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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 3. EXECUTIVE DEPARTMENT [11000 - 15990.3] (Division 3 added by Stats. 1945, Ch. 111.)

PART 5.3. CALIFORNIA TRANSPORTATION COMMISSION [14500 - 14565] (Part 5.3 added by Stats. 1977, Ch. 1106.)

CHAPTER 6. Transportation Infrastructure: Climate Adaptation Grant Programs [14560 - 14565] (Chapter 6 added by Stats. 2022, Ch. 71, Sec. 3.)

14560. (a) The Legislature finds and declares all of the following:

(1) Sea level rise and other climate-fueled hazards are threatening the state's critical surface transportation infrastructure and surrounding communities.

(2) Large-scale investment will be needed to make the state's transportation assets and its communities resilient to climate hazards. In the San Francisco Bay area alone, the Metropolitan Transportation Commission and Association of Bay Area Governments estimate a nineteen-billion-dollar (\$19,000,000,000) cost to adapt for just two feet of sea level rise.

(3) Since 2015, the state enacted several laws and took administrative action directed to incorporate climate adaptation into transportation investment decisions. Executive Order B-30-15 requires the consideration of climate change in all state investment decisions; Senate Bill 379 (Chapter 608 of the Statutes of 2015) requires local governments to incorporate climate adaptation and resiliency strategies into general plans; and the Road Repair and Accountability Act of 2017 (Chapter 5 of the Statutes of 2017) includes funding for climate change adaptation planning grants.

(4) Critical multistakeholder adaptation planning work has already begun around the state.

(5) The federal Infrastructure Investment and Jobs Act of 2021 (IIJA) (Public Law 117-58) increases California's National Highway Performance Program funds to twelve billion eight hundred million dollars (\$12,800,000,000) over the five-year funding period and newly allows those dollars to be spent on resilience, including an allowance for up to 15 percent of the funds to be spent on protective features anywhere on the federal aid highway system.

(6) The IIJA also creates a new resilience formula program, the Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) program, which provides California with approximately six hundred thirty million dollars (\$630,000,000) over five years. These funds can be used for planning and resilience improvements that protect surface transportation assets.

(b) The intent of this chapter is to provide for the funding of the identification of climate vulnerabilities, the assessment of the risks created by those vulnerabilities, and the planning, development, and implementation of transportation projects that adapt to those risks and support the holistic and comprehensive adaptation to climate change.

(Amended by Stats. 2023, Ch. 131, Sec. 78. (AB 1754) Effective January 1, 2024.)

14561. For purposes of this chapter, the following definitions apply:

(a) "Adaptation Planning Guide" means the document created and updated by the Office of Emergency Services, in coordination with the Office of Planning and Research and the Natural Resources Agency, pursuant to Section 71356 of the Public Resources Code.

(b) "California State Adaptation Strategy" means the state's climate adaptation strategy updated pursuant to Section 71153 of the Public Resources Code.

(c) "Local agency" means any of the following:

- (1) A transportation planning agency described in Section 29532 or 29532.1.
- (2) A county transportation commission established under Section 130050, 130050.1, or 130050.2 of the Public Utilities Code.
- (3) Any other local or regional transportation entity that is designated by statute as a regional transportation agency.
- (4) A joint exercise of powers authority established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, with the consent of a transportation planning agency or a county transportation commission for the jurisdiction in which the transportation project will be developed.
- (5) A local transportation authority created or designated pursuant to Division 12.5 (commencing with Section 131000) or Division 19 (commencing with Section 180000) of the Public Utilities Code.
- (6) The Santa Clara Valley Transportation Authority established pursuant to Part 12 (commencing with Section 100000) of Division 10 of the Public Utilities Code.
- (7) A city, county, or a city and a county.
- (8) A federally recognized Native American tribe.

(d) "Natural infrastructure" has the same meaning as defined in subsection (a) of Section 101 of Title 23 of the United States Code.

(e) "PROTECT program" means the federal Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation program established pursuant to Section 176 of Title 23 of the United States Code.

(f) "Resilience improvement plan" means a resilience improvement plan developed as part of the PROTECT program pursuant to Section 176 of Title 23 of the United States Code.

(g) "Under-resourced community" has the same meaning as defined in Section 71130 of the Public Resources Code.

(h) "Vulnerable community" has the same meaning as the definition of "vulnerable communities" that was adopted by the Integrated Climate Adaptation and Resiliency Program Technical Advisory Council at the council's April 2, 2018, meeting and recorded in the resource guide published by the Office of Planning and Research in July 2018 titled "Defining Vulnerable Communities in the Context of Climate Adaptation."

(Added by Stats. 2022, Ch. 71, Sec. 3. (SB 198) Effective June 30, 2022.)

14562. (a) The Transportation Infrastructure Climate Adaptation Strategy Grant Program is hereby established as a competitive grant program to be awarded and administered by the department to provide funding to local agencies for both of the following purposes:

- (1) To identify transportation-related climate vulnerabilities through the development of climate adaptation plans, including climate action plans, hazard mitigation plans, safety elements of required general plans, and resilience improvement plans.
- (2) Consistent with the principles of the California State Adaptation Strategy, the resilience improvement plan prepared by the department pursuant to Section 14563, and any applicable regional resilience improvement plans, to identify ways to incorporate transportation-related climate adaptation needs into existing transportation plans.

(b) Upon appropriation of funds by the Legislature, including funds allocated to this program from the PROTECT program, the department shall allocate funds for grants to local agencies for any of the following purposes to adapt to the changing climate:

- (1) Climate change adaptation planning that identifies transportation system vulnerabilities and climate-related risks to existing transportation infrastructure, including resilience improvement plans.
- (2) Climate adaptation planning that identifies projects to adapt to specific identified climate risks to existing transportation infrastructure.
- (3) Planning for specific climate projects that can be programmed in existing local or regional transportation plans.

(c) The department shall administer the program in consultation with the Transportation Agency, the commission, the Natural Resources Agency, the Office of Planning and Research, the Integrated Climate Adaptation and Resiliency Program Technical Advisory Council, and other state or local agencies that have adopted climate adaptation plans or strategies. The department shall ensure that, to the extent practical, the program is coordinated with other state-administered programs that fund climate adaptation activities.

(d) The department may allocate funds to local agencies pursuant to subdivision (b) by providing grants for any of the following:

(1) Technical assistance for under-resourced and vulnerable communities.

(2) Specific work within a local agency's climate adaptation plans, climate action plans, hazard mitigation plans, or safety elements of required general plans, that will lead to the identification and development of capital projects that can be programmed as part of local or regional transportation plans.

(3) Development and preparation of planning documents for transportation capital projects, or projects that may use natural infrastructure or provide multiple benefits, that adapt to identified climate vulnerabilities and that can be programmed through an existing local or regional transportation plan.

(e) (1) The department shall develop guidelines for the implementation of this program. The guidelines for this program are exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

(2) The guidelines shall require that each administrative cycle considers climate equity across regions of the state, and considers adaptation strategies with multiple cobenefits that support other state goals and that benefit adaptation efforts, in order to identify, develop, and implement capital improvement projects that meet both of the following requirements:

(A) The project is aligned with state and local strategies for adapting to climate change impacts, including the resilience improvement plan prepared by the department pursuant to Section 14563 and applicable regional resilience improvement plans.

(B) The project is consistent with the principles of the California State Adaptation Strategy, as well as relevant climate action plans, hazard mitigation plans, and safety elements of required general plans.

(3) The guidelines shall require that funding to local agencies is made for the identification of climate vulnerabilities, identification of specific climate risks to transportation infrastructure, and development of projects that correct or adapt to an identified climate risk to transportation infrastructure.

(4) The guidelines shall require that any work funded by this program shall include a multistakeholder process that provides an opportunity for public input from communities potentially impacted by any projects identified or developed as part of the grant.

(f) Nothing in this section shall limit the department from awarding funds to more than one phase of the same project, but no single project shall be awarded all of the funding available under the program.

(Added by Stats. 2022, Ch. 71, Sec. 3. (SB 198) Effective June 30, 2022.)

14563. (a) The State Transportation Infrastructure Climate Adaptation Program is hereby established, to be administered by the department, for purposes of planning, developing, and implementing projects adapting state transportation infrastructure to climate change.

(b) (1) Upon appropriation of funds by the Legislature, including funds allocated to this program from the PROTECT program, the department shall prepare the resilience improvement plan for the state and shall develop a program of its top priority climate adaptation projects identified through its Adaptation Priorities Report process that will result in more resilient transportation infrastructure. The department shall submit projects in this program to the commission for adoption.

(2) In developing the program of projects pursuant to paragraph (1), the department shall consider all of the following:

(A) The department shall consult the 2020 and 2021 adaptation priority reports or any subsequent updates.

(B) The degree of risk for recurring damage or asset failure due to climate threats.

(C) The benefits of the project to preserving or enhancing regional or statewide mobility, economy, goods movement, and safety, and other benefits associated with protecting the asset.

(D) The benefits of the project to preserving or protecting adjacent communities, the environment, and other critical infrastructure.

(E) The degree to which the project incorporates environmental equity, protects vulnerable and under-resourced communities, and provides benefits to underserved communities, consistent with the California State Adaptation Strategy.

(3) In developing the program of projects pursuant to paragraph (1), the department may also consider, as secondary factors, cobenefits including reductions in emissions of greenhouse gases and vehicle miles traveled.

(4) In developing the program of projects pursuant to paragraph (1), the department may prioritize projects with local sponsors or additional sources of funding. The department may consider joint proposals for projects on the state highway system that are also

eligible for funding under the program established pursuant to Section 14564.

(c) No later than April 1 of each year, the department shall provide the Legislature with a list of projects funded pursuant to this section, consistent with Section 9795.

(d) The department may use funds appropriated for this program to fund the development and implementation of projects described in subdivision (b) that are included in the State Highway Operation and Protection Program.

(e) The department may use funds appropriated for this program to develop project initiation documents for the purposes of providing engineering details that document the scope, cost, and schedule for projects described in subdivision (b).

(f) The department shall develop the program of projects pursuant to subdivision (b) in consultation with the Transportation Agency, the commission, the Natural Resources Agency, the Office of Planning and Research, the Integrated Climate Adaptation and Resiliency Program Technical Advisory Council, and other relevant state or local agencies that have adopted climate adaptation plans or strategies. The department shall ensure that, to the extent practical, the program established pursuant to this section is coordinated with other state-administered programs that fund climate adaptation activities.

(g) A state highway system project funded pursuant to this program shall, to the extent practicable, be consistent with the state's asset management plan prepared pursuant to Section 14526.4.

(h) Nothing in this section shall limit the department from programming funds to more than one phase of the same project, but no single project shall be awarded all of the funding available under the program.

(Added by Stats. 2022, Ch. 71, Sec. 3. (SB 198) Effective June 30, 2022.)

14564. (a) The Local Transportation Infrastructure Climate Adaptation Project Program is hereby established, to be administered by the commission, for purposes of developing and implementing projects adapting local transportation infrastructure to climate change.

(b) Upon appropriation of funds by the Legislature, including funds allocated to this program from the PROTECT program, the commission shall allocate funds for grants to local agencies for the development and implementation of projects that are intended to adapt to the changing climate and that meet all of the following criteria:

(1) The project increases climate resiliency and protects at-risk transportation infrastructure using California's climate projections, as specified in Planning and Investing for a Resilient California: A Guidebook for State Agencies.

(2) The project is consistent with state, regional, or local climate adaptation reports, plans, and the Adaptation Planning Guide, including meeting the climate resiliency goals of the region where the project is located.

(3) The local agency conducts outreach to under-resourced and vulnerable communities related to the proposed project, consistent with the California State Adaptation Strategy.

(4) The project incorporates environmental equity, protects vulnerable and under-resourced communities, and provides meaningful benefits to underserved communities, consistent with the California State Adaptation Strategy.

(c) (1) The commission shall develop guidelines for the implementation of this program. The guidelines for this program are exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

(2) The guidelines shall consider project prioritization based on all of the following factors:

(A) The degree of risk for recurring damage or asset failure due to climate threats.

(B) The benefits of the project to preserving or enhancing regional or statewide mobility, economy, goods movement, and safety, and other benefits associated with protecting the asset.

(C) The benefits of the project to preserving or protecting adjacent communities, the environment, and other critical infrastructure.

(D) The degree to which the project incorporates environmental equity, protects vulnerable and under-resourced communities, and provides benefits to underserved communities, consistent with the California State Adaptation Strategy.

(3) The guidelines may also consider, as secondary project prioritization criteria, cobenefits such as reductions in greenhouse gas emissions and vehicle miles traveled.

(4) The guidelines shall require that each administrative cycle considers climate equity across regions of the state, and considers adaptation strategies that benefit adaptation efforts, in order to develop and implement capital improvement projects that meet both of the following requirements:

(A) The project is aligned with state and local strategies for adapting to climate change impacts.

(B) The project is consistent with the principles of the California State Adaptation Strategy, as well as relevant climate action plans, hazard mitigation plans, and safety elements of required general plans.

(5) The guidelines shall require that funding to local agencies is made for the development and implementation of transportation capital projects that correct or adapt to an identified climate risk to transportation infrastructure.

(6) The guidelines shall authorize, in addition to conventional transportation infrastructure projects, transportation-focused capital projects funded through this program to use natural infrastructure or provide multiple benefits if the project is consistent with applicable climate adaptation plans and necessary to increase the resilience of transportation infrastructure.

(7) The guidelines shall require that any projects funded by this program be developed with a multistakeholder process that provides an opportunity for public input from communities potentially impacted by the project.

(d) An application submitted by a local agency for funding through the grant program shall include at a minimum all of the following:

(1) An explanation of how the proposed transportation project adapts existing infrastructure to an identified climate risk.

(2) An explanation of how the project incorporates the use of California's climate projections as specified in the Adaptation Planning Guide and other relevant state guidance documents.

(3) Identification of strategies and actions that demonstrate that the proposed project is consistent with applicable state, regional, or local climate adaptation plans or reports.

(4) An explanation of the outreach that the local agency conducted to under-resourced and vulnerable communities related to the proposed project.

(5) Identification of measures to improve equity and protect under-resourced and vulnerable communities in actions to meet the region's climate resiliency goals.

(6) Demonstration that the project is consistent with an applicable sustainable communities strategy adopted as part of a regional transportation plan pursuant to Section 65080.

(e) An application may be submitted for a project that is also eligible for funding under Section 14563 if it meets the requirements of Section 14563 and is considered for programming by the department subject to the requirements of that section.

(f) The commission shall administer the program in consultation with the Transportation Agency, the department, the Natural Resources Agency, the Office of Planning and Research, the Integrated Climate Adaptation and Resiliency Program Technical Advisory Council, and other state or local agencies that have adopted climate assessments adaptation plans or strategies. The commission shall ensure that, to the extent practical, the program is coordinated with other state-administered programs that fund climate adaptation activities.

(g) Nothing in this section shall limit the commission from awarding funds to more than one phase of the same project, but no single project shall be awarded all of the funding available under the program

(Added by Stats. 2022, Ch. 71, Sec. 3. (SB 198) Effective June 30, 2022.)

14565. (a) (1) A local agency that receives an allocation of funds pursuant to Section 14562 shall submit a report, in the form and manner prescribed by the department, to the department by April 1 of the fiscal year following the receipt of those funds, and annually thereafter until those funds are expended. The report shall contain the status of the planning receiving funding from the grant program. The department shall make a report submitted pursuant to this paragraph publicly available on its internet website.

(2) A local agency that receives an allocation of funds pursuant to Section 14564 shall submit a report, in the form and manner prescribed by the commission, to the commission by April 1 of the fiscal year following the receipt of those funds, and annually thereafter until those funds are expended. The report shall contain the status of the project receiving funding from the grant program. The commission shall make a report submitted pursuant to this paragraph publicly available on its internet website.

(b) (1) For purposes of Sections 14562 and 14564, the department and commission, as appropriate, shall maintain records of the following information and shall make that information publicly available on its internet website, as applicable:

(A) The application status for each grant applicant.

(B) The information described in subdivision (a) for each recipient of grant program funds.

(2) The department or commission, as applicable, may request additional information, as needed, from a grant applicant or recipient to meet other applicable reporting or audit requirements.

(c) No later than July 1, 2028, the department and each local agency that receives an allocation of grant funds pursuant to this chapter shall submit a five-year performance report on the use of those funds to the commission. In the report, the department or the local agency, as applicable, shall evaluate the actions it took in support of its proposed uses of those funds, as specified in the grant application.

(d) The commission and the department, as applicable, may monitor expenditures and activities of a grant recipient, as deemed necessary, to ensure compliance with requirements of this chapter.

(e) (1) The department shall post a report on its internet website by April 1 of the fiscal year following its receipt of funds pursuant to this chapter, and annually thereafter, until those funds are expended. The report shall contain the status of the department's project initiation documents and projects receiving funding under this chapter.

(2) No later than July 1, 2028, the department shall post on its internet website a five-year performance report on its use of funds for its project initiation documents and projects receiving funding under this chapter.

(Added by Stats. 2022, Ch. 71, Sec. 3. (SB 198) Effective June 30, 2022.)