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

| | | | |
|---|---|---|---|
| **Bill No:** | SB 277 | **Hearing Date:** | 4/18/2017 |
| **Author:** | Bradford | | |
| **Version:** | 3/22/2017 Amended | **Fiscal:** | No |
| **Urgency:** | No | | |
| **Consultant:** | Alison Hughes | | |

**SUBJECT:** Land use: zoning regulations.

**DIGEST:** This bill authorizes the legislative body of a city or county to establish inclusionary housing requirements as a condition of development.

**ANALYSIS:**

*Existing law*:

1) Grants cities and counties the power to make and enforce within their limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

2) Declares the Legislature's intent to provide only a minimum of limitation with respect to zoning in order that counties and cities may exercise the maximum degree of control over local zoning matters.

3) Specifically authorizes the legislative body of any county or city to adopt ordinances that do any of the following:

   a) Regulate the use of buildings, structures, and land as between industry, business, residences, open space, agriculture, recreation, enjoyment of scenic beauty, use of natural resources, and other purposes;
   b) Regulate signs and billboards;
   c) Regulate all of the following:

      i) The location, height, bulk, number of stories, and size of buildings and structures;
      ii) The size and use of lots, yards, courts, and other open spaces;
      iii) The percentage of a lot that may be occupied by a building or structure; and,
      iv) The intensity of land use.

d) Establish requirements for off-street parking and loading;
e) Establish and maintain building setback lines; and,
f) Create civic districts around civic centers, public parks, public buildings, or public grounds, and establish regulations for those civic districts.

4) Limits, pursuant to the Costa-Hawkins Rental Housing Act, the permissible scope of local rent control ordinances and generally gives the owner of residential real property the right to establish the initial rental rate for a dwelling or unit.

This bill:

1) Permits a locality to require, as a condition of the development of residential rental units, that the development include a certain percentage of residential rental units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate income, lower income, very low income, or extremely low income households.

2) Declare the intent of the bill is to supersede any holding or dicta in *Palmer/Sixth Street Properties v. City of Los Angeles* (2009) 175 Cal.App.4th 1396, to the extent that the decision or opinion conflicts with the authority of localities to adopt inclusionary housing requirements and that it is not the intent to enlarge, diminish, or modify any existing authority of a locality to establish inclusionary housing requirements as a condition of development beyond reaffirming their applicability to rental units.

**COMMENTS:**

1) *Purpose of the bill.* According to the author, "California has an affordable housing shortage. California's costs, consequently, have been rising rapidly for decades. The number of low-income Californians in need of assistance far exceeds the resources of existing federal, state, and local affordable housing programs. Currently, about 3.3 million low-income households (who earn 80 percent or less of the median income where they live) rent housing in California, including 2.3 million very-low-income households (who earn 50 percent or less of the median income where they live). Around one-quarter (roughly 800,000) of low income households live in subsidized affordable housing or receive housing vouchers. Most households receive no help from these programs. Those that do often find it takes several years to get assistance. Roughly 700,000 households occupy waiting lists for housing vouchers, almost twice the number of vouchers available. Around 1.7 million low-income renter

households in California report spending more than half of their income on housing. This is about 14 percent of all California households, a considerably higher proportion than in the rest of the country (about 8 percent). The increased cost of housing in California has created the displacement of low income families and communities of color, in neighborhoods where they have traditionally resided. One of the tools used for increasing the number of affordable housing units is inclusionary zoning ordinances. Inclusionary zoning is a policy tool that requires or encourages private housing developers to include a certain percentage of income-restricted units within market rate residential developments.

"Since the 1970s, over 170 jurisdictions have enacted inclusionary housing ordinances to meet their affordable housing needs. However, a state appellate court decision (*Palmer/Sixth Street Properties, L.P. v. City of Los Angeles*) has created uncertainty and confusion for local governments regarding the use of this tool to require the inclusion of affordable rental units. State law must clarify and affirm the ability of local governments the option to require affordable rental housing in residential developments."

2) *Background.* Article XI, Section 7 of the California Constitution grants each city and county the power "to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." This is generally referred to as the police power of local governments. The Planning and Zoning Law is a general law that sets forth minimum standards for cities and counties to follow in land use regulation, but the law also establishes the Legislature's intent to "provide only a minimum of limitation in order that counties and cities may exercise the maximum degree of control over local zoning matters."

Using this police power, many cities and counties have adopted ordinances, commonly called "inclusionary zoning" or "inclusionary housing" ordinances, that require developers to ensure that a certain percentage of housing units in a new development be affordable to lower-income households. These ordinances vary widely in the percentage of affordable units required, the depth of affordability required, and the options through which a developer may choose to comply. Most, if not all, of such ordinances apply to both rental and ownership housing.

In 2009, in the case of *Palmer v. City of Los Angeles*, the Second District California Court of Appeal opined that the city's affordable housing requirements associated with a particular specific plan (which was similar to an inclusionary zoning ordinance), as it applied to rental housing, conflicted with

and was preempted by a state law known as the Costa-Hawkins Rental Housing Act. The Costa-Hawkins Act limits the permissible scope of local rent control ordinances. Among its various provisions is the right for a rental housing owner generally to set the initial rent level at the start of a tenancy, even if the local rent control ordinance would otherwise limit rent levels across tenancies. This provision is known as vacancy decontrol because the rent level is temporarily decontrolled after a voluntary vacancy. The act also gives rental housing owners the right to set the initial and all subsequent rental rates for a unit built after February 1, 1995. The court opined that "forcing Palmer to provide affordable housing units at regulated rents in order to obtain project approval is clearly hostile to the right afforded under the Costa-Hawkins Act to establish the initial rental rate for a dwelling or unit."

The Legislature enacted the Costa-Hawkins Rental Housing Act in 1995 with the passage of AB 1164 (Hawkins), Chapter 331. The various analyses for this bill exclusively discuss rent control ordinances and do not once mention inclusionary zoning ordinances, of which approximately 64 existed in the state at that time. The Assembly concurrence analysis of AB 1164, which is very similar to the other analyses, states that the bill "establishes a comprehensive scheme to regulate local residential rent control." The analysis includes a table of jurisdictions that would be affected by the bill, and the table exclusively includes cities with rent control ordinances and does not include any cities that had inclusionary zoning ordinances affecting rental housing. The analysis also states, "Proponents view this bill as a moderate approach to overturn extreme vacancy control ordinances which unduly and unfairly interfere into the free market." The analysis further describes strict rent control ordinances as those that impose vacancy control and states, "Proponents contend that a statewide new construction exemption is necessary to encourage construction of much needed housing units, which is discouraged by strict local rent controls." This legislative history provides no indication that the Legislature intended to affect inclusionary zoning with the passage of AB 1164.

3) *California Building Industry Association (CBIA) v. City of San Jose.* The City of San Jose's inclusionary housing ordinance passed in 2010 and required all new residential development projects of 20 or more units to sell at least 15% of the for-sale units at a price that is affordable to low- or moderate-income households. The ordinance allowed developers to opt out of the 15% requirements by dedicating land elsewhere or by paying "in-lieu" fees to the city. Shortly before the ordinance took effect, CBIA filed a lawsuit in superior court, maintaining that the ordinance was invalid on its face on the ground that the city, in enacting the ordinance, failed to provide a sufficient evidentiary basis "to demonstrate a reasonable relationship between any adverse public

impacts or needs for additional subsidized housing units in the City ostensibly caused by or reasonably attributed to the development of new residential developments of 20 units or more and the new affordable housing exactions and conditions imposed on residential development by the Ordinance."

The superior court agreed with CBIA's contention and issued a judgment enjoining the city from enforcing the challenged ordinance. The Court of Appeal then reversed the superior court judgment, and concluded that the matter should be remanded to the trial court. CBIA then sought review of the Court of Appeal decision in the Supreme Court which granted review.

The Supreme Court in June of 2015 concluded that the Court of Appeal decision should be upheld, and that "contrary to CBIA's contention, the conditions the San Jose ordinance imposes upon future development do not impose 'exactions' upon the developers' property so as to bring into play the unconstitutional conditions doctrine under the takings clause of the federal or state Constitution." The ruling also noted that enforcing these limits to address a growing housing problem is "constitutionally legitimate" and cited the severe scarcity of affordable housing in California in its decision.

This bill authorizes the legislative body of any city or county to adopt ordinances to establish, as a condition of development, inclusionary housing requirements and makes a number of legislative findings and declarations to supersede any holding or dicta in Palmer/Sixth Street Properties, L.P. v. City of Los Angeles (2009).

4) *Prior legislation.* AB 1229 (Atkins, 2013) would have expressly authorized cities and counties to establish inclusionary housing requirements as a condition of development. The bill further declares the intent of the Legislature to supersede any holding or dicta in *Palmer v. City of Los Angeles* that conflicts with this authority.

AB 1229 was vetoed with the following message:

"This bill would supersede the holding of *Palmer v. City of Los Angeles* and allow local governments to require inclusionary housing in new residential development projects. As Mayor of Oakland, I saw how difficult it can be to attract development to low and middle income communities. Requiring developers to include below-market units in their projects can exacerbate these challenges, even while not meaningfully increasing the amount of affordable housing in a given community. The California Supreme Court is currently considering when a city may insist on inclusionary housing in new developments. I would like the benefit of the Supreme Court's thinking before we make legislative adjustments in this area."

Last year, AB 2502 (Mullin), which was identical to this bill, failed passage off the Assembly Floor.

5) *Opposition.* Writing in opposition, the California Association of Realtors (CAR) state that this bill would permit local governments to require residential developments to contain an "unrestricted percentage of rent controlled units" without consideration of the economic viability of the project. Further, CAR contends that this bill will discourage new housing construction. The California Apartment Association (CAA) writes that this bill does not provide flexibility for developers to instead pay fees or donate land in lieu of including low-income rental units.

**RELATED LEGISLATION:**

**AB 2502 (Mullin, 2016)** — would have authorized the legislative body of a city or county to establish inclusionary housing requirements as a condition of development. *This bill did not pass off the Assembly Floor.*

**AB 1229 (Atkins, 2013)** — would have authorized the legislative body of a city or county to establish inclusionary housing requirements as a condition of development. *This bill was vetoed by the Governor (see Comment 4, above).*

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

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

**SUPPORT:**

California State Conference of the National Association for the Advancement of Colored People (sponsor)
National Association of Social Workers – California Chapter

**OPPOSITION:**

California Apartment Association
California Association of Realtors

**-- END --**

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

| | | | |
|---|---|---|---|
| **Bill No:** | SB 329 | **Hearing Date:** | 4/18/2017 |
| **Author:** | Leyva | | |
| **Version:** | 2/13/2017 Introduced | | |
| **Urgency:** | No | **Fiscal:** | Yes |
| **Consultant:** | Alison Hughes | | |

**SUBJECT:** Manufactured homes: financial assistance programs

**DIGEST:** This bill requires all state and local programs designed to facilitate home ownership or residence to include manufactured housing.

**ANALYSIS:**

*Existing law*:

1) Establishes a number of programs at the Department of Housing and Community Development (HCD) and the California Housing Finance Agency (CalHFA) 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.

This bill requires all state and local programs designed to facilitate home ownership or residence, including loan origination and repayment programs, downpayment assistance, and tax credits, to include manufactured housing.

**COMMENTS:**

1) *Purpose of the bill.* According to the author, mobilehome parks and manufactured home communities are in constant decay and in high demand. In many cases, manufactured homes are the last bastion of affordable housing. Manufactured home communities house many seniors, immigrants, and individuals on fixed incomes. Many of these residents are in difficult financial situations where they could be one day away from homelessness. Even though low-income families live in mobilehome parks, parks they are not considered affordable housing. Thus, residents are excluded from resources to improve the homes, such as energy efficiency or replacement of new manufactured homes. Improving the housing stock in manufactured home communities will improve the quality of life of these residents rather than maintaining the aluminum 1970 models that are found across the state.

   A recent HCD report noted that advances in technology and regulation have resulted in high-quality homes, with greater energy efficiency than past generations, and at cost that is 10 to 20 percent per square foot less than conventionally built homes. Prospective homeowners and residents should have an opportunity to apply for state and local housing programs regardless of whether they seek to purchase a manufactured or traditional single family home. To the extent that state and local programs fail to include manufactured housing, those programs may effectively prevent some applicants from purchasing an affordable manufactured home within their community.

2) *Is this really a problem?* According to the sponsors and supporters, this bill would permit state and local housing programs that offer down-payment assistance and tax credits to include manufactured housing. It appears that all HCD programs already permit manufactured housing projects to qualify for funding. Under federal law, LIHTC may be used to finance manufactured housing that is affixed to a foundation (real estate) and rented (not sold) to the residents, however it prohibits tax credits from funding traditional parks where one party owns the land and rents spaces to homeowners. Given that federal law supersedes state law, this bill would not change these existing prohibitions.

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

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

**SUPPORT:**

California Manufactured Housing Institute (sponsor)
Golden State Manufactured Home Owners League
Western Manufactured Housing Communities Association

**OPPOSITION:**

None received.

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

| | | | |
|---|---|---|---|
| **Bill No:** | SB 362 | **Hearing Date:** | 4/18/2017 |
| **Author:** | Galgiani | | |
| **Version:** | 2/14/2017 | | |
| **Urgency:** | No | **Fiscal:** | Yes |
| **Consultant:** | Erin Riches | | |

**SUBJECT:** Department of Motor Vehicles: records: confidentiality.

**DIGEST:** This bill adds Department of Insurance investigators, code enforcement officers, and parking control officers to the list of categories for which the state Department of Motor Vehicles (DMV) must hold home addresses confidential.

**ANALYSIS:**

*Existing law:*

1) Provides that any residence address in any DMV record is confidential and shall not be disclosed to any person except a court, law enforcement agency, or other government agency, as specified. Authorizes a financial institution, insurance company, and specified other parties licensed to do business in California, to request an individual's record from DMV if it has obtained a waiver from the individual.

2) Authorizes an individual to seek suppression of any DMV registration or driver's license record if he or she can show that he or she is the subject of stalking, a death threat, or a threat of great bodily injury. The suppression shall be for a period of one year and renewable for two additional one-year periods.

3) Requires the home addresses of specified individuals, including peace officers, members of the Legislature, and nearly two dozen other specified categories, which appear in DMV records to remain confidential upon request of the individual. Provides that this information shall not be disclosed except to a court, a law enforcement agency, the State Board of Equalization, an attorney in a civil or criminal action as specified, or a government agency.

4) Provides that the willful, unauthorized disclosure of confidential DMV information for specified law enforcement individuals that results in the bodily injury to that individual or those individuals, is a felony.

5) Provides that the release of such confidential information, for all other persons is a misdemeanor and punishable by a fine of up to $5,000 and/or by up to one year in a county jail.

This bill adds the following individuals to the existing law prohibition on disclosure of the home addresses in the DMV records of certain public employees and officials:

a) An investigator employed by the Department of Insurance.
b) A code enforcement officer, as specified.
c) A parking control officer employed by a city, county, city and county, university, college, public hospital, public airport, special district, or other public agency to monitor and enforce state laws and ordinances relating to parking.

**COMMENTS:**

1) *Purpose.* The author states that code enforcement officers are on the front line of code compliance, and sometimes drug trafficking and gang-related enforcement efforts, and are frequently required to deal with hostile, non-compliant individuals. Parking control officers also face clear and present danger in the fulfillment of their job duties and have received credible threats and have been the victims of physical assaults. Non-sworn investigators at the Department of Insurance regularly conduct investigations of licensees and non-licensees which may result in administrative action and/or criminal charges. These investigators should be afforded the same protections from potential retaliation. Their jobs put them at risk every day and could potentially put both them and their families in danger. This bill will classify their information as confidential, a protection that already exists for Licensing Registration Examiners at DMV, Museum Security Officers, Licensing Program Analysts at the Department of Social Services, and police dispatchers, to name a few.

2) *Background on existing law.* In 1977, the Legislature passed legislation to provide confidentiality of home addresses to specified public employees and their families. Aside from those individuals, DMV records were considered public records. In 1989, actress Rebecca Shaeffer was stalked and murdered. The murderer obtained her address from an out-of-state private investigation

agency, who had obtained the address through a state subcontractor, who had obtained it from the DMV. In response, the Legislature passed AB 1779 (Roos, Chapter 1213, 1989), which required the DMV to make addresses in DMV records confidential. The DMV is unaware of any instances since 1989 in which DMV home address information has been used for physical harm or for violent criminal purposes.

3) *The Volpe case.* The author states that eight code enforcement officers have been murdered in the line of duty, and many others have been the victim of physical assaults and/or have received threats aimed at themselves or their families. The author cites the example of the murder of Code Enforcement Officer Cynthia Volpe in Bakersfield on August 19, 1992. Volpe, along with her husband and mother, were murdered in their home by Robert Courtney, to whom she had issued a citation. The author states that subsequent evidence revealed that Courtney had located Volpe by accessing DMV records. News articles about the murders indicated that certain parties involved "believed" that Courtney had accessed DMV records, but did not indicate that there was any evidence that DMV access had occurred.

4) *Does this bill really solve the problem?* Existing law requires the DMV to hold residence addresses confidential, with specified exceptions for courts, law enforcement agencies, or other specified government agencies. It would be extremely difficult, if not impossible, for a random individual contacting the DMV to obtain another individual's home address. As stated in the Assembly Transportation Committee analysis of SB 767 of 2014 (see Comment #5 below), "People seeking confidential information about others generally do not look to DMV records for personal data since those records are so carefully protected and the same information is much more easily obtainable via the internet and social media." For example, it is relatively simple to find a home address online for an individual who has purchased a home in California.

5) *Trying again...and again.* Many similar bills have failed passage in the Legislature just since 2000, including the following.

   a) SB 1131 (Galgiani, 2016) — which was nearly identical to this bill, was held on suspense in Senate Appropriations.
   b) SB 372 (Galgiani, 2015) — which was also nearly identical to this bill, was also held on suspense in Senate Appropriations (the bill was later amended to a different subject).
   c) SB 767 (Lieu, 2014) — which applied only to code enforcement officers, died in the Assembly Transportation Committee.

d) AB 1270 (Eggman, 2013) — which also applied only to code enforcement officers, was held on suspense in Assembly Appropriations.
e) AB 923 (Swanson, 2009) — which applied to veterinarians employed by a zoo or animal shelter as specified, as well as constitutional officers of the State Board of Equalization (BOE) and code enforcement officers, was held on suspense in Assembly Appropriations.
f) AB 592 (B. Lowenthal, 2009) — which would have applied to certain BOE employees, was held on suspense in Assembly Appropriations.
g) AB 1958 (Swanson, 2008) — which would have applied to veterinarians employed by a zoo or animal shelter as specified, as well as firefighters and code enforcement officers, was held on suspense in Assembly Appropriations.
h) AB 1864 (Correa, 2000) — would have applied to certain police and sheriff's department employees, died in Assembly Appropriations.

6) *Successful efforts*. Several bills addressing confidentiality of home addresses have been passed by the Legislature since 2000.

a) AB 2687 (Bocanegra, Chapter 273 of 2014) included Licensing Program Analysts at the Department of Social Services in confidentiality protections.
b) AB 84 (Hertzberg, Chapter 809 of 2001) included trial court employees and psychiatric social workers in confidentiality protections.
c) AB 1029 (Oropeza, Chapter 486 of 2001) included specified police and sheriff's department employees in confidentiality protections.

7) *Double-referral*. This bill has also been referred to the Committee on Public Safety.

**RELATED LEGISLATION:**

**SB 1311 (Glazer, Chapter 889, 2016)** — requires DMV to discontinue holding the home address of the child or spouse of a specified public safety employee confidential if the child or spouse is convicted of a felony in California or a crime in another state that would be a felony in California.

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

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

**SUPPORT:**

Association for Los Angeles Deputy Sheriffs
Association of Deputy District Attorneys
California Association of Code Enforcement Officers
California College and University Police Chiefs Association
California Department of Insurance
California Narcotic Officers Association
County of San Diego
Los Angeles County Professional Peace Officers Association
Los Angeles Police Protective League
Riverside Sheriff's Association

**OPPOSITION:**

None received.

**-- END --**

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

| | | | |
|---|---|---|---|
| **Bill No:** | SB 389 | **Hearing Date:** | 4/18/2017 |
| **Author:** | Roth | | |
| **Version:** | 3/21/2017 | | |
| **Urgency:** | No | **Fiscal:** | Yes |
| **Consultant:** | Manny Leon | | |

**SUBJECT:** Department of Transportation: programmatic testing and inspection services.

**DIGEST:** This bill authorizes the State Department of Transportation (Caltrans) to establish a subaccount within the State Highway Account to collect fees for voluntary inspection and testing services.

**ANALYSIS:**

Existing law:

1) Provides that Caltrans has full possession and control of all state highways and associated properties.
2) Creates the State Highway Account in the State Transportation Fund.
3) At the regulatory level, Executive Order B-13-11 requires Caltrans to develop a zero-based budget for every fiscal year budget.

This bill:

1) Authorizes Caltrans to establish a subaccount, within the State Highway Account, to accommodate deposits and expenditures of moneys collected for routine testing and inspection services – not associated with an approved project – as requested by a local agency or private business.
2) Allows Caltrans to charge a fee for the abovementioned services and provides that the fee be paid on a voluntary basis for future services or upon request by a local agency or private business.

**COMMENTS:**

1) *Author's Statement.* According to the author, "the problem in current law is that Caltrans no longer has the ability to do annual testing of construction materials, concrete and asphalt plants, and asphalt mixes for state or local projects. This is because they can no longer charge this activity to an overhead account. Instead, they can only do this if there is a specific highway or bridge project assigned to use those materials, plants, or mixes. This is causing delays in highway and bridge projects. This bill would authorize Caltrans to conduct this testing, by request, for a fee, and if there is not a project associated with the materials. The fee associated with this bill will only be paid by those companies who wish to participate in the advance testing, so that their products may be eligible for the highway and bridge projects.

2) *Existing Process.* Prior to a road construction project taking place, certain tests and certifications are required for various materials, concrete and asphalt plants, and mixes. In year's past, a company providing these materials would be inspected, tested, and certified prior to receiving a contract or upon receiving a contract but prior to actual construction. This allowed for companies to complete the necessary materials testing and certifications in advance, thus helping expedite the project delivery process. However, in 2011, Caltrans changed its traditional budget process to attempt to improve department performance to a budgeting method known as zero-based budgeting. This process, however, does not allow for Caltrans to proactively carry out testing and certifications; rather, materials testing and certification can only occur once a business has been awarded a construction contract. This process can delay project delivery by up to 30 days. This bill aims to provide business and Caltrans the opportunity to apply and conduct materials testing and certification, on a voluntary basis, prior to peak construction periods, in turn allowing for state and local road projects to be completed in a timelier manner.

3) *Caltrans efficiencies.* Recently passed by the Legislature and awaiting the Governor's signature, SB 1 (Beall) requires Caltrans to implement efficiency measures that generate at $100 million annually that would be ultimately used for highway maintenance and rehabilitation. The provisions specified in SB 389 could potentially generate efficiency savings that could be applied towards achieving the performance target established under SB 1.

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

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

**SUPPORT:**

California Construction and Industrial Materials Association (sponsor)
California Asphalt Pavement Association
California Nevada Cement Association
Holliday Rock Company
Vulcan Materials Company

**OPPOSITION:**

None received.

**-- END --**

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

| | | | |
|---|---|---|---|
| **Bill No:** | SB 442 | **Hearing Date:** | 4/18/2017 |
| **Author:** | Newman | | |
| **Version:** | 3/20/2017 | | |
| **Urgency:** | No | **Fiscal:** | Yes |
| **Consultant:** | Mikel Shybut | | |

**SUBJECT:** Public health: pools: drownings.

**DIGEST:** This bill requires newly constructed or remodeled swimming pools at private single-family residences to incorporate at least two of seven specified drowning-prevention safety features. It also requires home inspections conducted as part of the transfer of a property with a pool to include an assessment of whether the pool is equipped with adequate safety features.

**ANALYSIS:**

Existing law:

1) Defines a swimming pool as a structure intended for swimming or recreational bathing with a water depth of over 18 inches, including in-ground and aboveground structures, hot tubs, spas, portable spas, and non-portable wading pools.

2) Requires that, when a building permit is issued for the construction or remodel of a swimming pool at a private single-family home, one of the following seven drowning prevention features be installed:

   a) An enclosure separating home access points from the pool and meeting specific requirements with respect to height, gaps, latches, and any features that could serve as handholds or footholds
   b) A removable mesh fence meeting specific standards set by the American Society for Testing and Materials (ASTM), and equipped with a self-closing, self-latching gate that can accommodate a lock
   c) A pool cover meeting specific ASTM standards
   d) Exit alarms on all doors that provide access from the home to the pool

e) Self-closing, self-latching devices, with release mechanisms placed no lower than 54 inches above the floor, on all doors that provide access from the home to the pool
f) A pool alarm designed to sound in the event of an unauthorized entrance into the water and independently certified as meeting specific ASTM standards
g) Another feature providing as much or more protection than the above devices and independently verified as meeting ASTM or American Society of Mechanical Engineers (ASME) standards

3) Requires local building code officials to inspect drowning-prevention features installed to comply with these requirements and to give final approval for the completion of construction or remodeling if no violations are found.

4) Requires any person who agrees to build a swimming pool or spa or to engage in work on a pool or spa that requires a permit, to give the consumer notice of the above described drowning-prevention requirements.

5) Exempts the following from these requirements:

a) Public swimming pools
b) Hot tubs and spas with locking safety covers that meet specified ASTM standards
c) Pools within the jurisdiction of a political subdivision that adopts a swimming pool safety ordinance that is at least as strict as existing state law
d) Apartment complexes or residential settings other than single-family homes

6) Defines a home inspection as a noninvasive physical examination of a property, performed for a fee in association with a home sale, designed to identify material defects in key systems and components, and describes what must be included in home inspection reports.

This bill:

1) Requires that when a pool at a private, single-family residence is constructed or remodeled, at least two of the drowning prevention features described in existing law must be installed.

2) Specifies that exit alarms on home doors leading to a pool may use a verbal warning (e.g., a repeating notification that "the door to the pool is open") or an alarm noise.

3) Requires that when a property with a pool is transferred:

a) The home inspection must include a physical examination of the pool to determine which, if any, of the seven drowning prevention features described in existing law it is equipped with.
b) The home inspection report must identify which of these drowning prevention features the pool is equipped with and specifically state if fewer than two are installed.

4) Repeals the exemption in existing law for pools in jurisdictions that adopt more stringent swimming pool safety standards.

**COMMENTS:**

1) *Purpose.* According to the author, the state's Pool Safety Act has not been updated for more than two decades. Meanwhile, unintentional injury remains the leading cause of death and hospitalization for California's youth 0-19 years old and drowning remains one of the eight leading causes of unintentional injury for California's children. The author notes that according to research, three pieces are needed to prevent drowning: water safety training for parents and children, active supervision of young children, and pool safety barriers. This bill is intended to support this objective by addressing pool safety barrier deficiencies in California's existing Pool Safety Act. Specifically, it increases the number of drowning prevention features required under the act from one to two, adds requirements to the home inspection process that inform new homeowners of whether their pools are equipped with adequate safety features, and expands the types of pool door alarms that qualify as a drowning-prevention feature under the act.

2) *Background.* California's original Pool Safety Act (Setencich, Chapter 925, Statutes of 1996), which went into effect on January 1, 1997, required all new swimming pools constructed at private, single-family homes be equipped with either a permanent fence, a pool cover meeting certain safety standards, exit alarms or self-closing, self-latching devices on all doors providing access to the pool, or another safety feature providing as least as much protection as the specified four. The act was amended in 2006 (Mullin, Chapter 478, Statutes of 2006) to reflect the availability of two additional drowning-prevention features: removable mesh fencing and pool alarms that sound when a person enters the water. The 2006 act also expanded the scope of the law to include pools that undergo a remodel requiring a building permit.

3) *A big intervention for a big problem.* From a public health and safety standpoint, drowning deaths among very young children are a persistent and

serious problem that justifies major state intervention. Unintentional injuries are the leading cause of death for children between the ages of 0 and 19. Drowning is the second leading cause of death for children between ages 1 and 4, behind birth defects. Most drownings of children between ages 1 and 4 occur in home swimming pools. For every child in this age cohort who dies from drowning, five or more suffer near-drowning injuries, which can cause permanent brain injury and lifelong disability. In addition to the emotional and financial impact these deaths and injuries have on individual families, the disabilities associated with near-drownings impose major, long-term costs on the state.

4) *The case for redundancy.* The International Building Code and most U.S. states require only one barrier restricting access to residential pools; however, the author notes that unintentional injury prevention and public health advocates support the use of two drowning prevention safety features. The primary rationale for this position is that a single safety feature may malfunction or become disabled. This contention makes sense when one considers that at least two of the allowable safety features are designed to be disabled: pool entry alarms can be put into "sleep" mode when the pool is in use, and removable fencing is, as the name suggests, removable. Similarly, door alarms may run out of batteries, and latches may break. A second safety feature would provide backup to busy families that forget to replace an alarm or a removable fence, or who cannot immediately fix a malfunctioning latch or alarm.

5) *At what price?* The safety measures referenced by this bill encompass both low- and high-cost features. Door alarms are inexpensive enough ($20-$70 each) that multiple access points can be secured for less than $100. The costs of self-closing, self-latching doors vary from $15 (for use on gates; self-installation) to over $200. ASTM-approved pool alarms can be purchased for between $55 and $500. Removable mesh fencing and manual pool covers generally run between $1,200 and $3,000, depending on the size of the pool. The most expensive drowning prevention devices (permanent fencing and automatic pool covers) may exceed $5,000. It is also important to bear in mind that under this bill, drowning prevention safety features would only be required on a newly constructed swimming pool ($25,000-$50,000) or as part of a substantial remodel ($5,000-$20,000). While the bill does impose some burden on homeowners, the costs are triggered by elective expenditures of a much greater magnitude.

6) *Do more safety features mean fewer drownings?* The state does not currently track the number and type of drowning prevention features that were installed on a pool where a drowning or near-drowning event occurred. In the absence of

this data, it is impossible to know whether the single barrier required under existing law is providing adequate protection. A bill that would have provided this information, AB 299, died in the Assembly two years ago. Another measure, AB 2425, would have directed the State Department of Public Health to develop standards for collecting data from unintentional injury incidents involving children but died in the Senate last year. One goal of that legislation was to ensure that the most relevant data are collected for each unintentional injury type. This bill uses a different approach, placing the burden of pool safety on pool owners by requiring them to control access to their pools. This may be a more direct and cost-efficient response to residential pool drownings than imposing extensive data collection requirements on state and local governments in order to inform future policy interventions. Ultimately, however, better protecting children's health and safety will require more and better information about drowning accidents as well as additional safety requirements for residential pools.

7) *Point-of-sale as a point of intervention.* The requirements of the Pool Safety Act have always been applied prospectively, leaving many pools out of reach of the law. Pools built before 1997 that have not undergone a significant remodel since 2007 are currently not required to install any drowning prevention safety features, and the findings of the 2006 Pool Safety Act suggest that as many as one million pools were constructed in California before the first drowning prevention requirements went into effect in 1997. Last year, a version of this bill attempted to extend the act's protections by requiring pools to be brought into compliance at the time of a property sale. In response to concerns cited by the California Association of Realtors, the author took amendments to remove this requirement. Rather than making pre-1997 pools comply with the Pool Safety Act when they are sold, this year's version of the bill imposes minor changes to the existing home inspection process intended to inform prospective home buyers whether a property's pool is equipped with safety features that meet the standards in current law. This makes use of the point-of-sale as an educational opportunity without imposing additional requirements on pool owners.

8) *Repealing the exemption for jurisdictions with more stringent regulations.* Existing law provides an exemption from the Pool Safety Act for local governments that adopt more stringent pool safety requirements. This bill removes that long-standing exemption. Local jurisdictions would still be free to adopt their own pool safety ordinances. However, any requirements they imposed would be additional to the requirements in state law rather than a substitute for them. Local governments would therefore not be constrained from adopting more stringent pool safety policies, but they would face a

disincentive to developing policies that differ strongly from the state's approach.

9) *Double referred.* This bill is also referred to Senate Business, Professions and Economic Development Committee.

**RELATED LEGISLATION:**

**AB 470 (Chu, 2016)** — "Nothing prevents a homeowner from adding as many additional safety features as they desire to their own pool. The choice on how to protect children is best left to the parents." *This bill was vetoed in 2016.*

**AB 2425 (Brown, 2016)** — would require the State Department of Public Health to develop standards for collecting data from unintentional injury incidents involving children, including drownings. *This bill is pending in the Senate Rules Committee.*

**AB 299 (Brown, 2015)** — would have required the State Department of Public Health to create a submersion incident report form including information on key attributes of drowning events, including barrier types in use. *This bill was held on suspense in Assembly Appropriations.*

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

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

**SUPPORT:**

California Coalition for Children's Safety and Health (co-sponsor)
Drowning Prevention Foundation (co-sponsor)

**OPPOSITION:**

None received.

**-- END --**

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

| | | | |
|---|---|---|---|
| **Bill No:** | SB 493 | **Hearing Date:** | 4/18/2017 |
| **Author:** | Hill | | |
| **Version:** | 2/16/2017 | | |
| **Urgency:** | No | **Fiscal:** | Yes |
| **Consultant:** | Erin Riches | | |

**SUBJECT:** Vehicles: right-turn violations.

**DIGEST:** This bill reduces the base fine for "rolling right turn" violations.

**ANALYSIS:**

*Existing law*:

1) Requires a driver to stop at a red light and prohibits the driver from proceeding until given an indication to do so. Failing to stop at a red light is a violation carrying a base fine of $100, as well as a violation point.

2) Allows a driver to turn right after coming to a complete stop, unless there is a sign prohibiting it. Also allows a driver to turn left from a one-way street onto another one-way street, after coming to a complete stop, during a red light.

3) Provides that stopping, but then proceeding to make an unsafe turn — for example, by failing to yield to a pedestrian in the crosswalk — carries a $35 base fine and a violation point.

4) Provides that the state Judicial Council annually adopts a uniform traffic penalty schedule for all non-parking infractions outlined in the Vehicle Code.

5) Establishes the base fine for red-light violations at $100; due to additional surcharges, penalties, and assessments, a $100 base fine is equivalent to a total of $541.

This bill provides that turning right on a red light, or turning left from a one-way street onto another one-way street without first coming to a complete stop, is a violation carrying a base fine of $35.

**COMMENTS:**

1) *Purpose.* The author states that a nearly $500 fine for a "rolling right" is simply too egregious, especially considering that much more dangerous maneuvers are cited for less. This bill simply makes sure that the penalty fits with the seriousness of the offense; failing to come to a complete stop at a red light when turning right, should carry the same fine as making an unsafe right turn.

2) *Violation points.* The Department of Motor Vehicles (DMV) assigns violation points against an individual's driver's license for certain traffic offenses to identify a driver as a negligent operator. Violation points vary with the gravity of the offense; for example, a "fix-it" ticket does not count for any violation points, a speeding ticket counts for one violation point, and driving while under the influence of alcohol or drugs counts for two violation points. DMV may suspend an individual's driver's license for six months if he or she receives four points in one year, six points in two years, or eight points in three years. Existing law assigns one violation point to red-light offenses; this bill would not change that provision.

3) *What about pedestrian safety?* Existing law requires a driver to yield to a pedestrian in a crosswalk or intersection. Existing law also requires a driver to come to a complete stop before making a turn on a red light. While this bill reduces the fine for a rolling right turn, it does not make a rolling right turn legal, nor does it affect the pedestrian right-of-way statute.

4) *Trying again.* The author carried bills nearly identical to this bill in 2010, 2015, and 2016 (see "Related Legislation" below). The author states that his office has been contacted more than 50 times regarding this issue. The author states that the penalty should fit the offense, particularly since more egregious offenses carry lesser fines; for example, passing unsafely, driving the wrong way on a one-way street, and driving on the sidewalk, all carry a base fine of only $70.

**RELATED LEGISLATION:**

**SB 986 (Hill, 2016)** — would have reduced the base fine for "rolling right turn" violations from $100 to $35. *This bill was held on the suspense file in the Assembly Appropriations Committee.*

**SB 681 (Hill, 2015)** — would have reduced the base fine for "rolling right turn" violations from $100 to $35. *This bill was held on the suspense file in the Senate Appropriations Committee.*

**AB 909 (Hill, 2010)** — would have reduced the base fine for "rolling right turn" violations from $100 to $35. *This bill was vetoed by Governor Schwarzenegger.*

**AB 1191 (Shelley, Chapter 852, Statutes of 1997)** — increased the base fine for red-light signal violations from $35 to $100.

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

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

**SUPPORT:**

AAA Northern California, Nevada, Utah
Automobile Club of Southern California
Safer Streets L.A.
Western States Trucking Association

**OPPOSITION:**

California Police Chiefs Association

**-- END --**

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

| | | | |
|---|---|---|---|
| **Bill No:** | SB 614 | **Hearing Date:** | 4/18/2017 |
| **Author:** | Hertzberg | | |
| **Version:** | 4/5/2017 | | |
| **Urgency:** | No | **Fiscal:** | No |
| **Consultant:** | Manny Leon | | |

**SUBJECT:** Public transportation agencies: administrative penalties.

**DIGEST:** This bill makes various changes to the civil administrative process used by transit agencies for fare evasion and other passenger misconduct.

**ANALYSIS:**

*Existing law:*

1) Makes it a crime, punishable as an infraction or misdemeanor, for a person to commit certain acts on or in a facility or vehicle of a public transportation system.

2) Authorizes a public transportation agency to adopt and enforce an ordinance to impose and enforce civil administrative penalties for fare evasion and other passenger misconduct on or in a transit facility or vehicle in lieu of the criminal penalties, as specified.

3) Prohibits a public transportation agency from establishing administrative penalty amounts that exceed the maximum penalty amount established for criminal penalties.

4) Requires administrative penalties to be deposited in the general fund of the county in which the citation is administered.

5) Provides that a hearing officer may allow for payment for a fare evasion or misconduct violation in installments or deferred payments if the person proves financial hardship.

6) Provides that an administrative hearing officer may require community service in lieu of payment for a fare or misconduct violation.

This bill:

1) Requires the administrative penalties generated through the abovementioned violations to be deposited with the public transportation agency that issued the citation.

2) Caps the administrative penalties for the first and second violation at $125 and the third and subsequent violations at $200.

3) Require the administrative hearing officer to offer a minor or a person proving financial hardship the option of community service in lieu of payment for a fare or misconduct violation.

**COMMENTS:**

1) *Author's statement.* According to the author, "Over the years, the public has been faced with ever increasing fines and fees for non-public safety related violations, including up to $400 and even jail time for fare evasion on public transit systems. The impact of high fines has been shown to be detrimental, particularly to working class Californians and communities of color, who are disproportionately cited for fare evasion.

   Senate Bill 614 reduces administrative penalties for fare evasion to a reasonable amount that still acts as a proper deterrent and penalty, maxing out at $200.

   Unfortunately, even $200 is more than some can afford, including students and low-income Californians. This bill requires transit agencies to offer community service for youth under 18 years of age or for individuals who are unable to pay the monetary penalty. The bill ensures transit agencies can properly deter fare evasion while ensuring all Californians have an ability to resolve their fare evasion citations without becoming criminals."

2) *Transit ridership.* Over the years it has been widely reported that a significant percentage of transit ridership is comprised of low-income passengers. A 2014 article in *Governing* Magazine reported that 22.4% of public transportation commuters in Los Angeles were considered living in poverty. The article further noted that 23.1% of San Diego's public transportation commuters were living in poverty and 15.8% in Sacramento. Particularly for minors, writing as sponsors of the bill, the California Transit Association notes that the "inability to afford transportation to and from school is one of the most frequently cited barriers that low-income youth face in attending school. Public transportation systems are often the only source of transportation and mobility for low-income

Californians." As public transportation agencies continue their efforts to improve transit services within their jurisdictions, ensuring low-income riders can afford to get around remains a struggle.

3) *Easing the burden.* In 2006, SB 1749 (Migden), Chapter 258, Statutes of 2006, authorized certain transit operators to enforce administrative penalties for transit violations. While SB 1749 provided this administrative process for adults, it specifically precluded minors from using it with the intention that forcing minors to go to court would serve as a deterrent to engaging in prohibited conduct. As a result, minors were instead required to resolve transit citations through the judicial system. Ultimately the process contributed to the overburdened court system which left many low income minors accruing significant fines, and in some circumstances, arrest warrants.

   Over time, legislative efforts have provided opportunities for low income riders to clear up minor transit violations such as fare evasion. The most recent effort, SB 882 (Hertzberg, Chapter 167, Statutes of 2016), allows minors to be subject to an administrative civil proceeding set up by a public transportation agency for certain transit violations rather than receiving criminal penalties. This bill continues the author's efforts in setting up this administrative structure to allow low-income riders to remedy minor transit violations without receiving long-term penalties.

**RELATED LEGISLATION:**

**SB 882 (Hertzberg, Chapter 167, Statutes of 2016)** — authorizes minors to be subject to an administrative civil proceeding set up by a public transportation agency for evading a transit fare rather than receiving criminal penalties.

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

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

**SUPPORT:**

California Transit Association (co-sponsor)
Western Center on Law and Poverty (co-sponsor)

**OPPOSITION:**

None received.

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

| | | | |
|---|---|---|---|
| **Bill No:** | SB 622 | **Hearing Date:** | 4/18/2017 |
| **Author:** | Wiener | | |
| **Version:** | 4/17/2017 | | |
| **Urgency:** | No | **Fiscal:** | No |
| **Consultant:** | Manny Leon | | |

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

**DIGEST:** This bill raises the bid threshold requirements for the Golden Gate Bridge, Highway, and Transportation District (District) to advertise for public works contracts at or above $50,000. This bill repeals the District's bidding thresholds for vessel repair and maintenance and insurance procurements.

**ANALYSIS:**

*Existing law:*

1) Requires a bridge and highway district to advertise for contracts for all vessel repair, maintenance, and alteration work whenever the expenditure exceeds $20,000.

2) Requires a bridge and highway 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) Removes the bid thresholds for vessel repair, maintenance, and alteration work.

2) Removes the bid thresholds for insurance procurements.

3) Raises the bid threshold from $5,000 to $50,000 for all other public works projects.

4) Reduces the required number of bid advertisements to one newspaper and one trade paper of general circulation.

**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).

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

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

**SUPPORT:**

Golden Gate Bridge, Highway, and Transportation District

**OPPOSITION:**

Air conditioning and Refrigeration Contractors Association
Air Conditioning Sheet Metal Association
California Legislative Conference of the Plumbing, Heating, and Piping Industry
California State Council of Laborers
Construction Industry Force Account Council
Finishing Contractors Association of Southern California
National Electrical Contractors Association
Northern California Allied Trades
United Contractors
Wall and Ceiling Alliance

**-- END --**

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

| | | | |
|---|---|---|---|
| **Bill No:** | SB 672 | **Hearing Date:** | 4/18/2017 |
| **Author:** | Fuller | | |
| **Version:** | 2/17/2017 | | |
| **Urgency:** | No | **Fiscal:** | Yes |
| **Consultant:** | Erin Riches | | |

**SUBJECT:** Traffic-actuated signals: motorcycles and bicycles.

**DIGEST:** This bill removes the sunset on the requirement to install traffic-actuated signals that detect bicycles and motorcycles.

**ANALYSIS:**

*Existing law:*

1) Provides that a traffic-actuated signal is a traffic signal that is triggered by the presence of traffic.

2) Requires cities, counties, and cities and counties, until January 1, 2018, when installing or replacing a traffic-actuated signal, to install and maintain the signal so as to detect lawful bicycle or motorcycle traffic on the roadway.

3) Provides that cities, counties, and cities and counties shall not be required to comply with (#2) until the state Department of Transportation (Caltrans), in consultation with these entities, has established uniform standards, specifications, and guidelines for implementation.

This bill removes the sunset on the requirement for cities and counties to, when installing or replacing a traffic-actuated signal, install and maintain it so as to detect bicycles and motorcycles.

**COMMENTS:**

1) *Purpose.* The author states that in the past, traffic signals were activated by detecting mass; however, signals often were not set to detect motorcycles or bicycles, which weigh much less. This created dangerous situations where riders could be rear-ended or worse. Over the past 10 years, the use of traffic-

actuated signals that can detect bicycles and motorcycles has been successful and has created safer communities throughout California. The requirement to install signals that detect bicycles and motorcycles, however, will sunset next year. Since there has been no indication of opposition or compliance issues, it is time to remove the sunset and allow the law to remain in place.

2) *Background.* There are two general types of traffic signals, pre-timed and traffic-actuated; the California Manual on Uniform Traffic Control Devices (MUTCD) provides general guidance for which type of signal should be installed depending on the circumstances. With traffic-actuated signals, all traffic movements or phases are provided with detectors such as an inductive loop detector, a magnetometer, a magnetic detector, a video detector, or a pressure sensitive detector. Loop detectors, the most commonly used, are installed in the pavement and detect a vehicle (or bicycle or motorcycle, if so designed) when it passes over the loop or is stopped within the loop, and thus triggers the traffic signal.

3) *Not an onerous requirement.* The MUTCD states that "Even though a sophisticated signal control should operate satisfactorily at any intersection, the intersection should not be provided with a type of control that is unnecessarily complex and expensive." The committee understands that traffic-actuated signals that detect bicycles and motorcycles are now commonly used and are not significantly more expensive than those that do not detect bicycles and motorcycles.

**RELATED LEGISLATION:**

**AB 1581 (Fuller, Chapter 337, Statutes of 2007)** requires, cities and counties, upon first placement of a traffic-actuated signal or replacement of the loop detector of a traffic-actuated signal, to install those signals that detect motorcycle and bicycle traffic on the roadway, until January 1, 2018.

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

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

**SUPPORT:**

ABATE of California
American Motorcyclist Association
California Association of Bicycling Organizations
California Delivery Association

**OPPOSITION:**

None received.

**-- END --**

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

| | | | |
|---|---|---|---|
| **Bill No:** | SB 680 | **Hearing Date:** | 4/18/2017 |
| **Author:** | Wieckowski | | |
| **Version:** | 2/17/2017 | | |
| **Urgency:** | No | **Fiscal:** | No |
| **Consultant:** | Manny Leon | | |

**SUBJECT:** San Francisco Bay Area Rapid Transit District.

**DIGEST:** This bill extends the allowable distance for the San Francisco Bay Area Rapid Transit District (BART) to engage in transit-oriented development (TOD) from one-quarter to one-half mile.

**ANALYSIS:**

*Existing law:*

1) Authorizes BART to acquire property by grant, gift, devise, lease, etc., in order to operate its transit system within its jurisdiction.

2) Authorizes BART to take by gift, or acquire by grant, purchase, lease, etc. property within one-quarter of a mile from the external boundaries of a BART facility to use for TOD, as specified.

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

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

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

This bill extends the allowable distance for BART to engage in transit-oriented development (TOD) from one-quarter to one-half mile.

**COMMENTS:**

1) *Author's statement.* According to the author, "The Bay Area has been the most severely impacted by the state's housing crisis. As rent continues to skyrocket, it is imperative to seek innovative solutions for the production of housing. A simple extension of the radius in which BART may pursue transit-oriented development projects could yield 20,000 housing units throughout the Bay Area, 7,000 of which would be affordable. SB 680 would provide this extension by expanding the maximum distance BART is allowed to pursue a TOD project from ¼ mile to ½ mile; a standard that is equivalent to those established for transit villages and enhanced infrastructure financing districts."

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

3) *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. California also faces a housing shortage: 2.2 million extremely low-income and very low-income renter households are competing for only 664,000 affordable rental homes. This leaves more than 1.54 million of California's lowest income households without access to housing. The Bay Area is in a particular crisis as the combination of population growth and high-

wage jobs tied to the tech industry boom has resulted in extreme housing and rental prices.

4) *BART.* BART is an urban passenger rail provider, covering four Bay Area counties with an average weekday ridership of approximately 430,000 travelers. BART ridership surveys have found that daily riders typically walk/travel anywhere from a quarter to half mile upon exiting a BART station. As BART continues to implement efforts to increase non-peak ridership, increased TOD appears to be a logical step that will also provide environmental benefits, ease traffic congestion, and provide additional affordable housing in the Bay Area. As part of their TOD performance measures and targets, expanding the distance to one-half mile will help BART in developing 20,000 units by 2040, of which 7,000 will be developed as affordable housing and potentially reduce Bay Area greenhouse gas emissions by 680,000 pounds per day. BART has currently completed or has in progress 11 TOD projects — including completed projects around the Castro Valley, Hayward, and Richmond stations.

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

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

**SUPPORT:**

Bay Area Council (Sponsor)
BART

**OPPOSITION:**

None received.

**-- END --**

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

| | | | |
|---|---|---|---|
| **Bill No:** | SB 802 | **Hearing Date:** | 4/18/2017 |
| **Author:** | Skinner | | |
| **Version:** | 3/23/2017 | | |
| **Urgency:** | No | **Fiscal:** | Yes |
| **Consultant:** | Randy Chinn | | |

**SUBJECT:** Autonomous vehicles: registration.

**DIGEST:** This bill requires autonomous vehicles (AVs) to be zero emission vehicles (ZEVs) and to be programmed to optimize fuel efficiency.

**ANALYSIS:**

*Existing law:*

1) Allows operation of an autonomous vehicle with the presence of a driver on California public roads upon DMV approval with specified manufacturer certification and vehicle capabilities.

2) 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.

3) Requires the DMV to notify the Legislature when it receives an application for the operation of a vehicle capable of operating without a driver.

4) Requires that the DMV's approval of an application for an autonomous vehicle shall not go into effect any sooner than 180 days after submission of the application.

5) Executive Order B-16-2012 sets a target of one million ZEVs on California's roads by 2020 and 1.5 million by 2025. The ZEV regulation (commonly known as the ZEV mandate) generally requires that ZEVs comprise 15% of new car sales by 2025.

This bill requires AVs (e.g. level 4 and 5 vehicles; see chart below) to be ZEVs and to be programmed to optimize fuel efficiency, and makes numerous findings relative to AVs.

**COMMENTS:**

1) *Author's statement.* The author believes that this bill will ensure that as AV market share grows, the state will continue to make progress on its goals to electrify the transportation sector, meet its climate goals, and create a stable electricity grid that integrates renewable energy sources at the lowest cost to ratepayers.

2) *Background.* In 2012, California passed SB 1298 (Padilla), which established requirements for the testing and operation of autonomous vehicles (AVs) on public roads. For testing on public roads, SB 1289 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. 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.

3) *Federal guidelines.* In September, 2016 the National Highway Traffic Safety Administration (NHTSA) released its federal policy on automated vehicles. NHTSA emphasized the importance of highly automated vehicles (HAVs) in reducing 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 Automated Vehicles, 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 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 may include partially automated features such as lane assist and adaptive cruise control but still require the full engagement of the driver. HAVs are considered to be SAE Levels 3-5. This bill deals with Levels 4 and 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 controlling either steering or acceleration/braking using some info about environment as driver controls all other aspects |
| **Level 2:** | Partial Automation | One or more driver assistance systems of both steering and acceleration/braking using some info about environment as driver controls all other aspects |
| **Level 3:** | Conditional Automation | Automated driving system performing all aspects of dynamic driving task with expectation that a driver is ready to take control when prompted |
| **Level 4:** | High Automation | Automated driving system performing all aspects of driving task in certain conditions even if the driver does not respond when prompted |
| **Level 5:** | Full Automation | Full-time performance of all aspects of the driving task in all conditions, can be managed by a human driver |

4) *State vs. Federal role.* The Federal guidelines for automated vehicles clearly 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.

5) *No driver, no problem.* In March, 2017 the California DMV released its draft regulations for the testing and deployment of autonomous vehicles that do not require the presence of the driver. A public hearing on these regulations will be held on April 25, 2017.

6) Electric Vehicle Policies and Programs – California has numerous policies and programs supportive of electric vehicles:

    a) Executive Order B-16-2012, issued by Governor Brown in March 2012, sets a target of one million ZEVs on California's roads by 2020 and 1.5 million by 2025. Other legislation has established a target of one million ZEVs and near-ZEVs by 2023.

b) The ZEV Regulation (commonly known as the ZEV mandate) requires large volume and intermediate volume vehicle manufacturers that sell cars in California to produce ZEVS (such as battery electric and fuel cell vehicles), clean plug-in hybrids, clean hybrids, and clean gasoline engine vehicles with near-zero tailpipe emissions. In general, the ZEV regulation requires that ZEVs comprise 15% of new car sales by 2025. This target is intended to achieve the goal set by Executive Order B-16-2012.

c) California's Clean Vehicle Rebate Project provides rebates of up to $2500 for the purchase or lease of ZEV and plug-in hybrid vehicles. This compliments a federal income tax credit of up to $7500 plug-in electric vehicles.

d) California's Charge Ahead Initiative at the state Air Resources Board provides incentives that increase the availability of ZEVs and near-ZEVs, particularly in disadvantaged low- and moderate-income communities.

e) Numerous programs from various funding sources provide incentives and establish requirements for EV charging infrastructure.

7) *Many Varieties, Only One Allowed.* Current AV testing involves vehicles with a variety of power trains, from ZEVs to hybrids to traditional internal combustion and diesel engines. Under this bill all non-ZEV AVs could not be registered.

8) *Fuel Efficient Operation.* The bill requires that AVs be programmed to optimize fuel efficiency, implying modest acceleration and braking, and probably relatively low maximum speeds and close following distances, which sounds like a perfect recipe for inciting road rage. The interaction of AVs with non-AVs is not well understood. Requiring specific AV programming should be very carefully considered.

9) *Helping the Grid.* One of the stated purposes of this bill is to improve the stability and reliability of the electric grid. It isn't clear how more electric vehicles impact the grid as grid stability is a dynamic balancing of electric supply and electric demand which varies by the time of day and season. One can imagine how electric vehicle charging, if done at the appropriate time, could increase usage when there is surplus energy increasing stability and lowering overall rates. But it could also be the case that charging could happen when there was a shortage of energy, exacerbating instability and causing the

most polluting power plants to run. Without a clear set of rules and incentives, it is difficult to describe how additional EVs will impact the grid.

10) *Opposition.* The AV industry and other business groups are concerned with this bill. They believe that by limiting AVs to only ZEVs the bill bans many of the AVs currently being tested today, including hybrids. They believe that this bill will impede the deployment of AV technology, delaying benefits to Californians. They prefer legislation that reduces barriers to AV deployment, not create new ones.

11) *Making Our Future.* Deployment of AVs could produce many benefits, such as safer roads, reduced congestion from increased vehicle throughput and fewer accidents, more productive time for passengers who no longer have to drive, and increased mobility for seniors and the disabled. But such benefits are not guaranteed; they depend on policy and incentives. And the impact on employment, greenhouse gas emissions, the cost of mobility, congestion from unoccupied AVs and public transit are not well understood by policymakers.

12) *Author's Amendments.* The author will offer amendments which delete the contents of the bill and replace it with an Advisory Task Force chaired by the ARB and including the Office of Planning and Research, the Strategic Growth Council, the State Transportation Agency, the Department of Housing and Community Development, and the Department of Motor Vehicles. By January 1, 2019 this Task Force shall offer recommendations to the Legislature on policies maximizing the environmental benefits and minimizing the air pollution, traffic congestion, and land use impacts of AVs.

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

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

**SUPPORT:**

Coalition for Clean Air

**OPPOSITION:**

California Chamber of Commerce
CompTIA
Global Automakers

Self-Driving Coalition for Safer Streets
Silicon Valley Leadership Group
TechNet

**-- END --**