compete with other for-hire transportation models. However, there are some clarifications that need to be made prior to the implementation of AB 1069 on January 1, 2019. AB 939 will make those definitional and reference changes to reduce confusion and allow for seamless implementation.

2) *Cleaning Up.* This bill is a continuation of this author's efforts to make the regulation of taxis more consistent with the regulation of Transportation

Network Companies (e.g. Lyft, Uber), their primary competitors, leveling the playing field. Last year the author carried AB 1069 which provided for more regional regulation of the taxi industry as well as some regulatory relief regarding pricing. It also regionalized regulatory oversight. The provisions of that bill become effective on January 1, 2019, and since its passage some clarifications have proven necessary. Those clarifications are non-substantive, mostly dealing with determining who regulates (which is the jurisdiction of the Governance and Finance Committee), and technical.

3) *Opposition.* The League of Cities has submitted late opposition. They seek minor changes in the process for determining whether a taxi company is subject to regulation and to extend the delayed implementation date by an additional year, to January 1, 2020. Their proposed revision to the determination process seems easily resolvable. The delayed implementation is opposed by the bill sponsor.

4) *Double Referral.* This bill was heard by the Governance and Finance Committee on June 20, 2018 and approved 7-0.

RELATED LEGISLATION:

AB 1069 (Low, Chapter 753 of 2017) — repealed the requirement that every city and county regulate taxicabs within their jurisdiction and instead requires only those that have a taxicab substantially located within their jurisdiction to regulate; makes other changes to relax taxicab regulation making it closer to the regulation of TNCs.

AB 650 (Low, 2016) — would have partially deregulated taxis subject to the transfer of taxi regulation to a state agency. *This bill was vetoed.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

Assembly votes: Not relevant

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

Taxicab Paratransit Association of California (sponsor)

OPPOSITION:

League of California Cities

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 1395	**Hearing Date:**	6/26/2018
Author:	Chu		
Version:	6/18/2018 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Manny Leon		

SUBJECT: State highways: Department of Transportation: litter cleanup and abatement: report

DIGEST: This bill requires the Department of Transportation (Caltrans) to prioritize litter clean up and abatement programs to specific segments of the state highway system, as specified.

ANALYSIS:

Existing law:

1) Grants Caltrans broad authority to have full possession and control of all state highways, all property and rights in property acquired for state highway purposes.

2) Defines "maintenance" (with regard to the state highway system) to mean, among other things, the preservation and keeping of rights-of-way, and each type of roadway, structure, safety convenience or device, planting, illumination equipment, and other facility, in the safe and usable condition to which it has been improved or constructed, but does not include reconstruction or other improvement.

3) Provides that the degree and type of maintenance for each highway, or portion thereof, shall be determined in the discretion of the authorities charged with the maintenance thereof, taking into consideration traffic requirements and available funding.

4) Directs Caltrans to assign a high priority to litter deposited along state highway segments adjoining storm drains, streams, rivers, waterways, beaches, the ocean, and other environmentally sensitive areas.

5) Makes it unlawful to do any of the following:

a) Throw or discharge onto a highway any lighted or non-lighted cigarette, cigar, match, or any flaming or glowing substance.

b) Throw or deposit on a highway any bottle, can, garbage, glass, nail, offal, paper, wire, any substance likely to injure or damage traffic, or any noisome, nauseous, or offensive matter of any kind.

c) Dump or spill hazardous material without appropriately notifying authorities, as prescribed.

6) Authorizes the government agency that is responsible for the maintenance of the highway to remove the material and charge the cost of removal from the person responsible for the dumping.

This bill:

1) Requires each Caltrans district to assign the highest priority for litter cleanup and abatement programs to segments of the highway within each district that receive the highest volume of complaints and greatest incidence of litter.

2) Requires each Caltrans district to prioritize funding for highway litter maintenance and abatement programs to the abovementioned highway segments.

3) Requires Caltrans to conduct an assessment of litter on the state highway system and submit a report of its findings to the Legislature on or before January 1, 2020. Further specifies Caltrans to consult with stakeholders in the development of the report.

COMMENTS

1) *Purpose.* According to the author, "trash and litter buildup along our highways has been a constant issue in my district and across the state, creating an eyesore for commuters, residents and tourists, as well as safety and environmental hazards. Too often this debris distracts drivers and ends up in California's waterways. AB 1395 directs Caltrans to use need-based criteria to prioritize most impacted areas."

2) *Highway litter.* Litter on California's state highways is a notorious problem. For example, Caltrans has reported that the department spent over $67 million in the 2016-2017 fiscal year picking up litter along state highways—enough litter to fill 9,000 garbage trucks. Additionally, Caltrans administers an Adopt-

a-Highway Program that provides opportunities for individuals, organizations, or businesses to help maintain sections of roadside the state highway system. Groups have the option to participate as volunteers or to hire a maintenance service provider to perform the work on their behalf. According to Caltrans, more than 120,000 Californians have cleaned and enhanced over 15,000 shoulder-miles of roadside, and the Adopt-a-Highway Program provides litter and graffiti abatement valued at approximately $18 million annually. Lastly, Caltrans uses state inmates and county corrections prisoners to supplement its own forces in litter removal activities. In 2016, Caltrans reported that its level of service for litter and debris abatement exceeded its goal for each of the previous seven years.

3) *Public opinion.* In 2016, Caltrans released survey data that showed nearly half of all motorists surveyed admitted to sometimes littering along the state's highways. Nearly one in five California motorists reported intentionally dumping something on the side of the highway. Survey respondents confirmed they improperly disposed of items ranging from old furniture and appliances to green waste from their yard such as lawn clippings, branches, or leaves. According to Caltrans, these findings indicate that litter was generally not an accidental public behavior, but rather a conscious decision to improperly discard or leave behind debris along California freeways.

4) *Rural vs. Urban.* The provisions specified in this bill require each Caltrans district to prioritize funding within their districts to highway segments that receive the highest number of complaints and experience the greatest incidents of litter. This could lead to a disproportionate amount of resources being allocated to highways in urban areas where the number of daily vehicles and motorist are greater than highways that run through smaller cities and rural areas. For example, Caltrans District 3 includes Sacramento and Yolo counties, however, also include counties such as Nevada and Sierra. While in less populated counties, State Routes (SR) 49 and 89 cut through both Nevada and Sierra counties and are popular routes for travel to various parts of Tahoe National forest. If this bill were to be enacted, SR 49 and SR 89 could potentially lose most or all funding for litter abatement to the greater Sacramento region. Under this bill, scenarios such as the one mentioned above could occur in most Caltrans districts throughout the state.

   While litter on highways continues to be an ongoing problem throughout the state, prioritizing resources to high traffic urban areas over smaller rural areas which also experience litter issues, may not accomplish the ultimate goal of minimizing litter throughout the state's highway system.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

Assembly votes:

Floor: 62-12
Approps: 17-0
Trans: 13-0

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

Berryessa Citizens Advisory Council
Californians Against Waste
City of Newark
Penitencia Neighborhood Association
Santa Clara County Board of Supervisors

OPPOSITION:

League of California Cities
Transportation Agency for Monterey County

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 1405	**Hearing Date:**	6/26/2018
Author:	Mullin		
Version:	6/13/2018 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Randy Chinn		

SUBJECT: Digital sign demonstration pilot program.

DIGEST: This bill authorizes the California Department of Transportation (Caltrans) to establish a pilot project for advertising on state rights of way, subject to federal approval.

ANALYSIS:

Existing law:

1) Requires all states to adopt the federal Manual on Uniform Traffic Control Devices (MUTCD), or to at least substantially comply with it. The federal MUTCD prescribes standards for signs, signals, markings, and other devices used to guide traffic on streets and highways throughout the country. California has adopted its own MUTCD, which has been approved by federal officials as being "substantially in compliance" with the federal MUTCD.

2) Provides that traffic control devices or their supports shall not bear any advertising message or any other message that is not related to traffic control.

3) Provides that only those traffic control devices that conform to the California MUTCD may be placed on a street or highway.

4) Establishes the Outdoor Advertising Act (OAA), which regulates the placement of advertising displays adjacent to and within specified distances of highways that are part of the national system of interstate, defense highways, and federal-aid highways.

5) Prohibits any advertising display from being placed or maintained on property adjacent to a section of a freeway that has been landscaped if the advertising display is designed to be viewed primarily by persons traveling on the main-traveled way of the landscaped freeway.

This bill:

1) Authorizes a pilot program until 2024 for digital advertising signs within the state right of way consistent with the program described in a recent Caltrans feasibility study. Features of the program include:

   a) Authorizes up to 25 signs with no cost to the state.
   b) Caltrans has discretion to select sign locations.
   c) After the installation costs are recovered by the contractor, advertising revenue is split with at least 50% going to the state.
   d) Signs shall meet Caltrans' design, construction and operating standards.
   e) Signs shall enhance public messaging, including safety campaigns, emergency notification, travel times, and traveler information.
   f) State emergency notifications have priority over all messaging, including advertising.
   g) Caltrans may establish guidelines and standards for advertising; advertising of alcohol, tobacco, firearms, sexually explicit material, political messages, or any illegal activity is not permitted.
   h) Caltrans retains the ability to determine the safety of the signs and to take whatever actions are necessary to protect public safety.
   i) State is indemnified from any claims or losses.
   j) State owns the signs after the pilot program ends.
   k) Subject to federal approval.

2) Establishes minimum qualifications for an entity contracted to install and operate the signs, including demonstrated experience, required licenses, and financial capacity.

3) Requires annual reporting to the Legislature regarding the project status, safety impact, and revenue received.

4) Requires any advertising revenue to be deposited into the State Highway Account, subject to appropriation consistent with the provisions of any federal authorization.

COMMENTS

1) *Author's Stated Purpose.* The purpose of AB 1405 is to authorize an enterprise initiative between Caltrans and the private sector for a new, state-of-the-art, digital sign network to provide real-time information for enhanced statewide emergency and traveler communications – at no cost to the State.

2) *Driving to Distraction.* Advertising is intended to attract attention, which by definition distracts from the task of driving. Allowing advertising on the highway right of way, and potentially over the highway itself, raises safety issues; advertising is currently barred in the highway right of way for a reason. Moreover, we are in a period where driving is becoming less safe, despite having vehicles which are safer than ever. The National Safety Council found that 40,100 people were killed while driving in 2017, an increase of 6% from 2015. It certainly appears that more drivers are distracted than ever. Given this context, allowing advertising for the first time ever in the highway right of way must be very carefully considered.

   In addition to advertising, the digital displays envisioned in this bill can also provide information that is useful to drivers, such as expected driving times, hazard warnings and emergency alerts. They may be useful in natural disasters to communicate news and direct traffic.

3) *California Mad Men.* The state can earn revenue by hosting advertising: A single digital billboard can bring in $500,000 annually. Were California to develop a network of digital signs along the major state highways, the state would control a new and powerful advertising media, outshining other billboards and outdoor advertising displays which are less optimally located. Supporters of this bill suggest revenue potential in the hundreds of millions of dollars annually. This creates new competition which conflicts with the interests of local governments, who receive revenue from advertising displays they permit. And for the outdoor advertising industry, a large state advertising network could only be developed and managed by a large firm, disadvantaging the smaller outdoor advertising companies. More generally, the additional outdoor advertising signs allowed by this bill will increase the supply of outdoor advertising space, thereby driving down the price for advertising in the outdoor advertising market, which is bad news for the outdoor advertising companies owning that space and the local governments who share in those revenues.

4) *Permission, not Forgiveness.* Federal law requires all states to comply with the federal MUTCD, or to be substantially compliant with it. To utilize changeable message signs (CMS) for advertising, Caltrans must seek a waiver from the federal government. If Caltrans were to use the CMS as required in this bill without the receipt of a waiver, the Federal Highway Administration (FHWA) would be authorized by federal law to withhold 10% of the transportation funds California receives from the federal government.

Recent experience suggests that such permission is unlikely to be granted. Earlier this year the FHWA penalized New York $14 million for allowing advertising on highway signs.[1] Trade journals report that a Texas Department of Transportation request to sell corporate sponsorships on overhanging signs was also rejected. In a response to a citizen suggesting that advertising be placed on the back of overhead traffic signs, the Associate Administrator for Operations at FHWA noted that "Signs on the highways are limited to those that will promote the safe and efficient utilization of the highways. In addition, all real property within the right-of-way boundaries must be devoted exclusively to public highway purposes."

5) *Neither Fish nor Fowl.* Supporters envision a different type of advertising sign which they believe will fare better with the FHWA. Rather than adding advertising to a CMS the supporters would instead offer a stand-alone digital billboard which provided traffic information infrequently. That would theoretically reduce driver distraction because it would be separate from the traffic information provided on the CMS. And because the sign would rarely offer traffic information it would theoretically not be subject to the MUTCD. Such standalone signs would be permitted under this bill if Caltrans and the FHWA approved. But again, given the recent, strong, and consistent denials of advertising proposals by the FHWA, it is difficult to see such a proposal being approved.

6) *One Step on a Path Forward.* Pursuant to law, Caltrans has recently issued a report describing a feasible pilot project on advertising on CMS which would evaluate any potential safety implications and assess how much potential revenue could be generated to support CMS infrastructure and the State highway system as a whole. Safety is a paramount consideration, with any pilot crafted to manage the risk of distraction to drivers, including inattention to other safety notices and signs, such as the AMBER alert program. Caltrans notes such a pilot would need federal approval which, given FHWA's recent track record, is unlikely. This bill is intended to be entirely consistent with the Caltrans report.

7) *Going Slow.* The pilot program established by this bill reflects the conservative approach taken by Caltrans emphasizing the concern for public safety and the benefits of more information to the driving public, rather than emphasizing the pursuit of advertising revenue which would come from a full-fledged state digital advertising program.

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[1] The impermissible advertising was static, not digital, and was limited to state tourism, including the iconic "I♥NY" as well as a related website address. The FHWA's penalty letter noted that "Motorist safety is always our primary objective."

8) *There, Not Here.* Caltrans determines the locations of the digital signs. Opponents are concerned that Caltrans could choose to place signs in cities which have imposed outdoor advertising bans or near city-owned billboards. Proposed amendments, described below, prohibit any new sign, or conversion of an existing sign, where there is an existing local prohibition.

9) *Substantial Amendments.* The author will accept the following amendments, which prohibit any new billboards from being installed where a local jurisdiction has an existing billboard prohibition, and which clarify the indemnification of the state. With these amendments the Judiciary Committee will waive its hearing on the bill.

Add new 172.4*(d) as follows:*

The department shall not authorize the installation of a new digital sign or the conversion of an existing changeable message sign to a digital sign under the program in a city or county where a prohibition on new outdoor advertising or general advertising structures was enacted through an ordinance or local initiative before January 1, 2019.

Amend 172.6(c)(5) as follows:

Require that the agreement entered into pursuant to this section include indemnity, defense, and hold harmless provisions agreed to by the department and the contracting entity, ~~including provisions for indemnifying~~ ***which must indemnify*** the State of California against any claims or losses resulting or accruing from the performance of the contracting entity, including advertising on the digital signs, excluding any advertising ~~**approved in advance or**~~ provided by the department. This paragraph does not require the agreement to include any obligation of the State of California to indemnify, defend, or hold harmless the contracting entity.

RELATED LEGISLATION:

AB 3168 (Rubio, 2018) — Provides more specificity and flexibility for Caltrans to relocate and site outdoor advertising. *This bill is pending in the Senate Appropriations Committee.*

SB 1397 (Huff, 2016) — would have established a program for advertising on state rights of way similar to AB 1405. *This bill died on the Senate floor.*

SB 853 (Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2014) — required Caltrans to report to the Legislature by January 10, 2015, on the subject of advertising on electronic CMS on the state highway system, and on the feasibility of a pilot project in that regard, including estimates of revenue.

SB 854 (Committee on Budget and Fiscal Review, 2010) — would have authorized Caltrans to lease space for advertisements on digital messaging signs on the state highway system that are currently used for traveler information. These changes in statute would have required Caltrans receive a federal waiver before entering into any contract for advertisements on digital messaging signs and would have required that any such contract be provided to the legislature for a 30-day review prior to enactment. *This bill failed passage on the Senate floor.*

AB 1614 (Committee on Budget, 2010) — would have authorized an experimental program that would allow advertising on upgraded CMS on highway right of way. A federal waiver, or a change in federal law, was necessary to implement this program, and this bill stated the program cannot be implemented unless approved by the federal government. *This bill failed passage on the Senate floor.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

Associated General Contractors
Building and Construction Trades Council of Alameda County
California Nevada Cement Association
Crime Survivors Resource Center
Greater Los Angeles African American Chamber of Commerce
Intelligent Sign Network
National Center for Victims of Crime
Outfront Media
Ron Goldman Foundation for Justice
San Francisco Fire Fighters Local 798
State Building and Construction Trades Council
Board of Equalization Member George Runner

OPPOSITION:

Bulletin Displays, LLC
California State Association of Counties
City of Baldwin Park
City of Bellflower
City of Buena Park
City of Carson
City of Compton
City of Dixon
City of Eastvale
City of Lynwood
City of Rohnert Park
City of Santa Fe Springs
City of South Gate
City of Thousand Oaks
Coalition to Ban Billboard Blight
General Outdoor Advertising
Lamar Advertising
League of California Cities
Mayors' and Councilmembers Association of Sonoma County
Meadow Outdoor Advertising
Scenic San Diego
Sonoma County Board of Supervisors
Stott Outdoor Advertising
Town of Los Gatos
Veale Outdoor Advertising
51 individuals

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 1594	**Hearing Date:**	6/26/2018
Author:	Bloom		
Version:	6/18/2018 Amended		
Urgency:	No	**Fiscal:**	No
Consultant:	Manny Leon		

SUBJECT: Infrastructure financing: transportation: Los Angeles County Metropolitan Transportation Authority: contracting

DIGEST: This bill authorizes the use of public-private partnerships (P3) for passenger rapid transit and heavy rail infrastructure and repeals 2/3rds vote requirement for Los Angeles County Metropolitan Transportation Authority (Metro) to use alternative procurement methods.

ANALYSIS:

Metro is a multimodal transportation agency providing a variety of transportation-related services and functions for Los Angeles County. These services/functions include transportation planning, transit services (both bus and light rail), capital construction projects, and administering several local sales tax measures.

Among its other abilities, Metro may enter into P3's or use the design-build method of procurement to develop transit systems and facilities on property owned by the authority. These P3s may include operation and maintenance within the contract and may be awarded to either the lowest bidder or the bidder that offers the best value based on objective selection criteria, including proposed design approach and life-cycle costs of the project. State law prescribes the manner in which Metro must solicit bids, deems the projects to be public works, and establishes other requirements for any P3s entered into by Metro, including making specific findings before awarding a contract.

Specifically, prior to awarding a contract for a P3 or other alternatives to the design-bid-build method, Metro's governing board must adopt, by 2/3rds vote, a finding that awarding the contract will achieve certain private sector efficiencies in the integration of design, project work, and components.

Existing law:

1) Establishes the County Transportation Commissions Act, which provides for the creation of county transportation commissions in the Counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura, with various powers and duties relative to transportation planning and funding, as specified.

2) Establishes Metro as a county transportation commission to fund, plan for, coordinate, build, and operate public transportation systems within Los Angeles County.

3) Authorizes government agencies to enter into P3's for certain types of fee producing infrastructure projects including but not limited to commuter and light rail.

4) Requires the approval of a finding by two-thirds of the Metro Board of Directors prior to issuing a design-build or P3 contract, as specified.

This bill:

1) Adds passenger rapid transit (also known as bus rapid transit), subways, and heavy rail to the types of fee-producing infrastructure for which a local government can enter into a P3.

2) Repeals the requirement for Metro, prior to awarding a contract for a P3, to adopt a finding with a 2/3rds vote that awarding the contract will achieve efficiencies in the integration of design, project work, and components.

3) Provides that all construction, alteration, demolition, installation, repair, and maintenance work on projects subject to a P3 agreement are to be in compliance with labor requirements relative to public works projects.

COMMENTS

1) *Purpose.* According to the author, "AB 1594 helps LA County better optimize the transportation dollars recently authorized by voters through Measure M by allowing Metro to streamline their transit project processes."

2) *What are P3's?* P3's are typically used in transportation infrastructure projects such as highways, airports, railroads, bridges and tunnels. P3's are set up between a government agency and a private-sector company where the private entity is responsible for designing, completing, implementing and funding the

project. Under a P3 project, procurement of two or more of the project phases are integrated. These project phases range from design and construction to operation and maintenance. Often a consortium of companies with different areas of expertise relating to the various phases is organized. This consortium determines how to complete the project. Additionally, P3 contracts typically have outcome-based specifications, meaning that the public sector owner specifies their requirements and the private sector partner determines the best way to meet them. Another key characteristic of P3's is that the payment structure is normally such that payments are made upon completion of a specific activity, milestone, or after the project is completed (e.g. toll revenues). For public agencies, one of the most attractive features of P3's is that these arrangements aim to distribute the financial, technical, and operational risk optimally between both the private and public sector partners.

3) *Metro Projects.* Currently, Metro has three potential P3 transportation projects that are in various planning phases:

   a) West Santa Ana Branch Transit Center: a 20 Mile Light Rail transit corridor that would connect the Gateway Cities (Southeast Los Angeles County) to Downtown Los Angeles.

   b) Sepulveda Transit Corridor Project: Metro is currently studying rail options to connect the San Fernando Valley to LAX. This project is in its very early stages with Metro considering a variety of rail options to provide congestion relief for Interstate 405 commuters.

   c) Regional Express Lanes Network: Metro has developed an Express Lanes Strategic Plan which builds on the success of the I-110 and I-10 Congestion Reduction Demonstration pilot program. The Plan identifies the most promising express lane corridors and proposes a phased implementation plan over a 25-plus year period.

   The provisions specified in this bill will remove a duplicative Metro Board approval process when considering P3 as a preferred project delivery method and clarifies certain transportation projects can be constructed using P3 authority.

4) *Double Referral.* This bill passed out of the Senate Governance and Finance Committee on June 13th on a 7-0 vote.

5) *Prior votes not relevant.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

Los Angeles Metropolitan Transportation Authority (co-sponsor)
State Building and Construction Trades Council of California (co-sponsor)
American Council of Engineering Companies, California

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 1771	**Hearing Date:**	6/26/2018
Author:	Bloom		
Version:	6/20/2018 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Planning and zoning: regional housing needs assessment

DIGEST: This bill makes changes to the regional housing needs assessment (RHNA) plan objectives, methodology, and distribution process.

ANALYSIS:

Existing law:

1) Requires each of California's 18 metropolitan planning organizations (MPOs) and 26 regional transportation planning agencies to prepare a long-range regional transportation plan (RTP). The RTP identifies the region's vision and goals and how they will be implemented, as well as supporting the state's goals for transportation, environmental quality, economic growth, and social equity. An RTP must be adopted every four years (every five years in air quality attainment areas).

2) Requires, pursuant to SB 375 (Steinberg, Chapter 728, Statutes of 2008), each MPO to prepare a sustainable communities strategy (SCS) as part of its RTP. The SCS demonstrates how the region will meet its greenhouse gas (GHG) emissions reduction targets through land use, housing, and transportation strategies. The state Air Resources Board must review the adopted SCS to confirm that it will indeed meet the regional GHG targets.

3) Requires every city and county to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element must identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.

4) Requires local governments located within the territory of an MPO to revise their housing elements every eight years, following the adoption of every other RTP. Local governments in rural non-MPO regions must revise their housing elements every five years.

5) Requires each community's fair share of housing to be determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages:

   a) The Department of Finance and the Department of Housing and Community Development (HCD) develop regional housing needs estimates;

   b) Councils of government (COGs) allocate housing within each region based on these estimates (where a COG does not exist, HCD makes the determinations); and

   c) Cities and counties incorporate their allocations into their housing elements.

6) Requires COGs to provide specified data assumptions to HCD from each COG's projections.

7) Requires the housing element to contain an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs.

8) Requires a locality's inventory of land suitable for residential development to be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the locality's share of the regional housing need for all income levels. Requires the inventory to provide certain information on each site, such as the general plan designation and zoning of each site and available infrastructure.

9) Requires the inventory of land to specify the additional development potential for each non-vacant site within the planning period and an explanation of the methodology used to determine the development potential.

10) Requires, where the inventory of sites does not identify adequate sites to accommodate the need for groups of all household income levels, rezoning of those sites to be completed in a specified time period. Requires this rezoning to accommodate 100% of the need for housing for very low and low-income households for which site capacity has not been identified in the inventory of sites on sites that shall be zoned to permit rental multifamily residential housing by right during the planning period.

11) Prohibits a local jurisdiction from reducing or permitting the reduction of the residential density, or from allowing development at a lower residential density for any parcel, unless the jurisdiction makes specified written findings.

This bill:

1) Removes the existing law requirement for COGs to seek the advice of HCD when preparing their RHNA allocation plans and instead requires COGs to consult with HCD when developing the methodology for the RHNA allocation.

2) Revises the statutory objectives for the RHNA allocation plan as follows:

   a) Adds, to the existing objective requiring promotion of an improved intraregional jobs-housing relationship, provisions requiring inclusion of an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.

   b) Adds, to the existing objective requiring allocation of a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, provisions requiring an allocation of a higher proportion of housing need to an income category when a jurisdiction already has a disproportionately low share of households in that income category.

   c) Adds a new objective to increase access to areas of high opportunity for lower-income residents, avoiding displacement and affirmatively furthering fair housing. Defines these as areas that provide pathways to better lives, including through health, education, and employment.

3) Adds to the information that must be distributed publicly, a requirement to explain how the methodology furthers the statutory objectives. Requires the information to be published on the COG's website.

4) Adds the following data requirements to the COG methodology:

   a) Requires the methodology to further the statutory objectives, rather than be consistent with them.

   b) Adds, to the list of factors used to develop the methodology, a requirement to include data on the number of low-wage jobs within the jurisdiction, how many housing units within the jurisdiction are affordable to workers at those wage levels, and how many jobs were added at what wage levels compared

to how many housing units were added and at what income levels, in the last planning period.

c) Revises one of the factors used to develop the methodology to require the percentage of existing households at each income level that are paying more than 30% and more than 50% of their income in rent.

d) Adds a new factor, the rate of overcrowding.

e) Requires the COG to specify which of the objectives each additional factor is necessary to further, should any other factors be adopted by the COG. The COG may only adopt additional factors if they do not undermine the objectives and the COG makes a finding that the factor is necessary to address specific health and safety concerns.

f) Requires the COG to post its explanation of how each of the factors was incorporated into the methodology, and how the methodology furthers the statutory objectives, on its website.

5) Requires the COG, after the public comment period on the proposed allocation methodology, and after making any revisions as a result of public comments and consultation with HCD, to post the draft allocation methodology on its website and submit it to HCD. HCD must determine within 60 days whether the methodology furthers, and does not undermine, the statutory objectives.

6) Requires the COG, if HCD determines that the methodology is not consistent with the statutory objectives, to take one of the following actions:

a) Revise the methodology pursuant HCD's findings and adopt a final RHNA methodology.

b) Adopt a final RHNA methodology without revisions and include within its resolution of adoption written findings as to why it believes the methodology is consistent with the statutory objectives despite HCD's findings.

7) Requires the COG to provide notice of the adoption of the final methodology to HCD and the jurisdictions within the region, and to post notice on its website.

8) Allows a local government, within 45 days of the draft RHNA allocation being distributed, to appeal to the COG for a revision of the proposed RHNA

allocation. The appeal must include a statement as to why the revision is necessary to further the statutory objectives. The appeal must be limited to:

a) Failure to consider the survey information submitted by local governments in the region to inform the methodology.

b) Significant and unforeseen changes in circumstances that occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted by local governments to inform the RHNA.

c) Failure to determine the share of RHNA pursuant to the methodology defined in state law and in a manner that furthers and does not undermine the statutory objectives.

9) Requires a COG to notify all other local governments in the region, as well as HCD, of all appeals, and to make all materials related to the appeals available on a public website. Provides that local governments and HCD have 45 days to comment on one or more appeals. If no appeals are filed, the draft allocation shall be deemed final.

10) Requires the COG to conduct one public hearing to consider all appeals no later than 30 days after the close of the comment period after providing local governments in the region at least 21 days' notice.

11) Requires the COG to specify how the appeal request does not further the objectives, should the COG indicate that the proposed revision is inconsistent with the RHNA. Specifies that the final action may require the COG, as applicable, to adjust the allocation of one or more (rather than just one) local governments that are not the subject of the appeal.

12) Requires the COG, no later than 45 days after the hearing, to do both of the following:

a) Make a final determination that either accepts, rejects, or modifies each appeal for a revised share of the RHNA that includes written findings as to how the determination is necessary to the further statutory objectives.

b) Issue a final allocation plan.

13) Deletes the authority of two local governments to agree to an alternative distribution of appealed housing allocations between the affected local governments.

COMMENTS

1) *Purpose.* The author states that the RHNA process plays a critical role in setting the state for housing production. While the RHNA distribution is supposed to be data-driven, unfortunately it is all too often influenced heavily by regional politics, resulting in low allocations to wealthier and often job-rich jurisdictions that could accommodate far more housing, particularly multifamily housing. The state has a number of laws on the books designed to ensure that housing gets built, but these laws generally only protect projects proposed on sites zoned for housing. When a jurisdiction gets a low RHNA number and thus has to zone very little land for housing, it frustrates the application of these laws and effectively allows that jurisdiction to remain off limits to housing construction. When the RHNA process becomes mired in politics, it can reinforce patterns of exclusion rather than achieving the fair housing and equity goals that are the fundamental underpinning of the statute. The author states that this bill provides for a more equitable, data-driven distribution of the housing need within regions, ensures greater transparency in the distribution process, and provides additional oversight to ensure that the process furthers statutory objectives.

2) *Consequences of a non-compliant housing element.* Until very recently, communities without an approved housing element have faced limited ramifications. Last year, however, the Legislature passed a comprehensive package of housing bills, which was signed into law by Governor Brown on September 29, 2017. This package included a number of bills aimed at strengthening housing element law. Specific efforts to increase compliance include:

   a) SB 35 (Wiener, Chapter 366, Statutes of 2017) requires cities and counties to streamline housing developments that include specified percentages of affordable housing, if the city or county has not met all of its RHNA requirements. This new requirement has added additional weight to the RNHA process because the trigger for whether or not a jurisdiction must streamline is based on whether or not they have met their RNHA numbers for above moderate income (120% of AMI or above) or lower income (80% of AMI or below). Most jurisdictions have not met their lower income RNHA, meaning they must streamline projects that set aside at least 50% of units for lower-income.

   b) SB 166 (Skinner, Chapter 367, Statutes of 2017) modified the No Net Loss Zoning Law to require local governments to maintain adequate housing

sites at all times throughout the planning period for all levels of income. This is intended to help ensure that a locality continues to maintain a supply of available land to accommodate the remaining unmet housing need throughout the eight-year life of the housing element.

c) AB 72 (Chiu, Chapter 370, Statutes of 2017) authorized HCD to find a locality's housing element out of substantial compliance if it finds the locality has acted, or failed to act, in compliance with its housing element and HCD had previously found it in substantial compliance. AB 72 also authorizes HCD to refer violations of housing element law to the state Attorney General. The primary mechanism to enforce state housing law is through the judicial system. It takes a great deal of resources to pursue judicial remedies; moreover, developers are hesitant to antagonize localities where they intend to have future development. AB 72 instead places this judicial enforcement burden on the state.

3) *Identifying realistic housing sites.* In addition to the above cited measures, AB 1397 (Low, Chapter 375, Statutes of 2017) aimed to strengthen housing element law by restricting the types of sites that a local government may identify as suitable for residential development. AB 1397 addressed concerns that the law permitted local governments to designate very small sites that cannot realistically be developed for their intended use, or designate non-vacant sites with an ongoing commercial or residential use, even though the current use is expected to continue indefinitely. Under AB 1397, identified sites must have a sufficient available water, sewer, and dry utilities supply and must be available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan.

4) *Shining a light.* The author states that this bill aims to address concerns that RHNA distributions are often influenced by regional politics rather than housing need. Some key provisions of this bill that aim to make the RHNA process more data-driven, transparent, and apolitical include:

a) *Furthering RHNA objectives*. This bill requires the COG methodology to further the statutory RHNA objectives, rather than to just be consistent with them. It also requires COGs to publicly explain how each of the factors was incorporated into the methodology and how the methodology furthers the statutory objectives.

b) *Equity*. This bill adds a new statutory objective to increase access to areas of high opportunity for lower-income residents, avoiding displacement and affirmatively furthering fair housing.

c) *Transparency.* This bill requires COGs to post all RHNA information on a public website to help ensure it is available to all affected local governments and all interested stakeholders.

d) *Housing need, not housing market.* This bill eliminates the existing law requirement to include the market demand for housing as a factor in developing the methodology. The sponsor states that factors such as housing need, housing burden, overcrowding, and jobs/housing fit are more objective and appropriate measures.

e) *Justification of RHNA appeals.* This bill requires a locality, if it disagrees with its RHNA allocation, to submit a request for a revision that includes a statement as to why the proposed allocation is not appropriate and why a revision is necessary to further the statutory objectives.

f) *Banning RHNA swaps.* This bill deletes the authority of two local governments to agree to an alternative distribution of appealed housing allocations between the affected local governments.

5) *HCD's role.* This bill removes the existing law requirements for COGs to consult with HCD when preparing their RHNA plans, and instead requires COGs to consult with HCD when developing the methodology to be used in the allocation. It also requires HCD to determine, within 60 days, whether the methodology furthers the statutory objectives. The author states that requiring COGs to work with HCD in developing the methodology is intended to ensure against HCD finding issues at the end of the process.

6) *Local control.* This bill includes a number of provisions intended to help preserve a measure of local control. For example, this bill provides that if HCD finds that a COG's methodology does not further the statutory objectives, the COG may keep the methodology without revisions if it makes written findings justifying its decision. It also allows COGs to apply additional factors unrelated to the statutory objectives if it deems them necessary for health and safety reasons. Additionally, this bill allows a COG to reject an appeal by a locality or to adjust the allocation of one or more localities that are not the subject of an appeal.

7) *SB 828.* Earlier this year, this committee heard SB 828 (Wiener), another RHNA reform bill. The primary overlaps between this bill and SB 828 are in the provisions relating to the COG methodology. The committee recommends working out these differences before the bills reach the respective Floor of each house.

8) *Opposition concerns*. The Association of Bay Area Governments states that this bill would weaken COGs and make it more difficult for COGs to craft a regional housing plan that enjoys broad support. The Sacramento Area Council of Governments states that RHNA decisions should be made at the local level, not mandated in statute. The City of Beverly Hills states that it is highly interested in collaborating with neighboring jurisdictions to construct affordable housing where it makes sense for both jurisdictions, but this bill would prevent Beverly Hills from receiving RHNA credit in such a situation.

RELATED LEGISLATION:

SB 828 (Wiener, 2017) — makes a number of changes to the RHNA process. *This bill passed out of the Assembly Housing Committee on June 20th and will be heard in the Assembly Local Government Committee on June 27th.*

AB 686 (Santiago, 2017) — requires a public agency to administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing. *This bill passed out of the Transportation and Housing Committee on an 11-1 vote on June 12th and is scheduled to be heard in the Judiciary Committee on June 26th.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

California Rural Legal Assistance Foundation (co-sponsor)
Western Center on Law and Poverty (co-sponsor)
Bay Area Council
California Bicycle Coalition
California Housing Consortium
California Housing Partnership Corporation
City of Santa Monica
City of West Hollywood
Disability Rights California
Housing California
Non-Profit Housing Association of Northern California

OPPOSITION:

Association of Bay Area Governments
Sacramento Area Council of Governments

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 1857	**Hearing Date:**	6/26/2018
Author:	Nazarian		
Version:	6/18/2018 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Randy Chinn		

SUBJECT: Building codes: earthquake safety: immediate occupancy standard

DIGEST: This bill requires the California Building Standards Commission (CSBC) to establish a working group to consider whether California's building codes should reflect a "functional recovery standard".

ANALYSIS:

Existing law:

Authorizes the CBSC to approve and adopt building standards. Every three years a building standards rulemaking is undertaken to revise and update the California Building Standards Code.

This bill:

1) Defines "functional recovery standard" as building code provisions designed to result in a building which can withstand an earthquake and be restored to support its intended function within a maximum acceptable time.

2) Requires the CBSC to create a working group comprised of 17 specified public and private organizations related to buildings and seismic safety. By July 1, 2022, this group shall consider if a functional recovery standard is warranted for some or all building occupancy classifications in some or all parts of the state, and make recommendations on adoption of building standards as appropriate. If a functional recovery standard is not warranted, the working group shall assist in the development of a guidance document to provide a higher level of structural strength in new construction with a goal of enabling functional recovery.

3) The CBSC is authorized to adopt regulations based on the working group recommendations for nonresidential occupancies.

COMMENTS

1) *Author's Statement.* With the exception of essential facilities, our current building code is designed to protect against loss of life, but the code says nothing about whether or when a building will be usable after a major earthquake. Analyses of large earthquakes anticipated in Southern California and the Bay
Area predict that a significant number of structures built to the current code will suffer enough damage to be flagged as dangerous by local building departments. Together with expected damage to existing, older buildings, this represents more than $100 billion in damage, displacement of people from their homes, and a significant disruption to the regional economy. AB 1857 is a critical step toward investigating and implementing new standards to ensure California can get back to business as usual after a major earthquake.

2) *Time for an Upgrade?* California's building codes have been continually improved to reflect current knowledge of seismic risk and building technology. But the codes are designed to allow occupants to safely escape a building after an earthquake. This bill asks whether that design standard should instead provide for the building to be returned to its original use within a short period of time. This is a much more stringent standard. To understand the implications, consider a car. Modern cars are built so that the passengers can walk away from a crash. If the functional recovery standard in this bill were applied to cars, the car would have to withstand the crash and then drive away. It can be done. Whether it should be done requires a balancing of the added costs to build such a resilient car against the public safety gain and the savings to the car owner from not having to buy a replacement car. The working group established by this bill represents a broad cross-section of public, professional and industry interests who can think this through in the context of buildings.

3) *Residential is Different.* The working group established in this bill will make recommendations on whether a functional recovery standard should be adopted for different building occupancies. The CSBC is then free to adopt standards based on those recommendations for every occupancy except residential. The Department of Housing and Community Development (HCD), which is a member of the working group, has separate authority to consider whether a functional recovery standard should be adopted. If HCD believes it should, it can make a recommendation to CSBC who can then adopt one. In the absence of an HCD recommendation, a functional recovery standard cannot be adopted.

RELATED LEGISLATION:

AB 2681 (Nazerian, 2018) — requires local governments to develop an inventory of buildings that are potentially vulnerable to seismic events. *This bill is pending in the Senate Governmental Organization Committee.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

Assembly Votes:

Housing: 5-2
Appropriations: 12-4
Floor: 41-29

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

American Institute of Architects California Council
BOMA of California
California Apartment Association
California Building Industry Association
California Business Properties Association
International Council of Shopping Centers
NAIOP of California

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 1943	**Hearing Date:**	6/26/2018
Author:	Waldron		
Version:	5/10/2018		
Urgency:	Yes	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Manufactured housing: foundation systems: installation: common interest developments

DIGEST: This bill allows a registered owner of a mobilehome in a mobilehome park that is converted or proposed to be converted to a resident-owned park to submit written evidence of ownership as proof that they own, hold title to, or are purchasing the real property where the mobilehome is to be installed.

ANALYSIS:

Existing law:

1) Requires HCD to adopt regulations for manufactured home, mobilehome, and commercial modular (hereafter referred to as "mobilehome") foundation systems that shall be applicable throughout the state and shall supersede local ordinances.

2) Authorizes installation of a mobilehome on a foundation system as either a fixture or improvement to the real property, or on a foundation system as a chattel.

3) Requires, prior to a mobilehome being deemed a fixture or improvement to the real property, for the installation to comply with all of the following:

   a) Prior to installation of the mobilehome on a foundation system, the homeowner or a licensed contractor shall obtain a building permit from the appropriate enforcement agency. To obtain a permit, the owner or contractor shall provide the following:

      i. Written evidence that the homeowner holds title to the mobilehome or is purchasing the real property where the mobilehome is to be installed on a foundation system.

ii. Written evidence that the registered owner owns the mobilehome free of any liens or encumbrances or, in the event the legal owner is not the registered owner, or liens and encumbrances exist on the home, written evidence provided by the legal owner and any lienors or encumbrancers that the legal owner, lienor, or encumbrancer consents to the attachment of the home upon the discharge of any personal lien.

iii. Plans and specifications required by HCD regulations or an HCD-approved alternate for the mobilehome foundation system.

iv. The mobilehome installation instructions, or plans and specifications signed by a California-licensed architect or engineer, covering the installation of an individual mobilehome in the absence of manufacturer's instructions.

v. Building permit fees established by ordinance or regulation of the appropriate enforcement agency.

vi. An $11 fee for each transportable section of the mobilehome, to be transmitted to HCD at the time the certificate of occupancy is issued with a copy of the building permit and any other information required by HCD.

b) Requires the appropriate enforcement agency, within five business days of the issuance of the certificate of occupancy, to record a document naming the owner of the real property and stating that a mobilehome has been affixed to that real property by installation on a foundation system.

c) Requires the certification of title and other indicia of registration to be surrendered to HCD, pursuant to HCD regulations providing for the cancellation of registration of a mobilehome that is permanently attached to the ground on a foundation system. Provides that permanent affixation to a foundation shall be deemed to have occurred on the day a certificate of occupancy is issued to the homeowner and the document is recorded.

d) Provides that a mobilehome shall be deemed a fixture and a real property improvement once it is installed on a foundation system.

This bill allows a registered owner of a mobilehome in a mobilehome park that is converted or proposed to be converted to a resident-owned subdivision, cooperative, or condominium project, to submit written evidence of ownership as

proof that they own, hold title to, or are purchasing the real property where the mobilehome is to be installed.

COMMENTS

1) *Purpose.* The author states that due to the Lilac Fire in San Diego County, at least 75 manufactured homes burned to the ground, while others were seriously damaged. When the owners went to rebuild their homes, they found they could no longer obtain traditional loans because of a gap in the law. The only procedure for a manufactured home to be permanently affixed to a foundation is by obtaining a specific building permit. Unless a manufactured home owner is able to receive and record a 433A permit, HCD does not consider the home to be "real property." As a result, these homeowners are severely limited in their ability to obtain standardized financing and thus cannot afford to rebuild their homes. The author states that this bill will assist the homeowners who lost everything in the fire to rebuild their homes by clarifying existing law.

2) *Resident-owned mobilehome parks.* About 70% of California's mobilehomes are currently located in a mobilehome park. The residents of California's nearly 5,000 mobilehome parks typically own their homes and rent the spaces in the park in which the homes are placed. For various reasons, residents in some parks have decided to join together and buy the park or their individual spaces within it. Resident-owned parks can take several different legal forms, including nonprofit corporations or common interest developments (CIDs). Parks that operate as nonprofit corporations have the corporation purchase the park as a single property, and residents become shareholders or members of the corporation. Parks converted to CIDs are generally converted into a subdivision, condominium, planned development, or stock cooperative. Residents in a CID park own either a separate interest in the park, the actual parcel of land, or an exclusive right to occupy a portion of real property and a share of stock or membership.

3) *Personal property v. real property.* Existing law considers mobilehomes as either personal property or real property. To be considered real property, the home must be affixed to a piece of land, which occurs when the home is placed on a permanent foundation. Alternatively, an owner may install a home on piers with tie-downs; in this case, state law considers the home to be personal property (or chattel) because it is not permanently affixed to the underlying land.

   Existing law sets forth the procedures under which a mobilehome may be installed on, and become a fixture to, real property. These procedures

culminate in a document, known as a 433A form, being recorded to certify that the home has been affixed to a foundation. These procedures are important both for tax purposes for local government entities, and for mobilehome financing. Because mobilehomes are deemed personal property (or chattel) rather than real property at the time of purchase, buyers do not finance these homes with a mortgage as they do with site-built homes. The law recognizes this and allows companies that finance the purchase of mobilehomes to maintain a security interest in a home until it is paid off.

Existing law also sets out a process by which an owner of a mobilehome in a resident-owned park may apply for voluntary conversion of the home to a fixture and improvement to the underlying real property – without actually attaching the home to a foundation system. This was intended to allow conversion to real property for mobilehome park residents in a manner that would enable them to access traditional home financing, similar to that available to owners who actually attach their homes to foundations. However, most lenders do not consider the form that is generated under this process, referred to as a 433C form, sufficient to provide traditional financing options; the few lenders who will lend on a 433C will only offer chattel loans, which carry higher rates.

According to the author, San Diego County – the local enforcement agency – had been issuing mobilehome park owners who lived in CID parks the 433A form up until three years ago. At that time, the county became concerned that ownership of a separate interest in a CID did not constitute real property. This bill would provide that evidence of ownership in a CID is equivalent to holding title to, or purchasing the real property where the mobilehome is to be installed on the foundation system.

4) *Where are the banks on this?* Because mobilehomes are not traditional "stick built" homes, and tend to depreciate quickly, few lenders are willing to engage in mobilehome financing. Several lenders support this bill, and none have come out in opposition. Sequoia Home Funding states that as manufactured housing becomes an increasingly important part of affordable senior housing, making these units eligible for the widest range of financing options is an important social consideration. In addition, many seniors in mobilehome communities will replace older, obsolete, energy inefficient units if financing is available.

RELATED LEGISLATION:

AB 379 (Brown, Chapter 137, Statutes of 2013) — changed the process whereby the law deems a mobilehome a fixture or improvement to real property.

Assembly Votes:

Floor:	**78-0**
Approps:	**16-0**
H&CD:	**7-0**

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

(Rancho Monserate Country Club Homeowners Association, Inc. – sponsor
Cornerstone Home Lending, Inc.
NLC loans
San Diego County Board of Supervisors
Sequoia Home Funding
The Loftin Firm
Western Manufactured Housing Communities Association

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 2056	**Hearing Date:**	6/26/2018
Author:	Eduardo Garcia		
Version:	6/18/18 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Mobilehomes

DIGEST: This bill revises the Mobilehome Park Rehabilitation and Resident Ownership Program (MPRROP) under the state Department of Housing and Community Development (HCD) to allow financing of rehabilitation of a mobilehome park that is already owned by a nonprofit entity, allow loans in addition to grants, and allow financing of new park construction to replace a park that has been destroyed by a natural disaster.

ANALYSIS:

Existing law:

1) Establishes the Mobilehome Park Rehabilitation and Resident Ownership Program (MPRROP). Authorizes HCD to make MPPROP loans to individual low-income residents of mobilehome parks that have converted to resident ownership, or to resident organizations that have converted or plan to convert a mobilehome park to resident ownership. These loans are intended to reduce the monthly housing costs for low-income residents to an affordable level.

2) Allows HCD to make MPRROP loans to individuals to repair their mobilehomes and to nonprofit sponsors or local public entities to acquire mobilehome parks. These loans must either:

   a) Cure significant outstanding violations of state law governing health and safety in mobilehome parks, or

   b) Support a park acquisition that HCD determines will substantially benefit low- and moderate-income homeowners, including maintaining affordable space rent level.

3) Authorizes HCD to contract directly with nonprofit corporations that have significant experience working with mobilehome park residents, or in acquiring, rehabilitating, and preserving affordable housing, and have statewide or regional capacity to deliver technical assistance to mobilehome park residents or community-based nonprofit organizations, to assist them in acquiring, financing, operating, and improving mobilehome parks occupied by low- and moderate-income households.

This bill:

1) Authorizes HCD to make MPRROP loans to nonprofit sponsors or local public entities for rehabilitation, as well as acquisition, of a mobilehome park.

2) Authorizes HCD to make MPPROP loans to nonprofit sponsors or local public entities for construction of a new mobilehome park if all the of following apply:

   a) The park will replace a park located within the same county that was destroyed by a natural disaster.

   b) At least 50% of the residents of a destroyed park were low-income.

   c) The low-income residents of the destroyed park will be provided right of first refusal, for 180 days, to occupy mobilehomes in the new park at lease or rental terms equivalent to those in effect at the destroyed park.

3) Requires HCD, before providing financing for construction of a new park, to require a loan applicant to verify that:

   a) Rents at the park will be set at a level that is affordable to a household earning at or below 50% of area median income (AMI).

   b) The nonprofit sponsor or local public entity will comply with all state and local laws protecting mobilehome park residents, including but not limited to any local rent control ordinances.

4) Authorizes HCD to make MPRROP loans, in addition to grants, to resident organizations, qualified nonprofit housing sponsors, or local public entities to help lower income homeowners make repairs, make accessibility upgrades, or replace their mobilehomes.

5) Requires, for loans issued on or after January 1, 2019, that loan repayments be deferred for the full term of the loan. Requires HCD to charge a transaction fee

to cover costs but authorizes HCD to waive the fee if park residents cannot afford it. Requires for principal and accumulated interest to be due and payable at the end of the loan term. Requires the loan to bear a simple 3% annual interest rate on the unpaid principal balance. Requires HCD to require annual loan payments in the minimum amount necessary to cover the costs of project monitoring or, for the first 30 years of the loan term, the amount of the required loan payments shall not exceed 0.42% per year.

COMMENTS

1) *Purpose.* The author states that although more than $40 million is available in MPRROP, demand has fallen in recent years as the complexity and novelty of acquiring a mobilehome park has seemingly deterred would-be users of the program. One impediment is that in many parks in need of acquisition and rehabilitation, lower-income residents are already paying a significant portion of their income toward rent. Making one of these projects pencil out is challenging because rents cannot support additional debt. Stakeholders also note that MPRROP currently only funds rehabilitation of a park in conjunction with acquisition. However, some resident-owned parks, as well as some parks already owned by nonprofit entities, are in need of rehabilitation, and MPRROP is one of the few funding sources available. In addition, the author cites the need to assist mobilehome residents who have been impacted by the recent wildfires.

2) *MPRROP history.* The residents of California's nearly 5,000 mobilehome parks typically own their mobilehomes and rent the spaces in the park in which the homes are placed. For various reasons, mobilehome park residents in some parks have decided to join together and buy the park or their individual spaces within it. This is referred to as a conversion to resident ownership.

   Historically, when mobilehome parks have converted to resident ownership, the residents have initiated the process and enlisted the help of a nonprofit organization. The nonprofit organization typically buys the entire park and sells lots to individual owners. In 1984, the Legislature created the Mobilehome Park Purchase Fund under HCD to encourage and facilitate this process for converting mobilehome parks to resident ownership through low-interest loans to resident organizations, individual residents, qualified nonprofit housing sponsors, or local governments. This program is funded through a $5 fee that certain mobilehome owners pay along with their annual registration fee, as well as through loan repayment.

Between 1985 and 2001, the program provided loans to assist with the conversion of 66 mobilehome parks to resident ownership. Beginning in 2002, however, new loan activity under the program began to decline. In response, AB 225 (Chau, 2014) expanded (and renamed) the program to provide greater flexibility, including allowing HCD to lend funds to individuals to repair their mobilehomes and for nonprofit sponsors or local public entities to acquire mobilehome parks. These loans must either address health or safety violations or support a park acquisition that will benefit low- and moderate-income homeowners.

Despite the program expansion, however, HCD did not receive a single application for its $15 million notice of funding availability (NOFA) in January 2016. It should be noted that the maximum amount available to an eligible project under this program is $3.5 million. At an HCD workshop, attendees stated that MPRROP funds are not sufficient to complete a mobilehome park conversion. To help address these concerns, SB 136 (Leyva, 2017) allows HCD to contract directly with nonprofit corporations to provide technical assistance with acquiring, financing, operating, and improving mobilehome parks occupied by low- and moderate-income households.

RELATED LEGISLATION:

AB 2562 (Mullin, 2018) — authorizes HCD to adjust interest rates on loans issued to low-income rental housing projects and to provide flexibility on refinancing certain project loans. *This bill is also being heard in the Transportation and Housing Committee on June 26th.*

SB 136 (Leyva, Chapter 166, Statutes of 2017) — permitted HCD, as part of MPRROP, to contract directly with nonprofit corporations to deliver technical assistance to mobilehome park residents or community-based nonprofit corporations in order to assist mobilehome park residents in acquiring, financing, operating, and improving mobilehome parks occupied by low- and moderate-income households.

AB 225 (Chau, Chapter 493, Statutes of 2014) — gave HCD greater flexibility in its administration of the MPRROP fund, including allowing HCD to lend these funds for individuals to repair their mobilehomes and for nonprofit sponsors or local public entities to acquire mobilehome parks.

Assembly Votes:

Floor:	**60-17**
Approps:	**13-2**
H&CD:	**6-1**

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

California Coalition for Rural Housing (co-sponsor)
California Rural Legal Assistance Foundation (co-sponsor)
Non-Profit Housing Association of Northern California

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 2061	**Hearing Date:**	6/26/2018
Author:	Frazier		
Version:	6/18/2018 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Randy Chinn		

SUBJECT: Near-zero-emission and zero-emission vehicles

DIGEST: This bill authorizes specified zero-emission and near-zero emission vehicles to exceed vehicle weight limits by up to 2000 pounds.

ANALYSIS:

Existing law:

1) Establishes maximum gross or loaded weights, for vehicles, which vary based on the distance between axles and the number of axles. For two-axle vehicles the maximum weight is 40,000 pounds, for three-axle vehicles the maximum weight is 60,000 pounds, and for vehicles with four or more axles the maximum weight is 80,000 pounds.

2) Defines "zero-emission vehicle" as a vehicle that produces no emissions of criteria pollutants, toxic air contaminants, and greenhouse gases (GHGs) when stationary or operating, as determined by the California Air Resources Board (ARB).

3) Defines "near zero-emission vehicle" as a vehicle that utilizes zero-emission technologies, enables technologies that provide a pathway to zero-emissions operations, or incorporates other technologies that significantly reduce criteria pollutants, toxic air contaminants, and GHG emissions, as defined by the ARB in consultation with the State Energy Resources Conservation and Development Commission consistent with meeting the state's mid- and long-term air quality standards and climate goals.

4) Existing federal law permits natural gas vehicles to exceed weight limits on interstate highways by an amount equal to the difference between that vehicle and the weight of a comparable diesel tank and fueling system, at a maximum of 82,000 pounds.

This bill authorizes zero-emission and near-zero –emission vehicles to operate on California state and local roads if they exceed weight limits on the power unit by up to 2000 pounds to the extent expressly authorized by federal law.

COMMENTS

1) *Author's Statement.* "California's transportation sector accounts for 40% of all greenhouse gas emissions in our state. While heavy duty vehicles make up 3% of all vehicles on the road, they account for 23% of overall emissions. California must take steps to incentivize the purchase of cleaner trucks. To do this, we have to take into account the economic factors that impact the sale of these vehicles. Clean trucks weigh more than their diesel counterparts, and as a result of our weight limits, they have to give up their carrying capacity. This bill will remove this economic barrier for zero emission and near zero emission trucks by allowing them to maintain the same carrying capacity as diesel trucks."

2) *Let's Check.* Reducing GHG emissions is the reason the sponsors give for allowing overweight vehicles. If trucks can carry more payloads on each trip then fewer trips need to be made, reducing fuel use and therefore GHG emissions. While this may be true when looking only at the truck, a more accurate assessment would consider the effect of this bill on GHG emissions from a broader perspective. The mechanism by which heavier trucks could increase GHG emissions is that heavier trucks damage roads. Damaged roads reduce fuel efficiency for all vehicles. And damaged roads need more frequent repair. A comprehensive analysis would consider all of this. **The author and committee may wish to consider** commissioning such a study to validate the reason for this bill.

3) *More Weight Equals More Damage.* If only passenger vehicles used our roads there would be very little damage and our roads and bridges would have long lives. But a vibrant economy means heavier commercial vehicles are also using our roads. These vehicles can weigh 20 times more than a passenger vehicle and can cause much more damage. An analysis from the Government Accounting Office observed that one truck loaded to its legal limit damages the roads as much as 9,600 passenger vehicles.[1] Other studies have indicated lesser damage but all show that heavy trucks are at least 1,000 times more damaging to roads than passenger vehicles.[2] Damage to the roads is much more than

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[1] Comptroller General's report to Congress: An Expensive Burden We Can No Longer Support; CED-79-94.
[2] See "Too Big for The Road", from Governing, July 2007; also, "Residential Solid Waste Profile & Assessment Report" by Washtenaw County Michigan Department of Planning and Environmental Solid Waste Program, May 2005.

proportionate to the weight. Some analyses show that the road damage increases by the power of four to the increase in weight (e.g. a doubling of the weight increases the damage by 16 times).[3] Therefore, increasing the weight on one axle from 20,000 pounds, the current limit, to 22,000 pounds, as authorized by this bill, increases the road damage by nearly 50%.

Interstate freeways are engineered to carry heavy loads. The federal authorization for overweight natural gas trucks will therefore probably have little impact on the freeways. Federal law allows those trucks to have limited access to local streets, and it is on those streets that additional damage may arise. This bill allows overweight natural gas trucks, and any other vehicles that obtain a federal exemption, to be operated on all local roads. Last year this bill was focused on natural gas refuse trucks. That may be the most damaging application for overweight vehicles because those drive on every local street which, unlike freeways, are not engineered to carry heavy loads. Also, the damage from heavy vehicles occurs when the vehicle stops, as refuse trucks do at every residence. The stopping creates a friction which disturbs both the pavement and the subgrade. The damage done by heavy vehicles is magnified on already damaged roads. The sponsors note that the overweight only occurs towards the end of the route as the refuse truck fills. However, the extra 2000 pounds is carried all the time. Damage to local bridges, overpasses, and culverts is an additional concern because damage to those structures doesn't just break up the roadway; it makes them less safe. Before allowing these heavier trucks unlimited access to local roads and bridges, the author may wish to consider requiring local approval. That allows local governments to make a considered decision about whether the benefits from the potential GHG emission reductions outweigh the potential additional cost to their budgets. Alternatively, the author may wish to sunset the provisions of this bill after some interval to allow local governments to assess the impact of these overweight trucks on their streets. That would also allow a reconsideration of whether a weight exemption continues to be necessary, as technological advances will reduce the weight of these alternative powertrains (e.g. more efficient batteries, lighter materials).

4) *Conflicting Values*. Reducing greenhouse gas emissions and criteria pollutants is a statewide policy which is reflected in numerous California laws and regulations. But pursuit of this policy can conflict with other important public policy goals, such as maintaining safe and functional roads, highways and bridges. This bill will not encourage the replacement of diesel refuse trucks with natural gas-powered refuse trucks. New refuse trucks are typically natural

[3] See "Pavements and Truck Size and Weight Regulations", Working Paper 3 prepared for the Federal Highway Administration; February 1995.

gas-powered because they are more economical. And the South Coast Air Quality Management District currently requires all new refuse trucks to be natural gas. Consequently, raising maximum weights is not necessary if the goal is to replace diesel with natural gas.

5) *Paying for the Damage*. Because extra weight increases road damage, it may be appropriate for the parties causing the damage to pay for it, rather than leaving the cost to everyone else. At a minimum, the damage should be assessed. **The author and committee may wish to consider** commissioning an analysis to determine the cost, if any, of the increased damage caused by the extra weight of these vehicles and to recommend an appropriate fee.

6) Who Qualifies? While the characterization of when extra weight is permitted is clearly spelled out in the bill, implementing the bill may require an identification program by the CHP and a way to make that work with the automated scales being installed at CHP weigh stations. Federal overweight authorization has been given only to natural gas vehicles.

7) *Slippery Slope*. Allowing an exception to our maximum vehicle weight laws will inevitably invite additional requests for similar treatment. The exception granted in this case is based on explicit approval in federal law and greenhouse gas emission reductions. **The author and committee may wish to include** findings and declarations to this bill to make the narrow case for an exception clear.

RELATED LEGISLATION:

SB 53 (Hueso, 2017) — authorizes a motor vehicle with an engine fueled primarily by natural gas to exceed specified maximum weight limits by up to 2,000 pounds, and require a specified analysis to estimate the damage caused by these vehicles and a fee that compensates for the cost of that damage. *This bill died in the Senate Appropriations Committee.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

California Natural Gas Vehicle Coalition (Co-Sponsor)
CALSTART (Co-Sponsor)

San Diego County Disposal Association (Co-Sponsor)
Aces Waste Services Inc.
Agricultural Energy Consumers Association
American Pistachio Growers
Athens Services
Alameda County Industries
Atlas Disposal Industries
Autocrat Trucks
Bay Counties SMaRT
Bioenergy Association of California
Black Bear Environmental Assets
BLT Enterpises
Blue Line Transfer, Inc.
Burrtec Waste Industries
California Construction and Industrial Materials Association
California Dairies Inc.
California Grocers Association
California Manufacturers & Technology Association
California Refuse Recycling Council
California Tomato Growers Association
California Trucking Association
CalPortland Company
City of Los Angeles Department of Transportation
City of San Diego
Clean Energy
Clippercreek
Coalition for Clean Air
Cummins Westport Inc.
Desert Valley Disposal, Inc.
DVO Inc.
East Bay Regional Park District
East Bay Sanitary Co., Inc.
EDCO
Efficient Drivetrains
Escondido Disposal, Inc.
evLABs
Facility Builders & Erectors Inc.
FarWest Equipment Dealers Association
Fremont Recycling & Transfer Station Support
Garaventa Enterprises
Garden City Sanitation Inc.
Hyliion Inc.

Inland Empire Disposal Association
Kern Refuse Disposal Inc.
Livermore Sanitation
Los Angeles County Waste Management Association
Palm Springs Disposal Services
Peninsula Sanitary Service, Inc.
PG&E
Placer County Air Pollution Control District
Ramona Disposal Service
Recology
Renewable Natural Gas
Sacramento Metropolitan Air Quality Management District
San Diego Gas and Electric
Solid Waste Association of Orange County
South Lake Refuse & Recycling
South San Francisco Scavenger Company, Inc.
Southern California Gas Company
Southern California Edison
Specialty Solid Waste & Recycling
Sysco Corporation
Tesla
Thor Trucks
Toyota
Truck and Engine Manufacturers
Turlock Scavenger, Recycling, Transfer
Upper Valley Disposal & Recycling
UPS
Varner Bros., Inc.
Volvo
Waste Connections, Inc.
ZeroTruck

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 2161	**Hearing Date:**	6/26/2018
Author:	Chiu		
Version:	5/25/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Jeffery Song		

SUBJECT: Housing: homeless integrated data warehouse

DIGEST: This bill requires the Department of Housing and Community Development (HCD) to create a statewide homeless integrated data warehouse (data warehouse) in coordination with the Homeless Coordinating and Financing Council (Council).

ANALYSIS:

Existing law:

1) Establishes HCD to administer a variety of programs to meet a large range of housing needs, including emergency shelters and transitional housing, affordable rental housing, and affordable homeownership.

2) Establishes the Council to oversee and coordinate the implementation of the Housing First guidelines and regulations in the state, identify resources and services that can be accessed to prevent and end homelessness in the state, and requires the Governor to appoint up to 15 members to the council, as specified.

This bill:

1) Requires HCD to create a data warehouse to compile data from collaborative agencies' Homeless Management Information Services (HMIS) for the purpose of developing a composite portrayal of the homeless population in the state, as well as services currently provided to people who are homeless.

2) Requires the data warehouse to include the following information:
   a) Basic demographic information regarding individuals experiencing homelessness or who are at risk of homelessness;
   b) The number of individuals with disabilities and the number of families with a head of household experiencing a disability who have been homeless for at least one year or at least four times in the last three years;

c) Homeless individual's access to benefits;
d) The number of individuals and families experiencing homelessness;
e) The number and entry and exit dates of individuals and families living in emergency housing;
f) The number and entry and exit dates of homeless individuals and families living in permanent housing;
g) Last known location or ZIP Code of homeless individuals or families when housed;
h) Stated reasons for homelessness;
i) Disability status of people experiencing homelessness;
j) Veteran status of people experiencing homelessness; and
k) The number of unaccompanied youth experiencing homelessness.

3) Requires HCD, with the cooperation and collaboration of the Department of Corrections and Rehabilitation (CDCR), the Department of Education (CDE), the Department of Health Care Services (DHCS), the Department of State Hospitals (DSH), the Department of Social Services (DSS), the Department of Veterans Affairs (CalVet), and the Department of Alcohol and Drug Programs (ADP), to draft and carry out a strategy to create an integrated data warehouse and include information from these agencies to provide longitudinal, cost-based studies based on the following information:

a) The number of people imprisoned each year who were homeless upon arrest and the costs of their imprisonment;
b) The number of parolees experiencing homelessness each year and the costs of their parole;
c) The number of children in California schools experiencing homelessness;
d) Claims for Medi-Cal emergency department, hospital, and nursing home services among people experiencing homelessness, and the costs of those claims each year;
e) The number of children receiving foster care services whose family members are homeless and the costs of the foster care provided to those children each year;
f) The number of people who are homeless and receiving services, the costs of those services, and outcomes of those services through the DSH, DSS, CalVet, and ADP; and
g) The number of people living in housing funded through programs administered by HCD who were homeless upon admission.

4) Requires HCD to facilitate the creation of a users' group that includes a minimum of five and a maximum of 15 select members of contributing Federal

Continuum of Care Program Collaborative Applicants to ensure quality, relevance, and appropriate access to the integrated data.

5) Provides that the data warehouse shall comply with all relevant state and federal laws regarding privacy and personally identifying information.

6) Provides that upon completion of the data warehouse, as specified, participating agencies shall input their data at a minimum each quarter.

7) Encourages local agencies that use a HMIS to collaborate with HCD in developing the data warehouse.

COMMENTS

1) *Purpose.* The author states that California has the highest number of people experiencing homelessness in the country. Homelessness causes high costs to the state in many sectors, such as health, corrections, mental health, and social services. In order to get a better understanding of the homeless population in California and the costs and services needed to address the issue, we need accurate data on whether current interventions are working. This bill will create a database to assess costs of homelessness, identify gaps in services, and enhance planning and policy efforts, in order to better understand the nature of the state's homelessness population, develop evidence-based strategies to address homelessness, and evaluate what strategies work best.

2) *Homelessness Growing.* California is facing a major homelessness crisis. The state is home to 25% of the country's homeless population and 42% of the country's chronically homeless. Already home to the largest homeless population in the country, California experienced the largest increase in the number of residents experiencing homelessness from 2016 to 2017– over 16,000 individuals.[1]

3) *State Investments in Ending Homelessness.* The state is starting to make significant investments to increase the supply of affordable housing and housing for those who are homeless. In 2016, the Legislature passed No Place Like Home, creating $2 billion in new funding for construction of supportive housing units. This November, voters will consider approving a $4 billion bond that includes $1.5 billion for affordable housing developments. SB 2 (Atkins, Chapter 364, Statutes of 2017) will also generate ongoing funding for affordable housing, including significant funding in the first year to address homelessness.

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[1] https://www.hudexchange.info/resources/documents/2017-AHAR-Part-1.pdf

4) *Homeless Coordinating and Financing Council.* In 2016, SB 1380 (Mitchell) created the Council to better coordinate the state's response to homelessness. The Council has representatives from many of the state agencies that provide services to homeless people, including HCD, DSS, and DHCS. One of the stated goals of the Council is to create a statewide data system or warehouse that collects local data through HMIS, with the ultimate goal of matching data on homelessness to programs impacting homeless recipients of state programs, such as Medi-Cal and CalWORKS.

   This bill directs HCD and the Council to create this data warehouse, and provides specifications on what data should be included and how it should be collected. Additionally, the bill directs HCD to collaborate with and gather information from other state agencies that serve homeless people in the state. By gathering HMIS data and integrating it with data from the numerous state agencies, the state would have a valuable tool to assist with structuring programs and services that assist the homeless to improve outcomes and decrease administrative and program costs.

5) *Homeless Management Information Systems.* Federal funding for supportive housing and other homeless services is coordinated through local jurisdictions called Continuums of Care (CoC). The U.S. Department of Housing and Urban Development (HUD) requires all CoCs to implement a HMIS in order to receive and use federal funding. A HMIS is a local information technology system that is used to collect and track client-level data and data on the provision of housing and services to homeless individuals. California has 43 CoCs, each of which is responsible for selecting and implementing an HMIS software solution that complies with HUD's data collection, management, and reporting standards.

   One problem is that these databases are not connected. Therefore, individuals who experience homelessness in more than one CoC may get counted more than once in statewide counts. Also, if they receive services in multiple CoCs, then the full extent of the services they receive is unknown by each CoC. Without accurate aggregated state-wide data, researchers have found it to be difficult to evaluate the state's homeless population and programs, and to monitor the state's progress towards addressing homelessness. Several states, including Michigan, Connecticut, and New York have built statewide HMIS data warehouses to better inform their policies to address homelessness. This bill, in part, directs HCD, in coordination with the Council, to create a statewide HMIS data warehouse throughout California for the purpose of developing a composite portrayal of the homeless population in the state.

6) *Technical Concerns*. There are likely to be implementation issues. Compiling data from 43 different CoCs, and many different software implementations of HMIS, into one database will require significant investments in Information Technology staff and resources to accomplish it. A few states have successfully created similar state-wide databases, as described in this bill, but they have fewer CoCs to compile. Gathering data from state agencies is also potentially complicated, due to differences in data collection and management standards, and in the different sectors (prisons, hospitals, and schools) that interact with homeless people. Under this bill, HCD and other state agencies would have to figure out how to properly manipulate and transform the relevant data in order to integrate it correctly into one data warehouse.

7) *Privacy Concerns*. There are also concerns about ensuring the privacy of individuals, whose data is being shared and collected. The bill states that the data warehouse shall comply with all relevant state and federal laws regarding privacy and personally identifying information. Each HMIS has its own privacy policies in place, which include contractual obligations and standards of privacy, which cannot be overridden by the state. To develop the data warehouse, HCD would have to negotiate and implement protection that satisfies the privacy requirements for all the various contracts and obligations. One option to avoid sharing protected personal information would be to create an ID system that allows matching records without sharing protected personal information.

8) *Technical Amendments*. **The author may wish to consider** amending the bill to remove the reference to the Department of Alcohol and Drug Programs, which is currently a part of the DHCS, an agency already included in the bill. **The author may also wish to consider** amending the bill to clarify that the information from state agencies be integrated into the data warehouse with the HMIS data, rather than creating two distinct data warehouses.

RELATED LEGISLATION:

SB 850 (Committee on Budget and Fiscal Review) — would among other things, increase the membership of the Council from 15 to 17, and require the Business, Consumer Services, and Housing Agency to staff the Council rather than the Department of Housing and Community Development. *This bill is currently enrolled.*

SB 1380 (Mitchell, Chapter 847, Statutes of 2016) — established the Homeless Coordinating and Financing Council to oversee implementation of Housing First

regulations and identify resources, benefits, and services to prevent and end homelessness in California.

AB 663 (Ammiano, 2012) — would have required the Department of Housing and Community Development to create a statewide Housing Management Information System (HMIS), contingent on receiving federal and private funds. *This bill was held on suspense in Senate Appropriations.*

Assembly Votes:

Floor	**59-17**
Approps	**13-2**
H&CD	**5-1**

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:
Corporation for Supportive Housing (co-sponsor)
Housing California (co-sponsor)
American Planning Association
Bay Area Council
California Access Coalition
California Apartment Association
California Coalition for Youth
California Commission on Aging
City of Emeryville
City of San Francisco
City of Santa Ana
City of Santa Monica
Disability Rights California
Depression and Bipolar Support Alliance
San Francisco Bay Area Rapid Transit District (BART)

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 2381	**Hearing Date:**	6/26/2018
Author:	Carrillo		
Version:	5/25/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Manny Leon		

SUBJECT: Vehicles: emissions: certification, auditing, and compliance

DIGEST: This bill requires the state Air Resources Board (ARB) to enhance its emissions testing of new motor vehicles and authorizes ARB to impose a fee on vehicle manufacturers to cover implementation costs.

ANALYSIS:

Existing law:

1) Requires ARB to achieve the maximum degree of emission reductions possible from vehicular and other mobile sources in order to achieve attainment of state ambient air quality standards.

2) Requires ARB to adopt and implement emission standards for new motor vehicles that are necessary and technologically feasible.

3) Prohibits a new motor vehicle or new motor vehicle engine from being certified by ARB unless the vehicle or engine meets certain emission standards adopted by ARB.

4) Prohibits a new motor vehicle from being sold and registered in the state unless the manufacturer allows ARB to conduct surveillance testing on the vehicle.

5) Authorizes ARB to impose a fee, by regulation, on manufacturers of new motor vehicles to recover the costs of conducting surveillance of new motor vehicles prior to retail sales and to impose penalties if the fees are not paid.

6) Requires ARB to establish criteria for the evaluation of the effectiveness of motor vehicle pollution control devices.

7) Prohibits a person from installing, selling, or offering for sale any device, apparatus, or mechanism intended for use with, or as a part of, a required motor vehicle pollution control device or system that alters or modifies the original design or performance of the motor vehicle pollution control device or system.

8) Establishes civil penalties for violations of new motor vehicle emission standards or altering or modifying a motor vehicle pollution control device.

This bill:

1) Defines "real-world conditions emissions testing" to include both new and used vehicles being driven on-road, outside of normal laboratory testing conditions.

2) Requires ARB to enhance its certification, audit, and compliance of new motor vehicles to detect defeat devices or other software used to evade emissions testing, including the utilization of real-world conditions emissions testing.

3) Allows ARB to enter into agreements with academic institutions and associated laboratories to develop new surveillance methods and test cycles, perform emissions testing on behalf of the state, or conduct research on vehicle emissions testing.

4) Creates the Certification Fund and the Certification Penalty Account in the State Treasury and requires the moneys in the funds be available upon appropriation by the Legislature.

5) Allows ARB, by regulation, to impose fees on new motor vehicles in order to implement this bill, requires that the amount collected not exceed $7 million in fiscal year 2019-20, and prohibits an increase in subsequent years except as warranted by the annual increase in the California Consumer Price Index.

6) Imposes penalties on manufacturers who fail to pay a fee under the bill as follows:

   a) A 10% additional charge if the invoice is not paid within 60 days, unless the manufacturer asks for additional information in order to honor the invoice, upon which an additional 90 days is granted to pay a fee without penalty.

   b) Sixty days after receiving the invoice, an interest penalty is added that is equal to the rate earned by the Pooled Money Investment Account of all

cumulative penalties for each 30-day period the invoice remains unpaid.

c) An additional 100% penalty of all cumulative penalties for any invoice that remains unpaid a year after the receipt of the invoice.

d) An additional 100% penalty of all cumulative penalties for any invoice that remain unpaid two years after the receipt of the invoice.

e) Requires all fees to be deposited into the Certification Fund and all penalties to be deposited into the Certification Penalty Account.

COMMENTS

1) *Purpose.* According to the author, "AB 2381 would partner the ARB with academic institutions, associated laboratories, and experts in order to enhance their new motor vehicle emissions testing program and detect these heinous defeat devices. AB 2381 would also give the ARB the ability to secure additional funding to perform more independent testing. AB 2381 will keep ARB at the forefront of protecting California's air from those who would flout our laws, pollute our environment, and harm our residents."

2) *Background: the VW scandal.* As early as 2013, regulators in California and the European Union noticed that emissions from Volkswagen diesel engines were higher than expected when the cars were tested in actual operating conditions. Clear evidence that the vehicles' on-road emissions deviated from laboratory testing levels came in May 2014 in a study by university researchers working in cooperation with ARB. The study results prompted ARB and US EPA to launch their own investigations. On September 3, 2015, representatives of Volkswagen admitted to staff of US EPA and ARB that a large number of their vehicles had been designed and manufactured with a software-based "defeat device" to bypass, defeat, or render inoperative elements of the vehicles' emissions control systems. As a result, those vehicles are able to pass emissions tests despite exceeding federal emissions standards by up to 40 times. According to vehicle sales data, there are estimated to be 617,000 of these vehicles nationally, of which about 79,000 are in California. US EPA and ARB are currently also investigating Fiat Chrysler for alleged similar violations.

3) *Federal and state emissions testing requirements.* Nationally and statewide, the transportation sector is responsible for a major portion of air pollution. To address transportation sector emissions, the federal Clean Air Act authorizes US EPA to establish and regulate standards for mobile sources of air pollution. Because of its pre-existing vehicle emissions standards and motor vehicle air

pollution problems, California is also authorized under the Clean Air Act to implement separate, stricter state mobile emissions standards.

Both US EPA and ARB regulations require a manufacturer, prior to introducing a vehicle for sale, to demonstrate that it meets certain federal and state emissions standards. Only after undergoing this certification process are vehicles legal for sale in California. In California, applications must be concurrently submitted to, and approved by, both US EPA and ARB. A manufacturer that fails to comply is subject to civil penalties and other enforcement actions. The current maximum federal penalty is $37,500 per violation. A violation of the state certification carried a fine, up until 2017, of up to $5,000 per vehicle; AB 1685 (Gomez, Chapter 604, Statutes of 2016) brought the state fine in line with the federal fine.

4) *Catching cheaters at the front end.* Under partial settlements with ARB and US EPA, Volkswagen is now paying billions of dollars in penalties, mitigation, and investments in zero emission vehicles. Additionally, Volkswagen must make a concerted effort to either repair the offending vehicles or remove them from the road. No payment or action, however, can undo the negative air quality impact of these vehicles to date. This bill aims to ensure that ARB is able to catch any emissions violators prior to the vehicles hitting the road, i.e., before they can negatively impact California's air quality.

5) *Double Referral.* This bill passed out of the Senate Environmental Quality Committee on June 20th on a 7-0 vote.

RELATED LEGISLATION:

AB 582 (C. Garcia, 2017) — almost identical to this bill, would have required the ARB to enhance its certification, audit, and compliance workload activities for new motor vehicles to detect defeat devices or other software used to evade emissions testing. Also would have authorized ARB to impose new fees and penalties, and created the Certification Fund and the Certification Penalty Account. *This bill was held on suspense in the Senate Appropriations Committee.*

ACR 112 (Hadley, Chapter 117, Statutes of 2016) — described the events that led to the discovery of the Volkswagen defeat devices and declared that the Legislature thanks ARB for its exemplary work uncovering the Volkswagen defeat devices. It also declared that the Legislature supports ARB increasing the use of real-world emissions verification testing.

Assembly votes:

Floor:	**62-11**
Approps:	**14-0**
Trans:	**14-0**
Nat Rcs:	**10-0**

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

American Lung Association
California League of Conservation Voters
Coalition for Clean Air
Valley Clean Air Now

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 2433	**Hearing Date:**	6/26/2018
Author:	Salas		
Version:	2/14/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Howard Posner		

SUBJECT: Department of Transportation: voluntary inspection and testing services

DIGEST: This bill authorizes the California Department of Transportation (Caltrans) to establish an account to manage moneys for voluntary inspection and testing services.

ANALYSIS:

Existing law:

1) Grants Caltrans broad powers to acquire, construct, and control all state highways.

2) Creates the State Highway Account (SHA) in the State Transportation Fund. Funds in the account are available for expenditure on work within the powers and duties of Caltrans, including, but not limited to, services, investigations, surveys, experiments, reports, right-of-way acquisitions, major and minor construction, maintenance, improvements, and equipment.

3) Requires, under federal regulations, each state transportation department to develop a quality assurance program which will assure that the materials and workmanship incorporated into each federal-aid highway construction project on the national highway system conform to the requirements of approved plans and specifications.

This bill authorizes Caltrans to establish a subaccount within the SHA to accommodate deposits and expenditures of moneys relative to voluntary inspection and testing services.

COMMENTS

1) *According to the sponsor*, the California Construction and Industrial Materials Association, current Caltrans procedures only allow paving materials to be tested after they have been designated for use on a particular project. The result is that state and local highway construction projects can be delayed 30 days or more while this testing is completed.

2) *How did we get here?* Caltrans' transitioned several years ago to a primarily zero-based budget system where costs associated with personnel and expenses for capital outlay and support are to be assigned to a particular project. Zero-based budgeting allows Caltrans project managers to accurately monitor and report on expenditures throughout a project and helps to ensure Caltrans is accountable to stakeholders.

   As a result of zero-based budgeting, Caltrans is reducing and/or eliminating many overhead charging practices. While this move will improve project accountability, it limits the department's flexibility to perform work unless the work can be attributed directly to a project. As an example, prior to zero-based budgeting, Caltrans routinely carried out certain concrete and asphalt plant and material inspection and testing functions during the winter, outside of the construction season. This practice allowed Caltrans to better manage the workload associated with these inspection and testing services, and also allowed plants and suppliers to be up, running, and certified at the beginning of construction season. Caltrans halted these pre-certification activities, however, when it went to zero-based budgeting. Now, the necessary inspections and testing do not begin until a project has been awarded. This allows Caltrans to assign the cost and personnel resources to a specific project, rather than characterize them as overhead.

3) *What is the practical effect?* This re-designed business practice is resulting in project delays. Where contractors used to be able to commence work using pre-certified concrete and asphalt plants soon after a project was awarded, Caltrans' new zero-based budgeting process effectively prohibits this from happening at the beginning of the construction season. Plant and materials certification cannot begin until a project is awarded and a specific concrete or asphalt plant and mix design are chosen. The process of testing materials takes over 30 days to complete. The actual testing process cannot be condensed because it requires, for example, concrete to set up for a specified number of days/weeks before certain tests can be completed. As a result, contractors are idled while the certification and testing are completed.

This new process is primarily affecting projects initiated early in the construction season, when many plants need certification and testing at about the same time. Once completed, certifications are generally valid for a year, allowing future projects using the same mix designs from already-certified plants to proceed after only minimal project-specific testing. Consequently, the backlog causes further delays in Caltrans being able to conduct the necessary inspection and testing work. This backlog, along with the fixed length of time it takes to complete the actual testing, is delaying projects by about 50 days.

4) *Proposed solutions*. Caltrans and the construction industry worked collaboratively for six years to address the issues caused by the new zero-based budget process. As a result of that work, Senator Roth introduced SB 389 last year, which authorized Caltrans to develop a fee-for-service program for specific services related to concrete and asphalt plant inspection and testing. That bill effectively allowed Caltrans to return to its previous practice of pre-certifying plants and mix designs in the off season, for those plant operators that choose to participate in the program, thereby enabling plants to be up and running at the beginning of the construction season. According to industry representatives, the price of the fee to be pre-certified is more than offset by the certainty that projects will not be delayed for lack of inspection and testing. SB 389 died in the Assembly Appropriations Committee.

   This bill is the industry's new attempt at a solution to the problem. The bill creates a subaccount within the State Highway Account wherein Caltrans could receive funding from plant operators to enable it to conduct pre-certification inspection and testing. It has been argued, however, that the real problem is not legislative but administrative and that Caltrans needs to address it through improving its business practices or by simply restarting the pre-certification program under its existing authority. The author in turn believes that this bill is necessary to encourage Caltrans and the administration to continue trying to address the underlying problem of project delays and increased costs.

RELATED LEGISLATION:

SB 389 (Roth, 2017) —would have authorized Caltrans to develop a fee-for-service program for specific services related to concrete and asphalt plant inspection and testing. *SB 389 was held on Suspense in the Assembly Appropriations Committee.*

ASSEMBLY VOTES:

Floor:	**78-0**
Transportation:	**14-0**

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

California Construction and Industrial Materials Association (Sponsor)
Applied Conveyor Technology
California Asphalt Pavement Association
California Nevada Cement Association
Central Concrete Supply Co.
DeSilva Gates Construction
Granite Construction Inc.
Granite Rock
Lehigh Hanson
Puente Ready Mix
Pyramid Materials
Robertson's Rock and Sand
Santa Fe Aggregators
Syar Industries
Teichert Materials
Vulcan Materials Company

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 2562	**Hearing Date:**	6/26/2018
Author:	Mullin		
Version:	6/18/2018 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Department of Housing and Community Development loans

DIGEST: This bill authorizes the state Department of Housing and Community Development (HCD) to adjust interest rates on loans issued to low-income rental housing projects and to provide flexibility on refinancing certain project loans.

ANALYSIS:

Existing law:

1) Creates the state low income housing tax credit (LIHTC) program within the Tax Credit Allocation Committee (TCAC) in the State Treasurer's Office. TCAC administers state LIHTCs to augment federal LIHTCs.

2) Authorizes HCD to reduce the interest rate on any loan it issues to a rental housing development to as low as 0.42% per year, or a rate determined by HCD that is sufficient to cover the costs of project monitoring, whichever is greater, if the development meets all of the following requirements:

   a) The development has no other debt with regularly scheduled or amortizing debt service payments. HCD may impose a default interest rate of 3% should amortizing debt be placed on the project.

   b) The development will utilize LIHTCs.

   c) The sponsor determines that the loan issued by HCD is not eligible to be treated as debt for federal or state LIHTC purposes without a reduction in the interest rate of the loan. The determination must be acceptable to HCD, who may contract with a third-party tax professional for verification, the cost of which shall be borne by the sponsor.

   d) The development has no debt in a senior lien position to HCD's debt.

e) The development has 35% or more of the total units in the project serving households with income not exceeding 30% of area median income.

f) The new HCD loan shall not be used to supplant or replace an existing HCD loan.

3) Authorizes HCD to change the current interest rate for any loan for which it receives a loan extension request associated with an award of federal or state low-income housing tax credits made on or after January 1, 2014, to the applicable federal rate most recently published by the Internal Revenue Service.

4) Requires HCD to charge a fee to cover administrative costs.

5) Authorizes a sponsor to apply for loans for rental or transitional housing developments under the Multifamily Housing Program (MHP).

6) Authorizes HCD to approve an extension of an existing MHP loan, the subordination of an existing loan to new debt, or an investment of tax credit equity under specified circumstances. Requires all MHP loan payments to be deferred for the full term of the loan, except for residual receipts payments, which shall be structured to avoid reducing the amount of payments on local public agency loans as specified.

7) Authorizes HCD to charge a transaction fee to cover its restructuring costs, though it may waive the fee if it determines that a particular development does not have the ability to make these payments.

8) Authorizes a sponsor to apply for MHP loans for loans for one or more rental or transitional housing developments, as specified.

This bill:

1) Revises the conditions a rental housing development must meet in order for HCD to reduce the interest rate on its loan, as follows:

a) Eliminates the requirement that the development have no other debt with regularly scheduled or amortizing debt service payments.

b) Provides that HCD (rather than the sponsor) must determine if the loan is eligible to be treated as debt for federal or state LIHTC purposes without a reduction in the interest rate, or if the development is not able to syndicate

due to projected negative capital account balances. (A syndicated loan is one in which two or more lenders jointly provide loans for one or more borrowers on the same loan terms and the same loan agreement.) Authorizes HCD to require a third-party tax professional to verify the determination, the cost of which shall be borne by the sponsor.

c) Eliminates the requirement that the development have no debt in a senior lien position to HCD's debt.

d) Eliminates the requirement that the development have 35% or more of the total units in the project serving households with income at or below 30% AMI.

e) Adds a requirement that the change in the interest rate will materially increase the feasibility of the proposed project and will ensure long-term affordability for residents.

2) Modifies the authority for HCD to change the current interest rate pursuant to a loan extension request associated with an award of federal or state LIHTCs made on or after January 1, 2014, by specifying that HCD can use the applicable federal rate in effect at the time of the project closing rather than the most recent rate published by the IRS.

3) Authorizes (rather than requires) HCD to charge a fee to cover administrative costs.

4) Provides that this bill shall not affect any interest rate reduction authorized by HCD prior to this bill being enacted.

5) Authorizes each extension of an existing loan, subordination of an existing loan, or investment of tax credit equity under MHP to be made in connection with the combining of multiple sites or collateral as if the existing loan were a new loan.

COMMENTS

1) *Purpose.* The author states that federal LIHTCs are the backbone of affordable housing finance in California. This bill grants HCD broad authority to adjust interest rates on MHP loans that utilize LIHTCs in order to make affordable housing projects feasible. The author states that local public agencies have been adjusting their interest rates for years to make affordable projects feasible; this bill will provide flexibility at the state level as well. This flexibility can

result in more equity leveraged from tax credit investors to pay for affordable housing.

2) *LIHTC programs*. The LIHTC is an indirect federal subsidy developed in 1986 to incentivize the private development of affordable rental housing for low-income households. The federal LIHTC program enables low-income housing sponsors and developers to raise project equity through the allocation of tax benefits to investors. TCAC administers the program and awards credits to qualified developers, who can then sell those credits to private investors who use the credits to reduce their federal tax liability. The developer in turn invests the capital into the affordable housing project. In 1987, the Legislature authorized a state LIHTC program to augment the federal program. State tax credits can only be awarded to projects that have also received, or are concurrently receiving, an allocation of the federal LIHTCs.

3) *MHP and LIHTC.* HCD's loans for affordable rental housing are "soft" loans, meaning that most principal and interest payments are deferred to the end of the loan term rather than being due on a monthly basis. MHP provides deferred payment loans to developers for the construction of affordable housing for low- and very low-income individuals; lowering the developer's debt service expenditures enables the developer to offer lower rents. For these loans to be considered a loan rather than a grant for LIHTC purposes, a project sponsor must be able to demonstrate how it could plausibly repay the loan. Because MHP loans carried a 3% deferred interest rate, it sometimes created conflicts for projects that received an MHP loan, reducing the amount of federal LIHTCs for which the project could qualify.

   In addition, to receive the benefits of the federal LIHTC, owners of qualifying rental housing must maintain compliance with low-income occupancy requirements for a minimum of 15 years. Once the 15-year compliance period is complete, an investor typically no longer has an economic interest in the investment and wants to dispose of it. In some cases, this left the developer liable for a large amount of "exit taxes," potentially putting the development at risk.

   To address these issues, AB 523 (Ammiano, 2014) authorized HCD to, in limited circumstances, reduce the interest rate on a project that receives an MHP loan and is also awarded an LIHTC. To qualify, a sponsor has to demonstrate to HCD that without the reduction in interest rate on the MHP loan, the amount of tax credit the project could qualify for would be reduced and there are no other loans on the development that require ongoing payments.

This bill provides additional flexibility in the circumstances under which HCD may adjust the interest rate on an MHP loan.

4) *Combining project loans.* The author states that although the MHP regulations allow new MHP-funded projects to be "scattered site" (e.g., affordable units located on different sites), HCD does not feel it has legal authority to back this up. As MHP loans hit their post-year 15 phase and sponsors want to refinance in order to rehabilitate and recapitalize the projects, there is an increasing need to combine smaller properties to achieve economies of scale. This bill provides explicit authority to combine old MHP deals with other projects into a scattered site during a refinancing.

5) *Federal tax reform.* The 2017 federal tax reform bill, the Tax Cuts and Jobs Act, lowered the corporate tax rate from 35% to 21%. As a result, the value of the LIHTC, which provides a way for corporations to offset some of their federal tax liability, has declined. Though the 2018 federal omnibus spending bill increased LIHTC allocations by 12.5%, experts estimate that the net effect of the two bills will result in a loss of about 204,000 affordable rental homes nationwide over the next decade. In California specifically, the 12.5% increase is worth about $125 million annually over the four-year term of the increase, but the corporate rate change will cause a loss of $500 million per year in LIHTC value on a permanent basis. The modifications in this bill could prevent existing affordable rental housing developments that utilize LIHTCs from losing their affordability and make it easier for future projects awarded LIHTCs to maintain affordability.

RELATED LEGISLATION:

AB 523 (Ammiano, Chapter 445, Statutes of 2014) — allowed HCD to reduce the interest rate on any loan it has issued to a rental housing development under specified conditions.

Assembly Votes:

Floor:	**54-24**
Approps:	**12-4**
H&CD:	**6-1**

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

City of San Jose
Corporation for Supportive Housing
LeadingAge California
Non-Profit Housing Association of Northern California

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 2588	**Hearing Date:**	6/26/2018
Author:	Chu		
Version:	5/25/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Manufactured housing

DIGEST: This bill requires all used mobilehomes that are sold or rented to have a smoke detector and requires mobilehome park owners to post emergency procedures annually, in multiple languages, as specified.

ANALYSIS:

Existing law:

1) Requires, beginning January 1, 2009, for any used manufactured home, used mobilehome, or used multifamily manufactured home (hereafter referred to as mobilehome) that is sold to have a smoke alarm installed in each room designed for sleeping.

2) Requires all mobilehomes manufactured on or after September 16, 2002 to have smoke alarms that comply with the federal Manufactured Housing Construction and Safety Standards Act.

3) Requires all mobilehomes manufactured prior to September 16, 2002 to have smoke alarms installed in accordance with the terms of their listing and installation requirements. Allows battery-powered smoke alarms when installed in accordance with the terms of their listing and installation requirements. The smoke alarm manufacturer's information describing the operation, method, and frequency of testing, as well as proper maintenance, must be provided to the purchaser.

4) Provides, beginning January 1, 2009, that these requirements shall be satisfied if, within 45 days prior to the date of transfer of title, the transferor signs a declaration stating that each smoke alarm in the mobilehome is installed and operable on the date the declaration is signed.

5) Authorizes the state Department of Housing and Community Development (HCD) to promulgate rules and regulations to clarify or implement these provisions.

6) Requires every mobilehome park to have an individual who is responsible for, and able to respond in a timely manner concerning, the operation and maintenance of the park. For parks of 50 or more units, this individual must live in the park, have knowledge of emergency procedures relating to utility systems and common facilities, and be familiar with the emergency preparedness plans for the park.

7) Requires every park owner or operator to adopt an emergency preparedness plan and to post notice of the emergency preparedness plan in the park clubhouse or in another conspicuous area within the park.

8) Requires an owner or operator of a park to provide notice of how to access the plan and information on individual emergency preparedness information from the appropriate state or local agencies to all existing residents and, upon approval of the tenancy, for all new residents thereafter.

9) Requires an enforcement agency to determine whether park management is in compliance.

10) Provides that a violation of these provisions shall constitute an unreasonable risk to life, health, or safety and shall be corrected by park management within 60 days of notice of the violation.

This bill:

1) Requires, beginning January 1, 2019, for all used mobilehomes that are sold or rented to have a smoke alarm that has been approved and listed by the Office of the State Fire Marshal beginning January 1, 2014.

2) Requires a park owner or operator to post notice of the emergency preparedness plan in every park on or before January 1 of each year, in the park clubhouse or in another conspicuous area within the park.

3) Requires a park owner or operator, on or before September 10, 2019 and annually thereafter, to provide to residents notice of how to access the plan; information on individual emergency preparedness information from the appropriate state or local agencies; and how to obtain the plan in a language other than English.

4) Requires the park owner or operator to make the emergency preparedness plan available in English, the Medi-Cal threshold languages, and, upon written request by a resident, the language spoken by that resident. Requires HCD to provide translation services to the park operator or owner.

COMMENTS

1) *Purpose.* The author states that this bill stems from a tragic fire in a mobilehome in his district. Last August, a fire in a San Jose mobilehome park killed three community members, two of whom were young children. In the months following that tragic event, California experienced fires that devastated several communities. The author states that this bill will make our mobilehome communities safer by improving fire preparedness and safety, breaking down language barriers to critical emergency preparedness materials, and putting more effective smoke detectors in homes.

2) *Medi-Cal threshold languages.* According to the U.S. Census Bureau, roughly 44% of Californians speak a language other than English at home; within the Medi-Cal population, roughly 38% speak a language other than English as their primary spoken language. The most frequently reported languages among Medi-Cal's non-English speakers are Spanish, Vietnamese, Cantonese, Mandarin, and Armenian. State law defines "threshold language" as a language that has been identified as the primary language of 3,000 beneficiaries or 5% of the beneficiary population, whichever is lower, in an identified geographic area. This bill requires a park owner or operator to make the emergency preparedness plan available in English, the Medi-Cal threshold languages, and, upon request, other languages. Including English, 207 languages are spoken in California.

3) *Smoke detectors.* The author notes that national data indicates that 51% of manufactured homes that have suffered fires had no smoke alarm. Although there are federal requirements for alarms, residents often remove them. In California, despite the update of the State Fire Marshal standards, state law allowed stores to continue selling off their remaining stock of older smoke alarms until 2015. This law also allowed residents to keep their existing smoke detectors until inoperability, leaving many older smoke detectors in manufactured homes. This bill updates smoke detector requirements to meet current Fire Marshal standards.

4) *Emergency plans.* Existing law requires every park owner or operator to adopt an emergency preparedness plan and to post notice of this plan in the park clubhouse or other common area. Existing law does not, however, require that

the plan or notice be in a language other than English. The author states that language barriers create serious safety risks when residents cannot understand this critical fire and safety information. This bill seeks to address that gap by requiring the emergency preparedness plan and notice to be posted in languages other than English, as specified. This bill also requires the notice to be posted at least annually.

5) *Opposition arguments*. The Western Manufactured Housing Communities Association (WMA) states that it supported the legislation requiring park owners to post emergency preparedness plans (SB 23, Padilla, 2009). They state, however, that SB 23 included legislative intent language stating that an owner is not responsible for physically evacuating residents from their homes, but rather, residents must take personal responsibility for themselves in an emergency. WMA also expresses concern that HCD does not have sufficient resources to provide the translation services called for in this bill. The California Mobilehome Parkowners Alliance (CMPA) states that lengthy emergency preparedness plans would be less useful than simple evacuation maps, and that translation services could prove costly to HCD or even to park owners.

RELATED LEGISLATION:

SB 1394 (Lowenthal, Chapter 420, Statutes of 2012) — among other things, required, after January 1, 2014, that a smoke alarm must meet specified requirements in order to be approved by the State Fire Marshal.

SB 23 (Padilla, Chapter 551, Statutes of 2009) — required an owner or operator of a mobilehome park or a recreational vehicle park to adopt and post notice of an emergency preparedness plan.

AB 2050 (Garcia, Chapter 737, Statutes of 2008) — required, at the time of sale, all mobilehomes and manufactured homes to have a smoke alarm installed in each room designed for sleeping and to have all fuel-gas-burning water heaters seismically braced, anchored, or strapped.

Assembly Votes:

Floor:	**52-19**
Approps:	**12-3**
H&CD:	**6-1**

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

City of San Jose (sponsor)
American Red Cross
Golden State Manufactured Home Owners League

OPPOSITION:

California Mobilehome Parkowners Alliance
Western Manufactured Housing Communities Association

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 2851	**Hearing Date:**	6/19/2018
Author:	Grayson		
Version:	5/25/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Randy Chinn		

SUBJECT: Regional transportation plans: traffic signal optimization plans

DIGEST: This bill authorizes each city within the jurisdiction of the Metropolitan Transportation Commission (MTC) to develop and implement a traffic signal optimization plan and directs the California Department of Transportation (Caltrans) to ensure its traffic signals within these cities are adjusted and maintained in accordance with the plan.

ANALYSIS:

Existing law:

1) Requires designated regional transportation planning agencies to, among other things, prepare and adopt a regional transportation plan with various elements as specified. Regional transportation planning agencies must consider and incorporate the transportation plans of its jurisdiction's cities, counties, and districts into its regional transportation plans.

2) Designates the MTC as the regional transportation planning agency for the nine-county San Francisco Bay Area and assigns it the responsibility to, among other things, prepare and adopt a regional transportation plan.

This bill:

1) Authorizes each city within the jurisdiction of the MTC to develop and implement a traffic signal optimization plan

2) Directs the California Department of Transportation (Caltrans) to ensure its traffic signals within these cities are adjusted and maintained in accordance with the plan.

COMMENTS

1) *Author's Statement.* Several recent studies and reports have concluded that traffic signal optimization technology has been proven to reduce traffic congestion and vehicle greenhouse gas emissions. Over 10 years ago, the California Transportation Commission implemented a traffic light synchronization effort statewide with positive results, using Prop 1B funds. I have authored AB 2851 in order to authorize cities within the MTC to develop and implement traffic signal optimization plans, which are intended to reduce greenhouse gasses and particular emissions, and reduce travel times, and the number of stops and fuel use. The bill also requires CalTrans to coordinate with each city that develops a traffic signal optimization plan to ensure that any traffic signals owned or operated by CalTrans are adjusted and maintained in accordance with the plan.

2) *Existing MTC Program.* MTC has an existing program for traffic light signalization on which it has spent $1.8 million. It believes that this program has generated significant savings, increasing average speed by 26% and saving 11.5 million gallons of fuel, resulting in a benefit cost ratio of 67:1.

3) *Caltrans Cooperation.* A traffic synchronization program won't work well if state jurisdictional streets aren't also synchronized. MTC's existing program includes traffic signals under Caltrans' jurisdiction so there is evidence of cooperation. Were Caltrans to change its mind, the requirement for Caltrans to cooperate contained in this bill would prove useful.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

Assembly votes:

Transportation: 14-0
Appropriations: 16-0
Floor: 78-0

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

AAA Northern California, Nevada & Utah

Automobile Club of Southern California

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 2865	**Hearing Date:**	6/26/2018
Author:	Chiu		
Version:	6/20/2018 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Manny Leon		

SUBJECT: High-occupancy toll lanes: Santa Clara Valley Transportation Authority

DIGEST: This bill authorizes San Francisco County Transportation Authority (SFCTA) to enter into a cooperative agreement with either the Santa Clara Valley Transportation Authority (VTA) or Bay Area Infrastructure Financing Authority (BAIFA) to conduct, administer, and operate a value pricing high-occupancy toll (HOT) lane program in the City and County San Francisco, as specified.

ANALYSIS:

VTA is an independent special district that provides sustainable, accessible, community-focused transportation options that are innovative, environmentally responsible, and promote economic vitality within region.

VTA provides bus, light rail, and paratransit services, as well as participates as a funding partner in regional rail service including Caltrain, Capital Corridor, and the Altamont Corridor Express. As the county's congestion management agency, VTA is responsible for countywide transportation planning, including congestion management, design and construction of specific highway, pedestrian, and bicycle improvement projects, as well as promotion of transit oriented development.

VTA provides these services throughout the county, including the municipalities of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga and Sunnyvale. Furthermore, VTA continually builds partnerships to deliver transportation solutions that meet the evolving mobility needs of Santa Clara County.

Existing law:

1) Authorizes VTA to operate HOT lanes on two transportation corridors in Santa Clara County with high-occupancy vehicle (HOV) lanes.

2) Authorizes VTA, in coordination with the City/County Association of Governments of San Mateo County, to operate HOT lanes in San Mateo County on U.S. 101.

3) Specifies that revenues generated by the HOT lanes are available to VTA for the direct expenses related to the operation, maintenance, construction, and administration of the HOT lanes. VTA's administrative costs are limited to 3% of the revenues.

4) Requires any excess revenues generated by the HOT lanes in San Mateo County to be used in the corridor from which the revenues were generated, and dedicates those revenues to:

   a) The preconstruction, construction, and other related costs of HOV facilities;

   b) Improvements to the transportation corridor; and,

   c) Transit service improvement including, but not limited to, support for transit operations in the corridor.

5) Authorizes the California Transportation Commission (CTC) to approve applications from regional transportation agencies to develop and operate HOT lanes and other toll facilities.

6) Establishes the Joint Exercise of Powers Act which generally allows two or more public agencies to jointly use their powers in common if they sign a joint powers agreement. Many times, a joint powers agreement creates a new, separate government entity called a joint powers authority.

7) BAIFA is a joint powers authority created by the Metropolitan Transportation Commission and the Bay Area Toll Authority which is a six-member committee that oversees the planning, financing, construction and operation of freeway express lanes and related transportation projects in the Bay Area.

This bill:

1) Authorizes SFCTA, to choose either the BAIFA or VTA to develop, conduct, administer, and operate a value pricing HOT lane program on U.S. 101 and a

specified portion of State Route (SR) 280 in the City and County of San Francisco, as prescribed.

2) Authorizes SFCTA to review and approve the agreement between VTA and the California Department of Transportation (Caltrans) that addresses the design, construction, maintenance, and operation of the HOT lanes in San Francisco.

3) Requires any excess revenues generated by the HOT lanes in San Francisco to be used in the corridor from which the revenues were generated, and dedicates those revenues to:

   a) The pre-construction, construction, and other related costs of high-occupancy vehicle facilities;

   b) Improvements to the transportation corridor; and,

   c) Transit service improvement including, but not limited to, support for transit operations in the corridor.

4) Authorizes BAIFA to develop and operate a value pricing program on U.S. 101 and a specified portion of SR 280 in the City and County of San Francisco.

5) Provides that if SFCTA selects BAIFA to develop and operate a value pricing HOT lane program, BAIFA is required to coordinate with SFCTA and is subject to final approval of the program by SFCTA, as specified.

6) Requires that if BAIFA is to administer a value pricing HOT program on the abovementioned highways, the HOT lanes are to be incorporated into the Bay Area Express Lane facility administered by BAIFA and subject to the program's requirements, as applicable.

7) Requires SFCTA and BAIFA in consultation with Caltrans to develop an expenditure plan for excess revenues if BAIFA is selected to administer a value pricing HOT lane program, as specified.

8) Further requires excess revenue to be used to benefit the corridor where the revenue is generated pursuant to the approved expenditure plan.

9) Provides various definitions for entities identified in this bill.

COMMENTS

1) *Purpose.* According to the author, "In 2013, San Francisco County noted the growing congestion issues along Interstate 280 and Highway 101, and

developed the Freeway Corridor Management Study (FCMS) to examine potential improvements. The study extensively evaluated strategies and identified freeway management projects that could prepare the region for an additional 100,000 daily trips on the corridor, including managed express lanes. A unified corridor congestion management program that incorporates these lanes could provide a regional tool to achieve a balanced transportation system that gives buses, carpoolers, and other vehicles improved travel times and reliability between the housing and job centers in San Francisco and the South Bay."

2) *Initial HOT Lanes.* AB 2032 (Dutra) Chapter 418, Statutes of 2004, authorized VTA to establish HOT lanes on two of the HOV corridors in Santa Clara County in coordination with the Metropolitan Transportation Commission (MTC), the regional transportation planning agency and metropolitan planning organization for the nine-county San Francisco Bay Area, which includes Santa Clara and San Mateo Counties. AB 2032 was introduced and enacted as a result of the positive HOT lane demonstration program implemented on Interstate 15 (I-15) in San Diego County in the late 1990's. At the time AB 2032 was introduced, the bill was intended to build off of the I-15 project by authorizing several counties to construct HOT lanes in order to continue evaluating the effectiveness of HOT lanes in urban areas. VTA constructed and operates HOT lanes on State Route 237 and State Route 85/U.S. 101 under the authority granted by AB 2032.

3) *RM3.* Enacted in 2017, SB 595 (Beall) Chapter 650, Statutes of 2017, authorized MTC to place a regional measure (RM3) on the ballot in the nine counties in the Bay Area to increase bridge tolls for a specific set of transportation infrastructure projects. SB 595 also included a provision that authorized VTA to enter into a cooperative agreement with the San Mateo County Association of Governments and the San Mateo County Transportation Authority to administer and operate HOT lanes on U.S. 101 in San Mateo County.

   This bill will extend the authority granted in SB 595 by allowing SFCTA to enter into a cooperative agreement with VTA or BAIFA to administer and operate HOT lanes on State Route 280 and U.S. 101 in San Francisco County.

RELATED LEGISLATION:

SB 595 (Beall, Chapter 650, Statutes of 2017) — required the City and County of San Francisco and the other eight Bay Area counties to conduct a special election

to increase the toll rate charged on state-owned bridges within the region, otherwise known as RM3.

AB 2032 (Dutra, Chapter 418, Statutes of 2004) — established a demonstration program and authorized several counties within the state to construct and operate HOT lanes on certain highways.

Assembly votes:

Floor:	**49-28**
Approps:	**12-4**
Trans:	**10-4**

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

Natural Resources Defense Council
San Francisco County Transportation Authority
SPUR
TransForm

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 2885	**Hearing Date:**	6/26/2018
Author:	Rodriguez		
Version:	6/13/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Randy Chinn		

SUBJECT: Air Quality Improvement Program: Clean Vehicle Rebate Project

DIGEST: This bill requires the California Air Resources Board (ARB) to, when implementing the Clean Vehicle Rebate Project (CVRP), provide outreach and prioritize rebates to low income applicants.

ANALYSIS:

Existing law:

1) Establishes the Air Quality Improvement Program (AQIP), administered by ARB in consultation with local air districts, to fund programs that reduce criteria air pollutants, improve air quality, and provide research for alternative fuels and vehicles, vessels, and equipment technologies.

2) Creates the CVRP under the AQIP; requires ARB, as a part of CVRP, to do the following, until January 1, 2019:

   a) Offer rebates only to individuals with incomes less than $150,000 or to joint filers with incomes less than $300,000

   b) Increase the rebate payment by five hundred dollars ($500) for a low-income applicant (defined to be a resident of the state whose household income is less than or equal to 300% of the federal poverty level) for all eligible vehicle types.

   c) Provide outreach to low-income households to increase consumer awareness of the rebate project.

   d) Prioritize rebate payments to low-income applicants.

This bill:

1) Requires ARB, when administering the CVRP, to provide outreach to low-income households and low-income communities, and to prioritize rebates to low-income applicants.

2) Defines "low income" as a household with income less than or equal to 300% of the federal poverty level.

COMMENTS

1) *Author's Statement.* Residents of disadvantaged and low-income communities suffer disproportionately from the impacts of poor air quality. As climate mitigation programs and policies are created, we must ensure residents in these communities are receiving their share of funding and incentives. For too long, this has not been the case. For many residents in disadvantaged and low-income communities, the decision to purchase a new vehicle does not come lightly. Buying a new vehicle is often a long-term financial commitment lasting, at times, several decades. Without added incentives, consumers are likely to be drawn towards cheaper, gas-burning vehicles instead of environmentally friendlier options that are more cost-efficient over the life of the vehicle. Providing additional rebate incentives, prioritization and outreach efforts will increase the proliferation of environmentally friendly vehicles in areas where they are needed most.

2) *CVRP.* CVRP provides rebates to incentivize the purchase or lease of clean vehicles: $5,000 for a hydrogen fuel cell vehicle; $2,500 for a battery electric vehicle; $1,500 for a plug-in hybrid electric vehicle; or $900 for a zero-emission motorcycle. An individual can apply for a rebate within 18 months of purchase or lease. If an individual's gross annual income is above specified limits ($150,000 for single filers, $204,000 for head of household filers, or $300,000 for joint filers), he or she cannot obtain a CVRP rebate, but can obtain a carpool lane sticker. An individual with income below the specified limits can obtain both a CVRP rebate and a carpool lane sticker. In addition, individuals with household incomes below 300% of the federal poverty level are eligible for an additional CVRP rebate of $500.

   There is no cap on the number of rebates that may be issued, but rebates are subject to funding availability and the program has occasionally been forced to stop issuing rebates and create a wait list due to lack of funds. The program is currently accepting applications. As of April 11, 2018, CVRP had issued

232,169 rebates ($514 million), primarily in the Bay Area and South Coast air districts. Of the total rebates issued, 7,117 ($28.6 million) were increased rebates to low-income applicants, which first became available on March 29, 2016.

3) *Expiring Income Caps.* The CVRP income limits exclude only about the richest 2% of all households from the CVRP rebate. Whether a $2500 credit will influence the purchase of an EV in a household making $300,000 annually is debatable, while that same credit is much more likely to make a difference for a household making $60,000. Now that new ZEVs are going for $30,000 and used ZEVs much less, it would seem to be more effective to focus our limited CVRP funds to middle- and lower-income households. The income limits on the CVRP expire at the end of this year and are not reestablished by this bill. By the end of this year, the ARB is required to submit a report to the Legislature on the effectiveness of the CVRP and the impact of the income caps.

4) *Zero-Emission Vehicle (ZEV) Goals.* Executive Order B-16-12 of 2012 established a goal of 1.5 million ZEVs on California's roads by 2025. SB 1275 (De León, Chapter 530, Statutes of 2014) builds on this goal by establishing the Charge Ahead California Initiative, which aims to place one million electric cars, trucks, and buses on California's roads by 2023. The ZEV regulation, commonly known as the ZEV mandate, sets a goal for ZEVs and near-ZEVs to comprise 15% of new cars sold in California by 2025. If a manufacturer fails to meet its ZEV requirement, it is subject to financial penalties. In addition, Executive Order B-48-18, signed by Governor Brown on January 26, 2018, establishes a new target of five million ZEVs in the state by 2030. The Governor is also proposing a new eight-year, $2.5 billion budget initiative to continue CVRP rebates and help bring 250,000 vehicle charging stations and 200 hydrogen fueling stations to California by 2025.

5) *Double Referral.* This bill was heard by the Environmental Quality Committee on June 6, 2018 and passed 5-0.

RELATED LEGISLATION:

AB 2006 (Eggman, 2018) — expands existing agricultural worker vanpool programs to include low-income communities. *This bill is pending in the Senate Appropriations Committee.*

AB 615 (Cooper), Chapter 631, Statutes of 2017) — extended the sunset date on the CVRP provisions of SB 859 of 2016 to January 1, 2019.

SB 859 (Committee on Budget and Fiscal Review, Chapter 368, Statutes of 2016) — among other things, required outreach to low-income households for CVRP and set the following income caps for CVRP eligibility: $150K for applicants that file taxes as a single individual, $204K for those that file head of household, and $300K for those that file jointly. *These provisions sunset on July 1, 2017.*

SB 1275 (de León, Chapter 530, Statutes of 2014) —established the Charge Ahead California Initiative to place in service at least 1.0 million zero-emission and near-zero-emission vehicles by January 1, 2023, with a focus on disadvantaged and low-and-moderate-income communities.

AB 118 (Núñez, Chapter 750, Statutes of 2007) — established the EFMP, ARFVTP, and the AQIP.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

Assembly votes:

Transportation:	14-0
Appropriations:	16-0
Floor:	69-0

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

San Diego Gas and Electric
Southern California Edison

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 2920	**Hearing Date:**	6/26/2018
Author:	Thurmond		
Version:	6/13/2018		
Urgency:	No	**Fiscal:**	No
Consultant:	Randy Chinn		

SUBJECT: Transactions and use taxes: North Lake Tahoe Transportation Authority and City of Berkeley

DIGEST: This bill enacts several changes to the organization of the North Lake Tahoe Transportation Authority and authorizes the City of Berkeley to impose a transaction and use tax for general or special purposes at a rate of no more than 0.5%, outside the local agency 2% cap.

ANALYSIS:

Existing law:

1) Establishes the North Lake Tahoe Transportation Authority Act, which authorized the Placer County Board of Supervisors to create the North Lake Tahoe Transportation Authority (Authority) within a specified part of the county with the goal of paying for transportation improvement and transit programs within the North Lake Tahoe area. The Authority is authorized to impose a transaction and use tax (e.g. sales tax) of up to 0.5%, subject to approval by the board of the Authority and two-thirds popular vote.

2) Imposes the sales tax on every retailer engaged in business in this state that sells tangible personal property, and requires them to collect the appropriate tax from the purchaser, and remit the amount to the California Department of Tax and Fee Administration.

3) Authorizes cities and counties to increase the sales tax rates by up to 2% for either specific or general purposes, with specified exemptions to the 2% cap.

This bill:

1) Enacts several changes to the North Lake Tahoe Transportation Authority Act, including replacing its current five-member governing structure of elected board members with a seven-member appointed board with:

a) Two members appointed by the Placer County Board of Supervisors,
b) One member of the governing body of the North Tahoe Public Utility District,
c) One member of the governing body of the Squaw Valley Public Services District,
d) One member of the governing body of the Tahoe City Public Utility District,
e) One member of the governing body of the Truckee Tahoe Airport District, and
f) One member of the governing body of the Northstar Community Services District.

2) Provides that if any of the districts cease providing services within the boundaries of the Authority, the district loses its membership on the board, with the number of members adjusted accordingly. The measure also extends the duration of the transactions and use tax the Authority can impose from 20 to 30 years, and allows the tax rate to be imposed up to a 1% cap, instead of the current 0.5% cap.
3) Allows the City of Berkeley to add up to an additional 0.5% rate on top of its three currently imposed transactions and use taxes, which could result in a total rate of 9.75%.

COMMENTS

1) *Author's Statement.* The City of Berkeley faces challenges relating to homelessness that are unique to its borders. AB 2920 will give the voters of the city the ability to decide whether they want to increase taxes to fund city services. In addition, this bill will grant voters in Placer County the opportunity to approve a tax increase to improve transportation services for residents and visitors to the area.

2) *North Lake Tahoe Transportation Authority.* In 1998, the Legislature enacted the North Lake Tahoe Transportation Authority Act, which authorized the Placer County Board of Supervisors to create the North Lake Tahoe Transportation Authority (Authority) within a specified part of the county with the goal of paying for transportation improvement and transit programs within the North Lake Tahoe area. While counties can create transportation authorities, this act was unique because its jurisdiction only included a specific portion of eastern Placer County, which includes the North Lake Tahoe Basin and the surrounding resorts in the northern region of Lake Tahoe (Martis Valley, Squaw Valley and Alpine Meadows). (Truckee is not part of Placer County and therefore not part of the Authority). The Authority's borders were established in statute using surveying guidelines. The Authority's governing

board was composed of five members, elected to staggered four year terms by voters within the district's boundaries.

Unique at the time, the Legislature authorized the Authority to impose a transaction and use tax within the Authority's borders of up to 0.5% for up to 20 years. However, the authority was never formed after two local tax measures failed. Placer County wants to reform the authority with a new governing structure to impose a tax to fund transportation in the North Lake Tahoe basin. The focus is on transit and walking/biking trails through this destination recreation area.

Public transit is currently provided in this area by the Truckee Tahoe Area Regional Transit, a service of Placer County. The county expects that service to continue even if the sales tax funding the Authority is approved. Two members of the Placer County Board of Supervisors are members of the Authority's seven member governing board.

3) *Berkeley.* Alameda County imposes four 0.5% district taxes, so with the county at the 2% limit, the City of Berkeley cannot enact a new district tax without specific legislative authority. Seeking additional funds to improve recruitment and retention of police officers for the community oriented policing program, and provide additional funding for mental health outreach services and the mental health transport program, the City of Berkeley wants authorization to impose an additional sales tax of up to 0.5%. Similar authorizations have been made for the Cities of El Cerrito and Santa Fe Springs, Alameda County, Contra Costa County, San Mateo County, Transportation Agency for Monterey County, and the Los Angeles Metropolitan Transportation Authority (MTA).

4) This bill was heard by the Governance and Finance Committee on June 20, 2018 and was approved on a 5-2 vote.

RELATED LEGISLATION:

AB 1613 (Mullin; Chapter 231 of 2017) — Authorizes the San Mateo County Transit District, subject to voter approval, to exceed the 2% transactions and use tax limit at a rate of no more than 0.5%.

AB 1189 (E. Garcia; Chapter 642 of 2017) — Increases the maximum transactions and use tax rate, from 0.5% to 1%, which Riverside County Transportation Commission may impose, subject to voter approval.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

North Lake Tahoe Chamber of Commerce
North Lake Tahoe Resort Association
North Tahoe Business Association
Placer County Board of Supervisors
Squaw Valley Public Service District
Tahoe City Public Utility District

OPPOSITION:

CalTax
Howard Jarvis Taxpayers Association

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 2923	**Hearing Date:**	6/26/2018
Author:	Chiu		
Version:	4/30/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: San Francisco Bay Area Rapid Transit District: transit-oriented development

DIGEST: This bill requires the San Francisco Bay Area Rapid Transit District (BART) to adopt transit-oriented development (TOD) zoning standards on specified parcels of land owned by BART, and requires affected cities and counties to update their zoning within two years to be consistent with BART's standards.

ANALYSIS:

Existing law:

1) Authorizes BART to acquire property, including by eminent domain, in order to operate its transit system within its jurisdiction.

2) Authorizes BART to accept or acquire property within one-quarter of a mile from the external boundaries of a BART facility to use for TOD.

3) For purposes of implementing a sustainable communities strategy, defines a "transit priority project" as a residential or mixed-use residential development within one-half mile of a major transit stop or high-quality transit center.

4) For purposes of establishing an enhanced infrastructure financing district (EIFD), authorizes transit priority projects within one-half mile of a major transit stop or a high-quality transit center to qualify as an EIFD project.

5) Provides that a transit village development district shall include all land within not more than one-half mile of the main entrance of a transit station.

6) Requires the state's metropolitan planning organizations (MPOs) to meet specific greenhouse gas reduction targets set by the state Air Resources Board through a variety of strategies, including the development of TOD.

This bill:

1) Requires the BART board of directors (BART board) to adopt TOD zoning standards (BART standards), by a majority vote at a duly noticed public meeting, that establish minimum local zoning requirements for BART-owned land located on contiguous parcels of at least 0.25 acres, within ½ mile of an existing or planned BART station entrance, in areas having representation on the BART board.

   a) Requires the current BART Guidelines to serve as the baseline for the BART standards and requires the approved BART standards to establish the lowest permissible height limits, lowest permissible density limits, and highest permissible parking maximums, per the 2017 BART guidelines.

   b) Requires the BART board, in approving the BART standards, to establish and include the lowest permissible floor-area-ratio limits for each TOD place type.

   c) Requires the BART board to approve the BART standards by April 1, 2019 and authorizes the BART board to amend them subsequently. If the BART board fails to approve new guidelines by that date, the 2017 BART Guidelines shall serve as the minimum local zoning requirements for local jurisdictions.

2) Requires approval of, and amendments to, the BART standards to comply with all of the following:

   a) The BART board shall hold a public hearing to receive public comment on the proposed BART standards or proposed changes to the BART standards. The BART district shall conduct direct outreach to communities of concern.

   b) BART shall provide public notice, and make the draft guidelines available to the public, at least 30 days before a public hearing of the BART board to consider the BART standards.

   c) The BART board shall approve or reject any proposed BART standards at a publicly noticed meeting not less than 30 days after the original public hearing.

3) Requires the BART board, prior to or at the same time as approving the BART standards, to approve travel demand management requirements for TOD zoning projects on BART-owned property.

4) Requires the local jurisdiction, where local zoning is inconsistent with the BART standards, to adopt an ordinance applying the BART standards, within two years of BART board approval of the BART standards. Requires the local zoning ordinance to conform to the BART standards without any bonuses or waivers allowable under any state or local density bonus provisions.

5) Requires, that if the BART board finds that the local zoning ordinance remains inconsistent with the BART standards after the required two-year period, the BART standards shall become the local zoning standards for any BART-owned land within ½ mile of any existing or planned BART station entrance.

6) Requires the BART board's approval of the BART standards and local zoning standards to be subject to the California Environmental Quality Act (CEQA) and requires the BART board to serve as the lead agency for CEQA review. Requires any subsequent CEQA review of rezoning to conform to the BART standards, and of TOD projects proposed on BART-owned land, to incorporate the environmental impact report (EIR) certified for the BART standards. Exempts a public agency from preparing an EIR or mitigated negative declaration for a project involving rezoning subsequent to BART's certification of an EIR unless the agency finds that the rezoning creates a significant effect on the environment that was not addressed in the prior EIR.

7) Allows a TOD developer to submit an application for a development that is subject to the streamlined, ministerial approval process pursuant to SB 35 (Wiener, 2017) if the development satisfies the objective planning standards and are consistent with the BART standards. Specifies that the streamlining provisions do not apply to a development located in a jurisdiction that has met its regional housing assessment (RHNA) obligations.

8) Requires a TOD developer to adhere to any applicable local design guidelines provided they do not prohibit the minimum density allowances required by the BART standards.

9) Provides that, to the extent that the BART standards are inconsistent with objective planning, general plan, or design review standards, the BART standards shall be the controlling standards, notwithstanding SB 35 (Wiener, 2017). To the extent that the BART standards do not resolve inconsistencies, the general plan shall be the controlling standard.

10) Authorizes the BART board to waive any requirement it finds to be inconsistent with SB 35.

11) Requires the BART board to do all of the following to avoid the loss of affordable housing units and to prevent direct displacement of tenants:

   a) Require parcels that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, that are or have been subject to affordability covenants or rent restrictions, to replace affordable housing units to the same or lower income level.

   b) Requires tenants displaced from affordable units by a TOD project to be prioritized for placement in affordable housing units in new BART TOD developments.

   c) Develop a plan to increase affordable housing options for very-low and low-income residents within and around a TOD area, particularly in communities of concern, as defined in the Metropolitan Transportation Commission's regional transportation plan, where there is potential for residential displacement due a changing market and development conditions, and to deliver housing for essential workers within and around TOD projects.

12) Requires a TOD project to do both of the following:

   a) Set aside at least 20% of units for very low, low-, and moderate-income households and subject to a 55-year affordability restriction.

   b) Comply with prevailing wage and skilled and trained workforce requirements established by SB 35 and any other applicable BART labor policies.

13) Authorizes the BART board to identify specific TOD projects in the approval process with a local jurisdiction, on or before imposition of the BART standards, which are proceeding with local zoning approval and entitlement pursuant to existing local zoning authority.

COMMENTS

1) *Purpose.* The author states that to play its part in fulfilling state and regional goals, BART recently passed a progressive and ambitious TOD policy. BART committed itself to fully building out the land it owns around its stations by 2040 to produce over 20,000 new units of housing, of which 7,000 will be affordable, as well as 4.5 million square feet of office and commercial space, including child care and educational facilities. The author states that

unfortunately, BART cannot fully deliver on some of its most promising TOD opportunities because historically, TOD projects have taken too long so BART has not proposed TOD on many of its opportunity sites. The author states that this bill will help expedite the production of well designed, mixed-use development adjacent to transit. The author states that these projects will in turn increase transit ridership, reduce congestion and greenhouse gas outputs, and sustainably accommodate new growth.

2) *What is TOD?* TOD is a type of urban development that maximizes the amount of residential, business, and leisure space within walking distance of public transport. TODs typically include a central transit stop (such as a train station, light rail, or bus stop) surrounded by a high-density mixed-use area, with lower-density areas spreading out from this center. TODs are typically designed to be more walkable than other built-up areas, through using smaller block sizes and reducing the land area dedicated to automobiles (i.e., streets, parking lots, etc.). The Transit Oriented Development Institute has reported that in surveys, 51% of Americans agree that the availability of good public transportation increases their interest in moving to and living in a particular area. Furthermore, 47% of Americans say being in close proximity to public transportation impacts choices about where they live, work, and play. Benefits associated with TOD include reduced dependency on driving, allowing residents to live, work, and play in the same area, and reducing the area's carbon footprint or negative environmental impact.

3) *BART.* BART is an urban passenger rail provider, covering four Bay Area counties with an average weekday ridership of approximately 430,000 travelers. BART ridership surveys have found that daily riders typically walk/travel anywhere from a quarter to a half mile upon exiting a BART station. BART sponsored SB 680 (Wieckowski, 2017) last year to extend the distance it may engage in TOD, from one-quarter mile to one-half mile around its stations.

4) *BART TOD zoning plan.* The BART board adopted an Affordable Housing Policy in January 2016, a TOD policy in June 2016, and TOD Performance Targets in December 2016. In May 2017 it released its TOD Guidelines, which articulate BART's plans for developing station areas. According to BART's website, it has 13 completed and under-construction projects, with seven approved projects in the pipeline. In addition, BART owns an estimated 250 acres at 27 stations that could accommodate future development. The BART Guidelines state that "BART understands it can be successful in TOD only by being a team player, that means only developing where there are willing partners and where local governments have demonstrated through their plans, policies, and actions that they are transit-supportive." The BART Guidelines

also state that "BART's best TOD projects were built as part of a shared vision in partnership with local communities." In contrast, this bill requires locals to rezone according to BART's TOD policy, rather than working together in partnership. BART does not have a position on this bill.

5) *Conflict with SB 35.* SB 35 (Wiener, 2017) allows a developer to apply for a streamlined, ministerial approval process when the local jurisdiction has not met certain RHNA requirements. Specifically, a jurisdiction that has not met its above-moderate-income RHNA must streamline approval for infill projects in which at least 10% of units are lower-income (e.g., very-low and low-income). A jurisdiction that has not met its lower-income RHNA must streamline approval for infill projects in which at least 50% of units are lower-income. This bill allows residential mixed-use projects, on BART land that satisfies local zoning standards, to be eligible for the SB 35 ministerial processes. However, since this bill requires 20% of units in a BART TOD project to be very-low, low-, or moderate-income, it appears to contradict the requirements of SB 35. The committee may wish to consider directing the author to amend this bill to align the streamlining provisions with SB 35, specifically, to ensure that the affordable set-asides in projects obtaining ministerial approval meet the 10% or 50% lower-income requirement.

6) *Should special districts be empowered to drive land use decisions?* As noted in the Assembly Local Government Committee analysis, in general the Legislature has given cities maximum control over zoning matters while ensuring uniformity of, and public access to, zoning and planning hearings. State law lays out a process by which local jurisdictions may amend zoning ordinances. Jurisdictions make these decisions through a public process and must consider requirements such as their RHNA allocation. This bill, however, would authorize a special district to make decisions in a vacuum, without having to consider anything beyond the borders of its own land, and then require local governments to conform to those decisions. It would also set a disturbing precedent – with 4,000 special districts in California, authorizing even a small percentage of them to govern land use could have chaotic results. The committee may wish to consider whether it is appropriate to grant land use authority to a transit district.

7) *Does this bill provide enough affordable housing?* As currently written, this bill requires each TOD project to set aside at least 20% of units for very low, low-, and moderate-income households. This committee and affordable housing advocates have expressed a desire to see a higher set-aside, or at least to limit the set-aside to very-low and low-income units. In response to these concerns, the author proposes amendments (to be taken in the next committee,

due to timing constraints, as outlined in #9 below) allowing BART to evaluate a project proposal and determine whether the 20% set-aside must include moderate-income units in order to be feasible. The amendments would also specify that each project must have a set-aside of at least 15% for very-low and low-income units. **The committee may wish to consider directing the author to amend this bill to explicitly require a 20% set-aside in each project for very-low and low-income units.**

8) *Opposition concerns.* The American Planning Association, California Chapter states that this bill would override local planning efforts including longstanding general plan land use plans in built-out communities, housing elements certified by HCD, sustainable communities strategies, development agreements, specific plans, and transit oriented developments. The League of California Cities states that land use regulation is a constitutionally granted local government function of cities and counties, not special districts. Bestowing land use power onto a transit agency that is unaccountable to community members is contrary to existing law and may violate the state constitution.

9) *Author's amendments.* The author has been working with stakeholders in recent weeks and is proposing significant amendments to this bill. The language, which this committee did not receive in final form until Wednesday, June 20th, proposes to make a large number of changes. Key provisions include:

   a) *Affordable housing set-aside.* The proposed language:

      i. Specifies that the 20% of units per project that are dedicated to very-low, low-, and moderate-income households are subject to a 55-year affordability restriction for rental units and 45 years for owner-occupied units.

      ii. Allows BART to determine that the 20% set-aside is not feasible with just very-low and low-income units for a particular project, but requires a minimum of 15% of very-low and low-income units.

      iii. Requires BART to ensure that a total of 30% of housing units in its TODs are affordable, with priority given to low- and very-low income units. Requires BART to submit a biannual report to HCD on the percentage of affordable units, by level of affordability, for all BART TOD projects.

   b) *Displacement.* The proposed language replaces the current language in the bill as follows.

i. Requires any TOD project involving demolition of housing that is subject to an affordability covenant, subject to rent or price control, or occupied within the past five years by a low-income tenant who did not leave voluntarily, to replace those units to the same or lower income levels and requires those units to be subject to affordability covenant restrictions.

ii. Gives lower-income tenants who are displaced by a TOD project, right of first refusal to occupy replacement units within ½ mile of the same BART station at the same or lower rent level, and requires relocation assistance to be provided to these tenants.

iii. Provides that replacement units shall not count toward the 20% affordable housing set-aside.

c) *Exemptions from BART standards.* The proposed language:

i. Allows the BART board to exempt a local jurisdiction from the BART standards — other than the parking requirements – if the local zoning was approved as of July 1, 2018 and is within 10% of the height and floor-area-ratio standards established in the BART Guidelines.

ii. Provides that if BART ridership falls below a specified level for at least three consecutive calendar years, the requirements of this bill shall terminate until that level is reached again for at least a single calendar year.

iii. Provides that the BART standards shall not apply to any new BART station that has not been approved by the local jurisdiction.

iv. Provides that the BART standards shall only apply to land owned by BART on July 1, 2018. A TOD on land purchased by BART after that date shall be integrated into a TOD project, the majority of which is on land owned by BART on or prior to that date, and may not be a stand-alone project.

v. Provides that if a local jurisdiction's inclusionary housing requirement mandates a higher percentage of affordable units or a deeper level of affordability than required by this bill, then the jurisdiction's affordability percentage requirements shall apply in place of this bill.

d) *Parking requirements.* The proposed language:

i. Requires BART to establish a parking replacement policy ensuring that, after TOD construction, auto-oriented stations are still accessible by private automobile. The policy shall specifically consider parking replacement needs for end-of-the-line stations.

ii. Prohibits local jurisdictions from requiring parking that is part of a BART TOD project to be associated with any specific use, residential unit, business, or portion of the project, or from prohibiting sale, rental, or other assignment of parking separately from other parts of the project.

e) *CEQA.* The proposed language provides that when a TOD project requests but does not receive streamlined approval, the CEQA review for the project must only address the criteria not met by the project.

f) Floor-area-ratio (FAR). The proposed language specifies how the minimum FAR standard shall be calculated, and requires it to be included in the BART standards.

g) *Design guidelines.* The proposed language requires a TOD developer to adhere to any applicable local design guidelines if those guidelines do not prohibit the minimum height, minimum density, and maximum parking allowances allowed by the BART standards.

h) *Delayed implementation.* The proposed language delays the requirement for the BART board to adopt the BART standards to July 1, 2020.

10) *More cooking time needed.* This bill completely disrupts longtime zoning practices by empowering a special district to make land use decisions. As noted above, the author is submitting a large number of amendments that this committee did not have time to fully analyze due to late receipt. The committee may wish to consider holding this bill for further discussion over interim.

11) *Double-referral.* This bill is double-referred to the Senate Governance and Finance Committee and will be heard on June 27th. Any amendments, including the ones discussed above, will have to be taken in the Governance and Finance Committee hearing.

RELATED LEGISLATION:

SB 827 (Wiener, 2017) — would have required a local jurisdiction, notwithstanding any local ordinance, general plan element, specific plan, charter, or other local law, to provide an eligible applicant with a transit-rich housing bonus

if requested by the developer, as specified. *This bill failed passage in this committee on April 17, 2018.*

SB 680 (Wieckowski, Chapter 100, Statutes of 2017) — extends the allowable distance for BART to engage in TOD from one-quarter to one-half mile.

SB 35 (Wiener, Chapter 366, Statutes of 2017) — creates a streamlined, ministerial approval process for infill developments in localities that have failed to meet their regional housing needs assessment (RHNA) numbers.

SB 628 (Beall, Chapter 628, Statues of 2014) — established EIFDs and authorized the funding of transit priority projects, defined as within one-half mile a major transit stop or high-quality transit corridor.

AB 987 (Ma, Chapter 354, Statues of 2010) — expanded the size of a transit village development district from one-quarter mile to one-half mile from a transit station.

Assembly Votes:

Floor:	**42-32**
Approps:	**12-4**
Local Gov:	**7-3**
H&CD:	**5-3**

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

Non-Profit Housing Association of Northern California (co-sponsor)
State Building and Construction Trades Council (co-sponsor)
A Philip Randolph Institute
Bay Area Council
Brightline Defense
California Apartment Association
California Asian Pacific Chamber of Commerce
California League of Conservation Voters
California YIMBY

Circulate San Diego
City and County of San Francisco
Council of Infill Builders
Greenbelt Alliance
Habitat for Humanity
Mission Hiring Hall
Non-Profit Housing Association of Northern California
Northern California Carpenters Regional Council
San Francisco Electrical Construction Industry
San Francisco Housing Action Coalition
Sheet Metal Workers' Local Union No. 104
Silicon Valley Leadership Group
Sprinkler Fitters and Apprentices Local 483
SPUR
SV@home
TransForm
YIMBY Action
Young Community Developers
350 Bay Area

OPPOSITION:

Alameda County Board of Supervisors
American Planning Association, California Chapter
California Building Officials
City of Berkeley
City of Concord
City of Hayward
City of Lafayette
City of Pleasant Hill
League of California Cities

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 2989	**Hearing Date:**	6/26/2018
Author:	Flora		
Version:	5/25/2018 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Jeffery Song		

SUBJECT: Standup electric scooters

DIGEST: This bill defines standup electric scooters and includes a number of requirements for their operation.

ANALYSIS:

Existing law:

1) Defines a "motorized scooter" as a two-wheeled device that has handlebars and a floorboard that is designed to be stood upon while riding, and is powered by an electric motor.

2) Restricts a motorized scooter from operating on a road with a speed limit greater than 25 mph, unless it is operating within a bicycle lane.

3) Restricts a person from leaving a motorized scooter lying on its side on any sidewalk, or park a motorized scooter on a sidewalk in any other position, so that there is not an adequate path for pedestrian traffic.

4) Restricts a motorized scooter from operation on sidewalks, except as necessary to enter or leave adjacent property.

5) Requires an operator of a motorized scooter to have a valid driver's license or learner's permit, and to wear a helmet regardless of the operator's age.

6) Restricts a person from riding a motorized scooter faster than 15 mph.

7) Requires every motorized scooter operated during darkness to be equipped with a front white light, white or yellow side reflectors, and a red rear reflector, as defined.

8) Does not prevent a local authority, by ordinance, from regulating the parking and operation of motorized scooters on pedestrian or bicycle facilities and local streets and highways, if that regulation is not in conflict with state law.

9) Authorizes a local jurisdiction to adopt rules and regulations prohibiting or restricting persons from riding or propelling bicycles on sidewalks.

10) Restricts a person from leaving a bicycle lying on its side on any sidewalk, or parking a bicycle on a sidewalk in any manner such that there is not an adequate path for pedestrian traffic.

11) Requires a person under the age of 18 to wear a properly fitted and fastened helmet, as defined, while riding on, or being a passenger on, a bicycle, non-motorized scooter, or a skateboard, or while wearing in-line or roller skates.

This bill:

1) Defines a "standup electric scooter" as a two-wheeled device that has handlebars and a floorboard that is designed to be stood upon while riding, is powered by an electric motor of less than 750 watts, and does not exceed a speed of 20 miles per hour (mph). This bill specifically excludes standup electric scooters from the definition of a motorized scooter.

2) Authorizes a person to operate a standup electric scooter on sidewalks only in the absence of a bikeway on the adjoining street, and also to park in the same manner and at the same locations as bicycles.

3) Authorizes a local jurisdiction, transit development board, or public university, to adopt rules and regulations prohibiting or restricting persons from riding or propelling a standup electric scooter on highways, sidewalks, or roadways.

4) Restricts a person from leaving a standup electric scooter lying on its side on any sidewalk, or parking a standup electric scooter on a sidewalk in any manner such that there is not an adequate path for pedestrian traffic.

5) Authorizes local authorities to prohibit standup electric scooter in designated areas of the public highway.

6) Requires a person under the age of 18 to wear a properly fitted and fastened helmet, as defined, while riding on a standup electric scooter.

7) Restricts a person from operating a standup electric scooter in the following ways:

a) With any passengers in addition to the operator.

b) Carrying any package, bundle, or article that prevents the operator from keeping at least one hand upon the handlebars.

c) Without a brake that enables the operator to make a braked skid on dry, level, clean pavement.

d) With handlebars positioned so that the operator's hands are above the level of his or her shoulders.

8) Authorizes a person to operate a standup electric scooter in a bicycle lane established on a roadway in a manner which does not endanger the safety of bicyclists.

9) Requires every standup electric scooter operated during darkness to be equipped with a front white light, white or yellow side reflectors, and a red rear reflector, as defined.

COMMENTS

1) *Purpose.* The author states that in order to provide clarity for riders, law enforcement, and local governments, it is essential to have a clear definition for this new technology; with regulations similar to comparable vehicle types. This bill creates a baseline legal framework for local governments to build upon depending on the specific needs of the communities.

2) *Dockless Electric Scooter Companies.* The sponsor of this bill is Bird, a dockless electric scooter company. These companies have rapidly deployed scooters in cities across California. Their business model is similar to the dockless bicycle sharing model. A user creates an online account with a company, then the user can look for and 'unlock' any of the company's scooters using its app on a smart phone, take it for a trip on a per-minute rate, and then leave the scooter wherever the user ends the trip, rather than park it back at a designated station. This sharing model promises greater convenience for users, though it requires making these scooters ubiquitous throughout a community, which has caused many issues for local jurisdictions. The hope is that these dockless electric scooters could replace short car trips to help alleviate congestion, and provide another efficient and sustainable transportation option.

   With this bill, the author and sponsor would like to create a separate definition in the code for 'electric standup scooter' as a two-wheeled device that has

handlebars, has a floorboard that is designed to be stood upon while riding, is powered by an electric motor of less than 750 watts, and does not exceed a speed of 20 mph, and regulate them similarly to electric bicycles.

3) *Motorized Scooters*. Electrically-powered standup scooters are not a new technology. Currently, the electric scooters, as deployed by Bird and other companies, fall under the existing classification of 'motorized scooters'. A motorized scooter is defined as any two-wheeled device that has handlebars, has a floorboard that is designed to be stood upon while riding, and is powered by an electric motor. Under existing state law, to ride a motorized scooter on public streets, you must have a valid driver's license or permit and wear a helmet. Motorized scooter riders must also travel less than 15 mph, and may not be operated on sidewalks or on streets if the posted speed limit is over 25 mph, unless in a bike lane. Motorized scooters are also not allowed to be left on its side on a sidewalk or parked in the way of pedestrian traffic. Cities and local jurisdictions also have the authority to further regulate operation and parking of these scooters within their areas.

4) *Enforcement and Safety Issues*. One of the major concerns with creating a separate designation for electric standup scooters compared to motorized scooters is that there is no visible way to tell them apart. In the proposed definition in the bill, all of the defining physical features (two-wheeled device, handlebars, floorboard to stand on) are the same. The only difference is in the specification of wattage. This bill also creates traffic rules under which electric standup scooters can be operated that differ from motorized scooters. This would make it very complicated for law enforcement and cities to be able to properly police and regulate the streets. The bill also lacks key safety considerations that are currently in the 'motorized scooter' law, such as having an age limit (i.e., requiring a driver's license to operate), and the prohibition on riding on sidewalks.

5) *Opposition*. The City of Santa Monica writes in opposition that "motorized scooters pose a significant public safety hazard when not ridden or parked in compliance with existing law. By creating a new definition for these motorized scooters this bill will weaken the laws regulating how these vehicles may be operated to a level that is not commensurate with the hazards they pose." Los Angeles Walks writes in opposition that "allowing high-speed stand-up electric scooters to operate on sidewalks poses a significant risk to pedestrians, from school-bound children to strolling older adults."

6) *Is this bill necessary?* It is unclear why a new vehicle category is needed. Many cities in the state have already established ordinances and pilot programs

to get these dockless electric scooter companies operating on their streets safely, under the existing 'motorized scooter' definition.[1] Also, Bird, the sponsor, and other companies ask their users to operate their scooters in a way that conforms to the existing 'motorized scooter' definition. ***The author and committee may wish to consider amending the bill to remove creating the new definition of electric standup scooter, and instead require that only those under 18 years of age are required to wear a helmet when operating a motorized scooter.***

7) *Purpose of Amendments.* With these amendments, the dockless electric scooters will continue to be regulated as motorized scooters, as they are now. These regulations include requiring a driver's license or permit to ride, traveling at less than 15 mph, not riding on sidewalks, and only riding on roads with speed limits 25 mph or less, unless in a bike lane. The amendments would narrow the bill down to one provision: no longer requiring adults to wear a bicycle helmet when riding a motorized scooter.

   The argument for this provision is that current adult helmet law for motorized scooters makes riding these scooters inconvenient and thus discourages the use of scooters; similar to what is argued for why there is no adult helmet requirement for bicycles. This law is problematic for companies like Bird, who want consumers to be able to pick up one of their vehicles and go, and to not have to worry about getting ticketed for not wearing a helmet, like how it is for the dockless bicycle companies. This amended bill would make the helmet law for motorized scooters to be the same as the helmet law for bicycles.

8) *Helmets Reduce the Risk of Death.* The proper use of a helmet has been shown to reduce head injuries and the risk of death from bicycle crashes. A study of ~6,000 bike-related injuries in the US found that riders wearing helmets had 52% lower risk of brain injury and a 44% lower risk of death compared to unhelmeted riders.[2] There is little information specifically for motorized scooters, due to the low number of riders, but helmets should similarly reduce the risk of death and injury when operating motorized scooters. Due to these safety concerns, Bird and other similar companies highly recommend the use of helmets on their scooters, and some even offer their riders free helmets. This amended bill would give adult riders the freedom to choose whether or not to wear a helmet when riding a motorized scooter.

RELATED LEGISLATION:

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[1] https://www.santamonica.gov/press/2018/06/13/santa-monica-city-council-approves-shared-mobility-pilot-program

[2] https://www.reuters.com/article/us-health-bicycles-helmets-idUSKCN10U1LY

AB 604 (Olsen, Chapter 777, Statutes of 2015) — defined "electrically motorized skateboards" and required these devices to meet certain operational requirements.

AB 1096 (Chiu, Chapter 568, Statutes of 2015) — defined various classes of electric bicycles and establishes parameters for their operation in California.

SB 441 (Chesbro, Chapter 722, Statutes of 1999) — defined "motorized scooters" and required these devices to meet certain operational requirements.

Assembly Votes:

Floor	**74-1**
Approps	**16-0**
Trans	**14-0**

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

Bird (sponsor)

OPPOSITION:

California Walks
City of Santa Monica
Los Angeles Walks
Walk Long Beach
Walk San Francisco

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 3061	**Hearing Date:**	6/26/2018
Author:	Gloria		
Version:	6/18/2018 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Manny Leon		

SUBJECT: State highways: property leases

DIGEST: This bill requires the State Department of Transportation (Caltrans) to lease a specified parcel of real property in the City of San Diego for $1 per month for certain purposes, as specified.

ANALYSIS:

Existing law:

1) Grants Caltrans broad authority to acquire by eminent domain any property necessary for state highway purposes.

2) Authorizes Caltrans to lease to public agencies or private entities the use of Caltrans-owned areas above or below state highways (known as "airspace"). Generally, leases to private entities are required to be made on the basis of competitive bids and at fair market value.

3) Authorizes Caltrans to make land or airspace available, with or without charge, to a public entity to accommodate needed passenger, commuter, or high-speed rail, magnetic levitation systems, and highway and non-highway mass transit facilities.

4) Authorizes $1 per month leases of Caltrans airspace parcels to the City and County of San Francisco, Santa Barbara County, the City of San Diego, and San Joaquin County for specified emergency shelter or feeding purposes.

5) Authorizes Caltrans to enter into a $1 monthly lease with a public entity for a certain parcel of real property, as specified, in the City of San Diego. Provides that the lease amount may be paid in advance to minimize administrative costs and further prohibits Caltrans to impose an administrative fee greater than $500, as specified. Specifies that the abovementioned lease shall be executed for

providing an emergency shelter, feeding program, or the establishment of a children's day care center.

6) Finds and declares that the lease of real property pursuant to these provisions serves a public purpose.

7) Requires, under the State Constitution (Article XIX), revenues from taxes imposed on motor vehicle fuels to be used solely for the construction, maintenance, and operation of public streets and highways and public mass transit guideways, including the mitigation of their environmental effects.

This bill authorizes Caltrans to lease specified additional property in the City of San Diego to another public entity for purposes of an emergency shelter, feeding program, or children's day care facility, at a lease amount of $1 per month and an administrative fee not to exceed $500 per year, as specified.

COMMENTS

1) *Purpose.* According to the author, "San Diego has the fourth largest homeless population in the country, with over 9,100 homeless men, women and children on any given night. With one of the lowest rental vacancy rates in the country and long waiting lists for subsidized housing, homelessness is a reality for an increasing number of San Diegans. By providing an opportunity to lease this parcel for $1, AB 3061 would help the city address a growing homeless population through permanent supportive housing."

2) *Special treatment for shelter/feeding programs.* The authority for Caltrans to enter into leases is in existing law and Caltrans is generally obligated to secure fair market value lease rates for airspace under freeways or other available parcels, based on the estimated highest and best use of the property. Notable exceptions to the fair market value requirement authorize Caltrans to lease unused parcels of land below market rates to various cities and counties for the purposes of emergency shelters and feeding programs. In each of these exceptions, the Legislature has found that below-market rate leases for these particular uses serve a public purpose.

3) *Consistent with the State Constitution?* Article XIX of the California Constitution seeks to reserve revenues in the State Highway Account (SHA) derived from motor vehicle fuels exclusively for the funding of transportation projects. As it applies to Caltrans real property rentals, the principle is that if an asset has been purchased with SHA dollars, it should either be used directly for transportation purposes or it should be sold or leased at market value, with the resulting revenues being returned to the SHA in order to make the SHA whole.

The Legislature has chosen in a very small number of instances in recent years also to allow such parcels to be used at below-market rates for other public purposes, i.e., projects that serve a worthy public cause but are not necessarily of a transportation nature.

4) *Homelessness in San Diego.* The author notes that according to the U.S. Department of Housing and Urban Development, over the five-year period from 2013 to 2017, the number of unsheltered people in San Diego grew 23%. Father Joe's Villages in San Diego is a non-profit organization that has been assisting San Diego's homeless since 1950. This non-profit has been working with the City of San Diego and Caltrans (the property owner) to take over the lease currently held by EZ 8 motel to convert the location to a homeless and veterans permanent supportive housing facility. The provisions specified in this bill will allow Father Joe's to take over the lease at an affordable rate and provide 127 units of shelter for San Diego's homeless community.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

None received.

OPPOSITION:

None received.

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SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 3135	**Hearing Date:**	6/26/2018
Author:	Frazier		
Version:	6/11/2018 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Manny Leon		

SUBJECT: Traffic safety: state funding

DIGEST: This bill establishes a staffing formula and prioritizes funding for officer staffing levels of the California Highway Patrol (CHP), as specified.

ANALYSIS:

The CHP serves as the highway enforcement and state police for California and has jurisdiction everywhere in the state. The primary mission of the CHP is to enforce all traffic laws on the state's highways and in unincorporated areas within California. Established by the State Legislature in 1929, the CHP ultimately merged with State Police in 1995 and assumed their responsibilities.

The CHP promotes traffic safety by inspecting commercial vehicles, as well as inspecting and certifying school buses, ambulances, and other specialized vehicles. In addition to vehicle and traffic enforcement and inspection of vehicles, CHP also provides other services including protecting state buildings and facilities and providing protection detail for state officials. The CHP also works with municipal law enforcement agencies, providing assistance in investigations, patrol, and other aspects of law enforcement. The operations of the CHP are divided across eight geographic divisions throughout the state.

The California Highway Patrol is the largest state police agency in the United States, with more than 10,500 employees, 7,608 of whom are sworn officers.

Existing law:

1) Establishes the Department of the California Highway Patrol to enforce all laws regulating the operation of vehicles and the use of the highways.

2) Imposes certain registration fees on vehicles, with revenues from these fees deposited into the Motor Vehicle Account (MVA) and used, among other things, to fund the Department of Motor Vehicles (DMV) and CHP.

3) Provides for the monthly transfer of excess balances in the MVA to the State Highway Account.

4) The California Constitution requires the Governor to submit a budget for the ensuing fiscal year to the Legislature within the first 10 days of each regular session. Existing law further requires that budget to contain a complete plan and itemized statement of all proposed expenditures of the state provided by existing law or recommended by the Governor, and of all estimated revenues, as specified.

5) Article 19 of the California Constitution restricts the expenditure of revenues from taxes imposed by the state on fuels used in motor vehicles upon public streets and highways to street and highway and certain mass transit purposes.

6) Article 19 further restricts the expenditure of revenues from fees and taxes imposed by the state on vehicles or their use or operation to state administration and enforcement of laws regulating the use, operation, or registration of vehicles used on the public streets and highways, including the enforcement of traffic and vehicle laws by state agencies and the mitigation of the environmental effects of motor vehicle operation due to air and sound emissions, as well as to street and highway and certain mass transit purposes.

This bill:

1) Makes legislative findings and declarations regarding the need for additional CHP officers to ensure public safety on the state's roads and highways.

2) Requires the Department of Finance (DOF) to calculate the ratio of the number of officer positions at CHP authorized in the annual budget act to the state population for each fiscal year beginning in the 2007–08 fiscal year to the 2017–18 fiscal year in order to determine the highest staffing ratio.

3) Requires the annual budget proposed by the Governor, for each fiscal year following the enactment of this bill, to include the level of funding and position authority necessary for CHP to meet or exceed the highest staffing ratio.

4) Requires DOF, if the ratio of the officer positions authorized in the annual budget act to the state population does not meet or exceed the highest ratio, to

adjust the funding and position authority in the Governor's proposed budget to come into compliance with the highest ratio within three fiscal years.

5) Prioritizes revenues deposited into the MVA for the state administration and enforcement of laws regulating the use, operation, or registration of vehicles used on the public streets and highways, including traffic enforcement, as specified.

6) Provides that any remaining balance in the MVA, after fulfilling the first-priority as stated above, may be used for other authorized purposes under the California Constitution.

COMMENTS

1) *Purpose.* According to the author, "for too long, the administration has used for other purposes the funding meant for ensuring our safe roads. AB 3135 requires the administration to identify the state's need for CHP officers and to fund them first from the monies intended for this purpose. If we don't act now, our roads will continue to grow less safe and more people will needlessly die on our highways."

2) *Road Safety.* The relationship between increased officer patrolling/enforcement and reductions in vehicle accidents has been widely reported. As far back as 2005, the Legislative Analyst Office (LAO) reported that, in regards to safety enhancing proactive patrols, increases in the number of traffic accidents combined with relatively little growth in road patrol staffing have resulted in officers spending increasing amounts of their work hours *responding* to accidents rather than conducting proactive patrols and providing enforcement and other safety-related services that aim to reduce accidents. Another study reported by the *Journal of Trauma: Injury, Infection, and Critical Care* (May 2006), which was conducted in Fresno, California, found that increased traffic enforcement decreased the number of motor vehicle collisions, crash fatalities, and fatalities related to speed.

   For the 2016 calendar year, CHP reported that 3,839 persons were killed in vehicle accidents, 278,169 persons were injured, and 997 were killed where alcohol was involved.

3) *Staffing levels.* Both the author's office and advocates assert that the staffing levels for CHP officers have not kept pace with the growing number of licensed drivers and registered motor vehicles on the road. In April of this year the author of this bill submitted a budget letter requesting additional funding from

the MVA to increase CHP officer staffing levels. The letter notes that while the state's population has increased 8.4% since 2010, registered vehicles have increased 11.6%, and the mileage death rate has increased 27%, CHP's officer staff levels have decreased 5%. This request for additional funding was ultimately not included in the 2018-2019 fiscal year budget.

4) *MVA Priorities?* This bill directs DOF to calculate CHP officer staffing levels using a specified ratio and then prioritizes MVA funding to first fund sufficient CHP staffing levels based on the DOF's calculation before allocating funding for all other MVA expenditures. Understandably, public safety on the state's highway system should be of top importance for the state. For example, AB 268 (Chapter 756, Statutes of 2008) increased vehicle registration fees by $11 to fund the number and cost of additional CHP officers while keeping the MVA solvent. However, the author may wish to provide the committee with further explanation as to why officer staffing levels should take priority over all other MVA expenditures rather than generally increasing MVA funding and designating the increased funding to boost officer staffing numbers.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

None received.

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 3177	**Hearing Date:**	6/26/2018
Author:	Chávez		
Version:	4/16/2018 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Manny Leon		

SUBJECT: North County Transit District: contracting

DIGEST: This bill makes various changes to certain bidding requirements for the North County Transit District (NCTD), as specified.

ANALYSIS:

Created in 1975, the North San Diego County Transit Development Board was established to plan, construct, and operate directly, or through a contractor, public transit systems in the San Diego region. The Board was renamed the North County Transit District in 2006.

Currently, NCTD contracts with private operators for all modes of public transit service. Through these contracts, NCTD provides the following transit services: commuter rail (COASTER), hybrid rail (SPRINTER), fixed-route bus (BREEZE), demand response fixed route and route deviation (FLEX), and Americans with Disability Act of 1990 complementary paratransit (LIFT). Below are the ridership figures for the 2017 calendar year for all NCTD's transit services:

Total Ridership	**10,724,225**
BREEZE	6,513,869
COASTER	1,426,047
SPRINTER	2,570,597
LIFT	191,195
FLEX	22,517

Existing law:

1) Requires, pursuant to the Public Contract Code (PCC), public agencies to obtain competitively bid contracts for construction projects, and contracts for supplies, equipment, and materials above a specified cost threshold. This amount varies depending on the public agency and whether it is a city, county, special district, or school, and other variables.

2) Establishes the Uniform Public Construction Cost Accounting Act (UPCCAA), which authorizes public agencies to voluntarily use their own employees on construction projects that cost up to $45,000, and to use informal competitive bidding procedures for construction projects that cost up to $175,000, if they agree to cost accounting procedures pursuant to the UPCCAA.

3) Creates the NCTD to acquire, construct, maintain, and operate, or let a contract to operate, public transit systems and related facilities within its jurisdiction.

4) Requires NCTD's contracts for construction in excess of $10,000 to be awarded to the lowest responsible bidder after competitive bidding, except in an emergency declared by the vote of two-thirds of the membership of the board.

5) Requires NCTD's contracts for the purchase of supplies, equipment, and materials in excess of $50,000 to be awarded to the lowest responsible bidder after competitive bidding, except in an emergency declared by the vote of two-thirds of the membership of the board.

6) Allows the governing board of a transit district (including NCTD), city, county, city and county, or transportation agency to direct the purchase of the following items by competitive negotiation upon a finding by two-thirds vote of all members of the board that the purchase of those products or materials in compliance with provisions of the PCC generally applicable to the purchase does not constitute a method of procurement adequate for the agency's needs:

   a) Computers, telecommunications equipment, fare collection equipment, radio and microwave equipment, and other related electronic equipment and apparatus used in transit operations;

   b) Specialized rail transit equipment, including, but not limited to, railcars;

   c) Buses; and,

   d) Passenger ferries.

7) Allows the governing boards of the Metropolitan Transit System (MTS) and the San Diego Association of Governments (SANDAG) to use flexible procurement procedures for the acquisition of materials, supplies, equipment, or services that are nearly identical to the provisions of this bill.

This bill:

1) Repeals provisions of law requiring NCTD's contracts for the purchase of supplies, equipment, and materials in excess of $50,000 to be awarded to the lowest responsible bidder after competitive bidding, except in an emergency declared by the vote of two-thirds of the membership of the board.

2) Authorizes NCTD to opt in to the UPCCAA.

3) Clarifies that NCTD may contract with any department or agency of the federal government, any other public agency, or any person upon such terms and conditions as the district finds is in its best interest.

4) Finds and declares that a compelling interest exists in ensuring all federal, state, local, and private moneys available to the district are captured and used in a timely manner.

5) Allows the NCTD board, in order to maximize the use of federal, state, local, and private funds, and to maintain a competitive posture in seeking supplemental federal funds, to establish and use a flexible contracting process, consistent with the NCTD Act, to maximize its efficient use of public funds.

6) Requires all contracts for the acquisition or lease of materials, supplies, or equipment, except in cases where an item of a specified brand or trade name is the only item that will properly meet the needs of the district or in an emergency declared by the vote of two-thirds of all the members of the board, to be awarded as follows:

   a) A contract with an expected cost that exceeds $100,000, as authorized by the board, shall be made or entered into with the lowest responsible bidder that meets the specifications. For purposes of determining the lowest bid, the amount of sales tax shall be excluded from the total amount of the bid.

   b) A contract with an expected cost that does not exceed $100,000 shall be made or entered into using a district-approved competitive procurement process. When the expected cost of a contract exceeds $5,000 and does not exceed $100,000, the district shall seek a minimum of three quotations, either written or oral, to permit comparison of prices and other terms.

7) Requires all contracts for the acquisition of services that are not within a category of services described in existing law governing contracts with private architects, engineering, land surveying, and construction project management

firms, except in cases of an emergency declared by a vote of two-thirds of the membership of the board, to be awarded as follows:

a) A contract with an expected cost that exceeds $100,000 shall be made and entered into by soliciting bids in writing and awarding the contract using a district-approved competitive procurement process, including, but not limited to, a negotiated procurement that may or may not evaluate price as a consideration.

b) A contract with an expected cost that does not exceed $100,000 shall be made or entered into using a district-approved competitive procurement process. When the expected cost of a contract exceeds $5,000 and does not exceed $100,000, the district shall seek a minimum of three quotations, either written or oral, to permit comparison of prices and other terms.

8) Requires the board to award contracts for architectural, landscape architectural, engineering, environmental, and land surveying services, and construction project management services that are expected to be in excess of $100,000 in accordance with existing law governing contracts with private architects, engineering, land surveying, and construction project management firms.

9) Allows the board to use any approved competitive procurement process authorized for state or local agencies under state or federal law, including, but not limited to, a competitive negotiation process in accordance with existing law governing transportation agencies' use of a competitive negotiation procurement process. The board shall maintain acquisition and contracting guidelines and comply with those guidelines in the procurement of all goods and services.

10) Prohibits provisions that are in a federally funded contract concerning disadvantaged business enterprises and that are in accordance with the request for proposals from being subject to negotiation with the successful bidder.

11) Allows the board to purchase supplies, equipment, or materials in the open market without further observance of the provisions regarding contracts, bids, or advertisements if:

a) The board rejects bids received pursuant to the procedures outlined above and determines and declares by a two-thirds vote of all of its members that, in its opinion, the supplies, equipment, or materials may be purchased at a lower price in the open market; or,

b) After solicitation of bids pursuant to the procedures outlined above, the board determines and declares by a majority vote that it has not received a responsive bid.

12) Allows the district's executive director to authorize the expenditure of moneys previously appropriated by the board specifically for the direct purchase of goods and services without complying with the procedures outlined above, upon determining that an immediate remedial measure to avert or alleviate damage to, or to repair or restore the damaged or destroyed property of the district is necessary to ensure that the district's facilities are available to serve the transportation needs of the general public, or to comply with any state or federal regulations with respect to the operation of public transportation services, and upon determining that available remedial measures, including procurement in compliance with the procedures outlined above, are inadequate. The executive director, after the expenditure has been made, shall submit to the board a full report explaining the necessity for that action.

13) Allows the board to direct the procurement of prototype equipment or modifications in an amount sufficient to conduct and evaluate operational testing without further compliance with any contracting, bidding, or advertising requirements, upon a finding by two-thirds of all members of the board that a purchase in compliance with the procedures outlined above does not constitute a method of procurement adequate for the operation of the district's facilities or equipment.

14) Allows the board to direct the purchase of any supplies, equipment, or materials without complying with any contracting, bidding, or advertising requirements upon a finding by two-thirds of all members of the board that there is only a single source of procurement and that the purchase is for the sole purpose of duplicating, repairing, or replacing supplies, equipment, or materials that are in use, including upgrades or migrations of proprietary intellectual property.

15) Allows a person who submits, or who plans to submit, a proposal in response to a procurement solicitation to protest any acquisition conducted pursuant to the provisions contained in 4) through 9), above, as follows:

a) Protests based on the content of the procurement solicitation shall be filed with the district within 10 calendar days after the procurement solicitation is first advertised. The executive director, or the designee of the executive director, shall issue a written decision on the protest prior to the opening of the procurement solicitation. A protest may be renewed by refiling the

protest with the board within 15 calendar days after the posting of the notice of the intent to award;

b) Any bidder may protest the intent to award on any ground not based upon the content of the procurement solicitation by filing a protest with the district within 15 calendar days after the posting of the notice of the intent to award. The executive director, or the designee of the executive director, shall issue a written decision on the protest;

c) Any protest shall contain a full and complete written statement specifying in detail the grounds of the protest and the facts supporting the protest. Protestors shall have an opportunity to appear and be heard before the board prior to the opening of the procurement solicitation in the case of protests based on the content of the procurement solicitation or renewed protests based on the content of the procurement solicitation, or prior to final award in the case of protests based on other grounds; and,

d) The decision on the protest by the board shall be in writing and shall constitute a final administrative decision for purposes of judicial review pursuant to existing law governing judicial review of local agency decisions.

16) Repeals provisions of law requiring the NCTD Board, immediately upon holding its first meeting, to proceed to negotiate with the existing municipal transit operators within its area of jurisdiction to acquire the capital transit equipment and facilities of the municipal transit operators.

17) Provides that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to current law governing state mandated local costs.

COMMENTS

1) *Purpose.* According to the author, "In order to keep the North County Transit District competitive and costs low for riders and taxpayers it is important to provide consistent procurement options that have been proven to be successful with other transit districts."

2) *Procurement issues.* The sponsors of this bill assert that rising costs and, many times, a low number of bid solicitations have resulted in difficulties in executing contracts for various procurements. NCTD provided three recent examples where these difficulties took place:

a) On February 16, 2018, NCTD issued IFB 27319 for Guard Rail and Fence services with an independent cost estimate of $14,349.90. The solicitation was posted online, advertised in 2 newspapers of general circulation, distributed to 486 vendors registered in NCTD's online bidding system; and broadcast notifications sent to an additional 500 external vendors. The bid close date was extended. A single bid was received on March 16, 2018.

b) On March 17, 2017, NCTD issued IFB 26292 for a Fire Alarm Controller Project with an independent cost estimate of $128,420. The Scope of Work (SOW) was to replace the fire alarm controller and all existing fire alarm devices and associated wiring. The solicitation was posted online, advertised in two newspapers of general circulation, and distributed to 287 vendors registered in NCTD'S online bidding system. The solicitation closed on May 1, 2017 having received no bids.

   The solicitation was canceled and reissued on October 9, 2017, re-advertised in two newspapers of general circulation, distributed to 502 vendors registered in NCTD's online bidding system; and broadcast notifications sent to an additional 500 external vendors. The bid close date was extended twice. A single bid was received on November 30, 2017.

c) On January 13, 2017, NCTD issued IFB 25994 for Preventive Maintenance Services: Plumbing with an independent cost estimate of $85,721.12. The solicitation was posted online; advertised in two newspapers of general circulation; and distributed to 104 vendors registered in NCTD's online bidding system. Only two bids were received on March 7, 2017.

This bill aims to remedy these procurement issues by raising the bidding threshold for various contracts and making other changes to NCTD's procurement process that are consistent with other local government entities in the San Diego region.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

Assembly votes:

Floor:	**73-0**
Approps:	**16-0**
Local Govt.:	**8-0**

POSITIONS: (Communicated to the committee before noon on Wednesday, June 20, 2018.)

SUPPORT:

North County Transit District (sponsor)
International Association of Sheet Metal, Air, Rail, and Transportation Workers

OPPOSITION:

None received.

-- END --