

**ASSEMBLY BILL**

**No. 1987**

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**Introduced by Assembly Member Rodriguez**

February 16, 2016

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An act to amend Section 94 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1987, as introduced, Rodriguez. Department of Transportation: contracts with federally recognized Indian tribes.

Existing law specifies the powers and duties of the Department of Transportation, and authorizes the department to make and enter into contracts that are required for performance of its duties, except that contracts with federally recognized Indian tribes are limited to certain activities and subject to certain conditions.

This bill would delete those limitations and conditions. The bill would authorize the department to make and enter into contracts with the tribal government of a federally recognized Indian tribe in order to carry out its duties, including disbursement of state and federal transportation funds administered by the department that are designated for expenditure on eligible projects under the jurisdiction of the tribe.

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. The Legislature finds and declares that federally
- 2 recognized Indian tribes are important partners in California's
- 3 transportation program, and that tribal governments are eligible

1 applicants for funding and have been successful in competing for  
2 Department of Transportation planning grants and Active  
3 Transportation Program funds. The California Transportation  
4 Commission, in its 2015 Annual Report to the Legislature  
5 submitted pursuant to Section 14536 of the Government Code, as  
6 one of its high priority statutory recommendations, recommended  
7 the lifting of existing statutory restrictions, that preclude the  
8 Department of Transportation from contracting directly with  
9 federally recognized Indian tribes, in order to reduce delays in  
10 allocation of transportation funds.

11 SEC. 2. Section 94 of the Streets and Highways Code is  
12 amended to read:

13 94. (a) The department may make and enter into any contracts  
14 in the manner provided by law that are required for performance  
15 of its duties, ~~provided that contracts with federally recognized~~  
16 ~~Indian tribes shall be limited to activities related to on-reservation~~  
17 ~~or off-reservation cultural resource management and environmental~~  
18 ~~studies and off-reservation traffic impact mitigation projects on~~  
19 ~~or connecting to the state highway system. duties.~~

20 (b) ~~To implement off-reservation traffic impact mitigation~~  
21 ~~contracts with federally recognized Indian tribes, all of the~~  
22 ~~following shall apply:~~

23 (1) ~~Any contract shall provide for the full reimbursement of~~  
24 ~~expenses and costs incurred by the department in the exercise of~~  
25 ~~its contractual responsibilities. Funds for the project shall be placed~~  
26 ~~in an escrow account prior to project development. The contract~~  
27 ~~shall also provide for a limited waiver of sovereign immunity by~~  
28 ~~that Indian tribe for the state for the purpose of enforcing~~  
29 ~~obligations arising from the contracted activity.~~

30 (2) ~~The proposed transportation project shall comply with all~~  
31 ~~applicable state and federal environmental impact and review~~  
32 ~~requirements, including, but not limited to, the California~~  
33 ~~Environmental Quality Act (Division 13 (commencing with Section~~  
34 ~~21000) of the Public Resources Code).~~

35 (3) ~~The department's work on the transportation project under~~  
36 ~~the contract shall not jeopardize or adversely affect the completion~~  
37 ~~of other transportation projects included in the adopted State~~  
38 ~~Transportation Improvement Program.~~

39 (4) ~~The transportation project is included in or consistent with~~  
40 ~~the affected regional transportation plan.~~

1     ***(b) The department may make and enter into contracts with the***  
2     ***tribal government of a federally recognized Indian tribe in order***  
3     ***to carry out its duties, including disbursement of state and federal***  
4     ***transportation funds administered by the department that are***  
5     ***designated for expenditure on eligible projects under the***  
6     ***jurisdiction of the tribe.***

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