

**Introduced by Senator Wiener**

January 10, 2019

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An act to amend Sections 14526.4, 14526.5, and 14526.6 of, and to add Sections 14007.3 and 14526.8 to, the Government Code, and to amend Section 167 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 127, as introduced, Wiener. Transportation funding: active transportation: complete streets.

(1) Existing law establishes the Active Transportation Program in the Department of Transportation for the purpose of encouraging increased use of active modes of transportation, such as biking and walking, and declares the intent of the Legislature that the program achieve specific goals, including, among other things, increasing the proportion of trips accomplished by biking and walking and the safety and mobility for nonmotorized users.

This bill would establish a Division of Active Transportation within the department and require that an undersecretary of the Transportation Agency be assigned to give attention to active transportation program matters to guide progress toward meeting the department's active transportation program goals and objectives. The bill would require the California Transportation Commission to give high priority to increasing safety for pedestrians and bicyclists and to the implementation of bicycle and pedestrian facilities.

(2) Existing law provides that the Department of Transportation has full possession and control over the highways of the state and is responsible for preparing the State Highway Operation and Protection Program for the expenditure of transportation funds for major capital

improvements that are necessary to preserve and protect the state highway system.

Existing law also creates the California Transportation Commission, with specified powers and duties relative to the programming of transportation capital improvement projects and the allocation of state transportation funds for state transportation improvement projects. Existing law requires the department, in consultation with the commission, to prepare an asset management plan to guide selection of projects for the State Highway Operation and Protection Program consistent with any applicable state and federal requirements. Existing law requires the commission, in connection with the asset management plan, to adopt targets and performance measures reflecting state transportation goals and objectives.

This bill would require the asset management plan to prescribe a process for community input and complete streets implementation to prioritize safety and accessibility for pedestrians, bicyclists, and transit users on all State Highway Operation and Protection Program projects, as specified. The bill would require that projects starting in 2020 meet specified requirements set forth as part of the State Highway Operation and Protection Program.

The bill would require the commission, in connection with the asset management plan, to adopt performance measures that include conditions of bicycle and pedestrian facilities, accessibility and safety for pedestrians, bicyclists, and transit users, and vehicle miles traveled on the state highway system. The bill would require that the State Highway Operation and Protection Program projects include capital improvements relative to accessibility for pedestrians, bicyclists, and transit users. The bill would require that each project include in its budget the cost of pedestrian and bicycle facilities. The bill would require that the plain language performance report developed by the department, in consultation with the commission, include a description of pedestrian and bicycle facilities on each project, including the number, extent, and cost of the elements relative to the overall project.

The bill would require the department, by January 1, 2021, when undertaking any capital improvement project on a state highway or a local street crossing a state highway that is funded through the State Highway Operation and Protection Program, to include new pedestrian and bicycle facilities, or improve existing facilities, as part of the project, consistent with specified requirements. The bill would require the department to establish a project development team for each project,

as specified. The bill would require, until January 1, 2021, or by which time the department can demonstrate that it has met these requirements, the department to use 3% of State Highway Operation and Protection Program funds from the Road Maintenance and Rehabilitation Account for bicycle and pedestrian facilities.

This bill would also require that funds in the State Highway Account in the State Transportation Fund be programmed, budgeted, as specified, and expended to maximize the use of federal funds for accessibility improvements for all users of the transportation system, as specified, and that safety improvements prioritize reducing fatalities and severe injuries for vulnerable road users, and not increase vehicle miles traveled.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the  
2 following:
- 3 (a) Walking and bicycling trips have doubled between 2000 and  
4 2012 and constitute nearly 20 percent of all trips in California,  
5 based on the National Household Travel Survey.
- 6 (b) People walking and bicycling are killed or seriously injured  
7 in California at much higher rates than car drivers or passengers  
8 based on the percentage of trips and relative miles traveled, due  
9 to a lack of safe walking and bicycling infrastructure on major  
10 roadways and highways in communities across the state.
- 11 (c) The Department of Transportation (Caltrans) adopted Deputy  
12 Directive 64 in 2008 and updated it in 2014 to require the  
13 department to consider complete streets in all phases of design,  
14 delivery, construction, and rehabilitation on all projects.
- 15 (d) Caltrans adopted Strategic Management Plan 2015-2020,  
16 which includes goals to triple bicycling and double walking by  
17 2020, which cannot be achieved without significant improvements  
18 to infrastructure and safety on major roadways and highways.
- 19 (e) The plan also includes goals to include “complete streets”  
20 improvements on an increasing number of projects between 2015  
21 and 2020.
- 22 SEC. 2. Section 14007.3 is added to the Government Code, to  
23 read:

1 14007.3. (a) There is in the Department of Transportation the  
2 Division of Active Transportation, which is responsible for the  
3 development of projects and programs that increase bicycle and  
4 pedestrian safety and trips statewide, and the review of all state  
5 highway capital improvement projects for inclusion of bicycle and  
6 pedestrian facilities where feasible.

7 (b) An undersecretary of the agency shall be assigned to give  
8 attention to active transportation matters to guide progress toward  
9 meeting the department's active transportation goals and objectives.

10 (c) The commission shall give high priority to increasing safety  
11 for pedestrians and bicyclists and to the implementation of bicycle  
12 and pedestrian facilities.

13 SEC. 3. Section 14526.4 of the Government Code is amended  
14 to read:

15 14526.4. (a) The department, in consultation with the  
16 commission, shall prepare a robust asset management plan to guide  
17 selection of projects for the ~~state highway operation and protection~~  
18 ~~program~~ *State Highway Operation and Protection Program*  
19 required by Section 14526.5. The asset management plan shall be  
20 consistent with any applicable state and federal ~~requirements.~~  
21 *requirements, and shall prescribe a process for community input*  
22 *and "complete streets" implementation to prioritize safety and*  
23 *accessibility for pedestrians, bicyclists, and transit users on all*  
24 *projects in the program, where applicable, pursuant to Section*  
25 *14526.7.*

26 (b) The department may prepare the asset management plan in  
27 phases, with the first phase to be implemented with the 2016 state  
28 highway operation and protection program, and the complete asset  
29 management plan to be prepared no later than the 2020 ~~state~~  
30 ~~highway operation and protection program.~~ *State Highway*  
31 *Operation and Protection Program. Projects proposed starting*  
32 *in the 2020 State Highway Operation and Protection Program*  
33 *shall meet the requirements set forth in Sections 14526.5 and*  
34 *14526.8.*

35 (c) In connection with the asset management plan, the  
36 commission shall do both of the following:

37 (1) Adopt targets and performance measures reflecting state  
38 transportation goals and objectives. *Performance measures shall*  
39 *include conditions of bicycle and pedestrian facilities, accessibility*  
40 *and safety for pedestrians, bicyclists, and transit users, and vehicle*

1 *miles traveled on the state highway system. Automobile delay shall*  
2 *not be used as a performance measure.*

3 (2) Review and approve the asset management plan, including  
4 the final version of the first phase and the complete plan prepared  
5 by the department pursuant to subdivision (b).

6 (d) As used in this section, “asset management plan” means a  
7 document assessing the ~~health and condition~~ *and performance* of  
8 the state highway system with which the department is able to  
9 determine the most effective way to apply the state’s limited  
10 resources.

11 SEC. 4. Section 14526.5 of the Government Code is amended  
12 to read:

13 14526.5. (a) Based on the asset management plan prepared  
14 and approved pursuant to Section 14526.4, the department shall  
15 ~~prepare a state highway operation and protection program~~ *State*  
16 *Highway Operation and Protection Program* for the expenditure  
17 of transportation funds for major capital improvements that are  
18 necessary to preserve and protect the state highway system. Projects  
19 included in the program shall be limited to improvements relative  
20 to the maintenance, safety, operation, ~~and rehabilitation~~  
21 *rehabilitation, and accessibility for pedestrians, bicyclists, and*  
22 *transit users* of state highways and bridges that do not add a new  
23 traffic lane to the ~~system.~~ *system, including auxiliary lanes,*  
24 *merging lanes, and toll lanes.*

25 (b) The program shall include projects that are expected to be  
26 advertised prior to July 1 of the year following submission of the  
27 program, but which have not yet been funded. The program shall  
28 include those projects for which construction is to begin within  
29 four fiscal years, starting July 1 of the year following the year the  
30 program is submitted.

31 (c) (1) The department, at a minimum, shall specify, for each  
32 project in the ~~state highway operation and protection program;~~  
33 *State Highway Operation and Protection Program*, the capital and  
34 support budget, as applicable, *including the cost of pedestrian and*  
35 *bicycle facilities*, for each of the following project phases:

36 (A) Project approval and environmental documents, support  
37 only.

38 (B) Plans, specifications, and estimates, support only.

39 (C) Rights-of-way.

40 (D) Construction.

- 1 (2) The department shall specify, for each project in the ~~state~~  
2 ~~highway operation and protection program~~, *State Highway*  
3 *Operation and Protection Program*, a projected delivery date for  
4 each of the following components:
- 5 (A) Project approval and environmental document completion.
  - 6 (B) Plans, specifications, and estimates completion.
  - 7 (C) Right-of-way certification.
  - 8 (D) Start of construction.
- 9 (d) The department shall submit its proposed program to the  
10 commission not later than January 31 of each even-numbered year.  
11 Prior to submitting its proposed program, the department shall  
12 make a draft of its proposed program available to transportation  
13 planning agencies for review and comment and shall include the  
14 comments in its submittal to the commission. The department shall  
15 provide the commission with detailed information for all  
16 programmed projects on cost, scope, schedule, and performance  
17 metrics as determined by the commission.
- 18 (e) The commission shall review the proposed program relative  
19 to its overall adequacy, consistency with the asset management  
20 plan prepared and approved pursuant to Section 14526.4 and  
21 funding priorities established in Section 167 of the Streets and  
22 Highways Code, the level of annual funding needed to implement  
23 the program, and the impact of those expenditures on the ~~state~~  
24 ~~transportation improvement program~~. *State Transportation*  
25 *Improvement Program*. The commission shall adopt the program  
26 and submit it to the Legislature and the Governor not later than  
27 April 1 of each even-numbered year. The commission may decline  
28 to adopt the program if the commission determines that the program  
29 is not sufficiently consistent with the asset management plan  
30 prepared and approved pursuant to Section 14526.4.
- 31 (f) As part of the commission's review of the program required  
32 pursuant to subdivision (a), the commission shall hold at least one  
33 hearing in northern California and one hearing in southern  
34 California regarding the proposed program.
- 35 (g) ~~On or after July 1, 2017,~~ *In order* to provide sufficient and  
36 transparent oversight of the department's capital outlay support  
37 resources composed of both state staff and contractors, the  
38 commission shall be required to allocate the department's capital  
39 outlay support resources by project phase, including  
40 preconstruction. Through this action, the commission will provide

1 public transparency for the department's budget estimates,  
2 increasing assurance that the annual budget forecast is reasonable.  
3 The commission shall develop guidelines, in consultation with the  
4 department, to implement this subdivision. Guidelines adopted by  
5 the commission to implement this subdivision shall be exempt  
6 from the Administrative Procedure Act (Chapter 3.5 (commencing  
7 with Section 11340) of Part 1).

8 (h) ~~Beginning July 1, 2017, for~~ For a project that experiences  
9 increases in capital or support costs above the amounts in the  
10 commission's allocation pursuant to subdivision (g), the  
11 commission shall establish a threshold for requiring a supplemental  
12 project allocation. The commission's guidelines adopted pursuant  
13 to subdivision (g) shall also establish the threshold that the  
14 commission determines is necessary to ensure efficiency and may  
15 provide exceptions as necessary so that projects are not  
16 unnecessarily delayed.

17 (i) The department, for each project requiring a supplemental  
18 project allocation pursuant to subdivision (h), shall submit a request  
19 to the commission for its approval.

20 (j) Expenditures for these projects shall not be subject to  
21 Sections 188 and 188.8 of the Streets and Highways Code.

22 SEC. 5. Section 14526.6 of the Government Code is amended  
23 to read:

24 14526.6. (a) The department shall report to the commission  
25 quarterly, for projects which complete construction in the previous  
26 quarter, on the information outlined in subdivision (b) for all major  
27 ~~state highway operation and protection program~~ *State Highway*  
28 *Operation and Protection Program* projects, as defined by the  
29 commission pursuant to subdivision (f) of Section 167 of the Streets  
30 and Highways Code.

31 (b) The department shall report to the commission on the  
32 approved capital and support budgets compared to expenditures  
33 at contract construction acceptance for all projects included in  
34 subdivision (a).

35 (c) The department shall develop, in consultation with the  
36 commission, a plain language performance report to increase  
37 transparency and accountability of the ~~state highway operation~~  
38 ~~and protection program~~. *State Highway Operation and Protection*  
39 *Program. The plain language performance report shall include a*  
40 *description of pedestrian and bicycle facilities on each project,*

1 *including the number, extent, and cost of the elements relative to*  
2 *the overall project.*

3 SEC. 6. Section 14526.8 is added to the Government Code, to  
4 read:

5 14526.8. (a) By January 1, 2021, except as provided in  
6 subdivisions (b) and (c), the department, when undertaking any  
7 capital improvement project on a state highway or a local street  
8 crossing a state highway that is funded through the State Highway  
9 Operation and Protection Program (SHOPP), shall include new  
10 pedestrian and bicycle facilities, or improve existing facilities, as  
11 part of the project, as follows:

12 (1) In urbanized areas, transit priority areas, or priority access  
13 areas, and on streets and highways with average daily traffic of  
14 10,000 vehicles or more and a speed limit over 25 miles per hour,  
15 well-lit facilities for bicyclists and pedestrians shall be provided  
16 that are physically separated from motor vehicles. Bicycle facilities  
17 shall be designed based on Highway Design Manual guidance for  
18 selection of bicycle facilities pursuant to Section 14033. In  
19 addition, signals or other facilities shall be provided to enable  
20 bicyclists and pedestrians to safely cross the street or highway.

21 (2) On streets or highways other than those described in  
22 paragraph (1), facilities for pedestrians and bicyclists shall be  
23 provided when feasible, and reduction of vehicle traffic lanes and  
24 implementation of traffic calming improvements shall be  
25 considered.

26 (3) The department shall establish a project development team  
27 for each project, including representatives from the local  
28 transportation agency, local bicycle and pedestrian advisory  
29 committee, community-based organizations, residents of  
30 low-income disadvantaged communities, and other local  
31 stakeholders impacted by the project. The project development  
32 team shall provide input to the department on identifying bicycle  
33 and pedestrian facility and transit access needs on the project,  
34 including improvements identified in a local bicycle, pedestrian,  
35 active transportation, or safe routes to school plan adopted by the  
36 local jurisdiction.

37 (b) This section does not apply to capital improvement projects  
38 on street and highway facilities that are closed, by law, to use by  
39 pedestrians, bicyclists, and other nonmotorized users.



1 (c) The department may exempt a capital improvement project  
2 from the requirements of this section through documentation in  
3 writing by the department's district director and supported by data,  
4 after at least one public hearing in the jurisdiction most impacted  
5 by the project, to demonstrate any of the following:

6 (1) The cost of accommodating the needs of the particular user  
7 group for the transportation project would be excessively  
8 disproportionate to the current or future need or probable use of  
9 the facilities by the particular user group.

10 (2) There is a demonstrated absence of future need by the  
11 particular user group, as determined by factors, including current  
12 and future land use, current and projected user volumes, population  
13 density, and crash data.

14 (3) The adverse impacts of accommodating the needs of the  
15 particular user group significantly outweigh the benefits.

16 (d) Until January 1, 2021, or by which time the department can  
17 demonstrate that it has met the requirements of subdivision (a), 3  
18 percent of SHOPP funds from the Road Maintenance and  
19 Rehabilitation Account shall be used only for bicycle and  
20 pedestrian facilities.

21 (e) (1) As used in this section, "capital improvement project"  
22 includes, but is not limited to, a reconstruction, rehabilitation, or  
23 operational improvement project.

24 (2) As used in this section "priority access area" means an area  
25 within one-half mile of a public school, community college,  
26 university, hospital or healthcare center, senior center, employment  
27 center, park, or grocery store.

28 (3) As used in this section, "transit priority area" means an area  
29 within one-half mile of an existing major transit stop, or a planned  
30 transit stop, if the planned stop is scheduled to be completed within  
31 the planning horizon included in the interregional transportation  
32 improvement program submitted pursuant to Section 14526 or a  
33 regional transportation improvement program adopted and  
34 submitted pursuant to Section 14527.

35 SEC. 7. Section 167 of the Streets and Highways Code is  
36 amended to read:

37 167. (a) Funds in the State Highway Account in the State  
38 Transportation Fund shall be programmed, budgeted subject to  
39 Section 163, and expended to maximize the use of federal funds  
40 and shall be based on the following sequence of priorities:

1 (1) *Accessibility improvements for all users of the transportation*  
2 *system that improve the efficiency of moving people within existing*  
3 *roadways, reduce vehicle miles traveled, and promote public*  
4 *health.*

5 ~~(1)~~

6 (2) Operation, maintenance, and rehabilitation of the state  
7 highway system.

8 ~~(2)~~

9 (3) Safety improvements where physical changes, other than  
10 adding additional lanes, would reduce fatalities and the number  
11 and severity of injuries. *Safety improvements shall prioritize*  
12 *reducing fatalities and severe injuries for vulnerable road users,*  
13 *and shall not increase vehicle miles traveled.*

14 ~~(3) Transportation capital improvements that expand capacity~~  
15 ~~or reduce congestion, or do both.~~

16 (4) Environmental enhancement and mitigation programs.

17 (5) *Transportation capital improvements that expand capacity.*

18 (b) With respect to the funds in the State Highway Account, in  
19 the Public Transportation Account, and in the Passenger Rail Bond  
20 Fund, the proposed budget shall be organized on a program basis.  
21 The proposed budget shall list the proposed expenditures for the  
22 transportation program under the following program elements:

23 (1) Administration.

24 (2) Program development.

25 (3) Maintenance.

26 (4) State highway operation and protection.

27 (5) Local assistance.

28 (6) Interregional improvements.

29 (7) Regional improvements.

30 (8) Environmental enhancement and mitigation programs.

31 (c) State operations expenditure amounts of the department for  
32 interregional and regional transportation improvement projects  
33 shall be listed as required by subdivision (b) of Section 14529 of  
34 the Government Code, but those amounts other than those for the  
35 acquisition of rights-of-way, construction, and construction support  
36 shall not be subject to allocation by the commission.

37 (d) To align the annual budget with the adopted state  
38 transportation improvement program, the department may submit  
39 to the Department of Finance revised capital outlay support and  
40 capital outlay budget estimates as part of its May Revision process.

1 Budget proposals related to these changes shall be provided to the  
2 Legislature no later than May 1.

3 (e) The budget shall not include specific appropriations for  
4 specific transportation improvement projects, and the Legislature  
5 shall not enact legislation containing specific individual  
6 transportation projects.

7 (f) The basis for defining major and minor capital outlay projects  
8 shall be established by the commission.

9 (g) The Legislative Analyst shall prepare an analysis of the  
10 proposed expenditures for each program element as a part of the  
11 budget analysis.

12 (h) The department shall submit to the Legislative Analyst, and  
13 the Senate Committee on Budget and Fiscal Review and the  
14 Assembly Committee on Budget, on an annual basis, supplemental  
15 information to substantiate the department's proposed capital outlay  
16 support budget. The information shall be provided no later than  
17 May 1 of each year, and may be provided at an earlier date. The  
18 information shall include, but not be limited to, the following:

19 (1) A list of projects for which the department will perform  
20 capital outlay support work in the budget year. For each project,  
21 the department shall include:

22 (A) The planned project support budget for support of  
23 environmental, design, right-of-way, and construction phases.

24 (B) The planned capital costs, including construction capital  
25 costs and right-of-way capital costs.

26 (C) The estimated or actual construction start date and  
27 completion date.

28 (D) The name and year of the state transportation program in  
29 which the project is programmed, if applicable.

30 (E) Total prior fiscal year expenditures for capital outlay support.

31 (F) The number of full-time equivalent positions requested to  
32 perform support of environmental, design, right-of-way, and  
33 construction work in the fiscal year of the budget request.

34 (G) Milestones of project work by phases that are planned to  
35 be completed in the fiscal year of the budget request.

36 (H) The ratio of support to capital costs based on current  
37 programming.

38 (2) The capital-to-support ratio for all projects completed in the  
39 prior fiscal year in each program in each district.

1 (3) The current total number of authorized and vacant positions  
2 in the capital outlay support program in headquarters and in each  
3 district.

4 (4) A five-year projection of the department's staffing needs to  
5 support the state's transportation capital programs and any  
6 workload performed by the department related to federal or local  
7 funding for highway capital projects.

8 (5) The average cost of a personnel-year equivalent in each  
9 district based on the department's existing contracts for capital  
10 outlay support work performed by a private company under  
11 contract with the department. For each average cost, the department  
12 shall provide a description of what factors are included in that cost.

13 (6) The average cost of a state staff personnel-year in the capital  
14 outlay support program in each district and in headquarters. The  
15 cost shall include the salary and wages, benefits, program overhead,  
16 administrative overhead, and other associated costs. The  
17 department shall provide a description of each component of the  
18 average cost.

19 (7) A summary of expected capital outlay support workload for  
20 the budget year that includes the following:

21 (A) The total full-time equivalents requested for each type of  
22 the following activities: environmental, design, right-of-way, and  
23 construction.

24 (B) The total full-time equivalents requested for each type of  
25 project, including, but not limited to, the state transportation  
26 improvement program, ~~the state highway operation and protection~~  
27 ~~program~~, *State Highway Operation and Protection Program*, bond  
28 programs, regional and local agency partnership workload, and  
29 any other program.

30 (8) The total number of projects with requested resources, as  
31 well as the number of projects in which the department is limited  
32 to an oversight role.

33 (9) The number of milestones scheduled, including  
34 environmental, design, right-of-way, and construction deliverables,  
35 as well as the number of projects expected to begin construction  
36 and reach completion.

37 (10) A summary for the most recently completed fiscal year for  
38 the following:

1 (A) Full-time equivalents and related funding expended,  
2 including support of environmental, design, right-of-way, and  
3 construction activities.

4 (B) Approved and filled positions as of the end of the fiscal  
5 year.

