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Tuesday, May 9, 2017
1:30 p.m. — John L. Burton Hearing Room (4203)
(PROPOSED CONSENT ITEMS INDICATED WITH *)

AGENDA

1. S.B. 71 Wiener Electricity: solar energy systems.
2. S.B. 268 Mendoza Los Angeles County Metropolitan Transportation Authority.
3. S.B. 622* Wiener Local Agency Public Construction Act: Golden Gate Bridge, Highway and Transportation District.
4. S.B. 712 Anderson Vehicles: license plate covers.
5. SCA 6 Wiener Local transportation measures: special taxes: voter approval.
6. SCR 46* Gaines Thomas J. Cosgrove Memorial Bypass.

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING

Senator Jim Beall, Chair

2017 - 2018 Regular

Bill No:	SB 71	Hearing Date:	5/9/2017
Author:	Wiener		
Version:	5/2/2017		
Urgency:	No	Fiscal:	Yes
Consultant:	Randy Chinn		

SUBJECT: Electricity: solar energy systems.

DIGEST: This bill authorizes the California Energy Commission (CEC) to require the installation of rooftop solar energy generation on new buildings.

ANALYSIS:

Existing law:

Requires the CEC to develop and adopt energy and water efficiency standards for new residential and non-residential buildings.

These standards are normally updated every three years with the next standard being considered in 2019 for implementation in 2020. These standards have been generally effective. According to the CEC, buildings constructed under the 2016 standards will use 28% less energy than those built to the 2013 standards. Buildings built under the 2013 standards use 25% less energy than those built to the 2008 standards.

Existing regulation:

Requires certain new residential and non-residential buildings to maintain approximately 15% of their total rooftop area free of shade and encumbrances to facilitate the installation of solar panels. This is known as the "solar ready" requirement.

This bill authorizes the CEC to require the installation of rooftop solar energy systems on residential buildings by January 1, 2020, and on non-residential buildings by January 1, 2023, as part of the CECs regular building standard review process.

COMMENTS:

- 1) *Author's Statement.* While existing law requires certain new residential and non-residential buildings to set aside approximately 15% of their total rooftop area for the installation of solar photovoltaic panels (PV), these regulations impose no requirements to install solar infrastructure. There is a huge missed opportunity to require the installation of solar PV at the time of construction, where it is much more cost-effective as workers are already onsite; permitting, customer acquisition, and administrative costs are lower; financing the system is more efficient. SB 71 seeks to close this gap by directing the CEC to consider requiring the installation of solar PV panels on any new construction already subject to the solar ready requirement. This bill will help to advance California's zero net energy goals, reduce the State's contribution to climate change and ensure that all residents in California have the opportunity to go solar.
- 2) *Rooftop Solar.* California has a very successful program to encourage solar PV systems on roofs. This program, known as the California Solar Initiative (CSI), is a voluntary program which allows customers to install a PV system to benefit from a direct ratepayer subsidy plus a substantial indirect subsidy¹. The result is that California now has about 1800 megawatts (MW) of rooftop solar generation, equivalent to the capacity of four large power plants. The direct subsidies from the CSI have nearly run out, but the indirect subsidies remain. California is second only to Hawaii in the percentage of residential customers with rooftop solar systems.
- 3) *Provides the CEC with Substantial New Authority.* Current law gives the CEC broad authority to establish energy efficiency standards. The CEC is also required to study whether, and under what conditions, solar energy systems should be required on new buildings, but that statute expressly does not authorize the CEC to require installation. This bill gives the CEC that authority, which likely also gives the CEC the authority to require related energy storage systems, which the CEC is contemplating.²

Granting the CEC this authority should be carefully considered because, as discussed below, it opens the door for more costly, riskier investments which will increase the price of a home much more significantly than other energy efficiency improvements. Requiring generation also will affect utility

¹ The indirect subsidy is because rooftop solar energy systems are permitted to "net meter" their output. This provides system owners with credit for the electrical output at retail rates, which can be more than \$0.34/kwh, rather than wholesale generation rates, which can be \$0.05-0.10/kwh.

² The CEC asserts that Section 25402 of the Public Resources Code, enacted in 1977, already provides them the authority to mandate the reduction of use of "depletable" energy.

customers who don't have new solar homes because of the way in which solar generation is subsidized and compensated for its output. Finally, the benefits of requiring the installation of solar energy systems aren't clear because there are existing successful programs to require the use of more renewable energy.

- 4) *Cost Effective and Costly.* By law the CEC may only establish energy standards which are cost effective. That means that over the lifetime of the asset — 30 years in the case of a house — the cost of installing the energy efficiency measure must be paid for out of the energy savings. The CEC's 2013 standards increase the cost of a new home by \$2,290 but over 30 years return \$6,200 in energy savings. The CEC's 2016 standards increase the cost of a new home by \$2,700 but over 30 years return \$7,400 in savings. The CEC reports that requiring solar installations on new homes is cost effective, but it will add at least \$6,000, and perhaps as much as \$15,000, to the cost of a home.³ This may not matter in areas where new homes cost \$1,000,000 but in lower-priced inland areas this could potentially disqualify potential buyers. For affordable housing, solar installations provide a significant benefit to occupants as they lower monthly electric bills. But the increased cost of construction may reduce the number of affordable housing units which are built.

The cost effectiveness analysis for the solar system may also be more uncertain than for traditional energy efficiency investments. That's because the solar system requires a large up-front investment which is repaid over a long period of time through reduced energy bills. This means that the cost effectiveness calculation is very sensitive to forecasts of energy rates and interest rates. The CEC employs consultants to validate their forecasts, but these calculations are inherently much more uncertain than smaller investments with shorter paybacks. Longer payback periods also mean that the solar investment is not economic for owners who sell their properties before the payback period is reached, depending on whether the solar system value is reflected in the sales price.

The CECs cost effectiveness analysis is necessarily based on averages, such as average usage (albeit by climate zone), installed cost, size of system, and utility costs. But these factors can vary significantly depending on household characteristics (a single occupant or a family of five), electricity prices for the serving electric utility (e.g. SMUD rates are less than PG&E) and the price that utility pays for any surplus electricity generated by the solar system. So while

³ This bill appears to be modeled on a recently enacted San Francisco ordinance, which requires PV installations on most new non-high rise construction. According to the analysis of that ordinance by the San Francisco Department of the Environment, the cost of a PV system for a 2 unit residential building is \$26,523, or \$13,260 per unit. Because of San Francisco's mild climate, these systems are sized relatively small. For other less temperate climates larger systems would be necessary at higher cost.

on average a solar system may be cost effective, it will not be cost effective for every home. Were this bill to become law and the CEC to require installation of solar systems, the number of rooftop solar systems would increase by about 100,000 annually, which compares to about 150,000 residential solar installations in 2016.

- 5) *Cost Effective, but for Whom?* The CEC evaluation looks at the cost effectiveness of the investment for the homeowner. But homeowners with rooftop solar power have a financial effect on other utility customers who don't have solar power. This is because rooftop solar customers still rely on the electric grid for many services and are compensated in a way which shifts costs. This is becoming more of an issue as California's renewable energy policies, such as the Renewable Portfolio Standard which requires substantial renewable energy procurement by utilities and the CSI, have achieved their intended effect of greening California's electric grid. This sort of system-wide study has not been performed by the CEC, but the California Public Utilities Commission is considering it in an ongoing proceeding.⁴
- 6) *Other Renewable Paths.* While requiring solar energy systems on new buildings may be cost effective pursuant to the CEC's calculations, they may not be the most cost effective way to increase the amount of renewable energy used in California. That's because installing small, individually sized solar systems everywhere is probably more costly than building more efficient, well-maintained, industrial sized systems in locations best suited for solar. Depending on the circumstance, non-solar technologies such as wind and geothermal may also be more cost effective than rooftop solar. And for those customers wanting a green power supply, they already have a 33% renewable supply from their investor owned utility (increasing to 50% by 2030 and perhaps 100% by 2045), they can choose optional utility programs for greater than 33% renewable energy (PG&E and Southern California Edison have optional 50% and 100% renewable programs), or they can choose community choice aggregation programs which bypass the local utility. Increasing the use of renewable energy does not require the installation of solar systems on new buildings. Given the cost concerns and the alternative mechanisms for increasing renewable power purchases, the author may wish to consider revising the bill to have the CEC submit its cost effective analysis to the Legislature, where it can be considered in the context of the impact on electric rates and the effect a solar energy requirement would have on home affordability.

⁴ One nationwide study suggests that in California, because of the high residential PV penetration rate and generous compensation for PV output, rooftop solar has increased residential electric rates by roughly 3% in the short term.

- 7) *Greenhouse Gas Emissions.* It isn't clear that increasing rooftop solar systems will reduce GHG emissions. Again, this is due to California's successful implementation of its renewable energy policies. Increased solar stresses the electric grid in a way which makes it necessary to use more fossil fueled power plants, deploy energy storage systems at great cost, or create new demand response programs. That's because solar energy systems stop producing electricity when the sun sets. This production decline in the evening is steep, as is the production increase in the morning. To accommodate that rapidly changing supply the electric grid needs electric generation which can respond quickly so that supply and demand can remain balanced. This generation is typically a natural gas fired power plant, though energy storage and demand response programs will also help.
- 8) *A Few Pioneers.* The cities of Santa Monica, San Francisco, Sebastopol and Lancaster have adopted ordinances similar to this bill.
- 9) *Double Referral.* This bill was heard in the Senate Energy, Utilities and Communications Committee on April 4, 2017 and approved 8-3.

RELATED LEGISLATION:

SB 1 (Murray; Chapter 132 of 2006) — statutorily establishes the California Solar Initiative which creates a goal of deploying 3000 MW of solar energy systems in 10 years through a declining subsidy.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, May 3, 2017.)

SUPPORT:

Brightline Defense Project
 California League of Conservation Voters
 California Solar Energy Industries Association
 Dynamic Grid Council
 Environment California
 Solar City
 Solar Energy Industries Association
 Sunrun, Inc.
 TechNet
 Vote Solar

350 Bay Area

OPPOSITION:

California Building Industry Association
California Business Properties Association

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- 5) Specifies the METRO Board of Directors is comprised of 14 members consisting of:
- a) Five members of the Los Angeles Board of Supervisors
 - b) The Mayor of Los Angeles
 - c) Two public members and one Los Angeles City Council Member, appointed by the Mayor of Los Angeles
 - d) Four members selected by the Los Angeles County City Selection Committee
 - e) One non-voting member appointed by the Governor

This bill:

- 1) Deletes METRO's requirement to draft a plan and submit it to the Legislature within 60 days relative to Board composition if the Los Angeles County Board of Supervisor's membership increases.
- 2) Adds the Los Angeles County Auditor-Controller as a non-voting member to the METRO Board.
- 3) Reduces the number of County Supervisors on the METRO Board from five to two Supervisors with one Supervisor representing the largest population of the unincorporated area within Los Angeles County.
- 4) Removes the appointment of two public members to the METRO Board.
- 5) Increases Los Angeles Councilmember appointments by the Los Angeles Mayor from one to five. Further specifies that each Councilmember must represent three contiguous groups of council districts. Additionally specifies the Los Angeles City Council is to determine the grouped council districts.
- 6) Requires all appointed members to the METRO board to serve four-year terms, as specified.

COMMENTS:

- 1) *Author's statement.* According to the author, "SB 268 will provide proportional representation, improved access, and accountability within the Los Angeles County Metropolitan Authority Transportation Board of Directors (MTA Board) and ensure that all areas of LA County are represented fairly during the allocation of local, state, and federal funds.

The Los Angeles County Metropolitan Transportation Authority serves more than 9.6 million people. Nearly one-third of California's residents live and work within its 1,433 square-mile service area. The Metropolitan Authority Transportation develops and oversees transportation plans, policies, and funding programs. The agency proposes both short-term and long-range solutions that address the County's increasing mobility, accessibility, and environmental needs. Unfortunately, under the current distribution of MTA Board members, the 87 cities outside of the City of Los Angeles, which represent 51% of the county's total population, only account for 31% of the MTA Board. The current distribution of the MTA Board is unrepresentative of LA County and has resulted in uneven allocation of resources and services. SB 268 will realign and expand the MTA Board to provide better representation for the entire County of Los Angeles, including the unincorporated areas."

- 2) *Other local transportation boards.* The governing boards of local transportation agencies vary across the state. For example, the Orange County Transportation Authority is comprised of 18 board members that include members from the County Board of Supervisors; members selected by the city selection committee, with several board members selected based on population and several others based on city representation; two public members appointed by the board; and the State Department of Transportation (Caltrans) district director (nonvoting member). Whereas the Bay Area Metropolitan Transportation Commission (MTC) is comprised of 21 commissioners that include members from various Bay Area counties and cities, Mayor's appointees from the cities of Oakland, San Francisco, and San Jose, a member representing the Council of Governments, and the Caltrans district director for the region (non-voting member). Thus, the board composition of these respective agencies is reflective of the regional needs and functions they carry out and is typical of other local transportation agencies throughout the state.
- 3) *State's existing role.* Governing boards for local county transportation commissions (CTC) and regional transportation planning agencies (RTPA) are identified in statute and primarily consist of locally elected officials and public members who are either appointed by an elected official, selected by a county/city selection committee, or who have a designated seat specified in statute (e.g., Mayor of Los Angeles). While the Governor does have a designated appointment on most CTCs and RTPAs throughout the state, those appointments are non-voting (ex officio) board members and are typically the State Department of Transportation's (Caltrans) district director for that specific region/county.

- 4) *Second time around.* SB 1472 was introduced last year by the author which similarly attempted to change METRO's governing board structure. At that time, METRO was pursuing an increase of an existing sales tax measure to fund a contentious transit expansion program. The point of contention surrounded the program's geographic balance of projects when some regions within the county argued their projects were not adequately prioritized in the transit program. In response, the author introduced SB 1472 to expand METRO's governing board to ensure geographic representation. SB 1472 remained in the Senate and did not move through the legislative process. Over the past year, the author has engaged with local stakeholders and introduced SB 268 aimed at ensuring the entire county is reasonably represented on METRO's governing board.

RELATED LEGISLATION:

SB 1472 (Mendoza, 2016) — would have expanded METRO's governing board of from 14 to 22 members with new members including one additional public member, the Mayor of Long Beach, four additional members selected by the city selection committee, and one member each by the Speaker of the California State Assembly and the Senate Rules Committee. This bill was held on the Senate Floor at the request of the author.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, May 3, 2017.)

SUPPORT:

None received.

OPPOSITION:

None received.

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SENATE COMMITTEE ON TRANSPORTATION AND HOUSING

Senator Jim Beall, Chair

2017 - 2018 Regular

Bill No: SB 622

Hearing Date: 5/9/2017

Author: Wiener

Version: 5/1/2017

Urgency: No

Fiscal: No

Consultant: Manny Leon

SUBJECT: Local Agency Public Construction Act: Golden Gate Bridge, Highway and Transportation District.

DIGEST: This bill makes various changes to the bidding threshold requirements for the Golden Gate Bridge, Highway, and Transportation District (District), as specified.

ANALYSIS:

Existing law:

- 1) Requires the District to advertise for contracts for all vessel repair, maintenance, and alteration work whenever the expenditure exceeds \$20,000.
- 2) Requires the District to advertise for contracts for all construction, repair, maintenance, and alteration work and for all insurance purchased if the expenditure exceeds \$5,000.
- 3) Requires the District to advertise the contract in at least one newspaper and two consecutive insertions in a trade paper of general circulation, as specified.

This bill:

Specifically for the District:

- 1) Increase the bid threshold for vessel repair, maintenance, and alteration work from \$20,000 to \$1,000,000.
- 2) Removes the bid thresholds for insurance procurements.
- 3) Increases the informal bidding threshold for construction, repair, maintenance, and alteration work from \$5,000 to \$50,000.

- 4) Requires the District to enact an informal bidding ordinance for contracted work under \$50,000, as specified.
- 5) Provides that that the District is to award a public works contract to the lowest responsible bidder for contracts that exceed \$50,000.
- 6) Requires the District to advertise in at least one newspaper and one trade paper, as specified, for contracts that exceed \$1,000,000 for vessel work and \$5,000 for all other public works projects.

COMMENTS:

- 1) *Author's statement.* According to the author, "Senate Bill 622 would update contracting codes governing the Golden Gate Bridge Highway and Transportation District (GGBH&TD) by modifying statutory bidding thresholds for routine vessel maintenance, construction work, and insurance.

Under current law, GGBH&TD must seek and obtain bids from contractors on even minor construction and repair projects. These procedures often prove counterproductive; for example, as there is only one shipyard in the Bay Area capable of performing certain types of ferry maintenance, accepting bids for such a project is counterproductive. The proposed revisions in SB 622 allow GGBH&TD to streamline bidding on projects, revise impractical thresholds, and bring procedures in line with those of comparable transit agencies."

- 2) *What are existing practices?* Current law requires the District to advertise for bids on contracts for vessel repair, maintenance, and alteration work above \$20,000. For contracts below \$20,000, a less formal procurement method is practiced where the District obtains three quotes prior to awarding work. Similarly, the District uses the informal three quote bidding process for all other construction, maintenance, and insurance procurements under \$5,000. Currently, anything above this amount must be advertised with the contract being awarded to the lowest responsible bidder.
- 3) *Other agencies.* For transportation agencies, bidding thresholds vary throughout the state. The author points out that the San Francisco Municipal Transportation Agency has a \$600,000 threshold, while the San Diego Metropolitan Transit System maintains a threshold of \$100,000. Examples from other agencies across the state include the Santa Clara Valley Transportation Authority (VTA), which has a \$25,000 bidding threshold for construction and maintenance

contracts, Bay Area Rapid Transit (BART) (\$10,000), Sacramento Regional Transit (\$5,000), and the Altamont Corridor Express commuter rail (\$3,000). Furthermore, it's important to note that while many transportation agencies have statutory bidding thresholds; other agencies have established their bidding thresholds by adopting a policy approved by their Board of Directors.

- 4) *Rising costs.* The author introduced this bill on behalf of the District to make existing statutory bidding thresholds consistent with the rising cost of materials and services. The District argues that the low bidding limits have become an obstacle and increases the cost of executing contracts for routine work and the District's existing bidding thresholds are outdated. Several routine projects that exceed existing thresholds for the District include, station parking lot repairs (\$20,000), station roof repairs (\$5,000), and toll plaza gutter replacements (\$8,000). Another example, for vessel projects, in 2016 the District executed six dry-docking contracts which all ranged from \$100,000 to \$300,000.
- 5) *Technical amendment.* The amendments introduced on May 1, 2017 contained a drafting error in subdivision (d) on page 3, line 11. The author has agreed to take the technical amendment to specifically reference the District in developing the informal bidding ordinance.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, May 3, 2017.)

SUPPORT:

Golden Gate Bridge, Highway, and Transportation District
State Building and Construction Trades Council

OPPOSITION:

None received.

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purposes of existing data breach notification laws.

- 7) Requires ALPR operators and end-users to maintain reasonable security procedures and practices and to implement a usage and privacy policy, which includes the purpose of, process for, and restrictions on selling or sharing the ALPR information.

This bill allows the use of license plate covers on lawfully parked vehicles.

COMMENTS:

- 1) *Purpose.* According to the author, private collection of license plate data through ALPRs poses a grave threat to privacy. Currently, the only thing keeping this information from going public is the companies themselves. Unlike law enforcement ALPR, these companies maintain the data indefinitely with no public accountability. In the event a company decides to make this data available to the general public, or a company suffers a serious data breach, many people will be put at risk. Among those most at risk are law enforcement officers, their family, their sources, victims, and witnesses, as well as judges and prosecutors. The massive amount of ALPR data out there can potentially reveal sensitive information, such as where you live, your travel routine, where you worship, where you go for medical treatment, where you drop your kids off at school. The data can also predict where you might be on a certain day and identify known associates (such as your family) based on vehicles regularly in the same vicinity. In addition, some companies running private ALPR may be engaged in unfair debt collection and insurance programs by making this available to the financial and insurance companies.
- 2) *Background.* ALPR systems automatically scan any license plate within range. Some ALPR systems can scan over 1,000 plates in a minute. When used by law enforcement, each scanned license plate is checked against crime databases. If a “hit” occurs — for example, a stolen vehicle, AMBER alert, or an arrest warrant — the ALPR technology alerts the law enforcement officer. While some suggest this technology is useful for modern policing, others raise concerns over an invasion of peoples’ civil liberties. The ACLU reports a number of cities with hit rates of less than 1%, where the other 99% of data has no relation to criminal activity. In 2012, Washington, DC’s police department scanned over 204 million license plates with 22,655 resulting in hits – a hit rate of 0.01%. A six month pilot study in 2015-16 by the Bay Area Urban Areas Security Initiative in Larkspur, CA scanned nearly 4 million plates with 985 hits – a hit rate of just 0.02%. Some argue that this information has the potential to be involved in large-scale security breach issues. The use of ALPR technology

is growing. According to a 2011 survey by the Police Executive Research Forum, 75% of law enforcement then used ALPRs with 85% planning to expand their use. The Police Forum estimated that within five years of the survey at least 25% of all police vehicles would be equipped with ALPR technology.

- 3) *Privacy concerns.* The collection of a license plate number, location, and time stamp over multiple time points can identify not only a person's exact whereabouts but also their pattern of movement. This data can be collected not only by public entities but also by commercial, private companies that make their datasets available to law enforcement. One such company told *The Atlantic* it had over 4 billion scans as of April 2016, collecting over 120 million per month. Unlike other types of personal information that are covered by existing law, civilians are not always aware when their ALPR data is being collected. One does not even need to be driving to be subject to ALPR technology: a car parked on the side of the road can be scanned by an ALPR system. This bill allows the use of license plate covers on parked cars to prevent ALPR detection.
- 4) *Weather or not.* License plates, by law, must be clearly displayed and the use or sale of any product that would obscure a plate is illegal. Currently the only exemption that allows for a license plate to be covered is with the use of a complete car cover on a lawfully parked vehicle to protect it from weather and the elements. Given that vehicles can cost tens of thousands of dollars, a vehicle cover can be an important way for owners without a garage space to protect their investment. An officer is allowed to remove as much of the cover as necessary to inspect the license plate and registration of the vehicle. Some vehicle covers, though not required by law, contain license plate windows to allow both weather protection and easy identification of the vehicle by enforcement officers. This bill allows drivers to cover only their license plates while parked to prevent ALPR recognition of their plate.
- 5) *ALPRs as an enforcement tool.* ALPRs eliminate the need for officers to manually enter plate information, taking photographs of license plates and converting them to text. They can be found on patrol units, parking enforcement vehicles or street sweepers, fixed at common intersections or bridges, at airports, or in parking lots. They're used to track stolen vehicles, find wanted suspects, and to enforce parking laws and toll roads. This bill only applies to parked vehicles, meaning it wouldn't hamper efforts to track vehicles in motion: on the highway, crossing bridges or entering airports, or passing through ALPR intersections. However, it would likely make it more difficult for officers to scan plates in residential and business districts with high

concentrations of parked cars. Therefore, it may have the greatest impact on parking enforcement officers, who would have to potentially exit their vehicle to reveal and scan a covered plate. It could also impede police officers who are searching for a car with stolen plates, where the make/model of the car is not known.

- 6) *Regulating ALPRs.* Prior legislation has addressed ALPRs by regulating use of the technology itself and putting restrictions on the length of time that captured data may be stored. AB 115 (Committee on Budget, Chapter 38 of 2011) set a 60 day time limit for CHP to store captured plate data, unless the plate was involved in an active investigation. Such time limits are meant to ensure that the upwards of 99% of data collected that is not connected with a crime or infraction is destroyed to prevent data leaks or privacy breaches. However, in California no such time limits are in place for private companies who collect ALPR data. SB 34 (Hill, Chapter 532 of 2015) established regulations on the privacy and usage of ALPR data and expanded the meaning of “personal information” to include information or data collected through the use or operation of an ALPR system. California is not alone in regulating ALPRs. According to the National Conference of State Legislatures (NCSL), at least 13 states have laws regulating the use or data retention of ALPRs. According to NCSL, Arkansas prohibits companies or individuals from using ALPRs, limiting use to law enforcement and parking enforcement and limits data storage to 150 days. Similarly, Maine limits ALPR use to public safety purposes and limits data storage to 21 days. The author may wish to consider whether regulating the ALPR technology is a more effective approach than regulating license plate visibility.
- 7) *Are license plates personal?* A 2016 Virginia court case concerning storage of ALPR data (*Harrison Neal vs. Fairfax County Police Department, et al.*) determined that a license plate number is not personal information. The case cites a number of supporting court cases as recent as 2007, including the *U.S. v. Walraven* decision (10th Circuit, 1989) where the judge determined that a license plate has no privacy interest because a license plate is in plain sight. In California, SB 34 (Hill, 2015) established that data collected through the use or operation of an ALPR system must be treated as personal information for purposes of existing data breach notification laws. These laws apply to agencies, persons, or businesses that conduct business in California and own or license computerized data including personal information.
- 8) *Forgotten covers.* This bill only allows license plates to be covered while parked. However, there would likely be a number of drivers who forget to remove the covers before driving the vehicle. In such a scenario, the driver

would unintentionally be breaking the law.

- 9) *Opposition.* The California Police Chiefs Association expressed concerns regarding law enforcement evasion:

“At a minimum, SB 712 would allow individuals with expired registration, stolen registration tabs, stolen license plates, or stolen vehicles to park in plain-sight, undetected by law enforcement. License plate information of parked vehicles has been used to locate wanted persons, including suspected kidnappers and fugitives. SB 712 would hinder these law enforcement investigations and provide individuals avoiding detection with an additional tool to remain undetected by law enforcement authorities.”

The California Public Parking Association expressed concerns about the effects on parking enforcement:

“License Plate Recognition (LPR) is one of the most efficient and accurate ways to enforce parking today. LPR cameras capture plate characters with a time stamp and GPS coordinates. This not only increases enforcement accuracy, but also compliance amongst customers as well. Allowing for the legal concealing of a license plate will require a tailored--manual--approach to parking enforcement for a subset of vehicles that choose to cover the plate.”

RELATED LEGISLATION:

SB 34 (Hill, Chapter 532 of 2015) — established regulations on the privacy and usage of ALPR data and expanded the meaning of “personal information” to include information or data collected through the use or operation of an ALPR system

AB 115 (Committee on Budget, Chapter 38 of 2011) — authorized CHP to retain data from LPR for no more than 60 days, except as specified

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

POSITIONS: (Communicated to the committee before noon on Wednesday, May 3, 2017.)

SUPPORT:

Electronic Frontier Foundation (sponsor)

OPPOSITION:

California Police Chiefs Association
California Public Parking Association
League of California Cities
Los Angeles Deputy Sheriffs
Los Angeles Police Protective League

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transportation authorities to impose a local sales tax for transportation purposes, if the tax ordinance is within the local sales tax cap and abides by the constitutional restrictions on local taxes.

This bill:

- 1) Lowers the vote threshold for local agencies imposing, extending, or increasing a special tax to fund local transportation projects within their jurisdiction to 55%.
- 2) Makes conforming changes to the Constitution.
- 3) Provides that 100% of the net revenue of a tax imposed with 55% approval, after collection and administrative expenses, is required to be dedicated to transportation programs and projects.
- 4) Provides that a local agency may bond against the revenues of the proposed tax if the measure is approved by the voters.
- 5) Requires the proposed ordinance to include an expenditure plan specifying the projects and/or programs to be funded by the generated revenues.
- 6) Specifies that the amendments made by this measure take effect immediately upon approval by California's voters.

COMMENTS:

- 1) *Author's statement.* According to the author, "existing state revenue sources for transportation are either unreliable and highly volatile, like cap-and-trade dollars, or are restricted by Article 19 of the California Constitution. The result is that we have insufficient funding for transportation, and the funding we do have is restricted to a narrow scope of transportation projects that do not match the complex and multimodal transportation systems our statewide policy goals for climate, equity, and sustainable population growth. Senate Bill 1 that was passed through the legislature in March 2017 was an enormous step forward for the "fix it first" backlog of maintenance, but California's transportation needs are so much greater than the anticipated revenue from Senate Bill 1.

California's local and regional governments have started to assume more responsibility for generating transportation revenue for our growing population as infrastructure continues to sit in a state of disrepair.

In November 2016, fifteen local governments tried to raise their sales taxes to pay for transportation, while others authorized bonds and raised local property taxes in other areas. Contra Costa County's \$2.9 billion sales tax measure was defeated with 62% voter approval. Under SCA 6, that county measure would have succeeded, and the other packages would likely have been more robust and ambitious given the increased chance of electability.

SCA 6 would lower the vote threshold for cities, counties, and special districts to dedicate new revenue for the purpose of funding all transportation-related capital, operations, and programs, to 55% instead of two thirds of the voters voting in an election."

- 2) *Voter-approval requirements for local taxes.* For most of California's history, local governments could raise taxes by a vote of the governing board. Beginning in 1978, voters approved a series of constitutional amendments that established voter-approval requirements for new local taxes. Specifically, Proposition 13 (1978) greatly constrained the ability of local governments to raise property tax rates and required all new local government "special taxes" (revenues associated with the tax are used for specific purposes) to be approved by two-thirds of voters. Proposition 62 (1986) and Proposition 218 (1996), in turn, required new "general taxes" to be approved by a majority of voters, and extended voter-approval requirements to other property-related levies not covered by Proposition 13. Finally, Proposition 26 (2010) broadened the definition of a "tax" to include some levies previously considered fees or charges, resulting in a wider application of voter-approval requirements.
- 3) *Transportation needs.* The deterioration of California's state and local streets and roads has been widely documented. For example, at the January 2017 California Transportation Commission (CTC) hearing, a local streets and roads needs assessment presented to the CTC found that the statewide average pavement condition index (PCI), which rates the condition of the surface of a road network, to be 65. This score indicates that statewide, roads on average are in "fair/at risk" condition and are becoming worn down to the point where rehabilitation, rather than routine maintenance, may be needed to prevent rapid deterioration. The needs assessment further found that in order to *maintain local roads* at their *existing* condition would require an additional \$3.5 billion annually. Overall, according to the "Fix Our Roads" Coalition, total deferred maintenance shortfalls total approximately \$73 billion, while the shortfall is

estimated at \$59 for the deferred maintenance backlog at the state level. Relative to transit, a needs assessment prepared for the California Transit Association found that the 10-year funding needs (2011-2020) total approximately \$71.8 billion — \$50 billion for capital improvements and \$21 billion for operations.

- 4) *SB 1*. Recently passed by the Legislature and signed by the Governor's SB 1 (Beall, Chapter 5, Statutes of 2017) is a transportation funding package projected to bring in \$5.2 billion annually for road rehabilitation, transit improvement, and trade corridor enhancement projects. The historic passage of this transportation funding package was in response to the clear message that the state's roads and highways and transit systems are in dire need of significant improvements and rehabilitation. This past winter season's storms exacerbated this need by requiring the State Department of Transportation (Caltrans) to issue over \$800 million in emergency contracts for road repair. Once implemented, SB 1 revenues will assist local transportation and transit agencies in cutting down on the existing backlog in their respective jurisdictions.
- 5) *Local needs*. Despite this new wave of transportation funding, the need is great. In order to address the overall need and historic funding shortfalls, 24 counties have passed local sales tax measures dedicated for transportation purposes. These "self-help counties" combined generate approximately \$3.5-\$4 billion annually to be used on transportation projects and programs that have been approved by county voters. While these 24 counties have been successful at attaining 2/3's approval, many counties have struggled with overcoming this requirement. In fact, several counties have attempted multiple unsuccessful efforts at passing a local sales tax measure – reaching an approval of over 60 percent, however failing to pass the 2/3 threshold. This bill aims to remedy this issue by lowering the voter-approval threshold to a reasonable 55 percent. As the author points out, while SB 1 will provide new funding targeted at road repair and rehabilitation, local agencies continue to struggle to fund other local transportation projects and programs such as transit operations and highway improvements.
- 6) *Prior attempts*. Several unsuccessful legislative proposals have been introduced over the years attempting to lower the threshold for local transportation tax measures. Most recently, in 2015, ACA 4 (Frazier) would have lowered from 2/3s to 55%, the voter approval threshold for a local government to impose, extend, or increase a special tax to fund local transportation projects under its jurisdiction. ACA 4 was held in the Assembly Appropriations Committee. Similarly, SCA 4 (Liu, 2014) and SCA 8 (Corbett, 2014) were identical

measures which aimed to lower the voter threshold for transportation tax proposals. Both measures were held in the Senate Appropriations Committee.

7) *Double referral*. This bill was also heard in the Senate Governance and Finance Committee where it was approved on April 5, 2017 on a 5-2 vote.

RELATED LEGISLATION:

ACA 4 (Frazier, 2015) — lowers, from two-thirds to 55%, the voter approval threshold for a local government to impose, extend, or increase a special tax to fund local transportation projects under its jurisdiction.

SCA 4 (Liu, 2014) and SCA 8 (Corbett, 2014) — similarly attempted to lower the voting threshold from 2/3 to 55% for transportation purposes.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, May 3, 2017.)

SUPPORT:

Associated General Contractors
California Alliance for Jobs
California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Labor Federation
California Teamsters Public Affairs Council
California Transit Association
Capitol Corridor Joint Powers Authority
El Dorado County Transportation Commission
Move LA
National Association of Electrical Contractors
SF Bay Area Rapid Transit District
Solano County Transportation Authority Southern California Contractors Association
Teamsters
Transportation Agency for Monterey County
Transportation California, United Contractors

OPPOSITION:

Apartment Association of Greater Los Angeles
Apartment Association of Orange County
Apartment Association, California Southern Cities
Association of California Life and Health Insurance Companies
Calaveras County Taxpayers Association
California Association of Realtors
California Association of Realtors
California Bankers Association
California Taxpayers Association
Coalition of Sensible Taxpayers – Marin County
Contra Costa Taxpayers' Association
East Bay Rental Housing Association
Howard Jarvis Taxpayers Association
Kern County Taxpayers Association
National Federation of Independent Business
North Valley Rental Property Association
San Diego County Apartment Association
San Gabriel Valley Economic Partnership
Santa Barbara Rental Property Association
Solano County Taxpayers Association
Sutter County Taxpayers Association
Western States Petroleum Association
Western States Trucking Association

-- END --

- 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 resolution would designate a specified portion of State Highway Route 65 Lincoln Bypass from Lincoln Boulevard (postmile R12.87) to Nelson Lane (postmile R15.55) in the County of Placer, as the Thomas J. Cosgrove Memorial Bypass. It requests that the Department of Transportation to erect appropriate signs upon receiving sufficient donations from non-state sources to covers the costs.

COMMENTS:

- 1) *Purpose.* The author introduced this resolution to honor the service of Thomas J. Cosgrove.
- 2) *Background on Thomas J. Cosgrove.* Thomas Joseph Cosgrove was born on November 3, 1948, and moved to the City of Lincoln in the County of Placer in 1987. He was dedicated to making Lincoln a better place to live by serving as a volunteer firefighter for many years prior to the city establishing a full-time fire department. He served as a City Councilmember for 18 years and as Mayor of the City of Lincoln in 1997, 2001, 2005, and 2010. During his time as a City Councilmember, Mr. Cosgrove was instrumental in the construction of the State Highway Route 65 Lincoln Bypass making it fitting to dedicate a portion of the bypass in his name as the “Thomas J. Cosgrove Memorial Bypass.”

Mr. Cosgrove also served as the President of the Lincoln Area Chamber of Commerce from January 2016 until his untimely death on February 8, 2017, at 68 years of age.

Mr. Cosgrove is survived by his wife Karen, as well as by his daughters Erin (Chris) Gearin and Alison Cosgrove, and his sons Ryan and Darrell Cosgrove.

- 3) *Consistent with committee policy.* This resolution is consistent with the provisions of the committee’s policy on highway designation.
- 4) *Technical Amendments.* Caltrans does not memorialize bypasses. **The author will take technical amendments to change the wording from “Bypass” to “Highway” in order to meet the parameters set by Caltrans.**

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

POSITIONS: (Communicated to the committee before noon on Wednesday, May 3, 2017.)

SUPPORT:

Placer County Transportation Planning Agency (Sponsor)

OPPOSITION:

None received.

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