

AMENDED IN ASSEMBLY MARCH 21, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2438

Introduced by Assembly Member Friedman

February 17, 2022

An act to amend Sections 14526.4, 14526.5, 14529, 14530.1, and 65072 of, and to add and repeal Section ~~65073.5~~ to 13978.7 of, the Government Code, and to amend Sections 2033, 2034, 2192, 2394, and 2396 of, and to add Section 2103.5 to, the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2438, as amended, Friedman. Transportation ~~projects; funding; alignment with state plans; plans and greenhouse gas emissions reduction standards.~~

(1) Existing law provides for the funding of projects on the state highway system and other transportation improvements, including under the state transportation improvement program, the state highway operation and protection program, the Solutions for Congested Corridors Program, the Trade Corridor Enhancement Program, and the program within the Road Maintenance and Rehabilitation Program commonly known as the Local Partnership Program.

This bill would require the agencies that administer those programs to revise the guidelines or plans applicable to those programs to ensure that projects included in the applicable program align with the California Transportation Plan, the Climate Action Plan for Transportation Infrastructure adopted by the Transportation Agency, and specified greenhouse gas emissions reduction standards.

The bill would require the Transportation Agency, the Department of Transportation, and the California Transportation Commission, in consultation with the State Air Resources Board and the Strategic Growth Council, to jointly prepare and submit a report to the Legislature on or before January 1, 2025, that comprehensively reevaluates transportation program funding levels, projects, and eligibility criteria with the objective of aligning the largest funding programs with the goals set forth in the above-described plans and away from projects that increase vehicle capacity.

(2) Existing law provides for the apportionment of funding to cities and counties, including under the program within the Road Maintenance and Rehabilitation Program commonly known as the Local Streets and Roads Program, for local streets and roads and other transportation improvements.

This bill would require funds apportioned to cities or counties under the Local Streets and Roads Program to be expended consistent with the California Transportation Plan, the Climate Action Plan for Transportation Infrastructure adopted by the Transportation Agency, and specified greenhouse gas emissions reduction standards. The bill would also express Legislative intent that other funds apportioned to cities and counties for these purposes be expended consistent with those plans and standards.

~~Existing~~

(3) Existing law requires the Department of Transportation to prepare the California Transportation Plan for submission to the Governor and the Legislature, to complete the 3rd update to the plan by December 31, 2025, and to update the plan every 5 years thereafter, as a long-range planning document that incorporates various elements and is consistent with specified expressions of legislative intent. ~~The plan is required to consider various subject areas for the movement of people and freight, including environmental protection.~~

*This bill would ~~also~~ require ~~all~~ transportation projects funded at the local or state level to align with the California Transportation Plan and the Climate Action Plan for Transportation Infrastructure adopted by the Transportation Agency. ~~To the extent the bill imposes additional duties on local agencies, the bill would impose a state-mandated local program.~~ *the California Transportation Plan to include a financial element that summarizes the cost of plan implementation constrained by a realistic projection of available revenues. The bill would require**

the financial element to also contain recommendations for allocation of funds.

~~The California Constitution 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 would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13978.7 is added to the Government Code,
2 to read:

3 13978.7. (a) (1) The agency, the Department of
4 Transportation, and the California Transportation Commission,
5 in consultation with the State Air Resources Board and the
6 Strategic Growth Council, shall jointly prepare and submit a report
7 to the Legislature on or before January 1, 2025, that
8 comprehensively reevaluates transportation program funding
9 levels, projects, and eligibility criteria with the objective of aligning
10 the largest funding programs with the goals set forth in the Climate
11 Action Plan for Transportation Infrastructure adopted by the
12 agency and the California Transportation Plan updated pursuant
13 to Chapter 2.3 (commencing with Section 65070) of Division 1 of
14 Title 7 and away from projects that increase vehicle capacity.

15 (2) The report shall identify statutory changes that need to be
16 enacted to accomplish the objective described in paragraph (1)
17 and changes that can be accomplished through state agency action
18 without statutory changes.

19 (b) (1) A report to be submitted pursuant to subdivision (a)
20 shall be submitted in compliance with Section 9795.

21 (2) Pursuant to Section 10231.5, this section is repealed on
22 January 1, 2029.

23 SEC. 2. Section 14526.4 of the Government Code is amended
24 to read:

25 14526.4. (a) The department, in consultation with the
26 commission, shall prepare a robust asset management plan to guide

1 selection of projects for the state highway operation and protection
2 program required by Section 14526.5. The asset management plan
3 shall be consistent with any applicable state and federal
4 requirements.

5 (b) The department may prepare the asset management plan in
6 phases, with the first phase to be implemented with the 2016 state
7 highway operation and protection program, and the complete asset
8 management plan to be prepared no later than the 2020 state
9 highway operation and protection program.

10 (c) *The department shall prepare revisions to the asset*
11 *management plan to ensure that a project selected for the state*
12 *highway operation and protection program and the complete*
13 *program of projects selected for the state highway operation and*
14 *protection program align with all of the following:*

15 (1) *The California Transportation Plan updated pursuant to*
16 *Chapter 2.3 (commencing with Section 65070) of Division 1 of*
17 *Title 7.*

18 (2) *The Climate Action Plan for Transportation Infrastructure*
19 *adopted by the Transportation Agency.*

20 (3) *The greenhouse gas emissions reduction standards set forth*
21 *in the California Global Warming Solutions Act of 2006 (Division*
22 *25.5 (commencing with Section 38550) of the Health and Safety*
23 *Code) and Senate Bill 375 (Chapter 728 of the Statutes of 2008).*

24 ~~(e)~~

25 (d) In connection with the asset management plan, the
26 commission shall do both of the following:

27 (1) Adopt targets and performance measures reflecting state
28 transportation goals and objectives.

29 (2) Review and approve the asset management plan, including
30 the final version of the first ~~phase~~ and phase, the complete plan
31 prepared by the department pursuant to subdivision ~~(b)~~ (b), and
32 the revisions prepared by the department pursuant to subdivision
33 (c).

34 ~~(d)~~

35 (e) As used in this section, “asset management plan” means a
36 document assessing the health and condition of the state highway
37 system with which the department is able to determine the most
38 effective way to apply the state’s limited resources.

39 *SEC. 3. Section 14526.5 of the Government Code is amended*
40 *to read:*

1 14526.5. (a) Based on the asset management plan prepared
2 and approved pursuant to Section 14526.4, the department shall
3 prepare a state highway operation and protection program for the
4 expenditure of transportation funds for major capital improvements
5 that are necessary to preserve and protect the state highway system.
6 Projects included in the program shall be limited to improvements
7 relative to the maintenance, safety, operation, and rehabilitation
8 of state highways and bridges that do not add a new traffic lane to
9 the system. *A project may only be included in the state highway*
10 *operation and protection program if it is consistent with the*
11 *guidelines adopted pursuant to subdivision (c) of Section 14526.4.*

12 (b) The program shall include projects that are expected to be
13 advertised prior to July 1 of the year following submission of the
14 program, but ~~which~~ *that* have not yet been funded. The program
15 shall include those projects for which construction is to begin
16 within four fiscal years, starting July 1 of the year following the
17 year the program is submitted.

18 (c) (1) The department, at a minimum, shall specify, for each
19 project in the state highway operation and protection program, the
20 capital and support budget, as applicable, for each of the following
21 project phases:

22 (A) Project approval and environmental documents, support
23 only.

24 (B) Plans, specifications, and estimates, support only.

25 (C) Rights-of-way.

26 (D) Construction.

27 (2) The department shall specify, for each project in the state
28 highway operation and protection program, a projected delivery
29 date for each of the following components:

30 (A) Project approval and environmental document completion.

31 (B) Plans, specifications, and estimates completion.

32 (C) Right-of-way certification.

33 (D) Start of construction.

34 (d) The department shall submit its proposed program to the
35 commission not later than January 31 of each even-numbered year.
36 Prior to submitting its proposed program, the department shall
37 make a draft of its proposed program available to transportation
38 planning agencies for review and comment and shall include the
39 comments in its submittal to the commission. The department shall
40 provide the commission with detailed information for all

1 programmed projects on cost, scope, schedule, and performance
2 metrics as determined by the commission.

3 (e) The commission shall review the proposed program relative
4 to its overall adequacy, consistency with the asset management
5 plan prepared and approved pursuant to Section 14526.4 and
6 funding priorities established in Section 167 of the Streets and
7 Highways Code, the level of annual funding needed to implement
8 the program, and the impact of those expenditures on the state
9 transportation improvement program. The commission shall adopt
10 the program and submit it to the Legislature and the Governor not
11 later than April 1 of each even-numbered year. The commission
12 may decline to adopt the program if the commission determines
13 that the program is not sufficiently consistent with the asset
14 management plan prepared and approved pursuant to Section
15 14526.4.

16 (f) As part of the commission's review of the program required
17 pursuant to subdivision (a), the commission shall hold at least one
18 hearing in northern California and one hearing in southern
19 California regarding the proposed program.

20 (g) On or after July 1, 2017, to provide sufficient and transparent
21 oversight of the department's capital outlay support resources
22 composed of both state staff and contractors, the commission shall
23 be required to allocate the department's capital outlay support
24 resources by project phase, including preconstruction. Through
25 this action, the commission will provide public transparency for
26 the department's budget—~~estimates~~; *estimates by* increasing
27 assurance that the annual budget forecast is reasonable. The
28 commission shall develop guidelines, in consultation with the
29 department, to implement this subdivision. Guidelines adopted by
30 the commission to implement this subdivision shall be exempt
31 from the Administrative Procedure Act (Chapter 3.5 (commencing
32 with Section 11340) of Part 1).

33 (h) Beginning July 1, 2017, for a project that experiences
34 increases in capital or support costs above the amounts in the
35 commission's allocation pursuant to subdivision (g), the
36 commission shall establish a threshold for requiring a supplemental
37 project allocation. The commission's guidelines adopted pursuant
38 to subdivision (g) shall also establish the threshold that the
39 commission determines is necessary to ensure efficiency and may

1 provide exceptions as necessary so that projects are not
2 unnecessarily delayed.

3 (i) The department, for each project requiring a supplemental
4 project allocation pursuant to subdivision (h), shall submit a request
5 to the commission for its approval.

6 (j) Expenditures for these projects shall not be subject to
7 Sections 188 and 188.8 of the Streets and Highways Code.

8 *SEC. 4. Section 14529 of the Government Code is amended to*
9 *read:*

10 14529. (a) The state transportation improvement program shall
11 include a listing of all capital improvement projects that are
12 expected to receive an allocation of state transportation funds under
13 Section 164 of the Streets and Highways Code, including revenues
14 from transportation bond acts, from the commission during the
15 following five fiscal years. It shall include, and be limited to, the
16 projects to be funded with the following:

17 (1) Interregional improvement funds.

18 (2) Regional improvement funds.

19 (b) For each project, the program shall specify the allocation or
20 expenditure amount and the allocation or expenditure year for each
21 of the following project components:

22 (1) Completion of all permits and environmental studies.

23 (2) Preparation of plans, specifications, and estimates.

24 (3) The acquisition of rights-of-way, including, but not limited
25 to, support activities.

26 (4) Construction and construction management and engineering,
27 including surveys and inspection.

28 (c) Funding for right-of-way acquisition and construction for a
29 project may be included in the program only if the commission
30 makes a finding that the sponsoring agency will complete the
31 environmental process and can proceed with right-of-way
32 acquisition or construction within the five-year period. ~~No~~ An
33 allocation for right-of-way acquisition or construction shall *not* be
34 made until the completion of the environmental studies and the
35 selection of a preferred alternative.

36 (d) The commission shall adopt and submit to the Legislature
37 and the Governor, not later than April 1 of each even-numbered
38 ~~year thereafter~~, *year*, a state transportation improvement program.
39 The program shall cover a period of five years, beginning July 1
40 of the year it is adopted, and shall be a statement of intent by the

1 commission for the allocation or expenditure of funds during those
 2 five years. The program shall include projects ~~which~~ *that* are
 3 expected to receive funds ~~prior to~~ *before* July 1 of the year of
 4 adoption, but for which the commission has not yet allocated funds.

5 (e) (1) The projects included in the adopted state transportation
 6 improvement program shall be limited to those projects submitted
 7 or recommended pursuant to Sections 14526 and 14527. The total
 8 amount programmed in each fiscal year for each program category
 9 shall not exceed the amount specified in the fund estimate adopted
 10 under Section 14525.

11 (2) *A project may only be included in the state transportation*
 12 *improvement program if it is consistent with the guidelines adopted*
 13 *pursuant to subdivision (c) of Section 14530.1.*

14 (f) The state transportation improvement program is a resource
 15 management document to assist the state and local entities to plan
 16 and implement transportation improvements and to ~~utilize~~ *use*
 17 available resources in a cost-effective manner. It is a document
 18 for each county and each region to declare their intent to use
 19 available state and federal funds in a timely and cost-effective
 20 manner.

21 (g) ~~Prior to~~ *Before* the adoption of the state transportation
 22 improvement program, the commission shall hold not less than
 23 one hearing in northern California and one hearing in southern
 24 California to reconcile any objections by any county or regional
 25 agency to the department’s program or the department’s objections
 26 to any regional program.

27 (h) The commission shall incorporate projects that are included
 28 in the regional transportation improvement program and are to be
 29 funded with regional improvement funds, unless the commission
 30 finds that the regional transportation improvement program is ~~not~~
 31 ~~consistent~~ *inconsistent with paragraph (2) of subdivision (e), is*
 32 *inconsistent* with the guidelines adopted by the ~~commission~~
 33 *commission*, or is not a cost-effective expenditure of state funds,
 34 in which case the commission may reject the regional transportation
 35 improvement program in its entirety. The finding shall be based
 36 on an objective analysis, including, but not limited to, travel
 37 forecast, cost, and air quality. The commission shall hold a public
 38 hearing in the affected county or region ~~prior to~~ *before* rejecting
 39 the program, or not later than 60 days after rejecting the program.
 40 ~~When~~ *If* a regional transportation improvement program is rejected,

1 the regional entity may submit a new regional transportation
2 improvement program for inclusion in the state transportation
3 improvement program. The commission shall not reject a regional
4 transportation improvement program unless, not later than 60 days
5 after the date it received the program, it provided notice to the
6 affected agency that specified the factual basis for its proposed
7 action.

8 (i) A project may be funded with more than one of the program
9 categories listed in Section 164 of the Streets and Highways Code.

10 (j) Notwithstanding any other ~~provision of law, no~~ local or
11 regional matching funds shall *not* be required for projects that are
12 included in the state transportation improvement program.

13 (k) The commission may include a project recommended by a
14 regional transportation planning agency or county transportation
15 commission pursuant to subdivision (c) of Section 14527, if the
16 commission makes a finding, based on an objective analysis, that
17 the recommended project is more cost-effective than a project
18 submitted by the department pursuant to Section 14526.

19 *SEC. 5. Section 14530.1 of the Government Code is amended*
20 *to read:*

21 14530.1. (a) The department, in cooperation with the
22 commission, transportation planning agencies, and county
23 transportation commissions and local governments, shall develop
24 guidelines for the development of the state transportation
25 improvement program and the incorporation of projects into the
26 state transportation improvement program.

27 (b) The guidelines shall include, but not be limited to, all of the
28 following:

- 29 (1) Standards for project deliverability.
- 30 (2) Standards for identifying projects and project components.
- 31 (3) Standards for cost estimating.
- 32 (4) Programming methods for increases and schedule changes.
- 33 (5) Objective criteria for measuring system performance and
34 cost-effectiveness of candidate projects.

35 (c) *The department, in cooperation with the commission,*
36 *transportation planning agencies, and county transportation*
37 *commissions and local governments, shall revise the guidelines*
38 *developed pursuant to subdivision (a) to ensure that a project*
39 *selected to be included in the state transportation improvement*
40 *program and the complete program of projects selected for the*

1 *state transportation improvement program align with all of the*
2 *following:*

3 *(1) The California Transportation Plan updated pursuant to*
4 *Chapter 2.3 (commencing with Section 65070) of Division 1 of*
5 *Title 7.*

6 *(2) The Climate Action Plan for Transportation Infrastructure*
7 *adopted by the Transportation Agency.*

8 *(3) The greenhouse gas emissions reduction standards set forth*
9 *in the California Global Warming Solutions Act of 2006 (Division*
10 *25.5 (commencing with Section 38550) of the Health and Safety*
11 *Code) and Senate Bill 375 (Chapter 728 of the Statutes of 2008).*

12 ~~(e)~~

13 *(d) The guidelines shall be the complete and full statement of*
14 *the policy, standards, and criteria that the commission intends to*
15 *use in selecting projects to be included in the state transportation*
16 *improvement program.*

17 ~~(d)~~

18 *(e) The commission may amend the adopted guidelines after*
19 *conducting at least one public hearing. The commission shall make*
20 *a reasonable effort to adopt the amended guidelines prior to its*
21 *adoption of the fund estimate pursuant to Section 14525. In no*
22 *event shall the adopted guidelines be amended, or otherwise*
23 *revised, modified, or altered during the period commencing 30*
24 *days after the adoption of the fund estimate pursuant to Section*
25 *14525 and before the adoption of the state transportation*
26 *improvement program pursuant to Section 14529.*

27 *SEC. 6. Section 65072 of the Government Code is amended to*
28 *read:*

29 *65072. The California Transportation Plan shall include all of*
30 *the following:*

31 *(a) A policy element that describes the state's transportation*
32 *policies and system performance objectives. These policies and*
33 *objectives shall be consistent with legislative intent described in*
34 *Sections 14000, 14000.5, 14000.6, and 65088.*

35 *(b) A strategies element that shall incorporate the broad system*
36 *concepts and strategies synthesized from the adopted regional*
37 *transportation plans prepared pursuant to Section 65080. The*
38 *California Transportation Plan shall not be project specific.*

39 *(c) A financial element that summarizes the cost of the*
40 *implementation of the California Transportation Plan constrained*

1 *by a realistic projection of available revenues. The financial*
2 *element shall also contain recommendations for allocation of*
3 *funds.*

4 ~~(e)~~

5 *(d) A recommendations element that includes economic*
6 *forecasts and recommendations to the Legislature and the Governor*
7 *to achieve the plan's broad system concepts, strategies, and*
8 *performance objectives.*

9 *SEC. 7. Section 2033 of the Streets and Highways Code is*
10 *amended to read:*

11 2033. (a) (1) On or before January 1, 2018, the commission,
12 in cooperation with the department, transportation planning
13 agencies, county transportation commissions, and other local
14 agencies, shall develop guidelines for the allocation of funds
15 pursuant to subdivision (a) of Section 2032.

16 (2) *The commission, in cooperation with the department,*
17 *transportation planning agencies, county transportation*
18 *commissions, and other local agencies, shall revise the guidelines*
19 *developed pursuant to subdivision (a) to ensure that funds allocated*
20 *pursuant to subdivision (a) of Section 2032 align with all of the*
21 *following:*

22 (A) *The California Transportation Plan updated pursuant to*
23 *Chapter 2.3 (commencing with Section 65070) of Division 1 of*
24 *Title 7 of the Government Code.*

25 (B) *The Climate Action Plan for Transportation Infrastructure*
26 *adopted by the Transportation Agency.*

27 (C) *The greenhouse gas emissions reduction standards set forth*
28 *in the California Global Warming Solutions Act of 2006 (Division*
29 *25.5 (commencing with Section 38550) of the Health and Safety*
30 *Code) and Senate Bill 375 (Chapter 728 of the Statutes of 2008).*

31 (b) The guidelines shall be the complete and full statement of
32 the policy, standards, and criteria that the commission intends to
33 use to determine how these funds will be allocated.

34 (c) The commission may amend the adopted guidelines after
35 conducting at least one public hearing.

36 (d) The guidelines may include streamlining of project delivery
37 by authorizing local or regional transportation agencies to seek
38 commission approval of a letter of no prejudice that allows the
39 agency to expend its own funds in advance of an allocation of
40 funds by the commission, and to be reimbursed at a later time for

1 eligible expenditures. A letter of no prejudice shall only be
 2 available to local or regional transportation agencies for moneys
 3 that have been identified for future allocation to the applicant
 4 agency. Moneys designated pursuant to subdivision (a) of Section
 5 2032 shall only be reimbursed when there is funding available in
 6 an amount sufficient to make the reimbursement.

7 *SEC. 8. Section 2034 of the Streets and Highways Code is*
 8 *amended to read:*

9 2034. (a) (1) (A) Before receiving an apportionment of funds
 10 under the program pursuant to paragraph (2) of subdivision (h) of
 11 Section 2032 from the Controller in a fiscal year, an eligible city
 12 or county shall submit to the commission a list of projects proposed
 13 to be funded with these funds. ~~Two~~

14 (B) *A project may only be included in a list of projects submitted*
 15 *pursuant to this section if it is consistent with all of the following:*

16 (i) *The California Transportation Plan updated pursuant to*
 17 *Chapter 2.3 (commencing with Section 65070) of Division 1 of*
 18 *Title 7 of the Government Code.*

19 (ii) *The Climate Action Plan for Transportation Infrastructure*
 20 *adopted by the Transportation Agency.*

21 (iii) *The greenhouse gas emissions reduction standards set forth*
 22 *in the California Global Warming Solutions Act of 2006 (Division*
 23 *25.5 (commencing with Section 38550) of the Health and Safety*
 24 *Code) and Senate Bill 375 (Chapter 728 of the Statutes of 2008).*

25 (C) *Two or more eligible cities, or one or more cities and a*
 26 *county, may propose a project to be jointly funded with these*
 27 *funds. Each city or county that proposes to jointly fund a project*
 28 *shall include its participation in the project in its list of projects*
 29 *submitted to the commission. All projects proposed to receive*
 30 *funding shall be adopted by resolution by the applicable city*
 31 *council or county board of supervisors at a regular public meeting.*
 32 *A proposed jointly funded project shall additionally be endorsed*
 33 *by a memorandum of understanding that is approved by the entities*
 34 *proposing to jointly fund the project and that includes the identity*
 35 *of the project's lead agency and a description of the individual*
 36 *contributions of each participating city and county to the project.*

37 ~~The~~
 38 (D) *The list of projects proposed to be funded with these funds,*
 39 *the funds described in subparagraph (A), including jointly funded*
 40 *projects, shall include a description and the location of each*

1 proposed project, a proposed schedule for that project's completion,
2 and the estimated useful life of the improvement. ~~The~~

3 (E) The project list shall not limit the flexibility of an eligible
4 city or county to fund projects in accordance with local needs and
5 priorities so long as the projects are consistent with *subparagraph*
6 (B) and subdivision (b) of Section 2030.

7 (2) The commission shall submit an initial report to the
8 Controller that indicates the cities and counties that have submitted
9 a list of projects ~~as described in~~ *consistent with* this subdivision
10 and that are therefore eligible to receive an apportionment of funds
11 under the program for the applicable fiscal year. If the commission
12 receives a list of projects from a city or county after it submits its
13 initial report to the Controller, the commission shall submit a
14 subsequent report to the Controller that indicates the cities and
15 counties that submitted a list of projects after the commission
16 submitted its initial report.

17 (3) The Controller, upon receipt of the initial report, shall
18 apportion funds to eligible cities and counties.

19 (4) (A) For any city or county that is not included in the initial
20 report submitted to the Controller pursuant to paragraph (2), the
21 Controller shall retain the monthly share of funds that would
22 otherwise be apportioned and distributed to the city or county
23 pursuant to paragraph (3).

24 (B) If the Controller receives a subsequent report from the
25 commission within 90 days of receiving the initial report from the
26 commission that a city or county has become eligible to receive
27 an apportionment, the Controller shall apportion the funds retained
28 pursuant to subparagraph (A) to the city or county.

29 (C) The Controller shall reapportion to all eligible cities and
30 counties pursuant to the formula in clauses (i) and (ii) of
31 subparagraph (C) of paragraph (3) of subdivision (a) of Section
32 2103 any funds that were retained pursuant to subparagraph (A)
33 but that were not apportioned and distributed pursuant to
34 subparagraph (B).

35 (b) For each fiscal year, each city or county receiving an
36 apportionment of funds shall, upon expending program funds,
37 submit documentation to the commission that details the
38 expenditures of all funds under the program, including a description
39 and location of each completed project, the amount of funds
40 expended on the project, the completion date, if applicable, and

1 the estimated useful life of the improvement. For projects jointly
2 funded pursuant to *subparagraph (C) of paragraph (1) of*
3 *subdivision (a), each participating city and county shall submit to*
4 *the commission the documentation required pursuant to this*
5 *subdivision.*

6 (c) Before receiving an apportionment of funds under the
7 program pursuant to paragraph (2) of subdivision (h) of Section
8 2032, an eligible city or county may expend other funds on eligible
9 projects and may reimburse the source of those other funds when
10 it receives its apportionment from the Controller over one or more
11 years.

12 *SEC. 9. Section 2103.5 is added to the Streets and Highways*
13 *Code, to read:*

14 *2103.5. It is the intent of the Legislature that funds apportioned*
15 *by the Controller to cities and counties pursuant to this chapter*
16 *be expended consistent with all of the following:*

17 (a) *The California Transportation Plan updated pursuant to*
18 *Chapter 2.3 (commencing with Section 65070) of Division 1 of*
19 *Title 7 of the Government Code.*

20 (b) *The Climate Action Plan for Transportation Infrastructure*
21 *adopted by the Transportation Agency.*

22 (c) *The greenhouse gas emissions reduction standards set forth*
23 *in the California Global Warming Solutions Act of 2006 (Division*
24 *25.5 (commencing with Section 38550) of the Health and Safety*
25 *Code) and Senate Bill 375 (Chapter 728 of the Statutes of 2008).*

26 *SEC. 10. Section 2192 of the Streets and Highways Code is*
27 *amended to read:*

28 2192. (a) The following revenues shall be allocated for
29 infrastructure projects pursuant to this section:

30 (1) The revenues deposited in the ~~Trade-Corridors~~ *Corridor*
31 *Enhancement Account pursuant to Section 2192.4, except for those*
32 *revenues in the account that were appropriated by Senate Bill 132*
33 *of the 2017–18 Regular Session (Chapter 7 of the Statutes of 2017).*

34 (2) An amount of federal funds equal to the amount of revenue
35 apportioned to the state under Section 167 of Title 23 of the United
36 States Code from the national highway freight programs, pursuant
37 to the federal Fixing America’s Surface Transportation Act (“FAST
38 Act,” Public Law 114-94).

39 (b) The funding described in subdivision (a) shall be available
40 upon appropriation for allocation by the California Transportation

1 Commission for infrastructure improvements in this state on
2 federally designated Trade Corridors of National and Regional
3 Significance, on the Primary Freight Network, and along other
4 corridors that have a high volume of freight movement, as
5 determined by the commission and as identified in the state freight
6 plan developed pursuant to Section 13978.8 of the Government
7 Code. Projects eligible for funding shall be included in an adopted
8 regional transportation plan. Projects within the boundaries of a
9 metropolitan planning organization shall be included in an adopted
10 regional transportation plan that includes a sustainable communities
11 strategy determined by the State Air Resources Board to achieve
12 the region’s greenhouse gas emissions reduction targets. In
13 developing guidelines for implementing this section, the
14 commission shall (1) apply the guiding principles, to the maximum
15 extent practicable, in the California Sustainable Freight Action
16 Plan released in July 2016 pursuant to Executive Order No.
17 B-32-15, and (2) consult the state freight plan and the applicable
18 port master plan.

19 (c) Eligible projects for these funds include, but are not limited
20 to, all of the following:

21 (1) Highway improvements to more efficiently accommodate
22 the movement of freight, particularly for ingress and egress to and
23 from the state’s land ports of entry, rail terminals, and seaports,
24 including navigable inland waterways used to transport freight
25 between seaports, land ports of entry, and airports, and to relieve
26 traffic congestion along major trade or goods movement corridors.

27 (2) Freight rail system improvements to enhance the ability to
28 move goods from seaports, land ports of entry, and airports to
29 warehousing and distribution centers throughout California,
30 including projects that separate rail lines from highway or local
31 road traffic, improve freight rail mobility, and other projects that
32 improve the safety, efficiency, and capacity of the rail freight
33 system.

34 (3) Projects to enhance the capacity and efficiency of ports,
35 except that funds available under this section shall not be allocated
36 to a project that includes the purchase of fully automated cargo
37 handling equipment. For the purposes of this paragraph, “fully
38 automated” means equipment that is remotely operated or remotely
39 monitored, with or without the exercise of human intervention or
40 control. Nothing in this paragraph shall prohibit the use of funds

1 available pursuant to this section for a project that includes the
2 purchase of human-operated zero-emission equipment,
3 human-operated near-zero-emission equipment, and infrastructure
4 supporting that human-operated equipment. Furthermore, nothing
5 in this section shall prohibit the purchase of devices that support
6 that human-operated equipment, including equipment to evaluate
7 the utilization and environmental benefits of that human-operated
8 equipment.

9 (4) Truck corridor improvements, including dedicated truck
10 facilities or truck toll facilities, including the mitigation of the
11 emissions from trucks or these facilities.

12 (5) Border access improvements that enhance goods movement
13 between California and Mexico and that maximize the state's
14 ability to access funds made available to the state by federal law.

15 (6) Surface transportation, local road, and connector road
16 improvements to effectively facilitate the movement of goods,
17 particularly for ingress and egress to and from the state's land ports
18 of entry, airports, and seaports, to relieve traffic congestion along
19 major trade or goods movement corridors.

20 (7) Projects that employ advanced and innovative technology
21 to improve the flow of freight, such as intelligent transportation
22 systems, public infrastructure, excluding vehicles, that enables
23 zero-emission or near-zero emission goods movement, real time
24 information systems, weigh-in-motion devices, electronic screening
25 and credentialing systems, traffic signal optimization, work zone
26 management and information systems, ramp metering, and
27 electronic cargo and border security technologies.

28 (8) Environmental and community mitigation or efforts to reduce
29 environmental impacts of freight movement, such as projects that
30 reduce noise, overnight truck idling, or truck queues, and advanced
31 traveler information systems such as freight advanced traveler
32 information systems that optimize operations to reduce empty-load
33 trips.

34 (d) Projects funded with revenues identified in paragraph (1)
35 of subdivision (a) shall be consistent with Article XIX of the
36 California Constitution.

37 (e) (1) In adopting the program of projects to be funded with
38 funds described in subdivision (a), the commission shall evaluate
39 the total potential economic and noneconomic benefits of the
40 program of projects to California's economy, environment, and

1 public health. The evaluation shall specifically assess localized
2 impacts in disadvantaged communities. The commission shall
3 consult with the agencies identified in Executive Order No.
4 B-32-15 and metropolitan planning organizations in order to use
5 the appropriate models, techniques, and methods to develop the
6 parameters for evaluating the program of projects. The commission
7 shall allocate the funding from subdivision (a) for trade
8 infrastructure improvements as follows:

9 (A) Sixty percent of the funds shall be available for projects
10 nominated by regional transportation agencies and other public
11 agencies, including counties, cities, and port authorities, in
12 consultation with the department. The commission shall provide
13 reasonable geographic targets for funding allocations without
14 constraining what an agency may propose or what the commission
15 may approve.

16 (B) Forty percent of the funds shall be available for projects
17 nominated by the department, in consultation with regional
18 transportation agencies.

19 (2) In adopting a program of projects pursuant to paragraph (1),
20 the commission shall prioritize projects jointly nominated and
21 jointly funded by the state and local agencies. In considering
22 geographic balance for the overall program, the commission may
23 adjust the corridor-based targets in subparagraph (A) of paragraph
24 (1) to account for projects programmed pursuant to subparagraph
25 (B) of paragraph (1).

26 (3) *A project may only be included in the program of projects*
27 *adopted pursuant to paragraph (1) if it is consistent with the*
28 *guidelines adopted pursuant to paragraph (3) of subdivision (f).*

29 (f) (1) The commission shall adopt guidelines, including a
30 transparent process to evaluate projects and to allocate the funding
31 described in subdivision (a) for trade infrastructure improvements
32 in a manner that (A) addresses the state's most urgent needs, (B)
33 balances the demands of various land ports of entry, seaports, and
34 airports, (C) places emphasis on projects that improve trade
35 corridor mobility and safety while reducing emissions of diesel
36 particulates, greenhouse gases, and other pollutants and reducing
37 other negative community impacts, especially in disadvantaged
38 communities, (D) makes a significant contribution to the state's
39 economy, (E) recognizes the key role of the state in project
40 identification, (F) supports integrating statewide goods movement

1 priorities in a corridor approach, and (G) includes disadvantaged
2 communities measures, as established by the California
3 Environmental Protection Agency pursuant to Section 39711 of
4 the Health and Safety Code, and other tools the commission
5 determines, for evaluating benefits or costs for disadvantaged
6 communities and low-income communities. Project nominations
7 shall include either a quantitative or qualitative assessment of the
8 benefits the project is expected to achieve relative to the evaluation
9 criteria.

10 (2) The guidelines adopted pursuant to paragraph (1) may
11 include streamlining of project delivery by authorizing regional
12 transportation agencies and other public agencies to seek
13 commission approval of a letter of no prejudice that allows the
14 agency to expend its own funds for a project programmed in a
15 future year of the adopted program of projects, in advance of
16 allocation of funds to the project by the commission, and to be
17 reimbursed at a later time for eligible expenditures. A letter of no
18 prejudice shall only be available to local or regional transportation
19 agencies for moneys that have been identified for future allocation
20 to the applicant agency. Moneys designated for the program shall
21 only be reimbursed when there is funding available in an amount
22 sufficient to make the reimbursement.

23 (3) *The commission shall revise the guidelines adopted pursuant*
24 *to paragraph (1) to ensure that a project included in the program*
25 *of projects and the complete program of projects are aligned with*
26 *the California Transportation Plan updated pursuant to Chapter*
27 *2.3 (commencing with Section 65070) of Division 1 of Title 7 of*
28 *the Government Code, the Climate Action Plan for Transportation*
29 *Infrastructure adopted by the Transportation Agency, and the*
30 *greenhouse gas emissions reduction standards set forth in the*
31 *California Global Warming Solutions Act of 2006 (Division 25.5*
32 *(commencing with Section 38550) of the Health and Safety Code)*
33 *and Senate Bill 375 (Chapter 728 of the Statutes of 2008).*

34 (g) In addition, the commission shall also consider the following
35 factors when allocating these funds:

36 (1) “Velocity,” which means the speed by which large cargo
37 would travel from the land port of entry or seaport through the
38 distribution system.

1 (2) “Throughput,” which means the volume of cargo that would
2 move from the land port of entry or seaport through the distribution
3 system.

4 (3) “Reliability,” which means a reasonably consistent and
5 predictable amount of time for cargo to travel from one point to
6 another on any given day or at any given time in California.

7 (4) “Congestion reduction,” which means the reduction in
8 recurrent daily hours of delay to be achieved.

9 (h) For purposes of this section, the following terms have the
10 following meanings:

11 (1) “Disadvantaged communities” are those communities
12 identified by the California Environmental Protection Agency
13 pursuant to Section 39711 of the Health and Safety Code.

14 (2) “Low-income communities” are census tracts with median
15 household incomes at or below 80 percent of the statewide median
16 income or with median household incomes at or below the
17 threshold designated as low income by the Department of Housing
18 and Community Development’s list of state income limits adopted
19 pursuant to Section 50093 of the Health and Safety Code.

20 (i) It is the intent of the Legislature for the commission to adopt
21 an initial program of projects using the state and federal funds
22 described in subdivision (a) for eligible projects as soon as
23 practicable and no later than May 17, 2018.

24 *SEC. 11. Section 2394 of the Streets and Highways Code is*
25 *amended to read:*

26 2394. The commission shall allocate program funds to projects
27 after reviewing the corridor plans submitted by the regional
28 agencies or the department and making a determination that a
29 proposed project is consistent with the objectives of the corridor
30 ~~plan~~ *plan and is consistent with the guidelines adopted pursuant*
31 *to paragraph (2) of subdivision (a) of Section 2396.* In addition to
32 making a consistency determination with respect to project
33 nominations, the commission shall score the proposed projects on
34 the following criteria:

35 (a) Safety.

36 (b) Congestion.

37 (c) Accessibility.

38 (d) Economic development and job creation and retention.

39 (e) Furtherance of state and federal ambient air ~~standards and~~
40 ~~greenhouse gas emissions reduction standards pursuant to the~~

1 ~~California Global Warming Solutions Act of 2006 (Division 25.5~~
2 ~~(commencing with Section 38550) of the Health and Safety Code)~~
3 ~~and Senate Bill 375 (Chapter 728 of the Statutes of 2008).~~
4 ~~standards.~~

5 (f) Efficient land use.

6 (g) Matching funds.

7 (h) Project deliverability.

8 *SEC. 12. Section 2396 of the Streets and Highways Code is*
9 *amended to read:*

10 2396. (a) (1) The commission, in consultation with the State
11 Air Resources Board, shall develop and adopt guidelines for the
12 program consistent with the requirements of this chapter.
13 Guidelines adopted by the commission shall be exempt from the
14 Administrative Procedure Act (Chapter 3.5 (commencing with
15 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
16 Code). Prior to adopting the guidelines, the commission shall
17 conduct at least one public hearing in northern California and one
18 public hearing in southern California to review and provide an
19 opportunity for public comment. The commission shall adopt the
20 final guidelines no sooner than 30 days after the commission
21 provides the proposed guidelines to the Joint Legislative Budget
22 Committee and the transportation policy committees in the Senate
23 and the Assembly.

24 (2) *The commission, in consultation with the State Air Resources*
25 *Board, shall revise the guidelines to ensure that a project to be*
26 *included in the program of projects and the complete program of*
27 *projects adopted pursuant to Section 2395 align with all of the*
28 *following:*

29 (A) *The California Transportation Plan updated pursuant to*
30 *Chapter 2.3 (commencing with Section 65070) of Division 1 of*
31 *Title 7 of the Government Code.*

32 (B) *The Climate Action Plan for Transportation Infrastructure*
33 *adopted by the Transportation Agency.*

34 (C) *The greenhouse gas emissions reduction standards set forth*
35 *in the California Global Warming Solutions Act of 2006 (Division*
36 *25.5 (commencing with Section 38550) of the Health and Safety*
37 *Code) and Senate Bill 375 (Chapter 728 of the Statutes of 2008).*

38 (b) The guidelines adopted pursuant to subdivision (a) may
39 include streamlining of project delivery by authorizing regional
40 agencies to seek commission approval of a letter of no prejudice

1 that allows the agency to expend its own funds for a project
2 programmed in a future year of the adopted program of projects,
3 in advance of allocation of funds to the project by the commission,
4 and to be reimbursed at a later time for eligible expenditures. A
5 letter of no prejudice shall only be available to local or regional
6 transportation agencies for moneys that have been identified for
7 future allocation to the applicant agency. Moneys designated for
8 the program shall only be reimbursed when there is funding
9 available in an amount sufficient to make the reimbursement.

10 ~~SECTION 1. Section 65073.5 is added to the Government~~
11 ~~Code, to read:~~

12 ~~65073.5. Notwithstanding any other law, all transportation~~
13 ~~projects funded at the local or state level shall align with the~~
14 ~~California Transportation Plan and the Climate Action Plan for~~
15 ~~Transportation Infrastructure adopted by the Transportation~~
16 ~~Agency.~~

17 ~~SEC. 2. If the Commission on State Mandates determines that~~
18 ~~this act contains costs mandated by the state, reimbursement to~~
19 ~~local agencies and school districts for those costs shall be made~~
20 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
21 ~~4 of Title 2 of the Government Code.~~