

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: June 24, 2020

From: MITCH WEISS, Executive Director

Reference Number: 4.1, Action

Prepared By: Paul Golaszewski
Deputy Director

Published Date: June 12, 2020

Subject: State and Federal Legislative Matters

Recommendation:

Staff recommends the Commission accept the staff report on state legislation being monitored in Attachment A. Staff also recommends the Commission adopt a support position on Senate Bill (SB) 1291 (Committee on Transportation) and transmit the support letter in Attachment B. SB 1291 would provide flexibility to transportation planning agencies in preparing their Federal Transportation Improvement Programs, which is needed due to the uncertainties that resulted from the issuance of the federal Safer Affordable Fuel-Efficient Vehicles Rule (Part 2).

Issue:

Attachment A includes the list of active bills that staff have identified as meeting the criteria in the Commission's bill monitoring policy. The list is much shorter than typical because the COVID-19 pandemic interrupted the legislative session and resulted in a re-prioritization of legislation being heard.

Of the bills being monitored, staff recommends a support position on SB 1291 (Committee on Transportation): Federal Statewide Transportation Improvement Program: submissions. This bill would specify that transportation planning agencies are not required to submit a Federal Transportation Improvement Program (FTIP) to the California Department of Transportation (Caltrans) for 2020 and, consequently, that Caltrans is not required to submit a Federal Statewide Transportation Improvement Program (FSTIP) to the federal government for 2020. The bill is an urgency measure that would take effect immediately after being signed into law.

The purpose of the bill is to provide flexibility regarding FTIP and FSTIP preparation, given uncertainties that resulted after the issuance of the federal Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule (Part 2), which rolls back greenhouse gas emission and fuel economy standards. While the California Air Resources Board stated at the Commission's May 13, 2020 meeting that the SAFE Rule (Part 2) would not affect California's emissions model used in

preparing transportation plans, transportation planning agencies were left with significantly less time than needed to complete their FTIPs. The FTIPs are due to Caltrans by October 1, 2020 and normally it takes one year to complete an FTIP update.

By eliminating the 2020 FTIP requirement, SB 1291 enables transportation planning agencies to continue delivering on projects in their existing FTIPs until new ones can be prepared. Under SB 1291, new FTIPs would not be required under state and federal law until 2022. However, Caltrans has indicated that it plans to work with transportation planning agencies to submit a new FSTIP to the federal government sooner than that date

Background:

State Legislation Update

The Legislature has updated its calendar. As of June 19, bills must have moved through both policy and fiscal committees in the house of origin. The Senate and Assembly are in Floor Session from June 22 through June 26 and June 15 through June 19, respectively. The Senate and Assembly are in recess from July 2 through July 13 and June 19 through July 13, respectively.

AB 2285 (Committee on Transportation), which would implement a Commission recommendation to dedicate the interest earnings on revenues deposited in the Road Maintenance and Rehabilitation Account to the State Highway Operation and Protection Program, passed out the Assembly Appropriations Committee on June 3 and has moved to the Assembly floor.

State Budget Update

On May 15, 2020, the Governor released the May Revision. Highlights include:

- The General Fund faces a \$54.3 billion budget deficit
- Fuel excise tax revenues are expected to drop by a total of \$1.8 billion through 2024-25
- Nearly all state department budgets are proposed to be reduced by 5 percent beginning in 2021-22, with savings expected to come from various operational measures
- Collective bargaining negotiations will commence to achieve savings equal to 10 percent of payroll, relative to June 2020 payroll levels

- Proposed Transfers and Loans from Transportation Accounts to the General Fund
 - A transfer of \$130.5 million in interest earnings from the State Highway Account (SHA) to the General Fund. This represents interest earnings paid to the State Highway Account from 2014-15 through 2018-19.
 - A transfer of \$32 million in unencumbered funds from the Traffic Congestion Relief Fund (TCRF) to the General Fund.
 - A \$21.8 million loan from the Local Airport Loan Account (LALA) to the General Fund. This loan will be repaid with interest.

On June 3, 2020, the Senate and the Assembly announced the two houses had reached agreement on a common budget plan. The legislative budget plan approves the Governor's revenue estimates for transportation, and it approves the \$32 million transfer from the TCRF to the General as well as the \$21.8 million loan from the LALA to the General Fund. However, it rejects the \$130.5 million transfer from the SHA to the General Fund. It also rejects the assumption regarding compensation savings from the state workforce. The Legislature will continue negotiations with the Governor on the budget, which it must pass by June 15.

Federal Matters

On May 15, 2020, the US House of Representative passed a new \$3 trillion package of COVID-19 relief measures referred to as the HEROES Act ("Health and Economic Recovery Omnibus Emergency Solutions Act"). Its centerpiece is \$1 trillion for state, local and tribal governments. For transportation, the HEROES Act includes \$15.8 billion for assistance to public transportation authorities and \$15 billion for state departments of transportation. The US Senate has not yet taken action on the HEROES Act.

On June 3, 2020, the US House Transportation and Infrastructure Committee released a draft federal surface transportation reauthorization bill called the INVEST Act ("Investing in a New Vision for the Environment and Surface Transportation"). The bill provides \$494 billion in total funding from federal fiscal year 2021 to federal fiscal year 2025 for highway, highway safety, transit, and passenger rail programs, including \$411 billion in contract authority from the federal Highway Trust Fund. For the first year of the proposed bill, \$83.1 billion is provided essentially as an extension of the existing Fixing America's Surface Transportation (FAST) Act to ensure that state and local agencies can continue to administer programs and advance projects. The FAST Act expires on September 30, 2020.

Attachments:

- Attachment A: Legislation monitored by Commissions staff
- Attachment B: Support letter for SB 1291 and bill text

Legislation Monitored by Commission Staff
 (As of June 3, 2020)

Bill	Lead Authors	Subject	Description	Status
AB-2006	Fong, Salas	State Highways: relinquishment: State Highway Route 184.	<ul style="list-style-type: none"> • Authorizes the California Transportation Commission (Commission) to relinquish to the County of Kern and the City of Bakersfield a specified portion of State Highway Route 184, under certain conditions. 	Assembly-In Floor Process
AB-2038	Committee on Transportation	Transportation: omnibus bill.	<ul style="list-style-type: none"> • Deletes obsolete reporting requirement, repeals provisions relating to a 2-year pilot program, corrects an obsolete cross-reference 	Assembly-In Floor Process
AB-2285	Committee on Transportation	Transportation.	<ul style="list-style-type: none"> • Continuously appropriates interest earnings derived from revenues deposited in the Road Maintenance and Rehabilitation Account to the California Department of Transportation (Caltrans) for maintenance of the state highway system or for purposes of the State Highway Operation and Protection Program. 	Assembly-In Floor Process

Legislation Monitored by Commission Staff
(As of June 3, 2020)

Bill	Lead Authors	Subject	Description	Status
AB-2663	Eduardo Garcia	Use fuel tax: dimethyl ether: propane fuel blend.	<ul style="list-style-type: none"> • On or after January 1, 2021, sets the state excise tax under the Use Fuel Tax Law upon a propane fuel blend and upon dimethyl ether at the rates of \$0.06 and \$0.048, respectively, for each gallon used, rather than \$0.18. • Adds dimethyl ether and a propane fuel blend to the categories of fuels for which an owner or operator may pay an annual flat rate fuel tax in lieu of the per gallon fuel tax. • Exempts from excise taxes under the Use Fuel Tax Law the use of dimethyl ether and a propane fuel blend in a vehicle during any period of time for which the owner or operator of the vehicle has instead paid the applicable annual flat rate fuel tax. • Provides that to the extent that an owner or operator has provided written representation to a fuel seller that the owner or operator has prepaid the annual flat rate fuel tax for dimethyl ether or for a propane fuel blend, the owner or operator shall be solely responsible for paying the applicable fuel taxes under the Use Fuel Tax Law, and the fuel seller shall not be liable for collecting and remitting those taxes. 	Assembly-In Floor Process

Legislation Monitored by Commission Staff
(As of June 3, 2020)

Bill	Lead Authors	Subject	Description	Status
SB-288	Wiener	California Environmental Quality Act: exemptions.	<ul style="list-style-type: none"> Includes exemptions from the requirements of the California Environmental Quality Act (CEQA) for projects that do the following: (1) increase bus rapid transit and regional rail services on public rail or highway rights of way, (2) increase passenger or commuter service on high-occupancy vehicle lanes or existing roadway shoulders, (3) rail, light rail, and bus maintenance, repair, storage, administrative, and operations facilities, (4) repair or rehabilitation of publicly-owned local, major or minor collector, or minor arterial or major arterial bridges, (5) zero-emission fueling stations and chargers, and (6) projects for pedestrian and bicycle facilities. Requires projects to meet additional specified criteria, including be carried out by a skilled and trained workforce. Extends existing CEQA exemption for bicycle transportation plans for an urbanized area, restriping of streets and highways, bicycle parking and storage, signal timing to improve street and highway intersection operations, and related signage for bicycles, pedestrians, from January 1, 2021 to January 1, 2030. 	Assembly-In Committee Process - Elections and Redistricting
SB-921	Dahle	State highways: Route 174: relinquishment.	<ul style="list-style-type: none"> Authorizes the Commission to relinquish to the City of Grass Valley the portion of Route 174 within its city limits if Caltrans and the city enter into an agreement. 	Senate-In Committee Process - Appropriations

Legislation Monitored by Commission Staff
(As of June 3, 2020)

Bill	Lead Authors	Subject	Description	Status
SB-1238	Hueso	Department of Transportation: highways and roads: recycled plastics study and specifications.	<ul style="list-style-type: none"> Requires Caltrans to conduct a study to determine if including recycled plastics in asphalt used for a construction and repair project of a state highway is feasible. If Caltrans determines that this use of recycled plastics is feasible, the bill would require the department, when awarding a contract for a construction or repair project of a state highway, to award a preference of an unspecified percentage to a bidder who proposes to use asphalt that includes recycled plastics for the construction or repair project. Declares it to be the goal of the state that, by 2045, Caltrans each local agency use asphalt that includes recycled plastics in every construction or repair project of a local road or state highway that will use asphalt. 	Senate-In Committee Process - Appropriations
SB-1291	Committee on Transportation	Federal Statewide Transportation Improvement Program: submissions.	<ul style="list-style-type: none"> Provides that a metropolitan planning organization or transportation planning agency is not required to submit a Federal Transportation Improvement Program to Caltrans, and Caltrans is not required to submit the Federal Statewide Transportation Improvement Program to the US Department of Transportation, for 2020. 	Senate-In Committee Process - Appropriations

Legislation Monitored by Commission Staff
(As of June 3, 2020)

Bill	Lead Authors	Subject	Description	Status
SB-1351	Beall	Transportation planning.	<ul style="list-style-type: none"> Prohibits the Director of Caltrans from approving an allocation of an amount greater than 5% of a transportation planning agency's annual revenue for transportation planning and programming processes. Existing law authorizes agencies to allocate up to 3% of their annual revenues for these processes, and alternatively authorizes the allocation of a greater amount upon approval by the Director of Transportation. Requires rules and regulations related to transit fare transfers to be updated by transportation planning agency and county transportation commissions at least every 4 calendar years, to reflect changes to the operators' transfer policies, payment methods, and any other relevant policy changes. 	Senate-In Committee Process - Appropriations

Total Measures: 9

DRAFT

Attachment B

PAUL VAN KONYENBURG, Chair
HILARY NORTON, Vice Chair
BOB ALVARADO
YVONNE B. BURKE
LUCETTA DUNN
CARL GUARDINO
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STATE OF CALIFORNIA

GAVIN NEWSOM, Governor

SENATOR JIM BEALL, Ex Officio
ASSEMBLY MEMBER JIM FRAZIER, Ex Officio
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June 24, 2020

The Honorable Jim Beall, Chair
Senator Transportation Committee
State Capitol, Room 2082
Sacramento, CA 95814

RE: Support for Senate Bill 1291: Federal Statewide Transportation Improvement Program: submissions.

Dear Senator Beall:

As part of its statutory charge, the California Transportation Commission (Commission) advises the Administration and the Legislature on state transportation policies and makes recommendations for legislation to improve California's transportation system.

The Commission adopted a position to support Senate Bill 1291 at its June 24, 2020 meeting. This measure provides that a transportation planning agency is not required to submit a Federal Transportation Improvement Program (FTIP) to the California Department of Transportation (Caltrans) for 2020. It also provides that Caltrans is not required to submit the Federal Statewide Transportation Improvement Program to the US Department of Transportation for 2020. This bill will provide much needed flexibility to transportation planning agencies that faced uncertainty in their FTIP preparation due to the issuance of the federal Safer Affordable Fuel-Efficient Vehicles Rule (Part 2).

Senator Beall
RE: Support for SB 1291
June 24, 2020
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The Commission commends your leadership to ensure transportation planning agencies can continue to deliver critical transportation projects despite changing federal rules. Commissioners and staff are available to provide information that may assist you in moving this legislation forward. If we can be of assistance, please contact the Commission's Executive Director, Mr. Mitch Weiss, at mitch.weiss@catc.ca.gov or (916) 654-4245.

Sincerely,

PAUL VAN KONYNENBURG
Chair

c: Commissioners, California Transportation Commission
Mitch Weiss, Executive Director, California Transportation Commission
David Kim, Secretary, California State Transportation Agency
Honorable Jim Frazier, Chair, Assembly Transportation Committee

AMENDED IN SENATE APRIL 3, 2020

AMENDED IN SENATE MARCH 26, 2020

SENATE BILL

No. 1291

Introduced by ~~Senator Beall~~ *Committee on Transportation (Senators Beall (Chair), Bates (Vice Chair), Allen, Dahle, Dodd, Galgiani, Lena Gonzalez, McGuire, Moorlach, Morrell, Roth, Rubio, Skinner, Umberg, and Wieckowski)*

February 21, 2020

An act to amend Section 65074 of the Government Code, and to amend Sections 182.6 and 182.7 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1291, as amended, ~~Beall~~ *Committee on Transportation*. Federal Statewide Transportation Improvement Program: submissions.

Existing law provides for the allocation of certain federal transportation funds apportioned to the state between state purposes administered by the Department of Transportation and local and regional purposes administered by various regional agencies. Existing law requires each metropolitan planning organization and transportation planning agency, not later than October 1 of each even-numbered year, to submit its Federal Transportation Improvement Program to the department for incorporation into the Federal Statewide Transportation Improvement Program, which existing law requires the department to submit to the United States Secretary of Transportation by not later than December 1 of each even-numbered year.

This bill would provide that a metropolitan planning organization or transportation planning agency is not required to submit a Federal

Transportation Improvement Program to the department, and the department is not required to submit the Federal Statewide Transportation Improvement Program to the secretary, for 2020.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 65074 of the Government Code is
2 amended to read:
3 65074. (a) The department shall prepare, in cooperation with
4 the metropolitan planning agencies, a Federal Statewide
5 Transportation Improvement Program in accordance with
6 ~~subsection (g) of Section 135~~ 135(g) of Title 23 of the United
7 States Code. The Federal Statewide Transportation Improvement
8 Program shall be submitted by the department to the United States
9 Secretary of ~~Transportation~~; *Transportation* by not later than
10 December 1 of each even-numbered year.
11 (b) Notwithstanding subdivision (a), the department shall not
12 be required to submit a Federal Statewide Transportation
13 Improvement Program to the United States Secretary of
14 Transportation for 2020.

15 SEC. 2. Section 182.6 of the Streets and Highways Code is
16 amended to read:
17 182.6. (a) Notwithstanding Sections 182 and 182.5, Sections
18 188, 188.8, and 825 do not apply to the expenditure of an amount
19 of federal funds equal to the amount of federal funds apportioned
20 to the state pursuant to that portion of ~~subsection (b)(3) of Section~~
21 ~~104, subsections (a) and (c) of 104(b)(3), Section 157, 157(a) and~~
22 ~~(c), and subsection (d) of Section 160~~ 160(d) of Title 23 of the
23 United States Code that is allocated within the state subject to
24 ~~subsection (d)(3) of Section 133~~ 133(d)(3) of that code. These
25 funds shall be known as the regional surface transportation program
26 funds. The department, the transportation planning agencies, the
27 county transportation commissions, and the metropolitan planning
28 organizations may do all things necessary in their jurisdictions to
29 secure and expend those federal funds in accordance with the intent
30 of federal law and this chapter.

1 (b) The regional surface transportation program funds shall be
2 apportioned by the department to the metropolitan planning
3 organizations designated pursuant to Section 134 of Title 23 of
4 the United States Code and, in areas where none has been
5 designated, to the transportation planning agency designated
6 pursuant to Section 29532 of the Government Code. The funds
7 shall be apportioned in the manner and in accordance with the
8 formula set forth in ~~subsection (d)(3) of Section 133~~ 133(d)(3) of
9 Title 23 of the United States Code, except that the apportionment
10 shall be among all areas of the state. Funds apportioned under
11 this subdivision shall remain available for three federal fiscal
12 years,
13 including the federal fiscal year apportioned.

14 (c) (1) Where county transportation commissions have been
15 created by the County Transportation Commissions Act
16 (Division 12 (commencing with Section 130000) of the
17 Public Utilities Code), all regional surface transportation
18 program funds shall be further apportioned by the metropolitan
19 planning organization to the county transportation commission
20 on the basis of relative population.

21 (2) In the Monterey Bay region, all regional surface
22 transportation program funds shall be further apportioned, on the
23 basis of relative population, by the metropolitan planning
24 organization to the regional transportation planning agencies
25 designated under subdivision (b) of Section 29532 of the
26 Government Code.

27 (d) The applicable metropolitan planning organization, county
28 transportation commission, or transportation planning agency
29 shall annually apportion the regional surface transportation
30 program funds for projects in each county, as follows:

31 (1) An amount equal to the amount apportioned under the
32 federal-aid urban program in federal fiscal year 1990–91 adjusted
33 for population. The adjustment for population shall be based on
34 the population determined in the 1990 federal census except that
35 no county shall be apportioned less than 110 percent of the
36 apportionment received in the 1990–91 fiscal year. These funds
37 shall be apportioned for projects implemented by cities, counties,
38 and other transportation agencies on a fair and equitable basis
39 based upon an annually updated five-year average of allocations.
Projects shall be nominated by cities, counties, transit operators,

1 and other public transportation agencies through a process that
2 directly involves local government representatives.

3 (2) An amount not less than 110 percent of the amount that the
4 county was apportioned under the federal-aid secondary program
5 in federal fiscal year 1990–91, for use by that county.

6 (e) (1) The department shall notify each metropolitan planning
7 organization, county transportation commission, and transportation
8 planning agency receiving an apportionment under this section,
9 as soon as possible each year, of the amount of obligation authority
10 estimated to be available for program purposes.

11 (2) The metropolitan planning organization and transportation
12 planning agency, in cooperation with the department, congestion
13 management agencies, cities, counties, and affected transit
14 operators, shall select and program projects in conformance with
15 federal law. The metropolitan planning organization and
16 transportation planning agency shall submit its Federal
17 Transportation Improvement Program prepared pursuant to Section
18 134 of Title 23 of the United States Code to the department for
19 incorporation into the Federal Statewide Transportation
20 Improvement Program not later than October 1 of each
21 even-numbered year. The Federal Transportation Improvement
22 Programs shall, at a minimum, include the years covered by the
23 Federal Statewide Transportation Improvement Program.

24 (3) Notwithstanding paragraph (2), a metropolitan planning
25 organization or transportation planning agency shall not be required
26 to submit a Federal Transportation Improvement Program to the
27 department for 2020.

28 (f) Not later than July 1 of each year, the metropolitan planning
29 organizations, and the regional transportation planning agencies,
30 receiving obligational authority under this article shall notify the
31 department of the projected amount of obligational authority that
32 each entity intends to use during the remainder of the current
33 federal fiscal year, including, but not limited to, a list of projects
34 that will be obligated by the end of the current federal fiscal year.
35 Any federal obligational authority that will not be used shall be
36 redistributed by the department to other projects in a manner that
37 ensures that the state will continue to compete for and receive
38 increased obligational authority during the federal redistribution
39 of obligational authority. If the department does not have sufficient
40 federal apportionments to fully use excess obligational authority,

1 the metropolitan planning organizations or regional transportation
2 planning agencies relinquishing obligational authority shall make
3 sufficient apportionments available to the department to fund
4 alternate projects, when practical, within the geographical areas
5 relinquishing the obligational authority. Notwithstanding this
6 subdivision, the department shall comply with ~~subsections (d)(3)~~
7 ~~and (f) of Section 133~~ *133(d)(3) and (f)* of Title 23 of the United
8 States Code.

9 (g) A regional transportation planning agency that is not
10 designated as, ~~nor~~ *or* represented by, a metropolitan planning
11 organization with an urbanized area population greater than
12 200,000 pursuant to the 1990 federal census may exchange its
13 annual apportionment received pursuant to this section on a
14 dollar-for-dollar basis for nonfederal State Highway Account funds,
15 which shall be apportioned in accordance with subdivision (d).

16 (h) (1) If a regional transportation planning agency described
17 in subdivision (g) does not elect to exchange its annual
18 apportionment, a county located within the boundaries of that
19 regional transportation planning agency may elect to exchange its
20 annual apportionment received pursuant to paragraph (2) of
21 subdivision (d) for nonfederal State Highway Account funds.

22 (2) A county not included in a regional transportation planning
23 agency described in subdivision (g), whose apportionment pursuant
24 to paragraph (2) of subdivision (d) was less than 1 percent of the
25 total amount apportioned to all counties in the state, may exchange
26 its apportionment for nonfederal State Highway Account funds.
27 If the apportionment to the county was more than 3 ½ percent of
28 the total apportioned to all counties in the state, it may exchange
29 that portion of its apportionment in excess of 3 ½ percent for
30 nonfederal State Highway Account funds. Exchange funds received
31 by a county pursuant to this section may be used for any
32 transportation purpose.

33 (i) The department shall be responsible for closely monitoring
34 the use of federal transportation funds, including regional surface
35 transportation program funds to ensure full and timely use. The
36 department shall prepare a quarterly report for submission to the
37 commission regarding the progress in use of all federal
38 transportation funds. The department shall notify the commission
39 and the appropriate implementation agency whenever there is a

1 failure to use federal funds within the three-year apportionment
2 period established under subdivision (b).

3 (j) The department shall provide written notice to implementing
4 agencies when there is one year remaining within the three-year
5 apportionment period established under subdivision (b) of this
6 section.

7 (k) Within six months of the date of notification required under
8 subdivision (j), the implementing agency shall provide to the
9 department a plan to obligate funds that includes, but need not be
10 limited to, a list of projects and milestones.

11 (l) If the implementing agency has not met the milestones
12 established in the implementation plan required under subdivision
13 (k), before the end of the three-year apportionment period
14 established under subdivision (b), the commission shall redirect
15 those funds for use on other transportation projects in the state.

16 (m) Notwithstanding subdivisions (g) and (h), regional surface
17 transportation program funds available under this section
18 exchanged pursuant to Section 182.8 may be loaned to and
19 expended by the department. The department shall repay from the
20 State Highway Account to the Traffic Congestion Relief Fund all
21 funds received as federal reimbursements for funds exchanged
22 under Section 182.8 as they are received from the Federal Highway
23 Administration, except that those repayments are not required to
24 be made more frequently than on a quarterly basis.

25 (n) Before determining the amount for local subvention required
26 by this section, the department shall first deduct the amount
27 authorized by the Legislature for increased department oversight
28 of the federal subvented program.

29 SEC. 3. Section 182.7 of the Streets and Highways Code is
30 amended to read:

31 182.7. (a) Notwithstanding Sections 182 and 182.5, Sections
32 188, 188.8, and 825 do not apply to the expenditure of an amount
33 of federal funds equal to the amount of federal funds apportioned
34 to the state pursuant to Section 104(b)(4) of Title 23 of the United
35 States Code. These funds shall be known as the congestion
36 mitigation and air quality improvement program funds and shall
37 be expended in accordance with Section 149 of Title 23 of the
38 United States Code, including the requirements relating to
39 particulate matter less than 2.5 micrometers in diameter in
40 ~~subsections (g) and (k) of the section.~~ *Section 149(g) and (k) of*

1 ~~that title~~. The department, the transportation planning agencies,
2 and the metropolitan planning organizations may do all things
3 necessary in their jurisdictions to secure and expend those federal
4 funds in accordance with the intent of federal law and this chapter.

5 (b) The congestion mitigation and air quality improvement
6 program funds shall be apportioned by the department to the
7 metropolitan planning organizations designated pursuant to Section
8 134 of Title 23 of the United States Code and, in areas where none
9 has been designated, to the transportation planning agency
10 established by Section 29532 or 29532.1 of the Government Code.
11 All funds apportioned to the state pursuant to Section 104(b)(4)
12 of Title 23 of the United States Code shall be apportioned to
13 metropolitan planning organizations and transportation planning
14 agencies responsible for air quality conformity determinations in
15 federally designated air quality nonattainment and maintenance
16 areas within the state as follows:

17 (1) The department shall apportion these funds in the ratio that
18 the weighted nonattainment and maintenance population in each
19 federally designated area within the state bears to the total of all
20 weighted nonattainment and maintenance area populations in the
21 state.

22 (2) Subject to paragraph (3), the weighted nonattainment and
23 maintenance area population shall be calculated by multiplying
24 the population of each area in the state that is a nonattainment area
25 or maintenance area as described in Section 149(b) of Title 23 of
26 the United States Code for ozone or carbon monoxide by the
27 following factors:

28 (A) A factor of 1.0, if, at the time of apportionment, the area is
29 a maintenance area.

30 (B) A factor of 1.0, if, at the time of the apportionment, the area
31 is classified as a marginal ozone nonattainment area under Subpart
32 2 of Part D of Title I of the Clean Air Act (42 U.S.C. Sec. 7511 et
33 seq.).

34 (C) A factor of 1.1, if, at the time of the apportionment, the area
35 is classified as a moderate ozone nonattainment area under Subpart
36 2 of Part D of Title I of the Clean Air Act (42 U.S.C. Sec. 7511 et
37 seq.).

38 (D) A factor of 1.2, if, at the time of the apportionment, the area
39 is classified as a serious ozone nonattainment area under Subpart

1 2 of Part D of Title I of the Clean Air Act (42 U.S.C. Sec. 7511 et
2 seq.).

3 (E) A factor of 1.3, if, at the time of the apportionment, the area
4 is classified as a severe ozone nonattainment area under Subpart
5 2 of Part D of Title I of the Clean Air Act (42 U.S.C. Sec. 7511 et
6 seq.).

7 (F) A factor of 1.4, if, at the time of the apportionment, the area
8 is classified as an extreme ozone nonattainment area under Subpart
9 2 of Part D of Title I of the Clean Air Act (42 U.S.C. Sec. 7511 et
10 seq.).

11 (G) A factor of 1.0, if, at the time of the apportionment, the area
12 is not a nonattainment or maintenance area for ozone, but is
13 classified under Subpart 3 of Part D of Title I of the Clean Air Act
14 (42 U.S.C. Sec. 7512 et seq.) as a nonattainment area for carbon
15 monoxide.

16 (H) A factor of 1.0, if, at the time of the apportionment, an area
17 is designated as a nonattainment area for ozone under Subpart 1
18 of Part D of Title I of the Clean Air Act (42 U.S.C. Sec. 7512 et
19 seq.).

20 (3) If, in addition to being designated as a nonattainment or
21 maintenance area for ozone as described in paragraph (2), any
22 county within the area is also classified under Subpart 3 of Part D
23 of Title I of the Clean Air Act (42 U.S.C. Sec. 7512 et seq.) as a
24 nonattainment or maintenance area described in paragraph (2) for
25 carbon monoxide, the weighted nonattainment or maintenance
26 area population of the county, as determined under subparagraphs
27 (A) to (F), inclusive, or subparagraph (H) of paragraph (2), shall
28 be further multiplied by a factor of 1.2.

29 (4) Funds allocated under this subdivision shall remain available
30 for three federal fiscal years, including the federal fiscal year
31 apportioned.

32 (c) (1) Notwithstanding subdivision (b), where county
33 transportation commissions have been created by the County
34 Transportation Commissions Act (Division 12 (commencing with
35 Section 130000) of the Public Utilities Code), all congestion
36 mitigation and air quality improvement program funds shall be
37 further apportioned by the metropolitan planning organization to
38 the county transportation commission on the basis of relative
39 population within the federally designated air quality nonattainment
40 and maintenance areas after first apportioning to the nonattainment

1 and maintenance areas in the manner and in accordance with the
2 formula set forth in subdivision (b).

3 (2) In the Monterey Bay region, all congestion mitigation and
4 air quality improvement program funds shall be further
5 apportioned, on the basis of relative population, by the metropolitan
6 planning organization to the regional transportation planning
7 agencies designated under subdivision (b) of Section 29532 of the
8 Government Code.

9 (d) (1) The department shall notify each metropolitan planning
10 organization, transportation planning agency, and county
11 transportation commission receiving an apportionment under this
12 section, as soon as possible each year, of the amount of obligational
13 authority estimated to be available for expenditure from the federal
14 apportionment. The metropolitan planning organizations,
15 transportation planning agencies, and county transportation
16 commissions, in cooperation with the department, congestion
17 management agencies, cities and counties, and affected transit
18 operators, shall select and program projects in conformance with
19 federal law. Each metropolitan planning organization and
20 transportation planning agency shall, not later than October 1 of
21 each even-numbered year, submit its Federal Transportation
22 Improvement Program prepared pursuant to Section 134 of Title
23 23 of the United States Code to the department for incorporation
24 into the Federal Statewide Transportation Improvement Program.
25 Federal Transportation Improvement Programs shall, at a
26 minimum, include the years covered by the Federal Statewide
27 Transportation Improvement Program.

28 (2) Notwithstanding paragraph (1), a metropolitan planning
29 organization or transportation planning agency shall not be required
30 to submit a Federal Transportation Improvement Program to the
31 department for 2020.

32 (e) Not later than July 1 of each year, the metropolitan planning
33 organizations and the regional transportation planning agencies
34 receiving obligational authority under this section, shall notify the
35 department of the projected amount of obligational authority that
36 each entity intends to use during the remainder of the current
37 federal fiscal year, including, but not limited to, a list of projects
38 that will use the obligational authority. Any federal obligational
39 authority that will not be used shall be redistributed by the
40 department to other projects in a manner that ensures that the state

1 will continue to compete for and receive increased obligational
 2 authority during the federal redistribution of obligational authority.
 3 If the department does not have sufficient federal apportionments
 4 to fully use excess obligational authority, the metropolitan planning
 5 organization or transportation planning agency relinquishing
 6 obligational authority shall make sufficient funding available to
 7 the department to fund alternate projects, when practical, within
 8 the geographical areas relinquishing the obligational authority.
 9 Notwithstanding this subdivision, the department shall comply
 10 with ~~subsection (f) of Section 133~~ 133(f) of Title 23 of the United
 11 States Code.

12 (f) The department shall be responsible for closely monitoring
 13 the use of federal transportation funds, including congestion
 14 management and air quality improvement program funds to ensure
 15 full and timely use. The department shall prepare a quarterly report
 16 for submission to the commission regarding the progress in use of
 17 all federal transportation funds. The department shall notify the
 18 commission and the appropriate implementation agency whenever
 19 there is a failure to use federal funds within the three-year
 20 apportionment period established under paragraph (4) of
 21 subdivision (b).

22 (g) The department shall provide written notice to implementing
 23 agencies when there is one year remaining within the three-year
 24 apportionment period established under paragraph (4) of
 25 subdivision (b).

26 (h) Within six months of the date of notification required under
 27 subdivision (g), the implementing agency shall provide to the
 28 department a plan to obligate funds that includes, but need not be
 29 limited to, a list of projects and milestones.

30 (i) If the implementing agency has not met the milestones
 31 established in the implementation plan required under subdivision
 32 (h), before the end of the three-year apportionment period
 33 established under paragraph (4) of subdivision (b), the commission
 34 shall redirect those funds for use on other transportation projects
 35 in the state.

36 (j) Congestion mitigation and air quality improvement program
 37 funds available under this section exchanged pursuant to Section
 38 182.8 may be loaned to and expended by the department. The
 39 department shall repay from the State Highway Account to the
 40 Traffic Congestion Relief Fund all funds received as federal

1 reimbursements for funds exchanged under Section 182.8 as they
2 are received from the Federal Highway Administration, except
3 that those repayments are not required to be made more frequently
4 than on a quarterly basis.

5 (k) Before determining the amount for local subvention required
6 by this section, the department shall first deduct the amount
7 authorized by the Legislature for increased department oversight
8 of the federal subvented program.

9 SEC. 4. This act is an urgency statute necessary for the
10 immediate preservation of the public peace, health, or safety within
11 the meaning of Article IV of the California Constitution and shall
12 go into immediate effect. The facts constituting the necessity are:

13 Due to changes in federal law, many metropolitan planning
14 organizations and transportation planning agencies are unable to
15 comply with existing law, which requires those entities to submit
16 Federal Transportation Improvement Programs to the Department
17 of Transportation for 2020.