



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

**AB-857 State highways: property leases.** (2017-2018)

SHARE THIS:  

Date Published: 10/16/2017 02:00 PM

**Assembly Bill No. 857**

**CHAPTER 822**

An act to amend Section 104.16 of the Streets and Highways Code, relating to state highways.

[ Approved by Governor October 15, 2017. Filed with Secretary of State October 15, 2017. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 857, Ting. State highways: property leases.

Existing law provides that the Department of Transportation has full possession and control of the state highway system, including associated property. Existing law authorizes the department to lease certain property, including the area above or below a state highway, and certain property held for future highway purposes, to public agencies under specified terms and conditions, including specific provisions governing leases of airspace and other property in the City and County of San Francisco for purposes of an emergency shelter or feeding program, at a lease cost of \$1 per month and payment of an administrative fee not to exceed \$500 per year.

This bill would revise the provisions governing leases of department property in the City and County of San Francisco under these financial terms to require that a lease be offered on a right of first refusal by the department to the city and county or a political subdivision of the city and county and would also authorize leases of property for park, recreational, or open-space purposes, subject to certain additional terms and conditions, including a requirement for the department to lease property located within a priority development area, as defined, to the city and county for up to 10 parcels, at a specified below market value lease amount, and a requirement, applicable to all leases, for the lessee to be responsible for all associated maintenance costs. The bill would provide for the lease to authorize the lessee to subsidize its maintenance costs through a limited revenue generation model, with any revenues generated above the maintenance costs to be shared with the state, as specified. The bill would require the city and county or a political subdivision of the city and county, in consultation with the department, to follow all applicable health, environmental, safety, design, and engineering standards.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 104.16 of the Streets and Highways Code is amended to read:

**104.16.** (a) Any airspace under a freeway, or real property acquired for highway purposes, in the City and County of San Francisco, that is not excess property, shall be offered for lease on a right of first refusal by the department to the city and county or a political subdivision of the city and county, for purposes of an emergency shelter or feeding program, or for park, recreational, or open-space purposes.

(b) (1) The lease amount for emergency shelter or feeding programs shall be for one dollar (\$1) per month.

(2) For up to 10 parcels, the lease amount for park, recreational, or open-space purposes shall be 30 percent of the fair market lease value of the applicable parcel.

(3) Any property leased pursuant to paragraph (2) shall be located within a priority development area.

(4) The lease amount may be paid in advance of the term covered in order to reduce the administrative costs associated with the payment of the monthly rental fee. The lease shall require the payment of an administrative fee not to exceed five hundred dollars (\$500) per year, unless the department determines that a higher administrative fee is necessary, for the department's cost of administering the lease.

(c) In the case of a lease for park, recreational, or open-space purposes, in order to offset any potential loss of revenue, the department may include parcels leased pursuant to this section in a mitigation bank to be used to advance future development projects or highway projects within the city and county.

(d) The city and county or a political subdivision of the city and county, in consultation with the department, shall follow all applicable health, environmental, safety, design, and engineering standards.

(e) Any lease shall require the lessee to fund and construct all associated infrastructure, and to accept full responsibility for liability related to those uses. The lease shall require the lessee to be responsible for all maintenance costs associated with those uses, except as otherwise provided in the lease. The lease shall authorize the lessee to subsidize its associated maintenance costs through generation of revenue under a limited revenue generation model, such as from limited parking facilities located on the leased property, if any revenues generated that exceed the associated maintenance costs are shared with the state, at a rate not less than 50 percent of those excess revenues, with that amount to be deposited in the State Highway Account.

(f) As used in this section, "priority development area" means an area identified in a sustainable communities strategy developed pursuant to Section 65080 of the Government Code.

(g) The Legislature finds and declares that the lease of real property pursuant to this section serves a public purpose.