

Date of Hearing: April 16, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 2629 (Eggman) – As Amended March 19, 2018

**SUBJECT:** Department of Transportation: airspace under state highways: leases

**SUMMARY:** Eliminates the renewal restrictions for an existing airspace lease between the California Department of Transportation (Caltrans) and the City of Stockton in San Joaquin County under the interchange of State Route (SR) 4 and Interstate 5 (I-5) for an emergency shelter or feeding program.

**EXISTING LAW:**

- 1) Authorizes Caltrans to lease to San Joaquin County, or a city or other political subdivision, the airspace under the interchange of SR 4 and I-5 for an emergency shelter or feeding program at a rate of \$1 per month.
- 2) Enables the City of Stockton to renew its airspace lease at the SR 4 and I-5 interchange in 1988 for ten years, and authorizes two subsequent ten-year renewals following that first renewal.
- 3) Grants Caltrans broad authority to acquire by eminent domain any property necessary for state highway purposes.
- 4) Authorizes Caltrans to lease to public agencies or private entities the use of areas above or below state highways. Generally, leases to private entities have to be made on the basis of competitive bids and at fair market value.
- 5) Authorizes Caltrans to make land or airspace available, with or without charge, to a public entity to accommodate needed passenger, commuter, or high-speed rail, magnetic levitation systems, and highway and non-highway mass transit facilities.
- 6) Authorizes Caltrans to lease to San Francisco, or a political subdivision, and to Santa Barbara County, or a political subdivision, any airspace under a freeway or property for an emergency shelter or feeding program at a rate of \$1 per month.

**FISCAL EFFECT:** Unknown

**COMMENTS:** The authority for Caltrans to enter into airspace leases is in existing law, but Caltrans is generally obligated to secure fair market value lease rates for airspace under freeways or other available parcels, based on the estimated highest and best use of the property. Notable exceptions to the fair market value requirement authorizes Caltrans to lease unused parcels of land below market rates to various cities and counties for the purposes of emergency shelters and feeding programs. In each of these exceptions, the Legislature has found that submarket rate leases for these particular uses serves a public purpose.

One specific exception in current law to Caltrans' requirement to lease airspace at fair market value involves the airspace under the SR 4/I-5 interchange in Stockton. Currently, there are two non-profits operating in this space under a lease entered into in the 1980s – the Stockton Shelter

for the Homeless and St. Mary's Dining Room. While similar authorizations in statute include no renewal restrictions, existing law requires these entities to renew the airspace lease with Caltrans every ten years, effectively preventing the non-profits from making solid long-term plans and securing funding for future capital projects.

According to the author, the demand for the services provided by these entities is expected to continue to grow, and a long-term solution is needed for them to continue providing these essential services for the homeless population in San Joaquin County. This bill eliminates the renewal restrictions for this specific airspace lease, enabling Caltrans to enter into a longer-term lease with these non-profits and providing the necessary stability for the entities to secure capital funding.

*Related legislation:* AB 1898 (Mathis), requires Caltrans to lease at a discount to a city or county any airspace under a freeway or other real property in a disadvantaged community for various purposes. AB 1898 is set to be heard by this committee on April 16, 2018.

AB 3139 (Bonta), authorizes Caltrans to lease airspace under a freeway or other real property to the City of Oakland for emergency shelter or feeding programs. AB 3139 is set to be heard by this committee on April 16, 2018.

*Prior legislation:* AB 857 (Ting), Chapter 822, Statutes of 2017, directs Caltrans to lease to San Francisco up to 10 parcels of airspace under a freeway at 30% of fair market lease value for park, recreational, or open-space purposes.

SB 120 (Kopp), Chapter 750, Statutes of 1993, authorizes Caltrans to lease to San Francisco any airspace under a freeway or property for an emergency shelter or feeding program at a rate of \$1 per month.

SB 1441 (Johnston), Chapter 143, Statutes of 1992, enabled the City of Stockton to renew its airspace lease at the SR 4 and I-5 interchange for ten years, and authorized two subsequent ten-year renewals following that first renewal.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

City of Stockton  
St. Mary's Dining Room  
Stockton Shelter for the Homeless

### **Opposition**

None on file

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