

AMENDED IN ASSEMBLY JUNE 24, 2013

AMENDED IN ASSEMBLY JUNE 11, 2013

SENATE BILL

No. 110

Introduced by Senator DeSaulnier

(Coauthors: Assembly Members Ammiano and Gordon)

January 14, 2013

An act to add and repeal Chapter 4.4 (commencing with Section 30964.10) of Division 17 of the Streets and Highways Code, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 110, as amended, DeSaulnier. East Span, San Francisco-Oakland Bay Bridge Safety Review Task Force.

Existing law identifies the San Francisco-Oakland Bay Bridge as a "toll bridge" and provides that the bridge and the approaches to it are a primary state highway. Existing law requires the Department of Transportation to permanently maintain and operate the San Francisco-Oakland Bay Bridge as a primary state highway in such a manner that the physical condition and operating efficiency thereof are of the highest character. Existing law establishes the Bay Area Toll Authority and assigns to it responsibility for the administration of all toll revenues from state-owned toll bridges. Existing law provides that the power or duty of the authority to fix the rates of toll for the San Francisco-Oakland Bay Bridge or the power and duty of the department to collect the tolls so fixed by the authority for the use of the bridge are not affected by any law providing that state highways are to be free highways.

This bill would establish the East Span, San Francisco-Oakland Bay Bridge Safety Review Task Force in state government and require the

Legislative Analyst to provide administrative support for the task force as necessary for the completion of its duties. The task force would consist of 7 members ~~appointed~~ *designated* by the Legislative Analyst. Each member of the task force would serve a term of one year and receive compensation, as specified, and reimbursement for actual and necessary expenses. The bill would appropriate ~~\$100,000~~ *\$149,000* from the State Highway Account in the State Transportation Fund to the Legislative Analyst for purposes of paying for the compensation and expense reimbursement of the task force members. The task force would be required to assess the anticipated seismic structural performance of the East Span, as defined, of the San Francisco-Oakland Bay Bridge by conducting a series of specified reviews. The task force would be required to submit a final written report to the Legislature and the Governor that includes the results of its reviews, as specified.

This bill would provide that the task force is exempt from the Bagley-Keene Open Meeting Act and open meeting requirements that apply to the Legislature. The bill would ~~provide that~~ *deem* the records and documents of the task force ~~are as~~ *“legislative records” under the Legislative Open Records Act, but would exempt them* from disclosure under the ~~California Public Records Act and the Legislative Open Records Act~~ *act* until *after* the final written report is submitted to the Legislature and the Governor. ~~Upon submission of the final written report, the~~ *After submitting the final report, the* task force would be required to provide copies of ~~all of its records and documents~~ *the report and all documents used or relied upon by the task force in preparing the report* to the Legislative Analyst, and ~~the records and documents of the task force in the possession of the Legislative Analyst~~ *these records* would be subject to disclosure ~~under~~ *by the Legislative Analyst in accordance with the Legislative Open Records Act* *act*.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

This bill would make these provisions, except for the provision regarding liability described below, inoperative on July 1, 2014, and would repeal it as of January 1, 2015.

This bill would provide that the task force; *and* each of its individual members; ~~the Legislative Analyst, and any other public officer or entity~~

are not and may not be held liable for any injury arising out of an act or omission made in connection with these provisions.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Chapter 4.4 (commencing with Section 30964.10)
2 is added to Division 17 of the Streets and Highways Code, to read:

3
4 CHAPTER 4.4. EAST SPAN, SAN FRANCISCO-OAKLAND BAY
5 BRIDGE SAFETY REVIEW TASK FORCE
6

7 30964.10. (a) The East Span, San Francisco-Oakland Bay
8 Bridge Safety Review Task Force is hereby established in state
9 government. The Legislative Analyst shall provide administrative
10 support for the task force as necessary for the completion of its
11 duties.

12 (b) The task force shall consist of seven members ~~appointed~~
13 *designated* by the Legislative Analyst. Each member shall serve
14 a term of one year. The members shall be selected based upon the
15 following qualifications:

16 (1) Expertise: Members shall be well-credentialed, recognized
17 experts in the field of bridge design and construction, *foundation*
18 *design, seismic hazard analysis, or a related field*. The membership
19 shall reflect extensive experience and knowledge related to the
20 design and construction of structures that resemble the East Span
21 in terms of complexity and magnitude, and that raise similar design
22 and construction obstacles and technical challenges.

23 (2) Independence: Members shall have minimal or no prior
24 involvement in the design, construction, or review of the East Span
25 as determined by the Legislative Analyst. If necessary, members
26 may be appointed from outside of California.

27 (c) ~~The task force~~ *Legislative Analyst* shall select a chairperson
28 ~~from its members~~ *the task force membership*.

29 (d) The chairperson shall receive compensation of ~~twelve~~ *twenty*
30 ~~thousand dollars~~ ~~(\$12,000)~~ *(\$20,000)*. Each of the other members
31 shall receive compensation of ~~eight~~ *sixteen* thousand dollars
32 ~~(\$8,000)~~ *(\$16,000)*. Each member shall be reimbursed for ~~actual~~
33 ~~and necessary~~ *reasonable* expenses. The sum of one hundred

1 *forty-nine* thousand dollars—~~(\$100,000)~~ (*\$149,000*) is hereby
2 appropriated from the State Highway Account in the State
3 Transportation Fund to the Legislative Analyst, without regard to
4 fiscal year, for the purpose of paying for the compensation and
5 expense reimbursement of the members of the task force. *The Bay*
6 *Area Toll Authority shall reimburse the State Highway Account*
7 *for all funds expended pursuant to this section.*

8 30964.15. As used in this chapter, the following terms have
9 the following meanings:

10 (a) “Task force” means the East Span, San Francisco-Oakland
11 Bay Bridge Safety Review Task Force established in subdivision
12 (a) of Section 30964.10.

13 (b) “East Span” means the ~~self-anchored suspension bridge, and~~
14 ~~its associated 13 foundation piles;~~ *eastern span* that was constructed
15 as a component of the San Francisco-Oakland Bay Bridge,
16 *including the self-anchored suspension bridge and its associated*
17 *13 foundation piles.*

18 30964.20. (a) All task force meetings shall be held in
19 California, except that members may *conduct meetings outside*
20 *the state, or* participate via conference call, with the prior consent
21 of the Legislative Analyst.

22 (b) Notwithstanding Section 11033 of the Government Code,
23 members of the task force may be absent from the state on business
24 of the state.

25 (c) Notwithstanding Section 11032 of the Government Code,
26 the Legislative Analyst may approve ~~actual and necessary~~
27 *reasonable* travel expenses of members for travel outside the state.

28 (d) The task force is exempt from the Bagley-Keene Open
29 Meeting Act (Article 9 (commencing with Section 11120) of
30 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
31 Code) and from Article 2.2 (commencing with Section 9027) of
32 Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government
33 Code.

34 ~~(e) The records and documents of the task force, or in the~~
35 ~~possession of the task force, are exempt from disclosure under the~~
36 ~~California Public Records Act (Chapter 3.5 (commencing with~~
37 ~~Section 6250) of Division 7 of Title 1 of the Government Code)~~
38 ~~and the Legislative Open Records Act (Article 3.5 (commencing~~
39 ~~with Section 9070) of Chapter 1.5 of Part 1 of Division 2 of Title~~
40 ~~2 of the Government Code) until the final written report pursuant~~

1 to Section 30964.35 is submitted to the Legislature and the
2 Governor. The task force shall provide copies of all of its records
3 and documents to the Legislative Analyst, and, when the task force
4 submits the final written report to the Legislature and the Governor
5 pursuant to Section 30964.35, the task force records and documents
6 in the possession of the Legislative Analyst, including the final
7 written report, shall then be subject to disclosure under the
8 Legislative Open Records Act.

9 30964.25. The task force shall assess the anticipated seismic
10 structural performance of the East Span as follows:

11 (a) Review the seismic design criteria of the East Span. Evaluate
12 the appropriateness of the approach, methodologies, and modeling
13 assumptions of the Department of Transportation as they pertain
14 to the ability of the structure as designed to withstand earthquakes
15 of an assumed magnitude *appropriate hazard level* that could come
16 from the Hayward, San Andreas, or other faults in the bay area.

17 (b) Review construction techniques, testing documents, and
18 other pertinent information on the construction of the East Span.
19 In performing this task, the task force shall address specifically
20 questions that have been raised about construction quality due to
21 possible problems with the oversight by the Department of
22 Transportation of the construction contractor and subcontractors.

23 (c) Review and evaluate analyses performed by the Department
24 of Transportation to assess the impact of construction defects
25 identified pursuant to subdivision (b). The task force may request
26 that the Department of Transportation run models of the East Span
27 foundation or bridge, or both, using a different set of assumptions
28 regarding the construction of the East Span foundation or bridge,
29 or both, or using different assumptions about the type of anticipated
30 earthquake.

31 (d) Perform a high-level assessment of the risk analysis
32 conducted by the Department of Transportation as part of the East
33 Span design to determine whether the department's evaluations
34 of the East Span's seismic performance as a lifeline structure in
35 the event of a design-level, large earthquake are appropriate.

36 30964.30. (a) The Department of Transportation shall
37 cooperate fully with the task force in the performance of its duties
38 pursuant to this chapter.

1 (b) Notwithstanding any other law, the Department of
2 Transportation shall provide the task force with all relevant
3 information and records that the task force requests.

4 (c) If so requested by the task force, the Department of
5 Transportation shall run models of the East Span foundation or
6 bridge, or both, using the assumptions requested by the task force
7 pursuant to subdivision (c) of Section 30964.25, and shall provide
8 all resulting information to the task force.

9 30964.35. (a) The task force shall submit a final written report
10 to the Legislature and the Governor that sets forth the results of
11 its reviews, including all of the following:

12 (1) Whether the Department of Transportation made proper
13 assumptions and followed proper procedures to ensure that the
14 East Span will perform as expected under the assumed design
15 earthquake.

16 (2) Whether the evaluations of the Department of Transportation
17 concerning the East Span's seismic performance as a lifeline
18 structure in the event of a design-level, large earthquake are
19 appropriate.

20 (b) Notwithstanding Section 9795 of the Government Code, the
21 report to the Legislature shall be delivered to the Senate Committee
22 on Transportation and Housing and the Assembly Committee on
23 Transportation.

24 30964.40. This chapter shall become inoperative on July 1,
25 2014, and, as of January 1, 2015, is repealed, unless a later enacted
26 statute, that becomes operative on or before January 1, 2015,
27 deletes or extends the dates on which it becomes inoperative and
28 is repealed.

29 SEC. 2. (a) Notwithstanding any other provision of law,
30 including Division 3.6 (commencing with Section 810) of Title 1
31 of the Government Code, neither the East Span, San
32 Francisco-Oakland Bay Bridge Safety Review Task Force, as
33 established in Chapter 4.4 (commencing with Section 30964.10)
34 of Division 17 of the Streets and Highways Code pursuant to this
35 act, *nor* any member of the task force, ~~the Legislative Analyst, nor~~
36 ~~any other public officer or entity~~ is or may be held liable for any
37 injury arising out of an act or omission in connection with that
38 chapter.

39 (b) (1) *The records and documents of the task force shall be*
40 *deemed "legislative records" within the meaning of subdivision*

1 (c) of Section 9072 of the Government Code, but shall be exempt
2 from disclosure under the Legislative Open Records Act (Article
3 3.5 (commencing with Section 9070) of Chapter 1.5 of Part 1 of
4 Division 2 of Title 2 of the Government Code) except as provided
5 in paragraph (2).

6 (2) After submitting a final written report to the Legislature and
7 the Governor pursuant to Section 30964.35 of the Streets and
8 Highways Code, the task force shall provide copies of the report
9 and all documents used or relied upon by the task force in
10 preparing the final report to the Legislative Analyst. All such task
11 force records in the possession of the Legislative Analyst shall be
12 subject to disclosure in accordance with the Legislative Open
13 Records Act.

14 SEC. 3. Pursuant to paragraph (2) of subdivision (b) of Section
15 3 of Article I of the California Constitution, the Legislature finds
16 and declares all of the following:

17 (a) California has a strong public interest in making every effort
18 to ensure that the East Span of the San Francisco-Oakland Bay
19 Bridge is constructed in a manner that ensures that it is a safe and
20 reliable lifeline structure that will survive a foreseeable earthquake.

21 (b) It is critical for the state to obtain a reliable, independent
22 review of the structure as soon as possible, and the substantial
23 public interest to have early access to documents and proceedings
24 related to this review is outweighed by the public interest of
25 ensuring that the structure is safe and can survive a foreseeable
26 earthquake. ~~All of the records~~ *The final written report of and all*
27 ~~documents—of used or relied upon by~~ the East Span, San
28 Francisco-Oakland Bay Bridge Safety Review Task Force,
29 ~~including its final written report,~~ *in preparing the final report* will
30 become subject to the disclosure requirements of the Legislative
31 Open Records Act once the report is submitted to the Legislature
32 and the Governor.

33 SEC. 4. It is the intent of the Legislature that the work of the
34 East Span, San Francisco-Oakland Bay Bridge Safety Review Task
35 Force established in Chapter 4.4 (commencing with Section
36 30964.10) of Division 17 of the Streets and Highways Code not
37 delay the opening of the new East Span of the San

- 1 Francisco-Oakland Bay Bridge if the Department of Transportation
- 2 determines at any time that the bridge is safe and ready to open.

O