

**ASSEMBLY BILL**

**No. 821**

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**Introduced by Assembly Member O'Donnell**

February 20, 2019

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An act to amend Section 2192 of, and to add Section 2192.5 to, the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 821, as introduced, O'Donnell. Transportation: Trade Corridor Enhancement Account: project nomination: California Port Efficiency Program.

Existing law creates the Trade Corridor Enhancement Account to receive revenues attributable to 50% of a \$0.20 per gallon increase in the diesel fuel excise tax imposed by the Road Repair and Accountability Act of 2017 for corridor-based freight projects nominated by local agencies and the state. Existing law makes these funds and certain federal funds apportioned to the state available upon appropriation for allocation by the California Transportation Commission for trade infrastructure improvement projects that meet specified requirements. Existing law requires the commission to allocate 60% of available funds to projects nominated by regional transportation agencies and other local agencies, with the remaining 40% of available funds to be allocated to projects nominated by the Department of Transportation. In adopting a program of projects, existing law requires the commission to prioritize projects jointly nominated and jointly funded by the state and local agencies.

This bill would require the commission to allocate not less than 10% of the funds that are required to be allocated to projects nominated by the department to projects nominated pursuant to the California Port

Efficiency Program, which this bill would create. The program would require the department to nominate projects proposed by port authorities and regional transportation agencies that most effectively improve velocity, throughput, and reliability of port operations.

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

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

1 SECTION 1. Section 2192 of the Streets and Highways Code  
2 is amended to read:

3 2192. (a) The following revenues shall be allocated for  
4 infrastructure projects pursuant to this section:

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

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

14 (b) The funding described in subdivision (a) shall be available  
15 upon appropriation for allocation by the California Transportation  
16 Commission for *trade* infrastructure improvements in this state on  
17 federally designated Trade Corridors of National and Regional  
18 Significance, on the Primary Freight Network, and along other  
19 corridors that have a high volume of freight movement, as  
20 determined by the commission and as identified in the state freight  
21 plan developed pursuant to Section 13978.8 of the Government  
22 Code. Projects eligible for funding shall be included in an adopted  
23 regional transportation plan. Projects within the boundaries of a  
24 metropolitan planning organization shall be included in an adopted  
25 regional transportation plan that includes a sustainable communities  
26 strategy determined by the State Air Resources Board to achieve  
27 the region’s greenhouse gas emissions reduction targets. In  
28 developing guidelines for implementing this section, the  
29 commission shall (1) apply the guiding principles, to the maximum  
30 extent practicable, in the California Sustainable Freight Action  
31 Plan released in July 2016 pursuant to Executive Order B-32-15,

1 and (2) consult the state freight plan and the applicable port master  
2 plan.

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

5 (1) Highway improvements to more efficiently accommodate  
6 the movement of freight, particularly for ingress and egress to and  
7 from the state’s land ports of entry, rail terminals, and seaports,  
8 including navigable inland waterways used to transport freight  
9 between seaports, land ports of entry, and airports, and to relieve  
10 traffic congestion along major trade or goods movement corridors.

11 (2) Freight rail system improvements to enhance the ability to  
12 move goods from seaports, land ports of entry, and airports to  
13 warehousing and distribution centers throughout California,  
14 including projects that separate rail lines from highway or local  
15 road traffic, improve freight rail mobility, and other projects that  
16 improve the safety, efficiency, and capacity of the rail freight  
17 system.

18 (3) Projects to enhance the capacity and efficiency of ports,  
19 except that funds available under this section shall not be allocated  
20 to a project that includes the purchase of fully automated cargo  
21 handling equipment. For ~~the~~ purposes of this paragraph, “fully  
22 automated” means equipment that is remotely operated or remotely  
23 monitored, with or without the exercise of human intervention or  
24 control. Nothing in this paragraph shall prohibit the use of funds  
25 available pursuant to this section for a project that includes the  
26 purchase of human-operated zero-emission equipment,  
27 human-operated near-zero-emission equipment, and infrastructure  
28 supporting that human-operated equipment. ~~Furthermore, nothing~~  
29 *Nothing* in this section shall prohibit the purchase of devices that  
30 support that human-operated equipment, including equipment to  
31 evaluate the utilization and environmental benefits of that  
32 human-operated equipment.

33 (4) Truck corridor improvements, including dedicated truck  
34 facilities or truck toll facilities, including the mitigation of the  
35 emissions from trucks or these facilities.

36 (5) Border access improvements that enhance goods movement  
37 between California and Mexico and that maximize the state’s  
38 ability to access funds made available to the state by federal law.

39 (6) Surface transportation, local road, and connector road  
40 improvements to effectively facilitate the movement of goods,

1 particularly for ingress and egress to and from the state's land ports  
2 of entry, airports, and seaports, to relieve traffic congestion along  
3 major trade or goods movement corridors.

4 (d) Projects funded with revenues identified in paragraph (1)  
5 of subdivision (a) shall be consistent with Article XIX of the  
6 California Constitution.

7 (e) (1) In adopting the program of projects to be funded with  
8 funds described in subdivision (a), the commission shall evaluate  
9 the total potential economic and noneconomic benefits of the  
10 program of projects to California's economy, environment, and  
11 public health. The evaluation shall specifically assess localized  
12 impacts in disadvantaged communities. The commission shall  
13 consult with the agencies identified in Executive Order B-32-15  
14 and metropolitan planning organizations in order to ~~utilize~~ use the  
15 appropriate models, techniques, and methods to develop the  
16 parameters for evaluating the program of projects. The commission  
17 shall allocate the funding from subdivision (a) for trade  
18 infrastructure improvements as follows:

19 (A) Sixty percent of the funds shall be available for projects  
20 nominated by regional transportation agencies and other public  
21 agencies, including counties, cities, and port authorities, in  
22 consultation with the department. The commission shall provide  
23 reasonable geographic targets for funding allocations without  
24 constraining what an agency may propose or what the commission  
25 may approve.

26 (B) (i) Forty percent of the funds shall be available for projects  
27 nominated by the department, in consultation with regional  
28 transportation agencies.

29 (ii) *Of the amount allocated pursuant to this subparagraph, not*  
30 *less than 10 percent of these funds shall be available for projects*  
31 *nominated by the department pursuant to Section 2192.5.*

32 (2) In adopting a program of projects pursuant to paragraph (1),  
33 the commission shall prioritize projects jointly nominated and  
34 jointly funded by the state and local agencies. In considering  
35 geographic balance for the overall program, the commission may  
36 adjust the corridor-based targets in subparagraph (A) of paragraph  
37 (1) to account for projects programmed pursuant to subparagraph  
38 (B) of paragraph (1).

39 (f) (1) The commission shall adopt guidelines, including a  
40 transparent process to evaluate projects and to allocate the funding

1 described in subdivision (a) for trade infrastructure improvements  
2 in a manner that ~~(1)~~ (A) addresses the state’s most urgent needs,  
3 ~~(2)~~ (B) balances the demands of various land ports of entry,  
4 seaports, and airports, ~~(3)~~ (C) places emphasis on projects that  
5 improve trade corridor mobility and safety while reducing  
6 emissions of diesel particulates, greenhouse gases, and other  
7 pollutants and reducing other negative community impacts,  
8 especially in disadvantaged communities, ~~(4)~~ (D) makes a  
9 significant contribution to the state’s economy, ~~(5)~~ (E) recognizes  
10 the key role of the state in project identification, ~~(6)~~ (F) supports  
11 integrating statewide goods movement priorities in a corridor  
12 approach, and ~~(7)~~ (G) includes disadvantaged communities  
13 measures, as established by the California Environmental  
14 Protection Agency pursuant to Section 39711 of the Health and  
15 Safety Code, and other tools the commission determines, for  
16 evaluating benefits or costs for disadvantaged communities and  
17 low-income communities. Project nominations shall include either  
18 a quantitative or qualitative assessment of the benefits the project  
19 is expected to achieve relative to the evaluation criteria.

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

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

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

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

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

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

6 (h) For purposes of this section, the following terms have the  
7 following meanings:

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

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

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

21 SEC. 2. Section 2192.5 is added to the Streets and Highways  
22 Code, to read:

23 2192.5. (a) The California Port Efficiency Program is hereby  
24 created to establish a process to nominate projects for purposes of  
25 clause (ii) of subparagraph (B) of paragraph (1) of subdivision (e)  
26 of Section 2192. The department shall select projects for  
27 nomination from projects proposed by eligible applicants described  
28 in subdivision (c) that most effectively improve velocity,  
29 throughput, and reliability of port operations.

30 (b) Projects eligible for nomination pursuant to this section  
31 include, but are not limited to, the following:

32 (1) Deployment of digital industrial infrastructure to facilitate  
33 and streamline the exchange of data between supply chain  
34 participants.

35 (2) Projects designed to reduce truck visit times including, but  
36 not limited to, appointment systems and truck parking facilities.

37 (c) Only a regional transportation agency or port authority may  
38 propose a project for nomination to the department pursuant to  
39 this section.

- 1 (d) Projects nominated pursuant to this section shall comply
- 2 with the requirements set forth in Section 2192.

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