

AMENDED IN SENATE JUNE 30, 2016

AMENDED IN ASSEMBLY APRIL 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2796

Introduced by Assembly Members Bloom and Low

February 19, 2016

An act to amend ~~Section 2381~~ *Sections 2380, 2381, and 2382* of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2796, as amended, Bloom. Active Transportation Program.

Existing law creates the Active Transportation Program in the Department of Transportation for the purpose of encouraging increased use of active modes of transportation, such as biking and walking, with specified available funds to be awarded to eligible projects by the California Transportation Commission and regional transportation agencies. Existing law requires the commission to award 50% and 10% of available funds to projects statewide and to projects in small urban and rural regions, respectively, with the remaining 40% of available funds to be awarded to projects by metropolitan planning organizations, with the funds available for distribution by each metropolitan planning organization based on its relative population. *Existing law requires the California Transportation Commission to adopt the 2015 program of projects no later than January 31, 2016, with each subsequent program of projects to be adopted by April 1 of each odd-numbered year, and requires the commission to adopt guidelines for the program.*

This bill ~~would~~ *would, for a program cycle adopted on or after January 1, 2018, require a minimum of 5% of available funds in each*

~~of the 3 distribution categories to be awarded for planning and community engagement for active transportation in disadvantaged communities and a minimum of 10% of all available Active Transportation Program funds to be programmed for planning and noninfrastructure purposes, except as provided. provided, and would require at least 50 percent of that amount to be programmed for planning activities to develop comprehensive active transportation master plans. The bill would also require the guidelines adopted by the commission to authorize an implementing agency to expend its own funds in advance of an allocation of funds to the project by the commission and to subsequently be reimbursed for eligible expenditures if the agency, for a project programmed in a future fiscal year, receives commission approval in the form of a letter of no prejudice or the agency, for a project programmed in the current fiscal year, notifies the commission of its intent to expend its own funds in advance of an allocation, as prescribed.~~

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 all of the
- 2 following:
- 3 (a) Achieving the Active Transportation Program's goal of
- 4 encouraging increased use of active modes of transportation, such
- 5 as biking and walking, requires a comprehensive approach that
- 6 addresses nonmotorized infrastructure needs and that employs
- 7 behavioral change strategies.
- 8 (b) Research supported by the Federal Highway Administration
- 9 has shown that a comprehensive approach that includes, at a
- 10 minimum, what is commonly referred to as the "5 E's" results in
- 11 the greatest mode shift to walking and biking. The 5 E's are:
- 12 (1) Engineering: Creating operational and physical
- 13 improvements to a roadway that reduce speeds and potential
- 14 conflicts with motor vehicle traffic and establish safer and fully
- 15 accessible crossings, walkways, trails, and bikeways.
- 16 (2) Education: Teaching the public, especially children, about
- 17 the broad range of transportation choices and instructing them in
- 18 important lifelong bicycling and walking safety skills.

1 (3) *Enforcement: Partnering with local law enforcement to*
2 *ensure traffic laws related to the safety of people walking and*
3 *biking are obeyed, including laws related to enforcement of speeds,*
4 *yielding to pedestrians in crossings, and proper walking and*
5 *bicycling behaviors, and initiating community enforcement, such*
6 *as crossing guard programs.*

7 (4) *Encouragement: Using events and activities to promote*
8 *walking and bicycling.*

9 (5) *Evaluation: Monitoring and documenting outcomes and*
10 *trends through the collection of data, including the collection of*
11 *data before and after an intervention.*

12 SEC. 2. *Section 2380 of the Streets and Highways Code is*
13 *amended to read:*

14 2380. There is hereby established the Active Transportation
15 Program in the department for the purpose of encouraging increased
16 use of active modes of transportation, such as biking and ~~walking.~~
17 *walking, through planning and construction of walking and biking*
18 *infrastructure and implementation of behavioral change strategies.*
19 It is the intent of the Legislature that the program achieve all of
20 the following goals:

21 (a) Increase the proportion of trips accomplished by biking and
22 walking.

23 (b) Increase safety and mobility for nonmotorized users.

24 (c) Advance the active transportation efforts of regional agencies
25 to achieve greenhouse gas reduction goals as established pursuant
26 to Senate Bill 375 (Chapter 728, Statutes of 2008) and Senate Bill
27 391 (Chapter 585, Statutes of 2009).

28 (d) Enhance public health, including reduction of childhood
29 obesity through the use of programs including, but not limited to,
30 projects eligible for Safe Routes to School Program funding.

31 (e) Ensure that disadvantaged communities fully share in the
32 benefits of the program.

33 (f) Provide a broad spectrum of projects to benefit many types
34 of active transportation users.

35 ~~SECTION 1.~~

36 SEC. 3. *Section 2381 of the Streets and Highways Code is*
37 *amended to read:*

38 2381. (a) The Active Transportation Program shall be funded
39 by state and federal funds from appropriations in the annual Budget
40 Act. Funds for the program shall be appropriated to the department,

1 for allocation by the commission. The amount to be appropriated
2 shall include 100 percent of the federal Transportation Alternative
3 Program funds, except for any federal Recreational Trails Program
4 funds appropriated to the Department of Parks and Recreation;
5 twenty-one million dollars (\$21,000,000) of federal Highway
6 Safety Improvement funds or other federal funds; and State
7 Highway Account funds. Future funding may be augmented if
8 state or federal funds increase, or if other funding sources are
9 identified. Funds appropriated for the Active Transportation
10 Program shall be distributed as follows:

11 (1) Forty percent to metropolitan planning organizations in
12 urban areas with populations greater than 200,000, in proportion
13 to their relative share of population. Funds allocated under this
14 paragraph shall be obligated for eligible projects selected through
15 a competitive process by the metropolitan planning organizations
16 in consultation with the department and the commission and in
17 accordance with guidelines established pursuant to this chapter.

18 (2) Ten percent to small urban and rural regions with populations
19 of 200,000 or less, with projects competitively awarded by the
20 commission to projects in those regions.

21 (3) Fifty percent to projects competitively awarded by the
22 commission on a statewide basis.

23 ~~(b) (1) For each of the funding distribution categories in~~
24 ~~paragraphs (1) to (3), inclusive, of subdivision (a), a minimum of~~
25 ~~5 percent of available funds shall be awarded for planning and~~
26 ~~community engagement for active transportation in disadvantaged~~
27 ~~communities.~~

28 ~~(2)~~

29 *(b) (1) A minimum of 10 percent of the total funding available*
30 *for distribution pursuant to subdivision (a) shall be programmed*
31 *for planning and noninfrastructure activities, including activities*
32 *relating to safe routes to school. Of this amount, a minimum of 50*
33 *percent shall be programmed for planning activities to develop*
34 *comprehensive active transportation master plans, including*
35 *community engagement activities related to the development of a*
36 *master plan. If a project contains both infrastructure activities and*
37 *planning and noninfrastructure activities, only the portion of*
38 *funding used for planning and noninfrastructure activities shall*
39 *contribute to meeting the minimum percentage required by this*
40 *paragraph. Any funding programmed for the purposes of the Active*

1 *Transportation Resource Center shall not contribute to meeting*
2 *the minimum percentage required by this paragraph.*

3 ~~(3)~~

4 (2) If applications submitted in any funding cycle are not
5 sufficient to exceed a minimum percentage required by paragraph
6 ~~(1) or (2)~~, (1), the applicable funds that would otherwise be required
7 to be used for the purpose described in paragraph (1) ~~or (2)~~ may
8 be expended for other authorized purposes.

9 (3) *This subdivision only applies to a program cycle adopted*
10 *on or after January 1, 2018.*

11 (c) For the purpose of paragraph (1) of subdivision (a), the
12 following shall apply in the region served by the multicounty
13 designated transportation planning agency described in Section
14 130004 of the Public Utilities Code:

15 (1) The multicounty designated transportation planning agency
16 shall consult with the county transportation commissions created
17 pursuant to Sections 130050, 130050.1, and 132800 of the Public
18 Utilities Code, the commission, and the department in the
19 development of competitive selection criteria to be adopted by the
20 multicounty designated transportation planning agency, which
21 should include consideration of geographic equity, consistent with
22 program objectives.

23 (2) The multicounty designated transportation planning agency
24 shall place priority on projects that are consistent with plans
25 adopted by local and regional governments within the county where
26 the project is located.

27 (3) The multicounty designated transportation planning agency
28 shall obtain concurrence from the county transportation
29 commissions, adopt the projects selected in a comprehensive
30 program of projects, and make funds available to selected project
31 recipients.

32 (d) The Legislature finds and declares that the program described
33 in this chapter constitutes a highway purpose under Article XIX
34 of the California Constitution and justifies the expenditure of
35 highway funds therefor, and all expenditures of Article XIX funds
36 under this program shall be consistent with Article XIX.

37 *SEC. 4. Section 2382 of the Streets and Highways Code is*
38 *amended to read:*

39 2382. (a) The California Transportation Commission shall
40 develop guidelines and project selection criteria for the Active

1 Transportation Program in consultation with the Active
2 Transportation Program Workgroup, which shall be formed for
3 purposes of providing guidance on matters including, but not
4 limited to, development of and subsequent revisions to program
5 guidelines, schedules and procedures, project selection criteria,
6 performance measures, and program evaluation. The workgroup
7 shall include, but not be limited to, representatives of government
8 agencies and active transportation stakeholder organizations with
9 expertise in pedestrian and bicycle issues, including Safe Routes
10 to School programs.

11 (b) The guidelines shall be the complete and full statement of
12 the policies and criteria that the commission intends to use in
13 selecting projects to be included in the program. The guidelines
14 shall address subjects that include, but are not limited to, project
15 eligibility, application timelines, application rating and ranking
16 criteria, project monitoring, reporting, and transparency, and project
17 performance measurement.

18 (c) The guidelines shall include a process to ensure that no less
19 than 25 percent of overall program funds benefit disadvantaged
20 communities during each program cycle. The guidelines shall
21 establish a program definition for disadvantaged communities that
22 may include, but need not be limited to, the definition in Section
23 39711 of the Health and Safety Code and the definition of
24 low-income schools in paragraph (7) of subdivision (b) of former
25 Section 2333.5, as that section read on January 1, 2013. A project
26 eligible under this subdivision shall clearly demonstrate a benefit
27 to a disadvantaged community or be directly located in a
28 disadvantaged community.

29 (d) *The guidelines shall allow streamlining of project delivery*
30 *by authorizing an implementing agency to do both of the following:*

31 (1) *Seek commission approval of a letter of no prejudice that*
32 *will allow the agency to expend its own funds for a project*
33 *programmed in a future year of the adopted program of projects,*
34 *in advance of allocation of funds to the project by the commission,*
35 *and to be reimbursed at a later time for eligible expenditures.*

36 (2) *Notify the commission of its intent to expend its own funds*
37 *for a project programmed in the current fiscal year of the adopted*
38 *program of projects in advance of an allocation of funds to the*
39 *project by the commission upon transmittal of an allocation request*
40 *and receipt of the request by the commission, and to be reimbursed*

1 *upon approval of the allocation by the commission for eligible*
2 *expenditures occurring after the commission's receipt of the*
3 *request.*

4 ~~(d)~~

5 (e) The California Transportation Commission shall adopt the
6 guidelines and selection criteria for, and define the types of projects
7 eligible to be funded through, the program following at least two
8 public hearings. Projects funded in this program shall be limited
9 to active transportation projects. The guidelines shall ensure that
10 eligible projects meet one or more of the goals set forth in Section
11 2380 and may give increased weight to projects meeting multiple
12 goals.

13 ~~(e)~~

14 (f) In developing the guidelines with regard to project eligibility,
15 the commission shall include, but need not be limited to, the
16 following project types:

17 (1) Development of new bikeways and walkways, or
18 improvements to existing bikeways and walkways, that improve
19 mobility, access, or safety for nonmotorized users.

20 (2) Secure bicycle parking at employment centers, park and ride
21 lots, rail and transit stations, and ferry docks and landings.

22 (3) Bicycle-carrying facilities on public transit, including rail
23 and ferries.

24 (4) Installation of traffic control devices to improve the safety
25 of pedestrians and bicyclists.

26 (5) Elimination of hazardous conditions on existing bikeways
27 and walkways.

28 (6) Maintenance of bikeways and walkways.

29 (7) Recreational trails and trailheads, park projects that facilitate
30 trail linkages or connectivity to nonmotorized corridors, and
31 conversion of abandoned railroad corridors to trails.

32 (8) Safe Routes to School projects that improve the safety of
33 children walking and bicycling to school, ~~in accordance with~~
34 ~~Section 1404 of Public Law 109-59.~~ *including*
35 *noninfrastructure-related activities to encourage walking and*
36 *bicycling to school. These noninfrastructure activities may include,*
37 *but are not limited to, public awareness campaigns and outreach*
38 *to press and community leaders, traffic education and enforcement*
39 *in the vicinity of schools, student sessions on bicycle and pedestrian*

1 *safety, health, and environment, and funding for training,*
2 *volunteers, and managers of safe routes to school programs.*

3 (9) Safe routes to transit projects, which will encourage transit
4 by improving biking and walking routes to mass transportation
5 facilities and schoolbus stops.

6 ~~(10) Educational programs to increase biking and walking, and~~
7 ~~other noninfrastructure investments that demonstrate effectiveness~~
8 ~~in increasing active transportation.~~

9 (10) *Noninfrastructure-related activities to encourage walking*
10 *and bicycling, including, but not limited to, public awareness*
11 *campaigns and outreach to press and community leaders, traffic*
12 *education and enforcement, sessions on bicycle and pedestrian*
13 *safety, health, and environment, and funding for training,*
14 *volunteers, and managers of walking and bicycling encouragement*
15 *and safety programs.*

16 (f)

17 (g) In developing the guidelines with regard to project selection,
18 the commission shall include, but need not be limited to, the
19 following criteria:

20 (1) Demonstrated needs of the applicant.

21 (2) Potential for reducing pedestrian and bicyclist injuries and
22 fatalities.

23 (3) Potential for encouraging increased walking and bicycling,
24 especially among students.

25 (4) Identification of safety hazards for pedestrians and bicyclists.

26 (5) Identification of walking and bicycling routes to and from
27 schools, transit facilities, and community centers.

28 (6) Identification of the local public participation process that
29 culminated in the project proposal, which may include noticed
30 public meetings and consultation with local stakeholders.

31 (7) Benefit to disadvantaged communities. In developing
32 guidelines relative to this paragraph, the commission shall consider,
33 but need not be limited to, the definition of disadvantaged
34 communities as applied pursuant to subdivision (c).

35 (8) Cost-effectiveness, defined as maximizing the impact of the
36 funds provided.

37 (9) The adoption by a city or county applicant of a bicycle
38 transportation plan, pursuant to Section 891.2, a pedestrian plan,
39 a safe routes to school plan, or an overall active transportation
40 plan.

1 (10) Use of California Conservation Corps or qualified
2 community conservation corps, as defined in Section 14507.5 of
3 the Public Resources Code, as partners to undertake or construct
4 applicable projects in accordance with Section 1524 of Public Law
5 112-141.

6 (11) Other factors, such as potential for reducing congestion,
7 improving air quality, reducing greenhouse gas emissions, and
8 increasing and improving connectivity and mobility of
9 nonmotorized users.

10 ~~(g)~~
11 (h) For the use of federal Transportation Alternative Program
12 funds, or other federal funds, commission guidelines shall meet
13 all applicable federal requirements.

14 ~~(h)~~
15 (i) For the use of federal Highway Safety Improvement Program
16 funds for active transportation projects specific to reducing
17 fatalities and serious injuries, the criteria for the selection of
18 projects shall be based on a data-driven process that is aligned
19 with the state's Strategic Highway Safety Plan.

20 ~~(i)~~
21 (j) The guidelines may include incentives intended to maximize
22 the potential for attracting funds other than program funds for
23 eligible projects.

24 ~~(j)~~
25 (k) In reviewing and selecting projects funded by federal funds
26 in the Recreational Trails Program, the commission shall
27 collaborate with the Department of Parks and Recreation to
28 evaluate proposed projects, and to ensure federal requirements are
29 met.

30 ~~(k)~~
31 (l) To ensure that regional agencies charged with allocating
32 funds to projects pursuant to paragraph (1) of subdivision (a) of
33 Section 2381 have sufficient discretion to develop regional
34 guidelines, the commission may adopt separate guidelines for the
35 state and for the regional agencies relative to subdivision-~~(f)~~: (g).