

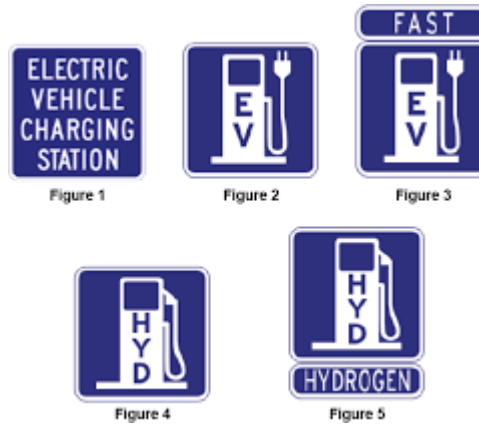
will also build awareness for non-ZEV motorists by bringing ZEV infrastructure to the forefront of their minds, helping eliminate range anxiety during daily driving routes and trips throughout the state. SB 30 strives to increase confidence in California's ever-growing ZEV station infrastructure. Adding more ZEVs on the road will improve public health and the environment and adding refueling station signs will help the state meet its transportation goals and help boost local economic development.”

- 2) *Falling Far Behind.* Adequate charging infrastructure is essential to achieving our EV deployment goals. A recent survey by Consumer Reports found that concerns about charging logistics (e.g. where and when an EV can be recharged) was the most cited barrier for potential EV buyers¹. Similarly, a recent JD Power study found increasing dissatisfaction with EV charging among EV owners, noting that public charging continues to provide challenges to overall EV adoption and current EV owners alike².
- 3) *Be Aware.* There is increasing awareness of the need to deploy more ZEV charging and to better inform drivers of ZEV charging availability. While most ZEV drivers are made aware of ZEV charging through apps in their vehicle, signage can be helpful and creates awareness among yet-to-be ZEV buyers. The National Electric Vehicle Infrastructure Program (NEVI), a federal EV charging program created as part of the Infrastructure Investment and Jobs Act, provides that highway signage is an authorized use of NEVI funding. Additionally, California's Clean Transportation Program provides planning grants to local governments for ZEV infrastructure planning and authorizes installation of signage for previously installed chargers.

Caltrans has published a ZEV charging station sign installation guide which includes model signage that has been approved by the MUTCD (see below). Moreover, Caltrans has an existing program which places signs on highways when requested by a local government, or when the CEC identifies a need for signs, at no cost to the requestor. As of September 2022 about 230 signs have been installed on freeways. Given these ongoing efforts, it is not clear what additional effect this bill will have.

¹ Consumer Report; January/February 2022 survey on battery electric vehicles. Question 8: What would prevent you from buying/leasing an electric vehicle? 61% of respondents indicated charging logistics. Other major reasons cited include driving range (55%) and cost of ownership (52%).

² J.D. Power U.S. Electric Vehicle Experience Public Charging Study, August 17, 2022.



RELATED LEGISLATION:

None

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

Unknown

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

California Electric Transportation Coalition
California Hydrogen Coalition

OPPOSITION:

None received

-- END --

- 1) Requires all new EVs sold to be bidirectional capable beginning in Model year 2027, and authorizes CARB to exempt certain types of EVs from this bill's bidirectional mandate.
- 2) Requires the CEC, in consultation with the California Air Resources Board (CARB), to convene a stakeholder working group by June 30, 2024 to examine vehicle-to-home, vehicle-to-buildings, and vehicle-to-grid and to submit a report to the Governor and Legislature by January 1, 2025 making recommendations on a) the potential costs and benefits associated with requiring bidirectional capability for electric vehicle charging equipment, b) mechanisms to ensure interoperability between bidirectional electric vehicles and charging equipment, and c) identification of the resources needed from the electricity sector to facilitate vehicle-to-buildings and vehicle-to-grid.
- 3) Requires the CEC and CARB to revise by December 31, 2024, this bill's definition of "bidirectional capable" EVs and chargers to specify certain technical requirements for interoperability and enable EV batteries to provide emergency backup power or grid services. This bill specifies that EV and charger components must comply with the bidirectional capability, as defined, at the time of sale. This bill authorizes the CEC and CARB to periodically update the definition of "bidirectional capable" and other terms related to EV and charger functionality.
- 4) Establishes various definitions for purposes of this bill, including the following:
 - a) "Bidirectional capable" means the ability of an EV to both charge and discharge electricity through EV service equipment, or as this definition is modified by the CEC and CARB pursuant to this bill.
 - b) "Bidirectional charging" means charging capability that enables an EV to either be charged by the electrical grid or an onsite energy resource, or discharge stored energy capacity to the electrical grid or to serve an adjacent home or building.
 - c) "Vehicle-to-everything" means the energy technology through which an EV is used as a mobile battery and the battery's stored energy can be used for benefits, including powering a home (vehicle-to-home), a building (vehicle-to-building), a microgrid, or another vehicle, or providing electricity to the electrical grid (vehicle-to-grid).

COMMENTS:

- 1) *Author's Statement.* “There are plenty of good reasons to rely on EVs for more than transportation. SB 233 will ensure that new EVs are equipped with bidirectional charging so that EV batteries have the ability to power homes or other facilities when electricity demand is at its peak and prices are high. With bidirectional charging, EVs also have the potential to help power the grid. SB 233 will also help slash energy bills for EV owners and give California the opportunity to harness EVs as mini-power plants on wheels.”
- 2) *Background.* The batteries powering EVs are large, typically 60 kilowatt-hours (kwh) or more. As the average daily home usage is about 30 kwh an EV could theoretically power a home for two days, an attractive feature during blackouts. With about 1 million EVs on the road the potential is large. Moreover, the cost of using EVs as electric grid storage may be less than utility-owned storage. It's also easy to envision EVs sending electricity back to the grid when power is expensive and recharging when the power is cheap, netting the EV owner a small profit. If enough EVs could be reliably called upon, there's even the possibility of avoiding the cost of building a power plant, energy storage system, or other electric infrastructure. The integration of EVs into the electric grid holds potential for ratepayer savings, improved grid reliability and a financial return to EV owners. But to realize that potential there are significant issues to address regarding the capabilities of the EVs, the EV charging equipment, and the electric grid.
- 3) *EVs and Bidirectional Charging.* Meeting California's ambitious ZEV goals is a huge challenge and a primary focus of California policymaking. Having more models of EVs available at the lowest possible prices is important to meeting those goals, a task made more difficult as we focus on adoption by lower income households. How does this bill impact California's ability to meet those goals?

This bill requires all EVs sold in California to be bidirectional capable beginning in model year 2027 unless exempted by the CARB. Currently, few EVs have bidirectional capability: Nissan's Leaf is currently capable of bidirectionality, and some manufacturers have announced plans to equip EVs with bidirectional charging capability.

Adding the bidirectional capability to the vehicle may raise the cost of the vehicle. That's because CARB rules establish minimum battery performance

requirements.¹ Battery performance is degraded as the battery charges and discharges² which means that EV manufacturers will need to use larger batteries. As batteries are the most expensive component of EVs the price increase could be substantial. Other hardware upgrades may also be required, such as additional circuit breakers and upgraded communications semiconductors. The requirement for bidirectional charging by model year 2027 may also restrict the available supply of EVs as manufacturers may be reluctant to add the capability to its California vehicles if other jurisdictions don't also require it.

Not all EV owners want to take advantage of the bidirectionality. The financial benefit will be offset by the hassle of recharging the EV and the wear and tear on the battery. Much will depend on how convenient it is: Can the EV be plugged in anywhere or only in select locations? Can the EV plug in anytime or is it restricted? The EV bidirectionality requirement may not be beneficial for residents of multifamily dwellings. Typically the property owner pays for the electricity in the common areas like the garage, so the tenant, who is incurring the cost of the EV, won't receive any benefit from selling electricity back to the grid.

There is no requirement in the bill that EV charging equipment or the electric grid be made capable to handle bidirectional charging. Without these complementary capabilities an EV owner will pay for bidirectionality features that may not be useful for years.

This bill also applies the MY 2027 bidirectional mandate to medium- and heavy-duty trucks, unless exempted by CARB. The market for these big EVs lags far behind the market for passenger car EVs. Few are on the road. Given the potential impact on our ZEV deployment goals because of cost and potentially restricted availability, the author and committee may wish to consider whether an EV mandate is appropriate.

¹ CARB Advanced Clean Cars II -- Section 1962.8(c)(3): Battery Warranty. The vehicle manufacturer of each battery electric vehicle and plug-in hybrid electric vehicle shall warrant to the ultimate purchaser and each subsequent purchaser that the vehicle's battery is free from defects in materials and workmanship which cause the battery state of health, as described in CCR, title 13, section 1962.5(c)(4)(A)4.c. and d., to deteriorate to less than 70% for a warranty period of eight years or 100,000 miles, whichever first occurs, for 2026 through 2030 model years, and 75% for a warranty period of eight years or 100,000 miles, whichever first occurs, for 2031 and subsequent model years.

² The Senate Energy, Utilities and Communications Committee analysis notes an analysis by the Hawai'i Natural Energy Institute at the University of Hawai'i which indicates that consistent bidirectional cycling of an EV battery – particularly when done twice per day – can shorten the lifespan of an EV battery to as little as five years.

- 4) *EV Charging Equipment and Bidirectional Charging.* The amendments committed to in the Energy, Utilities, and Communications Committee hearing remove the requirement that all EV charging equipment be bidirectional. Like EVs, little EV charging equipment, and no publicly available level 2 (240 volt) and DC fast chargers, are bidirectional. Bidirectional EV charging equipment is in development though it will be significantly more expensive than traditional chargers.
- 5) *Electric Grid and Bidirectional Charging.* Returning electricity back to the grid is not as simple as plugging the EV into any available outlet. There are safety concerns for electrical workers, who need to know where electric supply is coming from so that the part of the grid being worked can be properly isolated. Homes may need to upgrade their electric panels to safely accept and manage power supplied from the EV to the wall outlet. The electric distribution grid has to be able to handle the power flow, which may be greater than, or from a different direction, than designed. Standards for communication between the vehicle, EV charging equipment, and the grid must be agreed upon and established. Billing protocols must be created. There will be issues about where and when the grid can accept power and how to credit the seller for the power delivered. It is a complicated analysis, probably much more so than for EVs and EV charging equipment, with safety, economic and engineering considerations.

The bill requires the CEC to convene a stakeholder workgroup to examine several aspects of bidirectionality, including the impact on the electric grid. Some of these aspects are the purview of the CEC, but the impact on the grid is the expertise of the CPUC. The author and committee may wish to consider revising the bill accordingly.

- 6) *Ongoing Trials.* The potential benefits of integrating EVs with the electric grid are substantial. An analysis by state agencies identified 320 potential use cases.³ In December 2020 the CPUC issued a decision adopting strategies and metrics to further the integration of EVs as electric grid resources.⁴ As part of that decision the CPUC authorized electric utilities to propose appropriate pilots. Numerous pilot projects are underway throughout California -- PG&E alone has 14 – with others soon to launch and still others pending CPUC approval. (One preliminary result is that the cost of the EV charging equipment and installation was higher than anticipated.)⁵

³ Final Report of the California Joint Agencies Vehicle-Grid Integration working Group; June 30, 2020; CPUC DRIVE OIR Rulemaking (R.18-12.006).

⁴ Decision 20-12-029.

⁵ Vehicle Grid Integration Report by PG&E; submitted to the CPUC on March 15, 2023.

California's three largest investor-owned utilities (IOUs), the Sacramento Municipal Utility District (SMUD), the Los Angeles Department of Water and Power (LADWP) and Lancaster Energy have entered into a memorandum of understanding led by the federal Department of Energy to collaborate with other partners to identify barriers and opportunities for bidirectional charging. Under the MOU, dated April 20, 2022, the parties intend to begin the collaboration effort as soon as possible.

California and the federal government are actively and aggressively considering how to integrate EVs into the electric system. There are many questions to answer, but progress is being made and trials are ongoing. Given the uncertainty over the practical implications of bidirectionality and the potential for the requirement to jeopardize California's ZEV deployment goals, the author and committee may wish to consider whether this mandate is premature. This wouldn't slow progress towards bidirectionality. Pilot projects and trials would continue and EV manufacturers could choose to offer it. But it would give policymakers the opportunity to better understand the costs and benefits of bidirectionality on vehicles, charging infrastructure and the electric grid.

- 7) *H2 too?* Hydrogen powered vehicles are also electric: A fuel cell converts hydrogen into electricity. One of the advantages of hydrogen vehicles is that they are relatively quickly refilled and potentially have longer range, both of which make hydrogen fuel cell vehicles a better backup power source than EVs. This bill does not include hydrogen vehicles in the bidirectional mandate.
- 8) *Double Referral.* This bill was heard by the Senate Energy, Utilities and Communications Committee on April 18, 2023 and approved 12-1.

RELATED LEGISLATION:

SB 676 (Bradford, Chapter 484, Statutes of 2019) – Required the CPUC to establish EV-grid integration strategies for certain load-serving entities. The bill also required POUs to consider EV-grid integration strategies in their IRPs and required CCAs to report specified information to the CPUC regarding EV-grid integration activities.

AB 2127 (Ting, Chapter 365, Statutes of 2018) – Required the CEC to conduct a statewide assessment of vehicle charging infrastructure needed to support the state's ZEV deployment goals.

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

Unknown.

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

350 Bay Area
350 Bay Area Action
350 Humboldt: Grass Roots Climate Action
350 Southland Legislative Alliance
350 Ventura County Climate Hub
Active San Gabriel Valley
Adopt a Charger
Alliance of Nurses for Healthy Environments
Better World Group; the
Cahdemo Association
California Business Alliance for A Clean Economy
California Environmental Voters
California Environmental Voters (formerly Clcv)
California Native Plant Society, Alta Peak Chapter
California Nurses for Environmental Health and Justice
Center for Biological Diversity
Center for Community Action & Environmental Justice
Center for Community Energy
Central California Asthma Collaborative
Central Coast Climate Justice Network
Civicwell
Clean Coaliton
Cleaneearth4kids.org
Climate Action California
Climate Equity Policy Center
Climate Reality Project, Los Angeles Chapter
Climate Reality Project, San Fernando Valley
Climate Reality Project, Silicon Valley
Coalition for Clean Air
Cool Davis
Delores Huerta Foundation
Endangered Habitats League
Environment California

Environmental Working Group
Ev-seg
Fierce Courage Consulting
Fossil Free California
Friends Committee on Legislation of California
Friends of The Eel River
Greenlatinos
Greenpeace USA
Grid Alternatives
High Noon Advisors
Indivisible CA Statestrong
Indivisible Marin
Joint Venture Silicon Valley
Legacy Solutions
Let's Green Ca!
Local Clean Energy Alliance
Morongo Basin Conservation Association
North Bay Electric Auto Association
Nuvve Holding Corp
Peninsula Interfaith Climate Action
Plug in America
Recolte Energy
San Francisco Bay Physicians for Social Responsibility
Santa Barbara Standing Rock Coalition
Santa Cruz Climate Action Network
Sierra Club California
Silicon Valley Youth Climate Action
Sunflower Alliance
Sustainable Claremont
Sustainable Rossmoor
Synergistic Solutions
The Climate Center
The Phoenix Group
Union of Concerned Scientists
Voices for Progress
World Business Academy
Yolo Interfaith Alliance for Climate Justice

OPPOSITION:

Alliance for Automotive Innovation

Calchamber
California Electric Transportation Coalition
Chargepoint, Inc

-- END --

This bill:

- 1) Makes legislative findings and declarations regarding the use of concrete and cement in California and the state's decarbonization goals.
- 2) Establishes the benchmark for low-carbon cement and concrete to be the benchmarks set forth in the commitment made by the First Movers Coalition at the 27th Conference of Parties United Nations Climate Conference (COP 27). These benchmarks are cement with embodied carbon below 184 kilograms of CO₂ equivalent per ton and concrete with embodied carbon values ranging from 70-144 kilograms of CO₂ equivalent per cubic meter depending on the specified compressive strength of the concrete.
- 3) Establishes the definition of fossil-based supplementary cementitious materials (SCMs) to be based on the definition set forth in the commitment made by the First Movers Coalition. This definition includes SCMs made from ground granulated blast-furnace slag and fly ash.
- 4) Declares that it is the policy of the state to purchase or specify, on a statewide basis, at least 10 percent, by volume, of low-carbon cement and concrete by 2030, and exclude the purchase of all fossil-based SCMs by 2035.
- 5) Requires the California Department of Transportation (Caltrans), in consultation with DGS, to develop a model advance procurement agreement for the purchase or specification of low-carbon cement and concrete products up to 10 years in advance, to facilitate the development of these products.
- 6) Authorizes state agencies to use the model advance procurement agreement developed by Caltrans and DGS to achieve the policy of purchasing or specifying or purchasing low-carbon cement and concrete.

COMMENTS:

- 1) *Purpose of bill.* According to the author, "The cement and concrete industry is one of the most difficult industries to decarbonize, and unfortunately, cement and concrete production accounts for about 8 percent of global carbon emissions. In California, the largest concrete consumer is Caltrans, which consumes about 40% of all concrete in the state, and spends around \$5 billion on transportation infrastructure every year. With that much market power, California can accelerate decarbonization in this sector by committing to purchase low-carbon cement and concrete, catalyzing innovation in technology

and scaled production for these solutions. By making sure that California prioritizes low-carbon cement purchases, we can build on the great work accomplished in this space to achieve our 2045 zero-emission goals.”

- 2) *California relies on concrete and cement.* Cement is a chemical substance, usually made out of limestone and silicate-containing minerals, used to adhere other materials together to make a new, stable, material. One of the most common uses of cement is to combine it with water, fine materials like sand, and coarse materials like gravel, in order to produce concrete. In a typical mix, the cement represents 10-15% of the material by volume. Concrete is the most common building material used in the world because it is relatively cheap, durable, and easily molded into sturdy structures.

According to the United States Geological Survey, in January of 2023 California was the third largest producer and consumer of cement in the country after Texas and Florida. In the last year California consumed about 10.5 million metric tons of cement.

- 3) *Cement is a major source of GHG emissions.* Cement accounts for 1.8% of the California’s GHG emissions and 7% of CO₂ emissions worldwide. It is often referred to as one of the most hard to abate industrial sectors. This is because part of the process of making cement usually requires grinding the intermediate product in a rotary kiln that is heated to about 2700 °F. Heating these kilns requires fossil fuels; full electrification is not currently feasible. Furthermore, the chemical reactions that occur in this process cause the limestone to release stored CO₂. This heating step accounts for about 85% of all emissions associated with cement, which the US EPA has estimated to range from 720-880 kilograms of CO₂ per metric ton of cement. Cement production accounts for 80- 90% of the life cycle CO₂ emissions for the concrete.

According to a report from the climate think tank Energy Innovation, California won’t meet its 2030 GHG emission reduction goals unless industries like cement producers reduce their emissions. The report notes this would require plant retrofits, major changes to infrastructure, and would require the use of technologies that haven’t yet been deployed at scale in California, like carbon capture and storage.

In 2019, Global Efficiency Intelligence, an environmental consulting firm, published a report called Deep Decarbonization Roadmap for the Cement and Concrete Industries in California. It identified the following four strategies, in order of greatest reduction potential to least:

- a) Carbon capture, utilization, and storage – capturing and compressing CO₂ emitted during cement production to be permanently stored;
 - b) Clinker substitution – replacing conventional cement starting and intermediate materials with supplementary cementitious materials (SCMs) that produce less CO₂;
 - c) Fuel switching – replacing coal and petroleum coke used for heating with natural gas or a low carbon fuel; and
 - d) Energy efficiency, including waste heat recovery.
- 4) *Supplementary cementitious materials (SCMs) can lower the GHG emissions from concrete production.* SCMs are natural materials or industrial byproducts used to partially replace cement in the production of concrete. Because SCMs reduce the amount of cement needed to make concrete, they generally reduce the emissions associated with concrete production. Caltrans maintains a list of authorized materials that includes acceptable SCMs.

Two of the most common SCMs are slag, a glassy, granular material formed as waste during the production of iron and steel, and fly ash, the fine residue resulting from the combustion of pulverized coal. While replacing cement with a waste product may result in the creation of fewer GHG emissions, the production of these specific fossil-based SCMs are emissions intensive. This bill would make it the policy of the state to eliminate slag and fly ash from its concrete by 2035.

- 5) *First Movers Coalition (FMC).* The FMC is a public-private partnership to commercialize clean technologies through advanced purchase commitments. It was formed by President Biden in partnership with the World Economic Forum at the Conference of the Parties (COP) in 2021 (referred to as COP26) and now includes 65 companies, representing more than 10% of the global Fortune 2000 by market value, as well as ten government partners.

At last year's COP27 in Egypt, the FMC set commitments for purchasers and specifiers of cement and concrete. For construction and engineering projects, the member companies and government agencies committed to purchasing at least 10% (by volume) of their cement/concrete per year as near-zero cement/concrete inclusive of any SCMs by 2030 and excluding fossil-based SCMs by 2035. It established the definition of "near-zero" cement to mean cement with embodied carbon below 184 kilograms of CO₂ per metric ton.

- 6) *Is this bill redundant with existing efforts?* At least two state agencies have announced plans to begin using or are already using low-carbon cement.

In January 2022, Caltrans announced it was approving the use of low-carbon cement, relying on Portland limestone cement, which the agency says can cut its concrete-related carbon dioxide emissions by up to 10% a year while meeting the same high performance standards as regular concrete at a slightly lower cost. Caltrans is one of the largest consumers of cement and concrete in the state.

The Department of Water Resources announced in November 2022 that it too was using more carbon-friendly concrete. It made repairs at the Oroville Dam using low-carbon concrete, resulting in 125 pounds per cubic yard of less cement and reduced about 2,037 tons of carbon dioxide. The agency says it was the equivalent of eliminating the emissions of 400 gasoline-powered vehicles over one year.

Additionally, the Legislature passed SB 596 (Becker, Chapter 246, Statutes of 2021) which required CARB to – by July 1, 2023 – develop a comprehensive strategy for the state’s cement sector to achieve net-zero GHG emissions as soon as possible, but no later than December 31, 2045. CARB’s efforts will focus on developing regulations and incentives for producers of cement and concrete to transition to lower-emission production methods. This bill’s approach is complementary by focusing on developing a market for those producers; it should not conflict with the strategy CARB is developing.

- 7) *Purchasing, contracting & advanced procurement agreements (APAs).* This bill directs Caltrans and DGS to develop a model for advanced procurement agreements for the purchase or specification of low-carbon cement and low-carbon concrete products up to 10 years in advance. However, as a practical matter, state agencies generally don’t buy cement or concrete as a stand-alone product. Rather, they award contracts to private firms to build and repair roads, bridges, reservoirs, and much more, and those private firms produce their own or contract out for the cement and/or concrete. Since these construction contracts are very project-specific and generally awarded through a competitive bidding process, it’s not clear how state agencies could enter into APAs with any entity up to 10 years in advance.

According to the bill sponsors, one way the agencies could develop this APA is by putting out a bid for a certain amount of low-carbon cement or concrete to be delivered by a date up to 20 years in the future. The winner of the contract would enter into an APA with the state agency, giving it a guaranteed market

for its product, so it in turn could get financing from a private bank to build the facility needed to manufacture the product. The state agency would take figurative delivery of the low-carbon cement or concrete and would then presumably have to require the winners of construction and maintenance contracts to use this concrete to fulfill their contracts. This is designed to meet one of the bill's stated goals, which is to use APAs to help develop the low-carbon cement and concrete industry by demonstrating there is market demand for the product.

- 8) *Novel approach for novel technology.* The development of a 10-year APA raises several questions that Caltrans and DGS will have to work through, especially given that many of the products developed under this contract are made with novel technology. This bill wisely takes a technology-neutral approach to setting state goals for procuring near-zero carbon concrete and cement. But that means that Caltrans will have to carefully evaluate the physical and chemical properties of the concrete and cement produced from these new processes, to determine in which use cases they work nearly as well or perhaps even better than conventional materials. The “Buy Clean California Act” of 2017 requires Environmental Product Declarations (EPDs) for certain materials being used on state building projects and prohibits successful bidders from installing the eligible materials on the project until the bidder submits an EPD. A barrier to implementing an APA model may be the time and resources necessary to complete an EPD for these novel products.
- 9) *Slagging off.* Phasing out the use of fossil-based SCMs like fly ash and slag is in line with California's overall goals of transitioning away from fossil fuel-based energy and materials. However, the approach this bill takes to entirely ban fossil-based SCMs may inadvertently cause issues. The state currently uses over 1 million tons of SCMs, according to the California Construction and Industrial Materials Association. If Caltrans is unable to find a fossil-free alternative for these SCMs before 2035, they would be forced to return to SCM-free concrete or move to a poorer quality SCM, which may actually increase the overall emissions of the state's cement industry. The committee and author may wish to amend the bill to specify that only the 10% of the state's specified concrete that must be near-zero carbon also need to be free of fossil-based SCMs.
- 10) *I have a bridge to sell you...* It will be difficult for an agency to properly evaluate a bid from an entity that has yet to build a facility to produce the product necessary to fulfill the contract it hopes to receive from the state. While agreeing to buy something up to 10 years in advance may indeed help develop a particular market and help a vendor receive financing to build a

factory to manufacture its product, this may not necessarily be in the taxpayers' best interest. For example, in 2009, the cost to install solar panels was about \$8.50 per watt, but by 2021, that cost had fallen to about \$2.77 per watt. If the state had entered into an APA in 2009 to buy solar panels at \$8.50 per watt to take delivery of them in 2021, it would have been paying more than 200% above the 2021 market rate for the panels.

Beyond price considerations there are also reasonable concerns that despite industry promises, companies may not be able to effectively scale their technology to supply the amounts of concrete required under this policy and agreed to in an APA. If California's use of concrete merely remains steady, it will require 1 million metric tons of concrete per year by 2030 from an industry that currently is only producing at the laboratory scale. If a company is unable to deliver on the contract, then the state might suddenly find itself struggling to source zero-carbon cement from another source. This short notice will dramatically increase prices, if it is even possible at all. The committee and author may wish to amend the bill to allow a state agency an additional five years to specify or use the promised amount of low-carbon cement or concrete if the contractee fails to deliver the material agreed to in the APA.

- 11) *Double Referral*. This bill was double-referred to the Senate Committee on Environmental Quality where it was heard on March 29, 2023 and was passed on a 5-2 vote.

RELATED LEGISLATION:

SB 596 (Becker, Chapter 246, Statutes of 2021) – Requires CARB to – by July 1, 2023 – develop a comprehensive strategy for the state's cement sector to achieve net-zero emissions of GHG associated with cement used within the state as soon as possible, but no later than December 31, 2045

AB 966 (Bonta, 2019) – Would have required each cement plant in the state to submit a facility-specific Environmental Product Declaration (EPD) to CARB and require state agencies awarding contracts to require large successful bidders to submit a product-specific EPD for projects that involve the purchase of more than 500 cubic yards of concrete. *This bill died in the Assembly Appropriations Committee.*

AB 262 (Bonta, Chapter 816, Statutes of 2017) – The Buy Clean California Act, requires DGS to develop maximum acceptable global warming potential emissions for structural steel, concrete reinforcing steel, flat glass, and mineral wool board insulation used in public works projects.

AB 1452 (Skinner, 2009) – Would have required CARB to develop and adopt limitations on GHG emissions resulting from the production of cement sold in the state, including GHG emissions resulting from transportation, by January 1, 2011. *This bill died in the Assembly Appropriations Committee.*

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

Unknown

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

Blue Planet
Brimstone Energy
Carbonbuilt
Decarbonized Cement & Concrete Working Group
Heirloom Carbon
Institute for Carbon Management

OPPOSITION:

None received

-- END --

SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2023 - 2024 Regular

Bill No:	SB 425	Hearing Date:	4/25/2023
Author:	Newman		
Version:	3/16/2023		
Urgency:	No	Fiscal:	Yes
Consultant:	Randy Chinn		

SUBJECT: Clean Vehicle Rebate Project: fuel cell electric pickup trucks

DIGEST: This bill provides additional incentives—an additional \$1,000 and access to high-occupancy vehicle lanes—under the Clean Vehicle Rebate Project (CVRP) for hydrogen fuel-cell pickup trucks, as defined.

ANALYSIS:

Existing law:

- 1) Establishes the Clean Vehicle Rebate Project (CVRP) under the California Air Resources Board (Health and Safety Code Section 44274) and requires the eligibility for the CVRP to be based on income (HSC 44258.4).
- 2) Establishes a vehicle sticker program for qualified zero-emission vehicles (ZEVs) that allows those ZEVs free or reduced-rate access to high-occupancy toll (HOT) lanes. Higher income individuals cannot receive both the CVRP rebate and the HOT sticker. (Vehicle Code Section 5205.5)
- 3) Defines pickup trucks as “a motor truck with a manufacturer’s gross vehicle weight rating of less than 11,500 pounds, an unladen weight of less than 8,001 pounds, and which is equipped with an open box-type bed not exceeding 9 feet in length.” (Vehicle Code §471)

This bill:

- 1) Requires CARB to provide rebates for fuel-cell electric vehicle (FCEV) pickup trucks, as defined, which are \$1,000 more than the rebates for other FCEVs.

- 2) For the purposes of CVRP-eligible FCEV pickup trucks, raises the gross vehicle weight rating (GVWR) limit from 11,500 pounds to 26,000 pounds.
- 3) Allows high-income buyers of FCEV pickup trucks to receive both the CVRP rebate and the HOT lane sticker.

COMMENTS:

- 1) *Purpose of Bill.* According to the author, “Climate change represents an existential threat and its prospective impacts pose both immense risks and monumental costs to our state. In response, California has rightfully set aggressive goals for decarbonizing our transportation sector. The passage and implementation of SB 425 will enable California to move that much more quickly in ensuring that hardworking Californians can and will participate in this critical transition.”
- 2) *Background: The Clean Vehicle Rebate Project (CVRP).* The CVRP is intended to accelerate widespread adoption of zero-emission vehicles by providing rebates of up to \$7,500 for the purchase or lease of an eligible vehicle. As of December 27, 2022, 501,233 CVRP rebates had been issued since March 2010, at a cost of over \$1.1 billion.

There is no limit to the number of rebates that may be issued, but rebates are subject to funding availability and the program has been oversubscribed in recent years. When funding is exhausted, applicants are placed on a waitlist and issued rebates in the order that they applied in the next funding cycle.

The CVRP has eligibility limitations to promote equity. First, there is a price cap on eligible vehicles, an MSRP of under \$60,000 for large vehicles (\$45,000 or under for sedans). Second, there is an income cap of \$135,000 for single filers and \$200,000 for joint filers. However, there are no income caps for purchasers of FCEVs.

The CVRP rebate amount varies by the type of vehicle. Electric vehicles which run on batteries get a \$2,000 rebate. FCEVs get \$4,500. (Higher rebates are available for low-income participants.)

- 3) *Background: High-Occupancy Toll (HOT) Lanes.* California has a program where the Department of Motor Vehicles (DMV) issues stickers to zero-emission vehicles (ZEVs). A vehicle with this DMV sticker is allowed to enter High-Occupancy Vehicle (HOV), or carpool only, lanes, and High-Occupancy

Toll (HOT) lanes. High-income buyers of battery electric vehicles (BEVs) have to choose between the CVRP rebate and the DMV sticker.

- 4) *Not Yet.* There are no FCEV pickup trucks available for purchase today. However, the concept is at different stages of being explored by a few manufacturers. Commercial availability is several years away, at least. A recent report by the National Renewable Energy Laboratory forecasts that light duty fuel-cell trucks will start showing up in commercial quantities around 2030 with medium- and heavy-duty trucks showing up later.¹ The author may wish to consider whether it is worth the effort to create a program for vehicles which are at least several years from being available for purchase.
- 5) *Light- and medium-duty trucks.* The bill defines “pickup truck” for eligible FCEV pickup trucks to include vehicles up to 26,000 pounds GVWR and an unladen weight of up to 15,000 pounds (up from the current limits of 11,500 and 8,000, respectively). This is a change from “light-duty” class 2A trucks (like the Ford F-150) to “medium-duty” class 6 trucks (like the Ford F-650).

The CVRP program has only awarded rebates to light-duty vehicles. This bill expands the CVRP to include medium-duty vehicles. Is this an appropriate addition to the budget-constrained CVRP and, if so, should this change be made for BEVs as well to ensure technological neutrality?

- 6) *Preferential Treatment.* Purchasers of FCEVs get increased government benefits compared to purchasers of BEVs. The CVRP rebate for FCEVs is more than double that of BEVs and more than four times the amount for plug-in hybrid electric vehicles. Under this bill the CVRP for FCEVs is increased by \$1,000. The author and committee may wish to consider whether this increase should also apply to battery electric pick-up trucks for technological neutrality. Also under this bill, high-income purchasers of FCEV pickup trucks would get both the higher CVRP and the DMV sticker, while high-income purchasers of BEVs only are eligible for the DMV sticker. The author and committee may wish to consider whether this extra preferential treatment is justified.
- 7) *Federal Rebates.* The CVRP is only one incentive to encourage ZEV adoption. A much bigger incentive is the federal tax credit, which provides tax credits of up to \$7,500, compared to the CVRP rebate of \$2,000 for a BEV. This tax credit is limited to vehicles with a GVWR of less than 14,000 pounds, much less than the 26,000 pounds limit established in this bill. Consequently, the

¹ NREL: Decarbonizing Medium- & Heavy-Duty On-Road Vehicles: Zero-Emission Vehicles Cost Analysis by Ledna, Muratori, Yip, Jadun, and Hoehne; March 2022; p.26.

heavier trucks included under this bill will not be eligible for the \$7,500 tax credit. The impact of the extra \$1,000 provided by this bill should be considered in the context of no federal tax credit.

RELATED LEGISLATION:

AB 126 (Cooper, 2019) – Would have required CARB to (1) impose specified income cap limits for Clean Vehicle Rebate Project eligibility; (2) increase the rebate payment by \$500 for a low-income applicant for all eligible vehicle types; and (3) only offer rebates for plug-in hybrids that have an electric range of at least 40 miles. *This bill died in the Senate Transportation committee.*

AB 1046 (Ting, 2019) – Would have required CARB to develop a plan to provide for the funding of CVRP in order to meet a goal to deploy 5 million electric vehicles by December 2030. *This bill died in the Senate Appropriations committee.*

AB 544 (Bloom, Chapter 630, Statutes of 2017) — Modified the Clean Air Vehicle program (e.g. HOV stickers) and created a new program to take effect when the program sunset in 2019.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

Air Products and Chemicals, Inc.
Breathe California
California Fuels and Convenience Alliance
California Hydrogen Business Council
California Hydrogen Coalition
California New Car Dealers Association
First Element Fuel, Inc.
Orange County Automobile Dealers Association
Stellantis

SUPPORT IF AMENDED:

California Electric Transportation Coalition

OPPOSITION:

Plug in America
Sierra Club

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SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2023 - 2024 Regular

Bill No:	SB 506	Hearing Date:	4/25/2023
Author:	Laird		
Version:	3/20/2023		
Urgency:	No	Fiscal:	Yes
Consultant:	Randy Chinn		

SUBJECT: Public Utilities Commission: railroads: colored pavements marking project

DIGEST: This bill requires the California Public Utilities Commission (CPUC) to develop and implement a colored pavement markings project at one or more at-grade highway-railroad crossings, if authorized by federal law or regulation.

ANALYSIS:

Existing law:

- 1) Provides the CPUC with the exclusive power to determine and prescribe the manner and terms of installation, operation, maintenance, use, and protection of specified railroad grade crossings. Authorizes the CPUC to authorize and supervise the operation of pilot projects to evaluate proposed crossing warning devices, new technology, or other additional safety measures at designated crossings, with the consent of the local jurisdiction, the affected railroad, and other interested parties. (Public Utilities Code §1202)
- 2) Provides that no public road, highway, or street shall be constructed across the track of any railroad corporation at grade, nor shall the track of any railroad corporation be constructed across a public road, highway, or street at grade, or shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade, nor shall the track of a street railroad corporation be constructed across the track of a railroad corporation at grade, without having first secured the permission of the CPUC. (Public Utilities Code §1201)
- 3) Establishes the Railroad Highway Grade Crossing Program (RHGCP), also known as the Section 130 Program, which provides federal funds for the

elimination of hazards at existing at-grade highway-rail crossings. (Title 23, United States Code, §130 (23 U.S.C. 130))

- 4) Provides the Department of Transportation (Caltrans) with full possession and control of all state highways (Streets and Highways Code Section 90)
- 5) Requires Caltrans to adopt rules and regulations prescribing uniform standards for all traffic control devices, including signs and markings, known as the Manual of Uniform Traffic Control Devices (MUTCD). All traffic control devices must conform to these standards. (Vehicle Code Section 21400)

This bill:

- 1) Requires the CPUC, to the extent permitted by federal law or regulation, to develop and implement a colored pavement markings project at one or more at-grade highway-railroad crossings no later than January 1, 2026, to measure and evaluate the effectiveness of such a project to reduce incidents.
- 2) Requires the CPUC to report its findings on the project to the Legislature no later than one year after project completion.
- 3) Repeals these provisions on January 1, 2030.

COMMENTS:

- 1) *Author's Statement.* "As the regulatory authority overseeing rail safety within California, the CPUC strives to achieve a goal of zero accidents and injuries. Despite the various safety efforts and risk management activities, incidents resulting in injury and even death still occur. Items such as inattentiveness and misjudgment at railroad crossings contribute to these safety incidents. To enhance safety at railroad crossings, Senate Bill 506 requires the CPUC to develop and implement a pilot program that will add colored markings at railroad crossings. The CPUC will then report to the Legislature on the effectiveness of the colored markings and if they were effective in reducing safety incidents."
- 2) *Big Problem.* Rail crossings represent a significant safety risk as automobiles, pedestrians, bicyclists, and others can easily collide with a train at a crossing. According to the *CPUC's 2022 Annual Railroad Safety Report to the Legislature*, in fiscal year 2021-22, there were 796 reported railroad-related

incidents in California, of which 464 were related to crossing or trespasser incidents. There were 215 total fatalities for all 796 incidents.

This bill is intended to reduce the number of rail related incidents by using pavement marking to clearly identify dangerous areas.



The federal Department of Transportation has tested the pavement marking and found some likelihood that it would increase safety, but felt that more field trials were necessary before they could reach a definitive conclusion.¹

- 3) *Third Time the Charm?* The CPUC notes that it has sought permission from the Federal Highway Administration (FHWA) to implement a grade crossing pavement marking pilot program but has been turned down twice, in 2018 and 2020, because of a conflict with the MUTCD. They believe a statute directing the CPUC to try again could help them become successful with a third application, along with key leadership changes at FHWA.
- 4) *Double Referral.* This bill was heard by the Senate Energy, Utilities and Communications Committee on April 10, 2023 and approved 15-0.

¹ U.S. Department of Transportation -- Effect of Dynamic Envelope Pavement Markings on Vehicle Driver Behavior at a Highway-Rail Grade Crossing; April 2014.

RELATED LEGISLATION:

SB 62 (Morrow, Chapter 601, Statutes of 2001) – Clarified the requirements and exceptions for a pilot project that relates to audible warning devices, and extended to additional locations the proposed pilot project.

AB 1249 (Daucher, Chapter 393, Statutes of 2001) – Authorized a pilot project to test supplementary safety measures at railroad crossings.

SB 1491 (Leslie, Chapter 263, Statutes of 2000) – Authorized a test of the wayside horn at railroad crossings.

AB 923 (Hertzberg, Chapter 841, Statutes of 1999) – Required the CPUC, in consultation with Caltrans, to adopt rules and regulations prescribing uniform standards defining when enforcement begins after the warning signal sounds at a railroad crossing.

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

Unknown

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

California State Legislative Board, Sheet Metal, Air, Rail and Transportation Workers - Transportation Division (SMART-TD)

OPPOSITION:

None received

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SENATE COMMITTEE ON TRANSPORTATION

Senator Lena Gonzalez, Chair

2023 - 2024 Regular

Bill No:	SCR 31	Hearing Date:	4/25/2023
Author:	Laird		
Version:	2/17/2023	Introduced	
Urgency:	No	Fiscal:	Yes
Consultant:	Melissa White		

SUBJECT: Katcho Achadjian Memorial Highway

DIGEST: This resolution requests the California Department of Transportation (Caltrans) to remove the “the Katcho Achadjian Memorial Highway” designation from the portion of U.S. Route 101 in the County of San Luis Obispo, from postmile 19.812 to postmile 15.579; and instead designate the portion of U.S. Route 101 in the County of San Luis Obispo, from postmile 13.173 to postmile 17.767, as the “Katcho Achadjian Memorial Highway.”

ANALYSIS:

Existing law:

- 1) Assigns the California Department of Transportation (Caltrans) the responsibility of operating and maintaining state highways, including the installation and maintenance of highway signs.

Committee Policy:

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:

- 1) Recounts the life and career of Assembly Member Katcho Achadjian
- 2) Requests Caltrans to remove the “the Katcho Achadjian Memorial Highway” designation from the portion of U.S. Route 101 in the County of San Luis Obispo, from postmile 19.812 to postmile 15.579; and instead designates the portion of U.S. Route 101 in the County of San Luis Obispo, from postmile 13.173 to postmile 17.767, as the “Katcho Achadjian Memorial Highway.”
- 3) Requests Caltrans to determine the cost of appropriate signs consistent with the signing requirements for the state highway system showing this special designation and, upon receiving donations from nonstate sources sufficient to cover that cost, to erect those signs.

COMMENTS:

- 1) *Purpose of the resolution.* According to the author, “I am honored to recognize this pillar of the San Luis Obispo community, and rename this segment of Highway 101 for Assembly Member Katcho Achadjian. Katcho was a long-time public servant who deeply cared for the Central Coast and the constituents he served, first on the San Luis Obispo County Board of Supervisors, then in the California State Assembly. He was respected by all, and I can think of no one more deserving of this recognition. As a tribute to him, all the current Senators who served with him from both sides of the aisle are coauthors.”
- 2) *Background.* After settling in California’s central coast, Katcho Achadjian attended Cuesta Community College before transferring to California Polytechnic State University, San Luis Obispo, where he received his degree in

business administration. A pillar in the City of Arroyo Grande's business community, he opened his first business, a Shell Gas Station on Grand Avenue, in 1978 and went on to operate three gas stations.

After obtaining his United States citizenship on December 17, 1982, Katcho Achadjian married his beloved wife, Araxie, two years later and was blessed with two children, Hratch and Nyri. In 1998, he was elected to the County of San Luis Obispo's Board of Supervisors, where he served as chair of the board in 2001 and 2006 and contributed to the passage of the county's budget, balanced and on time, for 12 consecutive years, during his three terms on the board.

In 2010, Katcho Achadjian made the jump to state government when he was elected to represent the 33rd Assembly District, later redrawn as the 35th Assembly District, in the California State Legislature. While holding state office, he served on the Committee on Military and Veterans Affairs, the Committee on Banking and Finance, and the Committee on Jobs, Economic Development, and the Economy in the Assembly, where his dedicated and diligent service helped shape some of the most important laws enacted in California.

Katcho Achadjian was a long-time supporter of civic, nonprofit, and service organizations, coastal ranching and farming, and protecting the California coastline. He was a charter member of the San Luis Obispo Law Enforcement Assistance Foundation's Board of Directors, served on the County of San Luis Obispo's Sheriff's Advisory Council, served on the Board of Directors of the Arroyo Grande Community Hospital, and provided leadership as chair of the County of San Luis Obispo's First 5 Commission and the French Hospital Medical Center.

Katcho Achadjian passed away on March 5, 2020.

- 3) *Consistent with committee policy.* This resolution is consistent with committee policy. According to Caltrans, the postmile markers contained in ACR 126 (Cunningham) approved last year were incorrect. SCR 31 designates the correct postmile markers.

RELATED/PREVIOUS LEGISLATION:

Assembly Concurrent Resolution 126 (Cunningham, Chapter 158 of the Resolutions of 2022) – Designated the portion of U.S. Route 101 in the County of

San Luis Obispo, from postmile 19.812 to postmile 15.579, as the “Katcho Achadjian Memorial Highway.”

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

None received

OPPOSITION:

None received

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SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2023 - 2024 Regular

Bill No: SB 538 **Hearing Date:** 4/25/2023
Author: Portantino
Version: 4/18/2023 Amended
Urgency: No **Fiscal:** Yes
Consultant: Jacob O'Connor

SUBJECT: Department of Transportation: Bicycle Czar

DIGEST: This bill would require the director of the California Department of Transportation appoint a Chief Advisor on Bicycling and Active Transportation to serve as the primary advisor on all issues related to bicycle transportation, safety, and infrastructure.

ANALYSIS:

Existing law:

- 1) 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. (Government Code (GOV) §§65070 et seq.)
- 2) Requires the concept of “complete streets” to be incorporated into the Caltrans Highway Design Manual. (GOV §14033)
- 3) Requires, to the extent beneficial, cost effective, and practicable, Caltrans, cities and counties receiving funds under the Road Maintenance and Rehabilitation Program to incorporate complete street elements into projects, including, but not limited to, elements that improve the quality of bicycle and pedestrian facilities and that improve safety for all users of transportation facilities. (Streets and Highways Code (SHC) §2030)
- 4) Establishes the Active Transportation Program within Caltrans for the purpose of encouraging increased use of active modes of transportation, such as biking and walking. (SHC §§2380 et seq.)

- 5) Executive Order N-19-19, among other actions to reduce greenhouse gas emissions in the state, requires Caltrans to:
- a) Reduce congestion through innovative strategies designed to encourage people to shift from cars to other modes of transportation; and
 - b) Fund transportation options that contribute to the overall health of Californians and reduce greenhouse gas emissions, such as transit, walking, biking and other active modes of transportation.

This bill:

- 1) Requires the director of the California Department of Transportation to appoint a Chief Advisor on Bicycling and Active Transportation to serve as the primary advisor on all issues related to bicycle transportation, safety, and infrastructure. This advisor shall:
 - a) Serve as a point of contact for stakeholders and the public to provide concerns and suggestions related to bicycle transportation, safety, and infrastructure.
 - b) Serve as a point of contact for local officials on issues related to bicycle transportation, safety, and infrastructure to ensure that cycling avenues are up to date and follow correct regulations.
 - c) Coordinate with the director, deputy directors, and assistant directors within the department on issues including, but not limited to, Legislative Affairs, Public Affairs, Sustainability, and Active Transportation.
 - d) Have the primary goal of lowering bicycle and pedestrian deaths and increasing public access through proper infrastructure development, better allocation of resources, and promotion of active transportation.

COMMENTS:

- 1) *Purpose of bill.* According to the author, “Sen. Portantino wants to help establish a Chief Advisor on Cycling and Active Transportation that helps advise the California Department of Transportation (Caltrans) on issues pertaining to bicycle needs and regulation. With the implementation of the Chief Advisor on Cycling and Active Transportation Caltrans can have a greater impact on bicycle accommodations and can better integrate bicycles into

the network of transportation. The goal of SB 538 is to have a position that reports directly to the Director of Caltrans and works with all different groups within the cycling community to have proper representation on issues facing this group.”

- 2) *Bicycling and active transportation is 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 increased.

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 in 2020 there were 986 pedestrians killed by vehicles statewide, down from 1,011 fatalities in 2019 but still higher than previous years.

- 3) *What is Caltrans doing?* Caltrans currently has a robust system for considering and responding to the policy need to further safe active transportation use in the state. Caltrans houses an Active Transportation and Complete Streets office dedicated to leading active transportation planning and policy. This office has developed the statewide Bicycle and Pedestrian Plan, the active transportation component to California’s 2040 transportation plan. Each Caltrans district developed its own Active Transportation Plan to align local plans with the state-level plan.

Beyond planning and policy-making, Caltrans also has a Bicycle Facilities Unit whose goal is to coordinate all aspects of the Caltrans bicycle program. According to their website, “the BFU staff strives to fully integrate bicycles into all aspects of the California transportation system. To do this, the BFU promotes safe, well-designed bicycle facilities and the funding, regulations, and education that make such facilities possible.” This unit also has a bicycle and pedestrian coordinator for each Caltrans district.

In order to gather the most up-to-date technical and local knowledge, Caltrans has two dedicated advisory committees. The Active Transportation Program Technical Advice Committee meets four times every year to support Caltrans and the California Transportation Commission to manage and deliver on the

goals of the Active Transportation Program. The California Walk and Bike Technical Advisory Committee meets every other month and provides guidance to Caltrans on bicycle issues. They also review and comment on any proposed adoption or experimentation approval related to bicycle issues prior to consideration by the California Traffic Control Devices Committee.

Caltrans also has a Deputy Director of Sustainability, who reports to the Director and is tasked with overseeing the development, implementation, and integration of sustainability principles and practices into all Caltrans activities. Caltrans' Sustainability Office's website lists among their goals "Championing Walking, Biking, and Transit." As part of that work, the Office provides technical input and strategic direction on policies and guidance related to walking, biking, and transit and facilitates information sharing on complete streets topics across Caltrans.

- 4) *What is missing?* The sponsors of this bill contend that even though Caltrans has many staff dedicated to the project of promoting safe active transportation and bicycling, it continues to miss the mark. In particular, the sponsors note that there are areas where Caltrans has developed new "sharrows" - lanes meant to be shared by cyclists and drivers - creating risky conditions for cyclists. They hope that by creating a position that can coordinate all of these disparate bicycle and active transportation components in the department, decisions like these will not be made in the future.
- 5) *Does this bill set up the Chief for success?* Given the scope of the goals of the Chief laid out in this bill, it seems like a task difficult for one person to achieve. In particular, having one person serve as the point of local contact for bicycle needs across the entire state seems ambitious, given that this task currently is designated to a dedicated staff member for each Caltrans district. Furthermore, it is unclear if creating another advisory position will create positive change without providing that position with additional authority.

RELATED LEGISLATION:

SB 1251 (Gonzalez, Chapter 372, Statutes of 2022) – Continues the zero-emission vehicle division of the Governor's Office of Business and Economic Development as the Zero-Emission Vehicle Market Development Office. Established the Zero-Emission Vehicle Equity Advocate in the office.

SB 551 (Stern, 2021) – Would have established the California Electric Vehicle Authority within the Office of the Governor to coordinate activities among state

agencies advancing ZEV and charging infrastructure deployment. *This bill was held in the Assembly Appropriations Committee.*

SB 127 (Wiener) – Would have required Caltrans to incorporate new pedestrian and bicycle facilities into projects in specified areas. *This bill was vetoed by Governor Newsom, who in his veto message said, “This bill creates a prescriptive and costly approach to achieve these objectives. By implementing my Executive Order N-19-19, Caltrans is increasing and accelerating its investments in active transportation where appropriate and feasible.”*

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

Unknown

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

Active San Gabriel Valley
California Bicycle Coalition
Climate Resolve
Culver City Democratic Club
Happy City Coalition
Marin County Bicycle Coalition
Move Santa Barbara County
Norwalk Unides
San Diego County Bicycle Coalition
Santa Ana Active Streets
Streets for All
Telegraph for People
Transform

OPPOSITION:

None received

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SENATE COMMITTEE ON TRANSPORTATION

Senator Lena Gonzalez, Chair

2023 - 2024 Regular

Bill No:	SB 615	Hearing Date:	4/25/2023
Author:	Allen		
Version:	4/12/2023		
Urgency:	No	Fiscal:	Yes
Consultant:	Jacob O'Connor		

SUBJECT: Vehicle traction batteries

DIGEST: This bill would require vehicle traction batteries to be recovered and reused, repurposed, or remanufactured and recycled at the end of their useful life. This bill requires vehicle manufacturers, dealers, dismantlers, repair dealers, or other secondary users to be responsible for ensuring responsible end-of-life management of vehicle traction batteries.

ANALYSIS:

Existing law:

- 1) The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery (CalRecycle), generally regulates the disposal, management, and recycling of solid waste. The act establishes extended producer responsibility (EPR) programs for various products including, among others, carpet, mattresses, pharmaceutical and sharps waste, and single-use plastic and packaging. (Public Resources Code (PRC) §§4000 et seq.)
- 2) Establishes the Rechargeable Battery Recycling Act, which requires every retailer to have a system in place, on or before July 1, 2006, for the acceptance and collection of used rechargeable batteries for reuse, recycling, or proper disposal. (PRC §§42451-42456)
- 3) Establishes the Electronic Waste Recycling Act to create a program for consumers to return, recycle, and ensure the safe and environmentally-sound disposal of “covered devices” (i.e., video display devices) that are hazardous waste when discarded. (PRC §§42460 et seq.)

- 4) Establishes the Hazardous Waste Control Law (HWCL) and requires the Department of Toxic Substances Control (DTSC) to oversee the management of hazardous waste. (Health & Safety Code (HSC) §§25100 et seq.)
- 5) Establishes the Lead-Acid Battery Recycling Act which requires dealers to collect a refundable deposit for new lead-acid batteries from consumers to encourage returning used lead-acid batteries. It further establishes manufacturer and consumer fees for lead-acid batteries which are deposited in a fund for the purposes of response actions to sites of contamination by the operation of a lead-acid battery recycling facility. (HSC §§25215 et seq.)
- 6) Establishes the Lithium-Ion Car Battery Recycling Advisory Group to review and advise the Legislature on, policies pertaining to the recovery and recycling of lithium-ion vehicle batteries sold with motor vehicles in the state. (PRC § 42450.5)

This bill:

- 1) Makes Legislative findings and declarations regarding the role vehicle traction batteries will have in achieving California's decarbonization goals and the need for responsible end-of-life management of these batteries.
- 2) Declares it is the policy of the state of California that any program designed to ensure proper end-of-life management of vehicle traction batteries first strives to first reuse a battery where possible, repurpose or remanufacture where not, and finally recycle if that is the only remaining possible option.
- 3) Defines, for the purpose of this legislation:
 - a) "Vehicle traction battery" as an advanced battery technology used as a traction battery to propel a motor vehicle;
 - b) "Battery supplier" includes, but is not limited to, a vehicle manufacturer who sells or distributes motor vehicles containing a vehicle traction battery, a manufacturer who sells or distributes vehicle traction batteries, a secondary handler, or a remanufacturer selling a battery removed from a vehicle to be used as a replacement battery in another vehicle;
 - c) "Remanufacturing" as the process of refurbishing battery modules or packs to as good or better quality and performance levels through the replacement of worn or deteriorated components and recertifying them to original manufacturer specifications;

- d) “Repurposing” as the process of refurbishing vehicle traction battery components or packs to fulfill a different use than what was originally intended, such as secondary use;
 - e) “Nonvehicle secondary user” as a business or entity that has repurposed a vehicle traction battery to an application other than as a traction battery in a vehicle;
 - f) “Secondary handler” as any entity, other than the vehicle manufacturer, that removes a battery from a vehicle;
 - g) “Secondary user” as an entity that repurposes a battery to fulfill a different use than what was originally intended;
 - h) “Qualified facility” as a recycler or secondary user of a battery;
 - i) “Orphaned battery” as a battery for which the owner or manufacturer cannot be identified;
 - j) “Stranded battery” as a vehicle traction battery in which the costs associated with recycling the battery present a burden for the owner of the vehicle or an entity that has removed the battery from the vehicle. This also includes batteries for which an owner cannot be identified;
- 4) Requires all vehicle traction batteries in the state to be recovered and reused, repurposed, or remanufactured and eventually recycled at the end of their useful life in a motor vehicle or any other application, as provided by this bill.
 - 5) Requires vehicle manufacturers, automobile dismantlers, automotive repair dealers, and nonvehicle secondary users to be responsible for ensuring the responsible end-of-life management of a vehicle traction battery.
 - 6) Specifies that if a vehicle traction battery is removed from a vehicle while still under warranty, the vehicle manufacturer is the sole party responsible for ensuring end-of-life management of the battery.
 - 7) Requires vehicle or traction battery manufacturers to collect and repurpose, or if not possible, recycle any stranded battery, if that battery can be traced to them.
 - 8) Requires, by January 1, 2025, vehicle traction battery suppliers that sell or distribute batteries in or into California to develop a core exchange program for

replacing a battery, module, or cell removed from a vehicle. This program shall:

- a) Include proper tracking and recordkeeping of any battery, module, or cell removed from a vehicle and for its replacement. This tracking system shall include a unique identifier for each battery consistent with California Air Resources Board regulations for labeling batteries;
 - b) Include the options of refundable core exchange deposit or the battery supplier and buyer entering into a contractual agreement to ensure removed batteries are returned or sent to a qualified facility;
 - c) Require battery suppliers to collect from a buyer a minimum deposit set to ensure batteries are returned. A deposit may be waived if the supplier has documentation that the buyer has shipped the removed battery to the supplier or a qualified facility prior to the replacement battery being shipped;
 - d) Require a battery supplier that collects a deposit that is not refunded to the buyer to hold the funds in escrow to be used to fund the collection and recycling of orphaned or stranded batteries; and
 - e) Require that if a contract is used in lieu of a core exchange deposit and the battery is not returned or sent to a qualified facility within the timeframe established in the contract, the supplier shall charge and the buyer shall pay the minimum core exchange deposit.
- 9) Requires, by January 1, 2025 vehicle traction battery suppliers that sell or distribute batteries in or into California to annually submit a report to DTSC that includes:
- a) The date of sale of the battery;
 - b) The name of the entity to which the battery was sold;
 - c) The unique identifier of the battery;
 - d) The battery's state of health;
 - e) The date the battery removed by the buyer was received by the supplier or a qualified facility and its state of health at that time; and

- f) If the battery was collected by the supplier, the date of when the battery was sent to a qualified facility and to which facility it was sent.
- 10) Requires qualified facilities buying removed batteries to submit a report to DTSC detailing the date the battery was purchased, the battery's unique identifier, and whether the battery was reused, repurposed, or recycled.
- 11) Requires a dealer, automotive dismantler, automotive repair dealer, nonvehicle secondary user, or recycler that removes a vehicle traction battery from a vehicle that is still in service to participate in the core exchange program and be responsible for either returning a removed battery to the battery supplier or sending it to a qualified facility.
- 12) Requires any secondary user that purchases a vehicle traction battery that was removed from a vehicle to ensure the battery is sent to a qualified facility at the end of the battery's useful life and to report to DTSC the date on which the battery was sent and the qualified facility to which the battery was sent.

COMMENTS:

- 1) *Purpose of bill.* According to the author, "California is home to the fastest growing electric vehicle (EV) market in the nation. One in five new cars sold in the state is rechargeable. However, as the number of EVs on the road increases, so does the number of EV batteries reaching the end of their useful life. California is beginning to see piecemeal development of a market and infrastructure designed to capture the value imbedded in these batteries once removed from a vehicle; including high-value critical materials such as lithium, cobalt, nickel, natural graphite, and manganese. Recycling batteries to capture this material reduces demand for raw materials, thereby avoiding the negative social and environmental impacts of mining, and potentially catalyzing a domestic supply as demand for critical materials increases. However, our nascent system relies on the expectation that the value of the material will drive proper management. California lacks a policy framework to require that batteries are reused or repurposed when possible, and finally recycled when no longer useful and has no mechanism to ensure proper handling of batteries when the cost of recycling the battery is greater than that embedded value. SB 615 will establish a program to ensure EV batteries are properly managed at every stage of their lives, and are put to their highest and best use by requiring all EV batteries to be recycled at the end of their useful life. This measure will also ensure those who handle batteries have a clear understanding of their roles and responsibilities."

- 2) *Extended producer responsibility programs.* Product stewardship, also known as Extended Producer Responsibility (EPR), is the concept of sharing responsibility for end-of-life product management between all entities involved in the product's life, from production to disposal (or recycling), instead of the public and local governments. Product stewardship encourages product design changes to minimize a negative impact on human health and the environment at every stage of the product's lifecycle. This allows the costs of treatment and disposal to be incorporated into the total cost of a product. It places primary responsibility on the producer, or brand owner, since they make design and marketing decisions. It also encourages the market to truly reflect the environmental costs of a product. By shifting costs and responsibilities of product disposal to producers and others who directly benefit, EPR provides an incentive to eliminate waste and pollution through product design changes.
- 3) *Battery regulations and disposal.* Most batteries, regardless of size, are considered universal waste or hazardous waste when they are discarded. Some batteries, particularly lithium-ion, are extremely flammable and can combust or explode if they are damaged. Other batteries, like lead-acid car batteries, have components that are highly toxic and must be very carefully controlled during recycling or disposal to prevent exposure to workers or nearby residents.

If batteries end up in the trash or a recycling bin, operators of solid waste transfer stations, municipal landfills, and recycling centers who discover batteries in the waste or recyclable materials are required to remove and manage the batteries separately. The facility that removes the batteries from the vehicle becomes the generator of the hazardous waste batteries and must comply with hazardous waste management regulations. Facilities that do not properly manage hazardous waste may be subject to regulatory enforcement and may be liable for monetary penalties.

While batteries at the end of their life may pose toxicity or fire risks, they also contain precious materials that can be reclaimed and recycled. As such, California has established several laws and regulations to promote the safe management, reduction, and recycling of battery waste. Most of these regulations are focused on smaller batteries, used primarily in consumer products. Just last year, two major pieces of legislation updated California's battery recycling programs. AB 2440 (Irwin, Chapter 351, Statutes of 2022) replaced California's cell-phone and rechargeable battery EPR programs with a unified EPR program for the management of nearly all "loose," or non-product embedded, single-use and rechargeable batteries that will begin April 1, 2027. SB 1215 (Newman, Chapter 370, Statutes of 2022) expanded the Electronic

Waste Recycling Act to include battery-embedded products. These two programs cover most batteries, but do not apply to vehicle batteries.

The major piece of regulation regarding vehicle batteries has been AB 2153 (C. Garcia, Chapter 666, Statutes of 2016) which established fees on lead-acid batteries to fund contamination cleanup caused by lead-acid batteries.

- 4) *Vehicle traction batteries in California.* A traction battery is a rechargeable battery designed to provide motive power for electric or hybrid vehicles. These batteries need to have a high capacity to weight and volume ratio, as they need to propel themselves as well as the vehicle itself. Traction batteries also usually require a relatively fast charging rate for effective use. By far the most common type of traction battery are lithium-ion batteries and it seems likely, though not certain, they will continue to be so for decades to come.

California, as part of its efforts to decarbonize its economy, has established ambitious benchmarks for the deployment of electric and hybrid vehicles. In December 2020, Governor Newsom issued Executive Order N-79-20, setting a goal that all new passenger vehicles sold in California be zero emission vehicles (ZEVs) by 2035 and heavy-duty vehicle fleets be ZEVs by 2045. To support this goal, some \$10 billion was allocated to ZEV deployment in the 2021 and 2022 budgets. We are already seeing the fruits of these policies: According to the California Energy Commission (CEC), approximately 343,000 electric vehicles, (EVs) or plug-in hybrids were sold in California in 2022, representing nearly 19 percent of all car sales that year. Right now, the supply of traction batteries that have reached the end of their lives is small, but will rapidly increase as we transition the state's vehicle purchases to ZEV and plug-in hybrids.

- 5) *Current end-of-life for traction batteries: Recapture, Repair, Repurpose, and Recycling.* According to the U.S. Department of Energy, EV batteries' lifespan is between 10-15 years. In California, traction batteries are under warranty for up to eight years, or for 100,000 miles (120,000 for Tesla batteries), whichever comes first. Batteries are first recaptured before they can be repaired, reused, repurposed, or recycled.
 - a) *Recapture:* Batteries that are still under warranty are typically returned to the original equipment manufacturer (OEM) for repair or replacement. If traction batteries are outside of their warranty, OEMS are not required to take them back. However, because traction batteries are currently valuable even at the end of their life, shops and dealerships will likely take and replace traction batteries to sell to repurposers or recyclers. Currently, the

market for used traction batteries is so robust that some recyclers, such as the Battery Recyclers of America, advertise a service to provide a next-day pickup of electric vehicle batteries in all 50 states.

- b) *Repair*: When a vehicle owner detects a battery failure they can contact a repair shop. Batteries are generally replaced, and the defective battery is then assessed and returned to the OEM. Oftentimes these batteries can be repaired by replacing a defective component. These batteries can then be reused and resold.
 - c) *Repurpose*: If traction batteries are in good condition at the end of their in-vehicle lives, they will likely be repurposed. Primarily, repurposed EV batteries can be used for energy storage in the electricity grid or the home, where their reduced capacity to weight ratio is not an issue.
 - d) *Recycling*: If the battery is in too poor of a condition to be repurposed, it is recycled to extract valuable materials in the battery cells (usually lithium). Currently, about half of the materials in an EV battery pack are recycled, although higher recycling rates may be possible in the future: for instance, Volkswagen is piloting a program with the goal of recycling 97% of EV battery components.
- 6) *California has been planning for the future*. In 2018, Assembly Bill 2832 (Dahle, Chapter 822, Statutes of 2018) established a Lithium-Ion Battery Recycling Advisory Group to make policy recommendations to the Legislature to achieve a 100% rate of reuse or recycling of lithium-ion car batteries in the State. This advisory group consisted of regulating agencies, local governments, environmental advocates, traction battery manufacturers, dealers, dismantlers, repurposes, recyclers, and disposers. The recommendations from this advisory group, released in a 2022 report, are intended to provide policy ideas for recapturing, reusing, and recycling batteries that are outside of warranty. The Advisory Group identified two key policy paths for recovering EV batteries outside of warranty at the end of their life: one policy path, the “producer take back” recommendation puts responsibility for overseeing the safe end-of-life of batteries solely on producers. Another policy path, “core exchange with a vehicle backstop” gives responsibility for the end of life of the battery to the entity that takes the battery out of an EV (either because the EV is at its end of life or because the battery is). Under this structure, manufacturers take responsibility only if an EV battery was not acquired by a licensed dismantler. These two policy proposals are supported by a suite of more granular proposals, including requiring methods to label and track EV batteries, such as through a

digital identifier. This bill has opted for the “core exchange with a vehicle backstop” model.

- 7) *Core exchange model.* Under the EPR program described by this bill, vehicle and traction battery manufacturers will be the primary group responsible for ensuring proper end-of-life management of these batteries. If a battery must be removed from a vehicle while still under warranty, the producer will have to ensure the battery is either repaired, repurposed, or recycled. Similarly, a manufacturer will be responsible for any “stranded” or “orphaned” batteries (e.g. batteries that have no clear owner or that would be too expensive to recycle or repurpose) as long as that battery can be traced to the manufacturer.

However, in this system there are several points at which responsibility for end-of-life management passes from the manufacturer to another party. Whenever an entity removes a battery from a vehicle they become a “secondary handler” and they assume responsibility for the battery’s disposal. This includes automobile dismantlers, repair dealers, or nonvehicle secondary users.

In order to incentivize secondary users to return batteries to manufacturers or to a qualified repurposing or recycling facility this bill implements a “core exchange program”. Under this program, which is modeled on several others used in the auto industry, buyers will pay a core exchange deposit when purchasing a new or replacement traction battery. The battery suppliers keep these deposits in escrow. Then, when they receive proof of proper disposal of the battery from an entity (either by returning the battery to the manufacturer or to a qualified facility), they provide the deposit in payment. If a battery never ends up being recycled, becoming “orphaned” or “stranded”, the battery supplier can use the money of the core exchange deposit to fund the collection and disposal of the battery.

In lieu of this process, a battery supplier may enter into a contractual agreement with a secondary user or recycler to ensure removed batteries are properly managed.

- 8) *Outstanding issues.* SB 615 is still being developed through stakeholder-driven discussions. While certain fundamental aspects of its EPR program have now been established, there are several important questions that remain outstanding:
- a) *How will “stranded” or “orphaned” batteries be addressed?* This bill specifies that fees from the core-exchange deposit program are to be used to manage batteries that cannot be traced to the manufacturer or that a secondary handler will not send to a qualified facility due to financial

burden. Recyclers generally contend that these cases will be few as the value of the lithium in traction batteries means it will nearly always be worth their time to collect traction batteries. However, this may not remain true forever if traction batteries begin using less valuable components or market conditions change.

In the event a traction battery becomes “orphaned” or “stranded” it is unclear how a secondary handler or someone who discovers an orphaned battery would be able to access these funds. Will there be a central organization that pools the fees and uses them to fund collection programs? Will people have to reach out to individual suppliers to obtain help disposing of the batteries?

- b) *How will battery suppliers manage the core-exchange deposits?* This bill currently has no provisions regulating how the funds of the core-exchange deposit are to be managed other than they are to be held in escrow. Will there be a specific organization responsible for managing and monitoring the funds? How will the value of the deposit be determined? Higher deposits will encourage stewardship, but also increase the incentive to scam the system.

One common solution in EPR programs is for product manufacturers to establish producer responsibility organizations to help manage these functions.

- c) *Will there be penalties or other enforcement mechanisms?* While this bill requires members of the traction battery industry to develop and comply with this core exchange program, it currently contains no penalty should a supplier not comply with the program.
- d) *What makes a “qualified facility” qualified?* Currently, the final way for a traction battery to leave the core exchange system is for it to be sent to a qualified facility for recycling. The bill currently sets no standards for what it means for a battery to be recycled – is there a certain amount of material that must be recovered?
- e) *Will the Legislature impose rules or incentives to prioritize reuse over recycling?* This bill states it is the policy of the state to prioritize repair and reuse, then repurposing or remanufacturing, and finally recycling when managing traction batteries’ end-of-life. However, there is no structure in the current program that ensures or even incentivizes this prioritization.

9) *Double Referral*. This bill was double-referred to the Senate Committee on Environmental Quality s where it was heard on March 29, 2023 and was passed on a 7-0 vote.

RELATED LEGISLATION:

AB 2440 (Irwin, Chapter 351, Statutes of 2022) – Replaced California’s cell-phone and rechargeable battery EPR programs with a unified EPR program for the management of nearly all “loose,” or non-product embedded, single-use and rechargeable batteries that will begin April 1, 2027.

SB 1215 (Newman, Chapter 370, Statutes of 2022) – Expanded the Electronic Waste Recycling Act to include battery-embedded products.

SB 55 (Allen, Chapter 75, Statutes of 2022) – Established the Plastic Pollution Prevention and Packaging Producer Responsibility Act, which imposes minimum content requirements for single-use packaging and food service ware and source reduction requirements for plastic single-use packaging and food service ware, to be achieved through an extended producer responsibility (EPR) program.

AB 2832 (Dahle Chapter 822, Statutes of 2018) – Required the Secretary for Environmental Protection to convene the Lithium-Ion Car Battery Recycling Advisory Group to develop recommendations to the Legislature aimed at ensuring that as close to 100% as possible of lithium-ion batteries in the state are reused or recycled at end-of-life.

AB 193 (Cervantes, 2017) – Would have provided rebates for electric vehicles and rebates for the replacement or refurbishment of electric vehicle batteries. *This bill was held on the Inactive File in the Senate.*

AB 2153 (C. Garcia, Chapter 666, Statutes of 2016) – Established manufacturer and consumer fees for lead-acid batteries to be deposited in a fund for the purposes of response actions to sites of contamination by the operation of a lead-acid battery recycling facility.

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

Unknown

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

Californians Against Waste

Calstart

Climate Reality Project, Los Angeles Chapter

Climate Reality Project, San Fernando Valley

National Stewardship Action Council

Plug in America

Redwood Materials, Inc.

South Bayside Waste Management Authority (SBWMA) dba Rethinkwaste

Union of Concerned Scientists

OPPOSITION:

None received

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SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2023 - 2024 Regular

Bill No:	SB 672	Hearing Date:	4/25/2023
Author:	McGuire		
Version:	4/19/2023 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Melissa White		

SUBJECT: State highways: parklets

DIGEST: This bill requires the California Department of Transportation (Caltrans), to establish a standard fee structure, as specified, for the application and placement of a parklet on a state highway, including reducing the fee by one-half for certain circumstances, such as a public benefit. Requires Caltrans to consider an encroachment permit application for a parklet for commercial use.

ANALYSIS:

Existing law:

- 1) Provides that Caltrans has full possession and control of the state highway system, including associated property.
- 2) Defines “Highway” to mean all, or any part, of the entire width of the right-of-way of a state highway, whether or not the entire area is actually used for highway purposes.
- 3) Defines “Encroachment” to mean any tower, pole, pole line, pipe, pipe line, fence, billboard, stand or building, or any structure, object of any kind or character, or special event, which is in, under, or over any portion of the highway.
- 4) Defines “Special event” to mean any street festival, sidewalk sale, community-sponsored activity, or community-approved activity.
- 5) Authorizes Caltrans to issue a written permit to place an encroachment on the state highway and to charge a fee, except to a public corporation, for the issuance of a permit to recover the department’s costs.

- 6) Restricts commercial activities wholly or partly within any state highway, as specified.
- 7) Authorizes Caltrans to lease non-operating right-of-way areas to municipalities or other local agencies for public purposes, as specified.
- 8) Authorizes Caltrans to lease certain property, including the area above or below a state highway, and certain property held for future highway purposes to public agencies under specified terms and conditions.
- 9) Requires Caltrans to offer for lease on a right of first refusal, to the City and County of San Francisco, for the purposes of emergency shelter or feeding programs for \$1 per month, payment of an administrative fee not to exceed \$500 per year. Also requires Caltrans to lease up to 10 parcels for 30% of the fair market lease value of the parcel for use as park, recreation, or open space purposes.

This bill:

- 1) Makes findings and declarations about the importance of parklets during the pandemic and that the presence of parklets increases neighborhood safety.
- 2) Defines “parklet” to mean a small temporary constructed seating or community gathering area over an on-street parking space or an extension of the sidewalk into the operating state highway right-of-way.
- 3) Requires Caltrans to establish a standard fee structure for the application and placement of a parklet on a state highway. The fee structure shall be based on all of the following:
 - a) The number of parking spaces used for the parklet;
 - b) The type of use, either commercial or public use; and
 - c) The proposed use of the right-of-way as a parklet.
- 4) Requires Caltrans to reduce the fees by one-half for both of the following:
 - a) A business with less than \$2 million in annual revenue.
 - b) A parklet proposed for public benefit.

- 5) Requires Caltrans to consider an encroachment permit application for a parklet for commercial use.
- 6) Stipulates that the fees authorized pursuant to the bill be the only fees collected for the application, placement, or both, of a parklet on a state highway. Restricts Caltrans from charging additional fees, as specified.
- 7) Stipulates that in implementing the bill, Caltrans is required to comply with applicable state and federal law, including, but not limited to, Article XIX of the California Constitution regarding the use of gasoline excise taxes.
- 8) Authorizes Caltrans to adjust the fee schedule developed to comply with applicable state and federal law.
- 9) If Caltrans adjusts the fee schedule, they must submit a report to the Legislature explaining the changes that were made and the reason for the changes, or if they could not make changes to comply with applicable state or federal law.

COMMENTS:

- 1) *Purpose of the bill.* According to the author, “California was hit incredibly hard by the pandemic, and many small businesses particularly local restaurants and coffee shops have struggled to survive. Parklets provided an innovative and practical solution for local businesses to adapt to new safety measures and keep their doors open to the public.

“Now that the pandemic has subsided, most cities across the State have made the decision to permanently keep parklets alive. This innovative approach to revitalizing downtowns and neighborhoods have been a hit with locals and visitors alike. Many cities have streamlined their approval processes and permit fees to ensure these vibrant community spaces and businesses will be successful for decades to come. The State should do the same.

“SB 672 would streamline the cost of Parklet permits by requiring Caltrans to establish a standardized fee structure for all parklets on state owned highway corridors. As local businesses continue to come back from the pandemic, SB 672 will help our downtown districts thrive and provide a place for our communities to gather.”

- 2) *What is a Parklet?* According to Caltrans, a parklet is defined as a small temporary constructed seating or community gathering area over an on-street

parking space or an extension of the sidewalk into the operating highway right-of-way. The purpose of a parklet is to create a safe, comfortable, and inviting pedestrian experience for the general public where narrow sidewalks cannot accommodate the expansion of an area for eating or gathering without comprising pedestrian safety or walkway area. Most parklets have a distinctive design that incorporates seating, greenery, and/or bike racks and accommodate unmet demand for public space on neighborhood retail streets or commercial areas.

The first official parklet was built in San Francisco in 2010 as an initiative of the San Francisco Planning Department. At the height of COVID, San Francisco reported that over sixty parklets had been installed by merchants, neighborhoods, groups, museums, schools, non-profits, and other organizations throughout the city. Many cities in California now have parklet programs and partner with businesses and communities to implement them. The programs share the goals of reimaging city streets to achieve a better balance for all users; encouraging walking by providing pedestrian amenities like public seating, landscaping, and public art; increasing pedestrian safety and activity by providing buffer areas between traffic lanes; fostering neighborhood interaction; and supporting local business with increased foot traffic.

Most parklet programs require a project sponsor, community support, and neighborhood outreach to get started. The parklet must then be designed to certain specifications, the design approved by the city, and finally, permitting and inspection. The sponsor must also have insurance and provide for maintenance of the parklet. Parklets are also considered public spaces, even if it is sponsored by a private business.

In addition to the cost of design, construction, and maintenance of the parklet, sponsors pay certain fees to the city, including potential loss of revenue from a parking space. For example, the City of Sacramento parklet program charges the sponsor for the permit, the cost of removal of parking spaces (if they are metered), review of parklets plans, and an inspection. The city estimates that with the loss of two parking meters, an initial permit may cost roughly \$1,900 for a year with an option to renew the permit for \$300.

- 3) *Parklets helped us get through COVID.* During the COVID-19 pandemic, street usage in cities shifted, partially, and at least temporarily, towards walking, cycling, eating outdoors, greenery and the local economy. Embracing outdoor possibilities was a health necessity. The use of parklets dramatically increased, with cities streamlining some requirements and waiving costs.

Additionally, cities created so-called “slow streets” programs to allow certain local streets to be controlled or even shut down for use by the neighborhood.

- 4) *Some rural downtowns have a different set of rules.* In California, many rural areas have state highways as their downtown main street. For example, State Highway 116 runs through the heart of Sebastopol in Sonoma County, and State Highway 49 is the main street in San Andreas, in Calaveras County, and Sutter Creek, in Amador County. During the pandemic, smaller, more rural areas also wanted to get into the parklet game. However, if you are interested in putting a parklet on a state highway, you must work directly with Caltrans.

Caltrans developed a parklet process very similar to that of many California cities. The process is detailed in their Encroachment Permits Manual. One difference is the local public entity, e.g. the city or county, representing the area where the parklet is proposed, is responsible for its proposal, application, installation, maintenance, and removal. Caltrans prohibits any other type of applicant for a parklet, including businesses, individuals, or organizations. Additionally, the parklet must be operated for a public use, must be open for the general public, and must support the needs of the local communities. Current law prohibits commercial activity, e.g. offering anything for sale, in the state highway right-of-way.

Local sponsors must submit a detailed application proposal with a site plan and demonstrating compliance with specific design requirements included in the manual. Additionally, Caltrans’ main priority is the operation of the state highway system, so they must determine that a parklet will not interfere with the state highway’s primary transportation use.

When it comes to what to charge for the use of the right-of-way, things can get complicated. If a highway is a federal-aid highway, meaning it was constructed and maintained using any federal funds, Caltrans is required to charge fair market value for the use of right-of-way. The Federal Highway Administration (FHWA) also requires a lease for the term of use. Fair market value is determined by a physical appraisal, and can vary greatly from one region to another. A parklet uses a portion of the highway that does not impact transportation on the corridor, meaning a parking lane or specific parking spaces, just as it does on local streets. However, even if there is no parking charges being lost, the local sponsor must still pay a fair market value lease.

- 5) *COVID eased state and federal restrictions.* During the pandemic, many state and federal regulations and requirements were suspended or waived to help people and businesses get up and running again, including supporting parklets.

In California, Governor Newsom issued Executive Order N-83-20 on March 4, 2020, stating that “the COVID-19 pandemic and the necessary physical distancing measures implemented have significantly impacted many businesses, leading to business closures, loss of employee hours or wages, and layoffs. For businesses located along state highways, the only viable additional open spaces to help implement necessary physical distancing measures may be within the state highway right-of-way. The COVID-19 pandemic, as well as physical distancing and other public health measures undertaken in response to it, continue to affect individuals, businesses, and governmental agencies alike, with associated impacts on adherence to certain statutory and regulatory deadlines and requirements.”

Governor Newsom ordered that Caltrans could “allow commercial activities on state highway right-of-way, and only if such activities fully comply with temporary encroachment permits issued on a case-by-case basis by the Department of Transportation.” He further required Caltrans to “develop and implement a process to issue and administer temporary encroachment permits allowing commercial activities on state highway right-of-way.”

Additionally, to the fair market value question, FHWA also waived requirements to get businesses up and running. Specifically, in May 2020, FHWA announced that in response to state requests, they would “consider short term exceptions to the fair market value requirement for the temporary use of sidewalks and public parking areas in the highway right-of way as additional restaurant seating or retail space.” FHWA began to consider the fair market value exceptions on a case-by-case basis, “given these extraordinary and unprecedented circumstances to assist states in the efforts to reopen businesses and spur economic recovery.”

- 6) *Did California take advantage?* According to Caltrans, during the pandemic period when both state and federal restrictions were eased for both commercial use in the highway right-of-way and the charging of fair market value, they issued a total of 12 permits for parklets, including 3 for commercial uses. With the exception of the City of Alameda, all of the locations were in rural counties. The last of the active permits expired on December 31, 2022. It is unclear whether the permit holders have applied for extensions or renewals. If they do, the costs would likely rise to fair market value. According to Caltrans, one of the current locations was recently assessed at roughly \$6,000 annually for a possible lease.
- 7) *SB 672 wants to keep it going.* As noted by the author, SB 672 proposes to continue helping businesses come back from the pandemic by requiring

Caltrans to develop a standardized fee structure for parklets for both public and commercial use. As mentioned, without COVID waivers, parklets cannot contain any commercial activity and the cost of the lease for the use of the state highway right-of-way is appraised for fair market value. SB 672 would require the newly developed fee structure to be based on specific criteria, including the number of parking spaces used for the parklet; the type of use, commercial or public; and the proposed use of the right-of-way as a parklet. Caltrans would be required to reduce the fees by one-half for businesses with less than \$2 million in annual revenue or if the parklet is proposed for a public benefit. The bill allows Caltrans to adjust the fees schedule to comply with state and federal law; however, if they do adjust the fees, they must submit a report to the Legislature explaining why the changes were made.

Additionally, the bill would require Caltrans to consider permits applications for a parklet for commercial use.

- 8) *Unanswered questions lead to continued discussions.* SB 672 states that Caltrans must comply with applicable state and federal laws in implementing the bill. That poses interesting questions, which remain unanswered. Will FHWA allow new parklet permits with charges less than fair market value? As noted above, FHWA was approving these on a case-by-case basis. According to Caltrans, it is unclear what FHWA will do moving forward. They are continuing to work with FHWA on a long-term process.

There is precedent for the Legislature setting fee structures for the use of the state highway rights-of-way. AB 857 (Ting, Chapter 822, Statutes of 2017), regarding the leasing of areas under state highways in San Francisco, required Caltrans to lease up to 10 parcels for 30% of the fair market lease value of the parcel for use as park, recreation, or open space purposes. Additionally, multiple bills have been approved by the Legislature to require Caltrans to offer parcels of land, usually under freeways, for the purposes of emergency shelter or feeding programs for \$1 per month, payment of an administrative fee not to exceed \$500 per year. It is unclear if the fees for parklets could also be changed per SB 672.

Additionally, state law restricts the use of the state highway right-of-way for commercial purposes, but this bill requires Caltrans to consider permit applications for a parklet for commercial use. Again, Caltrans is working to determine if this is allowable so the bill could be implemented as intended. Caltrans continues to work with the author's office on these issues.

RELATED/PREVIOUS LEGISLATION:

AB 1989 (Quirk, Chapter 180, Statutes of 2022) – Added vehicle barriers installed to protect commercial outdoor dining areas from motor vehicle crashes to those insurers may consider in offering discounts on commercial property insurance.

AB 773 (Nazarian, Chapter 587, Statutes of 2021) – Authorized local authorities to implement a “Slow Streets Program,” as specified, to close or limit access to vehicular traffic on certain neighborhood local streets. Defines requirements for the program including public outreach and engagement.

SB 314 (Wiener, Chapter 656, Statutes of 2021) – Authorized the Department of Alcohol Beverage Control (ABC) to, for 365 days from the date the Covid-19 state of emergency is lifted, allow licensees to continue to exercise license privileges in an expanded licensed area authorized pursuant to a Covid-19 temporary catering authorization, as provided. In addition, this bill allows a licensed manufacturer to share a common licensed area with multiple licensed retailers, as specified. Finally, this bill increases the number of times, from 24 to 36 in a calendar year, that the Department of ABC can issue a caterer’s permit for use at any one location.

AB 61 (Gabriel, Chapter 651, Statutes of 2021) – Authorized the Department of Alcohol Beverage Control (ABC), for 365 days from the date the COVID-19 state of emergency is lifted, to allow licensees to continue to exercise license privileges in an expanded licensed area authorized pursuant to a COVID-19 temporary catering permit, as provided.

AB 857 (Ting, Chapter 822, Statutes of 2017) – Required Caltrans to offer for lease on a right of first refusal, to the City and County of San Francisco, for the purposes of emergency shelter or feeding programs for \$1 per month, payment of an administrative fee not to exceed \$500 per year. Also required Caltrans to lease up to 10 parcels for 30% of the fair market lease value of the parcel for use as park, recreation, or open space purposes.

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

Unknown

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

None received

OPPOSITION:

None received

-- END --

SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2023 - 2024 Regular

Bill No: SB 677 **Hearing Date:** 4/25/2023
Author: Blakespear
Version: 4/17/23 Amended
Urgency: No **Fiscal:** Yes
Consultant: Melissa White

SUBJECT: Intercity rail: LOSSAN Rail Corridor

DIGEST: This bill requires the Los Angeles-San Diego-San Luis Obispo (LOSSAN) Rail Corridor Agency to include a description of the effects of climate change and identify planned projects to increase climate resiliency in its annual Business Plan, as specified.

ANALYSIS:

Existing law:

- 1) Authorizes the California Department of Transportation (Caltrans) to contract with the National Railroad Passenger Corporation (Amtrak) for intercity rail passenger services.
- 2) Provides funding for intercity passenger rail service from a portion of the sales tax on diesel fuel through the Public Transportation Account.
- 3) Authorizes the Capitol Corridor JPA, San Joaquin JPA, and the LOSSAN Rail Corridor Agency to oversee state-supported intercity passenger rail service.
- 4) Authorizes Caltrans, subject to approval of the Secretary of Transportation, to enter into an interagency transfer agreement under which a JPA assumes responsibility for administering the state-supported intercity passenger rail service, and associated feeder bus service, in a particular corridor.
- 5) Defines the boundaries of the three intercity rail corridors.
- 6) Requires the preparation of an annual Business Plan, due to the Secretary of Transportation by April 1 every year, for the corridor by each participating JPA board of directors.

- 7) Requires the annual Business Plan to include:
- a) A report on the recent as well as historical performance of the corridor service;
 - b) An overall operating plan including proposed service enhancements to increase ridership and provide for increased traveler demands in the corridor for the upcoming year;
 - c) Short-term and long-term capital improvement programs;
 - d) Funding requirements for the upcoming fiscal year; and
 - e) An action plan with specific performance goals and objectives.

This bill:

- 1) Requires the LOSSAN Rail Corridor Agency to include the following elements in its annual Business Plan due April 1, 2024 and each year thereafter:
 - a) Include a description of the effects of climate change, including sea level rise and weather-related events, on the corridor, including how to adapt to its impacts;
 - b) Identify projects planned, as part of the capital improvement program, to increase climate resiliency on the corridor; and
 - c) Discuss possible funding options for the projects identified, including, but not limited to, federal and state funding.

COMMENTS:

- 1) *Purpose of the bill.* According to the author, “The LOSSAN Corridor is the second busiest rail corridor in the nation serving as the primary intercity, commuter, freight, and military rail corridor throughout a six-county mega region where 20 million people reside. Unfortunately, impacts from sea-level rise, erosion, and weather-related events have jeopardized the long-term resiliency of the corridor and, in some instances, ceased operations for up to months at a time. Late last year, rail tracks in San Clemente, CA shifted as much as 28” into the Pacific Ocean due to landslides and coastal erosion. In Del Mar, CA, crumbling bluffs have jeopardized the longevity of the most southern portion of the corridor.

“The LOSSAN Agency is the governing board of the LOSSAN Corridor and is composed of 11 voting members representing rail owners, operators, and planning agencies along the corridor. A primary responsibility of the LOSSAN Agency, per SB 1225 and terms of an agreement with the State of California, is to develop an annual business plan which outlines the agency’s major goals and objectives. This bill would require that the LOSSAN agency include climate resiliency considerations as a chapter in the business plan to describe the effects of climate change on the corridor, identify projects to increase climate resiliency in the corridor, and discuss funding options for these projects.”

- 2) *Intercity rail in California.* California is home to three of the six busiest Amtrak intercity passenger rail routes in the nation. The Capitol Corridor service in Northern California covers 170 miles, with 18 stations, connecting Auburn to San Jose. In 2019, the Capitol Corridor had record ridership of roughly 1.7 million. The San Joaquins serves the Central Valley and pre-COVID were operating two daily round trips between Sacramento and Bakersfield and five daily round trips between Oakland and Bakersfield, carrying over 1.1 million passengers a year. In Southern California, the Pacific Surfliner service is a 351-mile coastal corridor that runs from San Diego to San Luis Obispo, travelling through Orange, Los Angeles, Ventura, and Santa Barbara counties. Pre-COVID, the Pacific Surfliner had 26 daily trains and an annual ridership of nearly 3 million.

Prior to 2012, Caltrans Division of Rail and Mass Transit managed and funded two of the three intercity rail services within the state - the Pacific Surfliner and the San Joaquins. The Capitol Corridor was, and still is, managed by a JPA that administers day-to-day operations within specified service boundaries. During the 2011-12 Legislative Session, SB 1225 (Padilla, Chapter 802, Statutes of 2012), and AB 1779 (Galgiani, Chapter 801, Statutes of 2012), authorized the transfer of responsibility of Pacific Surfliner and San Joaquins, respectively, to JPA managing agencies and, among other provisions, defined the service boundaries within each region. Currently, all three intercity rail service lines are managed by local JPAs while Caltrans remains responsible for providing state funding for each intercity rail line.

Historically, the intercity rail lines were partially funded by the federal government through Amtrak operations. However, with the passage of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), states were required to assume full funding of these lines. In California, the three intercity rail lines are funded from a portion of the sales tax on diesel fuel, which was roughly \$130 million for the 2021-22 fiscal year. With the passage of SB 1 (Beall, Chapter 5, Statutes of 2017), the three intercity rail providers also

receive an additional roughly \$20 million per year for capital and operations support from the State Rail Assistance (SRA) program. Additionally, there are other funding sources for capital improvements for intercity rail including the Transit Intercity Rail Capital Program (TIRCP) and the Interregional Transportation Improvement Program (ITIP).

The statutes governing the JPAs define the specific corridors in which they are authorized to operate and provide service. Specifically, the Capitol Corridor is defined to extend from Colfax to San Jose. The San Joaquins corridor is defined as Los Angeles through Bakersfield to Oakland and Sacramento. The LOSSAN corridor is San Diego through Los Angeles to San Luis Obispo.

- 3) *LOSSAN Rail Corridor Agency*. As mentioned, in Southern California, the LOSSAN Rail Corridor Agency runs the Pacific Surfliner service. The Pacific Surfliner is a 351-mile coastal corridor that runs from San Diego to San Luis Obispo, travelling through Orange, Los Angeles, Ventura, and Santa Barbara counties. Pre-COVID, the Pacific Surfliner had 26 daily trains (13 roundtrips) and an annual ridership of nearly 3 million. To accommodate the drastic decline in ridership during the pandemic, service was reduced to 12 daily trips (six roundtrips). As of June 2021, the Pacific Surfliner increased service to 18 daily trips (or nine roundtrips), six of these roundtrips between San Diego and Los Angeles, two round trips between San Diego and Goleta, and one round trip between San Diego and San Luis Obispo.

LOSSAN is currently the second busiest intercity passenger rail corridor in the United States, and the busiest state-supported Amtrak route. Additionally, the LOSSAN corridor transports \$1 billion in goods via freight rail operators, and is part of the Defense Department's Strategic Rail Corridor Network, providing access to military bases throughout San Diego.

The LOSSAN Agency is governed by a Board of Directors composed of 11 voting members representing rail owners, operators, and planning agencies along the LOSSAN rail corridor, as well as four non-voting, ex-officio members. Specifically, the voting member agencies include San Diego Metropolitan Transit System (MTS), San Diego Association of Governments (SANDAG), North County Transit District (NCTD), the Orange County Transportation Authority (OCTA), Riverside County Transportation Commission (RCTC), Los Angeles County Metropolitan Transportation Authority (Metro), Ventura County Transportation Commission (VCTC), Santa Barbara County Association of Governments (SBCAG), and San Luis Obispo Council of Governments (SLOCOG).

In addition to the Pacific Surfliner service, the LOSSAN corridor is used by four different passenger and freight rail services, including the NCTD Coaster commuter rail, Metrolink, the BNSF railway, and the Union Pacific railroad.

- 4) *LOSSAN faces serious challenges due to climate change.* As noted by the author, the LOSSAN corridor, which runs directly on the coast in many areas, is suffering the impacts of sea-level rise, erosion, and weather-related events that have jeopardized the long-term resiliency of the corridor and, in some instances, ceased operations for up to months at a time.

In September 2021, significant beach erosion activated a landslide on a hillside adjacent to the portion of the corridor owned by OCTA, in the city of San Clemente. It pushed the railroad tracks 28 inches toward the Pacific Ocean. Train service was suspended at that time to stabilize the tracks and service resumed. In September 2022, heavy rain, winds, and storm surge caused the hillside adjacent to the railroad right-of-way to fail and shift the tracks. Train service was again suspended and bus connector service was initiated for both Amtrak and Metrolink service.

OCTA immediately embarked on emergency repairs in October 2022, to stabilize the rail line and incrementally restart rail service. The project placed ground anchors into bedrock through the slide planes, designed to hold back a larger slide and stabilize movement on the corridor. That same month, the California Transportation Commission (CTC) met in special session to approve \$6 million in funding for the emergency repairs. The total cost of the emergency work is approximately \$13.7 million. As part of its project overview, OCTA noted some key takeaways, “Constructing the ground anchors will arrest this inland slide movement and protect the immediate integrity of a critical transportation corridor that serves passengers, goods movement, and national security.” Further, addressing the need for long-term solutions, OCTA noted, “Ocean intrusion into the railroad right-of-way along the cities of Dana Point and San Clemente will continue to be a threat to keeping the railroad moving. Long-term alternatives for protection of the railroad corridor need to be developed.”

To that end, in February 2023, OCTA announced a framework to study long-term rail solutions, working with local, state, and federal partners to further study and understand the issues behind the coastal erosion. The study, split into two phases, with phase one to develop options to protect the coastal infrastructure at various sea levels and gain a better understanding of the climate effects on the rail line; and phase two to develop options for protecting, or potentially moving, the rail line. OCTA hopes the study will more clearly

identify costs and schedule associated with more long-term solutions, expected to be in the billions of dollars.

On April 10, 2023, OCTA announced that the construction work has been successful in stabilizing the tracks and that all regular Metrolink and Pacific Surfliner passenger service through San Clemente would resume on April 17th.

In San Diego County, SANDAG and NCTD have been leading efforts to stabilize portions of the coastal bluffs in the City of Del Mar to protect the railroad from erosion, landslides, and seismic events; and plan for a possible longer term realignment of the tracks. This section of the corridor has also had to shut down repeatedly to address safety concerns. Specifically, Phase 5 of the Del Mar stabilization project will install additional columns to support the railroad, reinforce the bluffs, and install retaining walls, drainage improvements, and other stabilization and erosion control measures on the upper bluffs, bluff face, and new sea walls to protect the bluff toe. The project is expected to begin construction later this year at an estimated cost of \$78 million.

For the longer term, SANDAG is leading a San Diego Regional Rail Alternative Alignment and Improvements study to analyze ways to reduce travel times, enhance safety, and increase capacity along the San Diego segment of the corridor. One aspect of the study is to evaluate potential double track alignments between San Dieguito and Sorrento Valley that would move the tracks completely off the eroding bluffs. As part of the 2022-2023 state budget, SANDAG was allocated \$300 million to begin environmental analysis, study potential impacts, address stakeholder concerns, and identify future costs of the project.

- 5) *Legislature puts spotlight on LOSSAN.* In addition to providing \$300 million for the LOSSAN corridor in the state budget, this committee created a new subcommittee focused on studying the future resiliency of the infrastructure and service along the entire 351-mile rail line. The Subcommittee on LOSSAN Rail Corridor Resiliency is comprised of members of this committee who represent the Corridor. Specifically, the subcommittee will be chaired by Senator Blakespear (D-Encinitas), and members include Senator Monique Limón (D-Santa Barbara), Senator Josh Newman (D-Fullerton), Senator Janet Nguyen (R-Huntington Beach), and Senator Thomas J. Umberg (D-Santa Ana).

The Subcommittee plans a series of hearings this year, kicking off on May 16, 2023, with a hearing entitled “Setting the Stage for a Resilient Rail Future.”

- 6) *SB 677 wants LOSSAN to build climate resiliency into its plans and projects.* As mentioned previously, the LOSSAN agency is governed by a 15 member Board of Directors. Additionally, it should be noted that the LOSSAN corridor is made up of seven different right-of-way owners, including public agencies and freight railroads. As required by SB 1225, and the terms of the interagency transfer agreement, the LOSSAN Agency must submit an annual business plan by April 1 of each year to California State Transportation Agency (CalSTA). The primary purpose of the business plan is to identify the major goals and objectives for the LOSSAN agency's management of the Pacific Surfliner, as well as the budget necessary to administer, market, and operate the service during the upcoming two-year period. The business plan also summarizes operations, service levels, budget, and capital improvements that have contributed to the success of the Pacific Surfliner service and identifies improvements to sustain and grow its success moving forward.

Additionally, the business plan contains a Capital Improvement Program, which includes details of planned corridor-wide capital projects, and possible funding options, including federal and state funding. The most recent LOSSAN business plan details the work done throughout 2021 with key stakeholders to update the program and compile all identified projects into a comprehensive list, including the status of each project as well as any programmed funding.

However, the current business plan does not discuss the effects of climate change on the corridor or identify projects in the capital improvement program that are climate resiliency related.

In recent years, the state has put more focus on planning for climate adaptation for infrastructure. For example, Caltrans now addresses the primary climate impacts posing risks to state highway system infrastructure, including changes in precipitation, wildfire risk, and sea level rise as part of its biennial State Highway System Management Plan. The identification of the vulnerabilities is now built into Caltrans' planning for future projects on the state highway system, including the costs associated. It also serves to identify projects that may qualify for new federal and state funding programs dedicated to climate adaptation and resiliency.

SB 677 would require the LOSSAN agency to include in its business plan, due on April 1, 2024, and each year thereafter, a description of the effects of climate change, including sea level rise and weather-related events, on the corridor and how to adapt to its impacts. The bill would also require the Capital Improvement Program to identify specific projects that increase climate

resiliency on the corridor, and discuss possible funding options, federal and state, for the projects.

As LOSSAN agency notes that while each member agency or host railroad is responsible for the implementation of its respective capital improvement projects, the LOSSAN agency takes a lead role in funding and legislative pursuits, with a focus on leveraging existing funds to advance capital projects that have a corridor-wide benefit. Including a discussion of climate change issues for the corridor and highlighting projects that are directly related to climate resiliency may assist the agency in future project funding pursuits.

RELATED/PREVIOUS LEGISLATION:

SB 742 (Allen, Chapter 652, Statutes of 2019) – Made various changes to provisions relating to the state's intercity thruway bus services.

SB 477 (Cannella, 2017) – Would have authorized a local JPA operating intercity rail service to expand service beyond its statutorily defined corridor if specific conditions are met. *This bill was held on the Assembly Appropriations Committee suspense file.*

SB 1 (Beall, Chapter 5, Statutes of 2017) – Provides approximately \$5.2 billion per year in new funding for highways, transit and active transportation programs.

SB 1225 (Padilla, Chapter 802, Statutes of 2012) – Authorized an interagency transfer agreement to be entered into with a local JPA to provide intercity rail service in the LOSSAN Corridor if specific conditions are met.

AB 1779 (Galgiani, Chapter 801, Statutes of 2012) – Authorized an interagency transfer agreement to be entered into with a local JPA to provide intercity rail service in the San Joaquin Corridor if specific conditions are met.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

None received

OPPOSITION:

None received

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SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2023 - 2024 Regular

Bill No: SB 708 **Hearing Date:** 4/25/2023
Author: Jones
Version: 3/29/2023
Urgency: No **Fiscal:** Yes
Consultant: Randy Chinn

SUBJECT: Vehicles: off-highway motor vehicles: off-highway motorcycles: sanctioned event permit

DIGEST: This bill creates, beginning January 1, 2025, a “sanctioned event permit” that allows a California resident, upon payment of a fee, to operate certain off-road motorcycles at sanctioned events.

ANALYSIS:

Existing law:

- 1) Generally defines “off-highway motor vehicle” to include motorcycles, snowmobiles, sand buggies, dune buggies, all-terrain vehicles, jeeps, and recreational OHVs.
- 2) Requires motor vehicles that are unregistered because they are used exclusively off-road to be issued and display an identification plate obtained from the Department of Motor Vehicles (DMV), with certain exceptions, including certain OHVs used in competitive events upon closed courses.
- 3) Requires the DMV, upon identifying an OHV subject to the identification described above, to issue to the owner a suitable identification plate that is capable of being attached to the vehicle, as specified.
- 4) Requires certain fees associated with OHVs to be deposited in the OHV Trust Fund, and requires moneys in the fund to be allocated for specified purposes related to off-highway recreation.

California Air Resources Board (ARB) regulations

- 1) Establish a green sticker program whereby OHVs that meet air emissions standards can operate year round on public lands.

- 2) Establish a red sticker program whereby OHVs of model year 2021 or earlier that do not meet air emissions standards can only operate during the riding season, as determined by ARB, on public lands.
- 3) For a fee, the DMV issues the green and red stickers to distinguish between the two OHV types.
- 4) For model years 2022 or later, to ride on public lands OHVs must either meet ARB's air emissions standards or only be used in sanctioned, competition events on a closed course. No new red stickers will be issued for model years 2022 or later. However, beginning in 2025, pre-2022 model year red sticker OHVs may operate year round, rather than be limited to the riding season.
- 5) Prohibits any person from using any internal combustion engine on any forest-covered, brush-covered, or grass-covered land unless the engine is equipped with a spark arrestor. An exception is made for motor vehicles operating in an organized competition if the event is conducted under the auspices of a recognized sanctioning body and by permit issued by the fire protection authority having jurisdiction. (Public Resources Code Section 4442)

Federal law:

- 1) Allows the use of OHVs that are not compliant with emissions regulations solely for competition.
- 2) Requires that off-highway vehicles must have a Forest Service approved spark arrestor, properly installed and maintained. (36 CFR 261.52)

This bill:

- 1) Requires State Parks, upon payment of a fee, to issue an annual special permit, to be known as the "sanctioned event permit," to California residents to operate an off-road motorcycle at sanctioned events.
- 2) Requires State Parks to make this permit available for online purchase beginning January 1, 2025.
- 3) Limits eligibility for this permit to California residents for model year 2022 and newer off-road motorcycles that are not eligible for the "Green Sticker" or "Red Sticker" identification.

- 4) Provides that a sanctioned event permit shall expire on December 31 of the year that the permit is issued.
- 5) Provides that a sanctioned event permit is nonrefundable, non-replaceable, and void if removed from an off-road motorcycle.
- 6) Requires the sanctioned event permit to be displayed on the left side of an off-road motorcycle and visible for inspection at sanctioned events.
- 7) Defines “sanctioned event” to mean an event approved by an agency within its guidelines for off-highway vehicle competition or racing events.
- 8) Requires State Parks to set the fee amount for a sanctioned event permit to recover the operation and administrative costs of this program. State Parks may adjust the fee amount.
- 9) Requires State Parks to deposit revenues received from this fee into the Off-Highway Vehicle Trust Fund.
- 10) Provides that money in this fund shall be allocated, upon appropriation by the Legislature, for a State Parks’ grant program that supports the planning, acquisition, development, maintenance, administration, operation, enforcement, restoration, and conservation of trails, trailheads, areas, and other facilities associated with the use of OHVs, and programs involving OHV safety or education.

COMMENTS:

- 1) *Background.* In 1994, the California Air Resources Board (CARB) adopted the first regulation to control emissions from OHVs. ARB subsequently adopted the red sticker program after industry-noted concerns over a lack of compliant models. Under this program, vehicles that do not meet emissions standards must have a “3” or “C” in the eighth digit of the VIN and may be used for recreational purposes on public lands in accordance with the red sticker schedule if they have a red sticker. The red sticker schedule limits use to certain times of year to support compliance with federal ozone standards.

CARB adopted the red sticker program in 1998 as a temporary measure to provide the industry time to develop compliant models while not disrupting vehicle availability and sales. CARB anticipated that as green sticker models came onto the market, consumers would prefer these models since they have no

use restrictions. While this largely occurred with ATVs, demand for red sticker motorcycles remained high, accounting for over 50 percent of sales between 2012 and 2015.

Ultimately, the red sticker program's riding restrictions were ineffective at changing consumer behavior and these OHVs disproportionately accounted for OHV emissions. In response, CARB updated its regulations to sunset the red sticker program for model years 2022 and later, but included provisions to continue to allow the recreational use of older models on public lands. OHVs that do not meet CARB's standards may only be used on public lands for competition and competition-associated practice events on a closed course. The new regulations also bring California's rules into alignment with federal OHV rules adopted in 2006.

- 2) *Author's Statement.* "SB 708 will create a new online sanctioned event permit program for model year 2022 and newer competition motorcycles to replace the Red Sticker registration program that ended in 2021 by providing an identification decal that is to be displayed on competition motorcycles when operated at sanctioned events on public lands."
- 3) *Need for the Bill.* According to State Parks, the federal government looks to California's sticker programs to identify competition OHVs on federal lands in California during federally sanctioned events. With the sunset of the red sticker program, federal land managers have inconsistently allowed the use of off-road motorcycles without a sticker. State Parks notes a replacement sticker program could more consistently allow the use of off-road motorcycles on federal lands during sanctioned events.
- 4) *Sanctioned Event.* This bill allows off-road motorcycles to be used on public lands at a sanctioned event, defined as an event approved by an agency within its guidelines for OHV recreational special events. This could include sanctioned events hosted by federal, state, or local agencies, or tribes. State agencies that offer OHV competition events include State Parks and some state fairs. The Bureau of Land Management and the U.S. Forest Service offer events on federal lands. Local agencies that offer events include counties and some cities.
- 5) *Looks Familiar.* For several years the author has attempted to create programs to allow certain non-compliant OHVs to be used solely for competition off public highways. His latest effort, SB 894 from last year, passed the Senate without a "NO" vote and passed the Assembly nearly unanimously.

Unfortunately that bill was vetoed. The Governor's veto message raised fiscal concerns about the DMV's cost of administering the program:

"I recognize the economic benefits OHV competitions bring to rural communities, but I am concerned about the fiscal impact to implement the bill. It is anticipated that there will be fewer than 2,000 annual applications under this program. DMV's implementation costs are anticipated to be significant, and the Off-Highway Vehicle Trust Fund is required to reimburse the DMV for those up-front costs. Given the small number of vehicles and the fees set forth in the bill, it may take a decade or more for the OHV Trust Fund to recoup those costs - if at all."

This bill addresses that concern by eliminating the role of the DMV, instead creating a similar sticker program administered by State Parks.

- 6) *Spark Arrestor*. Prior bills on this subject required the use of a spark arrestor and muffler. This bill does not require either. At least with regard to the spark arrestor, federal and state law already requires such a device, as noted in the "Current Law" section.
- 7) *Fees*. The bill authorizes State Parks to establish a fee for the permit to recover the costs of the permitting program. The author's intent is that the permittees contribute towards the Off-Highway Vehicle Trust Fund, though the mechanism for doing so isn't yet clear.
- 8) *Double Referral*. This bill was previously heard by the Senate Natural Resources and Water Committee on March 28, 2023 and approved 10-0.

RELATED LEGISLATION:

SB 894 (Jones, 2022) – Establishes a process to register and identify certain off-highway vehicles that do not comply with air emission regulations for use solely for competition off public highways. *This bill was vetoed by Governor Newsom.*

SB 227 (Jones, 2021) – Establishes a process to register and identify certain off-highway vehicles that do not comply with air emission regulations for use solely for competition off public highways. *This bill was held on the suspense file in the Assembly Appropriations Committee.*

SB 1024 (Jones, 2020) – Establishes a new registration program for off-highway motorcycles and vehicles used in competition. *This bill was placed on the inactive file in the Senate after returning from the Assembly.*

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

Unknown.

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

Abate of California - Motorcyclists Rights & Safety Organization
American Motorcyclist Association
California Custom Trailers & Powersports
California Wilderness Coalition (CALWILD)
CMDA-California Motorcycle Dealers Association
District 36 Motorcycle Sports Committee, INC. (AMA D36)
San Diego Off-road Coalition
Sierra Motor Sports
Tuleyome

OPPOSITION:

None received

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SENATE COMMITTEE ON TRANSPORTATION

Senator Lena Gonzalez, Chair

2023 - 2024 Regular

Bill No:	SB 710	Hearing Date:	4/25/2023
Author:	Durazo		
Version:	3/20/2023		
Urgency:	No	Fiscal:	Yes
Consultant:	Randy Chinn		

SUBJECT: Sale of excess state highway property: State Highway Route 710 Terminus

DIGEST: This bill requires Caltrans to establish a committee to consider ways to mitigate traffic and identify potential uses for surplus land around the southern terminus of State Route 710.

ANALYSIS:

Existing law prescribes the process for the disposal of properties located within the State Route 710 corridor.

This bill requires Caltrans to establish and administer a Terminus Regional Planning Committee with specified membership. The committee shall meet quarterly and complete and submit a report to the Legislature which addresses the issues of traffic in connecting to Route 10 from the southern terminus of State Route 710 in Alhambra and potential uses for surplus land associated with that terminus.

COMMENTS:

- 1) *Author's Statement.* According to the author, "SB 710 will establish a Terminus Regional Planning Committee, bringing together a diverse set of stakeholders to study potential uses for the State Route 710 Terminus. Seventy years ago, under the threat of eminent domain, the State of California displaced families and altered our communities for a freeway expansion in Los Angeles County. In January 2020, the Legislature declared there would be no extension for the 710, and therefore much of this land is no longer needed by the department, creating a unique opportunity to repair the scars left by this abandoned project and work to make this area more complete. Many of the affected communities have invested time and effort working to propose how to

best modernize and revitalize this area. SB 710 will provide the support structure needed to bring these groups together to discuss a way forward.”

- 2) *Brief History of SR 710.* In the 1950's, Caltrans planned for a freeway to connect the Port of Long Beach north to Interstate 5, Interstate 10 and the Interstate 210 freeway in Pasadena. In 1964, the southern part of SR 710 was built, starting at the Port of Long Beach and heading north. It ended 23 miles later, five miles short of the intended connection to Interstate 210, feeding into local traffic on Valley Boulevard in Alhambra, causing congestion on the neighboring freeways and streets. The gap, which was caused by challenges from the community, affects the surrounding cities of El Sereno, Alhambra, South Pasadena, Pasadena, and a portion of Los Angeles.

In 2018, the Los Angeles County Metropolitan Transportation Authority (Metro) and Caltrans identified alternatives to the freeway gap closure which did not require demolition of any homes. Subsequent legislation prohibits Caltrans from pursuing freeway gap closure. Consequently, many of these properties are no longer needed for the transportation project and are now surplus. Caltrans has begun disposing of properties pursuant to several laws enacted over the last few years.

As funding for the gap closure was no longer required, Metro recently allocated more than \$1 billion in local, state and federal funds to Alhambra, Monterey Park, Pasadena, Rosemead, San Gabriel, San Marino, South Pasadena and the City and County of Los Angeles for alternative projects.



- 3) *Problems and Opportunities.* The availability of property in an otherwise congested area provides a rare opportunity to benefit the public. But while halting the SR 210 project created the surplus properties, the traffic congestion remains. According to Alhambra, 58,300 vehicles use the SR 710 stub daily with only 28% local Alhambra traffic. The largest portion, 38%, continue on city streets heading north while 25% continue east on city streets rather than using Interstate 10.

This bill requires Caltrans to establish a Terminus Regional Planning Committee to consider how best to use the surplus property and how to address the traffic issues in the area around the southern stub of SR 710. (This is the area adjacent to the southern segment of SR 710 between Interstate 10 and the 710 gap.) A report is due by December 1, 2025. The members of the Planning Committee are:

- a) City of Alhambra

- b) City of Los Angeles
 - c) County of Los Angeles
 - d) LA-32 Neighborhood Council (a neighborhood association representing the 90032 area code which borders SR 710 and SR 10)
 - e) California State University – Los Angeles (the campus is adjacent to the terminus)
 - f) Los Angeles County Metropolitan Transportation Authority
 - g) A community-based organization selected by Caltrans
- 4) *Opposition.* Some local governments and individuals are concerned that the recommendations of the Terminus Regional Planning Committee (Committee) will jeopardize or delay ongoing projects. The City of Alhambra, which has been allocated \$64.5M for SR 710 congestion relief, has developed plans to reduce the number of lanes on the southern SR 710 stub and improve the nearby Interstate 10 off-ramps as a way of keeping traffic on freeways and off local streets. Many cite Alhambra’s project as a preferred alternative which is completely funded. Opponents are concerned that the bill is duplicative of the effort already undertaken by Alhambra. They worry that if Alhambra’s project is revised, as could happen if the Committee were to recommend a different project, the funding Alhambra has spent on planning and outreach would be lost, and their effort to reduce local congestion delayed.

RELATED LEGISLATION:

AB 512 (Holden; Chapter 940 of 2022) – Requires Caltrans to offer to sell unimproved properties at the original acquisition price to a housing related entity for affordable housing purposes in Los Angeles, Pasadena, and South Pasadena.

SB 51 (Durazo; Chapter 130 of 2021) – Encourages the sale of homes owned by Caltrans, located within the State Route 710 corridor in the El Sereno neighborhood of Los Angeles Los Angeles, for low- and moderate-income rental housing.

SB 381 (Portantino; Chapter 362 of 2021) – Encourages the sale of homes owned by Caltrans for low- and moderate-income housing in the State Route 710 corridor in South Pasadena.

SB 7 (Portantino, Chapter 835, Statutes of 2019) — Restricts the California Department of Transportation (Caltrans) from considering a freeway or tunnel as a feasible alternative for State Route (SR) 710 between Interstate (I-) 10 and I-210, and makes other changes related to the SR 710 corridor.

AB 29 (Holden, Chapter 791, Statutes of 2019) — Restricts the California Department of Transportation (Caltrans) from considering a freeway or tunnel as a feasible alternative for State Route (SR) 710 between Interstate (I-) 10 and I-210, and redefines, as of January 1, 2024, which portions of SR 710 are included in the state freeway and expressway system to exclude the section of SR 710 generally between I-10 and I-210.

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

Unknown

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

Concerned Neighbors of El Sereno
El Sereno Arroyo Playground Vecinos
Immersion Workforce Los Angeles
LA Hillside Village Property Owner's Association

OPPOSITION:

Alhambra Chamber of Commerce
Alhambra Unified School District
City of Alhambra
City of Monterey Park
City of Pasadena
City of Rosemead
City of San Gabriel
City of South Pasadena
Rosemead Chamber of Commerce and Visitor Information Center
San Gabriel Valley Council of Governments (SGVCOG)
33 private citizens

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SENATE COMMITTEE ON TRANSPORTATION

Senator Lena Gonzalez, Chair

2023 - 2024 Regular

Bill No:	SB 800	Hearing Date:	4/25/2023
Author:	Caballero		
Version:	3/20/2023		
Urgency:	No	Fiscal:	Yes
Consultant:	Randy Chinn		

SUBJECT: Advance Air Mobility and Aviation Electrification Committee

DIGEST: This bill requires the California Department of Transportation (Caltrans) to establish an advisory committee on advanced air mobility.

ANALYSIS:

Existing law:

- 1) Establishes the State Aeronautics Act with the purpose of furthering the public interest in aeronautics by 1) encouraging the development of private flying and the general use of air transportation, 2) promoting safety, 3) effecting uniformity of laws and regulations, 4) establishing only those regulations which are essential and clearly within the scope of authority granted by the Legislature, 5) assuring that nearby residents are to the greatest extent possible protected against unreasonable levels of aircraft noise, and 6) fostering the development of a stable and efficient regional air carrier system to provide access for small and rural communities. (Public Utilities Code Section 21001 *et seq*)
- 2) Requires the California Department of Transportation (Caltrans) to prepare a California Aviation System Plan every five years which addresses specified areas including planning and capital improvements. (PUC Section 21701 *et seq*)
- 3) Establishes, via California Air Resources Board regulation, the Low Carbon Fuel Standard to encourage the use of low-carbon transportation fuels.

This bill:

- 1) Requires Caltrans to establish an advisory committee, known as the Advance Air Mobility and Aviation Electrification Committee, to assess all of the following:

- Pathways for feasible implementation of electrification goals for the aviation industry;
 - Consideration of including aircraft in the Low Carbon Fuel Standard;
 - Current state law and any potential changes to state law that are needed to facilitate the development of urban air mobility operations and infrastructure;
- 2) Requires the committee membership to include one member appointed by each of the Senate President Pro Tempore, the Speaker of the Assembly, and the Governor, as well as other members appointed by Caltrans representing specified expertise and backgrounds.
 - 3) Requires the committee to hold public hearings across the state or via electronic means and receive comments.
 - 4) Requires the committee to report its findings and recommendations to Caltrans and the Legislature not later than January 1, 2025.

COMMENTS:

- 1) *Background.* The California Aviation System Plan (CASP) 2020 comprehensively views California public-use airports to evaluate aviation. Prepared by Caltrans, CASP 2020 considers aviation’s capabilities and specifies airport roles and needs. Though it is several years old, CASP 2020 recognizes Advanced Air Mobility (AAM)¹ It notes aircraft manufacturers envision the use of electric aircraft to provide cost-effective intra-city, inter-city, and regional air travel in the nation’s most congested areas including Los Angeles and San Francisco. It notes that financial and business opportunities exist, but there are significant technological, operational, and regulatory challenges including issues involving public perception and acceptance. Several manufacturers of electric Vertical Takeoff and Landing (e-VTOL) vehicles have completed prototype aircraft to transport passengers within and between large metropolitan areas. The aircraft rely on battery power to reduce GHG emissions, and are expected to operate more quietly than rotor aircraft. Some manufacturers expect to complete the Federal Aviation Administration’s aircraft certification process by 2024 and to begin service in 2025.² The CASP 2020 report goes on to note that “despite the strides made by aircraft manufactures to develop viable aircraft, (AAM) challenges remain as neither the physical infrastructure (e.g., takeoff and landing infrastructure, power

¹ The term AAM has replaced the more specific term “Urban Air Mobility” (UAM).

² Axios: *The “Flying Taxis” of the Future are Lifting Off*, by Muller; December 7, 2022.

infrastructure, etc.) nor the regulatory and policy framework have been developed to address UAM operation in urban areas.”

- 2) *Author’s Statement.* “Urban air mobility ((UAM), also known as Advanced Air Mobility (AAM)) is a new, innovative mode of transportation that will galvanize and modernize the future of mobility for passengers and cargo by relying on underutilized aerial transit routes. UAM will reduce the current burden on road infrastructure, decrease traffic congestion, and lower harmful emissions. This new industry will leverage innovative aerial vehicle designs and system technologies and embrace the sharing economy to enable a novel transportation service network. California must have the regulatory framework to develop this new technology in order to compete with other states. SB 800 would create the Advanced Air Mobility and Aviation Electrification Committee, to assess current federal and state laws and any potential changes needed to facilitate the development of operation electrification and infrastructure in California”.
- 3) *California Start-Ups.* Many AAM companies are based in California (e.g. Archer Aviation, Joby, Wisk, Overair, Kittyhawk). There is significant global activity with many different prototype aircraft under development, some already having begun test flights.
- 4) *Progress by Other Jurisdictions.* A number of other states and countries have begun to develop the regulatory structure to license and support AAM. Utah has recently completed a study of their AAM infrastructure and recommended revisions to state law to support AAM. Arkansas, Michigan, Texas and Ohio have begun state-level efforts to review current law and regulations. The federal government is also actively engaged in supporting AAM through efforts by the Federal Aviation Administration, NASA, and the Transportation Research Board. Other countries, including Canada and Japan, as well as the European Union, are similarly focused.
- 5) *Current Activity.* As noted above, Caltrans has recognized the potential value of AAS and will soon issue an RFP for expert help in expanding their understanding. The proposed RFP serves Caltrans’ goal of incorporating AAM into a safe, accessible, low carbon multimodal transportation network by helping Caltrans understand AAM and AAM aircraft, consider mechanisms for take-off and landing site evaluation, development of a planning process for establishing AAM routes, and establishing a workplan for medium-term activities to support AAM.

- 6) *Equity*. How should this new industry take into account equity considerations? The question may be unfair for an industry which isn't even at the point of providing service. But longer term the question of how AAM deals with equity must be addressed. Equity isn't just whether seats are cheap. It can be found in employment opportunities or better delivery service or reduced pollution in disadvantaged communities. However it is defined, the AAM industry will need to address equity as it grows.
- 7) *Suggested Amendments*. Part of the attraction of the new AAM aircraft is that they are electric, smaller, and much quieter than existing helicopters and aircraft, potentially opening up new takeoff and landing areas. The author may wish to consider adding an assessment of the local permitting process for these takeoff and landing areas. (Page 3, line 3, after "state law" add "and local ordinances".) Also, the advisory committee may benefit from hearing from the California Energy Commission which could provide a perspective on electrification and from the general aviation community as private pilots will be impacted by AAM. (Page 3, line 16, after "Research" add "(D) Representatives from the California Energy Commission, (E) Representative from the general aviation industry") Lastly, on page 2, line 5 replace "Advance" with "Advanced".

RELATED LEGISLATION:

None.

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

Unknown

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

Archer
 Association for Uncrewed Vehicle Systems International
 Association of California Airports
 Beta Technologies
 California Airports Council
 Center for Biological Diversity
 City of Marina
 Eve Air Mobility

Ferrovial Vertiports
General Aviation Manufacturers Association
Helicopter Association International
Joby Aviation
Lilium
Monterey Bay Drone, Automation and Robotics Technology (DART) Initiative
Monterey Bay Economic Partnership
Mujeres En Accion
National Business Aviation Association
Office of Monterey County Supervisor Chris Lopez
Overair
Rancho Cielo Youth Campus, Salinas, CA
Siedi (salinas Inclusive Economic Development Initiative)
Skyports Infrastructure
Supernal
Vertical Aerospace
Vertical Flight Society
Wisk Aero

OPPOSITION:

None received

-- END --

SENATE COMMITTEE ON TRANSPORTATION

Senator Lena Gonzalez, Chair

2023 - 2024 Regular

Bill No:	SB 846	Hearing Date:	4/25/2023
Author:	Limón		
Version:	2/17/2023		
Urgency:	No	Fiscal:	Yes
Consultant:	Jacob O'Connor		

SUBJECT: Voter registration: California New Motor Voter Program

DIGEST: This bill would create a back-end automated voter registration system for registering voters via the California New Motor Voter Program at the California Department of Motor Vehicles that will be implemented January 1, 2026.

ANALYSIS:

Existing federal law:

- 1) Pursuant to the National Voter Registration Act, requires each state's driver's license application submitted to their motor vehicle authority serve as a simultaneous voter registration application unless the applicant fails to sign the voter registration application. (52 U.S. Code § 20504)

Existing state law:

- 1) Provides that a person is entitled to register to vote who is a United States citizen, a resident of California, not imprisoned for the conviction of a felony, and at least 18 years of age at the time of the next election. (Elections Code (Elec) §2101)
- 2) Requires the Secretary of State (SOS) and the Department of Motor Vehicles (DMV) to establish the California New Motor Voter Program (CNMVP) for the purpose of increasing opportunities for voter registration by any person who is qualified to vote. (Elec §2263)
- 3) Requires the DMV, in consultation with the SOS, to establish a schedule and method to electronically provide to the SOS the following information associated with each person who applies for, renews, or changes an address for a driver's license or identification card issued by the DMV: (Elec §2265)

- a) Name;
 - b) Date of birth;
 - c) The residence and/or mailing address in the DMV's records;
 - d) Language preference;
 - e) Political party preference;
 - f) Whether the person chooses to become a permanent vote by mail voter;
 - g) Whether the person affirmatively declined to become registered to vote;
 - h) An attestation by the applicant that they meet all voter eligibility requirements, including United States citizenship; and
 - i) Other specified information
- 4) Provides that the DMV shall not electronically provide records of a person unable to submit satisfactory proof that the person's presence in the United States is authorized under federal law or that contain a home address designated as confidential.
 - 5) Requires the SOS to establish procedures to protect the confidentiality of the information acquired from the DMV and requires the SOS to account for any disclosures, including those due to security breaches. (Elec §2266)
 - 6) Provides that the records of a person who registers to vote pursuant to the CNMVP shall constitute a completed affidavit of registration and the SOS shall register or preregister the person to vote, unless any of the following conditions is satisfied: (Elec §2267)
 - a) The person's records reflect that person affirmatively declined to become registered to vote during a transaction with the DMV;
 - b) The person's records do not reflect that person has attested to meeting all voter eligibility requirements; or
 - c) The SOS otherwise determines that the person is ineligible to vote.

- 7) States that if a person who is ineligible to vote becomes registered or preregistered to vote through the CNMVP and votes or attempts to vote they shall be presumed to have acted with official authorization and shall not be guilty of fraudulently attempting to vote unless that person willfully attempted to vote knowing that they were not entitled to do so. (Elec §2271)

This bill:

- 1) Requires the DMV to not offer an individual the opportunity to attest that they meet voter eligibility requirement or to transfer their record to the SOS if, at the time of transaction with the DMV, the person provides a document demonstrating that they are not a United States citizen.
- 2) Requires the SOS and the DMV to jointly develop a process by which the DMV, upon obtaining a person's specified identifying information may use information from the statewide voter registration database to determine whether that person is already registered to vote in the state.
- 3) Requires the DMV to provide the SOS information about any person not currently registered to vote in California who submits a driver's license application and has, during their transaction with the DMV, provided documentation demonstrating United States citizenship and that they are of an eligible age to register or preregister to vote. This information includes:
 - a) Name;
 - b) Date of birth;
 - c) Residence address and/or mailing address;
 - d) Digitized signature, as specified;
 - e) The language in which the person conducted the transaction; and
 - f) Other information, as specified.
- 4) Requires the DMV to provide to the SOS information regarding any person who is currently registered to vote in California and who submits a driver's license application. This information includes:
 - a) Name;

- b) Address, and
 - c) Any additional information required by the SOS for maintaining information for the person's voter registration.
- 5) Requires the DMV, in consultation with the SOS, to establish a schedule and method for the DMV to electronically provide the SOS these records.
- 6) Requires the SOS and DMV to develop procedures to ensure that identifying information submitted by an applicant as part of a DMV transaction is sufficiently evaluated to determine whether the applicant is eligible to register to vote and to protect against future erroneous registrations or preregistrations.
- 7) Provides that these records constitute a completed affidavit of registration and requires the SOS to register or preregister that person to vote unless the SOS determines that person to be ineligible.
- 8) Requires that when a person is registered to vote pursuant to this program the appropriate county elections official shall send to that person by mail a notice of registration. This notice shall:
- a) Include a postage-paid preaddressed return form;
 - b) Offer the person the opportunity to decline registration;
 - c) Offer the person the opportunity to provide party preference and to select a language preference;
 - d) Explain the eligibility of requirements to register to vote and a statement that if ineligible, the person should decline using the form;
 - e) State the penalties for providing false information; and
 - f) Provide information regarding how a person can obtain assistance and additional information about the notice.
- 9) Requires that if a person returns a form for the notice their information will be appropriately updated. If the person declines registration their registration shall be canceled and the person shall be deemed to have never registered unless that person has already voted, whereupon the form shall have no force or effect.

- 10) Requires that when the SOS receives information from this program on a person who has already voted, the SOS shall use this new information to update the voter's registration record. Then the appropriate county elections official shall send to that person by mail notice of any change with a postage-paid preaddressed return form by which the person can verify or correct the information.
- 11) Requires the SOS to prescribe the form of these notices and ensure that notices shall be translated into all qualifying minority languages for a county and that all notices in a county contain a basic description of the subject of the notice in all qualifying minority languages in the county.
- 12) Requires that in the event the SOS or DMV become aware of an error resulting in registration of an ineligible person they shall immediately contact that person to inform them and provide a letter asserting that the SOS or DMV was responsible for the erroneous registration or preregistration and keep a copy of this letter in the person's file with the DMV.
- 13) Maintains the current CNMVP for individuals who are not currently registered to vote in California and whose information is not subject to transmission to the SOS under this bill because they do not conduct their transaction with the DMV using documentation that proves citizenship.
- 14) Expands the definition of "voter registration agency" to include entities designated by the SOS.
- 15) Requires voter registration agencies to annually provide the SOS information describing each designated office under the agency's supervision, the services they provide, and a designated voter registration contact for that office.
- 16) Requires the SOS or their designee to assess which voter registration agencies collect sufficient information from applicants to confirm eligibility for registration or to update information for an existing registration. If the agency collects such information the SOS shall establish a schedule for that agency to prospectively provide the SOS electronic records regarding individuals eligible to vote or with updated voter registration information, as specified.
- 17) Requires that the statewide voter registration database to include a notation describing if that person was registered pursuant to the old CNMVP or the new method established by this bill.

- 18) Changes the maximum imprisonment penalty for the willful, unauthorized disclosure, obtaining, or use of information from the DMV from one year to 364 days.
- 19) Requires this bill become operative on January 1, 2026 or five days after the date the SOS certifies that the information technology infrastructure to implement the provisions of this bill is functional. Provides that the SOS may perform administrative actions to implement this bill commencing January 1, 2024.

COMMENTS:

- 1) *Purpose of bill.* According to the author, “SB 846 builds on California’s existing Partial Automatic Voter Registration (AVR) system to further streamline voter registration. Utilizing procedures that are largely already in place at the DMV, this bill moves to a Secure AVR system. This upgrade will register millions more eligible Californians, bringing people of color, young people, and formerly incarcerated people into the political process. Similarly, this bill will update millions of existing voter registrations, ensuring more voters receive their mail-in ballots at the correct address and can vote without issues. Most importantly, this upgrade will significantly enhance protections for non-citizens by reducing the risk of unintentional registrations at the DMV. Oregon, Colorado, Nevada, Delaware, Massachusetts, Alaska, and Washington, D.C. have all already adopted Secure AVR, and California can join these states at the forefront of AVR.”
- 2) *National Voter Registration Act.* In 1993, the federal government enacted the National Voter Registration Act (NVRA), commonly referred to as the "motor voter" law, to make it easier for Americans to register to vote and maintain their registration. Among other provisions in the NVRA, the DMV provides customers the opportunity to register to vote when completing an application for or a renewal of a driver’s license or an identification card and when a change of address transactions takes place. The NVRA also requires states to designate other agencies as “voter registration agencies” and provides an opportunity to register to vote for individuals interacting with the specified agencies. This includes offices that provide public assistance and offices that provide services to individuals with disabilities. In California, the Governor is also able to designate additional voter registration agencies.
- 3) *California New Motor Voter Program.* In 2015, the Legislature passed and Governor Brown signed AB 1461 (Gonzalez, Chapter 729, Statutes of 2015), which provides for the automatic voter registration of every person who submits

an application for a driver's license or state identification card (DL/ID), or provides DMV with a change of address, and who attests that they meet all voter eligibility requirements, unless that person opts out. In April 2018, California officially launched the CNMVP.

Since 2018, the CNMVP has contributed to a rise of registered voters in California. According to the most recent report of registration from the SOS, there are 21,940,874 registered voters in California out of an estimated 26,876,800 Californians who are eligible to register to vote, meaning that approximately 81.63% of eligible Californians are registered to vote. To compare, in January 2018, there were 18,980,481 registered voters or about 75.69%.

- 4) *Implementation of the CNMVP has been difficult.* Since the launch of the CNMVP the DMV faced several challenges with transactions and voter registration. In 2018 three different incidents affected the records of approximately 100,000 customers. In perhaps the most dramatic incident, 1,500 customers may have been registered to vote in error when DMV technicians incorrectly processed customer requests at field offices to change voter eligibility responses on driver's license applications.

In response to issues related to the DMV, in September 2018, Governor Brown directed the Department of Finance to conduct a performance audit of the DMV's information technology and customer service functions resulting in the implementation of a quality assurance process to ensure the timely release of records from DMV to SOS and establishing data governance policies including data retention and sharing.

Problems with bringing this system into compliance with the NVRA led to a lawsuit by the League of Women Voters, which was settled with provisions regarding the CNMVP. However, this initial settlement was violated leading to registration delays for thousands of voters and causing the settlement to be extended with new terms. Many of these terms were codified into statute by AB 796 (Berman, Chapter 314, Statutes of 2021), in recognition of their efficacy in improving the functioning of the CNMVP.

- 5) *Creating a back-end automatic voter-registration system.* This bill would create a new process for voter registration under the CNMVP. In the current "front-end" system, DMV customers who attest they are eligible to vote automatically have their information transferred to the SOS, unless they opt-out. SB 846 instead requires DMV to implement a new "back-end" system, whereby DMV customers who provide proof of U.S. citizenship (such as a U.S.

passport or birth certificate) during their transaction automatically have their information transferred to the SOS.

In order to implement this, the DMV will have to check a client's personal information provided during a transaction against a database provided by the SOS of registered voters. If a person is already registered to vote they will not be asked to register at the DMV, but their information shall be sent to the SOS which will check it against their current information and update their records if there is a difference. If they perform an update the SOS will then send a letter to the client alerting them of this and offering them the opportunity to correct the change if the new information is wrong.

If a person is not registered to vote then the DMV will have to assess the documents they used to apply for their license. If those documents prove that they are not a US citizen, they shall not be asked to register and their information will not be provided to the SOS. If their documents neither prove nor disprove their citizenship status, they shall go through the current, front-end, system where they are asked to attest to voter registration questions, offered the opportunity to deny registration, and then their information is then sent to the SOS if they do not deny.

If a person's documents prove that they are citizens, their information shall be transmitted to the SOS for registration. Information provided during the driver's license application will be used to complete their registration, which will not include party preference or language preference. Then the SOS shall mail to a person a notice of their registration which shall offer them the opportunity to deny registration, or provide language and party preference information.

- 6) *Registration rates and false registrations.* Two major goals of this legislation are too increase voter registration rates in California and protect people from accidentally registering to vote illegally. The evidence regarding the efficacy of "back-end" systems in providing these benefits is mixed. A study of Colorado, which transitioned form a "front-end" to a "back-end" system, found this transition resulted in a sudden, large increase in the rate at which DMV patrons registered to vote. However, other research comparing states with "front-end" and "back-end" systems has found little difference in rates. For a full discussion refer to the analysis by the Senate Committee on Elections.
- 7) *DMV wait times.* DMV implementation of the federal REAL ID Act led to significant wait times and increased workload at DMV field offices as these transaction take longer to process than noncompliant transactions. Since peak

wait times in 2018, DMV has made significant changes to their processes to move transactions that can be done online out of the field offices and cut transaction time at the field offices. It is possible that doing voter registration on the back-end will decrease DMV transaction times, but it is unclear by how much, if at all. Much of DMV's current process has migrated online. DMV customers are encouraged to fill out their DL/ID application, including motor voter questions, online prior to coming to the field office and may be able to skip the field office entirely. In fact, it may be more likely that a back-end system will increase wait times, because under the current driver's license system individuals do not have to specify ahead of time what types of documents they will be using to prove identity. As such, the DMV will not be able to determine how to route them through this new system until they reach the field office and provide their documents. In addition to the time it may take for a DMV staff member to evaluate an identifying document, forms which could have been filled out online will have to be done in-person if a person is then routed through the current CMVP at the field office.

- 8) *Complexity and implementation concerns.* The DMV has a poor history of implementing automatic voter registration programs. This new back-end system seems substantially more complicated than the current system. It requires several additional transfers of information between the DMV, SOS, and client/voter. Each of these steps represents a new potential point of failure. Given the difficulty the DMV had in implementing the current system, it seems plausible they will face similar difficulty in implementing this system, leading to further confusion and potential lawsuits.
- 9) *Slow your (voter) rolls?* The DMV is currently undergoing a modernization of its underlying IT system, which creates a layer of complexity for any additional IT projects the DMV might take on, including creating a back-end voter registration system. This process is expected to be completed in 2027, but this bill is to be implemented in 2027.

Additionally, an analysis of other state's automatic voter systems indicated that coordination is key to the success of an automated system. While coordination does occur in California, a deeper analysis may be needed to determine the feasibility for developing a new process, the cost, and whether each entity (DMV, SOS, and counties) possess the technological infrastructure needed to perform the bill's required tasks effectively. A delay to 2027 may allow time for these groups to meet and coordinate in addition to allowing for the IT modernization to be completed. As this bill moves through the process, the author may wish to consider amending the bill to delay implementation and

establish a working group of the DMV, SOS, and county election officials to prepare a plan to successfully implement this new program.

- 1) *Double Referral*. This bill was double-referred to the Senate Committee on Elections and Constitutional Amendments where it was heard on March 21, 2023 and was passed on a 6-1 vote.

RELATED LEGISLATION:

AB 796 (Berman, Chapter 314, Statutes of 2021) – Made various changes to the timing and transfer of voter information data from the DMV to SOS to align with the settlement of the lawsuit with the League of Women Voters.

SB 57 (Bates, 2020) – Would have changed the CNMVP from an opt-out to an opt-in program. *This bill failed passage in the Senate Elections Committee.*

SB 511 (Moorlach, 2019) – Would have required the establishment of a committee including representatives of the SOS, DMV, and counties, for the purpose of facilitating the sharing of information necessary to implement CNMVP. *This bill failed passage in the Senate Committee on Transportation.*

AB 1461 (Gonzalez, Chapter 729, Statutes of 2015) – Provided for every person who has a driver's license or state identification card and who is eligible to register to vote to be automatically registered to vote at the DMV, unless that person opts out. A prior version of AB 1461 included a back-end registration model similar to SB 583 (Newman, 2021). However, the bill was amended to the front-end opt-out system that was subsequently chaptered.

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

Unknown

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

AAPIs For Civic Empowerment - Education Fund

ACCE Action

Ahri for Justice

Alliance San Diego

Asian American Senior Citizens Service Center

Asian Immigrant Women Advocates

Asian Pacific Environmental Network
Bay Rising
Black Alliance for Just Immigration
California Black Power Network
California Calls
California Grassroots Democracy Coalition
California Healthy Nail Salon Collaborative
California Immigrant Policy Center
California Native Vote Project
Californians United for a Responsible Budget
Campaign Legal Center
Catalyst California
Center for Secure and Modern Elections
Central Coast Alliance United for a Sustainable Economy (CAUSE)
Chinese Progressive Association
Chispa
Coalition for Humane Immigrant Rights (CHIRLA)
Communities for a New California Education Fund
Communities United for Restorative Youth Justice (CURYJ)
Community Coalition
Congregations Organized for Prophetic Engagement (COPE)
Courage California
Ella Baker Center for Human Rights
Empowering Pacific Islander Communities (EPIC)
Filipino Advocates for Justice
Greater Sacramento Urban League
Hmong Innovating Politics
Homeboy Industries
Initiate Justice
Inland Empire United
InnerCity Struggle
Institute for Responsive Government
Jakara Movement
Khmer Girls in Action
Los Angeles Alliance for a New Economy
Mi Familia Vota
National Union of Healthcare Workers
NextGen California
Oakland Rising
OC Action
OCA-Asian Pacific American Advocates: East Bay Chapter (OCA-East Bay)
OCA National

OCA San Mateo Chapter
Orange County Congregation Community Organization (OCCCO)
Orange County Asian & Pacific Islander Community Alliance (OCAPICA)
Orange County Environmental Justice
Orange County Voter Information Project
Partnership for the Advancement of New Americans - PANA
PICO California
Pilipino Workers Center
PowerCA Action
Resilience Orange County
Safe Return Project
San Diego Pride
San Francisco Rising
SEIU CA State Council
South Bay Youth Changemakers
Strategic Concepts in Organizing and Policy Education (SCOPE)
UC Student Association (UCSA)
Vietnamese Rainbow of Orange County
Votevets
Working Partnerships USA

OPPOSITION:

ACLU California Action
League of Women Voters of California
Naleo Educational Fund

ARGUMENTS IN SUPPORT: According to AAPI FORCE-EF, the sponsors of the bill, “Because of our experience and expertise in engaging voters year round, we recognize the importance of the reforms that SB 846 would promote for a truly authentic and representative democracy in California. SB 846 would establish a secure automatic voter registration (SAVR) system in California to help register millions of additional eligible voters, create more accurate voter rolls, and strengthen protections for non-citizen Californians.”

“We believe wholeheartedly in the promise of a SAVR system. Substantial evidence shows that Secure AVR significantly increases registration rates. In a 2022 Stanford study, Professors Rodden and Grimmer study how registration rates at the DMV surged exactly when Colorado shifted from Partial AVR (California’s current system) to Secure AVR. Colorado went from a Partial AVR system with a 65% declination rate to a Secure AVR system where only 1% of people who

receive the post-transaction mailer decline. This before-and-after study of DMV registration rates in a single state is the best way to isolate and study the impact of the change.”

“The SAVR improvement to the current system would ensure that California’s electorate actually reflects the diversity of our state. Asian American, Black and Latinx voters are all underrepresented among registered voters, and SB 846 would help eliminate voter registration as a barrier to civic participation among California’s marginalized communities and voters of color. The evidence of this for Asian American voter participation is particularly poignant in Oregon, which has implemented a SAVR system. A study from USC by Eric McGhee and Mindy Romero found that Asian Americans were 6% more likely than other Oregonians to use back-end AVR for registration. By contrast, Asian Americans were actually slightly less likely than other Californians to use partial AVR for registration. This difference suggests that if California adopted back-end AVR, Asian Americans would be more likely to use it, and would be registered in greater numbers than under the current system...”

“Recognizing the number of immigrants and non-citizens who call California home, SB 846 takes significant steps to prevent inadvertent registration by non-citizens, protecting the integrity of our elections and giving non-citizens added peace of mind. With more streamlined and efficient ways to register and update existing registrations, California’s voter rolls will be more accurate and inclusive than ever, a key benefit that election administrators and grassroots democracy organizations alike will support.”

ARGUMENTS IN OPPOSITION: According to a coalition letter from the registered opposition, “Although we very much share the goals of increasing California’s voter registration rate and protecting ineligible individuals from accidental registration, we believe that the approach proposed by SB 846 has significant potential to increase voter confusion, incorrectly deny eligible voters registration opportunities, create erroneous registrations, and strip important voter preference information from registration records...”

“The signatories to this letter receive detailed voter registration processing data from the DMV and regularly consult with the Secretary of State and the DMV on the effective implementation of the New Motor Voter Program. Despite the information and insights that this access has provided us, we have not seen any evidence that the current system results in the accidental registration of a significant number of ineligible people...”

“Although SB 846 would replace this self-attestation system with one in which the DMV determines customers’ level of access to voter registration opportunities, it provides no guidance for how the DMV would make such an important determination. The bill language does not specify whether voter eligibility would be decided by individual DMV field office technicians – which would likely create significant risk of erroneous, arbitrary, or unfair decisions – or by some software that the DMV would need to develop...

“In addition to potentially increasing the risk of both erroneous registrations and the accompanying legal consequences of such registrations for ineligible people, SB 846 could also deteriorate the quality of California’s voter registration records and make it harder for some voters to participate in future elections. SB 846’s back-end model would remove all voter registration questions and information from certain DMV transactions and automatically register to vote any customer the DMV has deemed eligible unless the customer completes and returns an opt-out postcard mailed to them after their DMV transaction. We know that many people do not receive or do not notice these sorts of postcards...

“A significant majority of states that have adopted AVR policies use a front-end opt-out model, and studies have indicated that the rare states that have chosen to adopt the back-end opt-out model do “not produce higher registration rates than states that chose a front-end opt-out model.” Instead of placing false hopes in a back-end Motor Voter registration system, California should focus its resources on more effective, evidence-based approaches to increasing voter registration and closing turnout disparities.”

-- END --

SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2023 - 2024 Regular

Bill No: SB 847 **Hearing Date:** 4/25/2023
Author: Dahle
Version: 2/17/2023
Urgency: No **Fiscal:** Yes
Consultant: Jacob O'Connor

SUBJECT: Vehicles: motorcycle: safety helmet exception

DIGEST: This bill exempts a person wearing a turban or patka from wearing a safety helmet when riding a motorcycle, motor-driven cycle, or motorized bicycle.

ANALYSIS:

Existing law:

- 1) Requires any driver or passenger to wear a safety helmet when riding on a motorcycle, motor-driven cycle, or motorized bicycle. (Vehicle Code (VEH) 27803)
- 2) Requires safety helmets to meet requirements imposed by the Federal Motor Vehicle Safety Standards and be conspicuously labeled as in accordance with such. (VEH 27802)

This bill exempts from this requirement any driver or passenger who wears a turban or patka as an expression of their religious belief and practice.

COMMENTS:

- 1) *Purpose of bill.* According to the author, “Freedom of religion is a core foundation of this country. We, as Americans, have the right to freely express our religion and I believe that right should equally extend to everyone. Any law that limits the ability to express ones religion, goes against what this country is all about. While current law does not intentionally discriminate against certain religions, the reality is that those who practice those religions, are limited in how they can express their customs. Exempting those who wear turbans or patkas from wearing helmets is a simple way to ensure that everyone’s religious freedoms are protected.”

- 2) *Motorcycle helmets save lives.* Every year there are thousands of deaths and injuries of motorcyclists involved in crashes. According to the Center for Disease Control, more than 5,500 motorcyclists died in 2020, and more than 180,000 were treated in emergency departments for crash injuries. The economic costs of these injuries and deaths are significant: \$81 million in medical costs and \$57.8 billion from lives lost.

In 2017 the National Highway Traffic Safety Administration published a report analyzing the impact helmets had on motorcyclist. According to that report, helmets saved the lives of 1,872 motorcyclists in 2017. If all motorcyclists had worn helmets, an additional 749 lives could have been saved. Helmets are estimated to be 37% effective in preventing fatalities to motorcycle riders and 41% for motorcycle passengers.

Every year NHSTA conducts the National Occupant Protection Use Survey, which provides nationwide observed data on motorcycle helmet use. In 2021 this survey found that in states requiring every rider to use a helmet 86% of riders wore a helmet while in other states only 53% wore a helmet.

- 3) *California's motorcycle helmet law.* In 1966, federal legislation authorized the withholding of highway funds from any state that failed to enact a mandatory helmet requirement. A majority of states complied with the federal requirement, but California remained one of three states that did not comply. It was not until 1991 that California achieved full compliance through the enactment of AB 7 (Floyd), Chapter 32, Statutes of 1991.

Subsequently, in 1995, the federal government repealed the penalty sanction for states without helmet laws, giving individual states a choice in deciding to require the use of motorcycle helmets. The Legislature has heard several bills in the years since that would have created exemptions in the universal helmet law and has passed none of them.

- 4) *Turbans, patkas, and Sikhism.* The 2021 American Community Survey estimated that 211,000 Sikhs live in California, nearly half of all Sikhs living in the United States. The Sikh Reht Maryada is a code of conduct and conventions for orthodox Sikhism. This code of conduct includes a dress code requiring Sikhs to carry five articles of faith, referred to as the Panj Kakkar. Among these articles is the Kesh, the practice of allowing one's hair to grow naturally, without being cut. Because of the Kesh Sikhs also wear head coverings as a part of their faith, to cover and protect their hair. Sikh men are specifically required to tie a dastar, or turban, as a symbol of humility and the supremacy of God. Many Sikh children wear patkas, a cloth head covering

secured with strings, due to the shorter length of their Kesh or difficulty in tying a dastaar. Some Sikh men also choose to wear patkas, larger than those worn by children.

- 5) *Helmet laws in other jurisdictions.* Currently 18 states and Washington D.C. have a universal helmet law for all riders. 29 states require helmets for specified riders, generally riders under a certain age (usually 18 or 21). Only Illinois, Iowa, and New Hampshire have no motorcycle helmet laws.

None of the helmet laws in other states have exemptions for Sikhs or any other group on the basis of religious practice. This question has been debated and considered in other countries. In Canada Sikhs are exempt from motorcycle helmet laws in several provinces including Alberta, British Columbia, Manitoba, and Ontario. Sikhs are also exempt from wearing motorcycle helmets in the United Kingdom and India. Other countries have rejected exemptions for Sikhs. In 2019, the German Federal Administrative Court ruled against an appeal by a Sikh man arguing for an exemption from a German motorcycle helmet requirement. Australia has exemptions for Sikhs to their bicycle helmet laws but has no such exemption for motorcycle helmets.

In 2017 the United States Army issued a directive on grooming and appearance regulations that allows observant Sikh men and conservative Muslim women to wear religious head coverings instead of other military headwear. However this policy still required soldiers to readjust their hair as necessary to accommodate wearing an Advanced Combat Helmet or other protective headgear if duties, position, or assignment required them to wear such gear.

- 6) *Enforcement issues.* The universal helmet law in California is enforced by the California Highway Patrol. If someone is not wearing a helmet while riding a motorcycle, the CHP can pull them over and punish them with a fine of up to \$250 and/or put them on probation for a year. Being able to enforce the law is critical for ensuring it continues to provide a public safety benefit to the state. This bill creates an exemption to that law for people whose religious beliefs require the wearing of a turban or patka. However, enforcing a law based on expression of belief would be difficult to achieve while complying with discrimination prevention. Should a police officer question people wearing turbans instead of helmets if they are truly Sikh? Practically speaking, this bill will prevent the CHP from enforcing the helmet law if any rider is wearing a turban or patka, regardless of their religious beliefs. Furthermore, in enforcing this exemption, officers will have to determine on the road if a head covering is a turban, patka, or just some other type of fabric worn on the head. This sort of evaluation would be difficult to make, likely requiring officers to have to

excuse anyone wearing some sort of head covering from the law. This would be a very large exemption that would undercut the safety benefits of the helmet law.

- 7) *Balancing public safety and personal freedoms.* Ultimately, this bill poses the question about how the Legislature should balance the well-established public safety benefits of motorcycle helmets against the rights of motorcyclists who wish to be able to ride motorcycles without a helmet. This question has been raised before the Legislature several times and each time they have chosen to retain the existing law. This bill contends that because some people cannot ride a motorcycle without a helmet for religious reasons, they should be allowed to ride without a helmet, situating their access to motorcycles above the public safety benefit of helmet requirements.

Driving is a privilege and not a right. But mobility is an important aspect to being successful in the modern world and actions that limit mobility should be carefully considered. Motorcycles offer certain advantages to riders over other vehicles, being generally cheaper and more fuel efficient than cars and more powerful than bicycles. However, motorcycles are not the only option for achieving mobility and these options do not require a helmet. Public transportation, active transportation, e-bikes, rideshares, and cars are all still available to anyone who is unable or unwilling to wear a helmet. Restricting the ability for someone, Sikh or not, to ride a motorcycle does not severely dampen their mobility in California.

The existing law also does not prevent all Sikhs from enjoying motorcycling. Several proponents of this bill are Sikh motorcycle clubs. Participants in these clubs currently are willing to wear a motorcycle helmet in place of a turban while riding a motorcycle. Once they reach their destination they will go somewhere private, remove the helmet, and tie their turbans. They still support this bill because they wish to be able to proudly display the symbol of their faith while enjoying riding a motorcycle. They contend there are likely many Sikhs who would like to join their organizations but who are unwilling to ride with a helmet in place of a turban.

- 8) *Promoting safety and expression.* The private sector has begun to create innovations to address the problem of Sikhs being unable to wear turbans and helmets. One company in Canada, Bold Helmets, has developed a bicycle helmet with a bulge designed to accommodate a hair knot covered by a patka. Pfaff Harley-Davidson in Ontario has developed an open-source design for a "Tough Turban". This turban uses various materials, including non-Newtonian foam that hardens on impact, 3D-printed chainmail, and a composite fabric used

in bulletproof clothing, to create a turban that can lessen the impact of a motorcycle accident. This “Tough Turban” has no current public safety data available. If these, or other new helmets, truly do provide increased safety benefits they may provide a safe way in the future for Sikhs to ride without a traditional helmet. The author and committee may wish to amend the bill to instead authorize the CHP to, as part of their Motorcycle Safety Unit, sponsor research and safety testing of novel motorcycle helmets designed to accommodate turbans and patkas. They may further wish to amend the bill to require the CHP to sponsor the safety testing of at least one such helmet by 2027 and to report the findings of the testing to the Legislature.

RELATED LEGISLATION:

AB 695 (Norby, 2011) – Would have exempted motorcycle drivers 18 years or older who have completed a motorcyclist safety training program from the universal helmet law. *This bill failed passage in the Assembly Committee on Transportation.*

AB 1205 (Logue, 2009) – Would have exempted motorcycle drivers 18 years or older who have completed a motorcyclist safety training program from the universal helmet law. *This bill failed passage in the Assembly Committee on Transportation.*

AB 2427 (Canciamilla, 2006) – Would have exempted motorcycle drivers 18 years or older who have completed a motorcyclist safety training program from the universal helmet law. *This bill failed passage in the Assembly Committee on Transportation.*

SB 969 (Ducheny, 2006) – Would have exempted motorcycle drivers 18 years or older who have completed a motorcyclist safety training program and has proof of current medical insurance from the universal helmet law. *This bill failed passage in the Senate Committee on Transportation and Housing.*

SB 685 (Hollingsworth, 2003) – Would have exempted from the helmet law persons who file a physician's certificate with the DMV substantiating a disability that renders them unable to wear a helmet. *This bill failed passage in the Senate Committee on Transportation.*

AB 2700 (Mountjoy, 2002) – Would have exempted from the helmet law motorcyclists 21 years old and over who carry proof of at least \$1 million in medical insurance on their persons. *This bill failed passage on the Assembly Floor.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

Legendary Sikh Riders
Sikh Legends of America
Sikhead Saints Motorcycle Club
1 private citizen

OPPOSITION:

Auto Club of Southern California (AAA)
County Health Executives Association of California (CHEAC)

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SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2023 - 2024 Regular

Bill No: SB 891 **Hearing Date:** 4/25/2023
Author: Committee on Transportation
Version: 3/23/2023
Urgency: No **Fiscal:** No
Consultant: Jacob O'Connor

SUBJECT: Transportation: omnibus bill

DIGEST: This bill makes non-controversial changes to sections of law relating to transportation.

ANALYSIS:

Existing law:

- 1) Establishes the San Diego Metropolitan Transit Development Board (MTS), with specified powers and duties related to the operation of public transit services in a portion of the County of San Diego. (Public Utilities Code (PUC) §120050)
- 2) Requires MTS to coordinate the operation of all regional public transportation services in the area under its jurisdiction and to establish and adopt regulations to resolve disputes between public transit operators and local agencies. (PUC §120475 - §120478)
- 3) Establishes the San Diego Association of Governments (SANDAG), through the consolidation of certain regional transportation planning, programming, and related functions in the County of San Diego from various agencies. (PUC §132000 - §132334)
- 4) Provides for SANDAG to have 5 standing policy advisory committees including the transportation committee. (PUC §132351.4)
- 5) Requires SANDAG to submit a report to the Legislature on or before July 1 of each year, developed by its transportation committee, which outlines various matters related to public transit.

- 6) Authorizes the Sunol Smart Carpool Lane Joint Powers Authority, consisting of the Alameda County Transportation Commission and the Santa Clara Valley Transportation Authority, to conduct, administer, and operate a value pricing high-occupancy vehicle program, on the Sunol Grade segment of State Highway Route 680 in the Counties of Alameda and Santa Clara, that may authorize the entry and use of high-occupancy vehicle lanes by single-occupant vehicles for a fee. (Streets and Highways Code §149.5)

This bill:

- 1) Repeals the requirement for MTS to coordinate the operation of all regional public transportation services in the area under its jurisdiction and to establish and adopt regulations for the dispute resolution process.
- 2) Changes the deadline for SANDAG's annual public transit report to the Legislature to December 31 of each year.
- 3) Authorizes the Sunol Smart Carpool Lane Joint Powers Authority or the Alameda County Transportation Commission to conduct, administer, and operate the program in the County of Alameda and the Sunol Smart Carpool Lane Joint Powers Authority to conduct, administer, and operate the program in the County of Santa Clara.

COMMENTS:

- 1) *Purpose of omnibus.* The purpose of omnibus bills is to include non-controversial changes with little or no policy impact to various committee-related statutes into one bill. This allows the legislature to make multiple, minor changes to statutes in one bill. The proponent of an item submits proposed language and provides background materials to the Committee for the item to be described to legislative staff and stakeholders. Committee staff provides a summary of the items and the proposed statutory changes to all majority and minority consultants in both the Senate and Assembly, as well as all known or presumed interested parties. If an item encounters any opposition and the proponent cannot work out a solution with the opposition, the item is omitted from or amended out of the bill. Additional items may be added as this bill progresses.
- 2) *Repealing the process for MTS to settle disputes with regional agencies* [Source: MTS]. SB 510 (Deddeh, Chapter 745, Statutes of 1983) required MTS to coordinate the operation of all public transit services within their jurisdiction in order to achieve efficient operation. To serve this goal this bill authorized

the board to resolve regional transit service disputes between local agencies and transit operators which provide services in the area, pursuant to the rules and regulations adopted by the board. This bill required minimum components of these regulations including criteria to determine validity of disputes, procedures for submission, notice, mediation, and public hearing of disputes.

In the sixty years since this law was enacted the MTS has grown and has become the sole operator of transit within its jurisdiction. Regional services like Chula Vista Transit and National City Transit no longer exist, and so the dispute resolution process required by this law is no longer relevant. MTS has asked to repeal this section as part of MTS board efforts to modernize and clean up MTS statutes.

- 3) *Changing the date for an annual SANDAG report.* [Source: SANDAG] AB 805 (Gonzalez, Chapter 658, Statutes of 2017) requires SANDAG's transportation commission to annually provide a report to the Legislature on or before July 1 that outlines the region's public transit needs, transit funding criteria, recommended transit funding levels, additional work on public transit, and funds spent explicitly on public transportation. Because this annual report incorporates funding information, it presents this information based on fiscal years. The July 1st deadline makes it so that the report must use data from the previous fiscal year. By changing the submission date to December 31 the commission would be able to reflect the most recent fiscal year in the report and avoid confusion between stakeholders in the reporting process.

- 3) *Giving Alameda County the authority to independently manage an express lane in their jurisdiction.* [Source: Alameda County Transportation Commission] Existing law authorizes the Sunol Grade Joint Powers Authority (JPA) to build and administer an express lane on the Sunol Grade section of I-680 in the counties of Alameda and Santa Clara. This law also authorizes the Alameda CTC to build and administer an express lane on another corridor in Alameda County. Since the enactment of this code, the Sunol JPA built the first express lane in Northern California along the I-680 Sunol Grade corridor. Even though the Sunol Grade Express Lane does not operate within Santa Clara County, current law dictates that it must be administered by the Sunol Grade JPA. This results in duplicative requirements for administrative hearings for the management of this lane and the other express lanes authorized under this code. This bill would allow Alameda CTC to solely administer the express lane unless it is ever extended into Santa Clara, at which point the JPA would once again administer the lane.

RELATED LEGISLATION:

SB 510 (Deddeh, Chapter 745, Statutes of 1983) – Required MTS to coordinate the operation of all public transit services within their jurisdiction in order to achieve efficient operation.

AB 805 (Gonzalez, Chapter 658, Statutes of 2017) – Changed the governance structure for SANDAG, MTS, and North County Transit District (NCTD); enacted audit requirements for SANDAG; and allowed MTS and NCTD to impose a transactions and use tax of 0.5%

AB 2032 (Dutra, Chapter 418, Statutes of 2004) – Authorized SANDAG, the Sunol Smart Carpool Lane Joint Powers Authority, the Santa Clara Valley Transportation Authority (VTA), and the Alameda County Transportation Commission to construct HOV lanes and convert them to HOT lanes

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

None received

OPPOSITION:

None received

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SENATE COMMITTEE ON TRANSPORTATION

Senator Lena Gonzalez, Chair

2023 - 2024 Regular

Bill No:	SB 507	Hearing Date:	4/25/2023
Author:	Gonzalez		
Version:	4/17/2023 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Randy Chinn		

SUBJECT: Electric vehicle charging station infrastructure: assessments

DIGEST: This bill expands the scope of the California Energy Commission (CEC) assessment of the state’s need for electric vehicle (EV) charging infrastructure.

ANALYSIS:

Existing law:

- 1) Establishes, through Executive Order, a goal of the State that 100 percent of in-state sales of new passenger cars and trucks will be zero-emission by 2035, that 100 percent of medium-and heavy-duty vehicles in the State be zero-emission by 2045 for all operations where feasible and by 2035 for drayage trucks. (EO N-79-20)
- 2) Requires the CEC to conduct a statewide assessment of the EV charging infrastructure needed to support the levels of EV adoption required for the state to meet its goals of putting at least five million zero-emission vehicles (ZEVs) on California roads by 2030, and of reducing emissions of greenhouse gases (GHG) to 40 percent below 1990 levels by 2030. (PRC §25229 (a))
- 3) Specifies that the CEC’s statewide assessment of EV charging infrastructure must be updated every two years and must consider all needed charging infrastructure. This assessment shall examine existing and future infrastructure needs throughout California, including in low-income communities. (PRC §25229 (b))
- 4) Requires the CEC to assess whether charging station infrastructure is disproportionately deployed by population density, geographical area, or population income level, including low-, middle-, and high-income levels. The CEC shall use monies from the Clean Transportation Program (CTP) to address

disproportionate EV infrastructure deployment upon making a specified finding. (PRC §25231)

This bill:

- 1) Expands the scope of the CEC's assessment of the state's ZEV infrastructure needs as it considers whether it has been deployed equitably to include the following use cases:
 - a) Single-family homes, including electrical panel upgrades for EV charging.
 - b) Multifamily housing, including the potential of publicly accessible curbside EV charging infrastructure for residents.
 - c) Carshare, rideshare, and vanpool drivers.
 - d) Rural communities.
 - e) Parks and recreational areas.
 - f) Any other purposes the CEC determines appropriate.
- 2) Requires the assessments created pursuant to this bill to include EV infrastructure needs for low-income households and communities, as specified.
- 3) Requires the assessment created pursuant to this bill to recommend actions to address EV infrastructure deployment barriers if the CEC determines that the state is not on track to meet EV infrastructure goals.
- 4) Expands an existing assessment regarding the proportionality of EV charger deployment based on population characteristics to also require the CEC to determine the following:
 - a) Whether Level 2 charging stations and direct current fast charging stations are disproportionately distributed and the degree to which those chargers are accessible.
 - b) Whether drivers whose homes are located in rural or urban communities, including single-family homes and multifamily housing, have disproportionate access to charging station infrastructure.

- c) Whether homes have equal access to electrical panel capacity sufficient to support at-home charging.
- d) Whether charging station infrastructure necessary to fulfill the requirements of the California Clean Miles Standard and Incentive Program for Transportation Network Company (e.g. Lyft and Uber) drivers has been disproportionately distributed.

COMMENTS:

- 1) *Author's Statement.* "As California continues to work towards meeting its 2030 and 2035 Zero Emission Vehicle (ZEV) deployment goals, the state needs to ensure that the necessary infrastructure is ready and available to meet the increased electric vehicle charging demands of all drivers. To ensure that EV charging is distributed equitably, the state must make smart, data-driven investment decisions in a more granular and community-targeted approach. SB 507 will address this problem by requiring the CEC to assess electric vehicle charging infrastructure needs for multiple underserved groups, including rural, low-income, and disadvantaged communities, and incorporate this information as part of their biennial statewide EV infrastructure assessments."
- 2) *Falling Far Behind.* Adequate charging infrastructure is essential to achieving our EV deployment goals. A recent survey by Consumer Reports found that concerns about charging logistics (e.g. where and when an EV can be recharged) was the most cited barrier for potential EV buyers¹. Similarly, a recent JD Power study found increasing dissatisfaction with EV charging among EV owners, noting that public charging continues to provide challenges to overall EV adoption and current EV owners alike².

EV charger deployment is not keeping pace with the projected need. The CEC, which is in charge of EV charger deployment, has determined that by 2025 we will have deployed 192,601 EV charging stations, which is 57,399 short of what is needed.³ By 2030 the situation will be worse as the CEC forecasts that California will be 971,715 EV chargers short of what is needed. With respect to EV charger distribution by income, the CEC found that low-income census

¹ Consumer Report; January/February 2022 survey on battery electric vehicles. Question 8: What would prevent you from buying/leasing an electric vehicle? 61% of respondents indicated charging logistics. Other major reasons cited include driving range (55%) and cost of ownership (52%).

² J.D. Power U.S. Electric Vehicle Experience Public Charging Study, August 17, 2022.

³ California Energy Commission: AB 2127 Report: Electric Vehicle Charging Infrastructure Assessment; May 2021; p.14.

tract communities have slightly fewer public chargers per capita than middle- and high-income communities.⁴

Providing charging to low income customers is especially challenging. Most low-income households live in multi-family dwellings (MUDs) without dedicated charging in parking spaces. While building standards require EV charging capability in new MUDs, such is not the case in existing MUDs, where retrofitting is very expensive. One idea is to provide public overnight charging near MUDs but leaving a car overnight at a charging location and walking home may not be appealing to many. New ideas are needed to make charging more convenient. This bill will require regular assessment of the availability of charging for low income residents as well as new ideas and funding if this availability lags.

- 3) *Who's In Charge?* This Administration has designated the CEC as the lead agency for ZEV infrastructure deployment. In the light-duty (e.g. passenger vehicle) market, all EV manufacturers, except for Tesla, are dependent on home charging availability and a relatively small, but growing, public network of chargers. Deploying EV chargers requires sufficient local electric grid capacity and electric supply availability, both of which are the responsibility of electric utilities either regulated by the California Public Utilities Commission (CPUC) or owned by local governments (municipal utilities). The electric grid issues are much heightened as we electrify trucks (e.g. medium- and heavy-duty vehicles) because the localized grid demand will be much higher and concentrated owing to the much larger batteries for those vehicles. Very close coordination between the CEC, the CPUC and municipal utilities is necessary, and is a likely future failure point in the increasingly difficult task of ensuring sufficient EV charging capability.
- 4) *Support for EVs in Low Income Areas.* The cost of EVs is a barrier to widespread adoption. To counter this California has numerous clean car subsidy programs for low income residents:
 - Clean Cars 4 All – up to \$9,500
 - Clean Vehicle Rebate Project (CVRP) – additional subsidies of up to \$5,500
 - Clean Vehicle Assistance – up to \$5,000

While the number of low-income EV owners isn't known, we do know that since 2010 over 117,000 rebates have been issued from the CVRP to

⁴ California Energy Commission, *ibid*; p.16.

individuals living in low-income and disadvantaged communities, which is 30% of total CVRP funding.⁵ The Clean Cars 4 All program has helped more than 10,000 low-income Californians.

5) *Second Referral.* This bill was previously heard by the Senate Energy, Utilities and Communications Committee on March 21, 2023 and approved 17-0.

RELATED LEGISLATION:

SB 493 (Min, 2023) – Would require the CEC to assess the energy resources needed to meet state goals to transition medium- and heavy-duty vehicles to ZEVs, and it requires CARB to use the CEC’s assessment to create a strategic plan to achieve this transition. *The bill is currently pending in the Senate Energy, Utilities and Communications committee.*

SB 1000 (Lara, Chapter 368, Statutes of 2018) – Among several provisions, required the CEC to assess whether EV chargers, including DC fast chargers, are disproportionately deployed by population density, geographical area, or population income level, including low, middle, and high income levels.

AB 2127 (Ting, Chapter 365, Statutes of 2017) – Required the CEC to conduct a statewide assessment of the EV charging infrastructure needed to support the levels of EV adoption required for the state to meet its goals of putting at least five million ZEVs on California roads by 2030 and of reducing emissions of GHG to 40 percent below 1990 levels by 2030.

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

Unknown.

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

Blink Charging Company
California Electric Transportation Coalition
California Environmental Voters (formerly CLCV)

⁵ California Air Resources Board: Memo to Board from Craig Segall, Deputy Executive Officer; May 4, 2022; Subject: Update on the Clean Vehicle Rebate Project

California New Car Dealers Association
Calstart INC.
Chargepoint, INC
Climate Action California
Climate Reality Project, Los Angeles Chapter
Climate Reality Project, San Fernando Valley
Coalition for Clean Air
Elders Climate Action, Norcal and Socal Chapters
Electric Vehicle Charging Association
Flo
Marin Clean Energy (MCE)
Rural County Representatives of California (RCRC)
The Green Lining Institute
Union of Concerned Scientists

OPPOSITION:

None received

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SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2023 - 2024 Regular

Bill No: SB 517 **Hearing Date:** 4/25/2023
Author: Gonzalez
Version: 3/22/2023
Urgency: No **Fiscal:** Yes
Consultant: Randy Chinn

SUBJECT: Economic development: movement of freight

DIGEST: This bill establishes a Freight Coordinator (Coordinator) within the Governor’s Office of Business and Economic Development (GO-Biz) to steer the growth, competitiveness, and sustainability for freight and the supply chain across the state and to promote and assess the continued economic vitality, economic competitiveness, and sustainability of the freight sector, as specified.

ANALYSIS:

Existing law:

- 1) Establishes GO-Biz for the purpose of serving as the lead state entity for economic strategy and marketing of California on issues relating to business development, private sector investment and economic growth. (Government Code (GC) §§ 12096 – 12098.5)
- 2) Authorizes GO-Biz as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. Authorizes GO-Biz, in this capacity, to coordinate the development of policies and criteria to ensure that federal grants administered or directly expended by state government advance statewide economic goals and objectives. Authorizes GO-Biz to market the business and investment opportunities available in California by working in partnership with local, regional, federal, and other state public and private institutions to encourage business development and investment in the state. (GC § 12096.3)
- 3) Requires the California State Transportation Agency (CSTA) to prepare a state freight plan with specified elements to govern the immediate and long-range planning activities and capital investments of the state with respect to the movement of freight and to establish a freight advisory committee. (GC § 13978.8)

This bill:

- 1) Specifies that GO-Biz is the coordinating entity for encouraging the growth and sustainability of California's supply chain.
- 2) Requires the Governor to appoint a freight coordinator with experience in commerce, trade, and supply chain management to serve as the coordinating entity for GO-Biz.
- 3) Requires the freight coordinator to advise and coordinate policies that promote the growth, competitiveness, and sustainability for freight and the supply chain across the state.
- 4) Requires the freight coordinator to work directly with the California Transportation Commission, the State Transportation Agency, the Department of Transportation, the California Energy Commission, the Department of Food and Agriculture, the California Public Utilities Commission, the State Lands Commission and the State Air Resources Board as necessary to address ongoing freight and supply chain issues.
- 5) Establishes numerous other duties for the freight coordinator including, but not limited to, the following:
 - a) Consulting with public and private freight stakeholders
 - b) Consulting with the Legislature
 - c) Evaluating the resiliency of the state's freight sector
 - d) Determining the economic competitiveness of all sectors of freight movement along the supply chain
 - e) Identifying metrics to measure the performance of the freight sector
 - f) Assessing the relative competitiveness and resilience of the supply chain.
 - g) Identifying challenges the freight sector faces in meeting the state's emission reduction goals.
 - h) Participating in the California Freight Advisory Committee, all updates to the California Freight Mobility Plan, and all updates to the climate change scoping plan.

- 6) Makes numerous findings and declarations about the importance of California's supply chain and the lack of a coordinated and comprehensive freight and supply chain policy.

COMMENTS:

- 1) *Author's Statement.* "SB 517 will advance the economic vitality and long-term sustainability of the freight sector by addressing gaps in current coordination and long-term statewide economic planning. Freight is the backbone of California's economic engine, accounting for one-third of California's economy and generating millions of direct and indirect jobs. However, despite the importance of the freight sector to the livelihoods of Californians, the 2021 supply chain crisis has shown that the complex system of producers, vendors, warehouses, distribution centers, retailers, ports, and truck, rail, sea, and air transporters along the supply chain is vulnerable to disruptions. Stakeholders across the board have voiced concerns that the freight sector needs better statewide coordination, direction from state agencies, and planning to advance the economic competitiveness of the freight sector and keep trade in California. SB 517 will accomplish all of these goals by creating a Freight and Supply Chain Coordinator within the Governor's Office of Business and Economic Development to act as a single coordinating entity for the stakeholders, businesses, and agencies involved in the supply chain."
- 2) *Power Up.* Within GO-Biz is the Office of Supply Chain, led by a deputy director, which has the following duties:
 - a) Maintain direct links with industry business owners and leaders.
 - b) Assist the industry by facilitating meetings with local, state, and federal representatives on issues impacting California's freight movement.
 - c) Take a leadership role in supporting the transformation of the industry into a sustainable freight economy.

This bill requires the Governor to appoint a freight coordinator (Coordinator) with specific experience, establishing significant new duties for the Coordinator which put him/her at the center of the Executive Branch efforts to address supply chain issues. These new duties overlap and expand upon with the current duties of the Office of Supply Chain and, while not required, the Coordinator could be the leader of that office.

The Coordinator has expansive advisory, coordination, and analytical duties, but no power to establish policies or compel agencies to perform. Giving the Coordinator a seat at many of the tables where freight issues are discussed will facilitate communication between agencies and with interested parties. And while the Coordinator is well-placed at GO-Biz, the lack of explicit power means that the Coordinator's effectiveness will depend on the support of the GO-Biz Director and the Governor.

The Coordinator is specifically tasked with several analytical projects which will require significant resources. Evaluating the resiliency of the state's freight sector, determining the competitiveness of all sectors of freight movement, identifying metrics and baselines for measuring the performance of the freight sector, and assessing the relative competitiveness of different sectors of the supply chain are all complex tasks that will require contracting with multiple consultants as well as expert staff to manage them.

- 3) *Do Better.* The premise of this bill is that California's freight sector is an enormous contributor to the California economy and that California's policy-making apparatus is poorly coordinated and insufficient for the job. The economic contribution of the freight sector is apparent: 5 million Californians are employed by the freight system at 12 seaports, 12 airports with major cargo operations, 27 railroads, three land border ports of entry, and a large warehousing and distribution sector. For evidence that California's freight policy-making apparatus could benefit from improvement we need only recall the recent supply chain crisis where the state's response was slow, costing both importers and California exporters. Part of this is explained by jurisdictional issues which limit California's ability to act. But as demonstrated over the last few years, there were actions that California and local governments could take to provide some relief.
- 4) *Reversal of Fortune.* During the COVID pandemic, California ports were swamped with imports as the trend to stay-at-home led to increased purchases of home goods, resulting in record ship queues at the Ports of Long Beach and Los Angeles. More recently those queues have vanished; goods flows through California have dropped by one-quarter compared to the year earlier. Some of those goods flows have shifted to other parts of the country as good flows through East Coast ports have increased by one-eighth, causing California ports to fall behind their East Coast competitors in goods shipped. This loss has been attributed to uncertainty tied to the ongoing West Coast ports labor disputes. While some hope this loss is temporary, it is as likely not, leading to longer-term economic and job losses to California and Californians. Bringing those goods flows back to California will keep the freight coordinator very busy.

5) *Double Referral*. This bill was heard by the Senate Business, Professions and Economic Development Committee on April 17, 2023 and approved 13-0.

RELATED LEGISLATION:

SB 1104 (Gonzalez) of 2022 – Would have established the Office of Freight and required it, in coordination with other specified agencies, to prepare an assessment of statewide economic growth, competitiveness, prosperity, resiliency, and sustainability for the state’s ports and freight sector. *This bill was held in the Assembly Committee on Appropriations.*

AB 1678 (Fong) of 2022 – Would have required a Blue Ribbon Commission on Port Congestion and Supply Chain Deficiencies to be established, with the Secretary of Food and Agriculture to serve as the chair and to appoint the other members of the commission. The bill would have required the commission to recommend changes needed in the immediate and long-term future to mitigate the negative impacts of port congestion and supply chain deficiencies on agricultural commodities. *This bill was held in the Assembly Committee on Appropriations.*

AB 1679 (Fong) of 2022 – Would have required the Governor to: (1) appoint a Supply Chain Coordinator within GO-Biz to be the principal advocate in the state for supply chain participants and advise the Governor on legislation, administrative regulations, and other issues affecting the state’s supply chain; (2) to establish and appoint a Supply Chain Advisory Group consisting of stakeholders from each sector that make up the supply chain; (3) to require the Supply Chain Coordinator to oversee the advisory group, which would develop and recommend policies that improve the supply chain; and (4) would have required the advisory group to meet on a biannual basis and as needed to resolve issues in times of crises or at any other time upon request of the coordinator or a majority of the members of the advisory group. *This bill was held in the Assembly Committee on Appropriations.*

AB 2406 (Aguiar-Curry, Chapter 868, Statutes of 2022) – Expands existing state prohibitions on the assessment of certain kinds of cargo storage charges by intermodal marine equipment providers and terminal operators by broadening the definition of prohibited charges, adding new entities on which those charges may not be levied, and adding specific conditions under which these prohibitions apply.

AB 371 (Frazier) of 2019 – Would have required GO-Biz, in consultation with the State Air Resources Board, the California Transportation Commission, and the CSTA, to prepare a statewide economic growth, prosperity, and resiliency assessment of the California freight sector on or before December 31, 2021, and to update the assessment at least once every 5 years. The bill would have required

the assessment to identify specified information, and would have required the office, in developing the assessment, to consult with the Legislature and representatives from a cross section of public and private sector freight stakeholders. *This measure was held in the Assembly Committee on Appropriations.*

AB 14 (Lowenthal, Chapter 223, Statutes of 2013) – Required the CSTA to prepare a state freight plan with specified elements to govern the immediate and long-range planning activities and capital investments of the state with respect to the movement of freight. The bill requires the agency to establish a freight advisory committee with various responsibilities in that regard. The initial state freight plan would be submitted to the Legislature, the Governor, and certain state agencies by December 31, 2014, and updated every 5 years thereafter.

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

Unknown

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

Bay Area Council
California Association of Port Authorities
Norwood Associates, LLC
Pacific Merchant Shipping Association
Port of Hueneme
Port of Long Beach
Port of Oakland
Port of Redwood City
Port of San Francisco
San Diego Unified Port District

OPPOSITION:

None received

smog abatement fees, which sunset on January 1, 2024. (HSC § 44060.5 and 44272)

- 5) Establishes the Charge Ahead Initiative at the California Air Resources Board (CARB) to deploy at least one million ZEVs and near-zero-emissions vehicles by January 1, 2023, and expand the deployment of ZEVs to disadvantaged communities. (Health and Safety Code §44258 et. seq.)
- 6) Requires CARB to establish programs to increase disadvantaged and low-income communities' access to EVs, including the following:
 - a) Financing mechanisms to increase low- and moderate-income consumers' participation in the EV marketplace.
 - b) Car sharing programs that serve disadvantaged communities using ZEVs and near-zero-emissions vehicles.
 - c) Deployment of charging infrastructure in multiunit dwellings in disadvantaged communities.
 - d) Additional vehicle replacement incentives to help low-income consumers transition to cleaner vehicles. (Health and Safety Code §44258.4)

This bill:

- 1) Requires the CEC to create a competitive grant program for EV car sharing services operated at affordable housing facilities for the exclusive use of residents.
- 2) Provides that grants may be awarded to 1) public housing agencies, 2) local governments, 3) local air quality management districts, and 4) specified nonprofits.

In awarding the grants the CEC shall consider the following criteria:

- a) The capacity of an applicant to operate an EV car sharing service;
- b) Whether the car sharing service would address the transportation needs of the surrounding community and the lack of EV charging infrastructure;

- c) Whether the applicant has developed a culturally competent community engagement plan for the service;
 - d) The economic and operational sustainability of the service;
 - e) Whether the applicant proposes to install direct current fast charging equipment
- 3) Requires the CEC to establish minimum standards relating to functionality and range for the EVs purchased by these programs.
- 4) Restricts the use of grant funds to the following:
- a) Purchase of new or used light-duty EVs that are no more than five years old
 - b) Purchase, installation and maintenance of Level 2 chargers
 - c) Marketing, education and outreach
 - d) Incentives to residents to use the service
 - e) Maintenance and repairs of the EVs and charging infrastructure
 - f) Monitoring, data collection and evaluation of the service
 - g) Security
 - h) Installation of direct current fast charging infrastructure that is publicly available and installed nearby.
- 5) Requires grant recipients to annually report to the CEC on the activities carried out by the grant funds and specified data on the cost and usage of the shared vehicles.

COMMENTS:

- 1) *Author's Statement.* "California has ambitious transportation goals and emissions reduction targets that will require Californians to switch to zero-emission vehicles or alternative forms of transportation. The state has a long way to go to meet these goals, especially for Californians living in low-income, disadvantaged communities where investment in and adoption of clean

transportation is strikingly low. These communities also face a higher pollution burden than wealthier communities and are most in need of transportation options to commute to work, complete medical appointments, and maintain relationships with friends and family. It is clear that California must increase ZEV adoption in low-income disadvantaged communities to meet its ZEV goals. Senate Bill 529 will increase equitable access to zero-emission vehicles and provide critical mobility options by creating a statewide program to deploy electric vehicle car share programs at public housing facilities.”

- 2) *Car Sharing*. Car sharing is a service where customers rent a car for short time periods, typically an hour or less. The rate covers all costs including insurance, fuel, and the cost of the vehicle. For low-mileage users, this can be a much cheaper alternative to vehicle ownership. This bill creates an EV car sharing service within affordable housing projects which includes both cars and charging.

Projects similar to this have been trialed in California. In Sacramento, the Our Community Car Share Sacramento Pilot Project offers 18 shared EVs to low-income residents living in affordable housing communities. In the Bay Area, EV car sharing is being planned for three affordable housing communities in Oakland, Richmond and San Jose. Probably the biggest project is BlueLA, which offers 100 shared EVs in lower-income neighborhoods in the Los Angeles area but is not restricted to affordable housing residents. These projects show the promise of the concept but are relatively small, relatively new, or have slightly different program designs. A careful analysis of these projects should provide valuable lessons.

- 3) *More to Consider*. As negotiations on this bill continue, there are more program features and details to consider:
- Is this program intended to provide the capital to establish the car sharing program, with ongoing operating expenses covered through the charges paid by users? Or is the goal to also provide some of the operating costs of the program?
 - Who is responsible for administering the car sharing program at each affordable housing project?
 - How are vehicle repairs and maintenance handled? What happens when the vehicle needs to be replaced?

- Should the CEC's criteria for choosing projects have a cost-effectiveness component?
- 4) *Funding the Program.* This bill establishes a program but does not specify a funding source. Potential sources include the Cap and Trade program and the Clean Transportation Program, should the program sunset be extended. California's programs to support ZEVs are constantly over-subscribed. We are continually short of the funding necessary to build and operate public transit. Unless a new funding source is identified, this program will draw from the same funding pots that pay for the Clean Vehicle Rebate Program, Clean Cars 4 All, and all the other sustainability and transportation equity programs the state has created. How to allocate limited funding to worthy transportation programs is the central challenge for policymakers.
- 5) *Double Referral.* This bill was heard by the Senate Energy, Utilities and Communications Committee on April 10, 2023 and approved 15-0.

RELATED LEGISLATION:

SB 84 (Gonzalez, 2023) and AB 241 (Reyes, 2023) – Extend and revise the CTP to prioritize projects that meet certain air quality improvement goals and provide equity-based investments in disadvantaged communities. The bill would have specified that at least 50 percent of CTP monies must be allocated for certain types of projects, including programs that promote ZEV car-sharing in low-income and disadvantaged communities. *SB 84 is pending in the Senate Environmental Quality Committee, and AB 241 is pending in the Assembly Transportation Committee.*

AB 1389 (Reyes, Chapter 339, Statutes of 2022) – Expands the projects prioritized for CTP funding to include projects in nonattainment areas pursuant to the federal Clean Air Act and projects that advance CARB's strategy for reducing emissions from medium- and heavy-duty vehicles.

SB 726 (Gonzalez, 2021) – Recasts and revises the CTP to prioritize projects that meet certain air quality improvement goals and provide equity-based investments in disadvantaged communities. The bill specifies that at least 50 percent of CTP monies must be allocated for certain types of projects, including programs that promote ZEV car-sharing in low-income and disadvantaged communities. *This bill died in the Assembly.*

SB 350 (De León, Chapter 547, Statutes of 2015) – Established the Clean Energy and Pollution Reduction Act of 2015 which sets new renewable energy procurement targets for the electric sector. The bill also requires the CEC to conduct a study on low-income Californians’ barriers to energy efficiency and clean energy use, and requires CARB to conduct a study on low-income Californians’ barriers to clean transportation adoption.

SB 1275 (De León, Chapter 530, Statutes of 2014) – Established the Charge Ahead California Initiative to provide incentives that increase the availability of ZEVs and near-zero-emission vehicles. The bill requires CARB to establish programs to ensure that disadvantaged, low-income, and moderate-income communities can benefit from EVs, including car sharing programs for disadvantaged communities.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 19, 2023.)

SUPPORT:

- 350 Bay Area Action
- 350 Humboldt: Grass Roots Climate Action
- Acterra
- Alameda County Democratic Party
- Automotus INC
- Breathe California
- Breathe California of The Bay Area
- Breathe Southern California
- Brightline Defense
- Cadem Renters Council
- California Electric Transportation Coalition
- California Interfaith Power & Light
- California Women's Law Center
- Center for Community Action & Environmental Justice
- Chargenet
- Civicwell
- Climate Action California
- Climate Reality Project, Los Angeles Chapter
- Climate Reality Project, Orange County
- Climate Reality Project, San Fernando Valley

Climate Resolve
Communities for A Better Environment
Community Corporation of Santa Monica
Community Environmental Council
Community Repower Movement INC
Conservation Corps of Long Beach
County of Santa Barbara
Elders Climate Action Norcal Chapter
Elders Climate Action Socal Chapter
Elders Climate Action, Norcal and Socal Chapters
Emerge
Evhybridnoire
Greenlatinos
Housing Authority of The City of Los Angeles
Launch Mobility
Los Angeles Business Council
Los Angeles Cleantech Incubator
Los Angeles County Bicycle Coalition
Los Angeles County Economic Development Corporation
Marin Interfaith Climate Action
National Resources Defense Council
Paired Power, INC.
Plug in America
Rejoule
San Diego Urban Sustainability Coalition
Sandiego350
Santa Cruz Climate Action Network
Santa Monicans for Renters' Rights
Sierra Club California
The Climate Center
The San Fernando Valley Young Democrats
Usgbc Los Angeles
Ventura County Air Pollution Control District
Xos Trucks

OPPOSITION:

California Association of Realtors

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