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AB-512 State highways: relinquishment: infrastructural barriers. (2021-2022)

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Assembly Bill No. 512

CHAPTER 940

An act to add Section 73.4 to the Streets and Highways Code, relating to state highways.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 512, Holden. State highways: relinquishment: infrastructural barriers.

Existing law vests the Department of Transportation with full possession and control of all state highways. Existing law describes the authorized routes in the state highway system and establishes a process for adoption of a highway on an authorized route by the California Transportation Commission. Existing law also provides for the commission to relinquish to local agencies state highway segments that have been deleted from the state highway system by legislative enactment or have been superseded by relocation, and in certain other cases.

This bill would authorize the commission to relinquish a portion of a state highway that constitutes an infrastructural barrier, as defined, to a county or city, if the department and the applicable county or city have entered into an agreement providing for the relinquishment of the portion of the state highway. The bill would prohibit a relinquishment under this provision unless certain conditions are met, including, among others, that the commission determines the relinquishment is in the best interest of the state, the purposes of the relinquishment are restorative economic and social justice, the infrastructural barrier is removed or retrofit in a manner that enhances community connectivity, and the city or county determines that the construction of the infrastructural barrier had a significant impact on a disadvantaged community, as specified.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Section 54235 of the Government Code affirms that "highway and other state activities have contributed to the severe shortage of [low- and moderate-income] housing" and states that the Legislature intends to "preserve, upgrade and expand" housing for low- and moderate-income people in the state.

(b) Housing options should be made available to low- and moderate- income households.

(c) Due to the unjust, racist, and destructive nature of the some of the actions taken by the state to construct many portions of the state highway system, the state should provide a unique relinquishment solution to repair communities damaged from the construction of freeways and other facilities on the state highway system.

SEC. 2. Section 73.4 is added to the Streets and Highways Code, to read:

73.4. (a) For purposes of this section, "infrastructural barrier" means a state highway for which high speeds, grade separation, or other design factors displaced residences or create an obstacle to connectivity, including any of the following:

- (1) Obstacles to walking, biking, or mobility.
- (2) Diminished access to destinations across the infrastructural barrier.
- (3) Barriers to the economic development of the surrounding neighborhood.

(b) In addition to relinquishments pursuant to Section 73, the commission may also, for relinquishments initiated under this section on or after January 1, 2023, relinquish a portion of a state highway that constitutes an infrastructural barrier to a county or city if the department and the applicable county or city have entered into an agreement providing for the relinquishment of the portion of the state highway.

(c) A relinquishment pursuant to subdivision (b) may only occur if all of the following conditions are met:

- (1) The portion of the state highway is located within the territorial limits of the city or county entering into the agreement.
- (2) The commission determines the relinquishment is in the best interest of the state.
- (3) The commission holds a public hearing on the proposed relinquishment to solicit input from the public.
- (4) The purposes of the relinquishment are for restorative economic and social justice, including, but not limited to, transit-oriented development, affordable housing for low- and moderate- income people, green space, or active transportation infrastructure.
- (5) The infrastructural barrier shall be removed or retrofit in a manner that enhances community connectivity and that is sensitive to the context of the surrounding community. The retrofit of the infrastructural barrier may include, but is not limited to, placing a freeway cap on the infrastructural barrier or replacing the infrastructural barrier with an at-grade arterial roadway.
- (6) Any land made available by the removal or retrofit of the infrastructural barrier shall be redeveloped for the purposes specified in paragraph (4) with a focus on implementing improvements that will benefit the populations impacted by or previously displaced by the infrastructural barrier.
- (7) A part of the relinquished portion of the state highway shall be used for transportation purposes to ensure the continuity of traffic flow.
- (8) The relinquishment is consistent with federal law and regulations and does not require reimbursement to the federal government of any federal funding.
- (9) The relinquishment is consistent with Article XIX of the California Constitution.
- (10) The city or county determines that the construction of the infrastructural barrier had a significant impact on a disadvantaged community. An impact is significant if all of the following criteria are met:
 - (A) There was a disproportionate impact on the disadvantaged community, including, but not limited to, creating obstacles to mobility or economic development or exposing the disadvantaged community to high levels of particulate matter, noise pollution, or other public health and safety risks.
 - (B) A causal connection exists between the construction of the infrastructural barrier and the disproportionate impact.
 - (C) The construction lacks a substantial legitimate justification for the disproportionate impact and a reasonable nondiscriminatory alternative could not be identified.

(d) A relinquishment under this section shall become effective on the date following the county recorder's recordation of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(e) On and after the effective date of the relinquishment pursuant to this section, all of the following shall occur:

- (1) The relinquished portion of state highway shall cease to be a state highway.
- (2) The relinquished portion of state highway shall be ineligible for future adoption under Section 81.

(f) This section does not determine project elements, housing density, or setback limits, or place land use restrictions on portions of land not being relinquished pursuant to this section.