

VICE CHAIRMAN
ANTHONY CANNELLA

MEMBERS
BENJAMIN ALLEN
TONI ATKINS
PATRICIA C. BATES
TED GAINES
MIKE MCGUIRE
TONY MENDOZA
MIKE MORRELL
RICHARD D. ROTH
NANCY SKINNER
BOB WIECKOWSKI
SCOTT WIENER

California Legislature

SENATE COMMITTEE ON

TRANSPORTATION AND HOUSING

JIM BEALL
CHAIRMAN



CHIEF CONSULTANT
RANDY CHINN

PRINCIPAL CONSULTANTS
MANNY LEON
ERIN RICHES

CONSULTANT
ALISON HUGHES

COMMITTEE ASSISTANTS
KATIE BONIN

STATE CAPITOL, ROOM 2209
SACRAMENTO, CA 95814
TEL (916) 651-4121

Tuesday, April 18, 2017

1:30 p.m. — John L. Burton Hearing Room (4203)

*Items on consent

AGENDA

1. S.B. 46 Leyva Mobilehomes: enforcement actions: sunset provision.
2. S.B. 53 Hueso Natural gas vehicles.
3. S.B. 62 Jackson Affordable Senior Housing Act of 2017.
4. S.B. 136 Leyva Mobilehome parks: mobilehome park program funding.
5. S.B. 145 Hill Autonomous vehicles: testing on public roads.
6. S.B. 167 Skinner Housing Accountability Act.
7. S.B. 249 Allen Off-highway motor vehicle recreation.
8. S.B. 277 Bradford Land use: zoning regulations.
9. S.B. 329 Leyva Manufactured homes: financial assistance programs.
10. S.B. 362 Galgiani Department of Motor Vehicles: records: confidentiality.
11. S.B. 389 Roth Department of Transportation: programmatic testing and inspection services.
12. S.B. 442 Newman Public health: pools: drownings.
13. S.B. 493 Hill Vehicles: right-turn violations.
14. S.B. 614 Hertzberg Public transportation agencies: administrative penalties.
15. S.B. 622 Wiener Local Agency Public Construction Act: Golden Gate Bridge, Highway and Transportation District.
16. S.B. 672* Fuller Traffic-actuated signals: motorcycles and bicycles.
17. S.B. 680 Wieckowski San Francisco Bay Area Rapid Transit District.
18. S.B. 802 Skinner Autonomous vehicles: registration.

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING

Senator Jim Beall, Chair

2017 - 2018 Regular

Bill No: SB 46 **Hearing Date:** 4/18/2017
Author: Leyva
Version: 4/17/2016 Amended
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: Mobilehomes: enforcement actions: sunset provision.

DIGEST: This bill removes the sunset for a mobilehome park inspection program.

ANALYSIS:

Existing law:

- 1) Establishes a mobilehome parks inspection program. Under this program, an enforcement agency, which is either the Department of Housing and Community Development (HCD) or a locality that has assumed responsibility for the enforcement, shall have a goal of inspecting at least five percent of the mobilehome parks per year.
- 2) Requires the inspection to include the exterior portions of individual manufactured homes and mobilehomes in each park inspected. The enforcement agency has the authority to issue notices of violation.
- 3) Requires the inspector to provide 30 days' individual written notice to the registered owners of the manufactured homes or mobilehomes prior to the inspection.
- 4) Requires HCD or the locality to collect an annual \$4 fee per space to fund the inspection program.
- 5) Provides that this inspection program shall remain in effect until January 1, 2019.

This bill removes the sunset for this inspection program so that the program will remain in effect indefinitely.

COMMENTS:

- 1) *Purpose of the bill.* According to the author, the Mobilehome Park Maintenance (MPM) inspection program is functioning satisfactorily, but will sunset on January 1, 2019. Without taking prompt action to make the law permanent, this much needed state inspection program will no longer be able to enforce quality of life issues at mobilehome parks across California.
- 2) *MPM Inspection Program.* Under the MPM inspection program, existing law requires HCD or a local enforcement agency, until January 1, 2019, to inspect mobilehome parks proactively with a goal of inspecting at least five percent of the parks per year and a focus on those parks for which the enforcement agency has received complaints about serious health and safety violations. The enforcement agency must collect an annual fee per space of \$4 to fund the MPM inspection program, \$2 of which the mobilehome park owner may charge to individual homeowners. HCD must also to convene a task force every six months to solicit input on the conduct and operation of the MPM inspection program. The task force includes mobilehome park owners, mobilehome owners, local enforcement agencies, and legislative representatives. HCD must report to the task force information on the number of parks and spaces that were inspected, the fees collected, the most common violations discovered, and the number of violations identified plus progress on correcting those violations.

The top violations against park owners found in 2016 include: hazardous conditions in the park (trash bins overflowing, water accumulation, and tree hazards), exposed live electrical parts, lots that are unidentified for emergency responders, unsupported gas meters, and accumulation of trash or other combustible material on a vacant lot.

The top violations against park residents found in 2016 include: accumulation of trash or other combustible material, inadequate protection against the weather, missing or severely damaged awnings or carports, miscellaneous residential plumbing issues, and extension cords used in lieu of permanent wiring.

- 3) *The sun never sets.* The sunset on this program has been extended several times in the past:
 - a) SB 700 (O'Connell, Chapter 520, Statutes of 1999) — extended until January 1, 2007
 - b) SB 1231 (Dunn, Chapter 644, Statutes of 2006) and AB 2250 (Coto, Chapter 858, Statues of 2006) — extended the sunset to 2012

- c) SB 951 (Correa, Chapter 314, Statutes of 2010) — extended the sunset to 2019

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 12, 2017.)

SUPPORT:

California Commission on Aging

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING

Senator Jim Beall, Chair

2017 - 2018 Regular

Bill No:	SB 53	Hearing Date:	4/18/2017
Author:	Hueso		
Version:	3/20/2017 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Randy Chinn		

SUBJECT: Natural gas vehicles.

DIGEST: This bill authorizes vehicles wholly or partially powered by natural gas to exceed normal weight limits by up to 2,000 pounds.

ANALYSIS:

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

This bill authorizes vehicles fueled wholly or partially by natural gas to exceed the maximum weight by up to 2000 pounds, or the extra weight attributable to the natural gas tank and fuel system, whichever is less.

COMMENTS:

- 1) *Purpose.* According to the author, natural gas vehicles generate 90% fewer greenhouse gas emissions than traditional gasoline or diesel-powered vehicles. With garbage trucks, the natural gas fuel systems can add up to 2,000 pounds to a vehicle's weight. This additional weight reduces the capacity of the truck by about 10%, requiring 10% more trips. This inefficiency can offset the environmental benefits of natural gas vehicles. The Federal FAST Act of 2015 acknowledges this by allowing natural gas vehicles to exceed the federal weight limit by up to 2,000 pounds. States can choose to do the same, preserving the environmental and energy independence benefits of natural gas vehicles.
- 2) *Weight Equals Damage.* California has struggled to deal with finding adequate funding to repair our failing highways, roads and bridges. Using this infrastructure damages it, and the most damage comes from heavy vehicles. If

only passenger vehicles used our roads we would see very little damage. An analysis from the Government Accounting Office observed that one truck loaded to its legal limit damages the roads as much as 9,600 passenger vehicles.¹ Other studies have indicated lesser damage but all show that heavy trucks are at least 1000 times more damaging to roads than passenger vehicles.² This shows that the damage to the roads is much more than proportionate to the weight. Some analyses show that the road damage increases by the power of 4 to the increase in weight (e.g. a doubling of the weight increases the damage by 16 times).³ Therefore, increasing the weight on one axle from 20,000 pounds, the current limit, to 22,000 pounds, as authorized by this bill, increases the road damage by nearly 50%.

In some ways, refuse trucks are the worst trucks to be allowed to carry extra weight. This is because refuse trucks drive on every local street which, unlike concrete interstate freeways, are not built to handle heavy loads. Also, the damage from heavy vehicles occurs when the vehicle stops, as refuse trucks do at every residence. The stopping creates a friction which disturbs both the pavement and the subgrade. The damage done by heavy vehicles is magnified on already damaged roads. The sponsors note that the overweight only occurs towards the end of the route as the refuse truck fills. However, the extra 2000 pounds is carried all the time.

- 3) *Conflicting Values.* Reducing greenhouse gas emissions and criteria pollutants is a statewide policy which is reflected in numerous California laws and regulations. Replacing diesel-powered vehicles with natural gas-fueled power supports that policy. But pursuit of this policy can conflict with other important public policy goals, such as maintaining safe and functional roads, highways and bridges. Natural gas-powered refuse trucks are commercially available at weights which do not exceed current California limits. Consequently, raising maximum weights is not necessary if the goal is to replace diesel with natural gas. But the sponsors contend that those trucks have a smaller payload and must therefore make additional trips to service the same number of homes, diminishing the environmental benefits of the natural gas fueling.
- 4) *Paying for the Damage.* Because extra weight increases road damage, it may be appropriate for the parties causing the damage to pay for it, rather than leaving the cost to the public at large. **The author and committee may wish**

¹ Comptroller General's report to Congress: An Expensive Burden We Can No Longer Support; CED-79-94.

² See "Too Big for The Road", from *Governing*, July 2007; also, "Residential Solid Waste Profile & Assessment Report" by Washtenaw County Michigan Department of Planning and Environmental Solid Waste Program, May 2005.

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

to consider having Caltrans conduct an analysis to determine the cost, if any, of the increased damage caused by the extra weight of these vehicles, and converting that damage to an impact fee payable to the jurisdiction responsible for maintaining the road. Upon payment of the impact fee the overweight natural gas-powered vehicle would be permitted to operate pursuant to the provisions in this bill.

- 5) *Conforming to Federal Law.* The federal law authorizing certain natural gas powered vehicles to exceed the federal weight limit uses slightly different definitions of eligible vehicles and weight limits than this bill. Because this bill is intended to be an extension of the federal eligibility, **the author and committee may wish to consider adopting the same definitional language as in federal law.**

RELATED LEGISLATION:

AB 1250 (Bloom; Chapter 484 of 2015) — this bill establishes a program and schedule for transit agencies to reduce the weight of overweight busses.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 12, 2017.)

SUPPORT:

San Diego County Disposal Association (co-sponsor)
 California Natural Gas Vehicle Association (co-sponsor)
 Accurate Underground and Grading, Inc.
 Agility Fuel Solutions
 Alameda County Industries
 Alliant Specialty Insurance Services
 ANGI
 Antonini Freight Express, Inc.
 Athens Services
 Atlas Industries
 Bay Counties Smart
 Bioenergy Association of California
 BLT Enterprises
 BMS Technologies
 Burrtec Waste Industries Inc.

CALCIMA

California Refuse Recycling Council

California Trucking Association

Californians Against Waste

CalPortland Company

CASS Inc.

Chavez Transport Inc.

Cherry Engineering

CleanStreet

Clean Energy

CR&R Inc.

Cummins & White LLP

Desert Valley Disposal Inc.

Dickson Co Inc.

Direct Disposal

East Bay Sanitary Co.

Ecology Recycling Services and Transportation

EDCO Waste and Recycling Services

Escondido Disposal Inc.

EW Truck and Equipment Company Inc.

Facility Builders and Erectors

FASTECH

Fremont Recycling and Transfer Station

Garden City Sanitation

GEOCON

Gladstein, Neandress & Associates

Green, Hasson, Janks LLP

GreenWaste Recovery Inc.

Harris Ranch

Haul Away Rubbish Service Co. Inc.

Hastie's Capitol Sand & Gravel, Co.

Inland Empire Disposal Association

J&L Transport

JRMA Architects and Engineers

J-W Power Company

Ken Grody Ford

Los Angeles County Disposal Association

Los Angeles County Solid Waste Management Committee

Los Angeles County Waste Management Association

Livermore Sanitation

Marin Sanitary Service

McNeilus Truck and Manufacturing Inc.

Mission Trail Waste Systems, Inc.
Mobile Fueling Solutions
Mountain Valley Express
Napa Recycling and Waste Services LLC.
NASA Services
Nationwide Environmental Services
Northern Recycling Operations and Waste Services LLC.
Olympic Wire and Equipment
Orchard Supply Hardware
Pacific Rim Communications
Palm Springs Disposal Services
Peña's Disposal Inc.
Penske Truck Leasing
Pleasanton Garbage Service
Peninsula Sanitary Service Inc.
Rainbow Environmental Services
Ramona Disposal Service
Raymundo Engineering Company Inc.
Refuel
Republic Services
Riley Electric Inc.
Robinson's Mechanical Construction Inc.
San Diego Gas & Electric Company
SFA LLC.
Silke Communications
Solid Waste Association of North America
Solid Waste Association of Orange County
Southern California Gas Company
Southern California Disposal and Recycling Co Inc.
South Coast Air Quality Management District
South San Francisco Scavenger Company Inc.
Spear and Associations Inc.
Strategic Materials
T&T Trucking
TruStar Energy
Turlock Scavenger Recycling and Transfer
Upper Valley Disposal and Recycling
UPS
Universal Waste Systems Inc.
Valley Vista Services Inc.
Varner Bros., Inc.
Volvo Trucks of North America

WARE Disposal Co. Inc.
Waste Connections, Inc.
Waste Management
Western Trailers
Westhoff, Cone & Holmstedt
Zanker Recycling

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING

Senator Jim Beall, Chair

2017 - 2018 Regular

Bill No:	SB 62	Hearing Date:	4/18/2017
Author:	Jackson		
Version:	3/20/2017 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Alison Hughes		

SUBJECT: Affordable Senior Housing Act of 2017.

DIGEST: This bill enacts the Affordable Senior Housing Program within the Governor's Office of Business and Economic Development (GO-Biz).

ANALYSIS:

Existing law:

- 1) Establishes a number of programs at the Department of Housing and Community Development (HCD) to make housing more affordable to California families and individuals, including the following main programs:
 - a) Multifamily Housing Program, which funds the new construction, rehabilitation, and preservation of permanent and transitional rental homes for lower income households through loans to local governments, non-profit developers, and for-profit developers.
 - b) Joe Serna, Jr., Farmworker Housing Program, which funds the development of ownership or rental homes for agricultural workers through grants to local governments and non-profit organizations.
 - c) CalHome Program, which funds downpayment assistance, home rehabilitation, counseling, self-help mortgage assistance programs and technical assistance for self-help and shared housing through grants and loans.
- 2) Establishes a federal and state low-income housing tax credit program (LIHTC), which provides an indirect subsidy to incentivize the private development of affordable rental housing for low-income households.
- 3) Establishes the Homeless Coordinating and Financing Council (Council) to oversee implementation of the Housing First regulations and, among other

things, identify resources, benefits, and services that can be accessed to prevent and end homelessness in California.

- 4) Establishes GO-Biz. GO-Biz serves as the lead agency for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth and authorizes it to undertake various actions in this capacity
- 5) Defines “low-income” as persons and families whose income does not exceed 80% AMI.

This bill:

- 1) Establishes the Affordable Housing Senior Act Program within GO-Biz, under the authority of the GO-Biz Director (director). The purpose of the program is to guide and serve as a catalyst for the development of senior housing within the state.
- 2) Requires the director to do the following:
 - a) Establish and implement a process for identifying and convening public and private stakeholders, including local governments, nongovernmental organizations, businesses, and consultants, who are interested in developing and financing affordable senior housing in California. The director shall take a leadership role in guiding the development of affordable senior housing from conception to final completion.
 - b) Assist program participants in identifying suitable locations and potential sources of public and private funding, including loans, grants, and other forms of financing, for the development of affordable senior housing.
 - c) Assist program participants in obtaining state and local permits, provide guidance on regulatory compliance, and provide information on tax credits and other incentives.
 - d) Work cooperatively with local, state, regional, federal, and other state entities toward attracting, retaining, and helping public and private sector stakeholders develop affordable senior housing units.
 - e) Prioritize projects that meet one or more of the following:
 - i. Provide access to affordable housing and care in a vibrant neighborhood setting.
 - ii. Provide access to a continuum of services that meets the needs of seniors.
 - iii. Provide stimulating, positive, and multigenerational relationships.

- iv. Provide opportunities for seniors to actively engage and contribute to the community.
 - v. Provide housing opportunities that allow seniors to age in place without having to move from their dwelling unit.
- 3) Requires the director to annually report to the legislature as to the number and location of affordable senior housing dwelling units developed through the program, the categories of stakeholders who participate in the program, and the types of burdens and successes encountered, if any, in developing affordable senior housing projects through the program.
- 4) Requires GO-Biz to provide an annual report.

COMMENTS:

- 1) *Purpose of the bill.* According to the author, “to foster the development of more affordable, inclusive senior housing facilities, this bill creates the Affordable Senior Housing Program under GO-Biz to guide the development of affordable senior housing dwelling units from initial conception to final completion. The program will assist participants in identifying locations and sources of public and private funding; obtaining permits and providing guidance on regulatory compliance; and working cooperatively with local, state and federal agencies toward attracting and retaining affordable senior housing. Projects that are sited in a neighborhood setting, provide access to a continuum of care, foster multigenerational relationships or allow seniors to engage in their community are given priority. GO-Biz will be taking a leadership role in bringing together the public and private sector stakeholders to the affordable senior housing development and implementation process.”
- 2) *Interagency Council on Homelessness.* Last year, the legislature passed and the Governor signed SB 1380 (Mitchell, Chapter 847, Statutes of 2016), which established the Homeless Coordinating and Financing Council that coordinates several state agencies and stakeholders to identify resources, benefits, and services that can be accessed to prevent and end homelessness in California. Among other things, the Council is required to:
- a) Create partnerships among state and federal agencies and departments, local government agencies, and nonprofit entities working to end homelessness, homeless services providers, and the private sector, for the purpose of arriving at specific strategies to end homelessness.

- b) Coordinate existing funding and applications for competitive funding. Any action taken pursuant to this paragraph shall not restructure or change any existing allocations or allocation formulas.
- c) Make policy and procedural recommendations to legislators and other governmental entities.
- d) Serve as a statewide facilitator, coordinator, and policy development resource on ending homelessness in California.

This bill would require GO-Biz to serve as a catalyst for the development of affordable senior housing in California by convening public and private stakeholders interested in developing and financing affordable senior housing dwelling units with the state. The director must also submit an annual report to the Legislature regarding the number and location of affordable senior housing dwelling units developed through the program.

- 3) *State housing agencies.* There are several state agencies that work on housing policy and finance, including the Department of Housing and Community Development, California Housing Finance Agency, and California Tax Credit Allocation Committee. The bill presently does not require GO-Biz to engage these state entities in the program contemplated under this bill. **The author has agreed to amend the bill to include state housing agencies in addition to local governments and nongovernmental organizations.**
- 4) *Affordable to whom?* The bill, in several places, references affordable housing, but does not provide a specific definition. The author's intent is for the housing contemplated to be affordable to lower-income households as defined in existing law. **The author has agreed to amend the bill to state that affordable housing is that which is affordable to seniors with lower incomes as defined in Health and Safety Code Section 50093.**
- 4) *Special populations.* According to the author, California baby boomers are turning 65 at the highest rate in the nation, and more than 20 percent of California's population will be 65 years of age or older by 2030. Among those aged 65 or older, an estimated 70 percent will use long-term services and support (LTSS). Persons 85 years old or older are the fastest growing segment of the United States' population, and they are four times more likely to need LTSS than those who are between the ages of 65 and 85. The need for affordable, comprehensive senior housing will only increase, and California needs to bring together public and private stakeholders in the affordable senior housing process to find opportunities for development.

It is no secret that California currently faces an affordable housing crisis. California is home to 21 of the 30 most expensive rental housing markets in the country, which has had a disproportionate impact on the middle class and the working poor. A person earning minimum wage must work three jobs on average to pay the rent for a two-bedroom unit. Housing units affordable to low-income earners, if available, are often in serious states of disrepair. According to HCD, California faces a 3.5 million unit shortfall for the lowest-income earners.

California has also seen a significant reduction of state funding in recent years. The funds from Proposition 46 of 2002 and Proposition 1C in 2006 – totaling nearly \$5 billion for a variety of affordable housing programs -- have been expended. Combined with the loss of redevelopment funds, \$1.5 billion of annual state investment dedicated to housing has been lost, leaving several critical housing programs unfunded. Furthermore, California should expect significant funding cuts and even the elimination of some housing programs funded by the federal government.

While seniors are adversely affected by the high cost of housing in California, so are many other populations. Are seniors more deserving of housing than children aging out of the foster care system, homeless LGBTQ individuals, single-mothers with children working multiple jobs, veterans, or domestic violence survivors? The committee may wish to consider whether this program should focus more broadly on finding investments to fund housing affordable to all vulnerable, lower-income populations, rather than single-out individual groups to the detriment of others.

- 5) *Department of Corrections*. The author will accept a technical amendment to do the following:

On page 5, line 22, add “and” after “positive,”

- 6) *Double-referral*. This bill is also referred to the Senate Business and Professions Committee.

RELATED LEGISLATION:

SB 1380 (Mitchell, Chapter 847, Statutes of 2016) — established the Homeless Coordinating and Financing Council that coordinates several state agencies and stakeholders to identify resources, benefits, and services that can be accessed to prevent and end homelessness in California.

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

POSITIONS: (Communicated to the committee before noon on Wednesday,
April 12, 2017.)

SUPPORT:

California Apartment Association
Common Sense Kids Action
National Association of Social Workers – California Chapter

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING

Senator Jim Beall, Chair

2017 - 2018 Regular

Bill No:	SB 136	Hearing Date:	4/18/2017
Author:	Leyva		
Version:	4/17/2017 Amended		
Urgency:	Yes	Fiscal:	Yes
Consultant:	Alison Hughes		

SUBJECT: Mobilehome parks: mobilehome park program funding.

DIGEST: This bill permits the Department of Housing and Community Development (HCD), as part of the Mobilehome Park Rehabilitation and Resident Ownership Program (MPRROP) to contract directly with nonprofit corporations to deliver technical assistance to mobilehome park residents or community-based nonprofit corporations to assist mobilehome park residents in acquiring, financing, operating, and improving mobilehome parks occupied by low- and moderate-income households.

ANALYSIS:

Existing law:

- 1) Establishes the MPRROP Fund (fund). HCD may make loans from the fund to individual low-income residents of mobilehome parks that have converted to resident ownership or resident organizations that have converted or plan to convert a mobilehome park to resident ownership. The purpose of providing loans pursuant to this section is to reduce the monthly housing costs for low-income residents to an affordable level.
- 2) Permits HCD to lend MPRROP funds to individuals to repair their mobilehomes and to nonprofit sponsors or local public entities to acquire mobilehome parks. These loans must either:
 - a) Cure significant outstanding violations of state law governing health and safety in mobilehome parks, or
 - b) Support a park acquisition that HCD determines will substantially benefit low- and moderate-income homeowners, including maintaining affordable space rent level.

This bill:

- 1) Permits HCD to contract directly with nonprofit corporations that have significant experience representing or working with mobilehome park residents, or acquiring, rehabilitating, and preserving affordable housing, and have statewide or regional capacity to deliver technical assistance to mobilehome park residents or community-based nonprofit corporations in order to assist them in acquiring, financing, operating, and improving mobilehome parks occupied by low- and moderate-income households. This also includes reasonable administrative costs.
- 2) Prohibits the funds from being used for the purpose of advising the mobilehome park residents concerning the taking of the mobilehome park by the state, county, or city, by eminent domain.
- 3) Permits HCD to adopt, amend, or repeal guidelines to implement this bill and provides that the changes in this bill do not trigger the Administrative Procedures Act.

COMMENTS:

- 1) *Purpose of the bill.* According to the author, currently, more than \$40 million is available in the MPPROP, but the funds are not being used. Since the latest Notice of Funding Availability (NOFA) for \$15 million was issued by HCD in January 2016, not a single eligible application has been received. As a result, the application deadline was extended until March 2017 and will now be extended, yet again, through the end of 2017. Despite these extensions, there are a variety of issues that discourage applicants. One of the major issues is lack of technical capacity by residents and nonprofit organizations to overcome land use, insurance, and titling obstacles and cobble together financing from multiple sources to acquire and rehabilitate parks. Mobilehome park transactions are very complicated, which tends to dissuade many worthy individuals or organizations from deciding to move forward.

This bill expands the eligible uses of MPPROP to include provision of capacity-building technical assistance. The bill authorizes HCD to commit a small portion of MPPROP proceeds to contract with one or more nonprofit intermediary organizations to:

- a) Identify park owners willing to sell to residents or nonprofit buyers.
- b) Assist in the financial packaging and transactional work needed to purchase parks.

- c) Help owners and buyers overcome local land use, titling, and insurance issues.
- D) Advise new owners and residents on ways to repair or replace older coaches.

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

Historically, when mobilehome parks have converted to resident ownership, the residents have initiated the process and enlisted the help of a nonprofit organization. The nonprofit organization typically buys the entire park and sells lots to individual owners. In 1984, the Legislature created the Mobilehome Park Purchase Fund (fund) to encourage and facilitate this process for converting mobilehome parks to resident ownership through low-interest loans to resident organizations, individual residents, qualified nonprofit housing sponsors, or local governments. HCD administers the fund.

In 2014, AB 225 expanded MPRROP to provide HCD greater flexibility in its administration of the fund, including allowing HCD to lend these funds for individuals to repair their mobilehomes and for nonprofit sponsors or local public entities to acquire mobilehome parks. These loans must either: 1) cure significant outstanding violations of state law governing health and safety in mobilehome parks, or 2) support a park acquisition that in the determination of HCD will substantially benefit low- and moderate-income homeowners, including maintaining an affordable space rent level.

3) *Difficulty financing conversions*. As noted in the author's statement, despite the expansion of the program, HCD has not received a single application for the recent NOFA of \$15 million. It should be noted that the maximum amount available to an eligible project under this program is \$3.5 million. HCD held a workshop at a recent housing conference in Sacramento to discuss the changes to the MPRROP program and seek feedback about limitations to potential applicants. The feedback from attendees was that the MPRROP funds are not sufficient to complete a mobile home park conversion. It is entirely possible that even with the changes in this bill, the funding available will not be sufficient. The author states, however, that the changes in this bill would permit intermediaries to assist projects with finding the necessary gap financing to make the necessary purchase or conversions.

RELATED LEGISLATION:

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

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 12, 2017.)

SUPPORT:

California Coalition for Rural Housing (Co-Sponsor)
California Rural Legal Assistance Foundation (Co-Sponsor)
Golden State Manufactured Home Owners League

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING

Senator Jim Beall, Chair

2017 - 2018 Regular

Bill No:	SB 145	Hearing Date:	4/18/2017
Author:	Hill		
Version:	1/17/2017		
Urgency:	Yes	Fiscal:	Yes
Consultant:	Mikel Shybut		

SUBJECT: Autonomous vehicles: testing on public roads.

DIGEST: This bill removes a provision that requires the Department of Motor Vehicles (DMV) to notify the Legislature upon receipt of an application to operate an autonomous vehicle (AV) capable of operating without the presence of a driver and it removes a 180 day delay of an approved application.

ANALYSIS:

Existing law:

- 1) Allows operation of an autonomous vehicle with the presence of a driver on California public roads upon DMV approval of an application containing the following:
 - a) Manufacturer certification of the following vehicle features:
 - i. An accessible way for the operator to engage/disengage the autonomous features.
 - ii. A visual indicator of autonomous mode.
 - iii. The capability to alert the operator upon failure, upon which it will do the following:
 1. Require the operator to take control.
 2. Come to a complete stop if the operator cannot take control.
 - iv. Ability of the operator to take control in multiple ways (braking, accelerating, steering, etc.) and to alert the operator when autonomous features are disengaged.
 - v. The autonomous technology meets Federal Motor Vehicle Safety Standards and other state and federal safety standards.
 - vi. The vehicle does not make inoperative any of the above safety standards.
 - vii. A mechanism to capture data at least 30 seconds prior to a collision and maintains that data for 3 years after collision.

- b) A certification that the manufacturer testing the autonomous technology on public roads has complied with the DMV's testing standards.
 - c) A certification of an instrument of insurance, a surety bond, or self-insurance for \$5 million.
- 2) Provides that the DMV should approve any application that:
 - a) Includes all the required information.
 - b) Completed satisfactory testing to ensure that the vehicles are safe to operate on public roads.
 - c) Complies with the DMV's regulations regarding insurance requirements.
 - 3) Provides that the DMV may impose additional requirements on vehicles capable of operating without a driver and that the DMV may require the presence of a driver in the driver's seat if necessary for safety.
 - 4) Requires the DMV to notify the Legislature when it receives an application for the operation of a vehicle capable of operating without a driver.
 - 5) Requires that the DMV's approval of an application for an autonomous vehicle goes into effect no sooner than 180 days after submission of the application.

This bill:

- 1) Repeals the requirement that the DMV notify the Legislature when it receives an application for an autonomous vehicle capable of operating without a driver
- 2) Repeals the requirement that DMV approval of an application for an autonomous vehicle go into effect no sooner than 180 days after submission of the application

COMMENTS:

- 1) *Purpose.* According to the author, current law governing the operation of AVs contains an unnecessary provision that will delay their deployment. Currently, the DMV is required to notify the Legislature when it receives an application for the operation of an AV without the presence of the driver and enacts a 180 day delay for an approved application to go into effect. According to the author, the Legislature has other means to stay informed and the current notification requirements puts California at a competitive disadvantage as other states are aggressively pursuing the deployment of AVs.

- 2) *Background.* In 2012, California passed SB 1298 (Padilla), which established requirements for the testing and operation of AVs on public roads. For testing on public roads, SB 1298 required the presence of a driver in the driver's seat, who would oversee the safe operation of the vehicle and be capable of taking over in case of a failure or emergency. Based on the bills requirements, in 2014 the DMV adopted regulations for the operation of AVs on public roads, requiring the presence of a driver and establishing an application and approval process for a Manufacturer's Testing Permit. Under these regulations, 29 companies are currently testing AVs on California's public roads with drivers on board. As permit recipients, these companies are required to obtain \$5 million in insurance coverage, pay an annual \$150 fee, report accidents within 10 days, and annually report the number and circumstance of any autonomous disengagement that requires the driver to take control.

- 3) *Federal guidelines.* In September, 2016 the National Highway Traffic Safety Administration (NHTSA) released its federal policy on AVs. NHTSA emphasized the potential of highly automated vehicles (HAVs) to reduce traffic fatalities in the United States. In 2015, over 35,000 people died in traffic crashes, representing a 7.2% increase year-over-year, the largest increase since 1966. They cite that 94% of car crashes are associated with human choice or error, presenting a major opportunity for HAVs to save lives. NHTSA's policy release provided Vehicle Performance Guidelines for AVs, a Model State Policy framework, clarification of NHTSA's current regulatory tools, and the identification of potential new tools and authorities to aid the safe deployment of HAVs. NHTSA's Guidance is intended not only for manufacturers but also for those designing, supplying, testing, selling or deploying autonomous vehicles in the U.S. To monitor how Vehicle Performance Guidance is being followed, NHTSA would request a Safety Assessment Letter from manufacturers for each HAV system addressing a number of issues: data recording and sharing, privacy, system safety, vehicle cybersecurity, crashworthiness, consumer education and training, post-crash behavior, adherence to federal, state, and local laws, ethical considerations, and the vehicle's fall back mechanism. The voluntary Safety Assessment Letter is in addition to manufacturers' certified compliance with current Federal Motor Vehicle Safety Standards (FMVSS).

- 4) *Levels of automation.* NHTSA also adopted the SAE International (SAE) definitions for levels of automation (Table 1), ranging from SAE Level 0 (no automation) to SAE Level 5 (full automation under all conditions). Level 2 vehicles, which are currently available on the market, include automated features that assist both steering *and* acceleration/braking but still require the

full engagement of the driver. HAVs are considered to be SAE Levels 3-5.

Table 1. SAE Levels of Automation

Level 0:	No Automation	Driver is in full control at all times
Level 1:	Driver Assistance	A driver assistance system controls <i>either</i> steering or acceleration/braking using some information about the environment, driver remains engaged and controls all other aspects
Level 2:	Partial Automation	One or more driver assistance systems of <i>both</i> steering and acceleration/braking using some information about environment, driver remains engaged and controls all other aspects
Level 3:	Conditional Automation	Automated driving system performs <i>all</i> aspects of the dynamic driving tasks with the expectation that a driver is ready to occasionally take control when prompted with a notice
Level 4:	High Automation	Automated driving system performing all aspects of driving tasks in <i>certain</i> conditions even if the driver does not respond when prompted
Level 5:	Full Automation	Full-time performance of <i>all</i> aspects of the driving task in <i>all</i> conditions, can be managed by a human driver

- 5) *State vs. Federal role.* The Federal guidelines for AVs delineate the regulatory responsibilities between Federal and State governments. The Federal government must ensure compliance by manufacturers with the Federal Motor Vehicle Safety Standards (FMVSS) and has the ability to initiate and manage recalls nationwide for manufacturers not in compliance with the FMVSS. States are responsible for licensing drivers, registering vehicles, enforcing traffic laws, conducting safety inspections, and regulating auto insurance. Generally, vehicle manufacturing standards are regulated at the federal level while drivers and vehicle operation are regulated at the state level.

- 6) *No driver, no problem.* In March, 2017 the California DMV released its draft regulations for the testing and deployment of AVs that do not require the presence of the driver. They allow for the application for a Manufacturer’s Testing Permit – Driverless Vehicles. The application requires a \$3,600 application fee, background information about the manufacturer, vehicle licensing and registration information, and other acknowledgements, attachments and certifications. Manufacturers are required to notify and coordinate with local authorities in the area where vehicles are to be tested and must assume liability for any crashes caused by the autonomous technology. Manufacturers must also maintain communication with the driverless fleet and have a plan to instruct law enforcement on how to interact with the vehicle in emergency situations. Members of the public must also be notified of the

personal information, if any, that is collected by the vehicle. These regulations also include similar protocols for an Application to Deploy Autonomous Vehicles on Public Streets.

- 7) *Picking up GoMentum.* Prior to the DMV releasing its regulations for operating driverless autonomous vehicles on public roads, in late 2016 the Legislature passed AB 1592 (Bonilla). AB 1592 authorized a pilot program by the Contra Costa Transportation Authority to test autonomous vehicles without a driver in the vehicle and without a steering wheel, brake pedal, or an accelerator. The testing was limited to a privately owned business park that contained some public roads and to the 5,000 acre GoMentum Station located at the former Concord Naval Weapons Station. Private, shared, and commercial AVs are currently being tested at GoMentum Station including EasyMile self-driving shuttles and Otto self-driving trucks.
- 8) *Notify the legislature.* SB 1298 (Padilla) mostly addressed the operation of AVs with drivers present. However, the bill somewhat pre-emptively included two provisions addressing applications for AVs that do not require a driver inside. The first provision requires the DMV to notify the Legislature when they receive an application to test an AV without a driver. The DMV maintains a public record of permit recipients for AVs on its website and would likely share permit information to interested legislators. However, this requirement seems relatively inconsequential in terms of time required.
- 9) *A six month delay.* The second provision requires that an approved application go into effect no sooner than 180 days (6 months) after submission. There are no specified requirements for the permit applicant during this 6 month delay after approval. However, the proposed DMV regulations and application process include extensive public safety requirements. In addition to compliance with federal safety standards, permit applicants must certify that local authorities have been notified and include a law enforcement interaction plan, that they assume liability for at-fault collisions and have a process for displaying the vehicle owner information in the event of a collision, and that there is a communication link between the vehicle and a trained remote operator in case of emergency. Further, permit applicants are required to have tested the autonomous vehicle under controlled conditions that simulate the intended scenarios for each autonomous feature as closely as practicable and determined that they are safe in those scenarios. All of these requirements are met as part of the permitting application process, not as part of the 6 month delay. Now that draft regulations have been released, it is unclear what the need is for the 6 month delay.

10) *Urgency*. This bill is an urgency measure, requiring 2/3 vote and would go into effect immediately. DMV is expected to release its finalized regulations by the end of this year. Passing this bill as an urgency measure would ensure that any applications DMV receives for a driverless permit this year would not be subject to a 180 day delay.

RELATED LEGISLATION:

SB 1298 (Padilla, Chapter 570 of 2012) — Established rules for the operation of autonomous vehicles on public roads.

AB 1592 (Bonilla, Chapter 814 of 2016) — Authorized a pilot program by the Contra Costa Transportation Authority to test autonomous vehicles without a driver, steering wheel, brake pedal or accelerator.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 12th.)

SUPPORT:

Alliance of Automobile Manufacturers
California Chamber of Commerce
Computing Technology Industry Association (CompTIA)
Global Automakers
Self-Driving Coalition for Safer Streets
Silicon Valley Leadership Group
TechNet
Waymo

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING

Senator Jim Beall, Chair

2017 - 2018 Regular

Bill No: SB 167 **Hearing Date:** 4/18/2017
Author: Skinner
Version: 4/17/2017 Amended
Urgency: No **Fiscal:** No
Consultant: Alison Hughes

SUBJECT: Housing Accountability Act.

DIGEST: This bill makes several changes to the Housing Accountability Act (HAA).

ANALYSIS:

Existing law, under the Housing Accountability Act (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.
- 5) "Disapprove the housing development project" includes any instance in which the local jurisdiction does either of the following:
- a) Votes on a proposed housing development project application and the application is disapproved.
 - b) Fails to comply with time periods for approving or disapproving of projects under existing law.
- 6) Defines "housing development project" as any of the following:
- a) Residential units only.
 - b) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of the buildings that are two or more stories.
 - c) Transitional or supportive housing.

- 7) "Housing for very low-, low-, or moderate-income households" means that either:
 - a) At least 20% of the total units shall be sold or rented to lower income households, or
 - b) 100% of the units shall be sold or rented to persons and families of moderate income or middle-income.
- 8) Defines "very low-income" as persons and families whose income does not exceed 50% area median income (AMI).
- 9) Defines "low-income" as persons and families whose income does not exceed 80% AMI.
- 10) Defines "moderate-income" as persons and families whose income does not exceed 120% of AMI.
- 11) Defines "above moderate-income" as persons and families whose income exceeds 120% of AMI.

This bill:

- 1) Broadens the application of the HAA to also include housing development projects with units affordable to above-moderate income households in several provisions.
- 2) Increases the burden on local jurisdictions from "substantial evidence" to "clear and convincing evidence" when making findings as to the disapproval of a housing development project.
- 3) Provides that a change in a zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete shall not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.
- 4) Requires the local jurisdiction to publish an analysis of the requirements of the HAA as part of its review of each application for a housing development project.
- 5) Imposes a minimum fine of \$100,000 per housing unit in the housing development project if a court finds a violation of the HAA. Fines shall not be paid out of funds already dedicated to affordable housing, and shall be

committed to a housing trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low-, very low-, or low-income households. A court may also impose punitive damages if the court finds that the local jurisdiction acted in bad faith. If a housing organization is the prevailing party, it shall be entitled to reasonable attorney's fees.

- 6) Requires a petition to enforce the HAA shall be filed and served no later than 90 days from the later of:
 - a) The withdrawal of the application by the applicant or the effective date of a decision of the local agency, or
 - b) The expiration of the time periods specified in the Permit Streamlining Act.
- 7) Defines "very low-income" as persons and families whose income does not exceed 50% area median income (AMI).
- 8) Defines "low-income" as persons and families whose income does not exceed 80% AMI.
- 9) Defines "moderate-income" as persons and families whose income does not exceed 120% of AMI.
- 10) Defines "above moderate-income" as persons and families whose income exceeds 120% of AMI.

COMMENTS:

- 1) *Purpose of the bill.* According to the author, this bill seeks to address the severity of California's housing crisis by taking a critical look at cities approval processes for development. State courts are often too deferential to localities in accepting any justification declaring a development infeasible. Although there is an evident lack of funding, space, and construction, there are solutions the state can implement to ensure development is taking place in conjunction with a city's general plan and zoning ordinance.
- 2) *HAA Background.* The purpose of the HAA 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. 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. Many provisions of the HAA are limited to lower-income housing developments.

- 3) *Broaden applicability of HAA to market rate housing.* Most of the provisions in the HAA, under existing law, apply to housing projects containing units affordable to very low-, low- or moderate-income renters. According to the Department of Housing and Community Development, California presently has a surplus of 300,000 units affordable to above moderate-income earners, a 61,000 unit shortfall for moderate-income earners, a 1 million unit shortfall for low-income earners, a 1.5 million unit shortfall for very low-income earners, and a 1 million unit shortfall for extremely low-income earners. While the housing crisis is now felt among moderate income earners, the most severely impacted are lower-income earners (*i.e.* 3.5 million unit shortfall). The HAA incentivizes developers to include affordable housing in their housing developments by providing a remedy for the denial of a project.

This bill would broaden some provisions of the HAA to apply to market rate housing. The expansion of this law to include market-rate development would remove an incentive for a market rate developer to include affordable housing in a project where the crisis is most acutely felt. **The author has agreed to remove the expansion of provisions of the HAA to above-moderate income renters.**

- 4) *Higher standard of proof.* This bill would increase the burden on local jurisdictions from “substantial evidence” to “clear and convincing evidence” when making findings as to the disapproval of a housing development project. “Clear and convincing” indicates that the thing to be proved is highly probably or reasonably certain. According to the author, state courts are too deferential to local jurisdictions and accept “any justification” for failing to meet state housing goals. By elevating the evidentiary standard to “clear and convincing,” localities will need to prove that denying proposed housing development projects or conditioning their approval upon lower density is necessary to safeguard human health and safety.
- 5) *Fines, fees, and punitive damages.* Under existing law, a court may compel compliance with the HAA, including an order that the locality approve the housing development or emergency shelter. Additionally, a court may impose fines upon a local agency for acting in bad faith. This bill would impose a minimum fine of \$100,000 per housing unit in the housing development project if a court finds a violation of the HAA. These fines cannot be paid out of funds already dedicated to affordable housing, and shall be committed to a housing trust fund within five years for the sole purpose of financing newly constructed

housing units affordable to extremely low-, very low-, or low-income households. If a housing organization is the prevailing party, it shall be entitled to reasonable attorney's fees. A court may also impose punitive damages if the court finds that the local jurisdiction acted in bad faith.

According to the author, when other entities such as businesses or people break the law, they often must pay fines, lose licenses, or face imprisonment. When municipalities violate the HAA, there are no repercussions. Imposing specific fees may not only punish bad actors, but may also serve as a deterrent for violating the HAA. As noted by the opposition, these fines could result in financial hardship for localities depending on the size of the project. The author has agreed that these fines may be too high, and will work on the appropriate fines in the Senate Judiciary Committee.

- 6) *Seeing double.* This bill is exactly the same as a bill that was introduced in the Assembly (see related legislation section below). The author states the reason for moving two bills that are exactly the same in two houses is to provide "two vehicles" for the same legislation.
- 7) *Opposition.* California State Association of Counties, Rural County Representatives of California, and the Urban Counties of California state that the court fines are too high and could bankrupt a city. These groups also contend that the higher standard of proof would be almost impossible for local governments to meet. The American Planning Association, California Chapter shares these concerns, and adds that expanding the HAA to include above moderate-income would remove any incentive to take advantage of the HAA by including affordable housing in a project.
- 8) *Double-referral.* This bill was double-referred to the Senate Judiciary Committee.

RELATED LEGISLATION:

AB 678 (Bocanegra, 2017) — would make several substantive changes to the HAA and is identical to this bill.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 12, 2017.)

SUPPORT:

Abundant Housing LA
Bay Area Council
California Apartment Association
California Building Industry Association
California Renters Legal Advocacy and Education Fund
East Bay Forward
North Bay Leadership Council
San Francisco Housing Action Coalition
Turner Center for Housing Innovation
YIMBY Action

OPPOSITION:

American Planning Association – California Chapter
California State Association of Counties
Rural County Representatives of California
Urban Counties of California

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING

Senator Jim Beall, Chair

2017 - 2018 Regular

Bill No: SB 249 **Hearing Date:** 4/18/2017
Author: Allen
Version: 2/7/2017
Urgency: Yes **Fiscal:** Yes
Consultant: Manny Leon

SUBJECT: Off-highway motor vehicle recreation.

DIGEST: This bill extends the Off-Highway Motor Vehicle Recreation Act of 2003 (Act) to January 1, 2023 and revises and recasts various provisions of the Act. This bill makes several changes to the calculation and distribution of gas tax revenue currently appropriated to the Off-Highway Motor Vehicle Recreation Program (OHV).

ANALYSIS:

Existing law:

- 1) Establishes the Act which creates the Division of Off-Highway Motor Vehicle Recreation (Division) within the Department of Parks and Recreation (DPR). The Act further requires the Division to plan and acquire lands in state vehicular recreation areas (SVRA) which are units with the state park system and implements a grants program from revenues in the Off-Highway Vehicle Trust Fund (Fund) which assigns specified percentages of those revenues for various purposes related to the OHV.
- 2) Declares public safety, the appropriate use of lands, and the conservation of lands as the highest priorities for management of SVRAs. Specifies that the Division is charged with the prompt repair of erosion sites and to anticipate future problems caused by erosion within SVRAs.
- 3) Specifies the importance of siting SVRAs at locations that maximize the public use of available outdoor recreational opportunities.
- 4) Levies a \$33 annual special charge on off-highway motor vehicles to be paid every two years upon renewal of registration until January 1, 2018. Further levies a \$7 annual service fee on off-highway motor vehicles until January 1, 2018.

- 5) Provides that the fund is to sunset on January 1, 2018.
- 6) Imposes an excise tax on gasoline. Further specifies that the moneys attributable to the excise tax on gasoline related to specified off-highway motor vehicles and off-highway motor vehicle activity be directly transferred monthly to the Fund.
- 7) Requires the amount of gas tax revenue transferred to the Fund to be based on the percentage of total revenues transferred to the Fund in fiscal year (FY) 2006-07 and further authorizes the Department of Transportation (Caltrans) to adjust this amount every five years beginning FY 2013-14, as specified.
- 8) Provides that the Fund consists of revenues primarily from the Motor Vehicle Fuel Account, off-highway vehicle registration fees, and SVRA admission fees.
- 9) Requires any revenues transferred from the Fund to the General Fund to be reimbursed, without interest, within two fiscal years of the transfer.
- 10) Specifies that a minimum of 50% of the fund shall be available for grants and cooperative agreements. The remainder of OHV revenue shall be used to support the division.
- 11) Specifies that OHV related fuel taxes that are transferred directly to the Fund are to be administered by the division.
- 12) Provides that the OHV program is to sunset on January 1, 2018.

This bill:

- 1) Revises and recasts a variety of OHV provisions and extends the program until 2023.
- 2) Extends the authorization of the Fund until January 1, 2023.
- 3) Extends the abovementioned special charge and identification fee until January 1, 2023.
- 4) Revises the method used for calculating the amount of gas taxes attributable to off-highway vehicle use and allocated to the Fund.

- 5) Redirects OHV related gas tax revenue to the State Parks and Recreation Fund and requires the Director of the State Department of Parks and Recreation to include in its annual budget the proposed allocation for OHV, as specified.

COMMENTS:

- 1) *Author's Statement.* According to the author, "California's Off-Highway Motor Vehicle Recreation Program is set to expire at the end of this year. SB 249 reauthorizes the Program for another five years and makes improvements that continue public use while better aligning the Program with the mission and general resource protection efforts of the Parks Department. The bill strengthens and clarifies protection, conservation and restoration standards for OHV areas in an effort to avoid chronic impacts that can impair recreation degrade natural resources and waste taxpayer dollars. The bill also improves monitoring and adaptive management in these areas, bringing these up to the same standards as in other conservation codes. The bill creates a Science Advisory Team to ensure the OHV system is managed according to the best current resource conservation science and aims to improve oversight and better align the program's compliance, accountability, and goals with the Parks Department's mission. Now is the time to better integrate this Program since the Parks Department is currently undergoing a transformation to, in part, ensure the parks system is managed as one unified system.

Finally, the bill states the intent of the Legislature that a portion of the revenue related to non-motorized recreation be used for road and trail infrastructure improvements and to provide underserved communities with access to parks (e.g., grants for education or outdoor opportunities). Currently, all the gas tax revenue generated for the Program goes directly to the OHV Division, bypassing the Parks Department. However, some of that revenue comes from non-OHV drivers, for example owners of all-wheel drive vehicles like Subarus used to go camping, backpacking, canoeing, or fishing. The bill calls for this portion of money paid by non-OHV to be used to fund park access opportunities for disadvantaged communities.

These changes will improve the way the Program is managed, reduce conflict, and increase the sustainability of these park resources so future generations can enjoy them."

- 2) *Where does the gas tax go now?* Under existing law, relative to OHV, gas tax revenue is allocated for two purposes. Base gas tax revenue (18 cents) is deposited from the Motor Vehicle Fuel Account into the fund. The amount of fuel tax transferred to the fund is based on an estimate of the amount of fuel

purchased by off-highway motor vehicles and attendance at SVRAs. The portion of revenue that is generated through the price-based gas excise tax (currently 9.8 cents) is deposited from the Motor Vehicle Fuel Account into the General Fund. This bill proposes to redirect both portions of the OHV related gas tax (18 cents + 9.8 cents) to the State Parks and Recreation Fund, with the price based excise tax ultimately being transferred to the General Fund. This bill further requires the Director of the State Parks and Recreation Department to submit an annual request for a state budget appropriation for OHV funding. The provisions specified in this bill would remove the direct allocation to the fund, in turn adding a level of fiscal accountability.

This bill additionally changes the way OHV related gas tax revenues are calculated. Currently, the estimate is based on the amount of fuel purchased by off-highway motor vehicles that use or may use OHV facilities. This bill refines that formula by requiring the estimate to include only gas tax revenues from vehicle that have actually used OHV facilities.

- 3) *SB 1*. Recently passed by the Legislature and awaiting the Governor's signature, SB 1 (Beall) increased the gas tax by 12 cents starting November 1, 2017. SB 1 directs this new 12 cent increase and all associated inflation adjustments to the State Parks and Recreation Fund and would be subject to the state budget process for OHV appropriations. Accordingly, directing the base gas excise tax (18 cents) to the State Parks and Recreation Fund as provided in SB 249 would be consistent with the provisions specified in SB 1.
- 4) *Green and Red Plates*. OHV vehicles are required to display a Department of Motor Vehicle-issued identification (ID) plate. A new ID plate is issued every two years upon renewal of registration and costs \$33. Green ID plates are issued to 2002 year model and older. Additionally green ID plates are issued to OHVs that were previously issued a red ID plate, 2003 year model and newer OHVs that comply with California Air Resources Board (CARB) emission standards, snowmobiles, amphibians, dune/sand buggies, and golf carts, regardless of the year model. Green ID plates allow year-round use in all California OHV riding areas.

Red ID plates are issued to 2003 year model and newer OHVs not certified to meet CARB emission standards. Red ID plates allow seasonal use in California OHV riding areas. This bill preserves the \$33 fee and extends this charge until January 1, 2023.

- 5) *Programmatic Changes.* This bill makes a number of changes to the OHV program. While many of those policy changes are not within the jurisdiction of this committee, it is important to note that many groups remain opposed to the programmatic changes provided in this bill. Several of these concerns include, but are not limited to, State departmental changes, changes to the OHV commission oversight duties, and land management requirements.
- 6) *Double referral.* This bill was also referred to the Senate Natural Resources and Water Committee where it pass out on a 7-2 vote.

RELATED LEGISLATION:

AB 1077 (O'Donnell, 2017) — would deletes a sunset date of January 1, 2018, for the operation of the Off-Highway Motor Vehicle Recreation Act of 2003. *This bill is currently in the Assembly Appropriations Committee.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 12, 2016.)

SUPPORT:

Alameda Creek Alliance
 California Native Plant Society
 California Wilderness Coalition
 Center for Biological Diversity
 Center for Sierra Nevada Conservation
 Citizens to Complete the Refuge
 Defenders of Wildlife
 Friends of Tesla Park
 Friends of the Arroyos
 Mt. Diablo Audubon Society
 Nototomne Cultural Preservation – Northern Valley Yokut/Ohlone/Bay Miwuk
 Ohlone Audubon Society
 Regional Parks Association
 Santa Clara Valley Audubon Society
 Save Mt. Diablo
 Save the Frogs!
 Sierra Club California
 Society of American Indians
 SPRAWLDEF

Tesla Road Residents Alliance
The Wilderness Society
Tri-Valley Trailblazers

OPPOSITION:

American Motorcyclist Association
American Motorcyclist Association District 36
American Sand Association Inc.
Bay Area Riders Forum
California 4 Wheel Drive Association
California Coalition of Off-Highway Vehicle Associations
California Motorcycle Dealers Association
California Off-Road Vehicle Association
California Sportsman's Lobby
Impact Racing
Motorcycle Industry Council
O&M Industries
Oakland Motorcycle Club
Off Road Warehouse
Off-Road Business Association
Outdoor Sportsmen's Coalition of California
RattleSnake 4X4's
Recreational Off-Highway Vehicle Association
Rural County Representatives of California
S & S Off Road Magazine
Safari Club International Coalition
San Diego Adventure Riders
San Diego Off-Road Coalition
San Diego Outback 4X4 Club
Sharetrails.org
Specialty Vehicle Institute of America
SpeedMob, Inc.
56 Individuals