

Date of Hearing: April 18, 2022

ASSEMBLY COMMITTEE ON TRANSPORTATION
Laura Friedman, Chair
AB 1778 (Cristina Garcia) – As Amended March 24, 2022

SUBJECT: State transportation funding: freeway projects: poverty and pollution: Department of Transportation

SUMMARY: Prohibits 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. Specifically, **this bill:**

- 1) Defines “California Healthy Places Index” (HPI) as the online resource developed by the Public Health Alliance of Southern California to describe local factors that predict life expectancy and compare community conditions across the state.
- 2) Defines “projects” to mean any of the following, for the purposes of the bill:
 - a) Freeway widening projects;
 - b) Interchange expansion projects that would facilitate increased flows of traffic to or from existing or future industrial or warehouse facilities;
 - c) Freeway extensions or lengthening; and,
 - d) Displacement, of any kind, of residents, residences, housing, or businesses occurring due to freeway projects, whether temporary or permanent.
- 3) Requires the California Department of Transportation (Caltrans) to consult the HPI before undertaking any projects, and as a condition of using state funds or personnel time to fund or permit projects.
- 4) Requires Caltrans to use the “create custom score” functionality of the “California Healthy Places Index” and use the following variables to obtain data results:
 - a) Housing: low-income homeowner severe housing cost burden;
 - b) Housing: low-income renter severe housing cost burden;
 - c) Clean environment: clean air particulate matter (PM)_{2.5}; and,
 - d) Clean environment: clean air diesel PM.

EXISTING LAW:

- 1) Requires Caltrans to prepare and submit a proposed budget to the Governor, which includes the portion to be funded from the State Highway Account (SHA).

- 2) Requires Caltrans to inform the California Transportation Commission (CTC) of all pertinent assumptions and policy directions it intends to use in preparing the budget. Requires the CTC to review the assumptions and policy directions used in preparing the budget and forward its comments and recommendations to Caltrans.
- 3) Requires funds in the SHA in the State Transportation Fund be programmed, budgeted, and expended to maximize the use of federal funds and be based on the following sequence of priorities:
 - a) Operation, maintenance, and rehabilitation of the state highway system;
 - b) Safety improvements where physical changes, other than adding additional lanes, would reduce fatalities and the number and severity of injuries;
 - c) Transportation capital improvements that expand capacity or reduce congestion, or do both; and,
 - d) Environmental enhancement and mitigation programs.
- 4) Allows Caltrans to use SHA funds for the following purposes including, but not limited to; services, investigations, surveys, experiments, reports, right-of-way acquisitions, major and minor construction, maintenance, improvements, and equipment, as authorized by the state agency, or as may be authorized by written agreement between the contributor of such funds and the department.
- 5) Defines “freeway” as a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement of access. If, in the judgment of the commission or the director, the public interest would be advanced thereby, a freeway, as defined herein, may be denominated a “controlled access highway”. In all other respects, the “controlled access highway” shall be subject to all provisions of this code pertaining to freeways.
- 6) Establishes it is essential to the future development of the State of California to construct a statewide system of freeways and expressways and connections thereto without regard to present jurisdiction over the highways, roads, and streets that might be included.
- 7) Establishes the Governor's Office of Planning and Research (OPR), with various roles and responsibilities, including as the coordinating agency in state government for environmental justice programs.

FISCAL EFFECT: Unknown

COMMENTS: When President Eisenhower signed the Federal Aid Highway Act of 1956, the federal government provided 90% funding for the states to build an interstate highway system. This law provided the means to build freeways and connect cities separated by hundreds of miles. Engineers, urban planners and city leaders were primarily interested in how quickly they could design and lay down 41,000 miles of asphalt for the envisioned interstate highway system.

However, when these infrastructure decisions were made post-WWII, urban planners disproportionately, and sometimes purposefully, routed freeways through the neighborhoods where people of color lived or used these freeways to create boundary lines between white and Black communities. This resulted in many Black and Brown communities being torn apart by the freeways in the name of progress. The effects of these planning decisions still disproportionately affect communities of color today.

A recent study published in *Science* and funded by the United States Environmental Protection Agency, finds that racial-ethnic minorities in the United States are exposed to disproportionately high levels of ambient fine particulate air pollution (PM_{2.5}), the largest environmental cause of human mortality. Quantifying the PM_{2.5} exposure caused by each emitter type, the report finds that nearly all major emission categories—consistently across states, urban and rural areas, income levels, and exposure levels—contribute to the systemic PM_{2.5} exposure disparity experienced by people of color.

Building on this study, a recent report conducted by the Union of Concerned Scientists finds that on average, African American, Latino, and Asian Californians are exposed to more PM_{2.5} pollution from cars, trucks, and buses than white Californians. These groups are exposed to PM_{2.5} pollution 43, 39, and 21% higher, respectively, than white Californians. Those living in Los Angeles County are exposed to 60% more vehicle pollution than the state average and 250% more than the San Francisco Bay Area.

Addressing inequities through environmental justice: There are three fundamental principles at the core of environmental justice as expressed in the Federal Highway Administration's Transportation Environmental Justice Case Studies publication and the FHWA Environmental Justice Website: 1) to avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations; 2) to ensure the full and fair participation by all potentially affected communities in the transportation decision-making process; and, 3) to prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

The Biden Administration's Infrastructure Investment and Jobs Act (IIJA) makes clear that federal investments should revitalize cities and prioritize historically disadvantaged communities. In order for a project to be considered "shovel ready," projects must prioritize a comprehensive vision of what is in the best interests of all users, including those voices from stakeholders and communities previously ignored. Objectives include, but are not limited to; reconnecting freeway-separated neighborhoods; improving public health with cleaner air; capturing and scrubbing surface water runoff from highways; building affordable housing close to urban workplaces; improving local transit systems; and testing and adopting innovative transportation technologies.

At the state level, in order to fully integrate the goals and requirements of environmental justice into a project level California Environmental Protection Act (CEQA) review, discussion points such as local community involvement, equitable benefits, disproportionately high or adverse impacts, and increased traffic flow in low-income and minority communities must be included.

Volume IV of the Caltrans Environmental Handbook series provides guidance and procedures for assessing the impacts of proposed transportation projects on communities and neighborhoods, and for achieving context sensitive solutions in the design of transportation projects. This guidance is intended to assist Caltrans' environmental personnel, consultants, and other transportation partners in completing the community impact assessment report or documentation; engaging the public and other stakeholders in the transportation planning process; avoiding, minimizing, or mitigating for adverse effects, and increasing project benefits.

What's needed and what's next: This bill requires Caltrans to use the Healthy Places Index (HPI) as an indicator for the use of state funds and personnel time on specified freeway projects. If a proposed project is in an area with an HPI score of 50 or below, this bill prohibits the project from moving forward. HPI is a project of the Public Health Alliance of Southern California, and has the endorsement of various local and state agencies, including the California Department of Public Health's (CDPH) Office of Health Equity. HPI uses 23 social indicators of health, and categorizes the indicators into economic, education, social, transportation, neighborhood, housing, clean environment, and healthcare access.

There are multiple freeway widening projects on-going, planned, or stalled in the author's district, including on Interstates 710, 5, and 605. It is clear that although environmental justice is a required consideration for state and local freeway projects, there is more to be done with regards to protecting the health of communities who live next to freeways. It is unclear what impact Caltrans' environmental justice considerations are having on projects decisions, and how to mitigate against the adverse effects of PM_{2.5}. Caltrans has not engaged in this issue with the author's office or committee.

The author may wish to consider requiring Caltrans to strengthen current environmental justice planning processes, and identify the gap between required considerations and lived impacts on the community. The author may also wish to consider a role for OPR, as the agency charged with coordinating environmental justice programs for the state.

It is recommended the author specify the HPI Caltrans uses to be the most recent published index, and consider the role of the index generally. Concerns have been raised around the unintended consequences of the generalities in the bill, including the category of freeway widening projects, and which areas may be considered areas with high rates of pollution or poverty. Concerns have also been raised regarding the lack of exemptions and implementation timeline. It is recommended the author consider these concerns in the policy process moving forward.

In support, Leadership Counsel for Justice and Accountability writes "The lowest income households in California are located in areas where Particulate Matter less than 2.5 μm (PM_{2.5}) levels are 10 times higher than the state average. In addition, freeway widening, and expansion projects require the acquisition of real property leading to the displacement of residents. Furthermore, studies show that widening freeways actually leads to increased car trips, traffic, and pollution. AB 1778 makes it so that communities that are overburdened by tailpipe pollution and are housing burdened are at the forefront of the discussion for any project dealing with freeway widening and/or extensions."

In opposition, the American Council of Engineering Companies writes, "While we understand your desire to provide some relief to communities experiencing California's worst air quality –

frequently communities in and/or near our state's most heavily utilized freeway systems – AB 1778 would deprive these same communities of badly needed state highway dollars that could be used to alleviate the very congestion and freight corridor issues that contribute to the poor air quality experienced in these communities.”

According to the author, “It is imperative that the resources, money and time, consumed by the discussion of freeway widening are reallocated to completing public transportation projects. This creates jobs and helps make communities healthier while keeping people in their homes. Freeway expansion projects are sold as a means to reduce congestion, however research shows us that they increase congestion by encouraging more driving, thus increasing harmful emission. Data also shows that these projects also tend to displace low-income communities of color who are already housing insecure. It is outrageous and feels criminal to use state resources to choke and displace communities like mine when the data and research clearly show that this practice is just another example of the systemic racism that is normalized in our policies and practices. Departments, Agencies, and officials like to use words like equity, now is the chance to put action behind this word to ensure communities like mine are at the forefront of these decisions, policies, and practices. We can no longer allow state dollars to fund expansion projects that kill of us faster and displace us from our homes in the middle of a housing crisis”.

Previous legislation: SB 499 (Leyva) of 2021 would have prohibited the land use element from designating land uses that have the potential to significantly degrade local air, water, or soil quality or to adversely impact health outcomes in disadvantaged communities to be located, or to materially expand, within or adjacent to a disadvantaged community or a racially and ethnically concentrated area of poverty. *This bill was not heard in committee and died as a two-year bill.*

AB 1001 (C. Garcia) of 2021 would have amended CEQA to require mitigation to compensate for adverse air or water quality impacts in a disadvantaged community (DAC), to mitigate those impacts directly in the affected community, and required all public agencies implementing CEQA to give consideration to the principles of environmental justice by ensuring the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins. *This bill died in Senate Rules Committee.*

SB 342 (Gonzalez, Kamlager) of 2021 would have added two additional seats to the South Coast Air Quality Management District (SCAQMD) Governing Board to be filled by persons residing in and working directly with pollution-burdened and vulnerable communities on issues of environmental justice in the South Coast Air Basin. *This bill died on the Senate Floor.*

AB 1628 (R. Rivas), Chapter 360, Statutes of 2019 revises the definition of "environmental justice," for the purposes of OPR coordination of state agency programs, to include meaningful involvement in addition to fair treatment of people of all races, cultures, incomes, and adds national origins to this list.

AB 617 (C. Garcia), Chapter 136, Statutes of 2017 specifies several requirements for the California Air Resources Board (CARB) related to the reporting of criteria air pollutants emissions and toxic air contaminants, air pollutant monitoring, a statewide strategy to reduce emissions, as well as related requirements for air quality control districts.

SB 115 (Solis), Chapter 690, Statutes of 1999 establishes OPR as the coordinating agency in state government for environmental justice programs.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Humboldt: Grass Roots Climate Action
Abundant Housing LA
California Environmental Voters (formerly Clev)
California Yimby
Center for Community Action & Environmental Justice
Central California Asthma Collaborative
Central California Environmental Justice Network
Central Valley Air Quality Coalition
Climate Resolve
Congress for The New Urbanism
Council of Infill Builders
East Bay for Everyone
Leadership Counsel for Justice & Accountability
Little Manila Rising
Marin County Bicycle Coalition
Santa Cruz Yimby
Streets for All
Streets for People
Telegraph for People
The Happy City Coalition
Urban Environmentalists
Walk Bike Berkeley
Yimby Action

Opposition

American Council of Engineering Companies of California
Associated General Contractors of California
California Asphalt Pavement Association
California Building Industry Association (CBIA)
Orange County Transportation Authority
Riverside County Transportation Commission
Transportation Agency for Monterey County (TAMC)
Transportation California

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