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**AB-2629 Department of Transportation: airspace under state highways: leases.** (2017-2018)

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**Assembly Bill No. 2629**

**CHAPTER 436**

An act to amend Section 104.17 of the Streets and Highways Code, relating to transportation.

[ Approved by Governor September 17, 2018. Filed with Secretary of State September 17, 2018. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2629, Eggman. Department of Transportation: airspace under state highways: leases.

(1) Existing law establishes the Department of Transportation and provides that the department has full possession and control of all state highways and all associated property. Existing law authorizes the department to provide information regarding, and to lease, airspace under the interchange of Route 4 and Route 5 in San Joaquin County and on the northeast corner of Route 101 and De La Vina Street in the County of Santa Barbara, to a city, county, or other political subdivision or another state agency for emergency shelter or feeding program purposes, as specified, but only if there is no buyer.

This bill would delete the condition that the airspace may only be leased to a city, county, or other political subdivision or another state agency for emergency shelter or feeding program purposes if there is no buyer.

(2) Existing law provides that, upon the declaration of a shelter crisis, as defined, a political subdivision, as defined, is immune from liability for ordinary negligence in the provision of emergency housing, as specified, and specifies that this limitation of liability applies only to conditions, acts, or omissions directly related to, and that would not occur but for, the provision of emergency housing.

This bill would require that, notwithstanding this provision, a structure that is constructed or modified pursuant to the bill is required to comply with referenced minimum standards in the 2016 California Building Code or the 2016 California Residential Code or as otherwise specified.

(3) Existing law requires that a lease executed pursuant to these provisions for airspace under the interchange of Route 4 and Route 5 in San Joaquin County shall provide for the rescission of existing leases of this airspace between the department and the City of Stockton and for the refunding of any rent paid pursuant to those leases for periods commencing on or after January 1, 1988.

This bill would delete the requirement that the rescission of existing leases of airspace pursuant to these provisions between the department and the City of Stockton provide for the refunding of any rent paid pursuant to those leases for periods commencing on or after January 1, 1988.

(4) Existing law authorizes the department, upon the request of the City of Stockton, to renew the lease executed pursuant to these provisions for the described airspace in San Joaquin County for the period requested by the city, but not to exceed 10 years, and authorizes, subsequent to that renewal, to agree to not more than 2 additional renewals of not more than 10 years each.

This bill would delete the conditions that the renewal not exceed 10 years and that, subsequent to that renewal, the department may agree to not more than 2 additional renewals of not more than 10 years each.

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

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

**SECTION 1.** Section 104.17 of the Streets and Highways Code is amended to read:

**104.17.** (a) The department may provide information regarding, and may lease, airspace under the interchange of Route 4 and Route 5 in San Joaquin County and on the northeast corner of Route 101 and De La Vina Street in the County of Santa Barbara, to a city, county, or other political subdivision or another state agency for emergency shelter or feeding program purposes. The lease shall be for one dollar (\$1) per month. 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.

(b) Notwithstanding Chapter 7.8 (commencing with Section 8698) of Division 1 of Title 2 of the Government Code, any structure that is constructed or modified under this section shall comply with the minimum standards provided in Appendix N of the 2016 California Building Code or Appendix X of the 2016 California Residential Code, or any future standards adopted by the Department of Housing and Community Development related to emergency housing or emergency housing facilities.

(c) A lease executed pursuant to this section shall also provide for the cost of administering the lease.

(d) The administrative fee shall not exceed five hundred dollars (\$500) per year unless the department determines that a higher administrative fee is necessary.

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

(f) A lease executed pursuant to subdivision (a) for airspace under the interchange of Route 4 and Route 5 in San Joaquin County shall provide for the rescission of existing leases of this airspace between the department and the City of Stockton. Upon the request of the City of Stockton, the department may renew the lease executed pursuant to subdivision (a) for the airspace described in this subdivision for the period requested by the city.