

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON TRANSPORTATION

Lori D. Wilson, Chair

AB 2535 (Bonta) – As Amended April 9, 2024

SUBJECT: Trade Corridor Enhancement Program

SUMMARY: Prohibits funding projects under the Trade Corridor Enhancement Program (TCEP) that increase the physical footprint of a highway in a community that experiences disproportionate burdens from diesel particulate matter, and establishes the goal of 50% of program funds awarded in 2030 will be for zero-emission freight infrastructure.

Specifically, **this bill:**

- 1) Prohibits the California Transportation Commission (CTC) from programming funding under TCEP to a project that expands the physical footprint of a highway in a community that ranks in the highest quintile in CalEnviroScreen for disproportionate burdens from diesel particulate matter.
- 2) Requires an applicant agency to complete the applicable requirements of the California Environmental Quality Act (CEQA) and the federal National Environmental Policy Act (NEPA) within six months of the commission adopting the program of projects.
- 3) Requires CTC to only program projects that result in a net decrease in diesel particulate emissions in communities that rank in the highest quintile in CalEnviroScreen for disproportionate burdens from diesel particulate matter on or after January 1, 2030, if absolute levels of diesel particulate matter in a community that ranks in the highest quintile in CalEnviroScreen for disproportionate burdens from diesel particulate matter do not decline by 50% below 2024 levels by 2030, as determined by the Office of Environmental Health Hazard Assessment.
- 4) Requires CTC to establish a target to program 15% of TCEP funds in the next programming cycle that begins on or after January 1, 2025 for investments in zero-emission freight infrastructure that are well-qualified for funding based on the goals of TCEP.
 - a) Requires CTC to increase the targets in each cycle, with a goal of 50% of the funds programmed in 2030 being awarded to investments in zero-emission freight infrastructure that are well-qualified for funding based on goals of the program.

EXISTING LAW:

- 1) Establishes the Trade Corridor Enhancement Account (TCEA) for allocation under the California Transportation Commission for infrastructure improvements on federally designated Trade Corridors of National and Regional Significance, on the Primary Freight Network, and along other corridors that have a high volume of freight movement. (Streets and Highways Code (SHC) Section 2192)
- 2) Establishes eligible projects for funding under the TCEA as the following:

- a) Highway improvements to more efficiently accommodate the movement of freight and to relieve traffic congestion along major trade or goods movement corridors.
 - b) Freight rail system improvements to enhance the ability to move goods from seaports, land ports of entry, and airports to warehousing and distribution centers.
 - c) Truck corridor improvements, including dedicated truck facilities or truck toll facilities, including the mitigation of the emissions from trucks
 - d) Border access improvements that enhance goods movement between California and Mexico
 - e) Surface transportation, local road, and connector road improvements to effectively facilitate the movement of goods
 - f) Projects that employ advanced and innovative technology to improve the flow of freight, such as intelligent transportation systems, public infrastructure, excluding vehicles, that enables zero-emission or near-zero emission goods movement
 - g) Environmental and community mitigation or efforts to reduce environmental impacts of freight movement, such as projects that reduce noise, overnight truck idling, or truck queues. (SHC Section 2192)
- 3) Requires the CTC to evaluate the total potential economic and noneconomic benefits of TCEP projects to California's economy, environment, and public health, and requires the evaluation to specifically assess localized impacts in disadvantaged communities. (SHC Section 2192)
 - 4) Requires 60% of TCEP funding be available for projects nominated by regional transportation and local agencies and 40% of TCEP funding be available for projects nominated by the California Department of Transportation (Caltrans). (SHC Section 2192)

FISCAL EFFECT: Unknown

COMMENTS: The purpose of TCEP is to provide funding for infrastructure improvements on federally designated Trade Corridors of National and Regional Significance, on California's portion of the National Highway Freight Network, as identified in California Freight Mobility Plan, and along other corridors that have a high volume of freight movement. TCEP also supports the goals of the National Highway Freight Program, the California Freight Mobility Plan, and the guiding principles in the California Sustainable Freight Action Plan.

This statewide, competitive program provides approximately \$300 million per year in state funding and approximately \$515 million in National Highway Freight Program funds, if the federal program continues under the next federal transportation act.

Eligible applicants apply for program funds through the nomination of projects. All projects nominated must be identified in a currently adopted regional transportation plan/sustainable community strategy. The CTC is required to evaluate and select submitted applications based on criteria ranging from traffic bottleneck relief to community impact mitigation.

Equity and Climate in Transportation. On September 20, 2019, Governor Newsom issued Executive Order (EO) N-19-19, which called for actions from multiple state agencies to reduce greenhouse gas emissions (GHG) and mitigate the impacts of climate change. The EO directed the California Transportation Agency (CalSTA) to work to align transportation spending with the state's Climate Change Scoping Plan, where feasible; direct investments to strategically support smart growth to increase infill housing production; reduce congestion through strategies that encourage a reduction in driving and invest further in walking, biking, and transit; and ensure that overall transportation costs for low-income Californians do not increase as a result of these policies. EO N-79-20 reaffirms the state's commitment to implementing EO N-19-19, and requires all medium and heavy-duty vehicles sold and operating in California to be zero-emission by 2045.

The Climate Action Plan for Transportation Infrastructure (CAPTI) is the action plan to implement the EO, and is “a framework and statement of intent for aligning state transportation infrastructure investments with state climate, health, and social equity goals, built on the foundation of the ‘fix-it-first’ approach established in SB 1.” In August 2021, the CTC endorsed CAPTI's framework and strategies and began a process of incorporating it into program guidelines for the programs they administer.

CalEnviroScreen. Many communities continue to bear a disproportionate burden of pollution not only from multiple nearby sources, but also from pollution in multiple media (e.g., air or water). Some of these communities experience the additional burden of socioeconomic stressors and health conditions that render them more vulnerable to the impacts of pollution. In order to address the cumulative effects of both pollution burden and these additional factors, and to identify which communities might be in need of particular policy, investment, or programmatic interventions, California's Office of Environmental Health Hazard Assessment (OEHHA) developed and now maintains and updates the CalEnviroScreen tool. This tool applies a framework for assessing cumulative impacts that OEHHA developed in 2010, based in large part on input from a statewide working group on environmental justice that pointed out the unmet need to assess cumulative burdens and vulnerabilities affecting California communities.

Current TCEP Guidance and this bill. This bill seeks to codify some of the existing guidance under TCEP, significantly expands the targets for investment in zero-emission freight infrastructure, and prohibits projects that increase the physical footprint of a highway in communities with the highest level of diesel particulate matter.

Current TCEP guidelines require agencies to complete a project level environmental process under CEQA and NEPA within six month of program adoption. This bill codifies this guidance.

Current TCEP guidelines specify zero-emission infrastructure projects are eligible for funding that meet certain criteria, including zero-and near zero emissions vehicle and infrastructure, in accordance with existing requirements of other state funding programs administered by the California Air Resources Board, the California Energy Commission, and the California Public Utilities Commission. This bill requires the CTC to establish a target to program 15% of the funds allocated in the next programming cycle that begins on or after January 1, 2025, to investments in zero-emission freight infrastructure that are well-qualified for funding based on the goals of the program. This bill requires the target to increase in each cycle, with a goal of 50% of the funds programmed in 2030 being awarded to investments in zero-emission freight infrastructure that are well-qualified for funding based on the goals of the program.

Current TCEP guidelines specify that eligible projects include, but are not limited to, highway improvements, freight rail system improvements, border improvements, port enhancements, truck corridor improvements, surface transportation, local road, and connector road improvements to effectively facilitate the movement of goods, environmental/community mitigation that occurs as a part of a freight infrastructure (including zero-emission vehicles if they are part of an approved CEQA mitigation for a larger freight infrastructure project), and freight infrastructure related advanced technology. Consideration is also given for a project with a multi-modal strategy, which employs or supports multi-modal strategies to increase port and transportation system throughput while reducing truck vehicle miles/hour traveled (VMT/VHT) or truck idling times. Guidelines also specify that it is “the intent of the CTC that TCEP work in alignment with other state and federal funding programs to support projects that achieve multiple objectives, such as freight throughput, air quality, and zero emissions goals. The CTC encourages projects that align with the state’s climate and equity goals...”

This bill prohibits TCEP from programming projects that increase the physical footprint of a highway in communities in the highest quintile of diesel particulate matter. This bill also prohibits programming projects that increase diesel particulate matter in these communities if levels do not decline by 50% below 2024 levels by 2030, as determined by the Office of Environmental Health Hazard Assessment.

Projects impacted by this bill. This bill prohibits projects from being programming under TCEP that expand the physical footprint of a highway in a community that ranks in the highest quintile in CalEnviroScreen for disproportionate burdens from diesel particulate matter. Communities included, in part, in the highest quintile for diesel particulate matter under CalEnviroScreen are: Vallejo, Fairfield, Martinez, Richmond, Pittsburg, Oakland, San Francisco, San Leandro, Hayward, Walnut Creek, Redwood City, Sunnyvale, Santa Clara, San Jose, Milipitas, Fremont, Pleasanton, Morgan Hill, Cupertino, Sacramento, Lodi, Stockton, Manteca, Ripon, Salida, Modesto, Ceres, Turlock, Merced, Madera, Fresno, Tulare, Bakersfield, Ventura, Oxnard, Los Angeles, Ontario, Corona, San Bernardino, Redlands, Perris, Yucaipa, Anaheim, Santa Ana, San Clemente, Oceanside, Encinitas, San Diego, National City, Chula Vista, Indio, Victorville, Barstow, Yuba City, Lincoln, Roseville, Folsom, Chico, Redding.

Highway routes that are impacted by this bill include: 4, 5, 8, 10, 12, 31, 37, 41, 44, 50, 55, 57, 60, 65, 80, 87, 91, 92, 99, 101, 105, 110, 126, 134, 140, 163, 193, 210, 215, 405, 580, 605, 680, 710, 805, 880, 905.

Committee comments and amendments. This bill makes significant changes to TCEP in order to increase ZEV freight infrastructure and decrease highway capacity projects. To the extent that under this bill funding increases for investments in ZEV infrastructure, funds available for road projects would be decreased. While increasing investments in ZEV infrastructure for freight would help to accelerate cleaning up the air in impacted communities, currently, there are other Federal and state funding programs available for ZEV infrastructure.

In contrast, TCEP is the only state program with the sole purpose of seeking to improve goods movement throughout the state.

Additionally, the bill prohibits funding projects that would increase highway capacity based on the levels of diesel particulate matter in the community where the highway expansion would

occur. This metric does not allow flexibility for potentially necessary capacity projects, for safety or temporary congestion relief. The committee may wish to consider the following amendments:

- 1) Strike Section (d) (2) and replace it with “California Transportation Commission, California Department of Housing and Community Development, and the California Air Resources Board, shall, for the next programming cycle, create guidance to minimize programming of projects that expand the physical footprint of a highway, in order to reduce the impact of these projects on the highest 10% of CalEnviroScreen communities. This guidance shall be incorporated into the next programming cycle, starting in 2028.”
- 2) Strike Section (e) (2) (B)
- 3) Amend Section (e) (B) to:

The commission shall establish a target to program 15 percent of the funds pursuant to this section in the next programming cycle that begins on or after January 1, 2025, to investments in zero-emission freight infrastructure that are well-qualified for funding based on the goals of the program. The commission shall ~~increase the targets in each cycle, with a goal of 50 percent of the funds programmed in 2030 being awarded to investments in zero-emission freight infrastructure that are well-qualified for funding based on the goals of the program.~~ *increase the targets in each cycle by five percent, with a goal of 50 percent of the funds programmed being awarded to investments in zero-emission freight infrastructure that are well-qualified for funding based on the goals of the program*

According to the author, “Redlining and systemic racism have led to congested highways and shipping routes being placed near or within lower-income communities of color. These communities now bear a disproportionate burden of toxic air pollutants, leading to poor health outcomes. Despite this, the California Transportation Commission (CTC), has allocated over 60% of Trade Corridor Enhancement Program (TCEP) funds to highway expansion projects, with only 4% going to zero-emission freight infrastructure. Research shows that highway construction and expansion in urban areas is ineffective at reducing congestion and instead increases traffic through induced demand of passenger vehicles. To address the harmful impacts of freight movement and reduce health disparities, we must allocate resources and target action into our historically disadvantaged communities. AB 2535 does that by limiting highway expansion projects funded by TCEP and instead investing TCEP funds into zero-emissions infrastructure projects that will reduce GHG emissions in disadvantaged communities.”

In support, the Greenlining Institute writes, “This bill would modernize the Trade Corridor Enhancement Program (TCEP) to prioritize investment in heavy-duty electric vehicle charging and fueling infrastructure and electric locomotive technology, eliminate certain projects from TCEP funding eligibility that fail to enhance freight movement, and put in place stronger environmental standards for projects that propose to expand highways in communities most burdened by pollution.”

In opposition, Transportation California writes, “We recognize that proposed solutions such as those reflected in your bill are directed at addressing past land use and transportation decisions, particularly in heavy freight areas. We also firmly believe that there are valid reasons for strategic and limited capacity enhancing investments in the SHS, including safety and emergency evacuation. In some cases, not adding capacity to the SHS could hamper the state’s mobility

goals, including management of the SHS to maximize efficiency and incentivize different mobility decisions.”

Previous legislation. SB 1 (Beall) Chapter 5, Statutes of 2017 increases several taxes and fees to raise the equivalent of roughly \$52.4 billion over ten years in new transportation revenues and makes adjustments for inflation every year; directs the funding to be used towards deferred maintenance on the state highways and local streets and roads, and to improve the state's trade corridors, transit, and active transportation facilities.

SB 671 (Gonzalez) Chapter 679, Statutes of 2021 requires the CTC in coordination with other state agencies, to develop a Clean Freight Corridor Efficiency Assessment and incorporate the recommendations into their respective programs for freight infrastructure. Also codifies existing CTC guidelines for eligible projects for the Trade Corridor Enhancement Program (TCEP).

AB 1778 (C.Garcia of 2022) would have prohibited state funds or personnel time from being used to fund or permit freeway projects, as specified, within or adjacent to census tracts that fall within the zero to 50th percentile on the “California Healthy Places Index” as calculated using certain housing and environmental variables.

AB 1525 (Bonta of 2023) would have required that 60% of the funding allocated to California State Transportation Agency (CalSTA), California Department of Transportation Caltrans (Caltrans), and California Transportation Commission (CTC) are allocated for projects for priority populations on or before July 1, 2026.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area Action
350 Sacramento
Active San Gabriel Valley
American Lung Association of California
Asian Pacific Environmental Network
Asian Pacific Islander Forward Movement
Breast Cancer Prevention Partners
Calbike
California Environmental Voters
Ceja
Center for Biological Diversity
Center for Community Action and Environmental Justice
Central California Asthma Collaborative
Cleaneearth4kids.org
Climate Action California
Climate Plan
Coalition for a Safe and Healthy Environment
Coalition for Clean Air
Communities for a Better Environment
Elders Climate Action Northern California Chapter
Environment California
Environmental Defense Fund

Environmental Health Coalition
Fresh Air Vallejo
Friends Committee on Legislation of California
Greenbelt Alliance
Greenlatinos
Greenlining Institute
Healing and Justice Center
Leadership Counsel Action
Let's Green Ca!
Natural Resources Defense Council (NRDC)
NEXTGEN California
Planning and Conservation League
Regional Asthma Management & Prevention
Safe Routes to School National Partnership
San Francisco Physicians for Social Responsibility
Sierra Club California
Silicon Valley Youth Climate Action
Spur
Streets for All
Sustainable Claremont
The Climate Center
Transbay Coalition
Transform
Union of Concerned Scientists
United Auto Workers
Valley Can

Opposition

Agriculture Transportation Coalition
American Council of Engineering Companies
Associated General Contractors of California
Building Owners and Managers Association of California
California Alliance for Jobs
California Asphalt Pavement Association
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Construction & Industrial Materials Association
California State Association of Counties
California State Council of Laborers
California Trucking Association
City of Tulare
Coachella Valley Association of Governments
Harbor Trucking Association
International Union of Operating Engineers
League of California Cities
Los Angeles Area Chamber of Commerce
Madera County Transportation Commission

Merced County Association of Governments
NAIOP of California, the Commercial Real Estate Development Association
Nevada County Transportation Commission
Rebuild So-Cal Partnership
Riverside County Transportation Commission
San Gabriel Valley Economic Partnership
San Joaquin Valley Policy Council
Southern California Contractors Association
Southern California Leadership Council
Transportation Agency for Monterey County
Transportation California
Tulare County Association of Governments
United Contractors)
Urban Counties of California
Western Regional Association for Pavement Preservation
Western States Trucking Association

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