

ASSEMBLY BILL

No. 2651

Introduced by Assembly Member Margett

February 25, 2000

An act to add Section 1463.5 to the Streets & Highways Code, relating to highways.

LEGISLATIVE COUNSEL'S DIGEST

AB 2651, as introduced, Margett. Highways: counties: encroachment permits.

(1) Existing law authorizes a county road commissioner to issue written permits to place, change, or renew an encroachment, among other things, on any county highway. Any permit issued to a public agency or public utility having lawful authority to occupy the highways is required to contain a provision requiring the relocation of the encroachment at the permittee's sole expense if the future improvement of the highway necessitates that relocation. Any person who performs the specified work on a highway without a permit is guilty of a misdemeanor and is liable for all expenses and damages caused thereby.

This bill would prohibit a permit issued under existing law to a public agency from containing a provision that would require that agency to remove or relocate any existing facility for which it has an easement that is superior to the highway easement. If a public agency applying for a permit claims to have a superior easement, the bill would require the road commissioner to issue the permit with a provision exempting the facility from the specified relocation condition and

require the public agency to furnish evidence of that easement within a reasonable time established by the road commissioner. The bill would require the specified exemption to be revoked if the public agency does not provide the specified evidence within the established time. The bill thus would create a state-mandated local program by imposing additional duties on county road commissioners.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 1463.5 is added to the Streets and
2 Highways Code, to read:

3 1463.5. (a) Notwithstanding Section 1463, a permit
4 issued under this chapter to a public agency may not
5 contain a provision that would require that agency to
6 remove or relocate any existing facility for which it has an
7 easement or other right that is superior to the highway
8 easement.

9 (b) If a public agency applying for a permit claims to
10 have a superior easement or other right, the road
11 commissioner shall issue the permit with a provision
12 exempting the facility from the relocation condition
13 imposed under Section 1463 and require the public
14 agency to furnish evidence of that easement within a
15 reasonable time established by the road commissioner. If
16 the public agency does not provide that evidence within



1 the established time, the exemption authorized under
2 this subdivision shall be revoked.

3 SEC. 2. Notwithstanding Section 17610 of the
4 Government Code, if the Commission on State Mandates
5 determines that this act contains costs mandated by the
6 state, reimbursement to local agencies and school
7 districts for those costs shall be made pursuant to Part 7
8 (commencing with Section 17500) of Division 4 of Title
9 2 of the Government Code. If the statewide cost of the
10 claim for reimbursement does not exceed one million
11 dollars (\$1,000,000), reimbursement shall be made from
12 the State Mandates Claims Fund.

