

AMENDED IN ASSEMBLY JULY 3, 2013

AMENDED IN SENATE APRIL 15, 2013

SENATE BILL

No. 486

**Introduced by Senator DeSaulnier
(Coauthor: Senator Liu)**

February 21, 2013

An act to add Chapter 1.5 (commencing with Section 13985) to Part 4.5 of Division 2 of Title 2 of the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 486, as amended, DeSaulnier. Office of ~~Legal Compliance and Ethics~~. *Strategic Assessment and Accountability*.

Existing law establishes the Transportation Agency in state government with various duties and responsibilities.

This bill would create, within the agency, the Office of Strategic Assessment and Accountability, under the direction of the Deputy Secretary for Strategic Assessment and Accountability, which would be responsible for ensuring the ongoing performance measurement, transparency, and public accountability of the Department of Transportation.

The bill would require the office to issue reports measuring the department's success in meeting performance benchmarks identified by the Secretary of Transportation, in consultation with the Director of Transportation, and to compile and make these reports publicly available, including on the Internet Web site of the agency. The bill would require the secretary, on or before July 1, 2014, and not less than quarterly thereafter, to report to the California Transportation Commission on the department's performance.

~~This bill would create the Office of Legal Compliance and Ethics within the agency and require the director of the office to organize the office with the approval of the audit committee, as defined. The bill would vest the office with responsibility for, among other things, acting to prevent and detect serious breaches of Department of Transportation policy, and fraud, waste, and abuse within the department, including any acts of criminal conduct. The bill would require the office to conduct internal audits of the department, and would provide that the office have access to specified records and personnel, and other material necessary to conduct audits and investigations. The bill would require the director of the office to report quarterly, at a noticed public hearing of the commission, regarding performance of and activities related to investigations and to report annually to the Governor and the Legislature with a summary of his or her investigations. The bill would require the summary to be posted on the agency's Internet Web site.~~

~~The bill would require the director to provide information and evidence relating to criminal acts to the State Auditor's office and appropriate law enforcement officials, and refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies, including the Attorney General.~~

~~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. (a) *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (1) *The Department of Transportation, the largest entity of its*
- 4 *kind in the nation, is responsible for maintaining a complex*
- 5 *transportation system, including more than 50,000 state highway*
- 6 *lane miles, 12,600 bridges, and thousands of related facilities.*
- 7 (2) *The department faces significant challenges in maintaining*
- 8 *this infrastructure, much of which is aging and in need of repair*
- 9 *or rehabilitation.*
- 10 (3) *In order for the department to effectively accomplish this*
- 11 *mission and to meet its strategic goals of improved safety,*
- 12 *enhanced mobility, efficient project delivery, effective stewardship,*
- 13 *and quality services, it must establish public trust, which requires*
- 14 *increased transparency, clear accountability, and effective*
- 15 *performance measurement.*

1 (b) Therefore, it is the intent of the Legislature to establish an
2 office within the Transportation Agency to assist the department
3 in identifying or developing performance measurements that will
4 effectively assess the department's progress toward its strategic
5 goals, and to ensure that this information is provided clearly and
6 transparently to the public on a regular basis.

7 SEC. 2. Chapter 1.5 (commencing with Section 13985) is added
8 to Part 4.5 of Division 2 of Title 2 of the Government Code, to
9 read:

10
11 *CHAPTER 1.5. OFFICE OF STRATEGIC ASSESSMENT AND*
12 *ACCOUNTABILITY*

13
14 13985. For purposes of this chapter, the following terms shall
15 have the following meanings:

- 16 (a) "Agency" means the Transportation Agency.
17 (b) "Commission" means the California Transportation
18 Commission.
19 (c) "Department" means the Department of Transportation.
20 (d) "Director" means the Director of Transportation.
21 (e) "Office" means the Office of Strategic Assessment and
22 Accountability.
23 (f) "Secretary" means the Secretary of the Transportation
24 Agency.

25 13985.1. (a) There is hereby created, within the agency, the
26 Office of Strategic Assessment and Accountability, which shall be
27 responsible for ensuring the ongoing performance measurement,
28 transparency, and public accountability of the department. The
29 office shall be directed by the Deputy Secretary for Strategic
30 Assessment and Accountability, who shall report to the secretary.

31 (b) The secretary, in consultation with the director, shall
32 identify the performance measurement benchmarks on which the
33 office shall report in the following areas:

- 34 (1) Enhancement of public safety.
35 (2) System preservation and rehabilitation.
36 (3) Efficiency and cost-effectiveness of project delivery.
37 (c) The office shall issue reports that measure the department's
38 success in meeting, at a minimum, the performance measurement
39 benchmarks identified pursuant to subdivision (b). The office shall
40 compile and make publicly available, including on the Internet

1 *Web site of the agency, the reports issued during each three-month*
 2 *reporting period.*

3 *(d) On or before July 1, 2014, and not less than quarterly*
 4 *thereafter, the secretary shall report to the commission on the*
 5 *department's performance, based on the reports made by the office*
 6 *pursuant to this section.*

7 SECTION 1. ~~Chapter 1.5 (commencing with Section 13985)~~
 8 ~~is added to Part 4.5 of Division 2 of Title 2 of the Government~~
 9 ~~Code, to read:~~

10

11 ~~CHAPTER 1.5. OFFICE OF LEGAL COMPLIANCE AND ETHICS~~

12

13 ~~13985. (a) There is within the Transportation Agency an Office~~
 14 ~~of Legal Compliance and Ethics.~~

15 ~~(b) As used in this chapter, the following terms shall have the~~
 16 ~~following meanings:~~

17 ~~(1) "Agency" means the Transportation Agency.~~

18 ~~(2) "Audit committee" means a committee comprised of the~~
 19 ~~commission and the secretary.~~

20 ~~(3) "Commission" means the California Transportation~~
 21 ~~Commission.~~

22 ~~(4) "Department" means the Department of Transportation.~~

23 ~~(5) "Director" means the Director of the Office of Legal~~
 24 ~~Compliance and Ethics.~~

25 ~~(6) "Office" means the Office of Legal Compliance and Ethics.~~

26 ~~(7) "Secretary" means the Secretary of the Transportation~~
 27 ~~Agency.~~

28 ~~13985.1. (a) For purposes of administration, the director shall~~
 29 ~~organize the office with the approval of the audit committee.~~

30 ~~(b) The Governor shall appoint the director for a six-year term,~~
 31 ~~subject to advice and consent of the Senate. The director may not~~
 32 ~~be removed from office during that term, except for good cause.~~
 33 ~~The director shall report directly to the audit committee.~~

34 ~~(c) The director shall be responsible for developing a proposed~~
 35 ~~budget for the office in consultation with the department and the~~
 36 ~~audit committee. Funding for the office shall come from savings~~
 37 ~~related to the reduction of staff in the Division of Audits and~~
 38 ~~Investigations within the department due to the division's~~
 39 ~~transferred workload to the office.~~

1 ~~(d) The director and office staff shall perform their duties and~~
2 ~~functions in accordance with generally accepted audit standards~~
3 ~~developed in consultation with the State Auditor.~~

4 ~~(e) In the process of conducting audits and investigations, the~~
5 ~~office shall have access to any and all department records to which~~
6 ~~the Division of Audits and Investigations has access, including~~
7 ~~information determined to be confidential and protected from~~
8 ~~disclosure. The office shall have access to all employees,~~
9 ~~contractors, subcontractors, and third-party books, records,~~
10 ~~documents, and any other material necessary to conduct audits and~~
11 ~~investigations. At the request of the office, copies of any records~~
12 ~~or documents shall be provided.~~

13 ~~13985.2. The office shall be responsible for all of the following~~
14 ~~as they relate to the department:~~

15 ~~(a) Acting to prevent and detect serious breaches of departmental~~
16 ~~policy, fraud, waste, and abuse, including any acts of criminal~~
17 ~~conduct within the department.~~

18 ~~(b) Independently and objectively reviewing and investigating~~
19 ~~conduct described by subdivision (a), including, but not limited~~
20 ~~to, all of the following:~~

21 ~~(1) Criminal activity in the department or committed on~~
22 ~~department property.~~

23 ~~(2) Allegations of wrongdoing by department employees.~~

24 ~~(3) Serious breaches of department policy.~~

25 ~~(4) Significant issues relevant to the effectiveness of the~~
26 ~~department.~~

27 ~~(e) Conducting internal audits of the department to identify~~
28 ~~potential improvements in efficiency and performance.~~

29 ~~(d) Ensuring that members of the commission and department~~
30 ~~employees receive appropriate ethics training by recommending~~
31 ~~appropriate ethics policies and periodically reporting to the~~
32 ~~commission on the status of the department's ethics training~~
33 ~~program.~~

34 ~~(e) Performing other duties assigned to the office by the audit~~
35 ~~committee.~~

36 ~~13985.3. (a) The director shall report quarterly, at a noticed~~
37 ~~public hearing of the commission, regarding performance of and~~
38 ~~activities related to investigations.~~

39 ~~(b) The director shall report annually to the Governor and the~~
40 ~~Legislature with a summary of his or her investigations. The~~

1 summary shall be posted on the agency's Internet Web site and
2 shall otherwise be made available to the public upon its release to
3 the Governor and Legislature. The summary shall include, but
4 need not be limited to, significant problems discovered by the
5 office and whether recommendations of the office relative to
6 investigations have been implemented by the department. The
7 report shall be submitted pursuant to Section 9795 and is not
8 subject to the provisions of Section 10231.5.

9 13985.4. (a) The director shall provide information and
10 evidence relating to criminal acts to the state auditor's office and
11 appropriate law enforcement officials.

12 (b) The director shall refer matters for further civil, criminal,
13 and administrative action to appropriate administrative and
14 prosecutorial agencies, including the Attorney General.