California State Senate

TRANSPORTATION AND HOUSING

JIM BEALL
CHAIR

State Capitol, Room 2209
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AGENDA

Tuesday, June 19, 2018
1:30 p.m. -- John L. Burton Hearing Room (4203)

MEASURES HEARD IN FILE ORDER

Consent items indicated by *

1.	AB 709	McCarty	Sacramento Regional Transit District.
2.	AB 1405	Mullin	Digital sign demonstration pilot program.
3.	AB 1798	Chu	Schoolbuses: passenger restraint systems.
4.	AB 2006*	Eggman	Agricultural Worker Clean Transportation Investment Program.
5.	AB 2107	Reyes	New Motor Vehicle Board.
6.	AB 2145	Reyes	Vehicular air pollution.
7.	AB 2162	Chiu	Planning and zoning: housing development: supportive housing.
8.	AB 2263	Friedman	Designated historical resource: conversion or adaptation: required parking.
9.	AB 2363	Friedman	Vision Zero Task Force.
10.	AB 2535	Obernolte	High-occupancy toll lanes: notice of toll evasion violation.
11.	AB 2629	Eggman	Department of Transportation: airspace under state highways: leases.
12.	AB 2681	Nazarian	Seismic safety: potentially vulnerable buildings.
13.	AB 2797*	Bloom	Planning and zoning: density bonuses.
14.	AB 2873	Low	Personal vehicle sharing: recalled vehicles.
15.	AB 2887	Aguiar-Curry	Migrant farm labor centers.
16.	AB 2890	Ting	Land use: accessory dwelling units.
17.	AB 2994*	Holden	Building standards: public restrooms: grab bars: ambulatory accessible toilet compartments.
18.	AB 3139	Bonta	State highways: property leases.
19.	AB 3163*	Frazier	Department of Motor Vehicles: electronic submission of documents.
20.	AB 3194	Daly	Housing Accountability Act: project approval.
21.	AB 3246*	Transportation	Transportation: omnibus bill.
22.	ACR 188*	Quirk-Silva	Colonel Young Oak Kim, United States Army, Memorial Highway.

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

Bill No:	AB 709	**Hearing Date:**	6/19/2018
Author:	McCarty		
Version:	6/6/2018		
Urgency:	No	**Fiscal:**	No
Consultant:	Randy Chinn		

SUBJECT: Sacramento Regional Transit District

DIGEST: This bill revises numerous laws relating to the Sacramento Regional Transit District (District).

ANALYSIS:

Existing law provides for the creation of the District with specified powers and duties relative to the provision of public transit services.

This bill makes numerous technical and non-technical changes to the District's authority:

1) Clarifies that the activities of the District are subject to the Public Contract Code.

2) Defines a quorum of the district for a noticed public meeting is based on the number of votes present at the meeting, but for a gathering outside of a noticed public meeting a quorum is defined as the number of members.

3) Authorizes the District to adopt its own voting procedures, which may differ from the weighed voting procedure required under existing law.

4) Removes the requirement that the District includes with its budget a statement of its proposed operations and level of service, calling attention to any substantial changes in operations.

5) Specifies that California laws, rules or regulations which are inconsistent with federal laws, rules or regulations, shall not apply to the acquisition, construction, maintenance, or operation of transit facilities funded by the federal government if that inconsistency results in a loss of federal funding.

6) Revises the District's authority to collect property taxes such that a two-thirds vote of voters in the District's territory approve.

7) Revises the District's authority to impose sales taxes by allowing the imposition in one-eighth of 1% increments.

COMMENTS

1) *Author's Statement.* The Sacramento Regional Transit District provides transit, either by bus or light-rail, to approximately 80,000 passengers a day. AB 709 seeks to codify a number of important changes passed by the District board that will allow the District to better service its customers and the community it services.

2) *Counting Differently.* Under current law the District uses a weighed voting procedure. The District has 100 total votes, a majority of which decide any matter. Of the 100 votes, 30% of the votes are allocated equally to all members with the remaining allocated among members in proportion to their financial contribution to the District. This bill permits the District to change this procedure. The District believes that changing from a weighed vote to a representative vote may induce other cities within the region to join the District.

3) *Property Taxes.* Under current law the District may levy a property tax when the legislative body of the city or county approves the tax. This bill revises that requirement to require a two-thirds vote of the voters in the District's territory. That tax is effective within that city or county as long as it remains a participating entity with the District.

4) *Sales Taxes.* Under current law the District may levy sales taxes in increments of one-quarter of 1%. This bill changes the increment to one-eighth of 1%. Similar authority was given to the Peninsula Corridor Joint Powers Board in SB 797 (Hill, Chapter 653 of 2017).

5) *Double Referral.* This bill is double referred to the Governance and Finance Committee.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

Sacramento Regional Transit District (sponsor)
City of Sacramento
Sacramento City Council Member Jay Schenirer

OPPOSITION:

None received.

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

Bill No:	AB 1405	**Hearing Date:**	6/19/2018
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.

9) *Double Referral.* This bill has been double-referred to the Judiciary Committee.

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 13, 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:

California State Association of Counties
City of Baldwin Park
City of Carson
City of Eastvale
City of Lynwood
City of Rohnert Park
General Outdoor Advertising
Lamar Advertising
League of California Cities
Meadow Outdoor Advertising
Stott Outdoor Advertising
Veale Outdoor Advertising

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

Bill No:	AB 1798	**Hearing Date:**	6/19/2018
Author:	Chu		
Version:	3/14/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Howard Posner		

SUBJECT: Schoolbuses: passenger restraint systems

DIGEST: This bill requires all schoolbuses in use in California to be equipped with a passenger restraint system by July 1, 2035.

ANALYSIS:

Existing law:

1) Requires all schoolbuses purchased or leased for use in California to be equipped at all designated seating positions with a combination pelvic and upper torso passenger restraint system, unless specifically prohibited by the National Highway Traffic Safety Administration (NHTSA).

2) Declares the intent of the Legislature that school pupil transportation providers ensure that elementary level schoolbus passengers receive first priority for new schoolbuses whenever feasible.

This bill requires, on or before July 1, 2035, all schoolbuses in use in California to be equipped with a passenger restraint system.

COMMENTS

1) *Author's statement:* "We must do everything we can to prevent injuries and fatalities and ensure that children safely travel to and from school. Seatbelts save lives and various studies and reports agree. This bill will ensure that all students have equal access to the safest form of school transportation."

2) *Seat belts are already mandated on newly purchased schoolbuses.* In 1999, the Legislature passed and Governor Davis signed AB 15 (Gallegos), Chapter 648, Statutes of 1999, which required all schoolbuses purchased or leased for use in California to have a seatbelt, starting in 2002 or 2003, depending on the type of

schoolbus. The following year the Legislature extended the requirement to 2004 or 2005 in anticipation of a study conducted by the National Highway Traffic Safety Administration (NHTSA) on whether seatbelts were necessary in schoolbuses.

3) *Early NHTSA stance.* In 2002 NHTSA released their report concluding that lap belts appear to have little, if any, benefit in reducing serious-to-fatal injuries in severe frontal crashes. NHTSA recognized that schoolbus transportation is one of the safest forms of transportation in the United States. Because of the use of compartmentalization, schoolbuses are significantly safer than cars or trucks. Schoolbus seats, made with an energy-absorbing steel inner structure and high, padded seat backs, are secured to the schoolbus floor. Students are protected within the seating compartment much like eggs in a carton. According to NHTSA, American students are nearly eight times safer riding in a schoolbus than in their own family cars.

   The fatality rate for schoolbuses is only 0.2 fatalities per 100 million vehicle miles traveled (VMT), compared to 1.5 fatalities per 100 million VMT for cars. In nearly 10 years, 174 pupils in schoolbuses lost their lives in traffic accidents, compared to an estimated 40,200 traffic fatalities overall in 2016 alone.

4) *More recent NHTSA policy.* Recently, however, NHTSA has changed its stance on seatbelts in schoolbuses. In 2015 the NHTSA administrator stated, "The position of the National Highway Traffic Safety Administration is that seat belts save lives .... So NHTSA's policy is that every child on every school bus should have a three-point seat belt."

   The National Transportation Safety Board also recognizes the benefits of seatbelts on schoolbuses and states, "Although schoolbuses are extremely safe, we have investigated schoolbus crashes in which children were injured and even killed. These were typically side-impact crashes or high-speed rollovers. In these accidents, compartmentalization was not enough to prevent all injuries; for some of the children involved, a seat belt could have lessened their injuries or even saved their lives. As result of our schoolbus crash investigations, we believe—and have recommended—that, when investing in new schoolbuses, the purchased vehicles should provide children with the best protection available, which includes 3-point seat belts."

5) *Other states.* California, Arkansas, Florida, Louisiana, New Jersey, New York, and Texas have passed some variation of a requirement for schoolbuses to have seatbelts.

6) *Just how prevalent are schoolbuses without seatbelts?* According to the California Highway Patrol (CHP), the number of schoolbuses with passenger

restraint systems has increased steadily since requiring new schoolbuses to have seatbelts. The percentage of schoolbuses equipped with restraint systems increased from around 7.4 percent (1,900 out of 25,822) in 2007 to around 54.4 percent (10,710 out of 19,690) in 2016. Based on these numbers, the CHP estimates that by 2025, around 90% of schoolbuses could be equipped with restraint systems.

7) *At what price?* According to the Assembly Appropriations Committee analysis, the bill will result in cost pressures to school districts that do not otherwise plan to replace buses that do not have seatbelts by 2035. A schoolbus generally has a useful life of about 30 years. Because all school buses purchased in California have included seatbelts since 2005, by 2035 all older schoolbuses that do not have seatbelts will have reached the end of their expected useful life. However, it is possible that some school districts would otherwise use a small number of these older buses beyond their expected useful lives and will instead need to replace these schoolbuses sooner. If, for example, only 10 schoolbuses had to be replaced earlier than planned as a result of this bill, the aggregate replacement cost would be $3 million, assuming a $300,000 price tag for each schoolbus.

RELATED LEGISLATION:

AB 692 (Chu, 2017) — would have required school districts to provide information to the California Department of Education (CDE) and the CHP to formulate a plan to have all schoolbuses equipped with passenger restraint systems by January 1, 2023. *AB 692 was held on the Senate Appropriations Committee suspense file.*

AB 15 (Gallegos, Chapter 648, Statutes of 1999) — required all schoolbuses manufactured by specified dates to be equipped with passenger restraint systems.

SB 568 (Morrow, Chapter 581, Statutes of 2001) — delayed the AB 15 implementaion deadlines until July 1, 2005 for type 1 schoolbuses, and July 1, 2004 for type 2 schoolbuses.

SB 20 (Hill, Chapter 593, Statutes of 2017) — required certain passengers of buses to wear a seatbelt if a seatbelt is equipped. This law excludes schoolbuses.

ASSEMBLY VOTES:

Floor:	**76-0**
Education:	**6-0**
Transportation:	**13-0**

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

American Academy of Pediatrics
California Medical Association
County Health Executives Association of California

OPPOSITION:

None received.

-- END --

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

Bill No:	AB 2006	**Hearing Date:**	6/19/2018
Author:	Eggman		
Version:	5/25/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Randy Chinn		

SUBJECT: Agricultural Worker Clean Transportation Investment Program

DIGEST: This bill creates the Agricultural Worker Clean Transportation Investment Program to fund the deployment of near-zero-emission vehicles (NZEVs) and zero-emission vehicles (ZEVs) used for agricultural vanpooling of disadvantaged or low-income communities.

ANALYSIS:

Existing law:

1) Requires the Air Resources Board (ARB), pursuant to California Global Warming Solutions Act of 2006 [AB 32 (Nuñez), Chapter 488, Statutes of 2006], to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to 1990 levels by 2020 and adopt regulations to achieve maximum technologically feasible and cost-effective GHG emission reductions.

2) Requires ARB to reduce greenhouse gas (GHG) emissions at least 40% below the statewide GHG emissions limit no later than December 31, 2030. Authorizes, until December 31, 2030, ARB to permit the use of market-based compliance mechanisms (i.e., the cap-and-trade program) to comply with GHG reduction regulations once specified conditions are met.

3) Requires ARB to identify "disadvantaged communities" based on geographic, socioeconomic, public health, and environmental hazard criteria.

4) Defines "low-income communities" for purposes of programs reducing GHG emissions as census tracts with medium household incomes at or below 80% of the statewide median income.

5) Existing ARB regulations establish the Agricultural Worker Vanpools Pilot Project to reduce GHG emissions by providing access to advanced technology

vehicle vanpools for agricultural workers in disadvantaged communities, with a focus on the San Joaquin Valley.

This bill creates the Agricultural Worker Clean Transportation Investment Program to fund the deployment of near-zero-emission vehicles (NZEVs) and zero-emission vehicles (ZEVs) used for agricultural vanpooling of disadvantaged or low-income communities.

COMMENTS

1) *Author's Statement.* Many of California's agricultural workers live in low-income or disadvantaged communities where they bear a disproportionate share of California's economic, health, and environmental burdens. Most agricultural workers lack safe, reliable, and clean transportation options because of their economic circumstances. This problem is further complicated by the fact that many agricultural work sites are in remote areas of the state that are difficult to access without a vehicle. Pursuant to SB 1275 (de León, 2014), the ARB created several clean vehicle access pilot projects, including a vanpool pilot program for agricultural workers living in the San Joaquin Valley. While this program has been successful, there are many other low-income and disadvantaged communities throughout the state that are not eligible for this funding who also have struggling workers who could truly benefit from an expanded vanpool program.

2) *Looks Familiar.* In Fiscal Year 2016-17, Governor Brown and the Legislature appropriated Cap and Trade funds to ARB for several pilot projects for light-duty vehicles including an Agricultural Vanpools Pilot Project. ARB's funding plan provided up to $3 million for agricultural worker vanpools in the San Joaquin Valley. In Fiscal Year 2017-18, the funding plan provided up to $3 million with a focus on the San Joaquin Valley Air Pollution Control Districts. ARB's grant solicitation requires all projects to be in disadvantaged communities; all vehicles and electric vehicle charging stations must be domiciled within disadvantaged communities. In February 2018 ARB solicited entities to manage this program, and selected the California Vanpool Authority, who is the sponsor of this bill.

3) *Light Green.* ZEV passenger vans don't exist so the ARBs vanpool pilot program will probably utilize hybrid vans. These are standard gasoline powered vans retrofitted with electric drivetrains. Hybrid van vendors claim a 25% improvement in fuel efficiency, a substantial increase which

costs around $10,000. The bigger air quality benefit may well be the pooling, which, by eliminating vehicle trips, reduces congestion and eliminates the GHG emissions from those trips.

4) *A Better Way.* The ARB pilot program is just beginning; there are no results to indicate whether it is a good idea. Therefore, making vanpool program permanent and establishing program parameters in statute seems premature. The author's concern is that the existing pilot is too constrained, leaving out low income agricultural workers in parts of the state that aren't identified as "disadvantaged communities". A better way to deal with that is to simply revise the existing pilot to broaden eligibility. **The author will accept amendments** to revise the ARB's existing vanpool pilot program to make eligible agricultural workers in "low income communities", and to require that at least 25% of future pilot program expenditures go to those communities. As "disadvantaged communities" includes primarily the San Joaquin Valley, this would broaden the eligible communities to many other areas, including the Sacramento Valley and coastal areas.

5) *Double Referral.* This bill has been double-referred to the Environmental Quality Committee.

RELATED LEGISLATION:

SB 1275 (de León, Chapter 530, Statutes of 2014) — established the Charge Ahead Initiative, to provide incentives to increase the availability of zero-emission vehicles and near-zero-emission vehicles, particularly to low-income and moderate-income consumers and disadvantaged communities.

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

Assembly Votes:

Transportation:	**13-0**
Natural Resources:	**10-0**
Appropriations:	**16-0**
Floor:	**78-0**

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

California Vanpool Authority (sponsor)
Association of Monterey Bay Area Governments
California Climate and Agriculture Network
Double Lucky, Inc.
Fresno Council of Governments
Imperial County Transportation Commission
Kern Council of Governments
Lucky Ag, Inc.
Madera County Transportation Commission
SARC, Inc.
Tulare County Association of Governments

OPPOSITION:

None received.

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

Bill No:	AB 2107	**Hearing Date:**	6/19/2018
Author:	Reyes		
Version:	5/25/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Howard Posner		

SUBJECT: New Motor Vehicle Board

DIGEST: Revamps numerous statutory provisions regarding the relationship between vehicle manufacturers (franchisors), vehicle dealers (franchisees), and the New Motor Vehicle Board (NMVB).

ANALYSIS:

Existing law:

1) Charges the California Department of Motor Vehicles (DMV) with licensing and regulating dealers, manufacturers, and distributors of motor vehicles who conduct business in California.

2) Establishes the NMVB within DMV and requires it to hear and decide certain protests presented by a motor vehicle franchisee.

3) Allows the NMVB, when determining whether there is good cause for a manufacturer to terminate a franchise, to consider whether the dealer conducted unfair business practices, is injurious to the public welfare, failed to provide for the needs of the consumers for motor vehicles, or failed to comply with the terms of the franchise.

4) Prescribes procedures to be followed by franchisors, franchisees, and NMVB regarding claims for warranty reimbursement or incentive compensation.

5) Requires every manufacturer to fulfill every warranty agreement and adequately and fairly compensate each franchised dealer for labor and parts used to fulfill the warranty. A copy of the warranty reimbursement schedule or formula must be filed with NMVB, and the schedule or formula is required to be reasonable with respect to time and compensation.

6) Allows the NMVB to consider the dealer's effective labor rate charged to its retail customers along with other relevant data in determining the adequacy and fairness of warranty and incentive compensation.

7) Makes it unlawful for a manufacturer or distributor to require, by contract or otherwise, a dealer to make a material alteration, expansion, or addition to any dealership facility, unless the required alteration, expansion, or addition is reasonable in light of all existing circumstances. In any proceeding in which a required facility alteration, expansion, or addition is an issue, the manufacturer or distributor has the burden of proving the reasonableness of the requirement.

8) Prohibits a manufacturer from competing with a dealer in the same line-make operating under an agreement or franchise from a manufacturer or distributor in the relevant market area in a 10-mile radius.

This bill:

1) Makes extensive findings and declarations, including the Legislature's intent that new motor vehicle dealers be treated fairly by their franchisors, that dealers be reasonably compensated for performing warranty repairs on behalf of their franchisors, that manufacturers be discouraged from adopting and enforcing policies contrary to California law and regulation, that franchisors do not improperly compete against their dealers, that dealers be adequately protected from excessive facility upgrade requirements, and that dealers be allowed to seek to address illegal manufacturer acts by filing protests at the NMVB.

2) Allows the NMVB to hear and decide franchisee protests against franchisors regarding retails labor rates.

3) Allows the NMVB to consider various unlawful acts listed in statute alleged to have been committed by a manufacturer when hearing a protest by a dealer and any relevant evidence that these violations did or did not occur.

4) Provides that a manufacturer's compensation to a dealer for labor and parts for warranty work is not reasonable unless it is at least equivalent to the franchisee's retail labor rate and retail parts rate as calculated by a dealer through a detailed process established by the bill.

5) Provides a process for manufacturers to contest before the NMVB the material accuracy of the retail rate calculated by the franchisee and to propose an adjusted rate. These issues would be adjudicated by the NMVD.

6) Clarifies that it is unlawful for a manufacturer to refuse or fail to deliver in reasonable quantities and within a reasonable time a new vehicle sold or distributed by the manufacturer, or a new vehicle or parts or accessories to new vehicles that are of a make or model offered by the manufacturer or distributor to other franchisees in the state of the same line-make.

7) Prohibits a manufacturer from competing with a dealer in the same line-make operating under an agreement or franchise from a manufacturer or distributor in the state. (This current prohibition applies only within a franchisee's relevant market area.)

8) Prohibits a manufacturer that is also operating as a franchisor, or an affiliate of a franchisor, from competing with any dealer by directly or indirectly offering vehicles for sale, lease, or subscription of the same line-make for sale, unless these vehicles are offered exclusively by dealers. This prohibition does not apply, however, to passenger vehicle rentals undertaken by rental companies or manufacturers participating in personal vehicle sharing programs. A manufacturer also could partner with a personal vehicle sharing program. (A subscription is defined for these purposes as a contract or arrangement whereby a person, for a reoccurring fee, secures the exclusive use of a specific vehicle of the same line-make for a term exceeding four months, and the person may cancel the contract or arrangement without penalty.)

9) Prohibits a manufacturer from requiring a franchisee to perform service repair or warranty work on any vehicle model that is not currently or previously available to the franchisee for sale or lease as a new vehicle.

10) Prohibits a manufacturer from requiring a facility alteration, expansion or addition if the facility has been modified within the last 10 years (at a cost currently unspecified in the bill) and the modification was required, or was made, for the purposes of complying with a franchisor's brand image program.

11) Prohibits a manufacturer from restricting the ability of a dealer to select a vendor of the dealer's choice for digital services with approval by the manufacturer.

12) Prohibits a manufacturer from restricting, limiting, or discouraging a franchisee from checking or verifying the applicability of a service bulletin or campaign to any vehicle.

13) Eliminates the January 1, 2019 sunset date that applies to several statues within this body of law.

COMMENTS

1) *Author's statement.* "The sale and service of motor vehicles is important to California's economy. California motor vehicle franchises employ over 140,000 people and in 2017, motor vehicle sales and services resulted in over $121.1 billion in direct economic activity. California motor vehicle franchises make up 13 percent of the total Statewide Sales Tax revenue collected. To ensure the orderly sales and service of new vehicles, California, like every other state, has enacted motor vehicle franchise laws.

   "In addition to preserving a well-organized and cost-effective distribution system of motor vehicles, franchise laws seek to address the disparity in bargaining power between multi-national auto manufacturers and California's local motor vehicle franchises that are primarily owned and operated as family businesses.

   "By helping to ensure the fair and equitable treatment by auto manufacturers when interacting with their franchised dealers, AB 2107 seeks to addresses some of the most inappropriate treatment of dealers by manufacturers and finally provides parity for California dealers with regard to warranty reimbursement."

   This bill recasts franchise agreements between dealers and manufacturers as well as their relationship to the NMVB in several ways. The most significant changes include the establishment of a comprehensive formula to determine warranty reimbursement rates; an attempt to restrict the ability of manufacturers to offer vehicle subscription services outside of their dealership networks; and a limitation on manufacturer mandates for dealer upgrades of their facilities.

2) *Warranty reimbursement.* The bill creates a statutory scheme for dealers to calculate reimbursement rates for the labor and parts they provide on the warranty work they do on behalf of manufacturers. It also grants NMVB the authority to enforce these provisions. Currently, parts and labor rates for warranty reimbursements are set by manufacturers, and disputes about reimbursement rates are handled in state courts. Existing law requires every manufacturer to adequately and fairly compensate each franchisee dealer for labor and parts used to fulfill manufacturers' warranties. The sponsors of this measure assert that parts reimbursement rates are artificially capped by manufacturers below their customary markup for parts and that their labor reimbursement schedules do not fully reflect the amount of time required to

perform certain jobs. They contend that the failure to receive retail labor rates makes it difficult to retain the services of highly qualified technicians.

Dealers would set rates through a detailed formula outlined in the bill which is based on their historical repair orders and is roughly modeled on a methodology used in 26 other states. Manufacturers argue that the current requirement to adequately and fairly compensate their franchisees for services performed under warranty is sufficient, but they appear amenable to enacting a formula. However, they contend that the bill's current language is vague and may artificially inflate a dealer's warranty labor rate. It could, they argue, incentivize dealers to raise the rates they charge for non-warranty repairs. For reimbursements on warranty parts, they believe the calculation is incorrect and needs to be redrafted. Also, they point out that the bill's specific retail labor rate calculation is unique to Wisconsin.

One might question, of course, the qualifications of this Committee, or of the Legislature as a whole, to judge between the competing claims of the dealers and the manufacturers as to what constitutes adequate and fair compensation.

3) *Competition from manufacturers.* The bill also seeks to curtail developments that dealers see as circumvention of their franchises by manufacturers. Current law prohibits a manufacturer from competing with a dealer in the same line-make operating under an agreement or franchise from a manufacturer or distributor in the relevant market area. This bill expands that provision to cover the entire state. Additionally, it restricts manufacturers from directly or indirectly offering vehicles for sale, lease, or subscription, unless such vehicles are offered exclusively by franchisees.

In particular, dealers are concerned about the growth of so-called vehicle subscription services. These services provide an alternative to a lease or car ownership, whereby a driver pays a monthly fee to a manufacturer for access to several vehicle models in its lineup. The fee covers the cost of insurance, maintenance and roadside assistance. This bill would require subscription services to be offered only through dealerships. Opponents contend this requirement could foreclose any number of potential business models that may change the way consumers use cars. They argue that it will stifle innovation and interfere with the ability of manufacturers to develop innovative new mobility products and services in a changing marketplace.

Additionally, while the dealers believe the current 10-mile radius prohibition against manufacturer competition is antiquated, manufacturers interpret the statewide application of these provisions as precluding manufacturers from

selling parts online or to auto parts stores. This particular provision is expected to be deleted from the bill by the author.

4) *Facility upgrades*. Dealers complain of frequent demands to update their facilities for brand imaging. This bill limits these requirements by deeming facility alterations, expansions, or additions as unreasonable if the facility has been modified in the last 10 years for the purposes of complying with a manufacturer's brand image program.

   Opponents contend that brand is important and facility upgrades are required in order to properly advertise their brand. (It should be noted here that the bill currently has an unspecified dollar figure for the cost of new modifications that would be considered reasonable within a 10-year period. Without a cost threshold, the bill could be interpreted to essentially make any request for modification unreasonable if another request had already been fulfilled within the prior 10 years. A $250,000 threshold has been used in other states and may serve as a good starting point for discussions.)

5) *NMVB authority*. The NMVB is a board within the DMV. It was created in 1967 as the New Car Dealers Policy and Appeals Board, with functions limited to hearing appeals from final DMV decisions which were adverse to the occupational license of a new motor vehicle dealer, manufacturer, distributor or representative. The 1973 Automobile Franchise Act gave the NMVB its current name and the quasi-judicial capacity to resolve disputes between franchised dealers and manufacturers of new motor vehicles. The board consists of 9 members, four of whom are required to be dealers. This bill expands NMVB authority by allowing it to hear more types of protests. Manufacturers and consumer advocates are reluctant to see more powers granted to an entity they perceive as overly protective of dealer interests.

6) *Brand spin-offs*. Several of the provisions of this bill stem from a dispute between dealers and a new line of car, Genesis, formerly Hyundai Genesis. Hyundai decided to spin off its Genesis car into a new brand and told dealers that sold Hyundai Genesis cars that they can no longer service the cars they sold for warranty reimbursements. Hyundai is also preventing dealers that sold Hyundai Genesis cars from selling the new Genesis brand. Other dealerships are being told that even though they cannot sell the Genesis, they may still be required to service them for warranty reimbursements. In response, this bill makes it unlawful for a manufacturer to refuse to deliver any new vehicles that are of a make or model offered by the manufacturer to other dealers in the state of the same line make. Further, it would prohibit manufacturers from restricting a dealer from servicing any vehicle they sold or leased. Opponents state that they believe this section of this bill is overly broad and vague.

7) *Philosophical question*: In a free market economy, it is unclear why the State has historically involved itself in the contractual relationship between auto dealers and manufacturers. Unlike transactions between individual consumers and corporate entities, where market power and access to information are concentrated on one side of the equation and thereby justify statutory regulation, franchise agreements are undertaken between two sophisticated and knowledgeable entities, albeit with the manufacturers holding an obvious advantage. Dealers are free to hold out for better terms or to walk away entirely if they find proposed franchise agreements to be unsatisfactory. Having the State dictate the terms of these contracts might be viewed as an inappropriate governmental intervention into the marketplace. While proponents note that there is already a body of law in the Corporations Code that governs franchise agreements in general, those statutes are far less comprehensive and infinitely less detailed than existing Vehicle Code provisions regarding motor vehicle franchises, let alone the provisions proposed by this bill.

8) *Suggested Committee amendment.* On page 6, lines 5 through 14, the bill adds subdivision (f) to Vehicle Code section 3050 to allow the NMVB to consider specified manufacturer code violations when hearing dealer protests brought to the board. This proposed subdivision does not, however, grant parallel authority for the NMVB to consider similar dealer violations. In the interest of equity, the Committee may wish to consider whether this subdivision is best removed from the bill.

9) *Author's amendments.* The author is offering technical clarifying amendments.

10) *Double referral.* This bill is also referred to the Senate Judiciary Committee.

RELATED LEGISLATION:

AB 1178 (Achadjian, Chapter 526, Statutes of 2015) — provided that a vehicle manufacturer, manufacturer branch, distributor, or distributor branch cannot take any adverse action against a dealer relative to an export or sale-for-resale prohibition if the dealer causes the vehicle to be registered in a state and collects or causes to be collected any applicable sale or use tax due to the state, as specified.

SB 155 (Padilla, Chapter 512, Statutes of 2013) — modified the relationship between motor vehicle dealers and manufacturers by, among other things, making changes regarding the use of flat-rate time schedules for warranty reimbursement, warranty and incentive claims, audits, protest rights, export policies, performance standards, and facility improvements.

SB 642 (Padilla, Chapter 342, Statutes of 2011) — modified and expanded the existing statutory framework regulating the relationship between vehicle manufacturers and their franchised dealers.

SB 424 (Padilla, Chapter 12, Statutes of 2009) — regulated actions that vehicle manufacturers may take with regard to their franchised dealers and allows franchisees that have contracts terminated because of a manufacturer's or distributor's bankruptcy to continue to sell new cars in their inventory for up to six months.

ASSEMBLY VOTES:

Floor:	**75-0**
Transportation:	**12-0**

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

California New Car Dealers Association (Sponsor)
California Conference of Machinists
California Motorcycle Dealers Association

OPPOSITION:

Alliance of Automobile Manufacturers
Civil Justice Association of California
Consumers for Auto Safety and Reliability
Global Automakers

-- END --

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

Bill No:	AB 2145	**Hearing Date:**	6/19/2018
Author:	Reyes		
Version:	5/17/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Randy Chinn		

SUBJECT: Vehicular air pollution

DIGEST: This bill modifies and updates the Clean Truck Program and Alternative and Renewable Fuel and Vehicle Technology Program (ARFVTP).

ANALYSIS:

Existing law:

1) Requires the state Air Resources Board (ARB) to develop a plan to reduce emissions to 1990 levels by 2020. It also requires ARB to ensure programs that reduce greenhouse gas (GHG) emissions are targeted, to the extent feasible, to the most disadvantaged communities in the state. Pursuant to AB 32, ARB adopted a cap-and-trade program that caps allowable statewide GHG emissions and provides for the auctioning of emission credits, the proceeds of which are deposited into the Greenhouse Gas Reduction Fund (GGRF) for appropriation by the Legislature. This program is authorized until December 31, 2030.

2) Establishes a target of reducing statewide GHG emissions to 80% below 1990 levels by 2050, and an interim statewide GHG emissions reduction target of 40% below 1990 levels by 2030.

3) Establishes the Clean Truck Program to fund, using GGRF monies, development, demonstration, pre-commercial pilot, and early commercial deployment of zero- and near-zero-emission truck, bus, and off-road vehicle and equipment technologies. At least 20% of the funding for the Clean Truck Program must go to early commercial development of existing zero- and near-zero-emission (ZEV and near-ZEV) heavy-duty truck technology, until December 31, 2020. ARB must prioritize projects that demonstrate benefit to disadvantaged communities, address technology and market barriers not addressed by other programs, and enabling technologies that benefit multiple technology pathways.

4) Establishes the ARFVTP to develop and deploy alternative and renewable fuels and advanced transportation technologies to help attain the state's climate change goals. This program, along with several others, is funded through surcharges on vehicle registration fees, a portion of the vessel registration fee, a portion of the Smog Abatement Fee (paid to register vehicles less than six model years old and therefore exempt from smog check), and an increase in the fee for identification plates for various types of vehicles, such as logging vehicles operated on public roads. The ARFBTP is administered by the California Energy Commission (CEC) at about $100 million annually. The CEC must allocate twenty million dollars ($20,000,000) annually, not to exceed 20% of the moneys appropriated, until there are at least 100 publicly available hydrogen-fueling stations in operation in California.

5) Requires ARB to select locations around the state for preparation of community emissions reduction programs, based on specified criteria.

Clean Truck Program — The Clean Truck Program was established in 2014 to fund, using GGRF monies, development, demonstration, pre-commercial pilot, and early commercial deployment of zero- and near-zero-emission truck, bus, and off-road vehicle and equipment technologies. By statute, at least 20% of the funding for the Clean Truck Program must go to early commercial development of existing zero- and near-zero-emission heavy-duty truck technology, until December 31, 2020. ARB must prioritize projects that demonstrate benefit to disadvantaged communities, address technology and market barriers not addressed by other programs, and enabling technologies that benefit multiple technology pathways.

In October 2016, ARB allocated $59 million from the Clean Truck Program. ARB selected nine projects, to be supplemented with an additional $59 million in match funding from federal, state, local, and private sources. These projects included, among others, funding for EV charging infrastructure.

This bill revises the Clean Truck Program as follows:

1) Authorizes the addition of the following specified technologies for funding: grid integration and integrated storage solutions, charging management demonstration, and analytics which support greater commercial motor vehicle and equipment freight efficiency and GHG reductions.

2) Updates the program to require ARB to promote projects that assist the state in reaching its climate goals beyond 2030.

3) Updates the program to include in the definition of disadvantaged communities those communities selected by the ARB for preparation of community emissions reductions programs.

Alternative and Renewable Fuel and Vehicle Technology Program — The ARFVTP was established in 2007 under the CEC to develop and deploy alternative and renewable fuels and advanced transportation technologies to help attain the state's climate goals. It is authorized through 2023 and specifies that the CEC allocate up to $20 million per year (or up to 20% of each fiscal year's funds) for hydrogen station development until at least 100 stations are operational. The ARFVTP provides approximately $100 million per year in competitive grant funding for projects that develop and deploy low-carbon fuels, fueling infrastructure, and advanced vehicle technologies. The program is funded through surcharges on vehicle registration fees, a portion of the vessel registration fee, a portion of the smog abatement fee, and an increase in the fee for identification plates for various types of vehicles

This bill revises the ARFVTP as follows:

1) Authorizes "infrastructure entities" as eligible for ARFVTP grants and other financial incentives and adds development and deployment of "infrastructure" as one of the program emphases.

2) Adds the following preference: deploying infrastructure not already deployed by other state agencies or utilities, to integrate fueling infrastructure and the grid, and to match infrastructure to the deployment of advanced light-, medium-, and heavy-duty vehicles.

3) Requires that at least 20% of funds will be spent on medium- and heavy-duty electric vehicle infrastructure.

COMMENTS

1) *Author's Statement.* AB 2145 makes changes to the Energy Commission Advanced and Renewable Fuel and Vehicle Technology Program and the Air Resources Board Clean Truck, Bus, and Off-Road Vehicle and Equipment Technology Program. In summary, these changes include:

   a) Setting aside 20% of ARFVTP's funding for medium- and heavy-duty vehicle charging infrastructure;

b) Updating the programs to reflect the latest technological developments and the status of the clean vehicle market so that new project types are eligible for funding, and;

c) Updates the programs' guidelines and planning elements to ensure better coordination of programmatic investments between the agencies.

2) *Charging Infrastructure.* The inadequacy of the refueling infrastructure is one of the barriers to the widespread adoption of ZEV and near-ZEV vehicles. Unlike the privately funded and widely available gas stations, EV charging stations and hydrogen refueling stations are heavily publicly subsidized and rarely available. An EV charging station costs as little as a few thousand dollars; hydrogen refueling stations a few million dollars.

3) *Utilities Plugging In.* The investor-owned utilities (PG&E, Southern California Edison, San Diego Gas and Electric) have their own substantial medium- and heavy-duty electric vehicle charging programs funded through electric rates. PG&E will spend $236 million to support make-ready installations at a minimum of 700 sites, supporting the electrification of at least 6,500 medium- and heavy-duty fleet vehicles. SCE will spend $343 million to support make-ready installations at a minimum of 870 sites to support the electrification of at least 8,490 medium- or heavy-duty fleet vehicles. In addition, the utilities will collectively spent up to $197 million to install the infrastructure to support up to 12,500 charging stations.

4) *Lots of Love.* The CEC provides significant support for medium- and heavy-duty vehicles in the ARFVTP. So far, that program has spent $126.8 million in support of these vehicles. In FY 2018-2019, the CEC allocates $17.5 million for charging and refueling infrastructure and alternative fuel and advanced technology freight and fleet vehicles. The CEC notes that it expects increasing demand for this technology, and will take those needs into account. However, one drawback to supporting charging infrastructure for heavy duty vehicles is that it may need to be located in areas inaccessible to the public for security purposes, unlike charging infrastructure for light duty vehicles which is typically more publicly accessible.

5) *Can't Touch This.* The most significant provision in this bill is the minimum 20% set aside in the ARFVRT program for medium- and heavy-duty vehicle charging infrastructure. But it isn't clear why the Legislature would want to do this. As noted above, there's no evidence that the CEC, or state programs more generally, are neglecting this area.

Reducing GHG emissions is a state goal to which California applies many state programs and spends billions of dollars. Determining how that money is best spent requires much analysis of which programs are most efficient at reducing GHG in the long and short-term and potential tradeoffs between equity and efficiency, as well as strong coordination between the several state agencies managing the various programs. This is a dynamic process as economics, programs and public policy values change. To declare a minimum set aside is to ignore this process, to the potential detriment of other worthy GHG reducing programs such as EV charging infrastructure in multi-unit dwellings or additional EV subsidies in disadvantaged communities. As noted in the prior comment, the CEC is aware of the need for infrastructure for medium- and heavy-duty vehicles and has provided significant funding. The bill adds a policy preference for deployment of infrastructure for light-, medium-, and heavy duty vehicles. Perhaps that's enough. **The author and committee may wish to delete this 20% set aside.**

6) *Double Referral.* This bill is double-referred to the Environmental Quality Committee.

RELATED LEGISLATION:

SB 1403 (Lara, 2018) — extends the sunset on a set-aside within the California Clean Truck, Bus, and Off-Road Vehicle and Equipment Technology Program (Clean Truck Program). *This bill is pending in the Assembly.*

SB 32 (Pavley, Chapter 249, Statutes of 2016) — required ARB to ensure that statewide GHG emissions are reduced at least 40% below 1990 levels by 2030.

AB 857 (Perea, 2015) — would have reserved 50% or $100 million annually, whichever is greater, of GGRF monies that are allocated to the California Clean Truck, Bus, and Off-Road Vehicle and Equipment Technology Program (SB 1204 Program) to support the commercial deployment of existing zero- and near-zero emission heavy-duty truck technology that meets or exceeds the ARB's optional low NOx standard between 2018 and 2023. *AB 857 was held on the Senate Appropriations Committee suspense file.*

SB 1204 (Lara, Chapter 524, Statutes of 2014) — created the Clean Truck, Bus, and Off-Road Vehicle and Equipment Technology Program to fund development, demonstration, pre-commercial pilot, and early commercial deployment of zero- and near-zero-emission truck, bus, and off-road vehicle and equipment technologies.

AB 8 (Perea, Chapter 401, Statutes of 2013) — extended until January 1, 2024, the fees that support Air Quality and Improvement Program and AFRVTP.

AB 118 (Núñez, Chapter 750, Statutes of 2007) — created the ARFVTP and Air Quality Improvement Program to provide funding measures to specified entities to develop and deploy technologies and alternative and renewable fuels in the marketplace to help attain the state's climate change policies

AB 32 (Núñez, Chapter 488, Statutes of 2006) — required ARB to develop a plan of how to reduce emissions to 1990 levels by the year 2020.

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

Assembly Votes:

Transportation: 13-0
Appropriations: 16-0
Floor: 78-0

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

CALSTART (sponsor)

OPPOSITION:

None received.

-- END --

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

Bill No:	AB 2162	**Hearing Date:**	6/19/2018
Author:	Chiu		
Version:	5/9/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Planning and zoning: housing development: supportive housing

DIGEST: This bill streamlines affordable housing projects that include supportive housing units and onsite supportive services.

ANALYSIS:

1) Requires a local jurisdiction to give public notice of a hearing whenever a person applies for a zoning variance, special use permit, conditional use permit, zoning ordinance amendment, or general or specific plan amendment.

2) Requires the board of zoning adjustment or zoning administrator to hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining those matters, and applications for variances from the terms of the zoning ordinance.

3) Requires cities and counties, to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policy objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing.

4) Requires the housing element to identify adequate sites for housing and to make adequate provision for the existing and projected needs of all economic segments of the community.

5) Requires, pursuant to SB 35 (Wiener, 2017), local jurisdictions that have not met their above moderate income (at or above 120% area median income, or AMI) or lower income (at or below 80% AMI) regional housing needs assessment obligation, to streamline developments that restrict at least 50% of units to households at or below 80% AMI.

This bill:

1) Provides that supportive housing shall be a use by right in all zones where multifamily and mixed uses are allowed.

2) Provides that supportive housing shall be a use by right in zones where multifamily and mixed uses are allowed, including commercial zones, if the proposed housing development satisfies all of the following requirements:

   a) Units within the development are subject to 55 year affordability restriction.

   b) 100% of units are dedicated to low-income households (up to 80% AMI) and are receiving public funding to ensure affordability.

   c) At least 35% of units, or 15 units, whichever is greater, are restricted to residents in supportive housing. If the development consists of less than 15 units, 100% of the units, excluding managers' units, shall be restricted to residents in supportive housing.

   d) The developer provides the planning agency with a plan for providing supportive services, including the name of the proposed entity or entities that will provide supportive services, the proposed funding source or sources for the provided onsite supportive services, and proposed staffing levels.

   e) Non-residential floor area shall be used for onsite supportive services in the following amounts:

      i. For a development with 20 or fewer units, at least 90 square feet shall be provided for onsite supportive services.

      ii. For a development with more than 20 units, at least 3% of the total non-residential floor area shall be provided for onsite supportive services that are limited to tenant use, including but not limited to community rooms, case management offices, computer rooms, and community kitchens.

   f) The developer shall replace any dwelling units on the site of the supportive housing development consistent with state density bonus law.

   g) Units within the development, excluding managers' units, include at least one bathroom and a kitchen or other cooking facility.

3) Allows a local government to require a supportive housing development to comply with objective, written development standards and policies provided that the local government applies the least restrictive zoning standards or requirements applicable to the jurisdiction.

4) Requires a local government, at the request of the project owner, to reduce the number of residents required to live in supportive housing if the project-based rental assistance or operating subsidy for a supportive housing project is terminated through no fault of the project owner, if the following conditions are met:

   a) The owner demonstrates a good faith effort to find other sources of financial support.

   b) Any change in the number of supportive service units is restricted to the minimum necessary to maintain the project's financial feasibility.

   c) Any change to the occupancy of the supportive housing units is made in a manner that minimizes tenant disruption and only upon the vacancy of any supportive housing units.

5) Requires a local government to notify the developer whether the application for streamlining supportive housing is complete within 30 days and issue a final approval within 60 days for a project of up to 50 units or 120 days for a project of more than 50 units.

6) Prohibits a local government from imposing any minimum parking requirements for units occupied by supportive housing residents if the development is located within ½ mile of a public transit stop.

7) Provides that this bill shall not preclude or limit a developer's ability to seek a density bonus.

8) Provides that this bill shall not expand or contract the authority of a local government to adopt or amend an ordinance, charter, general plan, specific plan, resolution, or other land use policy or regulation that promotes the development of supportive housing.

9) Declares that this bill applies to all cities, including charter cities.

COMMENTS

1) *Purpose.* The author states that our state is facing a homelessness crisis. Already home to the largest homeless population in the country, from 2016 to 2017 California experienced the largest increase in residents experiencing homelessness. Virtually every community in the state has been impacted, with devastating effects on public health. San Diego and Los Angeles have experienced deadly Hepatitis A outbreaks and the American River in Sacramento has been contaminated with E coli. Wildfires across the state have exacerbated homelessness. Decades of research show that supportive housing – a stable, affordable place to live with no limit on that stay, along with services that promote housing stability – ends homelessness for people who experience chronic homelessness. Supportive housing lowers public health costs, reduces blight, improves property values, and decreases recidivism in our local jails and state prisons. This bill responds to our homeless crisis by expediting the delivery of supportive housing around the state, by requiring developments that are 100% affordable and include a percentage of affordable housing units to be approved through a ministerial process.

2) *Ministerial vs. by-right approvals.* Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. Some local ordinances provide "ministerial" processes for approving projects that are permitted "by right" – the zoning ordinance clearly states that a particular use is allowable, and local government does not have any discretion regarding approval of the permit if the application is complete. Projects reviewed ministerially require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meeting standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under the California Environmental Quality Act (CEQA), while projects permitted ministerially generally are not.

3) *Existing streamlining requirements.* SB 2 (Cedillo, 2007) required counties to accommodate their need for emergency shelters on sites where the use is allowed without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property. Local governments must treat supportive housing the same as other multifamily residential housing for zoning purposes, and may only apply the same restrictions as multifamily housing in the same zone to supportive housing.

In addition, SB 35 (Wiener, 2017) requires local jurisdictions that have not met their above moderate income or lower income regional housing needs assessment (RHNA) to streamline certain developments. Jurisdictions that are not meeting their lower income RHNA numbers must streamline developments that restrict at least 50% of the units in a development to households earning up to 80% AMI. However, SB 35 is limited to urban infill sites and has limited application where rental housing existed within the last 10 years. Unlike SB 35, this bill would apply to all areas of the state, urban and rural, and would apply regardless of whether a local government has met its RHNA.

4) *Los Angeles' Permanent Supportive Housing (PSH) Ordinance.* The City of Los Angeles adopted an ordinance earlier this year to establish a set of standardized criteria and definitions for PSH and remove regulatory barriers that impair the construction of new supportive housing. Eligible projects must be 100% affordable and at least half the units must be dedicated to homeless individuals. PSH projects must be linked to onsite or offsite supportive services. Requirements such as parking and lot area per dwelling unit are relaxed. The approval process is intended to significantly reduce the average time it takes for a developer to begin construction. Projects must be located in high quality transit areas and must adhere to a set of design standards. This ordinance is intended to help ensure that housing built with voter-approved is built in a timely manner.

5) *Governor's by-right proposal.* In May 2016, the Governor proposed trailer bill language designed to streamline approval processes by broadening eligibility for by-right, ministerial land use approvals for multifamily infill housing developments that include affordable housing. The Governor's proposal sought to expedite approval processes for predominately market rate housing developments. This solution, also referred to as "filtering" or "trickle down," assumes that, over time, older market-rate housing becomes more affordable as new units are added to the market, and is the most effective way to exit the affordable housing crisis. Unfortunately, the filtering process can take generations, meaning that units may not filter at a rate that meets needs at the market's peak, and the property may deteriorate too much to be habitable. Further, prioritizing market rate housing could result in fewer affordable units being built. While many jurisdictions have not met their housing needs for any income level, in general the rate of production of units affordable to lower-income renters is significantly lower than that of market rate units. The Governor's proposal was not adopted.

6) *Opposition arguments*. Opponents argue that this bill does not provide a dedicated and sustainable source of funding for affordable housing, dismisses the concerns of local residents who should be included in the housing development process, significantly localities' ability to control their planning and review processes, requires onerous plan review timelines, and further restricts parking requirements.

7) *Double referral*. This bill has also been referred to the Committee on Governance and Finance.

RELATED LEGISLATION:

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

SB 2 (Cedillo, Chapter 633, Statues of 2007) — required cities and counties to accommodate their need for emergency shelters on sites where the use is allowed without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property.

Assembly Votes:

Floor: **52-22**
Approps: **12-5**
Local Govt: 6-3
H&CD: **4-1**

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

Corporation for Supportive Housing (co-sponsor)
Housing California (co-sponsor)
Abode Services
A Community of Friends
American Institute of Architects, Los Angeles Chapter
American Planning Association, California Chapter
Bay Area Council
California Apartment Association

California Food Policy Advocates
California Housing Consortium
California Housing Partnership Corporation
City of Emeryville
Destination: Home
Disability Rights California
EAH Housing
Los Angeles Homeless Services Authority
National Association of Social Workers, California Chapter
New Directions for Veterans
Non-Profit Housing Association of Northern California
office42 architecture
PATH Adventures
San Diego Housing Federation
Santa Clara County
Shelter Partnership
Southern California Association of Nonprofit Housing
Supportive Housing Alliance
Venice Community Housing
Weingart Center Association
1 individual

OPPOSITION:

City of Camarillo
City of Chula Vista
City of Huntington Beach

-- END --

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

Bill No:	AB 2263	**Hearing Date:**	6/19/18
Author:	Friedman		
Version:	6/11/2018 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Designated historical resource: conversion or adaptation: required parking

DIGEST: This bill requires a local agency to reduce the required number of parking spaces for development projects in which a designated historical resource is being converted or adapted.

ANALYSIS:

Existing law:

1) Establishes the State Historical Building Code to provide for the preservation of qualified historical buildings or structures; reasonable safety from fire, seismic forces, or other hazards for occupants of these buildings or structures; and reasonable availability to, and usability by, disabled individuals.

2) Requires local authorities to administer and enforce the State Historical Building Code with respect to qualified historical buildings and structures where applicable.

3) Defines "qualified historical building or structure" as follows:

   a) Any structure or property, collection of structures, and their related sites deemed of importance to the history, architecture, or culture of an area by an appropriate local or state government jurisdiction.

   b) Historical buildings or structures on existing or future national, state, or local historical registers of official inventories, such as the National Register of Historic Places, State Historical Landmarks, State Points of Historical Interest, and city or county registers or inventories of historical or architecturally significant sites, places, historic districts, or landmarks.

c) Places, locations, or sites identified on these historical registers or official inventories and deemed of importance to the history, architecture, or culture of an area by an appropriate local or state government jurisdiction.

4) Permits a city, county, or city and county to reduce or eliminate a parking requirement for developments of any type or location.

This bill:

1) Requires a local agency, for a development project in which a designated historical resource is being converted or adapted, to provide the following parking reductions unless otherwise required by a local historical preservation or adaptive reuse ordinance:

   a) For a project converting or adapting a designated historical resource to a residential use, located within ½ mile of a major transit stop, the required number of parking spaces shall not exceed the number of parking spaces that existed at the time the project application was submitted.

   b) For a project converting or adapting a designated historical resource to a non-residential use, the required number of parking spaces shall be 25% less than would otherwise be required.

2) Requires a project converting or adapting a designated historical resource that is eligible for reductions in parking requirements under this bill to comply with all federal, state, and local alternative regulations and standards necessary for the preservation, restoration, rehabilitation, safety, relocation, or continued use of the designated historical resource.

3) Defines "designated historical resource" as a structure or property official designated on a local register of historical resources, the California Register of Historical Resources, or the National Register of Historic Places.

COMMENTS

1) *Purpose.* The author states that this bill ensures that a locality's historic character is maintained while incentivizing adaptive reuse of existing historic structures for much-needed uses such as housing. This bill is the result of the efforts of historic preservation experts both in the author's community and statewide. It is modeled from the success of Los Angeles' adaptive reuse ordinance and one of Glendale's historic preservation incentives. Thousands of structures in California are already eligible to take advantage of this incentive.

2) *Historical resources*. As of 2017, there were approximately 2,800 properties in California listed on the National Register of Historic Places. Informal estimates from the state Office of Historic Preservation suggest that there are approximately 25,000 resources listed on the California Register of Historic Resources. For example, Sacramento County has 99 landmarks listed in the National Register, 58 state landmarks, four landmarks in the California Register, and 20 points of historical interest. Not all of these landmarks are buildings, and not all are eligible for conversion; for example, the California State Capitol Building is still in regular use.

3) *City of Los Angeles' Adaptive Reuse Ordinance.* This bill is based in part on the Los Angeles' Adaptive Reuse Ordinance, which was enacted in 1999 for the downtown area and extended to additional neighborhoods in 2003. This ordinance provides for an expedited approval process and is intended to ensure that older and historic buildings are not subjected to the same zoning and code enforcement requirements that apply to new construction. The author notes that between 1999 and 2008, developers created at least 6,900 new housing units in the exempted area, or more than three-quarters of units added in downtown Los Angeles.

4) *Parking ratios*. Parking requirements often discourage infill redevelopment on small lots where it is difficult and costly to fit both a new building and the required parking; they can also prevent new uses for older buildings that lack the required parking spaces. The average construction cost per parking space — excluding land cost — in a parking structure in the United States is $24,000 for aboveground parking and $34,000 for underground parking. Certain types of parking, such as underground parking, can increase parking costs by 6% or more relative to other types of parking.

5) *Double referral*. This bill has also been referred to the Governance and Finance Committee.

RELATED LEGISLATION:

SB 893 (Nguyen, 2018) — would have deleted lowered parking ratios available to developers receiving a density bonus for 100% affordable rental housing projects, as specified. *This bill failed passage in the Senate Transportation and Housing Committee on April 17th.*

AB 744 (Chau, Chapter 699, Statutes of 2015) — placed a cap on the parking ratios that local governments may impose on some affordable housing developments upon the request of a developer.

Assembly Votes:

Floor:	**51-25**
Appr:	**11-5**
H&CD:	**6-1**

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

American Planning Association, California Chapter
Bay Area Council
University of California, Los Angeles

OPPOSITION:

None received.

-- END --

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

Bill No:	AB 2363	**Hearing Date:**	6/12/2018
Author:	Friedman		
Version:	5/25/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Howard Posner		

SUBJECT: Vision Zero Task Force

DIGEST: This bill creates a task force to determine whether the traditional methodology for establishing speed limits (the 85th percentile rule) needs to be replaced.

ANALYSIS:

Existing law:

1) Requires The California Department of Transportation (Caltrans), after consultation with local agencies and holding public hearings, to adopt rules and regulations prescribing uniform standards and specifications for all official traffic control devices, including speed restriction signs.

2) Defines as a speed trap a section of highway where the speed limit is not justified by an engineering and traffic survey (ETS) and prohibits radar enforcement of a speed limit within a speed trap.

3) Requires an ETS to include, among other requirements deemed necessary by Caltrans, consideration of all of the following:

   a) Prevailing speeds as determined by traffic engineering measurements;

   b) Accident records; and,

   c) Highway, traffic, and roadside conditions not readily apparent to the driver.

4) Permits local authorities additionally to consider residential safety and pedestrian and bicycle safety when conducting an ETS.

This bill:

1) Requires the Secretary of Transportation, on or before July 1, 2019, to establish and convene a "Vision Zero Task Force."

2) Requires the task force to include, but not be limited to, representatives from the Department of the California Highway Patrol (CHP), the University of California (UC) and other academic institutions, local governments, bicycle safety organizations, road safety organizations, and labor organizations.

3) Requires the task force to develop a structured, coordinated process for early engagement of all parties to develop policies to reduce traffic fatalities to zero.

4) Requires the Secretary of Transportation to prepare and submit a report of findings based on the Vision Zero Task Force's efforts to the appropriate policy and fiscal committees of the Legislature on or before January 1, 2020.

5) Requires the report to include, but not be limited to, a detailed analysis of the following issues:

   a) The existing process for establishing speed limits, including a detailed discussion on where speed limits are allowed to deviate from the 85th percentile.

   b) Existing policies on how to reduce speeds on local streets and roads.

   c) A recommendation as to whether an alternative to the use of the 85th percentile as a method for determining speed limits should be considered, and if so, what alternatives should be looked at.

   d) Engineering recommendations on how to increase vehicular, pedestrian, and bicycle safety.

   e) Additional steps that can be taken to eliminate vehicular, pedestrian, and bicycle fatalities on the road.

   f) Existing reports and analyses on calculating the 85th percentile at the local, state, national, and international level.

   g) Usage of the 85th percentile in urban and rural settings.

   h) How local bicycle and pedestrian plans affect the 85th percentile.

6) Sunsets the bill's provisions on May 15, 2023.

COMMENTS

1) *Author's Statement.* Speed is the single greatest determining factor in the severity of crashes. Higher vehicle speeds correlate to the increased likelihood of a crash occurring and its severity. Cities like Los Angeles have adopted plans to eliminate traffic deaths and curtail dangerous speeding is fundamental to that strategy. Cities must have the tools and authority to set safe speeds.

2) *How it currently works.* In California and elsewhere, speed limits are generally set in accordance with ETSs which measure prevailing vehicle speeds and establish the limit at or near the 85th percentile (meaning the speed 15% of motorists exceed, based on road design and average conditions). California uses the 85th percentile rule to set speed limits except in cases where the limit is set in state law, such as the 25 mph limit on residential streets and in school zones, or where an ETS shows that other safety-related factors suggest that a lower speed limit is warranted. These safety-related factors, as prescribed by law, include accident data; highway, traffic, and roadway conditions not readily apparent to the driver; residential density; and pedestrian and bicyclist safety. Arbitrarily lowering a speed limit does not usually result in vehicles driving at a slower speed, but instead results in more drivers violating the law and being subject to traffic citations. This is because drivers tend to drive as fast as seems safe based on the width and geometry of the road, and other factors.

3) *Time to take a second look?* Setting speed limits at the 85th percentile has a long history in California and throughout the nation and there is a wealth of data to support its propriety. However, many local governments have long chafed at what they perceive to be the rigidity of its application. They contend that as motorists drive faster, speed limits are required to be adjusted upwards, creating a self-reinforcing loop. Whether or not this is true, the gathering of transportation professionals to study speed limit issues can only serve to re-examine longstanding assumptions and recommend new strategies as may be needed.

4) *What's in a name?* Some observers have noted that naming the entity "The Vision Zero Task Force" might tend to predispose it to look for ways to reduce speed limits in more instances than might otherwise be justified. Vision Zero is the name of an international movement that seeks to eliminate all traffic fatalities and particularly strives to protect pedestrians and bicyclists. One

suggestion offered to the Committee would be to rename it the Speed Limit Task Force, a title which would appear to be more viewpoint-neutral.

5) *Author's Amendments.* The author proposes to add Caltrans as a member of the task force as well as including statewide membership road safety organizations and transportation advocacy organizations.

ASSEMBLY VOTES:

Floor:	**77-0**
Transportation:	**13-1**

RELATED LEGISLATION:

AB 2955 (Friedman, 2017) — would allow the Cities of Burbank, Glendale and Los Angeles to consider equestrian safety when conducting an ETS within specified areas of those cities. *This bill passed out of the Senate Transportation & Housing Committee on June 12 and is currently on the Senate floor.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 6, 2018.)

SUPPORT:

California Bicycle Coalition
California Walks
City of Long Beach
City of Los Angeles
City of Sacramento
Los Feliz Neighborhood Council
Vision Zero Network

OPPOSITION:

Safer Streets L.A.

-- END --

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

Bill No:	AB 2535	**Hearing Date:**	6/19/2018
Author:	Obernolte		
Version:	3/19/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Manny Leon		

SUBJECT: High-occupancy toll lanes: notice of toll evasion violation

DIGEST: This bill requires a toll facility operator to include photographic evidence when issuing a notice of toll evasion, as specified.

ANALYSIS:

Existing law:

1) Authorizes certain entities in the state to operate toll facilities, including toll bridges, dedicated toll roads, and High Occupancy Toll (HOT) lanes.

2) Requires processing agencies representing toll facility operators to send to the registered owners of a vehicle found to have evaded tolls on a toll road or toll bridge a notice of toll evasion violation within 21 days of the violation in most cases.

3) Defines the information that must be included in the notice of toll evasion violation as:

   a) The section of code defining the violation;

   b) The approximate time of the violation;

   c) The location where the violation occurred;

   d) The license plate number of the offending vehicle;

   e) The registration expiration date and the make of the vehicle, if possible; and,

   f) A clear and concise explanation of the procedures for contesting the violation and appealing an adverse decision.

This bill requires a toll agency to include photographic evidence on which the determination of an evasion was reached in a toll evasion notice that is issued for failing to meet occupancy requirements in a HOT lane.

COMMENTS

1) *Purpose.* According to the author, "AB 2535 will require the photograph(s) used to determine a toll evasion violation to be supplied with the ticket. Current automated device technology that is available to issue automated tickets only operates at about a 95% accuracy rating. That means 1 in 20 tickets generated may not be accurate. Current law only require a toll evasion violation to include information such as approximate time and location of the violation, make and model of the vehicle, license plate number, and registration expiration date. While this information can help determine if the violating vehicle was your vehicle, there is no mechanism to verify the number of people in your vehicle if you receive a ticket for a toll evasion due to occupancy number. AB 2535 will establish a layer of accuracy for these tickets issued by automated devices and give drivers confidence in the new technology."

2) *Toll Facilities/HOT Lanes.* Currently a number of public agencies (and one private company) operate toll facilities in California. These facilities include state-owned toll bridges, local toll bridge districts, public toll roads, HOT or "managed" lanes, and a private toll road. Over the past two decades, HOT lanes have been increasingly the choice of transportation agencies in metropolitan areas around the state and the nation as a means to help resolve traffic congestion. HOT lanes allow single-occupant or lower-occupancy vehicles to use a high-occupancy vehicle (HOV) lane for a fee, while maintaining free or reduced travel to qualifying HOVs. The acknowledged benefits of HOT lanes include enhanced mobility and travel options in congested corridors and better usage of underutilized HOV lanes.

3) *Toll Evasion Notices.* In California, current law allows toll facility operators to designate a separate public or private entity to act as a processing agency for the purposes of collecting tolls from vehicle owners or operators who fail to pay before using a toll facility. Processing agencies are authorized to follow certain administrative procedures to notify and collect delinquent tolls from motorists and registered vehicle owners. For many toll operators, when a driver enters a toll facility without payment, a toll operator will use automated cameras to photograph the vehicle's license plate. Processing agencies then obtain home or mailing address information from the Department of Motor Vehicles (DMV), and send a notice of toll violation to the registered owner within 21 days. As

mentioned above, the notice will contain specific information relative to the toll evasion.

4) *VPDS.* As HOV and HOT occupancy enforcement has been an issue for toll operator for some time, occupancy enforcement technology continues to evolve. For example, vehicle passenger detection systems (VPDS) have been under development for a number of years, although to date no effective systems have been fully deployed. Current systems being tested utilize cameras to capture images through the front windshield and through the rear passenger window. One company testing VPDS, Xerox, has reported an accuracy rate of 95% with vehicle ranging in speed up to 100 mph. Xerox also notes that in order to ensure passenger privacy, passenger faces are redacted and cannot be identified.

   In 2015, the State Department of Transportation (Caltrans) conducted a VPDS study which found VPDS achieved a 95.94% accuracy rate with missed violators accounting for 2.65% and wrongly identified non-violators accounting for the remaining 1.41%. Ultimately, while toll operators are currently using cameras to obtain toll violator information through license plate images, technological advances have proven to be effective in identifying occupancy violators in HOT lanes.

   This bill directs toll operators that issue an HOT occupancy violation using some form of an automated passenger detection system, to provide the motorist that received the violation notice, photographic evidence of the occupancy violation.

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

Assembly votes:

Floor:	**71-0**
Approps:	**15-0**
Trans:	**14-0**

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

Teamsters

OPPOSITION:

None received.

-- END --

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

Bill No:	AB 2629	**Hearing Date:**	6/19/2018
Author:	Eggman		
Version:	3/19/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Howard Posner		

SUBJECT: Department of Transportation: airspace under state highways: leases

DIGEST: This bill authorizes the lease of specified California Department of Transportation (Caltrans) airspace parcels in San Joaquin and Santa Barbara Counties for emergency shelter or feeding purposes regardless of whether there are other prospective buyers and removes the current restriction that the San Joaquin County airspace lease be limited to a 10-year term with two possible 10-year lease renewals.

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) Allows Caltrans, in the instances of the airspace under the interchange of State Routes 4 and 5 in San Joaquin County and the property on the northeast corner of State Route 101 and De La Vina Street in the County of Santa Barbara, to

lease those properties for emergency shelter or feeding purposes to a city, county, or other political subdivision or another state agency for emergency shelter or feeding purposes.

6) Allows the San Joaquin and Santa Barbara properties to be leased under these provisions only if there is no buyer for the property.

7) Requires the leases to be for $1 per month and allows the lease amount to be paid in advance in order to reduce the administrative costs associated with the payment of the monthly rental fee.

8) Requires any such lease to also provide for the cost of administering the lease which may not exceed $500 per year unless Caltrans determines that a higher administrative fee is necessary.

9) Finds and declares that the lease of real property pursuant to these provisions serves a public purpose.

10) Requires a lease executed pursuant to these provisions for airspace under the interchange of State Route 4 and Interstate 5 in San Joaquin County to provide for the rescission of existing leases of this airspace between Caltrans and the City of Stockton and for the refunding of any rent paid pursuant to those leases for periods commencing on or after January 1, 1988.

11) Allows Caltrans, upon the request of the City of Stockton, to renew this lease for the period requested by the city, but not to exceed 10 years, and to, subsequent to that renewal, agree to not more than two additional renewals of not more than 10 years each.

12) 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:

1) Removes the restriction that the Santa Barbara and San Joaquin property leases may precede only if there is no buyer for those properties.

2) Removes existing restrictions on the number of San Joaquin lease renewals and their duration, thereby allowing, upon request of the City of Stockton, the San

Joaquin property to be leased by Caltrans for an unlimited duration and for the lease to be renewed an unlimited number of times.

COMMENTS

1) *Author's statement.* "Caltrans entered into a lease with the City of Stockton in the 1980s so that two non-profits could provide services under a freeway interchange. The Stockton Shelter for the Homeless and St. Mary's Kitchen operate beneath the freeway interchange and provide services to the homeless population in San Joaquin County. The demand for these services provided is expected to continue to grow, and a long-term solution is needed for them to continue serving the homeless population in San Joaquin County. This bill eliminates the renewal restrictions for this specific airspace lease, enabling Caltrans to enter into a longer-term lease with these non-profits and providing the necessary stability for them to secure capital funding."

2) *The situation in Stockton.* One specific statutory exception to Caltrans' requirement to lease airspace at fair market value involves the airspace under the State Route 4/Interstate 5 interchange in Stockton. Currently, the Stockton Shelter and St. Mary's operate in this space under a lease entered into in the 1980s. While authorizations in statute for other airspace shelter and feeding programs include no renewal restrictions, existing law requires these entities to renew their lease with Caltrans every ten years, effectively preventing the non-profits from making solid long-term plans and securing funding for future capital projects.

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.

ASSEMBLY VOTES:

Floor: **73-0**
Transportation: **14-0**

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

RELATED LEGISLATION:

AB 1898 (Mathis, 2018) — would have required Caltrans to lease at a discount to a city or county any airspace under a freeway or other real property in a disadvantaged community for various purposes. *AB 1898 died on suspense in the Assembly Appropriations Committee.*

AB 3139 (Bonta, 2018) — authorizes Caltrans to lease airspace under a freeway or other real property to the City of Oakland for emergency shelter or feeding programs. *AB 3139 is set to be heard by this committee on June 19.*

AB 857 (Ting, Chapter 822, Statutes of 2017) — directed Caltrans to lease to San Francisco up to 10 parcels of airspace under a freeway at 30% of fair market lease value for park, recreational, or open-space purposes.

SB 120 (Kopp, Chapter 750, Statutes of 1993) — authorized Caltrans to lease to San Francisco any airspace under a freeway or property for an emergency shelter or feeding program at a rate of $1 per month.

SB 1441 (Johnston, Chapter 143, Statutes of 1992) — enabled the City of Stockton to renew its airspace lease at the SR 4 and I-5 interchange for ten years, and authorized two subsequent ten-year renewals following that first renewal.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

City of Stockton
St. Mary's Dining Room
Stockton Shelter for the Homeless

OPPOSITION:

None received.

-- END --

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

Bill No:	AB 2681	**Hearing Date:**	6/19/2018
Author:	Nazarian		
Version:	5/25/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Randy Chinn		

SUBJECT: Seismic safety: potentially vulnerable buildings

DIGEST: This bill requires city and county building departments, once a funding source is identified, to submit to the Governor's Office of Emergency Services (OES) an inventory of buildings in their jurisdiction that are potentially vulnerable to seismic activity.

ANALYSIS:

Existing law:

1) Establishes a program within all cities, counties and portions thereof located within seismic zone 4, as defined and illustrated in Chapter 2-23 of Part 2 of Title 24 of the California Administrative Code, to identify all potentially hazardous buildings and to establish a program for mitigation of identified potentially hazardous buildings.

2) Requires local building departments to do the following:

   a) Identify and inventory all potentially hazardous buildings on or before January 1, 1990. This identification shall include current building use and daily occupancy load;

   b) Establish a mitigation program for potentially hazardous buildings to include notification to the legal owner that the building is considered to be one of a general type of structure that historically has exhibited little resistance to earthquake motion; and,

   c) By January 1, 1990, all information regarding potentially hazardous buildings and all hazardous building mitigation programs shall be reported to the appropriate legislative body of a city or county and filed with the Seismic Safety Commission.

3) Establishes OES, effective July 1, 2013, and requires OES to perform a variety of duties with respect to specified emergency preparedness, mitigation, and response activities in the state, including emergency medical services

This bill:

Requires specified building departments of a city or county to create an inventory of potentially seismically vulnerable buildings. Specifically, this bill:

1) Requires, on or before January 1, 2021, each building department to develop an inventory of potentially vulnerable buildings, as defined, within its jurisdiction, based on the age of the building and other publicly available information, including, but not limited to, tax assessors' record surveys and online searches.

2) Requires, on or before June 1, 2021, each building department to notify all owners of any building identified as a potentially vulnerable building.

3) Requires, on or before June 1, 2022, an owner who has received a notification to submit a letter from a licensed professional engineer to the building department stating whether the building meets the definition of a potentially vulnerable building.

4) Requires OES to maintain a statewide inventory of potentially vulnerable buildings. On or before January 1, 2023, each building department shall provide OES, in an electronic form prescribed by the office, the inventory of buildings identified by the building department as potentially vulnerable.

5) Requires, on or before January 1, 2025, the owner of a building identified by a building department as potentially vulnerable to retain a professional engineer to complete the standard reporting form and provide the completed standard reporting form to the building department. Requires this form be submitted to Cal OES on or before June 1, 2025.

6) Provides immunity from liability for a city, county, employee of a city or county on the basis of any inventory, assessment, or evaluation performed, any ordinance adopted, or any other action taken pursuant to this bill, irrespective of whether that action complies with the terms of this chapter, or on the basis of failure to take any action authorized by this chapter.

7) Defines "Potentially Vulnerable Building" as a building that meets the following:

a) The design and construction of the building was approved prior to the adoption of the 1976 edition of the Uniform Building Code, and the building has specified characteristics.

b) The design and construction of the building was approved pursuant to the 1995 or earlier edition of the California Building Code and the building has specified characteristics.

8) "Potentially Vulnerable Building" does not include:

a) Residential property containing four or fewer dwelling units,

b) Any building not intended primarily for occupancy by human beings and located entirely outside the limits of a city or city and county.

c) Any building designed and constructed primarily for use in housing poultry, livestock, hay, grain, or farm machinery and supplies, even though persons may work in, or may otherwise be present in, such building from time to time.

d) Facilities regulated by the Office of Statewide Health Planning and Development or the Division of the State Architect, or buildings owned by the state or federal government.

9) Provides that the requirements of the bill only apply to a city or county with at least half its geographical area located where the peak ground acceleration equals or exceeds 0.3g, as determined by a 2008 United States Geological Survey model, and to the Counties of Monterey, San Diego, San Luis Obispo and Santa Barbara and all the cities therein.

10) Requires, on or before January 1, 2020, Cal OES to identify funding mechanisms to offset costs to building departments and building owners in compliance with this chapter. The funding shall be limited to federal funds, funds from the General Fund of the state, funds from the sale of revenue bonds, local funds, and private grants. Enactment of the provisions of the bill is contingent upon identification of funding.

COMMENTS:

1) *Author's Statement.* The chronic labor and affordable housing shortages most California cities already suffer would dramatically increase for years to come following a major seismic event. Protecting the state's economy, affordable housing stock, and social fabric from the long-lasting turmoil of a large-scale earthquake is critical, and the failure to do so could impact Californians' quality

of life for decades. While some cities have started identifying vulnerable buildings and implemented mandatory retrofits, large swaths of the state have not identified vulnerable buildings. An accurate statewide building vulnerability map is an essential first step in developing longer-term solutions to mitigate the effects of a large-scale earthquake and to protect our economy and limited affordable housing stock.

2) *A First Step.* California's building codes have been continually improved to reflect current knowledge of seismic risk and building technology. But older building codes and practices provide inadequate protection, putting many Californians at risk. Pre-1930s buildings were likely constructed without considering earthquake resistance since California's building codes did not include earthquake safety requirements until 1933. Unreinforced masonry (e.g. bricks without metal reinforcement) buildings are very brittle and can easily collapse in an earthquake. It wasn't until 1986 that California required local governments to inventory those types of buildings and develop loss reduction plans. Further research and experience has identified many other types of building construction are at risk, and these are identified in this bill. The 1995 building code referenced in the bill for identifying at-risk buildings was chosen because the subsequent revision of the building code created much safer buildings, reflecting the lessons learned from the Northridge earthquake.

3) *The Second Step is Much Harder.* This bill requires building officials in specified locations to identify older buildings that are particularly at risk and create an appropriate database. Identifying at risk buildings is only the first step. The much more expensive next step, which is not taken in this bill, is to retrofit those buildings to withstand a likely earthquake. In the mid-1980's California passed legislation requiring local governments in earthquake-prone areas to inventory unreinforced masonry buildings, which perform poorly in earthquakes, and develop a loss reduction plan. About a dozen cities in the Bay Area and the greater Los Angeles area have established local ordinances to identify, and in some cases retrofit, particularly weak structures. Hospitals are also subject to retrofit requirements to bring them up to modern building code standards.

4) *Who's covered?* The bill applies where at least half of a city or county meets specified technical criteria: at least 0.3g peak ground acceleration as determined by the 2008 USGS National Seismic Hazard Model gridded data based on a 10% in 50 year probability. While this may be clear to a seismic engineer, it seems too complex for a typical city or county public works department. In lay terms, this roughly corresponds to a major earthquake. **The author has agreed to accept amendments** to have OES determine what

specific areas are covered by this criterion and to notify local governments about their responsibility. As a technical amendment, the specific reference to the counties of Monterey, San Diego, San Luis Obispo and Santa Barbara can be deleted as the specified criteria already cover them.

The following gives a general sense of what part of the state is covered by this bill:

***Counties fully covered by the map*:** Del Norte, Humboldt, Mendocino, Lake, Sonoma, Napa, Marin, Solano, Sonoma, San Francisco, Contra Costa, Alameda, San Mateo, Santa Clara, San Benito, Monterey, Santa Cruz, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, and San Diego. ***Counties with partial coverage*:** Alpine, El Dorado, Fresno, Imperial, Inyo, Kern, Kings, Lassen, Merced, Mono, Nevada, Placer, Plumas, Riverside, San Bernardino, San Joaquin, Shasta, Sierra, Siskiyou, Stanislaus, and Trinity. ***Counties with little to no coverage*:** Amador, Butte, Calaveras, Glenn, Modoc, Madera, Mariposa, Sacramento, Sutter, Tehama, Tulare, Tuolumne, and Yuba.

5) *Who's doing the Work?* Local governments will be responsible for developing an initial inventory of vulnerable buildings, contacting the building owners, cataloging their replies, and sending that information to OES. OES has the responsibility of compiling that information and ensuring that local governments are doing their job properly. OES is not a perfect fit for this duty as they have no existing regulatory capacity to police local governments. Because the inventory deals with seismic risk the natural repository of this information would seem to be the Seismic Safety Commission. But they too have no regulatory capacity and they are a very small organization.

6) *Where's The Money?* The bill provisions are only effective once OES "identifies" the funding to offset the costs to building departments and building owners to comply, which the Assembly fiscal analysis estimates to be in the tens of millions annually. The funding is limited to federal funds, state General Funds, funds from the sale of revenue bonds, local funds and private grants. This funding mechanism looks, um, shaky. And the language is vague, as "identify" falls well short of having the necessary funding appropriated, and the intent seems to be to cover both the public and private costs of compliance.

7) *Double Referral.* This bill has been double-referred to the Governmental Organization Committee.

RELATED LEGISLATION:

SB 547 (Alquist, Chapter 250, Statutes of 1986) — enacted the unreinforced masonry, or "URM Law", which required 366 local governments in Seismic Zone 4 (highest danger) to inventory their potentially hazardous URM buildings, establish loss reduction/remediation programs within four years, and report progress to the California Seismic Safety Commission.

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

Assembly Votes:

Governmental Organization:	**12-3**
Local Government:	**6-3**
Appropriations:	**12-4**
Floor:	**51-26**

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

City of Los Angeles
City of West Hollywood
Fair Housing Council of Riverside County, Inc.
San Gabriel Valley Council of Governments
State Building and Construction Trades Council
US Green Building Council
US Resiliency Council

OPPOSITION:

California Building Officials

-- END --

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

Bill No:	AB 2797	**Hearing Date:**	6/19/2018
Author:	Bloom		
Version:	4/30/2018		
Urgency:	No	**Fiscal:**	No
Consultant:	Erin Riches		

SUBJECT: Planning and zoning: density bonuses

DIGEST: This bill requires any density bonus, concessions, incentives, waivers, or reductions of development standards, and parking ratios to which the applicant is entitled to under state density bonus law to be permitted in a manner that is consistent with both density bonus law and the California Coastal Act.

ANALYSIS:

Existing law:

1) Pursuant to state density bonus law:

   a) Requires all cities and counties to adopt an ordinance that specifies how they will implement state density bonus law.

   b) Requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project with specified affordability restrictions.

   c) Requires the city or county to allow specified increases in density over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan for low-income, very low-income, or senior housing, or for moderate-income housing in a common interest development.

   d) Imposes certain limits on a local government's ability to impose parking ratios per unit depending on affordability, population served, and distance from a transit stop.

   e) Requires local governments to provide specified incentives or concessions depending on the percentage of affordable units in the development.

f) Provides that density bonus law does not supersede or in any way alter or lessen the effect or application of the California Coastal Act.

2) Pursuant to the California Coastal Act:

a) Establishes the Coastal Commission in the Natural Resources Agency and requires the Commission to consist of 15 members.

b) Requires an individual planning to perform or undertake any development in the coastal zone to obtain a coastal development permit from the Commission or local government enforcing a local coastal program.

c) Defines the "coastal zone" as the land or water area of the state from the Oregon border to the Mexican border, including all offshore islands, and extending inland generally 1,000 from the mean high tide line. In significant coastal estuarine, habitat, and recreational areas, the coastal zone extends inland to the first major ridgeline paralleling the sea or 5 miles from the mean high tide line, whichever is less. In developed urban areas, the coastal zone generally extends inland less than 1,000 yards.

d) Prohibits local coastal programs from being required to include housing policies and programs.

e) Provides that nothing in the Act shall exempt local governments from meeting federal and state requirements with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by housing law.

f) Provides that the Legislature finds and declares that it is important for the Commission to encourage the protection of existing, and the provision of new, affordable housing opportunities for low- and moderate-income persons in the coastal zone.

g) Requires the Commission to encourage housing opportunities for low- and moderate-income households. Prohibits the Commission from taking measures to reduce the density of a housing project below the level allowed by local zoning ordinances and state density bonus law unless the Commission makes a finding that there is no feasible method to accommodate the density without creating a significant adverse impact on coastal resources.

This bill:

1) States legislative intent that this bill addresses the holding and dicta in *Kalnel Gardens v. City of Los Angeles* (2016) 3 Cal. App. 5th 927 regarding the relationship between density bonus law and the California Coastal Act.

2) States legislative intent that these two statutes be harmonized to achieve the goal of increasing the supply of affordable housing in the coastal zone while also protecting coastal resources and coastal access.

3) Provides that any density bonus, concessions, incentives, waivers, or reductions of development standards, as well as parking ratios, to which an applicant is entitled under density bonus law shall be permitted in a manner that is consistent with density bonus law and with the California Coastal Act.

COMMENTS

1) *Purpose.* The author states that this bill clarifies state density bonus law to ensure that a project cannot be found inconsistent with the California Coastal Act merely because it receives a density increase under state law. This bill aims to ensure that the two laws are harmonized; allowing density bonus projects to move forward to preserve and produce critically needed affordable housing units while also ensuring that coastal resources are protected.

2) *California Coastal Act.* The California Coastal Act requires development activities, such as construction of buildings, to obtain a coastal development permit from either the Commission or a local government with a certified local coastal program. Most of the coastal zone is currently governed by local coastal programs drafted by cities and counties and certified by the Commission.

3) *Density bonus law.* Given California's high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. Density bonus law allows public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning in exchange for affordable units. Allowing more total units enables the developer to spread the cost of the affordable units more broadly over the market-rate units. The idea of density bonus law is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional subsidy.

4) *Density bonus law v. California Coastal Act.* In 2013, City of Los Angeles planning officials approved a proposed residential development in the Venice area. This project would have demolished a two-story, three-unit apartment building and replaced it with a 15-unit housing development including five duplexes and five single-family homes. Pursuant to density bonus law, the developer was allowed to exceed the normal density restrictions for that location because two of the units would be designated for very low-income households.

   In September 2013, a neighborhood group appealed the city's development approvals, including the coastal development permit. The planning commission found that the development did not conform to the California Coastal Act because its size, height, bulk, mass, and scale were incompatible with and harmful to the surrounding neighborhood and because the setbacks were too small. The developer appealed the planning commission's decision to the City Council, which denied the appeal. The developer then brought an administrative mandate action against the city, alleging it had violated the Housing Accountability Act, density bonus law, and the Mello Act.

   The trial court found that the density bonus, height, and setback variations initially approved for the project were proper under the housing density statutes and other city zoning plans and regulations, including the Commission-approved Venice Land Use Plan. However, the trial court found that density bonus law was subordinate to the California Coastal Act and that substantial evidence supported the city's findings that the project violated the Act because it was visually out of step with the surrounding coastal community. The developer appealed and the appellate court affirmed the trial court's decision, holding that state density bonus law is subordinate to the California Coastal Act and that a project that violates the Act as a result of density bonus may be denied on that basis.

5) *Double referral.* This bill has also been referred to the Committee on Natural Resources and Wildlife.

RELATED LEGISLATION:

AB 663 (Bloom, 2017) — would have required, until January 1, 2023, housing opportunities for persons of low- and moderate-income to be protected, encouraged, and, where feasible, provided by the California Coastal Act of 1976. *This bill died on the Assembly Inactive file.*

SB 619 (Ducheny, Chapter 793, Statutes of 2003) — made several changes to laws relating to the development of affordable housing, including requiring the Coastal Commission to encourage housing opportunities for low- and moderate-income households.

AB 1866 (Wright, Chapter 1062, Statutes of 2002) — made numerous changes to state density bonus law and state law relating to second units, including a provision that the requirements of the California Coastal Act shall not be superseded by state density bonus law.

Assembly Votes:

Floor:	**75-0**
Nat Res:	**9-0**
H&CD:	**7-0**

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

California Rural Legal Assistance Foundation (co-sponsor)
Western Center on Law and Poverty (co-sponsor)
Azul
California Apartment Association
California Building Industry Association
California Coastal Protection Network
California Housing Partnership Corporation
Environment California
Natural Resources Defense Council
Non-Profit Housing Association of Northern California
Resources Legacy Fund
Surfrider Foundation

OPPOSITION:

None received.

-- END --

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

Bill No:	AB 2873	**Hearing Date:**	6/19/2018
Author:	Low		
Version:	5/10/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Jeffery Song		

SUBJECT: Personal vehicle sharing: recalled vehicles

DIGEST: This bill ensures that personal vehicle sharing programs (PVSPs) are prohibited from facilitating or otherwise arranging for transportation any vehicle that is subject to a manufacturer's safety recall, as specified.

ANALYSIS:

Existing law:

1) Defines personal vehicle sharing as the use of private passenger motor vehicles by persons other than the vehicle's owner, in connection with a PVSP.

2) Defines a PVSP as a legal entity qualified to do business in the state engaged in the business of facilitating the sharing of private passenger vehicles for noncommercial use by individuals within the state.

3) Provides that no vehicle insured as a private passenger vehicle shall be classified as a commercial or for-hire vehicle for insurance purposes solely because its owner allows it to be used for personal vehicle sharing through a PVSP, as long as certain conditions are met, including that: (a) the owner does not knowingly place the vehicle into commercial use; and (b) the annual revenue from sharing the vehicle through a PVSP does not exceed the annual cost or expenses of operating the vehicle, as specified.

4) Provides that a PVSP shall, for each private passenger vehicle that it facilitates the use of, provide insurance equal to or greater than the insurance coverage maintained by the vehicle owner and reported to the PVSP, during all times when the vehicle is engaged in personal vehicle sharing, except that the PVSP shall not provide liability coverage less than three times the minimum insurance requirements for private passenger vehicles.

5) Provides that notwithstanding any other provision of law or any provision in a private passenger motor vehicle owner's automobile insurance policy, in the event of a loss or injury that occurs during any time period when the vehicle is under the operation and control of a person, other than the vehicle owner, pursuant to a PVSP, or otherwise under the control of a PVSP, the PVSP shall assume all liability of the owner and shall be considered the owner of the vehicle for all purposes. Further provides that nothing limits the liability of the PVSP for its acts or omissions that result in injury to any persons as a result of the use or operation of a PVSP.

6) Requires the PVSP to assume liability for a claim in which a dispute exists as to who was in control of the vehicle when the loss occurred giving rise to the claim, and the vehicle's private passenger motor vehicle insurer shall indemnify the PVSP to the extent of its obligation under the applicable insurance policy, if it is determined that the vehicle's owner was in control of the vehicle at the time of the loss.

7) Requires the PVSP to defend and indemnify the vehicle's owner, in the event that the owner of the vehicle is named as a defendant in a civil action, for a loss or injury that occurs during any time period when the vehicle is under the operation and control of a person, other than the vehicle's owner, pursuant to a PVSP, or otherwise under the control of a PVSP.

8) Prohibits a dealer or rental car company with a motor vehicle fleet of 34 or fewer loaner or rental vehicles, no later than 48 hours after receiving a notice of a manufacturer's recall, or sooner if practicable, from loaning, renting, or offering for loan or rent a vehicle subject to that recall until the recall repair has been made.

9) Defines "manufacturer's recall" to mean a recall conducted pursuant to certain provisions of federal law, and provides that a manufacturer's recall does not include a service campaign or emission recall when the vehicle manufacturer or the National Highway Traffic Safety Administration has not issued a recall notice to owners of affected vehicles, pursuant to the federal law, as specified.

This bill:

1) Prohibits a PVSP from facilitating or otherwise arranging for transportation with a vehicle that is subject to a manufacturer's recall and a safety recall notice has been issued by the manufacturer and appears in the recall database provided by the National Highway Traffic Safety Administration.

2) Defines PVSP to have the same meaning as defined in the Insurance Code.

3) Clarifies that nothing in this bill shall apply in any manner to pending legislation.

COMMENTS

1) *Purpose.* The author states that various forms of car sharing have helped many Californians ease the financial burden of car ownership as well as provided access to individuals who cannot afford to own a car; however there are no protections for the consumer to ensure that these vehicles are not under a current recall. This bill closes a loophole by prohibiting a PVSP from facilitating or otherwise arranging for transportation with a vehicle that is subject to a manufacturer's recall.

2) *Personal Vehicle Sharing Programs.* In 2010, the Legislature enacted AB 1871 (Jones), which established PVSPs in the law and a number of insurance and liability parameters for the PVSPs. PVSPs provide a platform to facilitate peer-to-peer car sharing. Car owners use the platform to offer their cars for rent, while car renters use it to shop for a vehicle to rent. The PVSPs make money through fees and taking a cut of the rental price. PVSPs provide car owners the opportunity to make money off the use of a vehicle that would otherwise sit, and provide users generally cheaper prices to rent a car. These companies have been dubbed the 'AirBnB' for cars.[1] One of the popular PVSPs operating in the US is Turo, a co-sponsor of this bill.

3) *Number of Vehicle Recalls Increasing.* Manufacturer recalls occur when a motor vehicle or motor vehicle equipment does not comply with a Federal Motor Vehicle Safety Standard, or if there is a safety-related defect in the vehicle or equipment. In 2016, there were more than 53.2 million passenger vehicles recalled, the highest ever in the United States, and the third straight year of more than 50 million recalled vehicles.[2] This increase has been in part because of the effort by the federal government to replace defective Takata air bag inflators, which has killed 15 people and injured 250 people in the United States.[3] However, not enough recalled vehicles are getting fixed. It is estimated that there are approximately 57 million vehicles under recall on the road, for various reasons, which is ~ 20% of all vehicles in the US.[4]

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[1] https://www.washingtonpost.com/news/innovations/wp/2018/03/30/airbnb-for-cars-is-here-and-the-rental-car-giants-are-not-happy/?noredirect=on&utm_term=.bb8f58015b74

[2] https://www.reuters.com/article/us-usa-autos-recall-idUSKBN16H27A

[3] https://www.nhtsa.gov/equipment/takata-recall-spotlight

[4] https://www.prnewswire.com/news-releases/carfax-57-million-vehicles-on-us-roads-have-open-recalls-300618100.html

4) *Closing a Loophole.* In December 2015, the federal government passed a five-year transportation funding measure – the Fixing America's Surface Transportation (FAST) Act. The measure included a provision (the Raechel and Jacqueline Houck Safe Rental Car Act, named after two young women, who were killed by an unrepaired recalled rental car), which prohibits a rental car company or car dealer, with 35 or more vehicles available for rental or loan, from renting or loaning a vehicle with an unrepaired manufacturer recall.

   Rental car companies or dealers with fleets under 35 cars, however, were not subject to the federal rule, leaving a gap in public protection. In response, the Legislature passed and the Governor signed AB 287 (Gordon, 2016), which extended the prohibition on renting, loaning, selling of recalled vehicles to rental car companies with fewer than 35 vehicles in the state. This bill closes this gap for PVSPs as well.

5) *Proxy Argument.* Currently, there is a robust debate over whether or not PVSPs should be regulated as rental car companies. The author and PVSPs feel they should not be defined as rental car companies, while rental car companies and organized labor unions do. This bill has become a proxy for this argument. The opposition contests whether it is necessary to have this bill apply a safety recall provision to PVSPs, when it could be accomplished by regulating PVSPs like rental car companies and thus applying the existing law to PVSPs. However, as this debate is ongoing, it would be prudent to protect consumers through this bill by prohibiting PVSPs from facilitating the renting of recalled vehicles on their platform.

6) *Stricter Provision than Rental Cars.* Currently, existing federal and state laws prohibit rental car companies from renting, loaning, or selling recalled vehicles as soon as practical, or at most 48 hours of receiving the safety recall notice. This bill gives PVSPs in the state no time window for compliance. PVSPs differ from rental car companies in some respect regarding safety recalls, since they don't own the vehicles. Therefore, they do not receive the safety recall notices, or perform the necessary safety recall repairs. Under this bill, PVSPs would have to check in real-time if any of their vehicles are under recall, so that they can be grounded and removed off of their platform immediately. This could potentially be an avenue through which some vehicle owners are alerted that their vehicle is under recall and needs to be fixed.

7) *Avoiding Litigation.* In an effort to ensure that this bill does not interfere with pending litigation concerning PVSPs[5], the bill specifies that the changes to the

[5] https://www.sfchronicle.com/business/article/SF-sues-Turo-for-not-having-airport-permits-12522534.php

Vehicle Code made by this bill "shall not apply in any manner to pending litigation."

RELATED LEGISLATION:

AB 287 (Gordon, Chapter 682, Statutes of 2015) — prohibited a dealer or rental company with a motor vehicle fleet of 34 or fewer loaner or rental vehicles from loaning, renting, or offering for loan or rent a vehicle subject to a manufacturer's recall until a vehicle has been repaired, except as specified.

AB 1871 (Jones, Chapter 454, Statutes of 2010) — established personal vehicle sharing programs and provided insurance and liability parameters for PVSPs.

Assembly Votes:

Floor	**60-4**
Approps	**13-3**
Privacy	**9-0**
Judiciary	**9-0**

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

POSITIONS: (Communicated to the committee before noon on Wednesday, 6/13/2018.)

SUPPORT:

Alliance of Automobile Manufacturers
CALPIRG
Center for Auto Safety
Consumer Action
Consumer Watchdog
Consumers for Auto Reliability and Safety (sponsor)
Internet Association
Sacramento Cares
Technet
The Safety Institute
The Trauma Foundation
Turo
1 individual

OPPOSITION:

California Teamsters

-- END --

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

Bill No:	AB 2887	**Hearing Date:**	6/19/2018
Author:	Aguiar-Curry		
Version:	4/30/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Migrant farm labor centers

DIGEST: This bill would make several modifications to operation of migrant farm labor centers (centers).

ANALYSIS:

Existing law:

1) Requires the state Department of Housing and Community Development (HCD), through its Office of Migrant Services (OMS), to assist in the development, construction, rehabilitation, or operation of centers.

2) Authorizes HCD to contract with school districts, housing authorities, health agencies, and other local public and private non-profit agencies for the procurement or construction of housing or shelter and to obtain specified services for migratory agricultural workers.

3) Authorizes the operator of a center (operator), at the end of each fiscal year, to establish a reserve account consisting of the excess funds provided through the annual operating contract with HCD, if HCD certifies there is no need to address reasonable general maintenance requirements or repairs, rehabilitation, and replacement needs of the center which affect the immediate health and safety of the residents.

4) Caps a center's reserve at 10% of annual operating funds and specifies that reserve account funds may only be used for capital improvements.

5) Requires written approval from HCD to make withdrawals from the reserve account.

6) Authorizes a center to operate for an extended period beyond the standard 180 days, subject to HCD approval, if specified conditions are met but prohibits the extended occupancy period from exceeding 275 days per calendar year.

7) Requires HCD, prior to approving or denying an early opening or extension for a center, to take into consideration a number of specified factors.

This bill:

1) Requires, rather than allows, an operator to establish a reserve account and specifies that it is a capital reserve account.

2) Eliminates the 10% cap on the reserve and requires the operator to annually report the reserve balance to HCD.

3) Requires the operator to first use available capital reserve funds for required improvements or repairs before requesting additional funds from HCD.

4) Requires HCD to provide flexibility in an operating contract relating to the opening date of the center if needed to adjust for variable seasonal or climate changes.

5) Requires HCD to enter into operating contracts with operators, containing mutually agreeable language, that would be effective until terminated by HCD, and to provide funding annually by making an amendment to the contract. Provides that this requirement shall not be interpreted to allow an operating period to exceed a term otherwise authorized by existing law.

6) Requires an operator, on or before January 1, 2020 and annually thereafter, to provide a report to OMS about the migratory agricultural workers who resided at the center during the most recently ended contract period. The report shall include specified data, which shall be reported in an aggregate, anonymous format.

7) Requires HCD to consider the data contained in the reports to determine the needs of the residents served at the centers and how to better serve those needs in operating contracts and annual amendments.

COMMENTS

1) *Purpose.* The author states that the demographics and needs of California's farmworkers are shifting. This bill takes into account feedback from OMS

housing operators across the state. This bill will increase flexibility in the OMS program to better serve our state's migratory agricultural workers and increase program efficiency. If needed, a local operator of a migrant farm labor center should be able to adjust dates for variable seasonal or climate changes. In addition, many issues with the structure of the OMS program come from the lack of detailed information about the farmworkers living and working in our fields. There is no existing process for the state to collect data about our farmworkers' demographics, incomes, home locations, etc. Some local housing operators do this voluntarily, but data collection is not required or standardized. This bill creates a process for collecting and reporting aggregated and anonymous data to the state in order to allow each center to provide services and conditions most appropriate to the residents actually living there.

2) *Background on the OMS program.* OMS aims to provide safe, decent, and affordable seasonal rental housing and support services to migrant farmworker families during the peak harvest season. Counties, housing authorities, and grower associations typically provide land for centers as an in-kind contribution. HCD owns the structures; day care and after-school support services are typically provided. Tenants are charged a subsidized, affordable daily rent. HCD contracts with local operating agencies on an annual basis and provides grants for OMS center operation, paid from the General Fund and from OMS rental income. OMS centers currently receive approximately $5.6 million in General Fund support annually. Given that this program was created for migrant farmworkers, occupancy is normally limited to six months per year. There are currently 24 centers operating in 15 counties: Colusa, Fresno, Kern, Madera, Merced, Modoc, Monterey, San Benito, San Joaquin, Santa Clara, Santa Cruz, Solano, Stanislaus, Sutter, and Yolo.

3) *Reserve requirement.* Existing law allows a center to establish a reserve, which is capped at 10% of annual operating funds. This bill instead requires a center to establish a capital reserve, and eliminates the cap. The author states that this will enable operators to save up sufficient funds to purchase badly needed items such as new refrigerators. While this is a valid concern, allowing one center to run up a big reserve could have the unintended consequence of reducing funds available for other centers, given the minimal budget for the OMS program. Moving forward, the author may wish to consider raising the cap on the reserve rather than eliminating it altogether.

4) *Contracts.* This bill makes several changes in contracting intended to provide more flexibility for operators, such as requiring HCD to enter into ongoing contracts that can be amended annually. The author states that having to enter into a new contract every year, as is currently required, is onerous and doesn't

make sense for an ongoing program. The committee understands, however, that annual contracts are a fairly standard practice for programs that receive annual appropriations through the state budget.

5) *Reporting requirement.* The housing budget trailer bills (SB 850 and AB 1816, as amended June 11th) include a reporting requirement that slightly differs from this bill (differences in bold):

AB 2887	**Budget TBL**
Where the migratory agricultural workers are migrating from.	Where the migratory agricultural workers are migrating from.
Household income.	Household income.
Race or ethnicity of members of the household.	Race or ethnicity of members of the household.
Gender of members of the household.	Gender of members of the household.
Number of school aged children, including the number of participants in the Migrant Education Program and **the number of household members enrolled in postsecondary school programs.**	Number of school aged children, including the number of participants in the Migrant Education Program and **the number of household members enrolled in K-12 programs.**
	Information regarding the intended schooling for the children once the migrant farm labor center closes.
Whether household members are homeowners or renters.	**Where household members reside when not in the migrant farm labor center and whether they own or rent.**
Whether household members include elderly or disabled individuals.	Whether household members include elderly or disabled individuals.

Should the OMS reporting language be included in the final TBL that is signed by the Governor, the author may wish to consider removing the reporting section from this bill to avoid conflict.

Assembly Votes:

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

RELATED LEGISLATION:

AB 571 (E. Garcia, Chapter 372, Statutes of 2017) — made changes to the farmworker housing tax credit set-aside within the Low Income Housing Tax Credit Program. Also prohibits the standard 180-day occupancy period, combined with any approved extended occupancy period, from exceeding a cumulative 275 days in any calendar year.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

California Association of Housing Authorities
California Association of Winegrape Growers
California Farm Bureau Federation
City of Woodland
Delta Community Developers Corp.
Family Winemakers of California
Housing Authority of the County of Monterey
Regional Housing Authority
Santa Barbara Women's Political Committee

OPPOSITION:

None received.

-- END --

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

Bill No:	AB 2890	**Hearing Date:**	6/19/2018
Author:	Ting		
Version:	5/25/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Land use: accessory dwelling units

DIGEST: This bill makes a number of changes to state law governing accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs).

ANALYSIS:

Existing law:

1) States that a local government may, by ordinance, provide for the creation of ADUs and may designate areas where ADUs are permitted. State law provides that the ordinance shall contain specified provisions, including, but not limited to, the following:

   a) The ADU shall not exceed the allowable density for the lot upon which the ADU is located and that ADUs are a residential use that is consistent with the existing general plan and zoning designation for the lot.

   b) No setback shall be required for an existing garage that is converted to an ADU.

   c) When a garage or carport is converted to an ADU and a local government requires that off-street parking spaces be replaced, the replacement spaces may be in any configuration on the same lot as the ADU.

   d) When a local agency receives its first application for an ADU permit, the application shall be considered ministerially, without discretionary review or a hearing within 120 days after receiving the application.

   e) A city may require owner occupancy for either the primary dwelling or the ADU.

   f) An ADU shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating

connection fees or capacity charges for utilities, including water and sewer fees.

g) For an ADU contained within the existing space of a single-family residence or accessory structure with an independent exterior access, a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the ADU and the utility or impose a related connection fee or capacity charge.

h) Requires a local agency to submit a copy of the ADU ordinance to the Department of Housing and Community Development (HCD) within 60 days of the ordinance's adoption. HCD may review and comment on the submitted ordinance.

2) Permits local agencies, by ordinance, to provide for the creation of JADUs in single-family residential zones.

This bill:

1) Prohibits a local ADU ordinance from imposing standards on ADUs that include requirements on minimum lot size, lot coverage, or floor area ratio.

2) Reduces the application approval timeframe from 120 days to 60 days.

3) Provides that if a local ADU ordinance imposes an owner-occupancy restriction, this restriction shall not be monitored more frequently than annually based on published public documents that evidence residency, including but not limited to a driver's license, school registration, or a voter registration document.

4) Provides that no minimum or maximum size for an ADU or size based upon a percentage of the proposed or existing primary dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an 800-square foot ADU and at least a 16-foot-high ADU.

5) Provides that a local agency shall ministerially approve an application for a building permit to create any of the following:

a) One ADU and one JADU per lot with a single-family dwelling if all of the following apply:

i. The ADU or JADU is within the existing space of a single-family dwelling or ADU, including but not limited to reconstruction of an existing space with the same physical dimensions as the existing ADU.

ii. The space has exterior access from the existing dwelling.

iii. The side and rear setbacks are sufficient for fire and safety.

b) One detached, new-construction, single-story ADU that may be subject to a limit of not more than 800 square feet, may be subject to a height limit of 16 feet, and that does not exceed four-foot side and rear yard setbacks for a lot with a single-family dwelling. This ADU may be combined with a JADU.

c) Multiple ADUs within the portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attic, or garages, if each unit complies with state building standards for dwellings.

d) Not more than two ADUs that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

6) Prohibits a local agency from requiring, as a condition for a ministerial approval, the correcting of nonconforming conditions, defined as a physical improvement on a property that does not conform with current zoning standards.

7) Authorizes a local agency to require that a rental of an ADU be for a term longer than 30 days.

8) Allows HCD, after the adoption of an ADU ordinance, to submit findings to the local agency as to whether the ordinance complies with ADU law. If HCD finds that the local agency's ordinance does not substantially comply with ADU law, HCD shall notify the local agency and may notify the Attorney General. The local agency shall consider findings made by HCD and may change the ordinance to comply with ADU law or adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite HCD's findings.

9) Permits HCD to review, adopt, amend, or repeal guidelines to implement uniform standards and criteria that supplement or clarify the terms, references, and standards in ADU law.

10) Provides that if a local agency has not adopted a JADU ordinance, it shall apply the standards established in existing law for the approval of a permit to construct a JADU.

11) Requires HCD to create small home building standards to apply to ADUs, which shall be drafted to achieve the most cost-effective construction standards possible, similar or more cost effective than 2007 California Building Code standards. These small building standards shall be submitted to the California Building Standards Commission for consideration on or before January 1, 2020.

COMMENTS

1) *Purpose.* The author states that ADUs have surged in popularity as a way to address California's housing crisis as demand outpaces supply. This bill will remove remaining barriers to the widespread adoption of ADUs as low-cost, energy-efficient, affordable housing that can go from policy to permit in 12 months.

2) *What are ADUs and JADUs?* ADUs, also known as accessory apartments, accessory dwellings, mother-in-law units, or granny flats, are additional living spaces on single-family lots that have a separate kitchen, bathroom, and exterior access independent of the primary residence. These spaces can either be attached to or detached from the primary residence. Local governments may also adopt ordinances for JADUs, which are no more than 500 square feet and are bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink and stove, but is not required to have a bathroom.

3) *Relaxing ADU requirements.* According to a UC Berkeley study, *Yes in My Backyard: Mobilizing the Market for Secondary Units,* second units are a means to accommodate future growth and encourage infill development in developed neighborhoods. Despite existing state law, which requires each city in the state to have a ministerial process for approving second units, the study found that local regulations often impede development. The study, which evaluated five adjacent cities in the East Bay, concluded that there is a substantial market of interested homeowners; cities could reduce parking requirements without contributing to parking issues; second units could accommodate future growth and affordable housing; and that scaling up second unit strategy could mean economic and fiscal benefits for cities. The author states that this bill serves to address the remaining barriers to building ADUs.

4) *ADU bills: how are they similar?* This committee passed both SB 831 (Wieckowski) and SB 1469 (Skinner) earlier this year. SB 1469 was held on the Senate Appropriations Committee suspense file, though some of its

provisions were amended into SB 831. Similarities between SB 831 (as amended May 25, 2018) and this bill include:

a) *Lot size/lot coverage/floor area ratio.* Both bills prohibit a local agency from imposing limits on lot size, lot coverage, or floor area ratio.

b) *ADU size.* Both bills require a local agency to permit an ADU that is an attached or detached dwelling of at least 800 square feet. (This bill additionally specifies a minimum 16-foot height requirement.)

c) *Application timeframe.* Both bills reduce the application approval timeframe from 120 days to 60 days. (SB 831 additionally provides that if a local agency has not acted on the submitted application within 60 days, it is deemed approved.)

d) *HCD review.* Both bills allow HCD to submit findings to a local agency as to whether an adopted ADU ordinance complies with ADU law and require HCD to notify the AG if it does not. (This is similar to an existing law requirement for HCD to notify the AG if HCD finds that a housing element does not comply with existing law.) Both bills also allow HCD to review, adopt, amend, or repeal guidelines to implement uniform standards and criteria to clarify ADU law.

5) *ADU bills: how are they different?* Key differences between this bill and SB 831 (Wieckowski) include:

a) *Owner occupancy.* SB 831 eliminates the authorization to require owner occupancy of ADUs. In contrast, this bill provides that if a local ADU ordinance imposes an owner occupancy restriction, it shall not be monitored more frequently than annually.

b) *Short-term rentals.* This bill, under the ministerial approval provisions, allows a local agency to require that a rental of an ADU shall be for a term longer than 30 days. SB 831 does not include this requirement.

c) *Location.* SB 831 allows a local agency to designate areas where ADUs may not be constructed, though such exclusions may only be for health and safety (including fire safety) reasons. In contrast, this bill allows local agencies to designate areas where ADUs are allowed, with no major restrictions.

d) *Fees.* Existing law, under the ministerial approval provisions, prohibits an ADU from being considered a new residential use for purposes of

calculating fees charged for new development. SB 831 expands this prohibition to other types of development fees. This bill does not.

e) *Setbacks.* SB 831 prohibits a setback requirement for an existing area or structure that is converted to an ADU, and limits any setback requirement to three feet for an ADU that is not converted from an existing structure. This bill does not include these provisions.

f) *Parking requirements.* SB 831 provides that when a garage, carport, or covered parking structure is demolished in conjunction with an ADU, or converted into an ADU, a local agency shall not require replacement of those off-street parking spaces. This bill does not.

g) *Substandard ADUs.* SB 831 provides that where a building official finds that a substandard ADU presents an imminent risk to health and safety, the official shall approve a delay of at least 10 years of state building standards code requirements that are not necessary to protect public health and safety (effectively establishing an amnesty). In contrast, this bill requires HCD to create small home building standards for ADUs and submit them to the California Building Standards Commission by January 1, 2020.

h) *Local government violations.* SB 831 authorizes HCD to notify the AG if a local agency has taken an action in violation of ADU law. This bill does not include such an authorization.

i) *Absence of local JADU ordinance.* This bill provides that if a local agency has not adopted a JADU ordinance, it shall apply the standards in existing law for approval of a permit to construct a JADU. SB 831 does not include this provision.

6) *Ministerial approval.* Both SB 831 and this bill expand the conditions under which a local agency must approve a building permit application for an ADU or JADU. Both bills also allow for multiple ADUs within the portions of existing multifamily dwelling structures that are not used as livable space. In addition, both bills limit detached ADUs to two per lot with an existing multifamily dwelling. Key differences include:

a) SB 831 limits the ministerial approval requirements to residential and mixed use zones; this bill imposes no such limits.

b) SB 831 allows for one ADU or one JADU per lot with a single-family dwelling, while this bill allows for both an ADU and a JADU on a lot with a single-family dwelling.

c) This bill additionally allows for a detached, new construction, single-story ADU at least 800 square feet in size and 16 feet in height, with at least four-foot side and rear yard setbacks, and allows such an ADU to be combined with a JADU.

d) This bill prohibits a local agency from requiring, as a condition for ministerial approval, the correction of improvements that do not conform to current zoning standards.

7) *Opposition concerns*. Opponents cite a number of concerns, including:

a) *Trying to keep up.* Opponents note that this will be the third year in a row with major ADU changes. ADU law was significantly revised in the 2016 legislative session through two carefully negotiated bills that only became effective on January 1, 2017, with further amendments during the 2017 legislative session. Additional changes will force counties and cities to update their ordinances yet again.

b) *Expanding ADUs beyond residential zones.* Opponents note that while the 2016 ADU law revisions applied only to residentially zoned land, this bill would require ministerial approval of ADUs in any area where a single-family or multifamily dwelling is authorized, potentially creating conflicts with existing land uses. For example, counties and cities must consider whether allowing additional residential living space on an agricultural or industrial zoned parcel would create new conflicts with adjacent land uses such as established business.

c) *Ensuring sufficient infrastructure for ADUs.* Opponents note that this bill precludes legitimate restrictions on parcel size and lot coverage, which may be needed because some lots are unable to accommodate required well and septic services. Instead of allowing counties to establish reasonable, generally applicable standards identifying parcels unable to accommodate required services, this bill requires such issues to be considered on a case-by-case basis, which could create uncertainty and confusion for applicants.

8) *Double-referral.* This bill is double-referred to the Senate Governance and Finance Committee.

RELATED LEGISLATION:

SB 831 (Wieckowski, 2018) — makes several changes to law governing ADUs and JADUs. *This bill is scheduled to be heard on June 20th in the Assembly Housing Committee.*

SB 1469 (Skinner, 2018) — would have placed additional restrictions on the conditions that local governments may impose on ADUs and JADUs, as specified and would have required HCD to develop small home building standards by January 1, 2020. *This bill was held on the suspense file in the Senate Appropriations Committee.*

AB 72 (Santiago, Chapter 370, Statutes of 2017) — gave HCD authority to find a city's or city's and county's housing element out of substantial compliance if it determines that the city or county acts or fails to act in compliance with its housing element, and allows HCD to refer violations of law to the Attorney General.

AB 494 (Bloom, Chapter 602, Statutes of 2017) — made technical, clarifying changes to ADU law.

SB 229 (Wieckowski, Chapter 594, Statutes of 2017) — made several changes to ADU law.

AB 2299 (Bloom, Chapter 735, Statutes of 2016) — made several changes to the ADU law.

SB 1069 (Wieckowski, chapter 720, Statutes of 2016) —made several changes to ADU law.

Assembly Votes:

Floor:	**53-17**
Approps:	**12-1**
Local Gov:	**6-2**
H&CD:	**6-1**

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

Bay Area Council
Bridge Housing
California Apartment Association
California Association of Realtors
California Building Industry Association

California Forward Action Fund
California YIMBY
Enterprise Community Partners
Greenbelt Alliance
Habitat for Humanity California
Lilypad Homes
Mas
Non-Profit Housing Association of Northern California
North Bay Leadership Council
San Francisco Housing Action Coalition
SPUR
SV@Home
The Two Hundred
UC Berkeley Terner Center for Housing Innovation
UC Berkeley Center for Community Innovation
UCLA cityLAB

OPPOSITION:

American Planning Association, California Chapter
California Association of Suburban Schools
California State Association of Counties
City of Long Beach
League of California Cities
Rural County Representatives of California
San Diego Unified School District
Small School Districts Association
Urban Counties of California

-- END --

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

Bill No:	AB 2994	**Hearing Date:**	6/19/2018
Author:	Holden		
Version:	4/30/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Jeffery Song		

SUBJECT: Building standards: public restrooms: grab bars: ambulatory accessible toilet compartments

DIGEST: This bill requires the California Building Standard Commission (BSC) to adopt standards requiring newly constructed restrooms to be equipped with grab bars in the next triennial edition of the California Building Standards Code (Code). It also requires a commercial place of public amusement that is constructed on or after January 1, 2025, to install and maintain an ambulatory accessible toilet compartment.

ANALYSIS:

Existing law:

1) Authorizes the BSC to approve and adopt building standards. Every three years, BSC undertakes a building standards rulemaking to revise and update the Code.

2) Requires proposed building standards that are submitted to BSC for consideration to be accompanied by an analysis, completed by the appropriate state agency, that justifies approval based on the following criteria:

   a) The building standard does not conflict with, overlap, or duplicate other building standards;

   b) The proposed standard is within the parameters of the agency's jurisdiction;

   c) The public interest requires the adoption of the building standard;

   d) The standard is not unreasonable, arbitrary, unfair, or capricious;

e) The cost to the public is reasonable, based on the overall benefit to be derived from the building standard;

f) The standard is not unnecessarily ambiguous or vague; and

g) The applicable national specifications, published standards, and model codes have been appropriately incorporated into the standard.

3) Requires BSC to receive proposed building standards from a state agency for consideration in the triennial code adoption cycle. Requires BSC to adopt regulations governing the procedures for the triennial adoption cycle, which must include adequate provision of the following:

a) Public participation in the development of standards;

b) Notice in written form to the public of the proposed building standards with justifications;

c) Technical review of the proposed building standards and accompanying justification by advisory boards of BSC; and

d) Time for review of recommendations by the advisory boards prior to BSC taking action

4) Requires the Division of State Architect (DSA) to develop and submit proposed building standards to the BSC for adoption, regarding making buildings, structures, curbs, and related facilities accessible to and usable by persons with disabilities.

5) Requires that California's building standards for disability access are not a lesser standard than the federal standards pursuant to the Americans with Disability Act of 1990 (ADA).

6) Defines a commercial place of public amusement as an auditorium, convention center, cultural complex, exhibition hall, permanent amusement park, sports arena, or theater, or movie house for which the maximum occupancy is determined to be 2,500 or more people, and does not include any public or private higher education facility or district agricultural association.

This bill:

1) Requires the BSC to adopt, approve, codify, and publish mandatory building standards that require newly constructed public restrooms to be equipped with grab bars, commencing with the next triennial edition of the Code and requires the standards to conform to ADA and applicable state requirements.

2) Requires a commercial place of public amusement constructed on or after January 1, 2025 to install and maintain an ambulatory accessible toilet compartment that meets the standards set forth in the most recent edition of the California Building Standards Code.

COMMENTS

1) *Purpose.* The author states that ambulatory stalls provide independence and quality of life for disabled and elderly individuals in the state. This bill requires a commercial place of public amusement newly constructed on or after January 1, 2025, to include an ambulatory stall that meets the standards set forth in the Code and requires the adoption of building standards that require newly-constructed public restrooms be equipped with grab bars.

2) *Danger of Unintentional Falls.* According to the Center for Disease Control and Prevention (CDC), millions of Americans age 65 and older fall each year. One out of every five falls causes a serious injury. The death rate as a result of unintentional falls in adults age 65 and older has steadily increased from 2005-2014.[1] With 10,000 older Americans turning 65 every day, the CDC expects the number of fall-related injuries and deaths to continue to increase in the coming years resulting in increases in healthcare costs. This is of specific concern to California, as it has the largest population of people over the age of 60 in the country, and the elderly population is expected to grow more than twice as fast as the total population.[2]

   One recommendation to prevent slips and falls is installing grab bars in bathrooms to offer stability when showering or using a toilet.[3] This bill requires the adoption of building standards that would require newly constructed public restrooms to be equipped with grab bars.

3) *Grab Bars in Public Restrooms.* Grab bars are already required in the state's building standards for public restrooms through compliance with the

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[1] https://www.cdc.gov/homeandrecreationalsafety/falls/adultfalls.html
[2] https://www.aging.ca.gov/data_and_statistics/facts_about_elderly/
[3] https://www.cdc.gov/homeandrecreationalsafety/pdf/falls/cdc_falls_compendium-2015-a.pdf

International Building Code (IBC) and ADA standards. Grab bars are bars for the purpose of being grasped by the hand for support. They are required to be installed in wheelchair accessible toilet stalls, wheelchair accessible restrooms, and in ambulatory accessible toilet stalls. Ambulatory accessible toilet stalls are stalls that have grab bars on both sides of the toilet to enable safe access to the toilet, and are slightly larger than normal stalls but smaller than wheelchair accessible stalls.

Currently, the Code requires that at least 5% but no less than one of the stalls per restroom be wheelchair accessible. This means that for public restrooms that have one stall or if it's just one toilet in the room, it must be wheelchair accessible. Additionally, where six or more stalls (or urinals + stalls) are present in the restroom, there have to be the same number of ambulatory accessible stalls as wheelchair accessible stalls. Therefore, in restrooms with two to five stalls (or urinals + stalls), at least one stall must be wheelchair accessible and none ambulatory, and for restrooms with six to 20 stalls (or urinals + stalls), at least one stall must be wheelchair accessible and one must be ambulatory accessible.

4) *Already Happening.* A commercial place of public amusement is a term for auditoriums, sports arenas, etc. that have a maximum occupancy of 2,500 or more people. This term was created by AB 662 (Bonilla, 2015), which requires at least one adult changing station to be installed in these commercial places, as defined. This bill requires a new commercial place of public amusement to also have an ambulatory accessible toilet compartment. The supporters of the bill state that this is necessary for greater inclusion of elderly people and people with disabilities into community life and participation in activities like sporting events and concerts. However, these places generally have restrooms that have six or more stalls, and so under existing building standards, these restrooms would each have at least one ambulatory accessible stall as well as at least one fully wheelchair accessible stall. It is not clear what this provision of the bill would do. ***The author has agreed to amend the bill to delete this provision.***

5) *Correct Avenue for Developing Accessibility Standards.* This bill requires the adoption of building standards that would require newly constructed public restrooms to be equipped with grab bars. Current accessibility building standards for public restrooms in the state are consistent with federal ADA guidelines, and it is unclear whether requiring the adoption of a greater standard, such as requiring grab bars in all new public restrooms, is needed for the state. There is a process for reviewing and considering for adoption of new building standards, like those desired in the bill. Under existing law, BSC considers for adoption proposed standards from agencies on a triennial cycle to

update the Code, through a public process and technical review. The Division of the State Architect (DSA) is the agency with the responsibility and expertise to develop and propose new accessibility standards. ***The author has agreed to amend the bill to instead have DSA review current standards and develop and propose updated standards on the requirements for the number of ambulatory accessible stalls in public restrooms to the BSC for consideration during the next triennial code adoption cycle.***

RELATED LEGISLATION:

AB 662 (Bonilla, Chapter 742, Statutes of 2015) —required a commercial place of public amusement to install and maintain at least one adult changing station, for persons with disabilities, accessible to men and women, to assist in the changing of diapers.

Assembly Votes

Floor	**73 -0**
Approps	**16-0**
B&P	**16-0**

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

California Senior Legislature (sponsor)
Association of Regional Center Agencies
Disability Rights California
National Multiple Sclerosis Society

OPPOSITION:

None received.

-- END --

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

Bill No:	AB 3139	**Hearing Date:**	6/19/2018
Author:	Bonta		
Version:	5/25/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Howard Posner		

SUBJECT: State highways: property leases

DIGEST: This bill requires Caltrans to offer up to ten $1-per-month airspace leases to the City of Oakland for emergency shelter or feeding programs.

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 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) 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:

1) Requires any airspace under a freeway, or real property acquired for highway purposes, in the City of Oakland, that is not excess property, to be offered by Caltrans for lease on a right of first refusal to the city, or to a political subdivision of the city, for purposes of an emergency shelter or feeding program.

2) Requires, for up to 10 parcels, the lease amount for emergency shelter or feeding programs to be $1 per month.

3) Allows the lease amount to be paid in advance of the term covered in order to reduce the administrative costs associated with the payment of the monthly rental fee.

4) Requires the lease to require the payment of an administrative fee not to exceed $500 per year, unless Caltrans determines that a higher administrative fee is necessary, for its cost of administering the lease.

5) Finds and declares that the lease of real property pursuant to these provisions serves a public purpose.

COMMENTS

1) *Author's Statement.* As one part of its larger strategy to address the growing homeless crisis, the City of Oakland is looking to lease vacant, unused right of way parcels from Caltrans and put it into productive use; specifically, for emergency shelters. This bill seeks to provide the City of Oakland an opportunity to lease certain Caltrans parcels for emergency shelters and recreational areas where appropriate. Without this bill the cost to lease these parcels would be full market rate, which is cost prohibitive, and therefore would remain vacant, blighted, and an attractive nuisance.

   According to the author, Oakland is facing a homelessness crisis. Oakland's homeless population is estimated to be 2,761, and only 859 of these individuals are able to take advantage of existing shelter space. Most of the homeless have chronic health problems; some of these individuals are fully employed but can no longer afford the cost of housing in the Bay Area. The author believes that this bill will enable the City of Oakland to have the ability to address some of its homelessness concerns by being able to lease space affordably for emergency shelter and feeding programs.

2) *Special treatment for shelter/feeding programs.* The authority for Caltrans to enter into airspace 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.

RELATED LEGISLATION:

AB 1898 (Mathis, 2018) — would have required Caltrans to lease at a discount to a city or county any airspace under a freeway or other real property in a disadvantaged community for various purposes. *AB 1898 was held on Suspense in the Assembly Appropriations Committee.*

AB 2629 (Eggman, 2018) — authorizes Caltrans to lease airspace under a freeway or other real property to the City of Oakland for emergency shelter or feeding programs. *AB 3139 is set to be heard by this committee on June 19, 2018.*

AB 857 (Ting, Chapter 822, Statutes of 2017) — directed Caltrans to lease to San Francisco up to 10 parcels of airspace under a freeway at 30% of fair market lease value for park, recreational, or open-space purposes.

SB 120 (Kopp, Chapter 750, Statutes of 1993) — authorized Caltrans to lease to San Francisco any airspace under a freeway or property for an emergency shelter or feeding program at a rate of $1 per month.

SB 1441 (Johnston, Chapter 143, Statutes of 1992) — enabled the City of Stockton to renew its airspace lease at the SR 4 and I-5 interchange for ten years, and authorized two subsequent ten-year renewals following that first renewal.

ASSEMBLY VOTES:

Floor:	**55-19**
Transportation:	**10-3**

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

City of Oakland (Sponsor)

OPPOSITION:

None received.

-- END --

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

Bill No:	AB 3163	**Hearing Date:**	6/19/2018
Author:	Frazier		
Version:	2/16/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Jeffery Song		

SUBJECT: Department of Motor Vehicles: electronic submission of documents

DIGEST: This bill eliminates the requirement that the Department of Motor Vehicles (DMV) retain information verifying the identity of the person submitting an electronic signature.

ANALYSIS:

Existing law:

1) Establishes standards for conducting electronic transactions in California, permitting but not requiring a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

2) Defines an "electronic signature" as an electronic sound, symbol, or process attached to, or logically associated with, an electronic record and executed or adopted by a person with the intent to sign the electronic record.

3) Authorizes DMV to allow a person to submit a document by using electronic media deemed feasible by DMV instead of requiring the actual submittal of the original document.

4) Authorizes DMV to accept an electronic signature on a document required by law in order to complete a transaction as long as DMV retains information verifying the identity of the person submitting the electronic signature.

5) Deems any electronic document accepted by DMV to be the same as an original document and is admissible in all administrative, quasi-judicial, and judicial proceedings.

This bill eliminates the requirement that the DMV retain information verifying the identity of the person submitting an electronic signature.

COMMENTS

1) *Purpose.* The author states that this bill updates existing law to allow DMV the flexibility to use its existing partnerships to deploy the best electronic signature technology available. This bill allows DMV to proceed with digital signature pilot projects in order to improve efficiency and customer experience, while helping to bring more DMV services into the digital age. Further, this bill is consistent with other recent efforts by the Legislature and the Administration to increase the efficiency, quality, and convenience of DMV services offered to the public.

2) *Background.* In 1999, the Legislature passed and Governor Davis signed SB 820 (Sher, Chapter 428, Statutes of 1999), creating the Uniform Electronic Transactions Act (UETA), which established uniform standards for conducting electronic transactions in the state. UETA set out a voluntary system of rules and procedures for the sending and receiving of electronic records and signatures, the formation of contracts using electronic records, the making and retention of electronic records and signatures, and the procedures governing changes and errors in electronically transmitted records. It also established the validity of transactions formed, transmitted and recorded electronically, and it established the admissibility of electronic records in a legal proceeding.

3) *DMV Going Digital.* DMV started the voluntary Business Partner Automation (BPA) program in 2003 in order to accelerate the development of electronic DMV services, increasing efficiency in transaction processing, improving customer service and, ultimately, reducing DMV costs. Since that time, the BPA Program has proven highly successful. The DMV currently utilizes BPA partners to offer a variety of DMV digital and online services to the public and vehicle dealers, including processing and issuing validated registration cards, full year registration stickers, and vehicle license plates. This bill allows DMV to proceed with digital signature pilot projects in order to improve DMV's efficiency and customer experience.

4) *Cumbersome for DMV.* Although electronic signatures are currently permitted for electronically submitted documents, existing law requires DMV to retain information verifying the identity of the person submitting the electronic signature. This administrative requirement is inconsistent with the manner in which electronic signatures are utilized by other state agencies and with current industry standards. This bill removes the requirement to retain information

verifying e-signatures, which will help bring DMV's services into the digital age.

RELATED LEGISLATION:

AB 461 (Horton, Chapter 61, Statutes of 2005) — authorized that the signature requirement for an electronically submitted document to DMV can be satisfied if the signature is submitted electronically and the department retains information verifying the identity of the person submitting the electronic signature.

Assembly Votes

Floor	**74-0**
Approps	**15-0**
Trans	**14-0**

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

POSITIONS: (Communicated to the committee before noon on Wednesday, 6/13/2018.)

SUPPORT:

California Credit Union League
Dealertrack Registration and Titling Solutions, Inc.

OPPOSITION:

None received.

-- END --

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

Bill No:	AB 3194	**Hearing Date:**	6/19/2018
Author:	Daly		
Version:	6/20/2018	As Proposed to be Amended	
Urgency:	No	**Fiscal:**	No
Consultant:	Erin Riches		

SUBJECT: Housing Accountability Act: project approval

DIGEST: This bill makes a number of changes to the Housing Accountability Act (HAA).

ANALYSIS:

Existing law:

Under the HAA:

1) Requires cities and counties, under existing planning and zoning law, to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, objectives, financial resources and scheduled programs for the preservation, improvement, and development of housing.

2) Requires the local jurisdiction, to the extent that it does not have adequate sites within its existing inventory of residentially zoned land, to adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups.

3) Prohibits a local agency from disapproving a housing project containing units affordable to very low-, low- or moderate income renters, or conditioning the approval in a manner that renders the housing project infeasible, unless it makes one of the following findings, based upon substantial evidence in the record:

    a) The jurisdiction has adopted an updated housing element in substantial compliance with the law, and the jurisdiction met its share of the regional housing need for that income category.

b) The project will have a specific, adverse impact on the public health or safety and there is no feasible method to mitigate or avoid the impact without rendering the housing development unaffordable to very low-, low- or moderate income renters.

c) The denial or imposition of conditions is required to comply with state or federal law.

d) The project is located on agricultural or resource preservation land that does not have adequate water or wastewater facilities.

e) The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

4) Provides that if a locality denies approval or imposes restrictions, design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete, that have a substantial adverse effect on the viability or affordability of housing development for a very low-, low- or moderate-income households, and the denial of that development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the locality to show that its decision is consistent with its findings disapproving the development.

This bill:

1) States legislative intent that the conditions that would enable a local agency to reject a housing development project due it having a specific, adverse impact upon the public health and safety, arise infrequently.

2) Provides that a proposed project is not inconsistent with applicable zoning standards and criteria, and shall not require a rezoning, if the proposed project is consistent with objective general plan standards and criteria but the local agency's adopted zoning for the project site is inconsistent with the general plan.

3) Allows a local agency to require a proposed project to comply with objective standards and criteria of the zoning consistent with the general plan, but requires the standards and criteria to be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the project. Requires the local agency to provide the applicant with written

documentation identifying the provision or provisions that are not in compliance, and explaining the reasons why, pursuant to existing law.

COMMENTS

1) *Purpose.* The author states that under the HAA, when a proposed development complies with objective planning rules, the local government cannot deny the project, or reduce its density, unless it makes a finding that the project would have a specific, adverse impact on public health or safety that cannot otherwise be mitigated. Unfortunately, some local agencies have required housing projects to obtain re-zonings or variances on a project-by-project basis, even when those projects are consistent with housing densities and other objective standards. Such actions are a way for locals to evade compliance with the HAA, on the grounds that projects are subsequently inconsistent with existing zoning standards. The author states that housing advocates have expressed concern that locals might also seek to block proposed developments by characterizing regularly-occurring scenarios, such as increased class sizes or the absence of a park in a neighborhood, as "un-mitigatable" health and safety concerns. This bill seeks to strengthen the HAA by closing loopholes that undermine the law's applicability and effectiveness.

2) *HAA.* The purpose of the HAA, also known as the "Anti-NIMBY Act," is to limit the ability of local agencies to reject or make infeasible housing developments without a thorough analysis of the economic, social, and environmental effects of the action. The HAA provides for a judicial remedy that allows a court to issue an order to compel a city to take action on a development project. An applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization may bring an action to enforce the HAA. In such a case, the local government bears the burden of proof that its decision has conformed to all of the requirements in the HAA, including, if applicable, any findings that the development was not consistent with general plan and zoning standards. Many provisions of the HAA are limited to lower-income housing developments.

3) *Consistency with general plan and zoning standards.* Regardless of whether a housing development is affordable, in order to qualify for the HAA's protections a development must be consistent with the local government's general plan and zoning standards in effect at the time that the application is determined to be complete. Courts tend to give a great deal of deference to local governments in land use cases. A consistency determination is generally upheld unless the court determines the local government has acted arbitrarily, capriciously, or without evidentiary basis.

4) *Game changer.* AB 1515 (Daly, 2017) requires courts to give less deference to a local government's consistency determination. It changes the standard of review by providing that a project is consistent if there is substantial evidence that would allow a reasonable person to find it consistent. Because zoning and planning consistency is a threshold requirement for the HAA, this requirement potentially expands the number of housing developments that are afforded protections under HAA. This bill aims to build on AB 1515 and strengthen HAA even further by requiring approval of certain projects that are inconsistent with zoning if the jurisdiction has not brought its zoning ordinance into compliance with the general plan.

5) *Amendments remove opposition.* The author is amending this bill in this committee to add a provision allowing a local agency to require a proposed project to comply with the objective standards and criteria of the zoning consistent with the general plan, as specified (see "This Bill," #3). The American Planning Association, California Chapter, California State Association of Counties, League of California Cities, Rural County Representatives of California, and Urban Counties of California state that these will correct ambiguities that would have resulted in costly litigation for local governments. These organizations state that these amendments remove their opposition to this bill.

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

RELATED LEGISLATION:

AB 1515 (Daly, 2017) — states that a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

Assembly Votes:

Floor: **70-4**
Local Gov: **8-1**
H&CD: **7-0**

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

California Building Industry Association (sponsor)
Bay Area Council
California Apartment Association
California Association of Winegrape Growers
California Building Industry Association, Professional Women in Building Council
California Business Properties Association
California Chamber of Commerce
California Construction and Industry Materials Association
National Federation of Independent Business
Non-Profit Housing Association of Northern California
San Francisco Housing Coalition

OPPOSITION:

None received.

-- END --

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

Bill No:	AB 3246	**Hearing Date:**	6/19/2018
Author:	Committee on Transportation		
Version:	6/11/2018 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant	Jeffery Song		

SUBJECT: Transportation: Omnibus bill

DIGEST: This bill makes non-controversial changes to sections of law relating to transportation.

ANALYSIS:

According to the Legislative Analyst's Office, the cost of producing a bill in 2001-2002 was $17,890. By combining multiple matters into one bill, the Legislature can make minor changes to law in the most cost-effective manner.

Proposals included in this transportation omnibus bill must abide by the Senate Transportation and Housing Committee policy on omnibus bills, proposed this year by the Assembly Transportation Committee. The proposals have to be non-controversial and non-policy changes to various committee-related statutes. The proponent of an item submits proposed language and provides background materials to the Committee for the item to be described to legislative staff and stakeholders. Committee staff provides a summary of the items and the proposed statutory changes to all majority and minority consultants in both the Senate and Assembly, as well as all known or presumed interested parties. If an item encounters any opposition and the proponent cannot work out a solution with the opposition, the item is omitted from or amended out of the bill. Proposals in the bill must reflect a consensus and be without opposition from legislative members, agencies, and other stakeholders.

This bill makes non-controversial and non-policy changes to sections of law relating to transportation. Specifically, this bill includes the following provisions, with the proponent of each provision noted in brackets:

1) Vehicle Code Section 16028 requires drivers to provide proof of insurance to law enforcement officers in two situations. Subdivision (b) requires proof of insurance when a vehicle is stopped for any violation of the Vehicle Code.

Subdivision (c) requires proof of insurance at the scene of an accident. According to the Judicial Council of California, Courts encounter problems with subdivisions (b) and (c) because they cite different authorities for their respective offenses and confusion about which subdivision to charge has proven problematic for at least one large court. This proposal corrects these references. [Judicial Council of California]

2) According to the State Controller's Office, current law and state agency timelines only allow 31 days for the State Controller's Office to review county reports, and determine if a county's ability to impose a vehicle registration fee surcharge to prosecute vehicle theft will be withheld. This proposal moves the date by which the State Controller's Office must notify the DMV that funds will be withheld from January 1 to February 1, giving the State Controller's Office adequate time to review the reports and contact any affected counties. [State Controller's Office]

3) Various sections in state law display the proper formatting and content of certain notices and forms. However, the prefix for the year in these sections is 19__. This proposal corrects the prefix to 20__. [Office of Senator Canella]

4) Current law requires various state agencies to coordinate and disseminate information to increase awareness of wire hazards and communicate techniques for identifying and avoiding wires. According to Caltrans, these actions have already occurred. This proposal deletes the outdated statutes relating to wire hazard education and awareness. [Caltrans]

5) Current law prohibits hazards near airports based on obstruction standards established in Federal Aviation Regulations. However, current law also provides for a permit process that allows Caltrans to authorize the construction of obstructions determined by the Federal Aviation Administration to be hazardous. California cannot, however, override federal regulations. According to Caltrans, the Federal Aviation Administration has sole jurisdiction over the national airspace and thus the inclusion of this meaningless provision in State statute leads to confusion. This proposal clarifies that Caltrans is prohibited from constructing or altering any structure, or issuing permits for growth that exceed federal obstruction standards, unless the Federal Aviation Administration determined the structure or growth was non-hazardous. [Caltrans]

6) State Aeronautics Act discusses exceptions to Airport Land Use Commissions. Project Ker-VAR 90-1 is a reference to a Caltrans administered grant issued in 1990 to Kern County to develop an Airport Land Use Compatibility Plan.

According to Caltrans, the outdated, poor wording, and odd placement of this section are a source of confusion. This proposal deletes outdated Project Ker-VAR 90-1 from statute. [Caltrans]

7) Existing law defines each route in the State Highway System. According to Caltrans, occasionally a route is changed, e.g., a new segment is adopted, a segment is superseded by new construction, or a segment is relinquished to a local jurisdiction. When a route is changed, the statutory description of the route must be updated in order to remain an accurate description of the facility's location. This proposal updates statutory descriptions of State Routes 74 and 86 to reflect the fact that portions of these routes have been relinquished by Caltrans to local agencies. [Caltrans]

8) Vehicle Code Section 675.6 references an agent of the National Automobile Theft Bureau as a person who does not meet the definition of a "Vehicle verifier". Further, the National Insurance Crime Bureau was formed in 1992 as a result of a merger between the National Automobile Theft Bureau and the Insurance Crime Prevention Institute. According to the California Highway Patrol, Vehicle Code Section 675.6 was added in 1975 and has not been amended to reference the aforementioned change. This proposal deletes an agent of the National Automobile Theft Bureau and updates the reference to an agent of the National Insurance Crime Bureau as a person who does not meet the definition of a "Vehicle verifier". [California Highway Patrol]

9) Vehicle Code Section 11607 has a drafting error. This proposal fixes the drafting error. [Assembly Transportation Committee]

10) According to CTC, the Active Transportation Program has significantly grown in funding, applications, and technical assistance needed for applicants. This proposal allows more time for the CTC to adopt the Active Transportation Program by changing the date in which the program can be adopted from April to July of every odd numbered year. [CTC]

11) Vehicle Code Section 12527 has an incorrect reference. Currently, subdivision (b) references subdivision (f); however, there is no subdivision (f) in §12527. The amendment language would correct the reference to subdivision (e). [DMV]

12) Public Resources Code section 42703 has a drafting error. Currently, there is a reference to the Secretary Transportation, which would be corrected to Secretary of the Transportation Agency. [Assembly Transportation Committee]

13) The National Traffic and Motor Vehicle Safety Act was originally enacted in 1966 as 15 U.S.C. Chapter 38, but was recodified in 1994 as 49 U.S.C. Chapter 301 (see Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379). Four sections of the Vehicle Code continue to reference the repealed chapter. The proposed changes update obsolete references to federal law. [Assembly Republican Caucus]

COMMENTS

1) *Purpose.* The purpose of omnibus bills is to include technical and non-controversial changes to various committee-related statutes into one bill. This allows the legislature to make multiple, minor changes to statutes in one bill in a cost-effective manner. If there is no consensus on a particular item, it cannot be included. There is no known opposition to any item in this bill.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2018.)

SUPPORT:

Judicial Council of California
State Controller Betty Yee

OPPOSITION:

None received.

-- END --

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

Bill No:	ACR 188	**Hearing Date:**	6/19/2018
Author:	Quirk-Silva		
Version:	4/11/2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Randy Chinn		

SUBJECT: Colonel Young Oak Kim, United States Army, Memorial Highway

DIGEST: This bill designates the portion of southbound I-5 in the County of Orange, near its boundary with the County of Los Angeles (post mile 44.382), to the eastbound State Route 91 exit (post mile 42.671), as the "Colonel Young Oak Kim, United States Army, Memorial Highway".

ANALYSIS:

The committee has adopted a policy regarding the naming of state highways or structures. Under the policy, the committee will consider only those resolutions that meet all of the following criteria:

1) The person being honored must have provided extraordinary public service or some exemplary contribution to the public good and have a connection to the community where the highway or structure is located.

2) The person being honored must be deceased.

3) The naming must be done without cost to the state. Costs for signs and plaques must be paid by local or private sources.

4) The author or co-author of the resolution must represent the district in which the facility is located, and the resolution must identify the specific highway segment or structure being named.

5) The segment of highway being named must not exceed five miles in length.

6) The proposed designation must reflect a community consensus and be without local opposition.

7) The proposed designation may not supersede an existing designation unless the sponsor can document that a good faith effort has uncovered no opposition to rescinding the prior designation.

This bill designates the portion of southbound I-5 in the County of Orange, near its boundary with the County of Los Angeles (post mile 44.382), to the eastbound State Route 91 exit (post mile 42.671), as the "Colonel Young Oak Kim, United States Army, Memorial Highway". The Department of Transportation is requested to determine the cost of appropriate signs and, upon receiving sufficient donations from non- state sources, to erect those signs.

COMMENTS

1) *Purpose.* The purpose of this resolution is to honor the life and service of Colonel Young Oak Kim who was born and raised in Los Angeles, California.

2) *Background on Colonel Kim.* Young Oak Kim graduated from Belmont High School and attended Los Angeles City College. Kim was drafted into the U.S. Army in 1941 and he was selected for Infantry Officer Candidate School, from which he graduated in 1943, and was assigned to the 100th Infantry Battalion, a unit composed primarily of Japanese Americans from Hawaii. The battalion commander, fearing ethnic conflict, offered Kim a transfer but Kim wanted to stay stating, "there are no Japanese nor Korean here, we're all Americans and we're fighting for the same cause."

   Kim fought in North Africa and Italy against German forces for which he was awarded a Silver Star and his first Purple Heart. Now Lieutenant Kim, he participated in the liberation of Rome from the Germans after helping gain intelligence by crawling into German territory near Cisterna, Italy and capturing two German soldiers. For these actions, he was awarded the Distinguished Service Cross and the Italian Bronze Medal of Military Valor in 1944, and the Italian War Cross for Military Valor in 1945. Kim also fought in France and was severely wounded by enemy fire and was sent home to Los Angeles. Kim, now a Captain, was honorably discharged from the Army and awarded a second Purple Heart and a French Croix de Guerre.

   After leaving the Army, Kim started a successful self-serve laundry, but when war broke out in Korea, he reenlisted. Kim was sent to East Asia, having never been to Korea before, and in April of 1951, he joined the 31st Infantry Regiment of the 7th Infantry Diversion as an intelligence and operations officer. In August of 1951, Kim was injured in a friendly fire incident during Operation Piledriver and was saved by doctors from John Hopkins University who were in

Tokyo. After two months of recuperation, he returned to the front in Korea and was put in command of the regiment's 1st Battalion. He was promoted to Major, making Kim the first minority officer to command an army battalion on the battlefield in United States history. The battalion adopted an orphanage in Seoul and cared for more than 500 war orphans. Kim left Korea in September 1952, and in 2003 the South Korean government honored him for his service.

After serving in the war, Kim became an instructor at the U.S. Army Infantry School and various other assignments. In the early 1960's, Kim returned to Korea as a U.S. military advisor to the South Korean Army during which time he was promoted to Colonel.

After leaving the Army, Kim attended California State University Dominguez Hills to study history. In 1973, he joined Special Service for Groups, a non-profit health and human services organization dedicated to building and sustaining community-based programs that address the needs of vulnerable and diverse multiethnic communities. Kim went on to serve on the board of the United Way, helping to expand the Asian service centers in the United Way network. Additionally, he helped found the Korean Youth Cultural Center; the Korean Health, Education, Information, and Research Center; the Go for Broke Monument; the Go for Broke National Education Center; the Japanese American National Museum; and in the 1990's Kim served as chairman of the Center for the Pacific Asian Family.

Colonel Kim passed away in 2005 in Los Angeles leaving a strong legacy of community service to the residents of southern California. According to the author, this resolution "will honor a great Korean American war hero, Colonel Young Oak Kim, and his service to California Asian Americans and to United States veterans."

3) *Consistent with committee policy.* This resolution is generally consistent with the provisions of the committee's policy on highway designation, though Caltrans is still investigating whether there are local conditions which may restrict where the sign can be placed.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 13, 2008.)

SUPPORT:

None received.

OPPOSITION:

None received.

-- END --