

AMENDED IN ASSEMBLY JULY 3, 2013
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, *and declaring the urgency thereof, to take effect immediately.*

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 designated by the Legislative Analyst *and would be deemed officers of the state*. Each member of the task force would serve a term of one year and receive compensation, as specified, and reimbursement for ~~actual and necessary~~ *reasonable* expenses. The bill would appropriate \$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 bill would require the Bay Area Toll Authority to reimburse the State Highway Account for all funds expended for purposes of the task force.* 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~~ *assessment*, as specified.

This bill would provide that the task force is ~~exempt from~~ *subject to* the Bagley-Keene Open Meeting Act ~~and open meeting requirements that apply to the Legislature. The bill would deem the records and documents of the task force as “legislative records” under the Legislative Open Records Act, but would exempt them from disclosure under the act until after the final written report is submitted to the Legislature and the Governor. After submitting the final report, the task force would be required to provide copies of the report and all documents used or relied upon by the task force in preparing the report to the Legislative Analyst, and these records would be subject to disclosure by the Legislative Analyst in accordance with the act.~~ *This bill would provide that the records of the task force are subject to disclosure in accordance with the California Public Records 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~~ provisions regarding ~~liability~~ *the defense and indemnity of task force members* described below, inoperative on July 1, 2014, and would repeal ~~it~~ *them* as of January 1, 2015.

~~This bill would provide that the task force and each of its individual members are not and may not be held liable for any injury arising out of an act or omission made in connection with these provisions.~~

This bill would require the Department of Transportation to defend and indemnify a member of the task force pursuant to specified provisions of the Government Claims Act in the event that the member invokes the protections provided in those provisions. The bill would require the Bay Area Toll Authority to reimburse the department for costs incurred pursuant to this requirement.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 designated
13 by the Legislative Analyst. Each member shall serve a term of one
14 year *and shall be deemed an officer of the state*. The members
15 shall be selected based upon the 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

1 in terms of complexity and magnitude, and that raise similar design
2 and construction obstacles and technical challenges.

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

7 (c) The Legislative Analyst shall select a chairperson from the
8 task force membership.

9 (d) The chairperson shall receive compensation of twenty
10 thousand dollars (\$20,000). Each of the other members shall
11 receive compensation of sixteen thousand dollars (\$16,000). Each
12 member shall be reimbursed for reasonable expenses. The sum of
13 one hundred forty-nine thousand dollars (\$149,000) is hereby
14 appropriated from the State Highway Account in the State
15 Transportation Fund to the Legislative Analyst, without regard to
16 fiscal year, for the purpose of paying for the compensation and
17 expense reimbursement of the members of the task force. The Bay
18 Area Toll Authority shall reimburse the State Highway Account
19 for all funds expended pursuant to this section.

20 30964.15. As used in this chapter, the following terms have
21 the following meanings:

22 (a) "Task force" means the East Span, San Francisco-Oakland
23 Bay Bridge Safety Review Task Force established in subdivision
24 (a) of Section 30964.10.

25 (b) "East Span" means the eastern span that was constructed as
26 a component of the San Francisco-Oakland Bay Bridge, including
27 the self-anchored suspension bridge and its associated 13
28 foundation piles.

29 30964.20. (a) All task force meetings shall be held in
30 California, except that members may conduct meetings outside
31 the state, or participate via conference call, with the prior consent
32 of the Legislative Analyst.

33 (b) Notwithstanding Section 11033 of the Government Code,
34 members of the task force may be absent from the state on business
35 of the state.

36 (c) Notwithstanding Section 11032 of the Government Code,
37 the Legislative Analyst may approve reasonable travel expenses
38 of members for travel outside the state.

39 (d) The task force is ~~exempt from~~ *subject to* the Bagley-Keene
40 Open Meeting Act (Article 9 (commencing with Section 11120))

1 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
2 Code) and from Article 2.2 (commencing with Section 9027) of
3 Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government
4 Code. *The records of the task force are subject to disclosure in*
5 *accordance with the California Public Records Act (Chapter 3.5*
6 *(commencing with Section 6250) of Division 7 of Title 1 of the*
7 *Government Code).*

8 30964.25. The task force shall assess the anticipated seismic
9 structural performance of the East Span as follows:

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

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

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

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

35 30964.30. (a) The Department of Transportation shall
36 cooperate fully with the task force in the performance of its duties
37 pursuant to this chapter.

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

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

6 30964.35. (a) The task force shall submit a final written report
 7 to the Legislature and the Governor that sets forth the results of
 8 its reviews, including all of the following: *assessment pursuant to*
 9 *Section 30964.25.*

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

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

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

22 30964.40. This chapter shall become inoperative on July 1,
 23 2014, and, as of January 1, 2015, is repealed, unless a later enacted
 24 statute, that becomes operative on or before January 1, 2015,
 25 deletes or extends the dates on which it becomes inoperative and
 26 is repealed.

27 *SEC. 2. The Department of Transportation shall be solely*
 28 *responsible for performing the duties of a public entity pursuant*
 29 *to Article 4 (commencing with Section 825) of Chapter 1 of Part*
 30 *2 of, and Part 7 (commencing with Section 995) of, Division 3.6*
 31 *of Title 1 of the Government Code in the event that a member of*
 32 *the East Span, San Francisco-Oakland Bay Bridge Safety Review*
 33 *Task Force, established in Chapter 4.4 (commencing with Section*
 34 *30964.10) of Division 17 of the Streets and Highways Code*
 35 *pursuant to this act, invokes the protections provided in those*
 36 *provisions of the Government Code. The Bay Area Toll Authority*
 37 *shall reimburse the Department of Transportation for any costs*
 38 *incurred pursuant to this section.*

39 ~~SEC. 2. (a) Notwithstanding any other provision of law,~~
 40 ~~including Division 3.6 (commencing with Section 810) of Title 1~~

1 of the Government Code, neither the East Span, San
2 Francisco-Oakland Bay Bridge Safety Review Task Force, as
3 established in Chapter 4.4 (commencing with Section 30964.10)
4 of Division 17 of the Streets and Highways Code pursuant to this
5 act, nor any member of the task force is or may be held liable for
6 any injury arising out of an act or omission in connection with that
7 chapter.

8 (b) (1) The records and documents of the task force shall be
9 deemed “legislative records” within the meaning of subdivision
10 (e) of Section 9072 of the Government Code, but shall be exempt
11 from disclosure under the Legislative Open Records Act (Article
12 3.5 (commencing with Section 9070) of Chapter 1.5 of Part 1 of
13 Division 2 of Title 2 of the Government Code) except as provided
14 in paragraph (2).

15 (2) After submitting a final written report to the Legislature and
16 the Governor pursuant to Section 30964.35 of the Streets and
17 Highways Code, the task force shall provide copies of the report
18 and all documents used or relied upon by the task force in preparing
19 the final report to the Legislative Analyst. All such task force
20 records in the possession of the Legislative Analyst shall be subject
21 to disclosure in accordance with the Legislative Open Records
22 Act.

23 SEC. 3. Pursuant to paragraph (2) of subdivision (b) of Section
24 3 of Article I of the California Constitution, the Legislature finds
25 and declares all of the following:

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

30 (b) It is critical for the state to obtain a reliable, independent
31 review of the structure as soon as possible, and the substantial
32 public interest to have early access to documents and proceedings
33 related to this review is outweighed by the public interest of
34 ensuring that the structure is safe and can survive a foreseeable
35 earthquake. The final written report of and all documents used or
36 relied upon by the East Span, San Francisco-Oakland Bay Bridge
37 Safety Review Task Force in preparing the final report will become
38 subject to the disclosure requirements of the Legislative Open
39 Records Act once the report is submitted to the Legislature and
40 the Governor.

1 ~~SEC. 4.~~

2 SEC. 3. It is the intent of the Legislature that the work of the
3 East Span, San Francisco-Oakland Bay Bridge Safety Review Task
4 Force established in Chapter 4.4 (commencing with Section
5 30964.10) of Division 17 of the Streets and Highways Code not
6 delay the opening of the new East Span of the San
7 Francisco-Oakland Bay Bridge if the Department of Transportation
8 determines at any time that the bridge is safe and ready to open.

9 SEC. 4. *This act is an urgency statute necessary for the*
10 *immediate preservation of the public peace, health, or safety within*
11 *the meaning of Article IV of the Constitution and shall go into*
12 *immediate effect. The facts constituting the necessity are:*

13 *In order for the state to obtain a reliable, independent review*
14 *of the seismic safety of the East Span of the San Francisco-Oakland*
15 *Bay Bridge as soon as possible, it is necessary that this act take*
16 *effect immediately.*