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SB-1291 Federal Statewide Transportation Improvement Program: submissions. (2019-2020)

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Senate Bill No. 1291

CHAPTER 113

An act to amend Section 65074 of the Government Code, and to amend Sections 182.6 and 182.7 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 2020. Filed with Secretary of State September 18, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1291, Committee on Transportation. Federal Statewide Transportation Improvement Program: submissions.

Existing law provides for the allocation of certain federal transportation funds apportioned to the state between state purposes administered by the Department of Transportation and local and regional purposes administered by various regional agencies. Existing law requires each metropolitan planning organization and transportation planning agency, not later than October 1 of each even-numbered year, to submit its Federal Transportation Improvement Program to the department for incorporation into the Federal Statewide Transportation Improvement Program, which existing law requires the department to submit to the United States Secretary of Transportation by not later than December 1 of each even-numbered year.

This bill would provide that a metropolitan planning organization or transportation planning agency is not required to submit a Federal Transportation Improvement Program to the department, and the department is not required to submit the Federal Statewide Transportation Improvement Program to the secretary, for 2020.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 65074 of the Government Code is amended to read:

65074. (a) The department shall prepare, in cooperation with the metropolitan planning agencies, a Federal Statewide Transportation Improvement Program in accordance with Section 135(g) of Title 23 of the United States Code. The Federal Statewide Transportation Improvement Program shall be submitted by the department to the United States Secretary of Transportation by not later than December 1 of each even-numbered year.

(b) Notwithstanding subdivision (a), the department shall not be required to submit a Federal Statewide Transportation Improvement Program to the United States Secretary of Transportation for 2020.

SEC. 2. Section 182.6 of the Streets and Highways Code is amended to read:

182.6. (a) Notwithstanding Sections 182 and 182.5, Sections 188, 188.8, and 825 do not apply to the expenditure of an amount of federal funds equal to the amount of federal funds apportioned to the state pursuant to that portion of Section 104(b)(3), Section 157(a) and (c), and Section 160(d) of Title 23 of the United States Code that is allocated within the state subject to Section 133(d)(3) of that code. These funds shall be known as the regional surface transportation program funds. The department, the transportation planning agencies, the county transportation commissions, and the metropolitan planning organizations may do all things necessary in their jurisdictions to secure and expend those federal funds in accordance with the intent of federal law and this chapter.

(b) The regional surface transportation program funds shall be apportioned by the department to the metropolitan planning organizations designated pursuant to Section 134 of Title 23 of the United States Code and, in areas where none has been designated, to the transportation planning agency designated pursuant to Section 29532 of the Government Code. The funds shall be apportioned in the manner and in accordance with the formula set forth in Section 133(d)(3) of Title 23 of the United States Code, except that the apportionment shall be among all areas of the state. Funds apportioned under this subdivision shall remain available for three federal fiscal years, including the federal fiscal year apportioned.

(c) (1) Where county transportation commissions have been created by the County Transportation Commissions Act (Division 12 (commencing with Section 130000) of the Public Utilities Code), all regional surface transportation program funds shall be further apportioned by the metropolitan planning organization to the county transportation commission on the basis of relative population.

(2) In the Monterey Bay region, all regional surface transportation program funds shall be further apportioned, on the basis of relative population, by the metropolitan planning organization to the regional transportation planning agencies designated under subdivision (b) of Section 29532 of the Government Code.

(d) The applicable metropolitan planning organization, county transportation commission, or transportation planning agency shall annually apportion the regional surface transportation program funds for projects in each county, as follows:

(1) An amount equal to the amount apportioned under the federal-aid urban program in federal fiscal year 1990–91 adjusted for population. The adjustment for population shall be based on the population determined in the 1990 federal census except that no county shall be apportioned less than 110 percent of the apportionment received in the 1990–91 fiscal year. These funds shall be apportioned for projects implemented by cities, counties, and other transportation agencies on a fair and equitable basis based upon an annually updated five-year average of allocations. Projects shall be nominated by cities, counties, transit operators, and other public transportation agencies through a process that directly involves local government representatives.

(2) An amount not less than 110 percent of the amount that the county was apportioned under the federal-aid secondary program in federal fiscal year 1990–91, for use by that county.

(e) (1) The department shall notify each metropolitan planning organization, county transportation commission, and transportation planning agency receiving an apportionment under this section, as soon as possible each year, of the amount of obligation authority estimated to be available for program purposes.

(2) The metropolitan planning organization and transportation planning agency, in cooperation with the department, congestion management agencies, cities, counties, and affected transit operators, shall select and program projects in conformance with federal law. The metropolitan planning organization and transportation planning agency shall submit its Federal Transportation Improvement Program prepared pursuant to Section 134 of Title 23 of the United States Code to the department for incorporation into the Federal Statewide Transportation Improvement Program not later than October 1 of each even-numbered year. The Federal Transportation Improvement Programs shall, at a minimum, include the years covered by the Federal Statewide Transportation Improvement Program.

(3) Notwithstanding paragraph (2), a metropolitan planning organization or transportation planning agency shall not be required to submit a Federal Transportation Improvement Program to the department for 2020.

(f) Not later than July 1 of each year, the metropolitan planning organizations, and the regional transportation planning agencies, receiving obligational authority under this article shall notify the department of the projected amount of obligational authority that each entity intends to use during the remainder of the current federal fiscal year, including, but not limited to, a list of projects that will be obligated by the end of the current federal fiscal year. Any federal obligational authority that will not be used shall be redistributed by the department to other projects in a manner that ensures that the state will continue to compete for and receive increased obligational authority during the federal redistribution of obligational authority. If the department does not have sufficient federal apportionments to fully use excess obligational authority, the metropolitan planning organizations or regional transportation planning agencies relinquishing obligational authority shall make sufficient apportionments available to the department to fund alternate projects, when practical, within the geographical areas relinquishing the obligational authority. Notwithstanding this subdivision, the department shall comply with Section 133(d)(3) and (f) of Title 23 of the United States Code.

(g) A regional transportation planning agency that is not designated as, or represented by, a metropolitan planning organization with an urbanized area population greater than 200,000 pursuant to the 1990 federal census may exchange its annual apportionment received pursuant to this section on a dollar-for-dollar basis for nonfederal State Highway Account funds, which shall be apportioned in accordance with subdivision (d).

(h) (1) If a regional transportation planning agency described in subdivision (g) does not elect to exchange its annual apportionment, a county located within the boundaries of that regional transportation planning agency may elect to exchange its annual apportionment received pursuant to paragraph (2) of subdivision (d) for nonfederal State Highway Account funds.

(2) A county not included in a regional transportation planning agency described in subdivision (g), whose apportionment pursuant to paragraph (2) of subdivision (d) was less than 1 percent of the total amount apportioned to all counties in the state, may exchange its apportionment for nonfederal State Highway Account funds. If the apportionment to the county was more than $3\frac{1}{2}$ percent of the total apportioned to all counties in the state, it may exchange that portion of its apportionment in excess of $3\frac{1}{2}$ percent for nonfederal State Highway Account funds. Exchange funds received by a county pursuant to this section may be used for any transportation purpose.

(i) The department shall be responsible for closely monitoring the use of federal transportation funds, including regional surface transportation program funds to ensure full and timely use. The department shall prepare a quarterly report for submission to the commission regarding the progress in use of all federal transportation funds. The department shall notify the commission and the appropriate implementation agency whenever there is a failure to use federal funds within the three-year apportionment period established under subdivision (b).

(j) The department shall provide written notice to implementing agencies when there is one year remaining within the three-year apportionment period established under subdivision (b) of this section.

(k) Within six months of the date of notification required under subdivision (j), the implementing agency shall provide to the department a plan to obligate funds that includes, but need not be limited to, a list of projects and milestones.

(l) If the implementing agency has not met the milestones established in the implementation plan required under subdivision (k), before the end of the three-year apportionment period established under subdivision (b), the commission shall redirect those funds for use on other transportation projects in the state.

(m) Notwithstanding subdivisions (g) and (h), regional surface transportation program funds available under this section exchanged pursuant to Section 182.8 may be loaned to and expended by the department. The department shall repay from the State Highway Account to the Traffic Congestion Relief Fund all funds received as federal reimbursements for funds exchanged under Section 182.8 as they are received from the Federal Highway Administration, except that those repayments are not required to be made more frequently than on a quarterly basis.

(n) Before determining the amount for local subvention required by this section, the department shall first deduct the amount authorized by the Legislature for increased department oversight of the federal subvented program.

SEC. 3. Section 182.7 of the Streets and Highways Code is amended to read:

182.7. (a) Notwithstanding Sections 182 and 182.5, Sections 188, 188.8, and 825 do not apply to the expenditure of an amount of federal funds equal to the amount of federal funds apportioned to the state pursuant to Section 104(b)(4) of Title 23 of the United States Code. These funds shall be known as the congestion mitigation and air quality improvement program funds and shall be expended in accordance with Section 149 of Title 23 of the United States Code, including the requirements relating to particulate matter less than 2.5 micrometers in diameter in Section 149(g) and (k) of that title. The department, the transportation planning agencies, and the metropolitan planning organizations may do all things necessary in their jurisdictions to secure and expend those federal funds in accordance with the intent of federal law and this chapter.

(b) The congestion mitigation and air quality improvement program funds shall be apportioned by the department to the metropolitan planning organizations designated pursuant to Section 134 of Title 23 of the United States Code and, in areas where none has been designated, to the transportation planning agency established by Section 29532 or 29532.1 of the Government Code. All funds apportioned to the state pursuant to Section 104(b)(4) of Title 23 of the United States Code shall be apportioned to metropolitan planning organizations and transportation planning agencies responsible for air quality conformity determinations in federally designated air quality nonattainment and maintenance areas within the state as follows:

(1) The department shall apportion these funds in the ratio that the weighted nonattainment and maintenance population in each federally designated area within the state bears to the total of all weighted nonattainment and maintenance area populations in the state.

(2) Subject to paragraph (3), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in the state that is a nonattainment area or maintenance area as described in Section 149(b) of Title 23 of the United States Code for ozone or carbon monoxide by the following factors:

(A) A factor of 1.0, if, at the time of apportionment, the area is a maintenance area.

(B) A factor of 1.0, if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under Subpart 2 of Part D of Title I of the Clean Air Act (42 U.S.C. Sec. 7511 et seq.).

(C) A factor of 1.1, if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under Subpart 2 of Part D of Title I of the Clean Air Act (42 U.S.C. Sec. 7511 et seq.).

(D) A factor of 1.2, if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under Subpart 2 of Part D of Title I of the Clean Air Act (42 U.S.C. Sec. 7511 et seq.).

(E) A factor of 1.3, if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under Subpart 2 of Part D of Title I of the Clean Air Act (42 U.S.C. Sec. 7511 et seq.).

(F) A factor of 1.4, if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under Subpart 2 of Part D of Title I of the Clean Air Act (42 U.S.C. Sec. 7511 et seq.).

(G) A factor of 1.0, if, at the time of the apportionment, the area is not a nonattainment or maintenance area for ozone, but is classified under Subpart 3 of Part D of Title I of the Clean Air Act (42 U.S.C. Sec. 7512 et seq.) as a nonattainment area for carbon monoxide.

(H) A factor of 1.0, if, at the time of the apportionment, an area is designated as a nonattainment area for ozone under Subpart 1 of Part D of Title I of the Clean Air Act (42 U.S.C. Sec. 7512 et seq.).

(3) If, in addition to being designated as a nonattainment or maintenance area for ozone as described in paragraph (2), any county within the area is also classified under Subpart 3 of Part D of Title I of the Clean Air Act (42 U.S.C. Sec. 7512 et seq.) as a nonattainment or maintenance area described in paragraph (2) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under subparagraphs (A) to (F), inclusive, or subparagraph (H) of paragraph (2), shall be further multiplied by a factor of 1.2.

(4) Funds allocated under this subdivision shall remain available for three federal fiscal years, including the federal fiscal year apportioned.

(c) (1) Notwithstanding subdivision (b), where county transportation commissions have been created by the County Transportation Commissions Act (Division 12 (commencing with Section 130000) of the Public Utilities Code), all congestion mitigation and air quality improvement program funds shall be further apportioned by the metropolitan planning organization to the county transportation commission on the basis of relative population within the federally designated air quality nonattainment and maintenance areas after first apportioning to the nonattainment and maintenance areas in the manner and in accordance with the formula set forth in subdivision (b).

(2) In the Monterey Bay region, all congestion mitigation and air quality improvement program funds shall be further apportioned, on the basis of relative population, by the metropolitan planning organization to the regional transportation planning agencies designated under subdivision (b) of Section 29532 of the Government Code.

(d) (1) The department shall notify each metropolitan planning organization, transportation planning agency, and county transportation commission receiving an apportionment under this section, as soon as possible each year, of the amount of obligational authority estimated to be available for expenditure from the federal apportionment. The metropolitan planning organizations, transportation planning agencies, and county transportation commissions, in cooperation with the department, congestion management agencies, cities and counties, and affected transit operators, shall select and program projects in conformance with federal law. Each metropolitan planning organization and transportation planning agency shall, not later than October 1 of each even-numbered year, submit its Federal Transportation Improvement Program prepared pursuant to Section 134 of Title 23 of the United States Code to the department for incorporation into the Federal Statewide Transportation Improvement Program. Federal Transportation Improvement Programs shall, at a minimum, include the years covered by the Federal Statewide Transportation Improvement Program.

(2) Notwithstanding paragraph (1), a metropolitan planning organization or transportation planning agency shall not be required to submit a Federal Transportation Improvement Program to the department for 2020.

(e) Not later than July 1 of each year, the metropolitan planning organizations and the regional transportation planning agencies receiving obligational authority under this section, shall notify the department of the projected amount of obligational authority that

each entity intends to use during the remainder of the current federal fiscal year, including, but not limited to, a list of projects that will use the obligational authority. Any federal obligational authority that will not be used shall be redistributed by the department to other projects in a manner that ensures that the state will continue to compete for and receive increased obligational authority during the federal redistribution of obligational authority. If the department does not have sufficient federal apportionments to fully use excess obligational authority, the metropolitan planning organization or transportation planning agency relinquishing obligational authority shall make sufficient funding available to the department to fund alternate projects, when practical, within the geographical areas relinquishing the obligational authority. Notwithstanding this subdivision, the department shall comply with Section 133(f) of Title 23 of the United States Code.

(f) The department shall be responsible for closely monitoring the use of federal transportation funds, including congestion management and air quality improvement program funds to ensure full and timely use. The department shall prepare a quarterly report for submission to the commission regarding the progress in use of all federal transportation funds. The department shall notify the commission and the appropriate implementation agency whenever there is a failure to use federal funds within the three-year apportionment period established under paragraph (4) of subdivision (b).

(g) The department shall provide written notice to implementing agencies when there is one year remaining within the three-year apportionment period established under paragraph (4) of subdivision (b).

(h) Within six months of the date of notification required under subdivision (g), the implementing agency shall provide to the department a plan to obligate funds that includes, but need not be limited to, a list of projects and milestones.

(i) If the implementing agency has not met the milestones established in the implementation plan required under subdivision (h), before the end of the three-year apportionment period established under paragraph (4) of subdivision (b), the commission shall redirect those funds for use on other transportation projects in the state.

(j) Congestion mitigation and air quality improvement program funds available under this section exchanged pursuant to Section 182.8 may be loaned to and expended by the department. The department shall repay from the State Highway Account to the Traffic Congestion Relief Fund all funds received as federal reimbursements for funds exchanged under Section 182.8 as they are received from the Federal Highway Administration, except that those repayments are not required to be made more frequently than on a quarterly basis.

(k) Before determining the amount for local subvention required by this section, the department shall first deduct the amount authorized by the Legislature for increased department oversight of the federal subvented program.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to changes in federal law, many metropolitan planning organizations and transportation planning agencies are unable to comply with existing law, which requires those entities to submit Federal Transportation Improvement Programs to the Department of Transportation for 2020.