
SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No: SB 932 **Hearing Date:** 4/26/2022
Author: Portantino
Version: 3/23/2022
Urgency: No **Fiscal:** Yes
Consultant: Katie Bonin

SUBJECT: General plans: circulation element: bicycle and pedestrian plans and traffic calming plans

DIGEST: This bill requires the circulation element of a general plan to include specified contents related to bicycle plans, pedestrian plans, and traffic calming plans, and to implement those plans; provides that failure to implement the plans creates a cause of action for victims of traffic violence.

ANALYSIS:

Existing law:

- 1) States the Legislature’s intention that a county or city general plan and the elements and parts of that general plan comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.
- 2) Requires the legislative body of a city or county to adopt a comprehensive general plan that includes various elements, including a circulation element. The circulation element must consist of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities.
- 3) Requires the legislative body, upon any substantive revision of the circulation element, to modify the circulation element to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways for safe and convenient travel in a manner that is suitable to the rural, suburban, or urban context of the general plan.
- 4) Defines “users of streets, roads, and highways” to mean bicyclists, children, persons with disabilities, motorists, movers of commercial goods, pedestrians, users of public transportation, and seniors.

- 5) Requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill:

- 1) Emphasizes the intent of the Legislature to fight climate change with the provisions in the bill.
- 2) Requires the legislative body, upon the next substantive revision of the circulation element, on or before June 30, 2024, to develop or update the plan for a balanced, multimodal transportation network, as specified, and to ensure that the plan includes bicycle and pedestrian plans and traffic calming plans for any urbanized area, as defined, within the scope of the county or city general plan.
- 3) Requires a county or city to begin implementation of the plan within 2 years of the date of adoption of the plan. The bill would allow a county or city to have 20 years to implement the plan. This bill would increase the 20-year implementation period based on whether the measures introduced by a county or city work to reduce its percentage of traffic-violence within a specified period of time. The bill would allow a county or city that fails to comply with the implementation provisions due to unforeseen circumstances to be exempt from the provisions upon a written finding, as specified.
- 4) Allows a person injured within the right-of-way in a collision with a motor vehicle to have a cause of action for failure to comply with these provisions against specified counties.
- 5) Specifies that the intent of the Legislature's to create an annual grant program, relating to the above provisions, to award funding to any county or city upon a showing of its implementation of timely and effective short-term efforts to mitigate bicycle, pedestrian, and other human-powered transportation injuries and fatalities.
- 6) Declares that by adding to the duties of county and city officials in the administration of their land use planning duties, this bill would impose a state-mandated local program.
- 7) Specifies that no reimbursement is required by this act.

COMMENTS:

- 1) *Purpose.* According to the author, “despite decades of rhetoric on the need for safer streets, most California streets have grown more dangerous in recent years. California follows a nationwide trend; the National Highway Traffic Safety Administration saw a nearly 20% increase in traffic fatalities in the first six months of 2021 compared to 2020 or 2019. Some California cities lack data on addressing the epidemic of traffic violence, particularly regarding death and serious injuries to pedestrians, cyclists, and other human-powered-transit users. In certain cities where the most dangerous streets and corridors have been identified, no plan exists to remedy these deadly situations. Even in cities that have developed plans, like Los Angeles’ Vision Zero and Mobility Plan 2035, meaningful changes that would save lives have yet to be implemented. SB 932 requires a county or city to include in its General Plan, a map of the high injury network within its boundaries and would further require a county or city to identify and prioritize safety improvements. Thus saving countless lives.”

- 2) *General plan background.* The Legislature first authorized counties and cities to adopt master plans in 1927. Since 1937, state law has mandated every county and city to adopt a master plan. In 1955, the Legislature began requiring the local plans to contain mandatory elements. Now called general plans, every county and city must adopt a general plan as a long-range comprehensive policy document for the physical development of its jurisdiction and related areas. Each general plan must contain seven mandatory elements: land use, circulation, housing, conservation, open space, noise, and safety. Local officials may adopt optional elements for important topics in their communities. State law does not require cities and counties to revise their general plans regularly. While there is no requirement for how often to update the general plan, the planning period has traditionally been 15-20 years. Some cities and counties update their general plans every five years, while others update in portions over time. The housing element is the only portion of the general plan on a mandated update schedule, every 4, 5, or 8 years, as listed by the California Department of Housing and Community Development (HCD).

To help local officials interpret these statutory requirements, the Governor’s Office of Planning and Research (OPR) publishes General Plan Guidelines. OPR’s General Plan Guidelines recommend the information that local planners should collect, suggest goals, policies, and objectives that local general plans could adopt, and list a wide range of feasible implementation measures to carry out those local goals. The guidelines serve as the “how-to” document for cities and counties drafting or updating their general plans.

- 3) *Circulation element background.* The circulation element must show the general location of major roads, transportation routes, terminals, military

airports and ports, and local public utilities and facilities. State law requires local officials to correlate these features with the land use element.

In 2008, the Legislature adopted the California Complete Streets Act of 2008 (AB 1358, Leno Chapter 657, Statutes of 2008). AB 1358 requires cities and counties to modify the circulation element to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways for safe and convenient travel in a manner that is suitable to the rural, suburban, or urban context of the general plan. This modification must occur upon any substantive revision of the circulation element. AB 1358 also directed OPR to make a matching update to the General Plan Guidelines, and in 2010, OPR issued an update on Complete Streets and the Circulation Element. In that document, OPR suggested many policies and considerations that local governments might want to adopt as they comply with AB 1358's requirements which included review of traffic calming measures (narrower travel lanes, roundabouts, raised medians, speed tables, planting strips), the safety of the traveling public, and accessibility and accommodation of bicycle and pedestrian traffic.

- 4) *Active transportation on the rise.* Over the last few years, both public and legislative interest in the active transportation movement has been on the rise. Approved in February of 2021, the latest update of the California Transportation Plan, CTP 2050, states that in the months following the outbreak of COVID-19, more Americans embraced active travel. California cities that typically have low bicycle ridership, such as Riverside and Oxnard, experienced a 90% to 125% increase in bicycle miles traveled. Stockton, Bakersfield, Fresno, Sacramento, and San Diego also experienced increases of more than 50%. Recreational biking and walking have also skyrocketed. The Rails-to-Trails Conservancy observed a 110% increase in trail use compared to the same period in 2019. Looking to the future, the CTP 2050 estimates that bicycle and pedestrian travel could increase by 45% by 2050.

However, with active transportation on the rise, the state must ensure bicyclists and pedestrians are safe on and around the roadways. The California Office of Traffic Safety (OTS) reports that California has the highest pedestrian death rate in the nation, nearly 25% higher than the national average. The Federal Highway Administration (FHWA) reports that 75% of pedestrian fatalities occur at non-intersection locations. The California Highway Patrol (CHP) notes that in 2019 there were 1021 pedestrians killed by vehicles statewide, similar but slightly higher than prior years, of which 667 were the result of the pedestrian crossing against traffic controls or safety laws.

There are a number of recent legislative efforts to increase safety for pedestrians and bicyclists. For example, AB 1238 (Ting, 2021) would have repealed provisions prohibiting pedestrians from entering a roadway and would have specified that pedestrians shall not be subject to a fine or criminal penalty for crossing or entering a roadway when no cars are present. That bill was vetoed by Governor Newsom. AB 2147 (Ting, 2022) includes more pedestrian safety measures, specifically for jaywalkers. Similarly, AB 1946 (Boerner Horvath, 2022) requires CHP to develop statewide safety standards and training programs based on evidence-based practices for users of e-bikes. SB 932 seeks to further these safety efforts by requiring local governments to include bicycle plans, pedestrian plans, and traffic calming plans into their general plans.

- 5) *What does SB 932 do?* SB 932 requires cities and counties, beginning January 1, 2024, to ensure that the circulation element adds or includes specified contents related to bicycle plans, pedestrian plans, and traffic calming plans upon the next substantive revision of the circulation element, and to implement those plans within certain timeframes.

Specifically, SB 932 requires the circulation element to develop and implement bicycle plans, pedestrian plans, and traffic calming plans; use evidence-based strategies to address injuries and fatalities resulting from bicycles, pedestrians, or any other form of human-powered transportation; identify safety corridors and any land or facility that generates high concentrations of bicyclists or pedestrians, and include safety measures specific to those areas; and establish traffic calming measures around schools and parks, and within business activity districts.

Further, the circulation element must also include the development and implementation of a safety plan relating to the bicycle, pedestrian, and traffic calming plans that: identifies where the most collisions are occurring in the jurisdiction; creates a high injury network map that shows those identifications; and identifies and incorporates safety improvement measures.

Additionally, SB 932 requires cities and counties to begin implementation within two years of modifying the circulation element as required by the bill and requires, within 20 years of changing the circulation element, cities and counties to implement all bicycle, pedestrian, and traffic calming plans and construct the connected network and traffic calming measures. SB 932 grants a city or county an additional five to 10 years to complement implementation if, within the first five years of its implementation period, the city or county

implements short-term mitigation measures that decrease traffic fatalities by at least 20 percent.

However, the bill specifies that a county or city shall not be required to comply with the requirements upon making a written finding based on substantial evidence that its failure to comply with the requirements results from unforeseen circumstances outside of the control of the county or city.

Lastly, SB 932 declares the intent of the Legislature to create an annual grant program and an appropriation thereof to be awarded to any county or city to meet the requirements of the bill and includes additional findings and declarations to support its purposes. However, SB 932 has not specified a funding source for the grant program.

- 6) *Affordability.* California’s 2020 Statewide Local Streets and Roads Needs Assessment (“Needs Assessment”) identified a significant funding gap for simply maintaining existing local streets and roads (\$64 billion in unfunded needs over the next decade) and existing essential safety and traffic components such as curb ramps, sidewalks, storm drains, streetlights, and signals. SB 932 requires costly new implementation without providing a mechanism to fund those changes while not accounting for the current funding gaps. Similarly, SB 932 potentially diverts funds from current priorities or other transportation infrastructure, such as public transit, that might deliver a more significant payoff in safety and climate change mitigation on a per-dollar basis. For example, the Stanislaus County Association of Governments adopted a “Non-Motorized Transportation Plan” in 2021 to improve non-motorized transportation in the region. That plan estimated the cost of constructing the planned infrastructure to be \$234 million.
- 7) *Private cause of action.* SB 932 creates a private cause of action for victims of traffic violence within a high injury area if the local jurisdiction has failed to comply with provisions of SB 932. SB 932 defines high injury areas to be the 10 locations within a county or city that have the highest rate of incidents of traffic violence, or, if fewer than 10 locations, the locations within a county or city that, when combined, account for 50.1 percent or more of all incidents of traffic violence. Recent amendments narrow the private cause of action to the counties of Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, and Santa Clara. SB 932 would permit third parties to bring suit against these 10 counties. Although SB 932 is intended to help improve the circulation element to increase human-powered-transit user safety, the inclusion of the private cause of action takes

potential funds away from general plan infrastructure costs and would potentially require that they be spent on legal fees and court costs.

The author has clarified that the inclusion of the private cause of action provides an avenue to ensure that counties comply with SB 932. However, compliance with general plans reflects funds available, local development, and other practical constraints that are outside the city or county control. Thus, a well-meaning city or county could fully intend to implement SB 932's provisions but fail to do so based on events entirely outside of their control and without fault of their own. Therefore, the new private right of action created by SB 932 will be counter-productive to making progress on improving local streets. **The author and the committee may wish to remove the private cause of action from the bill.**

8) *Double Referral*. This bill was approved by the Senate Governance and Finance Committee by a 4-1 vote.

RELATED LEGISLATION:

AB 1946 (Boerner Horvath, 2022) — this bill requires CHP to develop statewide safety standards and training programs based on evidence-based practices for users of e-bike. *This bill is pending on the Assembly floor.*

AB 2147 (Ting, 2022) — this bill prohibits a peace officer from stopping a pedestrian unless certain provisions are met. *This bill is pending in the Assembly Appropriations committee.*

AB 1238 (Ting, 2021) — this bill would have repealed provisions of law prohibiting pedestrians from entering a roadway unless vehicles are imposing an immediate hazard and specifies that pedestrians shall not be subject to a fine or criminal penalty for crossing or entering a roadway when no cars are present. *The bill was vetoed.*

AB 1358 (Leno, Chapter 657, Statutes of 2008) — this bill enacts the Complete Streets Act of 2008 and modify their circulation elements to plan for a balanced multi-modal transportation network that meets the needs of all users of streets, roads, and highways.

SB 806 (Sher, 2003) — this bill would have changed the name of the circulation element to the transportation element. *This bill died on the Senate Floor's inactive file.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday,
April 20, 2022.)

SUPPORT:

California Bicycle Coalition
Climate Resolve
Consumer Attorneys of California
Culver City Democratic Club
Oakland; City of
Streets are For Everyone (SAFE)
Streets for All

OPPOSITION:

American Planning Association California Chapter
California Association of Joint Powers Authorities
California State Association of Counties
City of Thousand Oaks
League of California Cities
Rural County Representatives of California
Safer Streets LA
Santa Barbara; County of
Urban Counties of California

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SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No: SB 985 **Hearing Date:** 4/26/2022
Author: Hueso
Version: 4/18/2022 Amended
Urgency: No **Fiscal:** Yes
Consultant: Melissa White

SUBJECT: Otay Mesa East Toll Facility Act

DIGEST: This bill makes various changes to the Otay Mesa East Toll Facility Act, including authorizing the San Diego Association of Governments (SANDAG) to enter into an agreement and contracts, as specified, with the government of Mexico or a government agency for the purposes of imposing and collecting tolls; and acquiring, operating, and maintaining tolling facilities at the Otay Mesa East Port of Entry.

ANALYSIS:

Existing law:

- 1) The Otay Mesa East Toll Facility Act (Act), authorizes SANDAG to carry out a construction project for the State Route (SR) 11 corridor, including, among other things, highway improvements and international border crossing facilities, to be operated as a toll facility.
- 2) Authorizes SANDAG to consult with the government of Mexico relating to plans and projects authorized by the Act.
- 3) Declares that highway projects constructed pursuant to the Act will be owned by the California Department of Transportation (Caltrans), international port of entry facilities constructed pursuant to the Act will be owned by a federal agency, and all other property and facilities constructed will be owned by SANDAG.
- 4) Authorizes SANDAG to utilize alternative project delivery methods on the projects, such as design-build and design sequencing.
- 5) Authorizes SANDAG to only impose tolls and user fees for the use of the corridor.

- 6) Authorizes SANDAG to include discounts and premiums to encourage efficient use of the tolled projects and the reduction of congestion and greenhouse gas (GHG) emissions.
- 7) Authorizes toll revenue to be used to reimburse or finance the costs state agencies and federal agencies incurred as part of implementation of the project.
- 8) Requires toll revenues to be used to pay for costs in categories, with specified priority given to certain categories, including payment of bonds; SANDAG's costs for operations, toll collection, and administration of the facility; reimbursement to federal, state, and local agencies for costs incurred; and costs for capital improvements to repair or rehabilitate a project or expand project capacity.
- 9) Requires excess revenues be used pursuant to an expenditure plan approved by the SANDAG Board of Directors on an annual basis.

This bill:

- 1) Defines "toll" to mean a toll, fee, or other charge for entrance to or use of the corridor.
- 2) Revises various references in the Act, including from "project revenues" to "toll revenues."
- 3) Authorizes SANDAG to only impose tolls for entrance to or the use of the corridor, except as specified.
- 4) Stipulates SANDAG must follow certain requirements for the authorized toll authority, including, requiring SANDAG to review the adequacy of the toll rates established to cover the aggregate costs of all projects within two years following the opening of an initial project to be supported by toll revenue and at least biennially thereafter.
- 5) Requires SANDAG to revise the toll rate, including eliminating any free or reduced-rate toll schedule, to meet any obligations secured by a pledge of revenues and any agreements made.
- 6) Eliminates the priority given to certain categories and would authorize costs to be paid by toll revenues, as specified.

- 7) Authorizes SANDAG to enter into an agreement in order to impose and collect tolls; acquire, operate, and maintain tolling facilities; and exercise related powers jointly with the tolling powers of one or more of the federal government of Mexico or a governmental agency or unit thereof.
- 8) Authorizes SANDAG to contract with one or more of the federal government of Mexico or a governmental agency or unit thereof to receive from or provide to the other contracting parties toll collection and remittance functions and services.
- 9) Authorizes any agreement entered into by SANDAG to include provisions to limit or restrict all of the following:
 - a) Restricting toll collection to one side of the Otay Mesa East Port of Entry.
 - b) Equitable allocation of toll revenues collected by a party to another party or make payments from toll revenues in consideration of covenants made or other value contributed.
 - c) Equitable allocation and financing of the operating, maintenance, and capital costs, including financing costs.
 - d) Sharing of information regarding toll collections and revenues and information regarding traffic at or near the Otay Mesa East Port of Entry and approaching roadways.
 - e) Investment of funds.
 - f) Establishment of policies and procedures for toll rate setting.
 - g) The time and manner of termination, unwinding, and distribution of property upon termination.
 - h) Allocation of liabilities and indemnity.
 - i) The adjudication of disputes or disagreements.
 - j) The manner that strict accountability of funds will be provided for and auditing.

- k) Other provisions that would enhance the efficiency border crossings at the Otay Mesa East Port of Entry or tolling as well as any other necessary and proper matters agreed upon by the parties.
- 10) Declares that toll revenues paid or allocated to a party other than SANDAG under an agreement shall not be subject to the restrictions of the Act upon transfer to the other party in accordance with the agreement.
- 11) Declares that the Act can only be implemented consistent with federal law, including obtaining any federal approvals.

COMMENTS:

- 1) *Purpose.* According to the author, “as the border region continues to grow, trade and traffic along our border crossing sites will increase. We are working to help alleviate long wait times at the border by building more infrastructure that can help reduce congestion at all ports of entry so that we can benefit from more efficient trade while limiting the effects of increased traffic. The Otay Mesa East POE/SR11 project will help decrease border wait times and pollution, while increasing efficiency and economic output for California and the United States. SB985 will help SANDAG finance projects along the SR11 corridor and help maintain facilities once they are completed.”
- 2) *SR 11 and Otay Mesa East Port of Entry.* The SR 11 -- Otay Mesa East Port of Entry (POE) project is a joint venture between the SANDAG and Caltrans, in collaboration with state and federal partners in the United States (U.S.) and Mexico, to create a new border crossing for the San Diego-Baja California region that will help enhance regional mobility and fuel economic growth and binational trade.

SB 1486 (Ducheny, Chapter 720, Statutes of 2008), originally authorized SANDAG to construct and operate the SR 11 and a new federal POE by charging tolls, and issuing bonds secured by those toll revenues to finance the cost of acquiring or operating transportation facilities, international ports of entry, international border crossing facilities and other necessary and related facilities.

As the U.S.-Mexico border region grows, there is a need to improve the commercial movement of goods, services, and passengers through an efficient, integrated system to support the local, state, federal, and international economies. For example, in 2019, the existing Otay Mesa and Tecate ports of entry processed a combined \$48.3 billion in total bilateral trade, and that

number is expected to grow over the coming years. Additionally, wait times for personal and commercial vehicles to cross the border is an average of 2-4 hours. According to the SANDAG Business Case for the new POE, this back up contributes to \$3.4 billion in lost economic output due to delays experienced by the 1.3 million trucks that cross the border annually; 88,000 jobs lost in the U.S. due to border delays; and over 19,000 tons of GHG emissions are released annually due to idling vehicles.

According to SANDAG, the new POE will help accommodate growing demands on border crossings by increasing capacity. The new capacity will help to reduce wait times at all regional POEs, improving air quality and mobility throughout the cross border region. The new SR 11/POE is expected to reduce wait times to a 20-minute average.

Specifically, Otay Mesa East (OME) refers to the U.S. side of the POE and Mesa de Otay II refers to the Mexican side of the POE. This binational mega-project will use an innovative financing strategy focused on using toll revenues to assist in financing the design and construction of the POE for an anticipated opening day in 2024. The new POE will implement strategies identified in the National Freight Strategic Plan, 2021 California-Baja California Border Master Plan, the 2020 California Freight Mobility Plan, and California Sustainable Freight Action Plan.

- 3) *How will the tolls work?* The U.S. and Mexico are currently coordinating on the design of the POE on both sides of the border. Toll collection will be located on the U.S. side for both northbound and southbound travelers. The toll revenue will be shared jointly between the U.S. and Mexico under a revenue sharing agreement.

The new POE will have toll rates that change on an hourly basis. As mentioned above, the variable tolls are designed to ensure travelers crossing the border do not experience wait times that exceed 20 minutes. Higher tolls will be charged during peak periods to help manage throughput.

Additionally, the new POE will feature interchangeable passenger and commercial vehicle primary inspection lanes to maximize throughput. An advanced traveler information system will inform border crossers about toll rates, wait times, lane conditions, and incidents. An integrated operations system will link traffic operations.

- 4) *What's the current status?* According to SANDAG, Caltrans construction on the final segment of the future SR 11 toll road, which terminates at the future

POE site, is nearing completion. Additionally, in December 2021, Caltrans and SANDAG celebrated the opening of the SR 125 and SR 905/SR 11 southbound connectors. The next major milestone is financing, design, and beginning the construction on the POE facility.

On the U.S. side, a combination of federal, state, and local funds totaling \$592 million have already been secured to construct the roadway facilities leading to the POE and acquire the right-of-way needed for the site. Additionally, Mexico has committed approximately 800 million pesos or \$42.5 million to acquire the right-of-way needed in Mexico. Approximately \$468 million in capital costs remain to be funded, which SANDAG anticipates to be funded primarily through the use of toll revenue bonds and, possibly, a federal Transportation Infrastructure Finance and Innovation Act (TIFIA) loan. The debt obligations will be secured by future toll revenues.

- 5) *SB 985 makes updates to the Act and authorizes new partnerships.* SB 985 updates the Act to meet the needs of the current POE project, including authorizing SANDAG to enter into agreements and coordinated activities with the government of Mexico and our federal government. Specifically, the bill authorizes SANDAG to enter into an agreement with the government of Mexico or a governmental agency to impose and collect tolls; acquire, operate, and maintain tolling facilities; exercise related powers jointly; and to receive or provide toll collection and remittance functions or services.

The bill also specifies what may be included in any agreements, essentially laying out parameters of the operation of the facility, including restricting toll collection to one side of the POE and making equitable allocation of toll revenues. As mentioned, it is planned that the tolls will be collected on the U.S. side of the boarder and then be shared or remitted to the Mexican government. Additional parameters of the agreements include: sharing of information of toll collection and revenue; establishment of toll rate setting; and possible contract details including any how to deal with termination, allocation of liabilities and indemnity, and the adjudication of disputes.

As a first step in the final phase of the project, on June 28, 2021, the State of California, represented by Lieutenant Governor Eleni Kounalakis and California State Transportation Agency (CalSTA) Secretary David Kim; SANDAG; and the Mexico Ministries of Foreign Relations, Communications and Transportation, and Finance and Public Credit signed a memorandum of understanding committing to enhanced coordination and collaboration to open the POE by late 2024. SB 985 will allow a formal operating agreement to be developed.

- 6) *Looking for funding to operate.* The actual POE facility, after constructed, will be owned and operated by the U.S. government, specifically U.S. Customs and Border Patrol. SANDAG estimates it will costs roughly \$50 million annually to fully staff and operate the POE. SANDAG is currently working with them to secure the appropriate funding and staffing levels needed.

RELATED/PREVIOUS LEGISLATION:

SB 1486 (Ducheny, Chapter 720, Statutes of 2008) – Authorized SANDAG to construct and operate the SR 11 and a new federal Otay Mesa East Port of Entry by charging tolls, and issuing bonds secured by those toll revenues to finance the cost of acquiring or operating transportation facilities, international ports of entry, international border crossing facilities and other necessary and related facilities.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 20, 2022.)

SUPPORT:

SANDAG (sponsor)

OPPOSITION:

None received

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SENATE COMMITTEE ON TRANSPORTATION

Senator Lena Gonzalez, Chair

2021 - 2022 Regular

Bill No: SB 1015

Hearing Date: 4/26/2022

Author: Hueso

Version: 3/15/2022

Urgency: No

Fiscal: Yes

Consultant: Katie Bonin

SUBJECT: State Energy Resources Conservation and Development Commission: electric vehicle charging infrastructure: ports

DIGEST: This bill requires the California Energy Commission (CEC) to allocate federal monies and funds from the Clean Transportation Program (CTP) to fund electric vehicle (EV) infrastructure at ports. This bill also requires the CEC to incorporate communities impacted by port operations into assessments about EV infrastructure needs.

ANALYSIS:

Existing law:

- 1) Establishes the CTP, which is administered by the CEC to provide grants, loans, and other funding opportunities to develop and deploy innovative fuel and vehicle technologies to support California's climate change policies.
- 2) Requires the CEC to prepare a statewide assessment of the electric vehicle charging infrastructure needed to support the levels of electric vehicle adoption required to meet the goals of putting at least 5 million zero-emission vehicles in service by 2030 and of reducing emissions of greenhouse gases to 40% below 1990 levels by 2030.
- 3) Requires that the assessment expand on the CEC's electric vehicle infrastructure projections to consider all necessary charging infrastructure, all vehicle categories, road, highway, and off-road electrification, port and airport electrification, and other programs to accelerate the adoption of electric vehicles to meet those goals, and examine existing and future infrastructure needs throughout California, including in low-income communities.

This bill:

- 1) Specifies that the assessment's examination of existing and future infrastructure needs throughout CEC California also includes the needs of communities affected by port operations, including port operations at the busiest commercial land port of entry in the state.
- 2) Requires the CEC, for purposes of supporting the electrification of the state's commercial port operations, to allocate federal money and CTP monies for purposes of deploying light-, medium-, and heavy-duty electric vehicle charging infrastructure to the state's commercial ports, including the busiest commercial land port of entry in the state.

COMMENTS:

- 1) *Purpose.* According to the author, "As California moves towards a zero emission vehicle future, we must ensure all communities receive the benefits of this transition, including communities along our southern border. Today, the Otay Mesa Land Port of Entry processes the highest volume of northbound cargo truck traffic of any land port of entry, making it the busiest commercial land port of entry in the state. There are plans underway to further expand the capacity of the Otay Mesa facility. While much attention has been paid to the need to invest in zero and near-zero emissions technology at California seaports, the state's land ports of entries are often overlooked for these opportunities. SB 1015 helps ensure that state efforts to fund zero-emission vehicle charging technology will also be directed at the Otay Mesa Land Port of Entry. Fueling and charging investments to support the vehicle activity at, and around, the Otay Mesa Land Port of Entry will support the state's climate and air quality efforts, while continuing to support the vital economic development and trade between the California and Mexico."
- 2) *CTP.* The CEC administers the CTP to provide funding to support innovation and accelerate the development and deployment of advanced transportation and fuel technologies. In 2017, the Legislature passed SB 2127 (Ting, Chapter 365, Statutes of 2017), which codified California's goal of putting at least five million ZEVs on California roads by 2030 and required the CEC to conduct an assessment every two years of the infrastructure resources needed to meet the state's ZEV deployment goals. Under existing law, the CTP is funded by a portion of smog abatement fees. Existing law sunsets the fee-based funding for the CTP on January 1, 2024. While the longstanding funding source for the CTP is scheduled to sunset by 2024, the Legislature approved \$1.165 billion in additional funding for the CTP over three years. These investments will significantly accelerate the CTP's ZEV infrastructure and technologies investments for the program's remaining years.

In September 2020, Governor Newsom signed Executive Order N-79-20, which established a goal that 100% of the state's medium and heavy-duty vehicles will be ZEVs by 2045 and 100% of the state's drayage vehicles will be ZEVs by 2035. Drayage vehicles are generally heavy-duty trucks that transport goods from port to other locations. The Governor's proposed 2022-23 State Budget includes an additional \$6.1 billion in funding for ZEV projects to support this goal. This increase in funding is intended to accelerate the deployment of ZEV infrastructure and proposes using federal and state funds.

- 3) *The busiest commercial land port in the state.* According to the U.S. DOT, the San Ysidro Border Crossing between California and Mexico is California's busiest land port of entry, primarily for light-duty personal vehicles. Conversely, the Otay Mesa border crossing is California's busiest land port of entry for truck traffic. Calexico is the state's busiest land port of entry for rail traffic. Both the Otay Mesa and San Ysidro border crossings are in San Diego County, and Calexico is located in Calexico, California. SB 1015 specifies that the CEC's assessment must include the needs of communities affected by port operations, including port operations at the busiest commercial land port of entry in the state. Recent amendments clarified that the busiest commercial land port of entry in the state "shall be the port with the highest amount of truck traffic based on annual data regarding the entry of vehicles at land-based ports of entry." Thus, the bill is drafted specifically for Otay Mesa.
- 4) *Aligning Ports and CTP Goals.* According to a 2021 report by the California Air Resources Board (CARB), recent increases in shipping traffic at the Ports of Los Angeles and Long Beach have resulted in corresponding increases in emissions associated with idling vessels and more significant traffic to and from the ports. Like Otay Mesa, land ports of entry also generate more significant emissions when traffic idles at border crossings. Further, Otay Mesa is the state's busiest land port of entry for trucks, including heavy-duty drayage trucks, and the Governor's proposed budget prioritizes investments in the heavy-duty sector. While ZEV infrastructure at ports is eligible for CTP funding and CEC's ZEV assessment already addresses EV infrastructure at ports, it is unclear whether the assessment specifically addresses land-based ports of entry, such as Otay Mesa. SB 1015 would clarify that the CEC shall allocate applicable federal funds and CTP monies for Otay Mesa ZEV deployment infrastructure. Thus, to the extent that new funding is approved for ZEV projects in the heavy-duty transportation sector, SB 1015 may align with those proposed investments by prioritizing investments in locations with a significant relationship to heavy-duty vehicle use.

- 5) *Objectivity*. The recently passed federal Infrastructure Investment and Jobs Act (IIJA) contains money for ZEV infrastructure at ports. The CTP provides funds for ZEV infrastructure at ports. SB 1015 privileges one land port above other ports without a compelling justification for doing so. Without a clear justification, the state may not want to limit or set aside funds for one land port without considering all ports and their needs.
- 6) *Double Referral*. This bill was also referred to the Senate Energy, Utilities and Communications Committee.

RELATED LEGISLATION:

SB 1258 (Allen, 2022) — this bill would expand the types of projects eligible for funding from the CTP to include EV infrastructure for certain autonomous vehicle fleets. *The bill is currently pending in the Senate Committee on Energy, Utilities and Communications.*

SB 589 (Hueso, Chapter 732, Statutes of 2021) — this bill expands the types of projects eligible for funding from the Alternative and Renewable Fuel and Vehicle Technology Program (ARFVTP) to include projects that develop in-state supply chains and the workforce for raw materials and components needed for zero-emission vehicle (ZEV) manufacturing.

SB 726 (Gonzalez, 2021) — this bill would revise the CEC Alternative and Renewable Fuel and Vehicle Technology Program (ARFVTP) and requires the development of a sustainable transportation strategy by the CEC and the CARB. *The bill is on the inactive file in the Assembly.*

AB 111 (Boerner Horvath, 2021) — this bill makes various changes to existing law to encourage the deployment of zero-emission medium and heavy-duty vehicles and requires the CEC to include an assessment of hydrogen refueling infrastructure in its regular assessment of ZEV resources. *This bill died.*

AB 1389 (Reyes, 2021) — this bill revises and recasts the Clean Transportation Program, to expand the purpose of the program to help reduce criteria air pollutants and air toxics, as well as, greenhouse gas (GHG) emissions, when developing and deploying innovative technologies that transform California's fuel and vehicle types. This bill requires the CEC to invest no less than 50 percent, over a three-year period, in programs and projects that directly benefit or serve residents of disadvantaged and low-income communities and low-income Californians. *The bill is on the inactive file in the Senate.*

SB 44 (Skinner, Chapter 279, Statutes of 2019) — this bill requires CARB to update the 2016 Mobile Source Strategy by January 1, 2021, and every five years thereafter. Specifically, SB 44 requires CARB to include a comprehensive strategy for the deployment of medium and heavy-duty vehicles for the purpose of meeting air quality standards and reducing GHG emissions.

AB 2127 (Ting, Chapter 365, Statutes of 2017) — this bill requires the CEC to conduct a statewide assessment of the electric vehicle charging infrastructure needed to support the levels of electric vehicle adoption required for the state to meet its goals of putting at least 5 million zero-emission vehicles on California roads by 2030 and of reducing emissions of greenhouse gases to 40 percent below 1990 levels by 2030.

AB 118 (Núñez, Chapter 750, Statutes of 2007) — this bill enacted the California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007. Establishes the Enhanced Fleet Modernization Program and the Air Quality Improvement Program.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 20, 2022.)

SUPPORT:

Electric Vehicle Charging Association

OPPOSITION:

None received.

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- 4) Authorizes SANDAG to operate the SR 125 facility and continue the collection of tolls upon the expiration of the SR 125 franchise agreement or the up to a 10-year period, as specified.

This bill:

- 1) Makes finding and declarations regarding the tolls on SR 125 and how it hinders economic development activity due to the daily costs of use borne by employees and businesses; and that the expressway is under capacity and the tolls encourage travelers to use other already congested routes.
- 2) Defines “development franchise agreement” to mean the amended development franchise agreement between SANDAG and Caltrans for the SR 125 toll road project, dated December 21, 2011.
- 3) Defines “SANDAG” to mean the San Diego Association of Governments.
- 4) Defines “State Route 125 toll road project” to mean the SR 125 demonstration toll road project in the County of San Diego authorized pursuant to authority granted to the department, as specified.
- 5) Repeals the authorization for SR 125 to be subject to tolls for up to ten additional years (45 years total), and for SANDAG to operate the SR 125 facility and continue the collection of tolls upon the expiration of the SR 125 franchise agreement or the up to a 10-year period.
- 6) Authorizes SANDAG to terminate the development franchise agreement for the SR 125 toll road project and the lease of the SR 125 facility on January 1, 2027, or upon the repayment of all of the bond debt incurred for the SR 125 toll road project, whichever is later.
- 7) Requires that upon termination of the development franchise agreement and lease, SR 125 will no longer be subject to tolls and Caltrans will be responsible for the maintenance and improvement of SR 125.

COMMENTS:

- 1) *Purpose.* According to the author, “this bill seeks to rectify years of redlining that have left South Bay San Diego – home to some of the most disadvantaged zip codes in San Diego County – with the only toll road in the county. The existing tolls place an undue and disproportionate burden on South Bay users,

and hinders the region's economic development activities in areas such as business attraction and retention. In addition, the new U.S./Mexico border crossing in Otay Mesa, opening in 2024, connects to the SR 125 toll road. Each day, approximately 84,000 personal vehicles and 2,700 commercial vehicles cross the California-Baja California border in the northbound direction. Retiring the toll on SR 125 is an important part of enhancing regional mobility, facilitating binational trade, and fueling economic growth in the border region.”

- 2) *History of SR 125, the South Bay Expressway.* In 1989, the Legislature approved AB 680 (Baker, Chapter 107, Statutes of 1989), which authorized Caltrans to enter into contractual agreements with private entities for the construction and operation of toll roads. Two privately financed demonstration projects were authorized in order to "augment or supplement public sources of revenue" because "public sources of revenues to provide an efficient transportation system have not kept pace with California's growing transportation needs." The measure was part of a five-bill package of legislation designed to provide more resources for the state's transportation network.

Specifically, Caltrans would enter into a franchise agreement with a private entity which, in turn, would take the following actions: build the project using private funds, convey the project to the state upon completion of construction, lease the project back from the state, and operate the project on a tolled basis for the term of the lease with the entire project reverting to the state at the end of the lease term.

Using this authority, Caltrans entered into a franchise agreement in 1991 with a private entity, California Transportation Ventures, Inc., for a contemplated term of 35 years. The franchise agreement was later transferred to South Bay Expressway LLC (SBX). Specifically, the franchise agreement included the right and obligation for the private entity to operate SR 125 within Caltrans' standards until 2042, the right to set tolls for the use of SR 125 with certain limits, and the obligation to pay for maintenance and operations on the road. Additionally, SBX was required to expand the capacity of SR 125 if traffic on the roadway reached a certain level of service, operating at capacity, for specified times of day. The franchise agreement also prohibited Caltrans from constructing competing transportation facilities without compensation if it had an economic impact on SBX.

In 2007, SBX and Caltrans executed a lease for a 35-year term, which essentially incorporated the terms of the franchise agreement into the lease. The South Bay Expressway (SBX) opened that year. Specifically, SBX toll

road is a 10-mile stretch of SR 125 that runs from Otay Mesa Road on the Mexican border near SR 905 to SR 54. Approximately 54,000 drivers use SBX every day, where tolls range from \$0.50 to \$3.50 per use. SBX is the only dedicated toll road in San Diego County.

The highway connects eastern Chula Vista, Downtown San Diego, East County, Sorrento Valley, Interstate 8, SR R 94, Otay Mesa, and Mexico. SBX connects the only commercial port of entry in San Diego to the regional freeway network. It also connects Otay Mesa, the largest area of industrial-zoned land in San Diego County, with eastern Chula Vista, and points north and east.

- 3) *How did SANDAG get involved?* After Great Recession in 2008, SBX entered into bankruptcy and SANDAG stepped in to acquire SR 125, which was finalized in 2011. As part of the decision to do so, SANDAG wanted to reduce the tolling structure to make it more affordable for a greater number of drivers to help relieve congestion from other roadways in the area. Specifically, in 2012, tolls dropped by 25% to 40% depending on the trip. Subsequently, SANDAG entered into a revised agreement with Caltrans in 2013. SR 125 is set to revert to Caltrans in 2043.
- 4) *SB 1169 wants to end the tolls.* SB 1169 would authorize, but not require, SANDAG to terminate the franchise agreement and lease for SR 125 on January 1, 2027 or upon repayment of all on the bond debt incurred, whichever is later. Additionally, the bill stipulates that after the termination of the agreement and lease, SR 125 will no longer be subject to tolls and Caltrans will be responsible for the maintenance and improvement of SR 125. It is unclear if SANDAG needs state legislation to pursue changes or termination of the franchise agreement and lease or pursue a plan with Caltrans to transition the road to be a state responsibility.

As noted by the City of Chula Vista, the sponsors of the bill, “the existing tolls have discouraged use by commerce and residents, leading drivers to instead utilize interstate freeways that are already in gridlock, further exacerbating greenhouse gas emissions (GHG) impacts on disadvantaged communities along Interstate 5 and 805. The South Bay Expressway without tolls would reduce barriers and increase access among industrial, commercial, and residential areas, by reducing shipping time to local markets.”

- 5) *How to pay for it?* As mentioned above, the current lease agreement for the tolls on SR 125 is through 2043, and currently SANDAG also has authority to continue tolling the road after the existing bond debt is retired. After 2043, the road would be expected to revert to Caltrans. According to SANDAG, as of

2027, the date for possible retirement of the tolls as outlined in SB 1169 and the first year the bonds are callable, the outstanding bond debt will be \$143.3 million. SANDAG does not project, even with cash balances, that they would have the full amount of funds available to retire the bond debt at that time. The previous version of SB 1169 included an appropriation of \$35 million from the General Fund for this purpose. The author may continue to pursue this through the budget process.

Even if SANDAG could retire the bond debt early, they have a lease contract with Caltrans to maintain the roadway. SANDAG would have to negotiate with Caltrans to “take back” the roadway 20 years early. This would add additional maintenance and operations costs to the Caltrans system, and it is unclear what additional funds Caltrans may require.

RELATED/PREVIOUS LEGISLATION:

SB 463 (Ducheny, Chapter 446, Statutes of 2006) – Authorized a 10 year extension (45 years total) to the franchise agreement between the state and the private entity constructing and operating the SR 125 toll road in San Diego. The bill also authorized SANDAG to operate the SR 125 facility and continue the collection of tolls upon the expiration of the SR 125 franchise agreement or the up to 10-year period, as specified.

AB 680 (Baker, Chapter 107, Statutes of 1989) -- Authorized Caltrans to enter into contractual agreements with private entities for the construction and operation of toll roads.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 20, 2022.)

SUPPORT:

City of Chula Vista (sponsor)

OPPOSITION:

None received

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SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No: SB 1181 **Hearing Date:** 4/26/2022
Author: Hueso
Version: 3/15/2022
Urgency: No **Fiscal:** Yes
Consultant: Katie Bonin

SUBJECT: Used tires: sale and export

DIGEST: This bill requires the Department of Resources Recycling and Recovery (CalRecycle) to strengthen the California tire tracking system to quantify more precisely the number of used tires flowing from or through California and requires CalRecycle to work with United States Customs and Border Protection to obtain detailed data on California used tire exports.

ANALYSIS:

Existing law:

- 1) Pursuant to the California Integrated Waste Management Act of 1989, establishes a state policy goal that 75% of solid waste generated be diverted from landfill disposal by 2020.
- 2) Establishes the California Tire Recycling Act (Act) which:
 - a) Until January 1, 2024, requires a person to pay a California tire fee of \$1.75 for each new tire purchased in the state. \$1.00 of which is deposited into the Tire Recycling Fund for oversight, enforcement, and market development grants relating to waste tire management and recycling. The remaining \$0.75 is deposited into the Air Pollution Control Fund for programs and projects that mitigate or remediate air pollution caused by tires.
 - b) Reduces the fee on January 1, 2024 to \$0.75 per tire, to be deposited into the Tire Recycling Fund.
 - c) Authorizes CalRecycle to award grants, loans, subsidies, and rebates and pay incentives for various purposes related to reducing landfill disposal of

waste tires.

- d) Requires CalRecycle to adopt a 5-year plan, which is to be updated biennially, to establish goals and priorities for the waste tire program.
- e) Requires the biennial update to describe the effectiveness of each element of the waste tire program, including specified border region activities that include, among others, tracking both the legal and illegal waste and used tire flow across the border and recommending revisions to the waste tire policies of California and Mexico.
- f) Defines “waste tire generator” as any person whose act or process produces any amount of waste or used tires, or causes a waste or used tire hauler to transport those waste or used tires, or otherwise causes waste or used tires to become subject to regulation.
- g) Requires a person generating waste tires or used tires that are transported for offsite handling, altering, storage, disposal to complete a California Uniform Waste and Used Tire Manifest.
- h) Defines “California Uniform Waste and Used Tire Manifest” to mean a shipping document signed by a generator of waste or used tires, a waste and used tire hauler, or the operator of a waste or used tire facility or other destination that contains all of the information required by the board, including, but not limited to, an accurate measurement of the number of tires being shipped, the type or types of the tires, the date the shipment originated, and the origin and intended final destination of the shipment.
- i) Prohibits an automotive repair dealer from installing an unsafe used tire, as defined, on a motor vehicle for use on a highway.
- j) Prohibits a dealer or a person holding a retail seller’s permit from selling, offering for sale, exposing for sale, or installing on a vehicle axle, a pneumatic tire for use on a highway when the tire has a tread depth of less than a specified amount, except as specified. A violation of these provisions is a crime.

This bill:

- 1) Requires CalRecycle to strengthen the California tire tracking system to quantify more precisely the number of used tires flowing from California, and from other states through California, into the State of Baja and the nearby State

of Sonora.

- 2) Requires CalRecycle to work with United States Customs and Border Protection to obtain detailed data on California used tire exports to the State of Baja California, including, but not limited to, exports of wrecked vehicles for auto dismantlers.
- 3) Prohibits a person from selling an unsafe used tire, as defined, for use by a motor vehicle on a highway.

COMMENTS:

- 1) *Purpose.* According to the author, “In 2017, SR 57 called attention to the ongoing environmental and public health emergency caused by the transboundary flow of raw sewage, waste tires, trash, and sediment from the Tijuana River into the Tijuana River Estuary in the City of San Diego and requested the Governor to explore all available state resources to address the sewage crisis. Since then, the State of California has pledged millions of dollars toward studies and sewage clean-ups. The flow of waste tires into the Tijuana River Estuary has led to health complications for trash pickup volunteers and coastal residents. SB 1181 seeks to target the number of waste tires picked up by transboundary flows by increasing the minimum tread depth used tires must meet before being deemed eligible for sale for use on motor vehicles on highways. Additionally, SB 1181 calls on the California Department of Resources Recycling and Recovery to work with federal border agencies to make substantive improvements to their Waste Tire Manifest System to better monitor the flow of used tires through and from California to the neighboring Mexican states of Baja California and Sonora.”
- 2) *Let's talk tires.* In 2018, there were 15.1 million automobiles registered in California. As a result, California is faced with diverting or safely managing more than 51 million tires each year. In 1989, the Legislature passed the California Tire Recycling Act (Act), which requires CalRecycle to regulate and manage waste tires. CalRecycle's goal is to recycle 75 percent of waste tires. Waste tires can potentially be used for various purposes. Tire-derived fuel processed in cement kilns continues to be the primary productive end-use; however, the tires can also be used for formal civil engineering applications and utilized in the production of other goods. However, if the tires are not disposed of appropriately or repurposed, they end up in stockpiles, scattered in residential areas, or dumped in bodies of water. Regardless of the location, the waste tires create a potential threat to public health and wreak havoc on the environment. The tires pose fire hazards, accumulate standing water and thus serve as a

breeding environments for mosquitos, mainly the *Aedes aegypti* mosquito, a vector for dengue and zika viruses, and pollutes bodies of water wherein the tires are dumped.

In November 2017, CalRecycle released, "The Flow of Used Tires from California to Mexico and Waste Tire Disposal Issues in Baja California and the Adjacent Areas of Sonora." The report recommended that CalRecycle strengthen the California tire tracking system and suggested that CalRecycle works with United States Customs and Border Protection to obtain detailed data on California used tire exports to the State of Baja and the State of Sonora. This report was the impetus for SB 1181.

- 3) *Traveling Tires*. Most used tires that are imported into Baja California and San Luis Río Colorado, Sonora originate in California. However, there is anecdotal information that some are imported from U.S. states adjacent to California or Canada. California's manifest system does not track those tires since they are shipped through the state and not unloaded within the state. For example, a trucking container of used tires originating in Nevada that is driven directly to the Calexico port of entry or another California border location and then into Mexico would not appear in California data.

For the last decade, private companies in California have formally exported an average of 750,104 used tires to dealers in Baja. In addition, each year from 2007 through 2016, an additional 200,000 used tires were informally imported into Baja and Sonora without a license from Mexican authorities. The strong demand for low-cost used tires in northern Mexico is driven by widespread private ownership of vehicles by people of limited economic means. New tires in Mexican border towns cost one and a half times more than new tires in San Diego, so many vehicle owners lack the resources to purchase expensive new tires and opt for used tires instead. The state and local governments of Baja and Sonora are then left with the responsibility of properly disposing of waste tires generated from their local, new tire market as well as from used tires that have been formally and informally imported into their region.

Many entities, including Mexican and United States federal agencies, state and local agencies, and nonprofit organizations, have sought to address the impacts of improperly managed waste tires in Mexico. These efforts have primarily focused on the cleanup and remediation of large waste tire stockpiles and the removal of waste tires from the Tijuana River estuary and New River area. CalRecycle has funded and engaged in a range of border-related activities over the past several years in response to the environmental problems associated with waste tires in the border region, including tire flow studies in 2009 and

2017 and two CalRecycle-managed cleanups of the Goat Canyon debris basins in Border Field State Park.

- 4) *Tire Tracking Efforts.* According to CalRecycle, current law requires them to develop a "California Uniform Waste and Used Tire Manifest." The Waste Tire Manifest System is a tracking mechanism used by CalRecycle to monitor the generation, transportation, and ultimate disposal of used/waste tires in California. The system's goal is to help eliminate the illegal storage or disposal of used/waste tires by allowing CalRecycle to focus enforcement efforts on the worst offenders.

The waste tire manifest system program applies to all persons, businesses, nonprofits, and government agencies generating, transporting, or receiving waste or used tires. CalRecycle and tire enforcement agency staff members inspect and investigate waste and used tire generators, end-use facilities, and haulers to ensure that manifests are appropriately completed, handled, and submitted to CalRecycle.

The manifest system tracks the movement of all waste and used tires throughout the state, documenting over 130 million tire pickups and drop-offs annually. The movement of nine tires or more at a time requires the completion of a manifest by a registered hauler. The hauler is responsible for creating manifests for all pickups and drop-offs to document disposal at an authorized facility. All manifests are entered into the central database, which is regularly analyzed to identify haulers who do not show balanced pickups and drop-offs, indicating potential improper hauling or disposal. These audits result in immediate identification of the business and follow up with a violation report or an inspection, or both.

CalRecycle utilizes its partnership with the California Highway Patrol (CHP) to conduct surveillance efforts in the border region. The CHP provides roadside checkpoints to assist CalRecycle with surveillance and enforcement support to monitor illegal activities related to tire exports through California ports in the border region. Tire hauling businesses must register with the State of California and be in possession of a manifest documenting the amount, origin, and destination of used and waste tires being hauled. Haulers not complying with those requirements are cited with violations. Between 2017 and 2018, CHP conducted four checkpoints with CalRecycle in the border region, and no violations were found during these checkpoints.

- 5) *Five Year Plan.* Senate Bill (SB 876, Escutia, Statutes of 2000, Chapter 838) was enacted to provide a comprehensive measure to extend and expand

California's regulatory program related to the management of waste and used tires. One of the key provisions of this measure requires CalRecycle to adopt and submit to the Legislature a five-year plan. The five-year plan is used to establish goals and priorities for the waste tire recycling program and includes programmatic and fiscal issues, performance objectives, and measurement criteria. This plan is updated every two years. In CalRecycle's most recent Draft "Five-Year Plan for the Waste Management Recycling Program, Report to the Legislature", dated July 1, 2021, CalRecycle reports plans to coordinate regular workgroups with government authorities from Mexico and the U.S. involved with international ports to exchange information about tire commodity import and export requirements and monitoring processes.

- 6) *Border Efforts.* As mentioned, the department plans to coordinate regular workgroups. It is anticipated that these workgroups, which would include CalRecycle, U.S. and Mexico Border Customs Agencies, CHP, and registered tire hauler stakeholder representatives, will identify how the flow of tire commodities are tracked at international border checkpoints by each country and evaluate if any additional opportunities exist to further monitor the flow of tires across the border.

These workgroups are consistent with the intent of SB 1181, which is to direct CalRecycle to work with U.S. Customs and Border Protection on additional opportunities to better monitor the flow of tires going to Mexico. It should be noted that while CalRecycle can collaborate with the U.S. Customs and Border Patrol, it does not have the authority to direct a federal agency to do anything specifically. Thus, it should not be assumed that used tire export data will consistently be reported or in the form requested.

- 7) *Specificity.* SB 1181 requires CalRecycle to strengthen its tire tracking system and requires CalRecycle to work with United States Customs and Border Protection to obtain detailed data on California used tire exports. CalRecycle already has an extensive and comprehensive tracking system in place. SB 1181 provides no clarity or specifications as to what additional elements the author seeks to include. Thus, it is unclear what steps CalRecycle needs to take to better track and monitor tire movement.
- 8) *Double Referral.* This bill was also referred to the Environmental Quality Committee and passed with a vote of 6-0.

RELATED LEGISLATION:

SB 690 (Hueso, Chapter 381, Statutes of 2019) — this bill encouraged the State Coastal Conservancy, when granting funds appropriated by Assembly Bill 74 (Ting), Chapter 23, Statutes of 2019 for the purposes of addressing transboundary flows and pollution in the Tijuana River Valley (TRV), to prioritize, to the extent feasible, those projects identified in statutorily required studies on the Tijuana River Valley.

SB 507 (Hueso, Chapter 542, Statutes of 2017) — this bill appropriated \$500,000 to the County of San Diego to conduct an update to the 2012 Tijuana River Valley Recovery Team’s “Recovery Strategy: Living with the Water” to include issues related to wastewater and runoff and a study focused on the improvement and protection of natural lands, including the main river channel, in the TRV.

SCR 90 (Hueso, Resolution Chapter 80, Statutes of 2014) — this bill declared the Legislature’s intent to work with the TRV Recovery Team to take various actions to protect and preserve the TRV, to encourage collaboration with the team to protect and enhance our natural resources through improved management of sediment and trash, flood control, and ecosystem management.

SB 876 (Escutia, Chapter 838, Statutes of 2000) — this bill provided a comprehensive measure to extend and expand California’s regulatory program related to the management of waste and used tires.

AB 1843 (Brown, Chapter 5 of 1989) — this bill authorized the creation of the Tire Recycling Program and the California Tire Recycling Management Fund.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 20, 2022.)

SUPPORT:

None received.

OPPOSITION:

None received.

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SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No: SB 1196 **Hearing Date:** 4/26/2022
Author: Umberg
Version: 4/18/2022 Amended
Urgency: No **Fiscal:** Yes
Consultant: Melissa White

SUBJECT: State Transit Assistance Program: eligibility: Anaheim Transportation Network

DIGEST: This bill expands the definition “State Transit Assistance (STA)-eligible operator” to include the Anaheim Transportation Network (ATN), for the purposes of receiving STA funds for public transportation purposes if ATN’s bylaws are revised to increase transparency and accountability, including to provide for the appointment of the ATN’s Board of Directors by the Anaheim City Council. Also, declares that ATN is an STA-eligible operator for the purposes of STA funding allocated according to transit operator revenues from the prior fiscal year.

ANALYSIS:

Existing law:

- 1) The Transportation Development Act (TDA) of 1971 provides funding for transit and non-transit related purposes that comply with regional transportation plans. It serves to improve existing public transportation services and encourage regional transportation coordination.
- 2) TDA provides funding for public transit from two funding sources:
 - a) Local Transportation Fund (LTF), which is derived from a 1/4 cent of the general sales tax collected statewide.
 - b) State Transit Assistance fund (STA), which is derived from the statewide sales tax on diesel fuel.
- 3) Defines public transit “operator” as any transit district, included transit district, municipal operator, included municipal operator, or transit development board.

- 4) Defines “public transportation system” as any system of an operator which provides transportation services to the general public by any vehicle which operates on land or water, regardless of whether operated separated from or in conjunction with other vehicles.
- 5) Defines “municipal operator” as a city or county, including any nonprofit corporation or other legal entity wholly owned or controlled by the city or county, which operates a public transportation system, or which on July 1, 1972, financially supported, in whole or in part, a privately owned public transportation system, and which is not included, in whole or in part, within an existing transit district.
- 6) Defines “STA-eligible operator” as a public transportation operator eligible to claim LTF under either Article 4 or Article 8 of TDA law, or under both articles.
- 7) Defines “qualifying revenues” to mean fare revenues, including fares generated for community transit services under contract with the STA-eligible operator, and any other funds used by the operator in the delivery of transit service, except federal and state funds.
- 8) Requires the State Controller’s Office (SCO) to allocate funds to specified regional transportation planning agencies (RTPA)s for public transportation purposes.
- 9) Requires STA funds be allocated by the SCO by formula with 50% being allocated according to population and 50% being allocated according to transit operator revenues from the prior fiscal year.
- 10) Requires that only STA-eligible operators are eligible to receive an allocation from the portion of program funds based on transit operator revenues, which includes an amount corresponding to the STA-eligible operators within the jurisdiction of each RTPA. Requires amount allocated to a RTPA be based on the ratio that the total qualifying revenue of all STA-eligible operators in the jurisdiction bears to the total qualifying revenue of all STA-eligible operators in the state.
- 11) Requires the RTPA with jurisdiction over a transit operator to verify the operator is eligible for funding under the STA program prior to the operator submitting its report to the SCO, and requires the SCO to reflect the verification on the operator’s report.

- 12) Requires the SCO to design and adopt a uniform system of accounts and records under which operators, as defined, prepare and submit annual reports of their operation.
- 13) Requires operators to prepare and submit annual reports of their operation to RTPAs having jurisdiction over them and to the SCO. Requires the report to contain underlying data from audited financial statements prepared in accordance with generally accepted accounting principles, if this data is available. Requires the report to specify (1) the amount of revenue generated from each source and its application for the prior fiscal year, and (2) the data necessary to determine which section, as specified, the operator is required to be in compliance in order to be eligible for funds.
- 14) Imposes certain financial requirements on transit operators making claims for transit funds, including requirements that fares collected by the operator cover a specified percentage of operating costs, and that an operator's total operating cost per revenue vehicle hour not exceed operating revenues and the percentage change in the Consumer Price Index (CPI). Establishes different farebox recovery requirements depending upon population.

This bill:

- 1) Expands the definition of "STA-eligible operator" to include ATN for public transportation purposes if ATN's bylaws are revised to increase transparency and accountability, including to provide for the appointment of ATN's Board of Directors by the Anaheim City Council.
- 2) Declares that ATN is an STA-eligible operator for the purposes of STA funding allocated according to transit operator revenues from the prior fiscal year.

BACKGROUND:

- 1) *Who is ATN?* ATN is a local non-profit 501 (c) (4) transportation management association and a service provider of the Anaheim Resort Transportation (ART) system. ATN provides transportation services to the cities of Anaheim, Garden Grove, Santa Ana, Buena Park, Costa Mesa and Orange by operating a fleet of transit buses along fixed routes to provide transportation to local and regional event destinations, rail stations, retail establishments, etc. They operate along a system of 22 fixed routes and with an active fleet of 74 alternative fuel buses, and are well on their way to becoming an all zero-emission bus (ZEB) fleet. Additionally, ATN provides micro transit services, called Free Rides Around

the Neighborhood (FRAN), and plans to launch an on-demand regional connector service.

As other transportation providers experienced, ATN notes in their 2021 Annual Report that they were dramatically impacted by the COVID-19 pandemic and stay-at-home orders. Prior to March 2020, ATN was expecting to have an annual ridership of over 9.5 million passengers. With the shutdown, ATN reduced its service level by 97% and only continued to operate to help essential workers, and food and essential supply deliveries in the City of Anaheim. Throughout 2021, ATN restored some service returning to nine fixed routes, seven on-demand routes, with roughly 3.4 million riders.

- 2) *How did ATN get started?* As described in the 2017 report, *Integrated Transportation and Capacity Building Plan (Plan)*, ATN was created in 1995 to provide various public transportation services to the City of Anaheim, including managing a transportation demand management program for large employers. This action was taken in part as a response to a trip reduction ordinance enacted by the South Coast Air Quality Management District. To begin mitigating traffic congestion and air quality impacts of current and future developments, ATN purchased and began operating a fleet of clean air vehicles to serve the transportation needs of the city's commercial and recreational development areas. According to recent press reports, roughly 88% of ATN's ridership lives outside of Southern California, with 64% living outside of the state. Nearly 93% of ATN trips were for people on vacations or attending conventions.

ATN's articles of incorporation, as re-certified in 2012, states that, "the specific purpose of this corporation is to organize the collective actions of the public and private sectors to address the unique transportation and air quality issues of local employers, major event centers, and visitor-and convention-related businesses located throughout certain portions of the City of Anaheim, California known as the Anaheim Resort Area ("ARA") and Stadium Business Center ("SBC"); to facilitate a forum for the corporation's members and other interested persons to work together to develop workable transportation solutions; and to provide leadership to maximize access, enhance mobility, and assist with regulatory compliance, including environmental mitigation measures, all for the benefit of the corporation's members and the public who are visitors to, or are employed within, the ARA, and the SBC."

As noted, ATN was formed as a public-private partnership and incorporated by the City of Anaheim and local businesses as a non-profit 501c (4) corporation. In 2002, ATN began operating ART service. The relationship between ATN and the City of Anaheim was formalized in 2004, when the City awarded ATN

a non-exclusive franchise agreement to operate ART service in Anaheim. This agreement was renewed in 2011 and again in 2019. As part of the 2019 agreement, the City of Anaheim stated that ATN “operates a public transportation system and provides public transit and mobility services for and within the City of Anaheim,” that is “responding to a transportation need not otherwise being met with the community and jurisdiction of the City of Anaheim.”

- 3) *How is ATN governed?* ATN is currently governed by a 15 member Board of Directors plus one ex-officio non-voting member, and ATN’s Executive Director and General Counsel. The members represent resorts and businesses that are part of ATN’s service territory, including Disneyland and the Anaheim Ducks arena. One board member represents the City of Anaheim. Some of the members of the Board are elected and some appointed, both by business members of the ATN service territory. Although ATN is not a public agency, according to their bylaws, the Board of Directors observe the Ralph M. Brown Act for their meetings. However, it is unclear if ATN also complies with the California Public Records Act and the California Political Reform Act as required for public agencies.
- 4) *How is ATN funded?* ATN is funded from a variety of sources, including locally generated fees, fare revenue, and some federal apportionments and grants. According to their bylaws, ATN collects membership dues from lodging establishments, retail facilities, event centers, commercial offices, institutional uses, manufacturing facilities, and standalone restaurants.

Additionally, ATN receives funding from local assessments. For example, in 2010 the City of Anaheim created the Anaheim Tourism Improvement District, an assessment district, to fund improvements in the resort areas. The assessment revenue is generated by a 2% fee levied on hotel/motel room rentals and 25% of the funds are required to be allocated to support transportation activities, including ATN.

As mentioned, ATN also receives funding from the Federal Transit Administration (FTA). Specifically, ATN is authorized to contribute their ridership data to the National Transit Database, which makes them eligible to receive some federal funding. Specifically, according to the Orange County Transportation Authority (OCTA), ATN receives annual allocations based on this ridership data from FTA’s Urbanized Area Formula Grants (5307) program at roughly \$750,000 annually, which is allocated to ATN through OCTA. The funds can be used for capital projects and operations.

According to ATN, they have also received federal funding from FTA's Bus and Bus Facilities (5339) program, which provides one-time grants to replace, rehabilitate and purchase buses and related equipment. Additionally, in 2018, ATN received a grant from the state's Transit Intercity Rail Capital Program, (TIRCP) for \$28 million to start a micro transit service; electrify its fleet, including the purchase and deployment of 40 ZEB electric buses; and build new operations and maintenance facilities.

- 5) *What is STA and how does it work?* In 1971, the Legislature enacted the Mills-Alquist-Deddeh Act, otherwise known as TDA, which dedicated a statewide 1/4 cent sales tax to local transportation. That 1/4 cent sales tax, now known as the LTF, generates over \$1.6 billion annually primarily for public transit. Later, the Legislature created a second state funding source for public transit under the TDA called the STA. The STA, which generates more than \$700 million annually, is derived from the sales tax on diesel fuel and can be used by transit operators for both capital projects and transit operations.

STA is distributed throughout the state to RTPAs, half based on population and half based on annual revenues generated by each eligible entity. The RTPA then allocates the funding share to each eligible entity in their jurisdiction. To receive STA funds, a transit operator must be deemed eligible by the relevant RTPA for the area in which they operate. The RTPA is required to certify and report the eligible transit operators to SCO.

- 6) *What is an STA-eligible operator?* Specifically, TDA law defines a public transit operator as, "any transit district, included transit district, municipal operator, included municipal operator, or transit development board." Additionally, the passage of AB 1113 (Bloom, Chapter 86, Statutes of 2017), which revised and recast provisions of the STA program, defined an STA-eligible operator for the purposes of receiving STA funding. Specifically, an STA-eligible operator is a public transit operator, as defined above, that operates a public transportation system, and is eligible to claim LTF funding under TDA. A public transportation system is defined as, "any system of an operator which provides transportation services to the general public by any vehicle which operates on land or water, regardless of whether operated separated from or in conjunction with other vehicles." In addition to defining STA-eligible operator, AB 1113 set up a process requiring each RTPA to certify that each transit provider in their jurisdiction meet the definitions and requirements to be an STA-eligible operator.

STA-eligible operators also must meet numerous reporting requirements to continue to receive state funds. For example, they are required to prepare and

submit annual reports of their operations to RTPAs and to the SCO. The report, called Financial Transactions Report (FTR), details the operator's revenue and expenditures for the fiscal year. The data in the FTR is used to calculate STA payments to transit operators based on "qualifying revenue" of each of the state's transit agencies.

Additionally, STA-eligible operators are required to meet state performance measures including requirements that fares collected by the operator cover a specified percentage of operating costs, and that an operator's total operating cost per revenue vehicle hour not exceed operating revenues and the percentage change in the Consumer Price Index (CPI), and certain farebox recovery ratios. The SCO and the California Department of Transportation (Caltrans), oversee operators' compliance with these measures.

COMMENTS:

- 7) *Purpose.* According to the author, "public transportation is an important service to the citizens and economy in Orange County who rely on these resources. Over 9.5 million resident, employees, and visitors use the Anaheim Transportation Network each year to connect with job centers, theme parks, and other venues. The Anaheim Transportation Network is a nonprofit, federally recognized transportation agency that receives federal funds to support its services. However, Anaheim Transportation Network is currently ineligible for state funds that would allow their transportation network to expand and improve to better serve their community. Therefore, SB 1196 will put the Anaheim Transportation Network on a level playing field with other public transportation services in California by making the network eligible to receive State Transit Assistance funds."
- 8) *SB 1196 declares ATN is an STA-eligible operator.* SB 1196 was introduced to define ATN as a STA-eligible public transit operator under state law for the purposes of receiving STA funding. Currently, although ATN does receive federal funding, it is not eligible for state transit operating funds as established by TDA law. Recent author's amendments attempt to narrow the impact of the bill by specifying that ATN is an STA-eligible operator for the "purposes of fund allocated pursuant to section 99314 of the Public Utilities Code." This is the portion of STA funds that are calculated based on the qualifying revenues generated by each transit agency in a specific RTPA area.

According to ATN, they are attempting to not negatively impact OCTA's funding that they receive from the portion of STA based on the population of Orange County. As noted, all funds are allocated to OCTA and they determine

the amount of this funding that will be distributed to the transit agencies in their jurisdiction.

Although ATN may have the intent of “walling off” only the revenue portion of STA funds, declaring ATN a STA-eligible operator may have wider reaching impacts. First, it is unclear whether ATN would become eligible to also be a claimant for LTF funds in the future. TDA law is quite intertwined and one of the requirements for being a STA-eligible operator is the ability to claim LTF funds.

Additionally, being a STA-eligible operator automatically makes the agency eligible for programs that use STA eligibility and formulas. These include the Low Carbon Transit Operations Program (LCTOP), funded by the state’s cap-and-trade revenues; and the SB 1 program, State of Good Repair program. According to an analysis by OCTA, ATN could have the potential to be eligible for over \$25 million annually in funding. However, if the bill is able to be implemented as intended by ATN, ATN estimates they would receive roughly \$930,000 annually. The actual number is unknown as the SCO would verify the qualifying revenue for ATN to calculate STA funding to be allocated.

Finally, ATN would have to comply with state operational costs ratios, and likely TDA requirements for farebox recovery.

- 9) *SB 1196 requires ATN to change.* Recent author’s amendments to SB 1196, would require ATN’s bylaws to be revised to increase transparency and accountability, including providing for the appointment of the Board of Directors by the Anaheim City Council. It is unclear what the impact of this requirement would be. Specifically, there are no definitions for what increasing transparency and accountability would mean. As mentioned, currently ATN voluntarily complies with the Brown Act for the purposes of public meetings. However, it is unclear whether their Board members and staff have been designated by the agency to comply with the Political Reform Act and file a Statement of Economic Interest (Form 700) with the Fair Political Practices Commission. Would this be considered a way to increase transparency and accountability? Also, the bill requires these changes to happen before ATN would receive any STA funding, but it is unclear what entity would oversee and determine whether ATN has complied.

The bill also requires the Anaheim City Council to appoint the Board of Directors. Would the make-up of the Board change? Would more public members be added? Also, it is unclear if there are any legal implications, (e.g.

public agency requirements), that might apply if the city appoints all of the members of the Board.

Finally, if as part of this process, ATN and City of Anaheim decide they want to update the incorporation status of ATN from a non-profit to be a public agency, what impact would that have for OCTA and what funding would ATN then be eligible for?

- 10) *OCTA and ATN could work together.* As detailed above, there is an existing AB 1113 process for transit providers to become STA-eligible operators. As ATN evolves, they could work with OCTA to determine what requirements would need to be met and try to develop a path to become a public transit operator under TDA law. However, SB 1196 legislates ATN's eligibility and attempts to define and limit the funding they could receive.

TDA law still requires OCTA to certify STA-eligible operators within their jurisdiction to the SCO before any STA or other funds would be allocated. This would include OCTA confirming that ATN meets the legal requirements and ATN would submit FTR's and other required financial documents to SCO to determine eligibility and funding amount.

- 11) *SB 1196 has statewide impacts.* AB 1113 was developed through a consensus process by the California Transit Association to clear up any confusion by operators and the SCO about who is eligible for STA funding. Although the process does not guarantee designation as a STA-eligible operator, it is a known process for any agency or organization to pursue. Adding a new operator through legislation and bypassing this process sets a concerning precedent, and could create a path for other agencies and organizations to become STA-eligible operators.

STA represents a major source of funding for transit operations. Any additional STA-eligible operators added to the program, or to LCTOP or State of Good Repair, dilutes funds from every other agency in the state. At a time when transit operators continue to struggle back from COVID-19, adding new operators will impact their resources, even if it is a small amount per agency.

- 12) *Support.* Writing in support of the bill, the Rotary Club of Anaheim states, "public transportation service, like those provided by ATN, play a critical role in getting our clients to and from job sites. The area serviced by ATN is the core of the job market in Orange County. By strengthening our local transit system, we will be better positioned to service the needs of our community."

RELATED LEGISLATION:

AB 1113 (Bloom, Chapter 86, Statutes of 2017) -- Revised and recast the provisions governing the STA program, including defining an STA-eligible operator for the purposes of receiving STA funding.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 20, 2022.)

SUPPORT:

Anaheim Transportation Network (sponsor)

Anaheim Chamber of Commerce
Antelope Valley Transit Authority
Build
BYD North America
California Teamsters Public Affairs Council
Chrysalis
Knott's Berry Farm
Orange County Conservation Corps
Rotary Club of Anaheim
Sunline Transit Agency
Teamsters Local 952
Visit Anaheim

OPPOSITION:

None received

-- END --

SENATE COMMITTEE ON TRANSPORTATION

Senator Lena Gonzalez, Chair

2021 - 2022 Regular

Bill No: SB 1226 **Hearing Date:** 4/26/2022
Author: Durazo
Version: 3/16/2022 Amended
Urgency: No **Fiscal:** Yes
Consultant: Randy Chinn

SUBJECT: Joint powers agreements: zero-emission transportation systems or facilities

DIGEST: This bill authorizes a private, non-profit corporation that provides services for zero-emission transportation to enter into a joint powers agreement JPA with a public agency to facilitate the development, construction, and operation of zero-emission transportation systems or facilities.

ANALYSIS:

Existing law:

- 1) State law generally limits membership in Joint Powers Authorities (JPAs) to public agencies: federal, state, and local governments. However, legislation has authorized some types of private entities to enter into joint powers agreements with public agencies for specified purposes.
- 2) Until January 1, 2024, allows one or more private, nonprofit 501(c)(3) corporations that provide services to homeless persons for the prevention of homelessness to form a JPA, or enter into a joint powers agreement with one or more public agencies.

This bill:

- 1) Authorizes, until January 1, 2032, a private, non-profit 501(c)(3) corporation formed to provide services for zero-emission transportation to enter into a joint powers agreement with a public agency to facilitate the development, construction, and operation of zero-emission transportation systems or facilities.
- 2) Requires that any projects under this provision shall use a skilled and trained workforce and pay prevailing wages.

COMMENTS:

- 1) *Author's Statement.* "California is a leader in the global effort to address the devastating impacts of climate change and has established ambitious emissions reduction goals. To meet our goals, we must continue to address the most significant sources of emissions in the transportation sector. Recent efforts include Governor Newsom's 2020 Executive Order N-79-20, which sets a goal of having 100% of new vehicle sales be zero-emissions vehicles by 2045. We are also building out green public transportation infrastructure to lower greenhouse gas emissions, reduce vehicle congestion, and improve access and quality of our public transportation. While there are interests, ideas, and resources intended to pursue such projects, there is a need to provide additional opportunities to bring public and private partners together to facilitate these green transportation projects. To help meet our zero-emission goals, SB 1226 will contribute to building out green public transportation by facilitating public-private-nonprofit partnerships through a Joint Power Authorities structure to create and finance green public transportation infrastructure projects."
- 2) *What's the Problem?* The author believes that there is no established mechanism in California law that would formally enable partnerships to collaborate and build public zero-emission transportation infrastructure projects. Public agencies cannot access private capital to complete projects, nonprofit entities lack the governance structure and capacity to complete large-scale transportation projects, and private entities with resources to offer these projects do not have a guiding entity for investments. An example is the Los Angeles Streetcar, a long planned streetcar linking parts of downtown Los Angeles. Other examples are aerial trams and other first-mile/last-mile projects. The intent is for these projects to complement the existing public transportation system.
- 3) *Relatively Rare.* The analysis from the Senate Governance and Finance Committee, which heard and approved this bill on April 7, 2022, notes that while current law generally authorizes two or more public agencies to form a JPA to jointly exercise common powers of the agencies, allowing private, nonprofits to participate in a JPA must be legislatively authorized for specific purposes. It notes that this was done to allow nonprofit hospitals to enter into JPAs to provide health care services in Fresno County (AB 1785, Reyes, Chapter 55, Statutes of 2002); Contra Costa County (AB 3097, Campbell, Chapter 148, Statutes of 1996); Tulare, Kings, and San Diego Counties (SB 850, Kelley, Chapter 432, Statutes of 1997); and Tuolumne County (AB 2717, House, Chapter 227, Statutes of 2000). These hospital JPAs specify that a

nonprofit hospital that participates in one these JPAs cannot levy any tax or assessment.

Most recently the Legislature enacted AB 1403 (Maienschein, 2015), which, until January 1, 2024, allows one or more private, nonprofit 501(c)(3) corporations that provide services to homeless persons for the prevention of homelessness to form a JPA, or enter into a joint powers agreement with one or more public agencies. This bill follows the model of AB 1403.

- 4) *Risks*. California has ambitious goals for zero-emission transportation, including 5 million zero-emission vehicles on the road by 2030, 100% of new passenger cars and trucks be zero emission by 2035, and that all transit agencies transition to a zero emission fleet. Meeting these goals will require significant investment so having more tools is helpful. But there are risks with creating JPAs. The bill has been amended to eliminate the biggest risk by prohibiting the authority of the JPA to issue debt. But other risks remain. An unscrupulous private entity or non-profit could mislead a local government partner into wasteful or poorly thought out projects, wasting local resources and, potentially, any related state and local incentive funding. This bill applies statewide without limitation so cities big and small, with good or poor governance, can utilize this authority.
- 5) *Triple Referral*. This bill was triple referred to the Governance and Finance (G&F) Committee, the Transportation Committee and the Environmental Quality (EQ) Committee. Because of COVID protocols, the referral to the EQ Committee was rescinded. This bill was approved by the G&F Committee 4-0 on April 7, 2022.

RELATED LEGISLATION:

AB 1403 (Maienschein; Chapter 188 of 2015) -- Allows private, non-profit 501(c)(3) corporations that provide services to homeless persons to form a joint powers agency or enter into a joint powers agreement, with one or more public agencies.

AB 1785 (Reyes, Chapter 55 of 2002) -- Allows the Selma Community Hospital to enter into joint powers agreements with public agencies.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 20, 2022.)

SUPPORT:

California Special Districts Association
Los Angeles County Business Federation (BIZ-FED)

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No: SB 1356 **Hearing Date:** 4/26/2022
Author: Grove
Version: 2/18/2022
Urgency: No **Fiscal:** Yes
Consultant: Katie Bonin

SUBJECT: Gross vehicle weight

DIGEST: This bill increases the gross weight of vehicles transporting petroleum-based fuel from 80,000 pounds to 88,000 pounds.

ANALYSIS:

Existing law:

- 1) Sets limits on the total gross weight imposed on the highway by a vehicle or vehicle combination with any group of two or more consecutive axles, not to exceed 80,000 pounds.
- 2) Authorizes vehicles or vehicle combinations in certain circumstances to carry a gross vehicle weight in excess of 80,000 pounds, such as vehicles transporting logs.
- 3) Authorizes the Department of Transportation (Caltrans) or local authorities to issue a special permit authorizing an applicant to operate or move a vehicle or combination of vehicles on a highway of a weight exceeding that maximum.

This bill increases the maximum gross weight for a vehicle or combination of vehicles transporting a load composed solely of a petroleum-based fuel to 88,000 pounds.

COMMENTS:

- 1) *Purpose.* According to the author, “California’s ports have experienced increased year-over-year levels of cargo volume. Despite the efforts by all sectors of the supply chain, the COVID pandemic has dramatically impacted the goods movement system in California and nationally. The pandemic has shown that it would be helpful for fuel haulers to be able to carry more fuel.”

- 2) *Executive Order*. Governor Newsom issued Executive Order (EO) N-19-21 on October 20, 2021 to help alleviate disruptions to the goods movement supply chain. Building upon the EO, on November 17, 2021, Governor Newsom announced that Caltrans would begin issuing temporary permits allowing trucks to carry heavier loads of up to 88,000 pounds on State Highway and Interstate routes between the Ports of Los Angeles, Long Beach, and other statewide ports, and distribution centers throughout the state. SB 1356 seeks to apply the Governor's temporary EO permanently to all petroleum-based fuel haulers throughout the state. However, SB 1356 is much different than the temporary permitting stipulated under the EO. The EO is temporary, based on a goods movement emergency; it was limited to specific routes, and managed by Caltrans. Whereas, SB 1356 is permanent, not based on an emergency, is statewide, and provides a blanket authority without Caltrans oversight.
- 3) *Road Damage*. Increasing the weight of petroleum-based fuel hauling trucks will lead to damage to the roads and bridges. An analysis from the Government Accounting Office (GAO) observed that one truck loaded to its legal limit damages the roads as much as 9,600 passenger vehicles.¹ Other studies have indicated lesser damage but all show that heavy trucks are at least 1,000 times more damaging to roads than passenger vehicles.² Pavement designed to last 20 years wears out in seven.³ Damage to the roads is much more than proportionate to the weight. Some analyses show that the road damage increases by the power of four to the increase in weight (e.g. a doubling of the weight increases the damage by 16 times).⁴

Likewise, damage to local bridges, overpasses, and culverts is an additional concern because damage to those structures doesn't just break up the roadway; it makes them less safe. Damaged roads and bridges need more frequent repairs and reduce fuel efficiency for all vehicles. Keeping freeways and local roads in a state of good repair is costly and the state does not have enough to pay for the existing repairs, especially not with the additional repairs SB 1356 could potentially cause. A study commissioned by the California State Association of Counties found that it will cost \$118.7 billion over the next ten years for local streets and roads to be maintained in a state of good repair. Unfortunately, only \$54.7 billion will be available leaving a deficit of \$64.0 billion. Similarly, Caltrans estimates that the cost to operate and maintain state highways for the

¹ <https://www.gao.gov/assets/ced-79-94.pdf>

² See "Too Big for The Road", from *Governing*, July 2007

³ <https://www.governing.com/archive/too-big-the-road.html>

⁴ See "Pavements and Truck Size and Weight Regulations", Working Paper 3 prepared for the Federal Highway Administration; February 1995.

next ten years will be \$116.8 billion, though the state will have only \$55.3 billion, leaving a deficit of \$61.5 billion.

- 4) *Safety*. The Federal Motor Carrier Safety Administration (FMCSA) states that a commercial vehicle traveling at 65 miles per hour will take up to two hundred yards to come to a complete stop. Similarly, FMCSA further states that trucks are often 20 to 30 times heavier than passenger vehicles, and the large size and weight increases driving challenges, including acceleration, braking and maneuverability.⁵

According to California Highway Patrol (CHP) data, in 2020 there were 18,575 crashing involving trucks, which resulted in 186 deaths and 4,354 injuries. The additional weight could increase the possibility of more truck accidents and make them even deadlier. Further, the petroleum fuel that will be transported under SB 1356 is flammable and combustible. An analysis of the Department of Transportation truck accident reports by the Los Angeles Times found that over one-half of the fatalities and nearly one-half of the property damage from major hazardous-materials traffic accidents were caused by gasoline tankers. The analysis pointed out that a loaded gasoline tanker truck generally transports an amount of fuel that has a maximum potential explosive charge equivalent to approximately 100 tons of dynamite.

- 5) *Consequences*. Although SB 1356 has the potential to cut down on the overall number of trucks on the road by allowing trucks to carry more weight, which would possibly mean less fuel consumption and less traffic congestion, the bill has the potential to create unintended hazards on and to the road.

RELATED LEGISLATION:

AB 584 (Rivas, 2021) — this bill would have required Caltrans to develop a pilot program for the purpose of issuing a special permit to the operator of a vehicle, combination of vehicles, or mobile equipment permitting the hauling of raw milk in excess of 80,000 pounds, but not to exceed 88,000 pounds. *This bill died in the Assembly Transportation committee.*

AB 2061 (Frazier, Chapter 580, Statutes of 2018) — this bill authorized zero-emission and near-zero –emission vehicles to operate on California state and local roads if they exceed weight limits on the power unit by up to 2000 pounds to the extent expressly authorized by federal law.

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

AB 1250 (Bloom, Chapter 484, Statutes of 2015) — this bill exempted transit buses procured through a solicitation process that was issued before January 1, 2016, from the statutory weight limit of 20,500 pounds on any one axle of a transit bus. AB 1250 also established a declining curb weight per axle requirements for transit buses.

SB 1848 (Perata, 2000) — this bill would have increased maximum vehicle gross weight for gasoline tanker trucks from 80,000 pounds to 86,000 pounds. *This bill died in the Senate Transportation Committee.*

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

Unknown.

POSITIONS: (Communicated to the committee before noon on Wednesday, April 20, 2022.)

SUPPORT:

California Independent Petroleum Association (CIPA)
California Trucking Association

OPPOSITION:

California State Legislative Board, Smart - Transportation Division
California Teamsters Public Affairs Council

-- END --

SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No:	SCR 97	Hearing Date:	4/26/22
Author:	Nielsen		
Version:	4/6/2022		
Urgency:	No	Fiscal:	Yes
Consultant:	Katie Bonin		

SUBJECT: The Raymond “Stan” Stanley Satham Memorial Highway

DIGEST: This resolution memorializes Raymond “Stan” Stanley Satham for his service.

ANALYSIS:

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

- 1) The person being honored must have provided extraordinary public service or some exemplary contribution to the public good and have a connection to the community where the highway or structure is located.
- 2) The person being honored must be deceased.
- 3) The naming must be done without cost to the state. Costs for signs and plaques must be paid by local or private sources.
- 4) The author or co-author of the resolution must represent the district in which the facility is located, and the resolution must identify the specific highway segment or structure being named.
- 5) The segment of highway being named must not exceed five miles in length.
- 6) The proposed designation must reflect a community consensus and be without local opposition.
- 7) The proposed designation may not supersede an existing designation unless the sponsor can document that a good faith effort has uncovered no opposition to rescinding the prior designation.

This resolution designates a portion of State Highway Route 44, from postmile R7.7 to postmile R9, near Oak Run in the County of Shasta, as the Raymond “Stan” Stanley Satham Memorial Highway.

COMMENTS:

- 1) *Purpose.* The purpose of this resolution is to acknowledge and commemorate the life and service of Raymond “Stan” Stanley Satham.
- 2) *Background.* In 2020, Raymond “Stan” Stanley Satham tragically passed away. Upon graduating from high school in 1956, Mr. Satham enlisted in the 131st Technical Intelligence Attachment in West Berlin, Germany. Notably, he served as an American spy during the Cold War. Upon his return to the states, he worked as a radio personality at several radio stations in Northern California. Later he served as the New Director and Anchorman for KHSL-TV in Chico. In 1976, he was elected to the California State Assembly and served for 18 years.

Raymond “Stan” Stanley Satham is survived by his wife, wife, Roleeda Satham; daughter, Jennifer Hejsek; son, Devin Satham; stepdaughters, Jessica and Janis Epperson; stepsons Eric and Steven Epperson; and his grandchildren and great-grandchildren

- 3) *Consistent with committee policy.* This resolution is consistent with the provisions of the committee’s policy on highway designation.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 20, 2022.)

SUPPORT:

California Broadcasters Association

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No: SCR 98 **Hearing Date:** 4/26/2022
Author: McGuire
Version: 4/7/2022
Urgency: No **Fiscal:** Yes
Consultant: Katie Bonin

SUBJECT: Fortuna Police Officer Raymond Quincy Mills Memorial Highway

DIGEST: This resolution Fortuna Police Officer Raymond Quincy Mills for his service.

ANALYSIS:

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

- 1) The person being honored must have provided extraordinary public service or some exemplary contribution to the public good and have a connection to the community where the highway or structure is located.
- 2) The person being honored must be deceased.
- 3) The naming must be done without cost to the state. Costs for signs and plaques must be paid by local or private sources.
- 4) The author or co-author of the resolution must represent the district in which the facility is located, and the resolution must identify the specific highway segment or structure being named.
- 5) The segment of highway being named must not exceed five miles in length.
- 6) The proposed designation must reflect a community consensus and be without local opposition.
- 7) The proposed designation may not supersede an existing designation unless the sponsor can document that a good faith effort has uncovered no opposition to rescinding the prior designation.

This resolution designates the portion of State Highway Route 101 from Kenmar Road at postmile 59.503 to Palmer Blvd at postmile 62.229 in the City of Fortuna as the Fortuna Police Officer Raymond Quincy Mills Memorial Highway.

COMMENTS:

- 1) *Purpose.* The purpose of this resolution is to acknowledge and commemorate the life and service of Fortuna Police Officer Raymond Quincy Mills.

- 2) *Background.* In 1967, Officer Mills was tragically killed in the line of duty when he was fatally struck by a motorist while providing backup during a traffic stop on northbound Highway 101. Officer Mills was a veteran who served in the Korean War. In 1965, he joined the Fortuna Police Department. Officer Mills is remembered fondly as a fun-loving, energetic, intelligent, generous, friendly, and down-to-earth person who was always willing to put aside his own concerns to help his friends.

Officer Mills is survived by his wife, Virginia Mays, and his two sons, Jonathan Ray Mills and Donald Franklin Mills.

- 3) *Consistent with committee policy.* This resolution is consistent with the provisions of the committee’s policy on highway designation.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 20, 2022.)

SUPPORT:

Fortuna City Council
Fortuna Police Chief Casey Day
Humboldt County Board of Supervisors

OPPOSITION:

None received.

SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No: SB 917 **Hearing Date:** 4/26/2022
Author: Becker
Version: 4/18/2022 Amended
Urgency: No **Fiscal:** Yes
Consultant: Melissa White

SUBJECT: Seamless Transit Transformation Act

DIGEST: This bill would require the Metropolitan Transportation Commission (MTC) to develop and adopt a Connected Network Plan; adopt an integrated transit fare structure; develop a comprehensive, standardized regional transit mapping and wayfinding system; and establish open data standards, as specified, for the 27 transit agencies of the Bay Area region. Requires the region's transit agencies to comply with the established programs; MTC to indicate what steps are needed to comply; and if a transit agency does not comply and does not qualify for an exemption, makes that transit agency ineligible to receive a portion of state transit funding in an amount determined by MTC.

ANALYSIS:

Existing law:

- 1) Establishes MTC as the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area.
- 2) Establishes the Regional Transit Coordinated Council (RTCC) within MTC, to better coordinate routes, schedules, fares, and transfers among the San Francisco Bay area transit operators and to explore potential advantages of joint ventures in areas such as marketing, maintenance, and purchasing.
- 3) Authorizes MTC, in coordination with RTCC, to adopt rules and regulations to promote the coordination of fares and schedules for all public transit systems within its jurisdiction.
- 4) Requires every transit system to enter into a joint fare revenue sharing agreement with connecting systems consistent with MTC's rules and regulations.

- 5) Authorizes MTC, in coordination with RTCC, to identify the functions performed by individual transit systems that could be consolidated to improve the efficiency of regional transit service, and recommend that those functions be consolidated and performed through inter-operator agreements or as services contracted to a single entity.
- 6) Authorizes MTC, in coordination with RTCC, to improve service coordination and effectiveness in those transit corridors identified as transit corridors of regional significance by recommending improvements in those corridors, including, but not limited to, reduction of duplicative service and institution of coordinated service across public transit system boundaries.
- 7) Authorizes MTC to withhold transit funding from a transit agency if a transit agency is not participating in RTCC or has not complied with the standards.
- 8) The Transportation Development Act (TDA) of 1971 provides funding for transit and non-transit related purposes that comply with regional transportation plans. It serves to improve existing public transportation services and encourage regional transportation coordination.
- 9) TDA provides funding for public transit from two funding sources:
 - a) Local Transportation Fund (LTF), which is derived from a 1/4 cent of the general sales tax collected statewide.
 - b) State Transit Assistance fund (STA), which is derived from the statewide sales tax on diesel fuel.
- 10) Requires STA funds be allocated by the State Controller's Office (SCO) by formula with 50% being allocated according to population and 50% being allocated according to transit operator revenues from the prior fiscal year.
- 11) Requires the Secretary of Transportation to develop a state rail plan covering all aspects of rail transportation, as specified. The plan is required to be updated every five years.
- 12) Requires the California Department of Transportation (Caltrans) to produce, and update every five years, the California Transportation Plan (CTP), a long-range transportation planning document intended to integrate state and regional transportation planning while considering specified pertinent subject areas.

This bill:

- 1) Makes findings and declarations regarding Bay Area transit use, the challenges of trying to achieve connectivity and integration of the Bay Area transit systems, actions developed by MTC to recover from COVID-19, and the need for legislation to ensure that the recommendations of the Bay Area Transit Transportation Action Plan are implemented in a timely manner.
- 2) Defines “Commission” to mean the Metropolitan Transportation Commission.
- 3) Defines “cable car service” to mean the historic cable car system operated by the San Francisco Municipal Transportation Agency (SFMTA).
- 4) Defines “local transit service” to mean bus and light rail transit service within or adjacent to a transit agency’s defined service area within the region, excluding bus services that cross a toll bridge over the San Francisco Bay.
- 5) Defines “regional transit service” to mean all heavy rail, commuter rail, ferry, or express bus services, as designated by a transit agency, and bus services that cross a toll bridge over San Francisco Bay. Regional transit service does not include intercity passenger rail or services operated by the San Joaquin Regional Rail Commission.
- 6) Defines “transit agency” to mean a public agency that meets all of the following requirements:
 - a) The public agency provides surface transportation service to the general public, complementary paratransit service to persons with disabilities, or similar transportation service to people with disabilities or the elderly.
 - b) The public agency operates the service as described by bus, rail, ferry, or other conveyance on a fixed route, demand response, or otherwise regularly available basis.
 - c) The public agency generally charges a fare for the service, as specified.

Connected Network Plan

- 7) Requires MTC, in consultation with RTCC shall develop and adopt a Connected Network Plan, on or before March 31, 2024, depending on an appropriation in the annual Budget Act or the availability of private nonstate funding. In the absence of additional funding, MTC shall complete the Connected Network Plan by December 31, 2025.

- 8) The Connected Network Plan shall do all of the following:
- a) Be consistent with the State Rail Plan and California Transportation Plan.
 - b) Identify connected network transit corridors and hubs of regional significance across the region.
 - c) Establish a transit priority network for the region that identifies corridors that will most benefit from improvements that support fast and reliable transit service that avoids conflict with traffic congestion.
 - d) Identify service-level standards for different parts of the network to optimize access across the region, particularly for low income and transit dependent populations, corresponding to different density and land use conditions, including by doing both of the following: 1) identifying target travel times between key transit hubs, service frequencies, and operating hours for weekdays, Saturdays, and Sundays; and 2) quantifying access to jobs, housing, and other major regional amenities such as educational institutions, medical facilities, and major recreational destinations.
 - e) Identify operating and capital funding needs associated with the plan.

Integrated Fare Structure

- 9) Requires MTC, on or before December 31, 2023 and in consultation with the RTCC, to adopt an integrated transit fare structure that will become effective on or before July 1, 2024.
- 10) Requires MTC, in consultation with the RTCC, to annually review the integrated transit fare structure to determine if updates area necessary and to make the updates.
- 11) Requires the region's transit agencies to comply with the integrated transit fare structure.
- 12) Requires the integrated transit fare structure to include all of the follow:
 - a) No-cost local transit service transfers and reduced-cost regional transit service transfers, regardless of whether transfers are between the same transit agency or multiple transit agencies except if the transfer is to a cable

- car service. In the case of a transfer to a cable car service, SFMTA may determine the appropriate transfer fare policy.
- b) Common transfer rules for local fares, such as means for validation.
 - c) Common definitions for adults, youth, seniors, persons with disabilities, and other categories.
- 13) Requires MTC, in consultation with the RTCC, on or before March 31, 2024, to develop an estimate of the anticipated annual financial impact associated with implementing each of the following policies:
- a) A common fare structure for regional transit services by which trips involving one or more regional transit services are priced equivalently.
 - b) A multiagency pass, which may include a cap that allows access to local transit services and regional transit services provided by the region's transit agencies on a daily or monthly basis for one set price, except for paratransit service.
- 14) Requires MTC to implement each of the policies on a pilot basis for three years, if additional funding to offset the annual costs is secured.
- 15) For the common fare structure, MTC is required to develop a draft and present at a public meeting at least 30 days before its adoption.
- 16) Requires each transit agencies, on or before October 1st of each year, to notify MTC of any proposed change to its fares in order to facilitate the alignment of fare policies across the region's transit agencies in the integrated transit fare structure for the following year. Requires MTC to then disseminate the information to all of the transit agencies.

Mapping and Wayfinding

- 17) Requires MTC, in consultation with RTCC, on or before July 1, 2025, to develop a comprehensive, standardized regional transit mapping and wayfinding system, including standards and resources to display information on print, digital, and interactive media, common branding, and a shared digital mapping platform.

- 18) Requires the system to identify the standards that are required and the standards that allow for customization, including the manner in which existing transit agency branding may be permitted.
- 19) Requires the system to assess and identify standards required for wayfinding information to be accessible and usable by people with disabilities.
- 20) Requires MTC to develop an implementation and maintenance strategy and funding plan to deploy the system and can adopt a phased deployment. Requires MTC to update the strategy as needed.
- 21) Requires, on or after January 1, 2026, that any new investments to mapping and wayfinding, including replacement and upgrades, adhere to the standards developed, unless MTC adopts an alternate deployment timeline.
- 22) Allows a transit agency to display their own map on a temporary basis if the regional system is unavailable or incapable of addressing the need due to unforeseen circumstances.

Open Data Standards

- 23) Requires MTC, in consultation with RTCC, on or before July 1, 2023, to establish open data standards that are aligned with, but may exceed, any data standards adopted by the state to provide real-time transit vehicle location, arrival and departure times and predictions, and service alerts data to transit riders.
- 24) Authorizes a transit agency to elect not to disclose vehicle location information if it can otherwise comply with the open data standards.
- 25) Requires MTC to update the open data standards as needed.
- 26) Requires the standards shall enable the provision of real-time arrival data and follow generally accepted accessibility standards.
- 27) Requires transit agencies to share their data with MTC in a format that is compatible with the standards.
- 28) Requires MTC to disseminate the data collected to third parties, and develop an implementation and funding plan for deployment of real-time information.

- 29) Declares that transit agencies can use real-time data that they collect for any purpose, such as in the development of a transit agency's own mobile application or powering real-time arrival or departure information on their internet website, as long as the data are also shared with MTC.
- 30) Declares that transit agencies can share real-time data directly with third parties.

Compliance with the Act

- 31) Requires transit agencies to make every effort to comply with the requirements of the Act without affecting transit service levels.
- 32) Requires MTC to determine if any transit agency is out of compliance with the provision of the Act. If they do, MTC and the transit agencies are required to do all of the following:
- a) Notify the transit agency of noncompliance, and indicate what steps are needed to comply.
 - b) If a transit agency is unable to comply due to a lack of funding, the transit agency is required to submit a request for additional funding or for an exemption from the specific requirements to MTC for approval.
 - c) If the agency does not comply with MTC's compliance steps or if MTC rejects the transit agency's request for additional funding or for an exemption, MTC can withhold state transit operations funding from the transit agency, in an amount determined by MTC. The transit agency will regain any withheld funds upon demonstration of compliance.
- 33) Declares the Act may be determined to be an unfunded mandate.

COMMENTS:

- 1) *Purpose.* According to the author, "We must act quickly to entice riders back to public transit—and put the rider experience front and center. While our transit agencies have made great strides in the past few years with their renewed commitment to integration, there is much more work to be done. Right now, riding transit in our region can be a disjointed and unreliable experience. This legislation will help transform our system into a world-class, seamless experience for the public, while reducing greenhouse gas emissions and improving access to jobs and housing for residents."

- 2) *Bay Area and public transit.* Public transit ridership has been declining for decades nationally and in California for many reasons, such the ability of more people to afford cars. The San Francisco Bay Area, which has the state's highest rates of transit use, has until recently resisted those trends. The Bay Area transit network includes nine counties, 27 transit operators serving more than 1.7 million passengers per day. In 2017 and 2018, the region lost over 5% of its annual riders despite service increases. The COVID-19 pandemic and stay-at-home order led to a massive decline in transit ridership. Caltrain saw a 98% decline in ridership; the Bay Area Rapid Transit (BART) saw an 88% decline in transit ridership. Bus lines in the Bay Area fared slightly better. San Francisco Metropolitan Transit Association (SFMTA), who operates MUNI, saw a 70% decline in ridership and AC Transit saw a 72% decline.

It is estimated that the population of the Bay Area is forecasted to grow by 2.3 million between 2010 and 2040. Traffic congestion has been growing. Between 2010 and 2015, combined volumes of the region's seven state-owned toll bridges grew by 11%.

Out of concern of the decline in transit ridership, coupled with the potential increase in population growth, MTC commissioned the University of California Institute of Transportation Studies (UC ITS) to conduct a study on the declining transit use in the Bay Area and to provide recommendations on how to improve it. The report "What's Behind Recent Transit Ridership Trends in the Bay Area?" released in February 2020, provides recommendations to improve transit ridership in the Bay Area.

One of those recommendations was for the Bay Area's Partnership Board to initiate a customer-oriented transportation program, with near-term actions focused in three areas. First, they should work to advance technology platforms that integrate trip planning and fare payment across jurisdictions and service providers.

Second, they should explore and evaluate new mobility pilots, either in partnership with private sector mobility providers of various stripes or operated publicly, to improve first-last mile access to and from transit stations as a potential alternative to traditional fixed-route transit service in suburban parts of the region, where subsidies of traditional transit service are high and the utility of this service is low.

And third, they should work to develop regional support for policy standards, such as standards for data-sharing with private ride hail and other shared mobility operators.

- 3) *MTC Blue Ribbon Recovery Task Force.* In May of 2020, MTC created the Blue Ribbon Transit Recovery Task Force to “guide the future of the Bay Area’s public transportation network as the region adjusts to the new conditions created by the COVID-19 pandemic.” The Task Force was chaired by MTC Commissioner and Solano County Supervisor Jim Sperling, and included other local elected officials, advocates for people with disabilities, representatives from the state Senate and Assembly, the California State Transportation Agency (CalSTA); transit operators; business and labor groups; and transit and social justice advocates. The Task Force released their final report, “Bay Area Transit Transformation Action Plan,” in June of 2021.

The Task Force was the latest attempt to address a concern that has been raised for decades: how do you better coordinate the 27 different transit agencies in the Bay Area? SB 1474 (Kopp, Chapter 256, Statutes of 1996), authorized MTC, through RTCC, to identify functions performed by individual public transit systems that could be consolidated to improve the efficiency of regional transit service and authorized MTC to withhold the full allocation of its transit dollars until the operators have been found to have made a reasonable effort to implement productivity improvements.

The Action Plan outlined a variety of immediate and mid-term steps MTC and area transit operators committed to take in the effort to reform and improve the transit network. These include recommended actions in fare-payment coordination and integration; customer information; transit priority on roadways to increase bus speeds and reliability; bus and rail network management reform; connected network planning; data collection and coordination; accessibility; and funding.

In October 2021, MTC reported that they identified \$152 million of need for near term investments, including \$28 million for fare integration, \$35 million for mapping and wayfinding, \$61 million for transit priority, and \$28 million for all other actions and staffing. MTC plans to use dedicated funds from the federal American Rescue Plan and other discretionary sources.

- 4) *Fare Coordination and Integration Study.* In addition to the work of the Task Force, in 2020, MTC and major transit agencies initiated a Fare Coordination and Integration Study and Business Case to study specifically whether existing uncoordinated fare policies acted as barriers to accessing transit or increasing ridership, and identify fare policies that could increase transit use. The study found that existing fragmented fare policies were significant barriers to access; and that fare integration policies like free transfers, multi-agency passes, and a common fare structure for regional services could increase transit ridership by

tens of thousands of daily new riders and meaningfully reduce VMT cost-effectively in comparison to most other types of transportation investments.

As a result, in late 2021, the region's transit agency general managers guiding the study unanimously voted in favor of a Policy Vision Statement committing to piloting a multi-agency pass product by mid-2022, near term deadlines to introduce free transfers across the system by 2023, and the longer term goals to implement a common fare structure for regional transit services and make multi-agency passes broadly available to the public.

- 5) *Moving forward on integration.* SB 917 continues the work of the Blue Ribbon Task Force and Fare Integration Task Force by implementing policies from the Transformation Action Plan in the areas of fare integration, mapping and wayfinding standards, real time data standards, and the creation of a connected service plan. The bill requires the development of these policies in consultation with the RTCC established in the 1990's. The bill sets specific timeframes for deployment and requires MTC to enforce the new requirements by withholding state STA funds from transit operators that do not comply. STA funding is one of the main state funding streams for transit operations and is allocated to regional transportation planning agencies for the transit operators in their jurisdiction.

Specifically, SB 917 would require MTC to develop and adopt a Connected Network Plan, by March 2024, to establish a transit priority network for the region that identifies corridors that will most benefit from improvements to support fast and reliable service avoiding congestion. The plan will also identify service-level standards for the network including target travel times between service hubs, service frequencies, and operating hours. Finally, the Plan will identify operating and capital funding needs associated with the improvements. The Plan could eventually support creation of a regional bus rapid transit system. The timeline for the Plan is contingent upon identifying new budget resources to pay for the work, and MTC can delay the Plan until December 2025, if no new funding is identified.

SB 917 also would create an integrated fare structure that would become effective July 2024, and adjusted annually thereafter. The integrated fare structure must include no-cost local transit service transfers and reduced-cost regional fare service transfers, across the same and multiple transit agencies. This would reduce the current 'transfer penalty' that many people pay by virtue of having to pay double or triple fares no matter the length of their respective trip segments. For example, if a person rides Caltrain and transfers to BART, they currently would pay full fare for both trips. Under the program envisioned

in SB 917, one of the fares would be reduced or free and all transactions, including the discounts, would be handled through the person's integrated transit pass, currently the Clipper card. These discounts would be funded by MTC to backfill any revenue loss to the transit operators.

To move further along in fare integration, SB 917 requires MTC, by March 2024, to develop an estimate of the anticipated annual financial impact associated with implementing a common fare structure for regional transit services, and a new multiagency pass, which could include one set price to travel regionally on a daily or monthly basis. These would both be three-year pilots, if funding is identified.

Finally, for more ease in trip planning and execution, SB 917 would require MTC, by July 2025, to design and begin to implement a single regional transit map and standardized wayfinding mechanisms. This would include common displays and branding. Transit agencies would have to use the standards for any new investments in mapping and wayfinding.

MTC would also establish open data standards to provide for reporting of real-time transit data across the region. Transit operators would be required to share their data with MTC, even if they also share it with third party vendors.

- 6) *Concerns about funding and the implementation "stick."* Bay Area transit operators are concerned about how implementation of these various strategies could affect each agency's operations, especially as they try to bring service levels back after COVID-19. As mentioned, MTC has identified at least \$152 million of need for near term investments, and they plan to pay for it with mostly federal COVID-19 recovery funds. However, currently there is no long term funding streams identified. Recent amendments to the bill recognized this and added requirements for MTC to conduct costs assessments, such as for the pilot programs for the multiagency pass and common fare structure. As for the Connected Network Plan, timelines would be extended if funding is not available.

Additionally, there are concerns about the "stick" the bill affords MTC for implementation. As mentioned above, the bill allows MTC to withhold state STA funds from transit operators that do not comply. In fact, MTC already has this power under current law but has never exercised it. SB 917 outlines some parameters for this action, including requiring MTC to first notify the transit agency of noncompliance and indicate what steps they would need to take to comply, and allows that transit agencies to submit a request for additional funding or for an exemption if noncompliance is due to lack of funding. MTC

can only withhold funds if all of these avenues are exhausted. MTC can determine the amount of STA funding to withhold and the transit agency would regain the withheld funds upon compliance.

- 7) *MTC and transit operators continue to work together.* The author, sponsors, MTC, and Bay Area transit operators continue to work on SB 917 to address concerns and ensure successful implementation. Writing in support of the bill, MTC states, “MTC is committed to creating a more integrated transit system, which our planning and outreach efforts have shown is critical to expanding transit ridership and thereby helping achieve the region’s climate, mobility and equity goals. We believe SB 917 as amended builds upon MTC’s existing authority and responsibility for Bay Area transit coordination. We are also committed to continuing to work with our transit agency partners on questions some have raised related to governance. As the bill moves through the legislative process, continued dialogue is crucial to the goal that all agencies will be comfortable with the final version of the bill.”

RELATED/PREVIOUS LEGISLATION:

AB 629 (Chiu, 2021) – Would have enacted similar provisions to SB 917 to provide more seamless public transit service across the San Francisco Bay Area. *This bill was held in the Assembly Appropriations Committee.*

AB 455 (Wicks, 2021) -- Would authorize the Bay Area Toll Authority (BATA) to designate transit-only traffic lanes on the San Francisco-Oakland Bay Bridge (Bay Bridge), in consultation with the Department of Transportation (Caltrans). *This bill is pending in this committee.*

AB 2057 (Chiu, 2020) – Would have enacted similar provisions to SB 917, to integrate all aspects of public transit within the San Francisco Bay area, including creating a Bay Area Seamless Transit Task Force. *This bill was held in Assembly Transportation Committee due to COVID-19.*

SB 1474 (Kopp, Chapter 256, Statutes of 1996) -- Authorized MTC, through RTCC, to identify functions performed by individual public transit systems that could be consolidated to improve the efficiency of regional transit service and authorized MTC to withhold the full allocation of its transit dollars until the operators has been found to have made a reasonable effort to implement productivity improvements.

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

**POSITIONS: (Communicated to the committee before noon on Wednesday,
April 20, 2022.)**

SUPPORT:

Seamless Bay Area (co-sponsor)
Transform (co-sponsor)

350 Bay Area Action
350 Silicon Valley
50 Acterra Action for A Healthy Planet
Alameda County Democratic Central Committee
Arc Alternative and Renewable Construction LLC
Association for Commuter Transportation
Bay Area Council
California YIMBY
Center for Independent Living, INC.
City of Half Moon Bay
City of Oakland
City of San Mateo
Climate Reality Project: Silicon Valley
East Bay for Everyone
East Bay Housing Organizations
East Bay Transit Riders Union
Elders Climate Action, NorCal and SoCal Chapters
Friends of Caltrain
Friends of Smart
Generation Housing
Greenbelt Alliance
Housing Leadership Council of San Mateo County
Joint Venture Silicon Valley
Menlo Spark
Metropolitan Transportation Commission
North Bay Leadership Council
Pacifica Climate Committee
San Francisco League of Conservation Voters
SF.CITI
Silicon Valley Chamber Coalition
Silicon Valley Youth Climate Action
Spur
Sustainable Marin

Sustainable Silicon Valley
Walk San Francisco
Wellstone Democratic Renewal Club
Youth Leadership Institute San Mateo

SUPPORT IN CONCEPT:

City/County Association of Governments of San Mateo County
San Mateo County Economic Development Association (SAMCEDA)

OPPOSITION:

None received

-- END --

- 4) Requires, and establishes a process, for ARB to provide MPOs with GHG emissions reductions targets, and update those targets every eight years.
- 5) Requires, as a part of the Regional Transportation Plan (RTP) a SCS, as specified, to be prepared by each MPO, to identify transportation, housing, and land use measures and policies that will reduce GHG emissions.
- 6) Allows, if the SCS is unable to reduce GHG emissions to achieve the GHG emission reduction targets established by ARB, the MPO to instead prepare an Alternative Planning Strategy (APS) to the SCS showing how those GHG emission reduction targets would be achieved through alternative development patterns, infrastructure, or additional measures or policies.
- 7) Declares that neither a SCS nor APS regulates the use of land, and that nothing in a SCS shall be interpreted as superseding the exercise of the land use authority of cities and counties within the region.
- 8) Requires, by September 1, 2018 and every four years thereafter, ARB to report to the Legislature on MPOs' progress towards meeting their GHG emission reduction targets in their SCS, including changes to emissions, metrics that support the strategies being used, a discussion of best practices, and an identification of challenges.
- 9) Requires the California Department of Transportation (Caltrans) to produce, and update every five years, the California Transportation Plan (CTP), a long-range transportation planning document intended to integrate state and regional transportation planning while considering specified pertinent subject areas.
- 10) Establishes the Strategic Growth Council (SGC) to coordinate a variety of state programs and activities related to sustainable communities and the environment.
- 11) Requires SGC, by January 31, 2022, to submit a report to the Legislature on interactions of the CTP and SCS/APS plans, and a review of the potential impacts and opportunities for coordination between specified programs.

This bill:

- 1) Makes findings and declarations regarding GHG emissions reductions, SB 375, and that SB 375 has not to date achieved the GHG reduction goals due to challenges in plan preparation and approval, transparency and accountability,

implementation funding, and alignment with other state housing and equity goals and mandates.

- 2) Declares that to address these challenges, it is the intent of the Legislature to enact legislation that would:
 - a) Improve the development and implementation of SCS plans and approval through the creation of a simple quantitative tool for MPOs to use to evaluate a regional transportation plan's consistency with long-range greenhouse gas emissions reduction targets.
 - a) Improve accountability and transparency surrounding local and regional decisions regarding plan development, implementation, and execution.
 - b) Better align the SCS process with other planning processes while ensuring timely changes are made to improve alignment of housing and transportation development with state climate and equity goals.
- 2) Establishes the State-Regional Collaborative for Climate, Equity, and Resilience (the Collaborative) to provide guidance to ARB on new guidelines for the SCS program.
- 3) Specifies that the Chair of the Collaborative is the representative from ARB.
- 4) Requires the composition of the Collaborative, to include a representative from ARB, the California State Transportation Agency (CalSTA), the California Department of Housing and Community Development (HCD), and SGC.
- 5) Requires that 10 public members, appointed by the chair, are representatives of any of the following interests: MPOs; the League of California Cities; the California State Association of Counties; local transportation agencies; environmental organizations; social equity organizations; and housing development organizations, including affordable housing organizations.
- 6) Requires ARB, on or before December 31, 2025, to update SCS guidelines to incorporate suggestions from the Collaborative.

BACKGROUND:

- 1) *Regional Transportation Plans (RTP)s*. All of California's MPOs and RTPAs are required by federal and state law to conduct long range planning to set forth a clearly identified defined vision and goals for transportation in the region and

to ensure effective decision making to further the vision and goals. California currently has 18 federally-designated MPOs and 26 state-created RTPAs. The long-range plan, known as the RTP, is an important policy document that is based on the unique needs and characteristics of a region and communicates the regional vision to the state and federal government. The RTP considers a minimum 20-year horizon and should be integrated with local jurisdiction's land use plans. MPOs and RTPAs are required to update the RTP every four or five years, depending on a region's clean air attainment.

The RTP should represent a coordinated and balanced regional transportation system including, but not limited to, mass transportation, highway, railroad, maritime, bicycle, pedestrian, goods movement and aviation. The CTC develops guidelines that govern the content and requirements for the RTP so that it conforms with both federal and state law. The most recent RTP Guidelines 2017 include updates such as following state climate change mitigation/adaptation guidance, considering environmental justice issues, and updating travel demand models. RTPs are financially constrained policy guidance frameworks.

- 2) *Sustainable Communities Strategies (SCS)s*. As a part of the strategy to meet the state's climate goals and focus on the transportation sector, the Legislature passed and Governor Schwarzenegger signed into law, SB 375 (Steinberg, Chapter 728, Statutes of 2008). SB 375 aligns transportation planning, land use and housing to reshape development in communities. SB 375 authorizes ARB to set GHG emissions reduction targets for each of the state's 18 MPO regions. The MPOs work with ARB, exchanging technical data, to set the targets, including recommending a target for their region.

MPOs are required to adopt an SCS as part of their RTP to demonstrate how their region will meet the target. The SCS sets forth a vision for growth in the region taking into account its transportation, housing, environmental, and economic needs. The SCS should set a development pattern for the region, which when integrated with the transportation network, will reduce GHG emissions from automobiles and light trucks to achieve the targets. If an MPO, through the development of an SCS, determines they will not be able to reach the target, the MPO may develop an alternative planning strategy (APS) that identifies the principal impediments to meeting the targets. MPOs do not have authority to directly regulate land use.

Extensive public outreach for the development and approval of an RTP/SCS is required, with workshops, public hearings and meetings with affected city and county officials. MPOs must also complete an environmental impact report

(EIR) for the RTP/SCS, as required by the California Environmental Quality Act (CEQA).

The intent of SB 375 was to empower regions to develop innovative strategies as part of their SCS to meet their target. While there are requirements for information the SCS must contain including identifying areas for future development and housing, information on resources and farmland, and integrating development with the transportation network, it does not prescribe any one strategy for achieving the targets.

- 3) *ARB target setting Round 2.* In an update to the SB 375 targets originally set in 2010, ARB staff proposed new targets for 2020 and 2035, which were approved in 2018. These more stringent targets again varied by MPO, but still represented a compromise between what the MPOs believed possible, and what ARB deemed necessary to achieve SB 32 targets. Specifically, the original 2010 targets would cumulatively contribute a 13% reduction in GHG emissions, and the updated targets would get to 19%. According to the 2017 Scoping Plan update, the overall statewide reduction needs are 25%, well above even the increased targets.
- 4) *SCS Progress Report.* SB 150 (Allen, Chapter 646, Statutes of 2017), requires ARB to report to the Legislature on the progress of SB 375 implementation every four years. The 2018 report found that GHG emission reductions under SB 375 are not being achieved and that VMT per capita is not declining despite every MPO preparing an SCS as required. This may suggest that SCS plans are not being implemented as envisioned and/or are not yielding the expected results. Such factors as state or local funding can be a major reason. The findings in the report are based on statewide total GHG emissions and VMT data, rather than by region, due to data gaps, so it is difficult to see how each region is performing.

Specifically, the report found that the portion of people driving alone to work rose or stayed the same, and overall transportation spending planned by mode remained nearly the same. ARB also noted that lack of affordable housing is contributing to lengthening commutes. Overall, ARB found that, “structural changes and additional work by all levels of government are still necessary to achieve state climate goals and other expected benefits.”

- 5) *California Transportation Assessment Report (AB 285).* In 2019, the Assembly passed and Governor Newsom signed into law AB 285 (Friedman, Chapter 605, Statutes of 2019). It called for an analysis of the CTP and RTP/SCSs, to determine their efficacy of implementing the state's goals, including better

multimodal transportation options, GHG emissions reductions, and environmental justice. Additionally, the report should include recommendations for the improvement of certain transportation and housing related cap-and-trade funded grant programs or other relevant transportation funding programs to better align the programs to meet long-term common goals.

The AB 285 report, released last month, found that RTP/SCSs have been more ambitious than pre-SB 375 regional plans in encouraging more compact growth patterns, mode shifts toward sustainable transport, such as transit, biking, and walking, and reductions in VMT. However, the report did address the shortcomings of SB 375 implementation and made some recommendations. Specifically, the report stated:

“What accounts for the disappointing performance of RTP/SCSs in achieving desired outcomes? Various observers have long warned of structural flaws in SB 375 in terms of a mismatch of MPO responsibility with inadequate authority or resources to carry it out. To achieve plan goals, MPOs need state and local government support and cooperation, which so far have been inadequate.

“The need for local cooperation has been evident from the start. SB 375 relies on MPOs to coordinate transportation and land use at a regional scale, and plan analyses consistently show the synergistic benefits of this approach for reducing VMT and GHGs. But to achieve their SB 375 targets, the MPOs have relied on land use policy changes not yet adopted by many localities and which veer away from current local general plans and zoning ordinances. The MPOs do not control land use policymaking, which is the prerogative of local governments.

“...Rather than criticize MPOs for devising ambitious plans that fail to deliver on the ground, it would be more useful to ask whether state and local policymakers are ready to pursue the visions described in CTP 2050 and the RTP/SCSs and adopt the supporting policies needed for them—and SB 375—to succeed.”

COMMENTS:

- 1) *Purpose.* According to the author, “According to the California Air Resources Board (CARB), the state will not achieve the necessary greenhouse gas (GHG) emission reductions to meet mandates for 2030 and beyond without significant changes to how communities and transportation systems are planned, funded, and built. In 2008, the Legislature and Governor approved SB 375, requiring

CARB to set regional GHG reduction targets for all 18 Metropolitan Planning Organizations (MPOs) in the state. Each MPO is required to create a Sustainable Communities Strategy within their transportation plan that articulates tactics for reducing emissions through changes in land use, housing, and transportation patterns. Yet emissions from the transportation sector continue to rise despite increases in fuel efficiency and decreases in the carbon content of fuel. While the MPOs have developed innovative strategies, their planning documents alone are not changing development at local levels. SB 1217 seeks to establish policies that can help remove the barriers for local planners and elected officials to implementing the projects identified in Sustainable Communities Strategies. The measure will address the clear disconnect between the local decisions shaping regional growth and development, and the state goals related to health, housing, climate, equity, the environment, and the economy.”

- 2) *Reforming SB 375 this session.* Last year, three bills were introduced to proposed changes to the development of SCSs, SB 261 (Allen), SB 475 (Cortese), and AB 1147 (Friedman). AB 1147 made it to the Governor’s desk, but was ultimately vetoed, while the other two bills were held in this committee for further consideration. The authors of those two Senate bills introduced this bill, SB 1217, as a way to bring together the policy ideas in a unified effort to improve the SCS program.

Specifically, SB 1217 requires ARB to create a State-Regional Collaborative for Climate, Equity, and Resiliency, similar to the provisions of SB 475. The Collaborative would be comprised of state entities including, ARB, CalSTA, HCD, and SGC; and a wide-ranging group of stakeholders, including representatives from MPOs, local government, housing developers, and environmental and social equity groups. The Collaborative will report to ARB by January 1, 2024, with recommendations on updates to be made to the SCS guidelines. ARB in turn will be required to incorporate those suggestions and update the SCS guidelines by December 31, 2025.

This legislation is intended to direct the Collaborative in what specific topics to consider when preparing the suggestions for ARB. SB 1217 is focused on three pillars:

- a) *Streamlining plan preparation and approval.* The current process for an MPO to get their plan approved by ARB is many rounds of back-and-forth communication over modeling. This process can take months and sometimes years. There is hope that a simplified quantitative tool could allow MPOs to spend fewer of their limited time and resources on plan

preparation. Additionally, the tool could be used as a way to increase transparency and understanding of the SCS and the strategies it contains. The tool could possibly incentivize earlier implementation of GHG-reducing projects.

- b) *Transparency and accountability for local and regional decisions.* As noted by the AB 285 report and last year's AB 1147 (Friedman), there is a disconnect between the regional level, where MPOs are required to produce RTP/SCSs which will achieve state targets, and the local level, where land use and development decisions are made, which may or may not be consistent with the SCS.
- c) *Better aligning SCS with other planning processes.* The same organizations and governments that are involved in SCS preparation and approval are often also involved in housing and other planning process. As RTP/SCS must incorporate things, such as housing plans, it may be beneficial to better align timelines and requirements.

As it stands, SB 1217 is currently a work in progress.

- 3) *Next Steps.* The authors of the bill have been working with a wide variety of stakeholders on the development of consensus proposals to add depth to the three pillars. Should the bill be approved by this committee, work will continue.

Writing in support of the concept of SB 1217, CivicWell, formerly the Local Government Commission, notes, "While there remains work to be done to define exactly how the purposes of the legislation will be achieved, the need for the legislation is abundantly clear. Therefore, we are very supportive of the ongoing work of a host of interests and organizations which are engaged in this undertaking."

Writing with concerns, the California Building Industry Association, states, "while we remain committed to continuing to work with the Legislature and stakeholders to further California's reduction of its carbon emissions, we cannot stress strongly enough how critical it is that actions taken to so do not add further costs, complexity, or uncertainty to the construction of housing." Further, "after almost a decade and a half of experience implementing SB 375, we agree with the authors that there is room for thoughtful improvement of the statute,... But the details of such revisions are critical, and the consequences of getting them wrong could wreak havoc on our already overburdened housing sector."

- 4) *Double Referral*. SB 1217 was approved by the Senate Environmental Quality Committee on March 28, 2022 by a vote of 5 to 1.

RELATED/PREVIOUS LEGISLATION:

AB 2237 (Friedman, 2022) – Would prohibit an RTPA or county transportation commission from funding projects in a Regional Transportation Improvement Program (RTIP) not aligned with the state’s climate goals or SCS. Also requires the ARB, in consultation with the Governor’s Office of Planning and Research (OPR), to reallocate monies not consistent with the state’s climate goals or most recent SCS; creates a task force to review the role and responsibilities of MPOs.

SB 261 (Allen, 2021) -- Would have tasked ARB with devising new GHG emission reduction targets for the automobile and light truck sector —as well as adding vehicle miles traveled (VMT) reduction targets—to the requirements for SCS plans as prepared by the state’s MPOs. *SB 261 died in the Senate Transportation Committee.*

SB 475 (Cortese, 2021) -- Would have made numerous changes to the provisions of SB 375, including but not limited to: requiring ARB to update SCS guidelines in coordination with specified agencies; tasking ARB with appointing a State Regional Collaborative for Climate, Equity, and Resilience, with membership as specified; requiring ARB to update short- and long-term GHG emission reduction goals, as specified; requiring CEC to set regional building decarbonization targets; and eliminating the Alternative Planning Strategy (APS) compliance option. *SB 475 died in the Senate Transportation Committee*

AB 1147 (Friedman, 2021) – Would have made numerous substantive changes to the required elements of MPOs’ RTPs to ensure effective implementation of SCSs and APSs, as specified. This bill also would have required the OPR to develop a guidance document to provide best practices for establishing "15-minute communities," as defined, and would have required the California Department of Transportation (Caltrans) to develop a bicycle highway pilot program, as specified. *AB 1147 was vetoed by Governor Newsom.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 20, 2022.)

SUPPORT:

350 Bay Area Action
Midpeninsula Regional Open Space District

SUPPORT IN CONCEPT:

Civicwell (formally the Local Government Commission)

CONCERNS:

California Building Industry Association (CBIA)

OPPOSITION:

None received

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SENATE COMMITTEE ON TRANSPORTATION

Senator Lena Gonzalez, Chair

2021 - 2022 Regular

Bill No:	SB 1258	Hearing Date:	4/26/2022
Author:	Allen		
Version:	3/24/2022		
Urgency:	No	Fiscal:	Yes
Consultant:	Randy Chinn		

SUBJECT: Clean Transportation Program: electric vehicle charging: fleet-operated autonomous vehicles

DIGEST: This bill authorizes specified electric vehicle charging station infrastructure to be eligible for grants and loans from the Clean Transportation Program.

ANALYSIS:

Existing law:

- 1) Establishes the Alternative and Renewable Fuels and Vehicle Technology Program (now known as the Clean Transportation Program, or CTP), administered by the California Energy Commission (CEC), to develop and deploy technologies and alternative and renewable fuels to help attain the state’s climate change policies. Funding for the CTP program comes from miscellaneous vehicle-relates charges that include vehicle registration fees, boat registration fees, smog abatement fees, and special license identification fees. (HSC § 44272) These fees sunset on January 1, 2024.
- 2) In administering the CTP, the CEC is required to provide preferences to projects meeting any of twelve criteria:
 - a) Helps transition from the use of petroleum fuels
 - b) Consistency with climate change policy
 - c) Reduces air pollutants
 - d) Decreases the discharge of water pollutants
 - e) Does not adversely impact the sustainability of the state’s natural resources
 - f) Provides non-state matching funds
 - g) Promotes California-based firms and jobs
 - h) Uses existing or proposed fuel infrastructure
 - i) Reduces GHG emissions by at least 10%

- j) Uses alternative fuel blends of at least 20%
 - k) Drives new technology
 - l) Transitions workers to alternative and renewable fuel and vehicle technology sectors
- 3) Limits CTP funding only to projects that meet any of the following 13 criteria:
- a) Develop and improve alternative and renewable low-carbon fuels
 - b) Optimize alternative and renewable fuels for existing engine technologies
 - c) Produce alternative and renewable low-carbon fuels
 - d) Decrease the impact of the alternative and renewable fuel life-cycle carbon footprint
 - e) Develop alternative and renewable fuel infrastructure
 - f) Develop and improve technology for all vehicles that provide better fuel efficiency and lower GHG emissions
 - g) Accelerate the commercialization of alternative and renewable fuels
 - h) Retrofit medium- and heavy-duty vehicles for higher fuel efficiency
 - i) Promote alternative and renewable fuel infrastructure development
 - j) Workforce training programs related to technologies that transform fuels and vehicles
 - k) Block grants and incentive programs administered by public entities and not-for-profit technology entities
 - l) Assessments performed by state agencies to determine the impacts of increasing the use of low-carbon transportation fuels and technologies
 - m) Funding for homeowners to offset costs to supply plug-in electric vehicles

This bill adds to the list of 13 criteria of projects authorized for CTP funding by including electric vehicle charging station infrastructure, whether publicly available or not, that supports the adoption of zero-emission vehicles for fleet-operated autonomous vehicles with a gross vehicle weight of less than 8,501 pounds by 2030.

COMMENTS:

- 1) *Author's Statement.* "California has ambitious goals to combat climate change and curtail greenhouse gas emissions through statewide adoption of zero-emission vehicles. The California Energy Commission's Clean Transportation Program (CTP) is an effective tool in achieving those goals through grant funds that support innovative transportation and fuel technologies. Zero-emission autonomous rideshare services are an emerging industry that can help achieve electric vehicle and greenhouse-gas reduction targets by expanding public

access to zero-emission transportation and providing green alternatives to personal vehicle ownership.

Under current law, autonomous vehicle (AV) technologies are not eligible for CTP funds. This bill expands access to CTP by allowing zero-emission AV projects to apply for grants to increase equitable public access to clean transportation and broaden the state’s electric vehicle charging infrastructure.”

- 2) *Background.* Cruise, a subsidiary of General Motors, is an autonomous vehicle company that is using electric vehicles to provide rides for goods and people. In San Francisco, Cruise has been offering autonomous rides with safety drivers and, beginning this year, without any driver, a first in California. They have applied to the California Public Utilities Commission for permission to charge for these rides.

Rather than rely on existing public charging infrastructure, Cruise desires to have charging infrastructure that is dedicated to their vehicles. This bill allows for this dedicated EV charging infrastructure to compete for grants and loans from the CTP, but does not require that this infrastructure receive an award.

- 3) *May Not be Necessary.* Arguably, the CTP funding authorized in this bill is already authorized in existing law as alternative and renewable refueling infrastructure. This bill makes the authorization more explicit.
- 4) *Opposition.* Opponents are concerned that the bill supports autonomous vehicles and therefore will displace jobs. This is at most a second-order impact in that the bill is very narrowly focused and the AV technology is already in use today, so that car may already be out of the barn. Moreover, the nature of the jobs potentially being supplanted by this technology are mostly gig workers, such as driving for Lyft and Uber, with unenviable pay and working conditions. Nor are commercial truck drivers likely to be replaced as the authorization is limited to light-duty vehicles. The benefits of this technology – safer vehicles, fewer pedestrian and bicyclist collisions, less expensive mobility – should be weighed against any detriments of job losses.
- 5) *Double Referral.* This bill was first heard by the Energy, Utilities and Communications Committee on April 18, 2022 and approved 11-0.

RELATED LEGISLATION:

SB 589 (Hueso, Chapter 732, Statutes of 2021) -- expanded the types of projects eligible for funding from the CTP to include to include projects that develop in-

state supply chains and the workforce for raw materials and components needed for ZEV manufacturing. The bill also expanded the groups the CEC must consult with when developing workforce development programs and it included workforce development as a resource the CEC must include in evaluations of resources needed for ZEV deployment.

SB 726 (Gonzalez, 2021) and AB 1389 (Reyes, 2021) -- would revise the CTP by eliminating specified prioritization and eligibility criteria and instead focus the program on projects that support certain equity and environmental goals. *The bills are currently on the Assembly and Senate Inactive Files, respectively.*

AB 1697 (Bonilla, Chapter 446, Statutes of 2016) -- expanded the CTP's prioritization criteria to require the prioritization of projects that transition workers to the alternative and renewable fuel and vehicle technology sector.

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

Unknown.

POSITIONS: (Communicated to the committee before noon on Wednesday, April 20, 2022.)

SUPPORT:

California Chamber of Commerce
Cruise LLC
Electric Vehicle Charging Association
Silicon Valley Leadership Group
Technet-technology Network

OPPOSITION:

California Labor Federation, AFL-CIO
California State Legislative Board, Smart - Transportation Division
California Teamsters Public Affairs Council

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- a) Require access to a 208/240 volt branch circuit of at least 20 amps, for each multifamily dwelling that has access to a parking space;
 - b) Label each space as EV ready;
 - c) Provide wiring design options so that the EV electric usage can be counted in the individual dwellings electric meter.
- 2) Expands the interest groups that HCD and the CBSC must consult with when it develops EV charging infrastructure to include multifamily dwelling residents and EV equity advocates.

COMMENTS:

- 1) *Author's Statement.* "Powering up at home is the cheapest, most convenient, and most reliable form of fueling an EV, but those benefits are failing to reach communities that need them the most. Retrofitting condo and apartment buildings after they have been constructed is complex and far more expensive than installing "EV Ready" charging at the time of new construction. Governor Newsom has issued an Executive Order pledging to phase out the sale of new internal combustion vehicles by 2035, yet our entire state currently has just seven percent of the EV charging points that the California Energy Commission estimates we will need to support this transition. The additional upfront cost of adding EV Ready charging access for all new units represents only 0.03% of a typical building's costs, which is just 10% of the price to install the same charging access later as a post-construction retrofit. SB 1482 is a necessary, cost-effective policy that will help us reach our greenhouse gas reduction targets and democratize access to EV charging."
- 2) *Falling Behind: Meeting Our EV Goals Requires More Chargers.* California has ambitious goals for deployment of zero emission vehicles (ZEVs). Pursuant to Executive Order B-48-18, California has a goal of 1.5 million ZEVs on the road and 250,000 charging stations available by 2025.¹ Proposed California Air Resources Board (CARB) regulations require 35% of light duty vehicle sales be ZEV in 2026 increasing to 100% ZEV by 2035. (Almost all light-duty ZEVs are electric vehicles.) By 2030, the California Energy Commission (CEC) estimates that California will need 1.2 million charging stations.² As of January 1, 2021, there are 70,000 charging stations available in

¹ Executive Order N-79-20 establishes more ambitious goals with sales of new light-duty vehicles being ZEV by 2025, with similarly ambitious goals for medium- and heavy-duty vehicles.

² Based on EO N-79-20 goals. This figure does not account for EV charging stations for medium- and heavy-duty vehicles.

California³ so there is much more work to be done. The challenge is magnified as the market for EVs expands as EVs evolve from luxury vehicles to daily drivers. Expanded EV availability and lower prices means that the EV market can be broadened to include apartment and condo dwellers. These residences don't typically have access to EV charging infrastructure, a huge obstacle to EV adoption.

- 3) *EV Charging Background.* EV charging comes in three speeds. The first is charging through a typical 120 volt wall outlet, which provides 4 miles of range per hour of charge and is known as Level 1 charging. The next speed is charging through a 208/240 volt wall outlet, which is the size used for large appliances like dryers. This charging provides about 25 miles of range per hour of charge and is known as Level 2 charging. The fastest speed comes from charging at a 480 volt outlet or higher, providing 100 miles of range and more in 15 minutes and is known as Level 3 charging.

Providing electrical power to an EV has two distinct parts. Part 1 is to provide the electrical capacity to the location, generally through a wall outlet. Part 2 is to attach Electric Vehicle Supply Equipment (EVSE) to the outlet. Commonly known as charging stations, the EVSE communicates with the EV and ensures charging happens safely. Level 2 EVSE typically costs \$500 - \$1000.

- 4) *Current Building Standards.* California's building code is revised periodically to provide for EV charging. The current requirement for new larger multifamily buildings require that 10% of parking spaces have the electric capability to provide for Level 2 charging, 25% of spaces have a 208/240 volt outlet, and 5% of spaces have EVSE installed. This bill goes much farther, requiring that 100% of spaces have a 208/240 volt outlet.
- 5) *Costs v. Benefit.* As about 35% of Californians live in multiunit dwellings, reaching our ZEV goals will require those dwellings to provide some infrastructure for EV charging. But unlike garages in single family homes, few parking spaces in multiunit dwellings have 120 volt or 240 volt wall outlets. While current building standards require EV charging infrastructure in some spaces, this bill requires such infrastructure in almost all spaces. But is requiring 100% of spaces in new multifamily dwellings to have a 208/240 volt outlet reasonable given the expected pace of EV deployment? Today there are one million ZEVs on the road in California, about 8% of vehicles. Assuming ARBs ambitious new regulations are adopted and met, California will have 8 million EVs on the road by 2030, or about 50% of vehicles. Requiring 100% of

³ California Energy Commission; Assembly Bill (AB) 2127 Electric Vehicle Charging Infrastructure Assessment; July 2021.

parking spaces to have Level 2 outlets may mean that many of those Level 2 outlets will go unused for many years. HCD estimated that the cost of their building standard would be between \$86.6 million to \$145.8 million, or between 0.1% – 1.4% of total costs for multifamily new construction.⁴ The bill requires roughly 4 times more 208/240 volt outlets than the HCD standard so, using a very rough approximation, it will increase total costs for new multifamily construction by 0.4% - 5.6%. These costs will be recovered from tenants. The author and committee may wish to consider whether the benefits of universally available outlets is worth the extra costs this bill will create.

- 6) *Requiring an Outcome.* Building standards are set through a deliberative public process which involves recognizing the many specific details of building construction and weighing costs versus benefits. This bill determines an outcome without that process. An alternative would be to require HCD and CBSC, in their next review of the building standards, to revisit the EV charging infrastructure requirements for multifamily dwellings, explicitly taking into account the state's EV goals and including the input of the expanded group of stakeholders described in the bill.
- 7) *A Bigger Problem.* Expanding faster EV charging infrastructure to disadvantaged communities in general, and to existing multifamily dwellings in particular, will be essential if we are to meet our ZEV deployment goals, our GHG reduction goals and our equity goals. Retrofitting existing dwellings with EV charging infrastructure is prohibitively expensive. But the development of Level 3 fast charging may create less expensive options. For example, instead of retrofitting all parking spaces with Level 2 capability, an existing multifamily dwelling could instead be retrofitted with a few Level 3 chargers at potentially a much lower cost. Or Level 3 charging plazas, with a dozen or more chargers, could be built near existing multifamily dwellings fulfilling the same role as a gas station. This would also help those living in single family homes without on-premise parking. The author may wish to consider expanding the bill to solve the larger problem.
- 8) *Prior Approval.* This bill was heard by the Senate Housing Committee and approved 5-1.

RELATED LEGISLATION:

AB 965 (Levine, 2021) — requires HCD to propose mandatory building standards. CBSC would have to research, develop, and propose for adoption codes for electric

⁴ Economic and fiscal Impact Statement (Form 399) Attachment; 2022 California Green Building Standards Code, CCR, Title 24, Part 11.

vehicle charging infrastructure for existing nonresidential development. Originally had multifamily dwellings as a part of the bill. *This bill is currently on the Senate inactive file.*

AB 684 (Levine, 2019) — would have required HCD and CBSC to research, develop, and propose building standards for electric vehicle charging infrastructure for existing multifamily dwellings and nonresidential development. *This bill was vetoed by the Governor.*

AB 1239 (Holden, 2017) — would have required HCD and CBSC to Research, develop, and propose building standards for electric vehicle parking spaces for existing parking structures located adjacent to, or associated with, multifamily dwellings and nonresidential buildings. *This bill was vetoed by the Governor.*

AB 1092 (Levine, Chapter 410, Statutes of 2013) — required HCD and CBSC to adopt, approve, codify, and publish mandatory building standards for installation of future electric vehicle charging infrastructure for parking spaces in multifamily dwellings and nonresidential development.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 20, 2022.)

SUPPORT:

350 Bay Area
350 Bay Area Action
350 Butte County
350 Conejo / San Fernando Valley
350 Humboldt: Grass Roots Climate Action
350 Petaluma
350 Sacramento
350 Silicon Valley
350 Sonoma
350 Ventura County Climate Hub
Acterra: Action for a Health Planet
Association of California Community and Energy Services
Atmos Financial, PBC
BeniSol, LLC

Bluedot Energies
California Environmental Voters (formerly Clcv)
California Interfaith Power and Light
Carbon Free Palo Alto
Center for Biological Diversity
Center for Community Action and Environmental Justice
Civicwell (formally the Local Government Commission)
Clean Coalition
Climate 911
Climate Reality Project Bay Area Chapter
Climate Reality Project, San Fernando Valley
ClimatePlan
Coltura
Common Sense Design
Community Resource Project
Cool Planet Group of the First Presbyterian Church Palo Alto
Cool the Earth / Drive Clean Bay Area
Edge Communications, Inc.
Elders Climate Action, Norcal and Socal Chapters
Electric Auto Association San Joaquin Valley
Electric Vehicle Association
Electric Vehicle Association Silicon Valley Chapter
EV Association of San Diego
EV Charging for All Coalition
EVsplusSOLAR org
Global Genesis, Inc.
GoPowerEV
Green Latinos
Greenbank Associates
Indivisible Sacramento
Inland Empire Electric Vehicle Association
Let's Green CA!
Liquid Website
Marin/Sonoma Electric Vehicle Squad
Menlo Spark
Milestone Consulting LLC
Mothers Out Front
Mothers Out Front Silicon Valley
Peninsula Interfaith Climate Action (PICA)
Plug In America
Project Green Home
Récolte Energy

Redwood Energy
Resource Renewal Institute
Sacramento Electric Vehicle Association
San Francisco Bay Area Physicians for Social Responsibility
Santa Cruz Climate Action Network
Schneider Electric
Sierra Club California
Sustainable Silicon Valley
Sustainable Transportation Solutions
The Climate Center
Union of Concerned Scientists
Unitarian Universalist Church of Palo Alto, Green Sanctuary
Ventura County Climate Club
West Marin Climate Action

OPPOSITION:

Apartment Association of Greater Los Angeles
Building Owners and Managers Association of California
California Apartment Association
California Association of Realtors
California Builders Alliance
California Building Industry Association
California Building Officials
California Business Properties Association
California Business Roundtable
Institute of Real Estate Management (IREM)
International Council of Shopping Centers
Sacramento Regional Builders Exchange
South California Rental Housing Association
Western Manufactured Housing Communities Association

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fuels and vehicles, vessels, and equipment technologies. (HSC §44274 et seq.)

- 5) Establishes, as a part of the Charge Ahead Initiative, the Enhanced Fleet Modernization Program (EFMP)—funded with moneys from the Enhanced Fleet Modernization Subaccount within the High Polluter Repair or Removal Account within the Vehicle Inspection and Repair Fund—to incentivize the voluntary retirement of passenger vehicles and light- and medium-duty trucks. (HSC §44125 et seq.)
- 6) Establishes the Clean Cars 4 All (CC4A) Program, to be administered by ARB, to focus on achieving reductions in the emissions of GHGs, improvements in air quality, and benefits to low-income state residents through the replacement of high-polluter motor vehicles with cleaner and more efficient motor vehicles or a mobility option. (HSC § 44124.5)
- 7) Establishes the Clean Vehicle Rebate Project (CVRP), to be administered by ARB, under AQIP. (HSC § 44274 et seq)
- 8) Requires, under Executive Order B-16-2012, that the state ensure 1.5 million zero-emission vehicles (ZEVs) are on the road by 2025.
- 9) Requires, under Executive Order B-48-2018, that the state ensure 5 million ZEVs are on the road by 2030.
- 10) Under Executive Order N-79-20, establishes goals of 100% of sales of new passenger cars and trucks be ZEVs by 2035 and that 100% of medium- and heavy-duty vehicles in the state be zero emission by 2045. ARB is required to develop regulations to meet those goals.

This bill:

(This description includes amendments which the author accepted as a condition of approval by the Environmental Quality Committee. Because of time constraints those amendments will be adopted by this committee should the bill be approved.)

- 1) Modifies the Clean Cars 4 All (CC4A) Program to:
 - a) Authorize each air district in the state to participate in CC4A and contract with ARB to implement it;
 - b) Permit a resident of the state who is otherwise eligible to participate in CC4A to do so regardless of whether the air district they reside in has

implemented it;

- c) Limit use of CC4A incentives only to hybrid or zero-emission vehicles;
and
 - d) Align dispensation of funds with the Clear Car Incentive Program requirements, as specified.
- 2) Establishes requirements for all the Clean Car Incentive Programs that are administered by ARB, including the CC4A, CVRP, the Clean Vehicle Assistance Program (CVAP), and the Clean Fuel Reward Program (CCFR), as follows:
- a) Defines “mobility option” to mean a voucher for public transit, car sharing, bike sharing, or electric bicycles, and “zero-emission or near-zero-emission vehicle incentive program” to mean a program that provides incentives to an individual for the purchase of a light-duty zero-emission or near-zero-emission vehicle.”
 - b) Requires ARB to, on or before July 1, 2023, create a single unified education and application portal for all the included incentive programs.
 - c) Requires ARB to, on or before July 1, 2023, adopt revisions to the requirements of the included incentive programs, if feasible, to ensure:
 - i) An incentive is provided to the applicant before they purchase the vehicle (or other mobility option);
 - ii) A submitted application is approved or denied within 24 hours of submission;
 - iii) A person’s participation in one program does not affect eligibility for another; and
 - iv) A person who is eligible can participate once between July 1, 2023 and July 1, 2026, regardless of if they participated prior.
 - d) If ARB determines that any of the requirements in (d) are not feasible it shall report why by July 1, 2023.
 - e) Permits ARB to, on or before July 1, 2023, limit the combined total amount of incentives (when combined with relevant federal incentives) provided to customers does not exceed 120% of the price difference between the clean vehicle and a comparable combustion vehicle.

- f) Requires ARB to ensure that an incentive provided under CVAP can be used for a mobility option, as defined.
- g) States that it is the intent of the Legislature to enact subsequent legislation regarding equitable access to ZEV infrastructure.

COMMENTS:

- 1) *Author's Statement.* “Transitioning from internal combustion engine vehicles to zero and near-zero emission vehicles is already an essential part of California’s climate goals. There are numerous incentive programs to help consumers purchase or lease a low emission or zero emission vehicle, but the process is often confusing, time-consuming, and generally inaccessible for customers. Furthermore, consumers remain hesitant to adopt ZEV technology given the scarcity of public charging infrastructure, particularly in low-income communities.

SB 1230 will make low emission vehicles more accessible for more Californians. The bill will bundle existing clean car financial incentive programs into a single, simplified application and web portal and transforms state ZEV financial incentives into point-of-sale rebates that make sense for low- and moderate-income Californians. It also expands the number of incentive programs that support mobility options, such as e-bikes and public transit, for low-income residents.”

- 2) *Background.* The foundational step for reducing California’s greenhouse gas emissions was reducing emissions from the electricity sector. Having mostly accomplished that through strong support for renewable energy policies, the next step is the decarbonizing of the transportation sector. Through statute and executive order California has established ambitious goals which culminate in 100% ZEV sales by 2035 for light duty vehicles. Many programs have been established to achieve these goals. The major programs which provide consumer incentives are the subject of this bill. These programs have differing requirements, funding sources, administrative procedures:

- a) *Clean Cars 4 All.* The Clean Cars 4 All (CC4A) program helps get lower-income consumers into cleaner technology vehicles by retiring their older, higher-polluting vehicle and upgrading to a cleaner vehicle. Participants also have the option to replace their older vehicle for alternative mobility options such as public transit passes or an electric bicycle. The CC4A program and scrap-and-replace programs are implemented through participating air districts and funded through the

GGRF.

Today, only five of California's thirty-five air districts implement CC4A. As part of the 2021 Budget, money was provided to allow for a statewide expansion of CC4A, and regulations to do so are expected to be promulgated early this year.

- b) *Clean Vehicle Rebate Project.* The Clean Vehicle Rebate Project (CVRP) is funded by ARB to promote the production and use of zero-emission vehicles, including electric, plug-in hybrid electric and fuel cell vehicles. CVRP enables the purchaser or lessee of an eligible vehicle to receive a rebate. Rebates are distributed on a first-come, first-served basis and issued within 90 days of application approval. Applicants are subject to an income cap (\$135,000 for single filers, \$200,000 for joint filers) and vehicles are subject to a price cap (not more than a manufacturer's suggested retail price of \$45,000 for passenger cars and \$60,000 for larger vehicles). As a rebate, the CVRP is provided to the car buyer after the car is purchased, typically 30 – 60 days, though as many as 120 days if the buyer's income needs to be verified. Historically the CVRP has been underfunded leaving buyers uncertain whether they would receive the rebate, and undoubtedly diminishing the value of the CVRP as an inducement to purchase a ZEV. Unlike the CC4A, retiring a vehicle is not required.
- c) *Clean Vehicle Assistance Program.* The Clean Vehicle Assistance Program (CVAP) is a collaboration between ARB and the Beneficial State Foundation, an equity-focused banking organization. It provides grants and affordable financing to help income-qualified Californians purchase or lease a new or used hybrid or electric vehicle. The source of funding is the GGRF, and recipients are eligible at up to 400% of the federal poverty level.

According to the CVAP website, applicants must first submit their application online where it may take between three weeks and three months to be approved. Once an approval letter is received in the mail, the prospective buyer then has 35 days to redeem the grant at an approved dealership. Once a vehicle is chosen, the dealership either applies the anticipated grant towards the closing cost, or they may choose to hold the vehicle until the grant is verified and paid, which may take a few more weeks.

- d) *California Clean Fuel Reward Program (CCFR)*. The CCFR program provides an instant reward of up to \$1,500 at the point of sale for the purchase of an eligible new plug-in light-duty vehicle at a participating retailer. There is no income limit or cap on the vehicle price and retiring an older vehicle is not required. The CCFR is funded through revenues from ARB's Low Carbon Fuel Standard program.
- 3) *How Are We Doing?* With one million ZEVs sold earlier this year California seems well on track to meet its goal of 1.5 million ZEVs on the road by 2025. But meeting future goals will require an accelerating pace of deployment. The automobile industry is doing its part by producing an increasing number of models of electric vehicles at prices which are becoming increasingly affordable. Yet it seems likely that in addition to federal subsidies, state subsidies will continue to be needed, at least in the medium term. (Deployment of electric vehicle chargers will also be crucial, and California's infrastructure efforts will need to be strengthened significantly.)
- 4) *Simpler is Better*. This bill is intended to make California's ZEV incentive programs more user friendly, and thereby increase ZEV adoption, by simplifying the application process and providing a quick determination whether the buyer qualifies. These are worthy goals whose importance increases as ZEVs are marketed to a broader universe of potential buyers who are less well educated or able to navigate through complex, but perhaps necessary, government bureaucracies. Given the different requirements, funding, and administration of these programs, such simplification won't be so simple, however desirable it may be. The amendments the author has agreed to require that ARB will make these changes unless unfeasible and, if it is unfeasible, to explain why. An important provision of this bill that is not subject to a feasibility test is that ARB shall create a single education and application portal which allows for one application to be made to all programs.
- 5) *How Effective?* While the ZEV incentive programs addressed by this bill are popular, it isn't clear how effective they are (see the Legislative Analyst's Office's *Assessing California's Climate Policies – Transportation*; December 2018). One indication is that few of the websites of major EV manufacturers note the substantial rebates/discounts available from the CVRP and CCFR programs. As California intensifies its efforts to accelerate ZEV adoption, it should evaluate the effectiveness of its programs and makes appropriate changes.

6) *Double Referral*. This bill was heard by the Environmental Quality Committee on April 20, 2022 and approved 5-0. Passage was contingent on approval of amendments described in this analyses which, because of time constraints, will be adopted by this committee if approved.

RELATED LEGISLATION:

SB 1251 (Gonzalez) -- Establishes an office of the Zero Emission Vehicle Equity Advocate; *this bill is pending in the Senate.*

SB 1382 (Gonzalez) -- Directs ARB to identify barriers and develop outreach protocols to accessing CC4A, and it exempts those vehicles from the state sales and use tax; *this bill is pending in the Senate.*

AB 117 (Boerner Hoervath, 2021) -- Added incentives for purchasing e-bikes as a project eligible for funding under AQIP.

AB 745 (Gipson, 2021) -- Would have required ARB to, on or before January 1, 2024, review award amounts under CC4A, ensure vouchers are sufficient to incentivize ZEV purchases, develop metrics to demonstrate the socioeconomic benefits from CC4A, establish a centralized online database for EV incentives, and develop a community outreach strategy. *AB 745 died in the Assembly Appropriations Committee.*

SB 400 (Umberg, Chapter 271, Statutes, 2019) -- Expanded the eligible modes of transportation for which the Clean Cars 4 All “mobility option” vouchers may be used to include bike sharing and e-bikes.

AB 630 (Cooper, Chapter 636 Statutes of 2017) -- Established CC4A, providing drivers of high polluting vehicles financial incentives and support to switch to lower-emission vehicles or other modes of transportation. Also required ARB to set specific and measurable goals annually for the Enhanced Fleet Modernization Scrap Only and CC4A Scrap-and-Replace programs.

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

Unknown.

POSITIONS: (Communicated to the committee before noon on Wednesday, April 20, 2022.)

SUPPORT:

1000 Grandmothers for Future Generations
1000 Grandmothers, Bay Area
350 Conejo
350 Conejo / San Fernando Valley
350 Humboldt: Grass Roots Climate Action
350 Sacramento
350 Silicon Valley
350 Ventura County Climate Hub
Asian Law Alliance
Asian Pacific Islander Forward Movement
Association of Faith Based Institutions
Association of Faith Communities of Santa Cruz County
Atmos Financial, Pbc
Ban Sup (Single Use Plastic)
Berkeley Tenants Union
California Calls
California Climate Action Voters
California Climate Voters
California Environmental Voters (formerly Clcv)
California Green Business Network
California Interfaith Power & Light
California Nurses for Environmental Health and Justice
Center for Biological Diversity
Center for Community Action and Environmental Justice
Central California Asthma Collaborative
Climate Action Campaign
Climate Hawks Vote
Communities for Sustainable Monterey County
Community Environmental Council
Conejo Climate Coalition
Earth Action, INC.
Ecologistics
Ecoslo
Elder's Climate Action Norcal
Elders Action Network
Elders Climate Action Socal Chapter
Elders Climate Action, Norcal and Socal Chapters
Elected Officials to Protect America - California
Equity Transit
Extinction Rebellion Sf Bay

Greenlatinos
Greenpeace USA
Latinos United for A New America
Media Alliance
Mothers Out Front California
Motiv Power Systems
Move LA
Move La, a Project of Community Partners
North American Climate, Conservation and Environment (NACCE)
Orchard City Indivisible
Paired Power, INC.
Pajaro Valley Pride
Rewiring America
San Luis Obispo Mothers for Peace
Santa Cruz Climate Action Network
Santa Cruz Works, INC.
Saphron Initiative
See-la (social Eco Education-la)
Slo Climate Coalition
Socal 350 Climate Action
Sonoma Valley Housing Group
South Bay Progressive Alliance
St. Columba's Episcopal Church
Sunflower Alliance
Sustainable Mill Valley
Sustainable Silicon Valley
Terra Advocati
The Climate Center
UCSB Environmental Affairs Board
Unite Here Local 30
Veggielution
Veterans for Peace Los Angeles
Youth Alliance

OPPOSITION:

None received.

SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No: SB 1249 **Hearing Date:** 4/26/2022
Author: Archuleta
Version: 3/16/2022
Urgency: No **Fiscal:** Yes
Consultant: Katie Bonin

SUBJECT: Vehicle dealers: document processing charge

DIGEST: This bill increases the document processing fee a dealer can charge when a buyer/lessee purchases a car.

ANALYSIS:

Existing law:

- 1) Authorizes a dealer to charge the purchaser or lessee of a vehicle a document processing charge for the preparation and processing of documents, disclosures, and titling, registration, and information security obligations imposed by state and federal law.
- 2) Authorizes a dealer that has a contractual agreement with the Department of Motor Vehicles (DMV) to be a private industry partner to set the document processing charge at up to \$85, and authorizes all other dealers to set the document processing charge at up to \$70.

This bill:

- 1) Commencing January 1, 2024, increase the maximum document processing charge each year to unspecified amounts until January 1, 2030.
- 2) Commencing January 1, 2030, require the maximum document processing charge to be adjusted on an annual basis in accordance with the California Consumer Price Index (CPI).
- 3) Requires the DMV to impose a fee on dealers that does not exceed the DMV's reasonable costs in enforcing dealer legal obligations related to vehicle sales and lease transactions, or an unspecified amount, whichever is less.

COMMENTS:

- 1) *Purpose.* According to the author, “When customers purchase or lease a vehicle, employees at new car dealerships provide a wide range of complex services that benefit and protect consumers. These costs cover services such as (1) DMV document processing including vehicle registration and titling; (2) identity verification and protecting consumers from fraudulent transactions; (3) maintaining updated technology to process and securely store transaction paperwork; (4) processing customer credit applications and preparing loan documents; (5) purchasing vehicle history report services to provide a vehicle’s history to its new owner; (6) evaluating and processing vehicle trades and verifying loan payoff balances on trade-ins; (7) purchasing Dealer Management Systems to manage finance, insurance, inventory, accounting, and fixed operations; (8) transporting vehicles; (9) paying dealership licensing and mandatory bonds; and (10) undergoing regulatory audits. California’s document processing charge cap needs to be modernized to reflect the actual cost of these services. Senate Bill 1249 would, beginning in 2024 and over a six-year period, modernize the non-governmental charge that auto dealerships may collect when selling or leasing a vehicle to ensure that dealerships and their employees can recover their costs and continue providing important services for consumers at the time of vehicle purchase.”

- 2) *What is a document processing fee?* When a buyer/lessee purchases a car, dealerships are required to prepare, file, transmit and store a variety of required forms. The DMV’s electronic vehicle registration (EVR) program has outsourced some of the vehicle licensing and titling functions to willing motor vehicle dealers. Dealerships are allowed to charge car buyers a documentation processing fee to cover the cost of preparing and filing those documents. Willing dealers can participate in the Business Partner Automation (BPA) program, meaning that the dealer has a contractual agreement with DMV to be a private industry partner and these dealers communicate electronically with the DMV to register the vehicles and then mail the license plates, registration cards, and tags to the buyer. Those dealers participating in the BPA program may charge buyers up to \$85 per transaction. Non-participating dealers may only charge a \$70 document processing fee per transaction. Most dealers in the state participate in the BPA program. This fee is not a governmental fee and is not required or collected by DMV.

However, the fee is often not advertised or discussed when the dealer and the potential buyer are negotiating the price of the vehicle, but rather comes at the end of the process. Thus, the fee is often an unwelcome surprise for the buyer.

Across the country, the fee ranges from state to state, from \$85 to \$844. Depending on the state, there may be no limit on the fee, the fee may be capped, the dealer may negotiate the fee with the buyer, or the dealer may remove the fee.

SB 1249 proposes to increase the document processing fee, incrementally over a five-year period. The increase will begin in 2024 to allow the market to settle post-pandemic and will end in 2029. In 2030, the maximum fee would be set. SB 1249 would require the maximum document processing fee to be adjusted on an annual basis in accordance with the CPI. However, SB 1249 does not specify what the fee will be.

- 3) *Show me the money.* A 2019 JDPower study concluded that the average cost incurred by the dealerships in processing the documents is \$447 per transaction. This is a \$362 increase from the \$85 dollar fee dealers currently charge buyers. The \$447 fee would include all third party service providers' expenses, direct forms and supplies, and payroll expenses attributed to documentation. Next, the study showed that the fee is \$363 per transaction if the fee were to exclude any sales management payroll expenses. This is a \$278 increase. Lastly, the fee was \$234 per transaction if the fee excluded vehicle sales and vehicle sales management payroll expenses. This is a \$149 increase.

The current \$85 fee, which is set in statute, is the lowest in the country. The California New Car Dealers, the sponsor of SB 1249, contend that the \$85 fee is insufficient to adequately cover the administrative and technological costs needed to complete the processing. However, nothing prevents these costs from being recovered from customers in other ways.

- 4) *Why now?* New and used car prices have never been higher. Dealer profits are also at an all-time high. According to a report from the National Automobile Dealers Association (NADA), net profit before tax at the average new car dealership through the first nine months of 2021 was up 128.2% over the same period in 2020. If dealers aren't recouping their document processing costs in the \$85 fee, that shortfall is being made up elsewhere.
- 5) *A reasonable fee.* The cap on document preparation fees has been raised a number of times over the last 35 years. In 1987, it was raised from \$20 to \$25. Four years later, it was increased to \$35. In 1996, a limit of \$45 was established. In 2006, the fee for new car sales was increased to \$55, although for vehicle leases, it remained at \$45. In 2011, the cap was raised to \$75. Most recently, AB 516 (Mullin, Chapter 90, Statutes of 2016) raised the fee to \$85 commencing January 1, 2019, just three years ago.

There are many ways to set the document processing fee. However, allowing unlimited annual increases based on the consumer price index, may not be the best way to do so, especially as the increase may not represent the actual costs to the dealers. An important question is whether or not it is reasonable to charge the consumer with all of the fees stipulated by the *JDPower* study. Is it reasonable to charge the buyer a fee for supplies and forms, payroll, or third party services? The most accurate method would be for the DMV to determine the actual costs incurred by the dealers to process the documents. Alternatively, the state could eliminate the fee statute but authorize dealerships to assess a charge for document processing and require it to be disclosed to the consumer earlier in the process, before the price of the vehicle is negotiated.

RELATED LEGISLATION:

AB 516 (Mullin, Chapter 90, Statutes of 2016) — this bill authorized dealers, beginning January 1, 2019, to raise their document processing fees by \$5, from \$80 to \$85 for new cars and from \$65 to \$70 for used cars.

AB 605 (Gatto, Chapter 695, Statutes of 2015) — this bill limited the charges that can be included in the electronic filing fee paid by automobile purchasers.

AB 2324 (Gatto, 2012) — this bill limits to \$22 the amount a business providing electronic vehicle registration services can charge a dealer for those services. *This bill died in the Senate Transportation and Housing Committee.*

AB 1215 (Blumenfield, Chapter 329, Statutes of 2011) — this bill increased the cap on the document processing charge for both purchases and leases to \$80 for those dealers that participate in electronic registration and \$65 for those dealers

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

Unknown.

POSITIONS: (Communicated to the committee before noon on Wednesday, April 20, 2022.)

SUPPORT:

Affinity Truck Center
Auburn Chrysler Dodge Jeep Ram

Audi Carlsbad
Audi Modesto
Bill Wright Toyota
Bob Wondries Ford
California Motorcycle Dealers Association
California New Car Dealers Association
Capistrano Mazda Volkswagen
Central Los Angeles Ford
Claremont Toyota
Cnda-california Motorcycle Dealers Association
Covina Volkswagen
Del Grande Dealer Group
DeLillo Chevrolet
El Cajon Mitsubishi
Enterprise Holding
Experience Toyota Vallejo
Fiesta Ford
Freeway Honda
George Chevrolet
Gill Automotive Group
Gill Chrysler Dodge Jeep Ram
Gilroy Chevrolet Cadillac
Gilroy Chrysler Dodge Jeep Ram
Guaranty Chevrolet
Haidlen Ford
Hansel Auto Group
Harper Motors
Hatfield Buick GMC
Hoblit Chrysler Dodge Jeep Ram
Hoehn Motors
Honda of El Cajon
Honda of Hollywood
Huntington Beach Ford
Kia of Alhambra
Kia Santa Maria
Kirby Auto Group
KPA
Lampe Chrysler Dodge Jeep Ram
Lexus of Riverside
Lexus of Westminster
Livermore Auto Group
Madera Auto Group

Marvin K. Brown Auto Center
Mazda of Orange
Merced Honda
Mercedes Benz of Long Beach
Mid-City Motor World
Napa Ford Lincoln
Newport Lexus
Nissan of Irvine
Norm Reeves Auto Group
North Bakersfield Toyota
Northridge Toyota
Northwood Chevrolet Hyundai
Oakland Acura
Oakland Volkswagen
Oremor Automotive Group
Palm Springs Motors
Palm Springs Subaru
Penske Motor Group
Platinum Chevrolet Santa Rosa
Price Simms Auto Group
Puente Hills Subaru
Puente Hills Toyota
Putnam Lexus
Quality Chevrolet of Escondido
Rancho Santa Margarita Honda
Reynolds Buick GMC Isuzu
Richard's Chevrolet & Buick
Rolls Royce Motor Cars Orange County
Royal Auto Group of San Francisco
San Francisco Toyota
Sanborn Chevrolet
Santa Barbara Auto Group
Scott Robinson Automotive Group
Simpson Automotive Group
SJ Denham Chrysler Jeep Fiat
SJ Denham Collision Center
SJ Denham Mount Shasta Chrysler Jeep Fiat
South Bay Ford Lincoln
South Bay Lexus
South Bay Toyota
South Coast Toyota
Stevens Creek Infiniti

Stevens Creek Nissan
Stevens Creek Subaru
Sunland Ford
Taylor Motors
The ForAnyAuto Group
The Ford Store of San Leandro
Thomas Acura
Three-Way Chevrolet Cadillac
Tom's Truck Center
Toyota 101
Toyota of El Cajon
Toyota of Huntington Beach
Toyota of Orange
Toyota of Riverside
Toyota of Santa Barbara
Toyota San Luis Obispo
Tracy Chrysler Dodge Jeep Ram
Tracy Ford
Tracy Volkswagen
Tustin Lexus
Tuttle Click Automotive Group
Valencia Acura
Victorville Chevrolet
Villa Ford of Orange
Volvo Cars San Diego
Walnut Creek Honda
Weir Canyon Acura
Weir Canyon Honda
Wilson Automotive Group
Wondries Auto Group
Wondries Toyota

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No: SB 1291 **Hearing Date:** 4/26/2022
Author: Archuleta
Version: 4/5/2022 Amended
Urgency: No **Fiscal:** Yes
Consultant: Randy Chinn

SUBJECT: Hydrogen-fueling stations: administrative approval

DIGEST: This bill requires administrative review of applications for hydrogen-fueling stations and allows for denials based only on health or safety impacts.

ANALYSIS:

Existing law:

- 1) Requires counties and cities to administratively approve an application to install electric vehicle (EV) charging stations through the issuance of a building permit or similar nondiscretionary permit and limits review to whether the station meets all health and safety requirements of local, state, and federal law.
- 2) Authorizes a county or city to require an applicant to apply for a use permit if the building official makes a finding, based on substantial evidence, that the EV charging station could have a specific, adverse impact upon the public health and safety.
- 3) Requires the California Energy Commission (CEC) to allocate funds from the Clean Transportation Program to fund 100 publicly available hydrogen fueling stations, subject to specific conditions including need, and requires annual reporting on its progress.
- 4) Under Executive Order B-48-18, establishes a goal of 200 hydrogen fueling stations, 250,000 EV charges, and 10,000 EV fast chargers by 2025.
- 5) Under Executive Order N-79-20, establishes a goal that 100% of in-state sales of new passenger cars and trucks be zero-emission by 2035 and that 100% of medium- and heavy-duty vehicles in the State be zero-emission by 2045.

This bill:

- 1) Provides hydrogen fueling stations with the same expedited siting procedures as EV charging stations, described above.
- 2) Defines hydrogen fueling station as the equipment to store and dispense hydrogen fuel to vehicles according to industry standards that is open to the public.

COMMENTS:

- 1) *Author's Statement.* "California is a world leader when it comes to zero-emission vehicle deployment. However, California has focused primarily on plug in electric vehicles. Hydrogen fuel cell vehicles are complimentary zero emission vehicles and California needs do more to support their adoption. This bill does that by requiring local governments to expand their existing administrative approval process for the permitting of zero emission vehicle infrastructure to include hydrogen-fueling infrastructure."
- 2) *Meeting Ambitious ZEV Goals.* California's ambitious ZEV goals rely on vehicle manufacturers to develop ZEV technology and vehicles that consumers desire. So far, they have been successful, particularly with electric light duty vehicles. Much more work needs to be done to develop affordable medium- and heavy-duty vehicles, and in these markets, the competition between electric and hydrogen vehicles is unresolved. But it is clear that these vehicles won't be sold without an infrastructure to fuel them, so supporting infrastructure deployment is necessary to support vehicles deployment.
- 3) *What's Included?* This bill seeks to apply the same expedited siting rules that EV charging stations enjoy to hydrogen fueling stations. EV charging stations are large electric distribution devices, beginning with a dedicated electrical transformer, much like is used to supply electricity to commercial buildings, and ending with a series of electricity dispensers, which plug into the vehicles. It is a well-known technology that is familiar to those used to working with high voltage and high wattage equipment. Hydrogen refueling stations begin with a hydrogen source, either trucked or piped in. The hydrogen is then compressed, stored at high pressure, cooled, and then dispensed to vehicles. Hydrogen may be familiar to some local governments, which deal with the industrial hydrogen users, such as oil refineries. But it is not a commonly used gas and it is different from natural gas in that it is more prone to leakage because the hydrogen molecule is smaller than the natural gas molecule. It is also highly flammable and burns invisibly. The federal Department of Energy notes that hydrogen is undetectable by human senses though because it

disperses quickly it is unlikely to cause asphyxiation. This bill applies to hydrogen fueling stations that serve both passenger vehicles and heavy-duty vehicles.

- 4) *How Big a Problem?* The CEC is required to annually report on its progress in deploying hydrogen fueling stations. It's 2021 report notes, "in order to further accelerate the future growth of the fuel cell electric vehicle (FCEV) population, multiple barriers to adoption will need to be overcome, including limited model availability, high FCEV prices, high hydrogen fuel prices, and limited consumer awareness."¹ Absent from that list of challenges is the local government permitting process, although the report cites unspecified "delays in station permitting, construction, and opening caused by the COVID-19 pandemic." The Committee may wish to consider whether the demand for hydrogen vehicles and associated fueling stations exists to an extent that warrants state intervention in local permitting processes.
- 5) *Triple Referral.* This bill was first referred to the Senate Governance and Finance (G&F) Committee; second to the Senate Transportation Committee; and third to the Senate Environmental Quality Committee. However, due to the ongoing COVID-19 pandemic, the referral to Environmental Quality was rescinded. The G&F Committee heard this bill on April 20, 2022 and it was approved 5-0.

RELATED LEGISLATION:

AB 1236 (Chiu, Chapter 598 of 2015) -- Requires, with certain exceptions, counties and cities to administratively approve an application to install EV charging stations through the issuance of a building permit or similar nondiscretionary permit and limits review to whether the station meets all health and safety requirements of local, state, and federal law.

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

Unknown.

POSITIONS: (Communicated to the committee before noon on Wednesday, April 20, 2022.)

SUPPORT:

¹ California Air Resources Board; "2021 Annual Evaluation of Fuel Cell Electric Vehicle Deployment and Hydrogen Fuel Station Network Development"; September 2021; p. ix.

California State Association of Electrical Workers
California State Pipe Trades Council
Coalition of California Utility Employees
Western States Council Sheet Metal, Air, Rail and Transportation

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No: SB 1329 **Hearing Date:** 4/26/2022
Author: Newman
Version: 3/10/2022 Amended
Urgency: No **Fiscal:** Yes
Consultant: Randy Chinn

SUBJECT: Publicly available hydrogen-fueling stations

DIGEST: This bill requires the California Energy Commission (CEC) to allocate funding from the Clean Transportation Program (CTP) to help build a statewide publicly available hydrogen fueling station network based on the California Air Resources Board's (ARB) estimation of need.

ANALYSIS:

Existing law:

- 1) Establishes the Clean Transportation Program (CTP), which is administered by the California Energy Commission (CEC) to provide grants, loans, and other funding opportunities to develop and deploy innovative fuel and vehicle technologies to support California's climate change policies. Specifies the types of projects eligible for CTP funding and sets criteria the CEC must use to prioritize projects for funding from the CTP. (Health and Safety Code §44272 et. seq.)
- 2) Requires the CEC to allocate \$20 million from the CTP for the purpose of funding hydrogen refueling stations in the state. Establishes a goal of building at least 100 hydrogen refueling stations and requires the CEC to annually assess the state's progress towards meeting that goal. (Health and Safety Code §43018.9)
- 3) Allocates a portion of smog abatement fees to fund the CTP and sunsets the fee on January 1, 2024. (Health and Safety Code §44060.5)
- 4) Under Executive Order N-79-20, establishes goals of 100% of sales of new passenger cars and trucks be zero-emission vehicles (ZEVs) by 2035 and that 100% of medium- and heavy-duty vehicles in the state be zero emission by 2045. ARB is required to develop regulations to meet those goals.

This bill:

(This description includes the amendments accepted by the author as a condition of the bill being approved by the Senate Energy Committee. Because of time constraints, the author agreed to accept those amendments in the Transportation Committee.)

- 1) Requires the CEC to allocate funding from the CTP to build a statewide publicly available hydrogen fueling station network based on the estimated need for stations identified by the ARB.
- 2) Requires that at least 60% of the funding allocated by the CEC for hydrogen fueling stations go towards publicly available stations that benefit disadvantaged communities.
- 3) Requires that any entity receiving this funding use a skilled and trained workforce for all construction and maintenance work of the fueling stations.
- 4) Requires that \$150,000 of the funding provided by the CEC be allocated to improve communications with drivers about the location of publicly available fueling stations.

COMMENTS:

- 1) *Author's Statement.* “Without support for and appropriate investments in hydrogen, California will fail to meet its zero-emission vehicle goals. SB 1329 aligns with the Air Resources Board’s 2021 peer-reviewed analysis showing an additional \$300M will bring the light and medium-duty fueling network to a point of self-sufficiency while supporting the development of 1,000 strategically-located hydrogen fueling stations in 94% of the geographic state and 97% of disadvantaged communities.

Hydrogen offers immense potential contributions to the creation of a resilient, renewables-powered grid and in the decarbonization of heavy trucking, rail, marine, and even aviation – but that important progress will only be built on an initial foundation of meeting the needs of today’s fleet of fuel cell vehicles. By supporting the needs of hydrogen fuel cell vehicles on the road today, we can

deliberately and efficiently prepare for the hydrogen ecosystem needed tomorrow. SB 1329 will do exactly that.”

- 2) *Making Hydrogen Green.* Hydrogen may be an important contributor to greenhouse gas emission (GHG) reductions as a replacement for fossil fuels if the hydrogen is sourced renewably. Unfortunately, most hydrogen is produced from fossil fuels using electricity that isn’t particularly clean, consuming 6% of the world’s natural gas and 2% of its coal¹. That will hopefully change in the next decade, as global efforts are underway to make hydrogen green. For example: The U.S. Department of Energy has just launched and funded an ambitious research and development program known as the Hydrogen Shot to reduce the cost of green hydrogen by 80% in a decade.
- 3) *CTP investments in hydrogen refueling infrastructure.* The CTP is administered by the CEC to provide funding for infrastructure and technologies that help the state transition to cleaner fuels and transportation. It is one of several programs funding infrastructure aimed at helping the state reach its clean transportation goals. Under existing law, the CTP provides up to \$100 million annually for clean transportation infrastructure and technology projects. The CEC identifies priorities for CTP funding through a regular investment plan and updates. The Senate Energy, Utilities and Communications Committee analysis notes that according to the CTP’s 2021-2023 investment plan update, California has 23 privately-funded hydrogen stations, the CTP funded 83 new and upgraded hydrogen refueling stations as of August 2021. The CEC has also allocated funding for an additional 73 hydrogen stations. Once the stations that have received funding are completed, California will have 179 hydrogen stations – 21 stations short of the 200 station goal established by this bill. The CEC’s investment plan update implies that pending private investments in hydrogen refueling stations may close the gap in planned stations to help California reach the 200 station goal.
- 4) *CTP funding sunset.* Funding for the CTP sunsets on January 1, 2024. However, in the 2021-22 budget the Legislature approved \$785 million for additional ZEV charging infrastructure, which includes the hydrogen refueling stations included in this bill. Additionally, the Bipartisan Infrastructure Law approved by President Biden will provide California with \$384 million over five years to support the expansion of ZEV charging, along with the opportunity to compete for an additional \$2.5 billion in ZEV charging grants.

¹ “The Hydrogen Economy”; Economist, October 9, 2021.

- 5) *Supporting All ZEV Charging.* This bill requires that the funding for hydrogen refueling stations be calibrated to the need for those stations, as determined by ARB, and requires that funding be allocated for this purpose thereby giving hydrogen refueling a priority. This same calibration and priority isn't in statute for EV charging, which seems misplaced since meeting our ZEV goals relies much more heavily on EVs than hydrogen vehicles.² **The author and committee may wish to consider whether the bill should be expanded to include EV charging, so that all ZEV charging has a priority and is funded based on need.**
- 6) *Triple Referral.* This bill was heard by the Energy, Utilities and Communications Committee and passed 9-1 on April 18, 2022. Amendments were accepted and agreed to be adopted in this committee, as discussed above. The Environmental Quality (EQ) Committee was a third referral on this bill but because of COVID protocols that referral was rescinded. The EQ committee offers the following comment:

Every path to achieving California's emission goals involves a massive shift in the transportation sector towards zero-emission vehicles (ZEVs). While battery electric vehicles (BEVs) and fuel cell electric vehicles (FCEVs) both achieve zero emissions, the investment needs, progress to date, and life cycle emissions of the two energy sources can be very different. Compared to directly powering vehicles with electricity, hydrogen as a transportation fuel has some advantages (such as faster fueling time and higher energy-to-weight in vehicles) and some disadvantages (such as greater energy losses from processing/delivery, and more specialized fueling infrastructure). The annual CTP allocation process involves myriad experts and stakeholders apportioning a fixed sum of money, so tying the hands of those decision makers in order to support hydrogen should not be done lightly. Moreover, the CTP itself will need to be reauthorized next year if these funds are to continue being available, so care should be taken to not prematurely limit or constrain the details surrounding that reauthorization process.

RELATED LEGISLATION:

SB 726 (Gonzalez; 2021) – Revises the Clean Transportation Program. *This bill is pending on the Assembly Floor.*

² According to the CEC, in California the number of light-duty ZEVs needing EV charging (both battery electric and plug-in hybrid) is 628,473 compared to 7,129 light-duty hydrogen vehicles as of the end of 2020.

AB 1389 (Reyes; 2021) — Revises the Clean Transportation Program. *This bill is pending on the Senate Floor.*

AB 2772 (Reyes, 2020) — Revises the Clean Transportation Program to no longer require CEC to provide certain project preferences and to additionally require CEC to provide preference to a project that has the ability to support advanced vehicle infrastructure needed to meet specified climate goals. *AB 2772 was held in the Assembly Transportation Committee.*

AB 8 (Perea, Chapter 401, Statutes of 2013) — Extended until January 1, 2024, extra fees on vehicle registrations, boat registrations, and tire sales in order to fund the programs (Clean Transportation Program) established in the Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007.

AB 118 (Núñez, Chapter 750, Statutes of 2007) -- Established the Alternative and Renewable Fuel and Vehicle Technology Program, the Air Quality Improvement Program, and the Enhanced Fleet Modernization Program and funded these program until January 1, 2016.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 20, 2022.)

SUPPORT:

Air Products and Chemicals, INC.
California Hydrogen Business Council
California Hydrogen Coalition
California New Car Dealers Association
Hyundai Motor Company
Nel Hydrogen
Sempra Energy Utilities

OPPOSITION:

350 Silicon Valley
Acterra: Action for A Healthy Planet
Los Angeles Cleantech Incubator
Sierra Club

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