An act to add Section 14525.6 to the Government Code, and to amend Sections 167, 188.8, and 188.11 of, and to add Section 188.9 to, the Streets and Highways Code, relating to transportation.

[Approved by Governor September 7, 2012. Filed with Secretary of State September 7, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1102, DeSaulnier. State transportation improvement program.

1) Existing law establishes the state transportation improvement program process, pursuant to which the California Transportation Commission generally programs and allocates available funds for transportation capital improvement projects over a multiyear period. Existing law provides that the Department of Transportation is responsible for the state highway system. Existing law requires the department to annually prepare a project delivery report that identifies milestone dates for state highway projects costing $1,000,000 or more for which the department is the responsible agency for project development work.

This bill would require the department, beginning not later than November 15, 2014, as part of the annual project delivery report, to report on the difference between the original allocation made by the commission and the actual construction capital and support costs at project close for all state transportation improvement program projects completed during the previous fiscal year.

2) Existing law provides funding for interregional and regional transportation capital improvement projects through the state transportation improvement program process, with 25% of funds available for interregional projects and 75% for regional projects. Existing law requires funds available for regional projects to be programmed by the commission pursuant to the county shares formula, under which a minimum amount of funding is available for programming in each county. Existing law specifies the project costs to be charged against county shares in that regard and, in certain cases, provides for adjustments by the commission if project costs change.

This bill would revise these provisions to require project costs to include right-of-way support costs. The bill would require the commission to allocate funds for construction support costs for a project in the state transportation improvement program at the time of allocation of funds for construction capital costs. The bill would require a supplemental project allocation request to be made for all interregional and regional projects that experience construction support costs equal to or more than 120% of the amount originally allocated. The bill would make other related changes.
The people of the State of California do enact as follows:

SECTION 1. Section 14525.6 is added to the Government Code, to read: 14525.6. Not later than November 15, 2014, and annually thereafter, the department shall, as part of the project delivery report required pursuant to Section 14525.5, report on the difference between the original allocation made by the commission and the actual construction capital and support costs at project close for all state transportation improvement program projects completed during the previous fiscal year.

SEC. 2. 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 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.

(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 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, 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:
   - The planned project support budget for support of environmental, design, right-of-way, and construction phases.
   - The planned capital costs, including construction capital costs and right-of-way capital costs.
   - The estimated or actual construction start date and completion date.
   - The name and year of the state transportation program in which the project is programmed, if applicable.
   - Total prior fiscal year expenditures for capital outlay support.
   - 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.
   - Milestones of project work by phases that are planned to be completed in the fiscal year of the budget request.
   - 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 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.

SEC. 3. Section 188.8 of the Streets and Highways Code is amended to read:

188.8. (a) From the funds programmed pursuant to Section 188 for regional improvement projects, the commission shall approve programs and program amendments, so that funding is distributed to each county of County Group No. 1 and in each county of County Group No. 2 during the county share periods commencing July 1, 1997, and ending June 30, 2004, and each period of four years thereafter. The amount shall be computed as follows:

(1) The commission shall compute, for the county share periods all of the money to be expended for regional improvement projects in County Groups Nos. 1 and 2, respectively, as provided in Section 188.

(2) From the amount computed for County Group No. 1 in paragraph (1) for the county share periods the commission shall determine the amount of programming for each county in the group based on a formula that is based 75 percent on the population of the county to the total population of County Group No. 1 and 25 percent on state highway miles in the county to the total state highway miles in County Group No. 1.

(3) From the amount computed for County Group No. 2 in paragraph (1) for the county share periods the commission shall determine the amount of programming for each county in the group based on a formula that is based 75 percent on the population of the county to the total population of County Group No. 2 and 25 percent on state highway miles in the county to the total state highway miles in County Group No. 2.

(b) Notwithstanding subdivision (a), that portion of the county population and state highway mileage in El Dorado and Placer Counties that is included within the jurisdiction of the Tahoe Regional Planning Agency shall be
counted separately toward the area under the jurisdiction of the Tahoe Regional Transportation Agency and may not be included in El Dorado and Placer Counties. The commission shall approve programs, program amendments, and fund reservations for the area under the jurisdiction of the Tahoe Regional Transportation Agency that shall be calculated using the formula described in paragraph (2) of subdivision (a).

(c) A transportation planning agency designated pursuant to Section 29532 of the Government Code, or a county transportation commission created by Division 12 (commencing with Section 130000) of the Public Utilities Code, may adopt a resolution to pool its county share programming with any county or counties adopting similar resolutions to consolidate its county shares for two consecutive county share periods into a single share covering both periods. A multicounty transportation planning agency with a population of less than three million may also adopt a resolution to pool the share of any county or counties within its region. The resolution shall provide for pooling the county share programming in any of the pooling counties for the new single share period and shall be submitted to the commission not later than May 1 immediately preceding the commencement of the county share period.

(d) For the purposes of this section, funds programmed shall include the following costs pursuant to subdivision (b) of Section 14529 of the Government Code:

1. The amounts programmed or budgeted for both components of project development in the original programmed year.
2. The amount programmed for right-of-way and right-of-way support costs in the year programmed in the most recent state transportation improvement program. If the final estimate is greater than 120 percent or less than 80 percent of the amount originally programmed, the amount shall be adjusted for final expenditure estimates at the time of right-of-way certification.
3. The engineer’s final estimate of project costs, including construction support, presented to the commission for approval pursuant to Section 14533 of the Government Code in the year programmed in the most recent state transportation improvement program. If the construction contract award amount is less than 80 percent of the engineer’s final estimate, excluding construction support, the department shall notify the commission and the commission may adjust its project allocation accordingly.
4. Project costs shown in the program, as amended, where project allocations have not yet been approved by the commission, escalated to the date of scheduled project delivery.
5. Project costs shown in the program may not be changed to reflect any of the following:
   1. Differences that are within 20 percent of the amount programmed for actual project development cost.
   2. Actual right-of-way purchase costs.
   3. Construction contract award amounts, except when those amounts are less than 80 percent of the engineer’s final estimate, excluding...
construction support, and the commission has adjusted the project
construction allocation.

(4) Changes in construction expenditures, except for supplemental project
allocations made by the commission, including supplemental allocations
made pursuant to subdivision (b) of Section 188.9.

(f) For the purposes of this section, the population in each county is that
determined by the last preceding federal census, or a subsequent census
validated by the Population Research Unit of the Department of Finance,
at the beginning of each county share period.

(g) For the purposes of this section, “state highway miles” means the
miles of state highways open to vehicular traffic at the beginning of each
county share period.

(h) It is the intent of the Legislature that there is to be flexibility in
programming under this section and Section 188 so that, while ensuring
that each county will receive an equitable share of state transportation
improvement program funding, the types of projects selected and the
programs from which they are funded may vary from county to county.

(i) Commencing with the four-year period commencing on July 1, 2004,
individual county share shortfalls and surpluses at the end of each four-year
period, if any, shall be carried forward and credited or debited to the
following four years.

(j) The commission, with the consent of the department, may consider
programming projects in the state transportation improvement program in
a county with a population of not more than 1,000,000 at a level higher or
lower than the county share, when the regional agency either asks to reserve
part or all of the county’s share until a future programming year, to build
up a larger share for a higher cost project, or asks to advance an amount of
the share, in an amount not to exceed 200 percent of the county’s current
share, for a larger project, to be deducted from shares for future programming
years. After consulting with the department, the commission may adjust the
level of programming in the regional program in the affected region against
the level of interregional programming in the improvement program to
accomplish the reservation or advancement, for the current state
transportation improvement program. The commission shall keep track of
any resulting shortfalls or surpluses in county shares.

(k) Notwithstanding subdivision (a), in a region defined by Section 66502
of the Government Code, the transportation planning agency may adopt a
resolution to pool the county share of any county or counties within the
region, if each county receives no less than 85 percent and not more than
115 percent of its county share for a single county share period and 100
percent of its county share over two consecutive county share periods. The
resolution shall be submitted to the commission not later than May 1,
immediately preceding the commencement of the county share period.

(l) Federal funds used for federal demonstration projects that use federal
obligational authority otherwise available for other projects shall be
subtracted from the county share of the county where the project is located.
SEC. 4. Section 188.9 is added to the Streets and Highways Code, to read:

188.9. (a) Beginning January 1, 2013, the commission shall allocate construction support costs for a project in the state transportation improvement program at the time of allocation of construction capital costs.

(b) The commission shall require a supplemental project allocation request for a project that experiences construction support costs equal to or greater than 120 percent of the amount originally allocated.

SEC. 5. Section 188.11 of the Streets and Highways Code is amended to read:

188.11. (a) The commission, with assistance from the department and regional agencies, shall maintain a long-term balance of shares, shortfalls, and surpluses for regional improvement programs.

(b) The balance shall include all of the following:

1. Shares from the fund estimate for each state transportation improvement program pursuant to Section 14525 of the Government Code.

2. Amounts programmed in each state transportation improvement program pursuant to Section 14529 of the Government Code.

3. Surpluses or shortfalls due to reservations or advancements pursuant to subdivision (j) of Section 188.8.

4. Amounts deducted or added because of changes in project development costs or a cost increase or savings in the final engineering estimate or the final right-of-way certification estimate at the time of allocation for construction, pursuant to subdivisions (d) and (e) of Section 188.8.

5. Any supplemental project allocations during or following construction, including supplemental allocations made pursuant to subdivision (b) of Section 188.9.

6. Amounts deducted or added because of amendments to the state transportation improvement program that add, delete, or change the scope and cost of regional improvement projects, pursuant to Section 14531 of the Government Code.

(c) The balance through the preceding fiscal year shall be made available for review by all regional agencies at the time of each fund estimate, and by not later than August 15 of each year.

(d) The commission, through the fund estimate, shall restore for the next state transportation improvement program the interregional improvement program level specified in subdivision (a) of Section 164.