

AMENDED IN ASSEMBLY APRIL 17, 2018

AMENDED IN ASSEMBLY MARCH 22, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 3079

Introduced by Assembly Member O'Donnell

February 16, 2018

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

LEGISLATIVE COUNSEL'S DIGEST

AB 3079, as amended, O'Donnell. Transportation Corridors Enhancement Account: ~~project nomination:~~ *selection:* California Port Efficiency Program.

Existing law creates the Trade Corridor Enhancement Account *in the State Transportation Fund* 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~~ *specified percentages of available funds* to projects nominated by *regional transportation agencies* and 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.~~ *create the California Port Efficiency Program to fund projects that improve velocity, throughput, and reliability of port operations, as defined.* The program would require the department to ~~nominate~~ *select* 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 Enhancement~~
6 ~~Account pursuant to Section 2192.4, except for those revenues in~~
7 ~~the account that were appropriated by Senate Bill 132 of the~~
8 ~~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 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~~

1 regional transportation plan that includes a sustainable communities
2 strategy determined by the State Air Resources Board to achieve
3 the region's greenhouse gas emissions reduction targets. In
4 developing guidelines for implementing this section, the
5 commission shall (1) apply the guiding principles, to the maximum
6 extent practicable, in the California Sustainable Freight Action
7 Plan released in July 2016 pursuant to Executive Order B-32-15,
8 and (2) consult the state freight plan and the applicable port master
9 plan.

10 (e) Eligible projects for these funds include, but are not limited
11 to, all of the following:

12 (1) Highway improvements to more efficiently accommodate
13 the movement of freight, particularly for ingress and egress to and
14 from the state's land ports of entry, rail terminals, and seaports,
15 including navigable inland waterways used to transport freight
16 between seaports, land ports of entry, and airports, and to relieve
17 traffic congestion along major trade or goods movement corridors.

18 (2) Freight rail system improvements to enhance the ability to
19 move goods from seaports, land ports of entry, and airports to
20 warehousing and distribution centers throughout California,
21 including projects that separate rail lines from highway or local
22 road traffic, improve freight rail mobility, and other projects that
23 improve the safety, efficiency, and capacity of the rail freight
24 system.

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

1 ~~(4) Truck corridor improvements, including dedicated truck~~
2 ~~facilities or truck toll facilities, including the mitigation of the~~
3 ~~emissions from trucks or these facilities.~~

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

7 ~~(6) Surface transportation, local road, and connector road~~
8 ~~improvements to effectively facilitate the movement of goods,~~
9 ~~particularly for ingress and egress to and from the state's land ports~~
10 ~~of entry, airports, and seaports, to relieve traffic congestion along~~
11 ~~major trade or goods movement corridors.~~

12 ~~(d) Projects funded with revenues identified in paragraph (1)~~
13 ~~of subdivision (a) shall be consistent with Article XIX of the~~
14 ~~California Constitution.~~

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

27 ~~(A) Sixty percent of the funds shall be available for projects~~
28 ~~nominated by regional transportation agencies and other public~~
29 ~~agencies, including counties, cities, and port authorities, in~~
30 ~~consultation with the department. The commission shall provide~~
31 ~~reasonable geographic targets for funding allocations without~~
32 ~~constraining what an agency may propose or what the commission~~
33 ~~may approve.~~

34 ~~(B) (i) Forty percent of the funds shall be available for projects~~
35 ~~nominated by the department, in consultation with regional~~
36 ~~transportation agencies.~~

37 ~~(ii) Of the amount allocated pursuant to this subparagraph, not~~
38 ~~less than 10 percent of these funds shall be available for projects~~
39 ~~nominated by the department pursuant to Section 2192.5.~~

1 ~~(2) In adopting a program of projects pursuant to paragraph (1),~~
2 ~~the commission shall prioritize projects jointly nominated and~~
3 ~~jointly funded by the state and local agencies. In considering~~
4 ~~geographic balance for the overall program, the commission may~~
5 ~~adjust the corridor-based targets in subparagraph (A) of paragraph~~
6 ~~(1) to account for projects programmed pursuant to subparagraph~~
7 ~~(B) of paragraph (1).~~

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

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

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

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

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

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

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

14 (h) For purposes of this section, the following terms have the
15 following meanings:

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

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

25 (i) It is the intent of the Legislature for the commission to adopt
26 an initial program of projects utilizing the state and federal funds
27 described in subdivision (a) for eligible projects as soon as
28 practicable and no later than May 17, 2018.

29 ~~SEC. 2.~~

30 *SECTION 1.* Section 2192.5 is added to the Streets and
31 Highways Code, to read:

32 2192.5. (a) The California Port Efficiency Program is hereby
33 created to establish a process to nominate projects for purposes of
34 clause (ii) of subparagraph (B) of paragraph (1) of subdivision (e)
35 of Section 2192. *fund projects that improve velocity, throughput,*
36 *and reliability of port operations, as defined in subdivision (g) of*
37 *Section 2192.* The department shall select projects for nomination
38 from projects proposed by eligible applicants described in
39 subdivision (c) that most effectively improve velocity, throughput,
40 and reliability of port operations.

- 1 (b) Projects eligible for ~~nomination~~ *selection* pursuant to this
2 section include, but are not limited to, the following:
- 3 (1) Deployment of digital industrial infrastructure to facilitate
4 and streamline the exchange of data between supply chain
5 participants.
- 6 (2) Projects designed to reduce truck visit times including, but
7 not limited to, appointment systems and truck parking facilities.
- 8 (c) Only a regional transportation agency or port authority may
9 propose a project ~~for nomination~~ *for selection* to the department
10 pursuant to this section.
- 11 (d) Projects ~~nominated~~ *proposed* pursuant to this section shall
12 comply with the requirements set forth in Section 2192.