

Senate Bill No. 127

Passed the Senate September 11, 2019

Secretary of the Senate

Passed the Assembly September 10, 2019

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2019, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 14526.4 and 14526.6 of, and to add Section 14526.8 to, the Government Code, and to amend Section 167 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 127, Wiener. Transportation funding: active transportation: complete streets.

(1) Existing law provides that the Department of Transportation has full possession and control over the highways of the state and is responsible for preparing the State Highway Operation and Protection Program for the expenditure of transportation funds for major capital improvements that are necessary to preserve and protect the state highway system.

Existing law also creates the California Transportation Commission, with specified powers and duties relative to the programming of transportation capital improvement projects and the allocation of state transportation funds for state transportation improvement projects. Existing law requires the department, in consultation with the commission, to prepare an asset management plan to guide selection of projects for the State Highway Operation and Protection Program consistent with any applicable state and federal requirements. Existing law requires the commission, in connection with the asset management plan, to adopt targets and performance measures reflecting state transportation goals and objectives.

This bill would require the asset management plan to prioritize the implementation of safe and connected facilities for pedestrians, bicyclists, and transit users on all State Highway Operation and Protection Program projects, as specified. The bill would require the department to include complete streets elements in the asset management plan, as specified.

The bill would require the commission, in connection with the asset management plan, to adopt performance measures that include conditions of bicycle and pedestrian facilities, accessibility and safety for pedestrians, bicyclists, and transit users on the state highway system. The bill would require that the plain language

performance report developed by the department, in consultation with the commission, include a description of pedestrian and bicycle facilities on each project, including the number, extent, and type of elements.

The bill would require the department, commencing with the 2022 State Highway Operation and Protection Program, when undertaking a specified capital improvement project on a state highway or on a local street crossing a state highway that is funded through the State Highway Operation and Protection Program, to include new pedestrian and bicycle facilities, or improve existing facilities, as part of the project, consistent with specified requirements. For each project development team that the department establishes for a project, the bill would require the department to include specified representatives on the team.

(2) Existing law requires funds in the State Highway Account to be programmed, budgeted, and expended to maximize the use of federal funds and to be based on a specified sequence of priorities, including, among others, safety improvements where physical changes, other than adding additional lanes, would reduce fatalities and the number and severity of injuries.

This bill would require those safety improvements to prioritize reducing fatalities and severe injuries, including fatalities and injuries of pedestrians, bicyclists, and transit users on the state highway system.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Walking and bicycling trips have doubled between 2000 and 2012 and constitute nearly 20 percent of all trips in California, based on the National Household Travel Survey.

(b) People walking and bicycling are killed or seriously injured in California at much higher rates than car drivers or passengers based on the percentage of trips and relative miles traveled.

(c) According to the Smart Growth America report Dangerous by Design 2019, California is the 16th worst state for pedestrian fatalities, with 7,127 pedestrian deaths between 2008 and 2017. Older adults, people of color, and people walking in low-income communities are disproportionately represented in these deaths.

(d) Complete streets policies make communities and neighborhoods more livable by ensuring all people can safely get to where they need to go. This includes work, school, the library, grocery stores, or parks. They also help people feel more connected to their neighbors, which improves quality of life.

(e) The Department of Transportation (Caltrans) adopted Deputy Directive 64 in 2008 and updated it in 2014 to require the department to consider complete streets in all phases of design, delivery, construction, and rehabilitation on all projects.

(f) Caltrans adopted Strategic Management Plan 2015–2020, which includes targets to triple bicycling and double walking by 2020. The plan also includes targets to include “complete streets” improvements on an increasing number of projects between 2015 and 2020.

(g) These goals cannot be achieved without significant improvements to infrastructure and safety on major roadways and highways.

(h) Some low-income communities and communities of color lack well-maintained routes to parks and schools, roads, bike lanes, and sidewalks for decades. In many cases, those communities simply have no transportation options. The same communities often experience higher rates of chronic diseases like diabetes and heart disease.

(i) Encouraging even more Californians to walk or bike, a necessary outcome for public health and the environment, requires the state to leverage its existing resources to get serious about improving the safety of the roadways. Studies have shown that more and higher quality sidewalks are associated with higher rates of walking and more adults meeting the daily physical activity recommendations.

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

14526.4. (a) The department, in consultation with the commission, shall prepare a robust asset management plan to guide selection of projects for the State Highway Operation and Protection Program required by Section 14526.5. The asset management plan shall be consistent with any applicable state and federal requirements, and shall prioritize the implementation of safe and connected facilities for pedestrians, bicyclists, and transit

users on all projects in the program, where applicable, pursuant to Section 14526.7.

(b) The department shall include complete streets elements in the asset management plan, including pedestrian, bicycle, and transit facilities on the state highway system that are not required under the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

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

(1) Adopt targets and performance measures reflecting state transportation goals and objectives. Performance measures shall also include conditions of bicycle and pedestrian facilities, accessibility and safety for pedestrians, bicyclists, and transit users on the state highway system.

(2) Review and approve the asset management plan.

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

SEC. 3. Section 14526.6 of the Government Code is amended to read:

14526.6. (a) The department shall report to the commission quarterly, for projects which complete construction in the previous quarter, on the information outlined in subdivision (b) for all major State Highway Operation and Protection Program projects, as defined by the commission pursuant to subdivision (f) of Section 167 of the Streets and Highways Code.

(b) The department shall report to the commission on the approved capital and support budgets compared to expenditures at contract construction acceptance for all projects included in subdivision (a).

(c) The department shall develop, in consultation with the commission, a plain language performance report to increase transparency and accountability of the State Highway Operation and Protection Program. The plain language performance report shall include a description of pedestrian and bicycle facilities on each project, including the number, extent, and type of the elements.

SEC. 4. Section 14526.8 is added to the Government Code, to read:

14526.8. (a) Commencing with the 2022 State Highway Operation and Protection Program, except as provided in subdivisions (b) and (c), the department, when undertaking any capital improvement project located in an active transportation place type on a state highway or a local street crossing a state highway that is funded through the program, shall include new pedestrian and bicycle facilities, or improve existing facilities, as part of the project, as follows:

(1) Facilities for pedestrians and bicyclists shall be provided, and implementation of traffic calming improvements shall be considered in consultation with the appropriate city or county.

(2) Priority shall be given to communities that are most vulnerable to the inequities in the state's transportation system. These communities include:

(A) Low-income communities, as defined in Section 39713 of the Health and Safety Code.

(B) Communities with a low percentage of private vehicle access.

(C) Communities with a high percentage of persons who are disabled.

(3) For each project development team that the department establishes for a project located in an active transportation place type, the department shall include representatives from the local transportation agency, local bicycle and pedestrian advisory committee, community-based organizations, residents of low-income communities, and other local stakeholders impacted by the project.

(b) This section does not apply to capital improvement projects on street and highway facilities that are closed, by law, to use by pedestrians, bicyclists, and other nonmotorized users, or other projects that do not impact pavement. However, if a project includes changes to highway entrances and exits that interact with local streets, the department shall consider bicycle and pedestrian improvements to the entrance and exit intersections on the project in consultation with the appropriate city or county.

(c) This section does not limit the department's authority to undertake a capital improvement project on a state highway on or a local street crossing a state highway that is funded through the program and is outside an active transportation place type to include new pedestrian and bicycle facilities, or improvement of

existing facilities, as part of the project to the extent beneficial, cost effective, safe, and practicable in the context of facility type, right-of-way, project scope, and quality of nearby alternative facilities, and where feasible, in consultation with the appropriate city or county.

(d) The department may exempt a capital improvement project from the requirements of this section through documentation in writing by the department’s district director and supported by data, after at least one public hearing in the jurisdiction most impacted by the project, to demonstrate any of the following:

(1) Accommodating the needs of the particular user group for the transportation project is not cost effective and would be excessively disproportionate to the current or future need or probable use of the facilities by the particular user group.

(2) There is not a demonstrated practical future need by the particular user group, as determined by factors, including current and future land use, current and projected user volumes, population density, and crash data.

(3) The adverse impacts of accommodating the needs of the particular user group significantly outweigh the benefits.

(e) For purposes of this section, “active transportation place type” means a state-owned conventional highway, excluding a freeway or expressway, that is within the boundaries of a city or within a census designated place for the 2020 census, as defined in 83 Federal Register 56290.

SEC. 5. Section 167 of the Streets and Highways Code is amended to read:

167. (a) Funds in the State Highway Account in the State Transportation Fund shall be programmed, budgeted subject to Section 163, and expended to maximize the use of federal funds and shall be based on the following sequence of priorities:

(1) Operation, maintenance, and rehabilitation of facilities for all users of the state highway system.

(2) Safety improvements where physical changes, other than adding additional lanes, would reduce fatalities and the number and severity of injuries. Safety improvements shall prioritize reducing fatalities and severe injuries, including fatalities and injuries of pedestrians, bicyclists, and transit users on the state highway system.

(3) Transportation capital improvements that expand capacity or reduce congestion, or do both.

(4) Environmental enhancement and mitigation programs.

(b) With respect to the funds in the State Highway Account, in the Public Transportation Account, and in the Passenger Rail Bond Fund, the proposed budget shall be organized on a program basis. The proposed budget shall list the proposed expenditures for the transportation program under the following program elements:

(1) Administration.

(2) Program development.

(3) Maintenance.

(4) State highway operation and protection.

(5) Local assistance.

(6) Interregional improvements.

(7) Regional improvements.

(8) Environmental enhancement and mitigation programs.

(c) State operations expenditure amounts of the department for interregional and regional transportation improvement projects shall be listed as required by subdivision (b) of Section 14529 of the Government Code, but those amounts other than those for the acquisition of rights-of-way, construction, and construction support shall not be subject to allocation by the commission.

(d) To align the annual budget with the adopted state transportation improvement program, the department may submit to the Department of Finance revised capital outlay support and capital outlay budget estimates as part of its May Revision process. Budget proposals related to these changes shall be provided to the Legislature no later than May 1.

(e) The budget shall not include specific appropriations for specific transportation improvement projects, and the Legislature shall not enact legislation containing specific individual transportation projects.

(f) The basis for defining major and minor capital outlay projects shall be established by the commission.

(g) The Legislative Analyst's Office shall prepare an analysis of the proposed expenditures for each program element as a part of the budget analysis.

(h) The department shall submit to the Legislative Analyst's Office, and the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget, on an annual basis,

supplemental information to substantiate the department's proposed capital outlay support budget. The information shall be provided no later than May 1 of each year, and may be provided at an earlier date. The information shall include, but not be limited to, the following:

(1) A list of projects for which the department will perform capital outlay support work in the budget year. For each project, the department shall include:

(A) The planned project support budget for support of environmental, design, right-of-way, and construction phases.

(B) The planned capital costs, including construction capital costs and right-of-way capital costs.

(C) The estimated or actual construction start date and completion date.

(D) The name and year of the state transportation program in which the project is programmed, if applicable.

(E) Total prior fiscal year expenditures for capital outlay support.

(F) The number of full-time equivalent positions requested to perform support of environmental, design, right-of-way, and construction work in the fiscal year of the budget request.

(G) Milestones of project work by phases that are planned to be completed in the fiscal year of the budget request.

(H) The ratio of support to capital costs based on current programming.

(2) The capital-to-support ratio for all projects completed in the prior fiscal year in each program in each district.

(3) The current total number of authorized and vacant positions in the capital outlay support program in headquarters and in each district.

(4) A five-year projection of the department's staffing needs to support the state's transportation capital programs and any workload performed by the department related to federal or local funding for highway capital projects.

(5) The average cost of a personnel-year equivalent in each district based on the department's existing contracts for capital outlay support work performed by a private company under contract with the department. For each average cost, the department shall provide a description of what factors are included in that cost.

(6) The average cost of a state staff personnel-year in the capital outlay support program in each district and in headquarters. The

cost shall include the salary and wages, benefits, program overhead, administrative overhead, and other associated costs. The department shall provide a description of each component of the average cost.

(7) A summary of expected capital outlay support workload for the budget year that includes the following:

(A) The total full-time equivalents requested for each type of the following activities: environmental, design, right-of-way, and construction.

(B) The total full-time equivalents requested for each type of project, including, but not limited to, the state transportation improvement program, the State Highway Operation and Protection Program, bond programs, regional and local agency partnership workload, and any other program.

(8) The total number of projects with requested resources, as well as the number of projects in which the department is limited to an oversight role.

(9) The number of milestones scheduled, including environmental, design, right-of-way, and construction deliverables, as well as the number of projects expected to begin construction and reach completion.

(10) A summary for the most recently completed fiscal year for both of the following:

(A) Full-time equivalents and related funding expended, including support of environmental, design, right-of-way, and construction activities.

(B) Approved and filled positions as of the end of the fiscal year.

Approved _____, 2019

Governor