

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY APRIL 27, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 892

Introduced by Assembly Member Carter

February 17, 2011

An act to amend Section 820.1 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 892, as amended, Carter. Department of Transportation: environmental review process: federal pilot program.

Existing law gives the Department of Transportation full possession and control of the state highway system. Existing federal law requires the United States Secretary of Transportation to carry out a surface transportation project delivery pilot program, under which the participating states assume certain responsibilities for environmental review and clearance of transportation projects that would otherwise be the responsibility of the federal government. Existing law requires the department to submit a report to the Legislature regarding state and federal environmental review. Existing law requires the report to be submitted no later than January 1, 2009, and again, no later than January 1, 2011.

This bill would, instead, require the report to be submitted no later than January 1, ~~2014~~ 2015, and again, no later than January 1, ~~2019~~ 2018.

Existing law, until January 1, 2012, provides that the State of California consents to the jurisdiction of the federal courts with regard to the compliance, discharge, or enforcement of the responsibilities it assumed as a participant in the pilot program.

This bill would delete this repeal date and extend the operation of these provisions until January 1, 2019, or until the termination of a certain memorandum of understanding between the department and the Federal Highway Administration, as specified.

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 820.1 of the Streets and Highways Code
2 is amended to read:
3 820.1. (a) The State of California consents to the jurisdiction
4 of the federal courts with regard to the compliance, discharge, or
5 enforcement of the responsibilities assumed by the department
6 pursuant to Section 326 of, and subsection (a) of Section 327 of,
7 Title 23 of the United States Code.
8 (b) In any action brought pursuant to the federal laws described
9 in subdivision (a), no immunity from suit may be asserted by the
10 department pursuant to the Eleventh Amendment to the United
11 States Constitution, and any immunity is hereby waived.
12 (c) The department shall not delegate any of its responsibilities
13 assumed pursuant to the federal laws described in subdivision (a)
14 to any political subdivision of the state or its instrumentalities.
15 (d) The department shall, no later than January 1, ~~2014~~ 2015,
16 and again, no later than January 1, ~~2019~~ 2018, submit a report to
17 the Legislature that includes the following:
18 (1) A comparative analysis of the environmental review process
19 under the National Environmental Policy Act (Chapter 55
20 (commencing with Section 4321) of Title 42 of the United States
21 Code) for the 30 projects, excluding those projects categorically
22 excluded from environmental review, undertaken immediately
23 preceding the enactment of this section that involved the Federal
24 Highway Administration and the environmental review process
25 for all projects, excluding those projects categorically excluded
26 from environmental review, undertaken following the enactment

1 of this section that did not involve the Federal Highway
2 Administration. This analysis should address the following:

3 (A) For each project included in the analysis, the environmental
4 review process under the National Environmental Policy Act,
5 including which state and federal agencies reviewed the
6 environmental documents and the amount of time the documents
7 were reviewed by each agency, shall be described.

8 (B) The points in the environmental review process under the
9 National Environmental Policy Act when project delays occurred
10 and the nature of the delays.

11 (C) The time saved in the environmental review process for
12 projects undertaken following the enactment of this section in
13 comparison to the review process for projects undertaken prior to
14 the enactment of this section, and the points in the review process
15 when time was saved.

16 (D) The circumstances when the Federal Highway
17 Administration hindered and facilitated project delivery.

18 (2) All financial costs incurred by the department to assume the
19 responsibilities pursuant to Section 326 of, and subsection (a) of
20 Section 327 of, Title 23 of the United States Code, including, but
21 not limited to, the following:

22 (A) Personnel to conduct and review environmental documents
23 and to manage litigation.

24 (B) Administrative costs.

25 (C) Litigation.

26 (3) An explanation of all litigation initiated against the
27 department for the responsibilities assumed pursuant to Section
28 326 of, and subsection (a) of Section 327 of, Title 23 of the United
29 States Code.

30 (4) A comparison of all costs and benefits of assuming these
31 responsibilities.

32 (5) An assessment of overall project delivery time from the time
33 environmental studies begin to the time the project is ready to
34 advertise for construction, including the time required for each
35 project phase and distinguishing between different types of
36 environmental documents and between projects on the state
37 highway system and local assistance projects. The department may
38 also include other variables that it determines may be useful in the
39 assessment.

1 (e) (1) With respect to the responsibilities assumed by the
2 department under this section and pursuant to Section 327 of Title
3 23 of the United States Code, the provisions of this section shall
4 be operative until January 1, 2019, and shall be inoperative in that
5 regard after that date.

6 (2) With respect to the responsibilities assumed by the
7 department under this section and pursuant to Section 326 of Title
8 23 of the United States Code, the provisions of this section shall
9 be operative as long as an authorized memorandum of
10 understanding between the department and the Federal Highway
11 Administration in that regard is in force. Upon the termination of
12 the memorandum of understanding, this section shall be inoperative
13 in that regard after that date.

14 (f) Nothing in this section affects the obligation of the
15 department to comply with state and federal law.

O