

CALIFORNIA CODES  
**GOVERNMENT CODE**  
SECTION 14520-14534

14520. The commission shall advise and assist the Secretary of the Business, Transportation and Housing Agency and the Legislature in formulating and evaluating state policies and plans for transportation programs in the state.

14520.3. (a) The Legislature, through the enactment of Senate Bill 45 during the 1997-98 Regular Session, intends to establish priorities and processes for the programming and expenditure of state transportation funds that are at the discretion of the Legislature and the Governor.

(b) The department is responsible for the planning, design, construction, maintenance, and operation of the state highway system and Senate Bill 45 is not intended to alter that responsibility.

(c) In addition to other responsibilities established by law, the department is the responsible agency for performing all state highway project components specified in subdivision (b) of Section 14529 of the **Government Code** except for construction.

(d) The Legislature, through the enactment of this section, intends that nothing in subdivision (b) of Section 14529 of the **Government Code** or any other provision in the act that added this section to the **Government Code** shall be construed to expand or restrict the authority or responsibility of the department, as provided by statute or the California Constitution, to perform the components described in subdivision (b) of Section 14529 of the **Government Code** on state highways.

14521. The commission may request and review reports of the department and of other entities which pertain to transportation issues and concerns that the commission determines need special study.

**14522.** In cooperation with the regional transportation planning agencies, the commission may prescribe study areas for analysis and evaluation by such agencies and guidelines for the preparation of the regional transportation plans.

**14522.1.** (a) (1) The commission, in consultation with the department and the State Air Resources Board, shall maintain guidelines for travel demand models used in the development of regional transportation plans by federally designated metropolitan planning organizations.

(2) Any revision of the guidelines shall include the formation of an advisory committee that shall include representatives of the metropolitan planning organizations, the department, organizations knowledgeable in the creation and use of travel demand models, local governments, and organizations concerned with the impacts of transportation investments on communities and the environment. Before amending the guidelines, the commission shall hold two workshops on the guidelines, one in northern California and one in southern California. The workshops shall be incorporated into regular commission meetings.

(b) The guidelines shall, at a minimum and to the extent practicable, taking into account such factors as the size and available resources of the metropolitan planning organization, account for all of the following:

(1) The relationship between land use density and household vehicle ownership and vehicle miles traveled in a way that is consistent with statistical research.

(2) The impact of enhanced transit service levels on household vehicle ownership and vehicle miles traveled.

(3) Changes in travel and land development likely to result from highway or passenger rail expansion.

(4) Mode splitting that allocates trips between automobile, transit, carpool, and bicycle and pedestrian trips. If a travel demand model is unable to forecast bicycle and pedestrian trips, another means may be used to estimate those trips.

(5) Speed and frequency, days, and hours of operation of transit service.

**14522.2.** (a) A metropolitan planning organization shall disseminate the methodology, results, and key assumptions of whichever travel

demand models it uses in a way that would be useable and understandable to the public.

(b) Transportation planning agencies other than those identified in paragraph (1) of subdivision (a) of Section **14522.1**, cities, and counties are encouraged, but not required, to utilize travel demand models that are consistent with the guidelines in the development of their regional transportation plans.

14523. The commission may prepare an independent evaluation of the department's budget regarding the adequacy of funding levels and the relative needs of program categories as defined in Section 167 of the Streets and Highways **Code** and submit its recommendations to the Legislature not later than April 1 of each year. The report shall reflect the commission's judgment regarding the overall funding levels for each program category and shall not duplicate the item-by-item analysis conducted by the Legislative Analyst.

14524. (a) Not later than July 15, 2001, and July 15 of each odd-numbered year thereafter, the department shall submit to the commission a five-year estimate pursuant to Section 164 of the Streets and Highways **Code**, in annual increments, of all federal and state funds reasonably expected to be available during the following five fiscal years.

(b) The estimate shall specify the amount that may be programmed in each county for regional improvement programs pursuant to paragraph (2) of subdivision (a) of Section 164 of the Streets and Highways **Code** and shall identify any statutory restriction on the use of particular funds.

(c) For the purpose of estimating revenues, the department shall assume that there will be no changes in existing state and federal statutes. Federal funds available for demonstration projects that are not subject to federal obligational authority, or are accompanied with their own dedicated obligational authority, shall not be considered funds that would otherwise be available to the state and shall not be included in the fund estimate.

(d) The method by which the estimate is determined shall be determined by the commission, in consultation with the department, transportation planning agencies, and county transportation commissions.

14524.16. (a) The department shall, as part of the reports required pursuant to Sections 14524.15 and 14525.5, report on its costs of project development for all state transportation improvement program projects awarded during the previous fiscal year.

(b) For purposes of this section, "costs of project development" includes all noncapital costs incurred by the department from completion of the project study report through the award of the construction contract.

The costs of project development include the prorated share of distributed departmental administration, as identified in the Governor's proposed budget, attributable to these project development activities. The calculation of the prorated share of departmental administration shall exclude tort payments, costs of legal services associated with those payments, and central administrative services.

(c) The department shall attempt to keep its cost of project development, as defined in subdivision (b), from exceeding 20 percent of the value of state transportation improvement program projects, including right-of-way costs, awarded during the previous fiscal year, except for those projects where the department has provided design oversight only or has not been the responsible agency for project design.

The average cost of project delivery for the three previous fiscal years shall not exceed the 20 percent target.

(d) On or before June 1 of each year, the Legislative Analyst shall assess the department's costs of project development.

14524.2. (a) If the department's total project delivery plan for any year requires a permanent and temporary capital outlay support staffing level which equals the 1986-87 budgeted permanent and temporary capital outlay support staffing level, the department's budget request for that year shall contain a permanent and temporary capital outlay support staffing level equal to its 1986-87 authorized permanent and temporary capital outlay support staffing level.

(b) If the department's total project delivery plan for any year requires a permanent and temporary capital outlay support staffing level and personnel year equivalents for cash overtime and contract services which exceed the 1986-87 authorized permanent and temporary

capital outlay support staffing level and personnel year equivalents for cash overtime and contract services, the department's budget request for that year shall contain a permanent and temporary capital outlay support staffing level and personnel year equivalents for cash overtime equal to the 1986-87 authorized permanent and temporary capital outlay support staffing level and personnel year equivalents for cash overtime plus one-half of the excess over the 1986-87 authorized permanent and temporary capital outlay support staffing level and personnel year equivalents for cash overtime and contract services. The department may contract out, pursuant to Section 14131, an equal number of personnel year equivalents for each authorized permanent and temporary capital outlay support staffing level and personnel year equivalents for cash overtime which exceed the 1986-87 authorized permanent and temporary capital outlay support staffing level and personnel year equivalents for cash overtime.

(c) For purposes of this section, "permanent and temporary capital outlay support staffing level" means the department's permanent and temporary capital outlay support staffing level funded by state and federal funds through the State Highway Account.

14525. (a) Not later than August 15, 2001, and August 15 of each odd-numbered year thereafter, the commission shall adopt a five-year estimate pursuant to Section 164 of the Streets and Highways **Code**, in annual increments, of all state and federal funds reasonably expected to be available during the following five fiscal years.

(b) The estimate shall specify the amount that may be programmed in each county for regional improvement programs under paragraph (2) of subdivision (a) of Section 164 of the Streets and Highways **Code** and shall identify any statutory restriction on the use of particular funds.

(c) For the purpose of estimating revenues, the commission shall assume that there will be no change in existing state and federal statutes. Federal funds available for demonstration projects that are not subject to federal obligational authority, or are accompanied with their own dedicated obligational authority, shall not be considered funds that would otherwise be available to the state and shall not be included in the fund estimate.

(d) If the commission finds that legislation pending before the Legislature or the United States Congress may have a significant impact on the fund estimate, the commission may postpone the adoption of the fund estimate for no more than 90 days. Prior to March 1 of

each even-numbered year, the commission may amend the estimate following consultation with the department, transportation planning agencies, and county transportation commissions to account for unexpected revenues or other unforeseen circumstances. In the event the fund estimate is amended, the commission shall extend the dates for the submittal of improvement programs as specified in Sections 14526 and 14527 and for the adoption of the state transportation improvement program pursuant to Section 14529.

14525.1. The department and the commission shall use an inflation rate that has been established by the Department of Finance. The Department of Finance shall consult with the Legislative Analyst and the Department of Transportation when calculating the inflation rate for this purpose.

14525.5. (a) The department shall submit a project delivery report to the Governor and the Legislature not later than November 15 of each year. The report shall include all state highway projects that are included in the adopted state transportation improvement program costing one million dollars (\$1,000,000) or more and for which the department is the responsible agency for project development work.

(b) For each of these projects, the report shall identify the milestone dates by month and year.

(c) For each fiscal year corresponding with the fiscal year used in programming the state transportation improvement program, the report shall identify the number of these projects which met one or more of the milestone dates. The report shall also identify each project where the department failed to meet one or more milestones. For each of those projects, the report shall identify the specific circumstances resulting in the delay, and present a plan to resolve any problems and a new schedule for delivery.

(d) For purposes of this section, each of the following is a "milestone date":

(1) Commencement of the environmental process.

(2) Commencement of the circulation of the draft environmental documents.

(3) Final approval of the environmental documents.

(4) Commencement of work on the plans, specifications, and estimates.

(5) Project ready to advertise.

(6) Project delivery.

(e) "Project delivery" is the date on which the project is advertised.

14526. (a) Not later than December 15, 2001, and December 15 of each odd-numbered year thereafter, and after consulting with the transportation planning agencies, county transportation commissions, and transportation authorities, the department shall submit to the commission its five-year interregional transportation improvement program consisting of all of the following:

(1) Projects to improve state highways, pursuant to subdivision (b) of Section 164 of the Streets and Highways **Code**.

(2) Projects to improve the intercity passenger rail system.

(3) Projects to improve interregional movement of people, vehicles, and goods.

(b) Projects may not be included in the interregional transportation improvement program without a project study report or major investment study.

(c) Major projects shall include current costs updated as of November 1 of the year of submittal and escalated to the appropriate year, and shall be consistent with, and provide the information required in, subdivision (b) of Section 14529.

(d) Projects included in the interregional transportation improvement program shall be consistent with the adopted regional transportation plan.

14526.5. (a) The department shall prepare a 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. Projects included in the program shall be limited to capital improvements relative to maintenance, safety, and rehabilitation of state highways and bridges which do not add a new traffic lane to the system.

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

(c) The program shall be submitted to the commission not later

than January 31 of each even-numbered year. Prior to submitting the plan, the department shall make a draft of its proposed program available to transportation planning agencies for review and comment and shall include the comments in its submittal to the commission.

(d) The commission may review the program relative to its overall adequacy, level of annual funding needed to implement the program, and the impact of those expenditures on the state transportation improvement program. The commission shall approve and submit the program to the Legislature and the Governor not later than April 1 of each even-numbered year.

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

14527. (a) After consulting with the department, the regional transportation planning agencies and county transportation commissions shall adopt and submit to the commission and the department, not later than December 15, 2001, and December 15 of each odd-numbered year thereafter, a five-year regional transportation improvement program in conformance with Section 65082. In counties where a county transportation commission has been created pursuant to Chapter 2 (commencing with Section 130050) of Division 12 of the Public Utilities **Code**, that commission shall adopt and submit the county transportation improvement program, in conformance with Sections 130303 and 130304 of that **code**, to the multicounty-designated transportation planning agency. Other information, including a program for expenditure of local or federal funds, may be submitted for information purposes with the program, but only at the discretion of the transportation planning agencies or the county transportation commissions. As used in this section, "county transportation commission" includes a transportation authority created pursuant to Chapter 2 (commencing with Section 130050) of Division 12 of the Public Utilities **Code**.

(b) The regional transportation improvement program shall include all projects to be funded with the county share under paragraph (2) of subdivision (a) of Section 164 of the Streets and Highways **Code**. The regional programs shall be limited to projects to be funded in whole or in part with the county share that shall include all projects to receive allocations by the commission during the following five fiscal years. For each project, the total expenditure for each project component and the total amount of commission



allocation and the year of allocation shall be stated. The total cost of projects to be funded with the county share shall not exceed the amount specified in the fund estimate made by the commission pursuant to Section 14525.

(c) The regional transportation planning agencies and county transportation commissions may recommend projects to improve state highways with the interregional share pursuant to subdivision (b) of Section 164 of the Streets and Highways **Code**. The recommendations shall be separate and distinct from the regional transportation improvement program. A project recommended for funding pursuant to this subdivision shall constitute a usable segment and shall not be a condition for inclusion of other projects in the regional transportation improvement program.

(d) The department may nominate or recommend the inclusion of projects in the regional transportation improvement program to improve state highways with the county share pursuant to paragraph (2) of subdivision (a) and subdivision (e) of Section 164 of the Streets and Highways **Code**. A regional transportation planning agency and a county transportation commission shall have sole authority for determining whether any of the project nominations or recommendations are accepted and included in the regional transportation improvement program adopted and submitted pursuant to this section. This authority provided to a regional transportation planning agency or to a county transportation commission extends only to a project located within its jurisdiction.

(e) Major projects shall include current costs updated as of November 1 of the year of submittal and escalated to the appropriate year, and shall be consistent with, and provide the information required in, subdivision (b) of Section 14529.

(f) The regional transportation improvement program may not change the project delivery milestone date of any project as shown in the prior adopted state transportation improvement program without the consent of the department or other agency responsible for the project's delivery.

(g) Projects may not be included in the regional transportation improvement program without a complete project study report or, for a project that is not on a state highway, a project study report equivalent or major investment study.

(h) Each transportation planning agency and county transportation commission may request and receive an amount not to exceed 5 percent of its county share for the purposes of project planning, programming, and monitoring.

14528.5. (a) To resolve local transportation problems resulting from the infeasibility of planned state transportation facilities on State Highway Route 238 in the City of Hayward and Alameda County, the city or county in which the planned facilities were to be located, acting jointly with the transportation planning agency having jurisdiction over the city or county, may develop and file with the commission a local alternative transportation improvement program that addresses transportation problems and opportunities in the county which were to be served by the planned facilities. Priorities for funding in the local alternative program shall go to projects in the local voter-approved transportation sales tax measure.

(b) The commission shall have the final authority regarding the content and approval of the local alternative transportation improvement program. The commission shall not approve any local alternative transportation improvement program submitted under this section after July 1, 2010.

(c) All proceeds from the sale of the excess properties, less any reimbursements due to the federal **government** and all costs incurred in the sale of those excess properties, shall be allocated by the commission to fund the approved local alternative transportation improvement program and shall not be subject to Sections 188 and 188.8 of the Streets and Highways **Code**. Except as provided in Section 14528.6, the proceeds shall be used only for highway purposes.

(d) "Excess properties" means those properties acquired to construct a new alignment for a freeway or expressway bypass to State Highway Route 238 in the City of Hayward and in the County of Alameda, which project is no longer planned to be constructed.

14528.55. (a) To resolve local transportation problems resulting from the infeasibility of planned state transportation facilities on State Highway Route 84 in the Cities of Fremont and Union City, the cities or the county in which the planned facilities were to be located, acting jointly with the transportation planning agency having jurisdiction over the cities or county, may develop and file with the commission a local alternative transportation improvement program that addresses transportation problems and opportunities in the county that were to be served by the planned facilities. Priorities for funding in the local alternative program shall go to

projects in the local voter-approved transportation sales tax measure.

(b) The commission shall have the final authority regarding the content and approval of the local alternative transportation improvement program. The commission shall not approve any local alternative transportation improvement program submitted under this section after July 1, 2010.

(c) All proceeds from the sale of the excess properties, less any reimbursements due to the federal **government** and all costs incurred in the sale of those excess properties, shall be allocated by the commission to fund the approved local alternative transportation improvement program and shall not be subject to Sections 188 and 188.8 of the Streets and Highways **Code**. The proceeds shall be used only for state highway purposes or for projects in the local alternative transportation improvement program that are also in the local voter-approved transportation sales tax measure, subject to approval by the department.

(d) "Excess properties" means those properties acquired to construct a new alignment for State Highway Route 84 in the Cities of Fremont and Union City, a portion of which project is no longer planned to be constructed.

14528.56. The following shall pertain to local alternative transportation improvement programs developed and approved pursuant to Sections 14528.5 and 14528.55:

(a) The department shall maintain a separate account in the state's Special Deposit Fund for each approved local alternative transportation improvement program into which it will deposit the funds derived from the sale of the respective excess properties pursuant to subdivision (c) of Section 14528.5 and subdivision (c) of Section 14528.55. All proceeds received by the department from the sale of those excess properties that are available pursuant to those subdivisions for the respective local alternative transportation improvement programs, less reimbursement for costs incurred by the department for administration of each account, shall be deposited in each respective account, along with all interest earnings generated by the funds in the respective account.

(b) Funds in each account shall be available for expenditure by the local agencies for projects designated in the respective local alternative transportation improvement program approved by the commission pursuant to Section 14528.5 or 14528.55.

(c) This section applies only to State Highway Routes 84 and 238, and to the local alternative transportation programs approved pursuant to Section 14528.5 or 14528.55.

(d) Section 14528.8 does not apply to projects undertaken pursuant to Section 14528.5 or 14528.55.

(e) A local jurisdiction may, with the concurrence of the appropriate transportation planning agency, the commission, and the department, advance a project included in the local alternative transportation improvement programs prior to the availability of sufficient funds from the sale of respective excess properties, through the use of its own funds. A project advanced in this manner shall be deliverable by the state, or by the local jurisdiction pursuant to agreement, when proposed by the local jurisdiction. Advancement of a project or projects shall not change the priority for funding and delivery of all projects within each respective approved local alternative transportation improvement program.

(f) A local agency may enter into an agreement with the appropriate transportation planning agency, the department, and the commission to use its own funds to develop, purchase right-of-way for, and construct a transportation project within its jurisdiction if the project is one that is included in the respective local alternative transportation improvement program and is funded by the individual account established in the Special Deposit Fund pursuant to subdivision (a), and meets all of the following requirements:

(1) Pursuant to the agreement, and from funds allocated by the commission for the project when scheduled in the local alternative transportation improvement program, the department shall reimburse the local agency for the actual cost of constructing the project, including the acquisition of right-of-way. Interest or other debt service costs incurred by local agencies to finance right-of-way acquisition or construction for the project are not reimbursable. Reimbursement made to a local agency pursuant to this subdivision shall be made from the respective account established in the Special Deposit Fund.

(2) The amount actually reimbursed to the local agency under paragraph (1) shall be the amount expended by the local agency for right-of-way and construction. If the expenditure of local funds does not result in the completion of an operable segment of a transportation project, reimbursement shall be limited to the actual amount expended by the local agency for right-of-way or partial construction, with no escalation factor.

(3) Pursuant to the agreement, and from funds allocated by the commission for the project when it was scheduled in the local

respective alternative transportation improvement program, the department shall reimburse the local agency for the actual cost of developing the project with local funds pursuant to this subdivision. Reimbursement of project development costs shall not exceed 20 percent of estimated construction costs. In no case shall this reimbursement exceed any lesser amount mutually agreed to by the department, commission, and local agency.

(4) Reimbursements made to local agencies pursuant to this section for expenditures of local voter-approved sales and use tax revenues shall be used for the same purposes for which the imposition of the sales and use tax is authorized.

(5) The commission, in consultation with the department and local transportation officials, shall develop and adopt guidelines to implement this subdivision.

(g) At the time of its approval of the respective local alternative transportation improvement program, the commission, in consultation with the department and representatives from regional and local agencies, shall also incorporate, into the state transportation improvement program guidelines, additional guidelines specific to the local alternative transportation improvement program. The additional guidelines shall include, but need not be limited to, criteria for project applications, estimation of costs, assessment of capability to complete the project, allocation of funds to project phases, timely expenditure of funds, management of changes to cost, scope, and schedules, assessment of progress in implementing projects, and audit requirements.

14528.6. A local alternative transportation improvement program, approved pursuant to Section 14528.5, shall include all of the following:

(a) A program to provide relocation assistance for residents eligible for relocation assistance pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of this **code** and guidelines adopted pursuant to Section 50460 of the Health and Safety **Code**.

(b) A program to provide relocation assistance for all lower income households, regardless of their eligibility for assistance pursuant to subdivision (a), who will be displaced from their residences because of actions taken to finance or implement the local alternative improvement transportation program, including sale or removal of their residences. To be eligible for assistance, lower

income households shall have occupied their residence on the date that the local alternative transportation improvement program was approved by the commission. The program shall comply with the requirements, except eligibility requirements, of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of this **code** and with guidelines adopted pursuant to Section 50460 of the Health and Safety **Code**.

(c) A program to provide all persons or families who are not otherwise eligible for assistance pursuant to subdivisions (a) and (b), with relocation advice and moving expenses, as defined in Section 7261 and subdivisions (a) and (b) of Section 7262.

(d) A program to provide replacement housing units for persons and families of low or moderate income at an affordable housing cost. At a minimum, the program shall provide that the total number of new units for persons or families of low or moderate income to be provided shall be equal to or greater than the number of units occupied by persons or families of low or moderate income displaced by the local alternative transportation improvement program, and that the total number of new housing units to be provided for lower income households shall be equal to or greater than the number of units occupied by lower income households displaced by the local alternative transportation improvement program. The number of units so provided shall be determined at least one year prior to the date the commission approves the local alternative transportation improvement program. If it is not feasible to replace the total number of units required on surplus public property, other types of property shall be used in order to provide the replacement units. Replacement of the units shall be completed utilizing funds other than those derived from the sale of excess properties and shall be completed within four years of the date the persons or families are displaced or, if unoccupied, from the date of demolition or removal. Unoccupied units shall be replaced in the same ratio as units occupied by persons and families of low and moderate income in the right-of-way. It shall be an objective of the program that, where financially feasible, the number of new housing units of persons and families of low or moderate income shall be not less than 20 percent of all new housing units developed on the aggregate surplus public property.

(e) For purposes of this section, the terms "affordable housing cost," "lower income households," and "persons and families of low or moderate income" shall be defined as provided in Division 31 (commencing with Section 50000) of the Health and Safety **Code**.

(f) Unless specifically stated, this section shall in no way

reduce or limit any requirements for the provision of housing for persons or families of low or moderate income as contained in any other provision of law.

(g) No state highway account funds shall be expended for planning or implementing the housing provisions of the local alternative transportation improvement program which are required to be carried out pursuant to subdivisions (b) to (d), inclusive.

(h) Neither the excess property nor the proceeds from the sale of the excess property shall be used for housing purposes. The excess property may be used for housing purposes after sale by the department.

(i) This section shall become inoperative on the date on which the superior court issues the final approval order for the settlement agreement related to the disposition of excess properties acquired for the State Route 238 Hayward Bypass Project signed by the department, the City of Hayward, and representatives for members of the class of residents, or on January 1, 2010, whichever comes later. This section shall be repealed on January 1 of the year following the year in which it becomes inoperative.

14528.6. (a) A local alternative transportation improvement program, approved pursuant to Section 14528.5, and pursuant to the terms and conditions of the applicable court-approved settlement agreement related to the disposition of excess properties acquired for the State Route 238 Hayward Bypass Project signed by the department, the City of Hayward, and representatives for members of the class of residents, shall include all of the following:

(1) A program to provide monetary assistance for eligible tenant households occupying a corridor property on or before December 31, 2009.

(2) A program to provide 237 additional new low-income housing units in the corridor.

(3) A program to provide home purchase assistance to eligible tenant households in single-family residences.

(b) For the purpose of funding a local alternative transportation improvement program, approved pursuant to Section 14528.5, neither the excess property nor the proceeds from the sale of the excess property shall be used for housing or housing-related programs, including, but not limited to, any direct monetary assistance to tenants, development of any new low-income housing units, or providing any direct home purchase assistance to occupants of the

excess properties. The excess property may be used for housing purposes after sale by the department.

(c) Notwithstanding subdivision (b), proceeds from the sale of the excess properties may be used for the cost of selling the properties, including all of the following:

(1) All necessary surveys of tenants occupying excess properties.

(2) Appraisal costs, including review appraisals.

(3) Program administration costs to develop and administer the home purchase program.

(4) Program administration costs to develop and provide an administrative hearing process for excess property tenants related to any housing programs or program assistance offered to those excess property tenants.

(5) Other administrative, commercial, or legal costs necessary for selling the excess properties.

(d) Any person or persons commencing initial occupancy of or entering into a new rental or lease agreement for a property located on the State Route 238 Hayward Bypass Project on or after January 1, 2010, and before the sale of the properties by the department or its authorized agent, shall not be eligible for any additional relocation assistance under any provision of state law, including Section 50460 of the Health and Safety **Code**, and shall be notified prior to occupying the property that such occupancy, rental, or lease is temporary regardless of length of occupancy.

(e) For purposes of this section, "eligible tenant household" shall mean a household comprised of a tenant or group of tenants in good standing, pursuant to a valid, written rental agreement with the department as of the date on which the superior court preliminarily approves the settlement agreement described in subdivision (a), and who are members of the class covered by that settlement.

(f) This section shall become operative on the date on which the superior court issues the final approval order for the settlement agreement related to the disposition of excess properties acquired for the State Route 238 Hayward Bypass Project signed by the department, the City of Hayward, and representatives for members of the class of residents, or on January 1, 2010, whichever comes later.

14528.65. (a) All of the following shall apply to the sale or other disposition of excess property to fund the local alternative transportation improvement program approved pursuant to Section 14528.5:



(1) At the time the commission rescinds the freeway adoption previously approved for the State Route 238 Hayward Bypass Project, and the commission approves the local alternative transportation improvement program, the commission shall authorize the department to sell, on an "as is" basis at fair market value, the excess properties acquired for the State Route 238 Hayward Bypass Project. However, any properties required for the implementation of the local alternative transportation improvement program shall not be sold.

(2) Article 8.5 (commencing with Section 54235) of Chapter 5 of Part 1 of Division 2 of Title 5 does not apply to the sale of excess property pursuant to this section.

(3) The disposition of excess property pursuant to this section shall be exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources **Code**. Upon title to the parcel vesting in the purchaser or transferee of the property, the purchaser or transferee shall be subject to any local governmental land use entitlement approval requirements and to Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources **Code**. "Disposition" means the sale, exchange, sale combined with exchange, or transfer of a parcel of excess property.

(4) The department shall offer the direct sale, "as is" at fair market value, of an eligible excess single-family residence located on the State Route 238 Hayward Bypass Project properties, to the residential tenant of that residence if the tenant is in good standing in the residence and has a tenure of two years or more, with all rent obligations current and paid in full. For purposes of this section, "eligible excess single-family residence" means an excess single-family residence determined to be eligible for sale to single-family residential tenants pursuant to the settlement agreement described in subdivision (a) of Section 14528.6. The commission is hereby authorized and directed to approve any such sale transaction provided the commission determines the sale to be "as is" at fair market value.

(5) If a residential tenant in single-family residence qualifies for the direct sale as provided for in paragraph (4), and the residential tenant is unable to purchase the single-family residence occupied by the tenant because that single-family residence is ineligible for direct sale, the department declines to allow the direct sale of that single-family residence, the tenant does not qualify for financing for that single-family residence, the condition of the subject single-family residence does not allow financing, or

the tenant needs a larger or smaller single-family residence, the department shall offer to the residential tenant the direct sale, "as is" at fair market value, of other available eligible excess single-family residences located on the State Route 238 Hayward Bypass Project properties. The commission is hereby authorized and directed to approve any such sale transaction provided the commission determines the sale to be "as is" at fair market value.

(6) The department may hire, or cause to be hired, an appraiser to determine the "as is" fair market value of any single-family residence for which a direct sale to a residential tenant is contemplated as provided for in paragraph (4) or (5). The appraiser shall, at a minimum, be in good standing, be designated a Senior Residential Appraiser by the Appraisal Institute, possess a certified residential license, and have knowledge of the City of Hayward and County of Alameda single-family residence residential housing market. The department, at its sole election, may undertake an appraisal review. The commission is hereby authorized and directed to approve an appraisal review as provided in this section. However, the commission retains the authority to determine that the appraisal or appraisal review accurately determined the "as is" fair market value according to the processes and procedures identified or referenced in this section. For the purposes of this section, "fair market value" has the meaning set forth in Section 1263.320 of the **Code** of Civil Procedure.

(b) This section shall become operative on the date on which the superior court issues the final approval order for the settlement agreement related to the disposition of excess properties acquired for the State Route 238 Hayward Bypass Project signed by the department, the City of Hayward, and representatives for members of the class of residents, or on January 1, 2010, whichever comes later.

14528.7. A city or county acting jointly with the transportation planning agency having jurisdiction over the city or county may adopt a resolution requesting the rescission of a state highway route location within the city or county, as the case may be. The city or county, acting jointly with the transportation planning agency, may submit an alternative state highway project proposal with the resolution. If the commission concurs in the resolution, the route location shall be rescinded, and the department shall proceed with the sale of excess real properties that were acquired for the rescinded route location.

In the case of a city or county under the jurisdiction of a county transportation commission, only the county transportation commission may adopt the resolution and submit an alternative state highway project proposal.

14528.8. When the department sells any real property or interest therein acquired for a state highway route location rescinded pursuant to Section 14528.7, the proceeds from the sale shall be allocated by the commission for expenditure by the department to fund the alternative state highway project proposed by the city or county, as the case may be, if it is approved by the commission. Expenditure of the proceeds for an alternative state highway project within the same county is not subject to Sections 188 and 188.8 of the Streets and Highways **Code** if the route location was rescinded pursuant to Section 14528.7.

14529. (a) The state transportation improvement program shall include a listing of all capital improvement projects that are expected to receive an allocation of state transportation funds under Section 164 of the Streets and Highways **Code**, including revenues from transportation bond acts, from the commission during the following five fiscal years. It shall include, and be limited to, the projects to be funded with the following:

- (1) Interregional improvement funds.
- (2) Regional improvement funds.

(b) For each project, the program shall specify the allocation or expenditure amount and the allocation or expenditure year for each of the following project components:

- (1) Completion of all permits and environmental studies.
- (2) Preparation of plans, specifications, and estimates.
- (3) The acquisition of rights-of-way, including, but not limited to, support activities.

(4) Construction and construction management and engineering, including surveys and inspection.

(c) Funding for right-of-way acquisition and construction for a project may be included in the program only if the commission makes a finding that the sponsoring agency will complete the environmental process and can proceed with right-of-way acquisition or construction within the five-year period. No allocation for right-of-way acquisition or construction shall be made until the completion of the

environmental studies and the selection of a preferred alternative.

(d) The commission shall adopt and submit to the Legislature and the Governor, not later than April 1 of each even-numbered year thereafter, a state transportation improvement program. The program shall cover a period of five years, beginning July 1 of the year it is adopted, and shall be a statement of intent by the commission for the allocation or expenditure of funds during those five years. The program shall include projects which are expected to receive funds prior to July 1 of the year of adoption, but for which the commission has not yet allocated funds.

(e) The projects included in the adopted state transportation improvement program shall be limited to those projects submitted or recommended pursuant to Sections 14526 and 14527. The total amount programmed in each fiscal year for each program category shall not exceed the amount specified in the fund estimate adopted under Section 14525.

(f) The state transportation improvement program is a resource management document to assist the state and local entities to plan and implement transportation improvements and to utilize available resources in a cost-effective manner. It is a document for each county and each region to declare their intent to use available state and federal funds in a timely and cost-effective manner.

(g) Prior to the adoption of the state transportation improvement program, the commission shall hold not less than one hearing in northern California and one hearing in southern California to reconcile any objections by any county or regional agency to the department's program or the department's objections to any regional program.

(h) The commission shall incorporate projects that are included in the regional transportation improvement program and are to be funded with regional improvement funds, unless the commission finds that the regional transportation improvement program is not consistent with the guidelines adopted by the commission or is not a cost-effective expenditure of state funds, in which case the commission may reject the regional transportation improvement program in its entirety. The finding shall be based on an objective analysis, including, but not limited to, travel forecast, cost, and air quality. The commission shall hold a public hearing in the affected county or region prior to rejecting the program, or not later than 60 days after rejecting the program. When a regional transportation improvement program is rejected, the regional entity may submit a new regional transportation improvement program for inclusion in the state transportation improvement program. The

commission shall not reject a regional transportation improvement program unless, not later than 60 days after the date it received the program, it provided notice to the affected agency that specified the factual basis for its proposed action.

(i) A project may be funded with more than one of the program categories listed in Section 164 of the Streets and Highways **Code**.

(j) Notwithstanding any other provision of law, no local or regional matching funds shall be required for projects that are included in the state transportation improvement program.

(k) The commission may include a project recommended by a regional transportation planning agency or county transportation commission pursuant to subdivision (c) of Section 14527, if the commission makes a finding, based on an objective analysis, that the recommended project is more cost-effective than a project submitted by the department pursuant to Section 14526.

14529.01. (a) It is the intent of the Legislature to facilitate project development work on needed transportation projects to produce a steady flow of construction projects by adding an advance project development element to the state transportation improvement program, beginning with the 2000 State Transportation Improvement Program.

(b) The advance project development element shall include only project development activities for projects that are eligible for inclusion in a state transportation improvement program.

(c) The fund estimate for each state transportation improvement program shall designate an amount to be available for the advance project development element, which shall be not more than 25 percent of the programmable resources estimated to be available for the first and second years following the period of the state transportation improvement program, subject to the formulas in Sections 164, 188, and 188.8 of the Streets and Highways **Code**.

(d) The department, transportation planning agencies, and county transportation commissions may nominate projects to the commission for inclusion in the advance project development element through submission of the regional transportation improvement program and the interregional transportation improvement program.

(e) The funds programmed in the advance project development element may be allocated within the period of the state transportation improvement program without regard to fiscal year.

(f) The commission may develop guidelines to implement this section.

14529.1. The commission shall establish guidelines for the allocation of funds to an entity for a project to verify that the entity has the resources and capabilities to implement the project in a timely manner and may establish a process for monitoring the progress being made and proper use of funds. The guidelines and process shall be kept to the minimum needed to protect state funds and provide for a timely use of those funds. The commission shall request that the entity receiving funds accept an audit of funds allocated to it by the commission if an audit is deemed necessary.

14529.3. At least 20 days prior to the adoption of the state transportation improvement program, the executive director shall make available to the commission, the department, and the transportation planning agencies and county transportation commissions the recommendations of the staff on the program.

14529.4. The commission may include capacity-increasing projects in the adopted state transportation improvement program adopted pursuant to Section 14529 only if the project studies report has been completed for that project pursuant to Section 65086.5.

14529.6. (a) (1) Notwithstanding any other provision of law, the commission may advance unallocated funds in the State Highway Account, in the form of loans, to transportation planning agencies, county transportation commissions, transit districts, city and county governments, and local transportation authorities for the advancement of projects eligible under the state transportation improvement program that are included within an adopted regional transportation plan.

(2) No application for a loan may be approved under this section for an agency that is not the approving authority for the county's submission to the state transportation improvement program unless the

agency applies jointly with the approving authority.

(b) When considering loan applications, the commission shall ensure that all of the following conditions are met:

(1) Projects shall comply with the environmental impact report certification requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources **Code**) and associated rules and regulations, and have prepared an environmental impact report under that act.

(2) Total project costs shall be greater than ten million dollars (\$10,000,000). In counties with populations of less than 500,000 persons, the commission may waive this requirement if 50 percent of a county's share for the current county share period made under Section 188.8 of the Streets and Highways **Code** is equal to or greater than the amount of project costs to be loaned.

(3) A fiscal assessment of the applicant's ability to repay a loan shall be made by an independent fiscal consultant selected by the applicant from a pre-qualified list of fiscal consultants approved jointly by the department and the commission. The department shall make a recommendation to the commission based on the analysis conducted by the independent fiscal consultant regarding each specific loan. Costs incurred for this assessment shall be paid by the applicant.

(4) The maximum amount of funds that may be loaned to any single county in any single loan for one or more projects shall be not more than 50 percent of the most recent regional-choice funding allocation made pursuant to Section 188.8 of the Streets and Highways **Code**, in an amount of not more than one hundred million dollars (\$100,000,000).

(5) Loan repayments shall be made in cash from nonstate sources.

(6) Loans shall be repaid within four years from the date the loan is made.

(7) If a default occurs, 100 percent repayment of the principal and interest, plus a penalty charge of 5 percent of the outstanding principal, shall be required in the form of a reduction in the county's next allocation of county share funding made under Section 188.8 of the Streets and Highways **Code**. If that reduction is not sufficient to pay the principal, interest, and penalty due, further reduction shall be made from subsequent allocations until the outstanding amount is paid in full. Additionally, the defaulting county shall be ineligible for regional choice fund programming made under Section 188.8 of the Streets and Highways **Code** until the outstanding amount is paid in full.

(8) Interest rates on loans shall be set at the rate paid on money

in the Pooled Money Investment Account during the period of time that the money is loaned.

(9) The commission shall approve or disapprove all loan applications not more than 30 days after the application is submitted.

(10) When approved by the commission, the money for the loan shall be transmitted by the department directly to the applicant not later than 30 days after approval.

(11) The total amount of outstanding loans approved under this program may not exceed five hundred million dollars (\$500,000,000) at any one time.

(12) All payments on the principal of any loan plus interest or penalties paid shall be deposited in the State Highway Account.

(13) The department shall require in writing that projects funded under this section be under construction not later than six months after the date the loan funds are transmitted. If the project is not under construction on or before the date set by the department under this paragraph, the department shall require that the loan be paid back, with interest, not later than 10 days after the department notifies the recipient that repayment is due.

(c) The loan program created under this section shall automatically commence on a first-come, first-served basis whenever the State Highway Account cash balance exceeds four hundred million dollars (\$400,000,000) and shall be suspended whenever the commission determines that moneys in the State Highway Account will reach a cash balance of less than four hundred million dollars (\$400,000,000), based on historical experience, the need for state matching funds, and anticipated contractual needs, except that the commission may terminate the program at any time it deems termination to be the most prudent course of action. For purposes of informing potential loan applicants of the availability of funds to be loaned, the commission shall adopt, on January 15 and July 15 of each year, projections regarding the availability of funds to be loaned and the period of time during which funds will be available. The department shall report to the commission prior to each projection regarding the cash-flow needs of the state transportation improvement program for the following six months.

(d) Prior to loan approval, local agencies shall certify that other resources are not available to fund the project for which the loan is requested and that the agency does not intend to create an indirect arbitrage situation.

(e) Not later than 120 days from the effective date of the act that added this section during the 1999-2000 Regular Session, the



commission, in consultation with the department and interested parties, shall propose guidelines and procedures to implement and expedite the loan program established under this section.

(f) Not later than 180 days from the effective date of the act that added this section during the 1999-2000 Regular Session, the commission, after a public hearing, shall adopt a uniform loan agreement package, including guidelines and implementation procedures, and shall begin operation of the loan program. The uniform loan agreement package shall describe loan repayment options, and all other terms and conditions necessary to protect the public interest as well as expedite the availability of funds for needed transportation improvements in the state. The commission shall make available to all interested parties the loan agreement associated with every specific loan made under this section for a period of 30 days prior to approval of those loans by the commission.

(g) The commission shall recommend to the Governor and the Legislature any suggested changes in the dollar limits required under subdivision (c) and any proposed solutions to any other issues relating to the program's impact on expediting delivery of transportation projects.

14529.7. (a) A local jurisdiction may, with the concurrence of the appropriate transportation planning agency, the commission, and the department, advance a project included in the state transportation improvement program to an earlier fiscal year through the use of its own funds. A project advanced in this manner shall be deliverable by the state, or by the local jurisdiction pursuant to agreement, in the earlier year proposed by the local jurisdiction.

If a project is advanced pursuant to this subdivision, the state transportation improvement program shall be revised at the time of adoption or by amendment to show the project in the earlier fiscal year.

With the concurrence of the appropriate transportation planning agency, the commission, and the department, one or more replacement state transportation projects shall be identified and included in the state transportation improvement program for the equivalent escalated dollar value and at the originally scheduled fiscal year of the advanced project. If the project to be advanced is programmed with federal funds, the replacement project or projects shall not result in an increase in state matching funds. A replacement project or projects shall have no lower priority for funding and delivery than did the advanced project, as originally scheduled.

(b) A local agency may enter into an agreement with the appropriate transportation planning agency, the department, and the commission to use its own funds to develop, purchase right-of-way for, and construct a transportation project within its jurisdiction if the project is one which is included in the adopted state transportation improvement program, funded by the Passenger Rail Bond Fund, as set forth in Section 2701.05 of the Streets and Highways **Code**, or if approved by the voters, the Passenger Rail Bond Fund created by, respectively, Section 2702.05 or 2703.05 of the Streets and Highways **Code**, the Clean Air and Transportation Improvement Fund created by Section 99610 of the Public Utilities **Code**, the State Highway Account, or the Transportation Planning and Development Account, or any combination thereof, pursuant to all of the following requirements:

(1) Projects constructed pursuant to this subdivision shall conform to all applicable state and federal design and construction standards.

(2) Pursuant to the agreement, and from funds allocated by the commission for the project in the year it was scheduled in the state transportation improvement program, subject to annual legislative appropriation, the department shall reimburse a local agency for the actual cost of constructing the project, including the acquisition of right-of-way, with local funds pursuant to this subdivision. Interest or other debt service costs incurred by local agencies to finance right-of-way acquisition or construction for the project are not reimbursable. Reimbursements made to a local agency pursuant to this subdivision shall be made from the funding source identified in the state transportation program. For purposes of Sections 188 and 188.8 of the Streets and Highways **Code**, the project shall be considered as an expenditure in the year it was originally scheduled in the state transportation improvement program.

(3) The amount actually reimbursed to the local agency under paragraph (2) shall be the amount expended by the local agency for right-of-way and construction, escalated by the actual construction cost index between the time of contract award and the time of commission allocation of reimbursement funding, but not to exceed the escalated amount programmed for expenditure for the project in the state transportation improvement program in the originally scheduled year. If the expenditure of local funds does not result in the completion of an operable segment of a transportation project, payback shall be limited only to the actual amount expended by the local agency for right-of-way or partial construction, with no escalation factor.

(4) From funds appropriated to the department for project development work, the department shall reimburse the local agency for the actual cost of developing the project with local funds pursuant to this subdivision. Reimbursement of project development costs shall not exceed 20 percent of estimated construction costs. In no case shall this reimbursement exceed any lesser amount mutually agreed to by the department, commission, and local agency. Reimbursement shall occur at the earliest date the department has budget authority to do so, but not later than the year in which the department would have made those expenditures to deliver the project as originally scheduled in the state transportation improvement program.

(5) The commission shall prepare a report on the progress and impact of the local transportation construction program authorized by this subdivision and shall include the report as an element of the annual report to the Legislature required pursuant to Sections 14535 and 14536 of the **Government Code**.

(6) Reimbursements made to local agencies pursuant to this subdivision for expenditures of local voter approved sales and use tax revenues shall be used for the same purposes for which the imposition of the sales and use tax is authorized.

(7) A project which is constructed pursuant to this subdivision is ineligible for funding from the State-Local Transportation Partnership Program established by Chapter 16 (commencing with Section 2600) of Division 3 of the Streets and Highways **Code**.

(8) The commission, in consultation with the department and local transportation officials, shall develop and adopt guidelines to implement this subdivision.

14529.8. (a) Funds may be allocated by the commission for each project element during the fiscal year that is identified in the state transportation improvement program and the funds shall be available for expenditure during that fiscal year and the following two fiscal years. Any funds not allocated, or allocated but not encumbered, during the period specified in this section, shall remain in the State Highway Account or Public Transportation Account, or be returned to that particular account, as the case may be.

(b) Upon a finding that an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies an extension, the commission may extend the deadlines specified in subdivision (a). The deadline extensions shall not exceed the period of delay directly attributed to the

extraordinary circumstance and in no event be more than 20 months. The commission shall not grant more than one extension.

14529.9. (a) A transportation planning agency, county transportation commission, or local transportation authority may, with the concurrence of the commission, request the department to make a portion of the cost of any project funded by a local entity that is included in the state transportation improvement program eligible for reimbursement by the federal **government** pursuant to Section 115 of Title 23 of the United States **Code**. The transportation planning agency, county transportation commission, or local transportation authority shall be responsible for the cost the department incurs in making the project's cost eligible for federal reimbursement.

(b) The transportation planning agency, county transportation commission, or local transportation authority and the department shall specify by agreement whether reimbursements for project costs received from the federal **government** pursuant to Section 115 of Title 23 of the United States **Code** shall be returned to the local funding entity for transportation projects or allocated to additional projects in the state transportation improvement program. For purposes of Sections 188 and 188.8 of the Streets and Highways **Code**, reimbursements to local entities shall be considered expenditures from the State Highway Account in the year the reimbursement occurs.

(c) For reimbursements which a local funding entity specifies are to be allocated to additional projects in the state transportation improvement program, the transportation planning agency, county transportation commission, or local transportation authority and the department, in making their recommendations, and the commission, in adopting the state transportation improvement program, shall consider the recommendations of the local funding entity for projects to be funded from federal reimbursements received for a project the entity has funded. The reimbursements may not be used as substitute funding for projects the commission has included in the adopted state transportation improvement program and programmed to receive state and federal funds, other than those provided as reimbursement pursuant to Section 115 of Title 23 of the United States **Code**.

(d) The department, in its recommended funding estimate, shall identify the amount of project costs that can be made eligible for reimbursement pursuant to Section 115 of Title 23 of the United

States **Code**. The department shall also estimate the amount of federal funds available for reimbursement in each year of the state transportation improvement program.

(e) Each year the department shall determine the actual amount of federal funds available for reimbursement pursuant to Section 115 of Title 23 of the United States **Code** and shall notify the commission and regional transportation planning agencies.

(f) In any federal fiscal year in which the department determines funding is available for reimbursement pursuant to Section 115 of Title 23 of the United States **Code**, the department shall seek reimbursement for locally funded projects in the order in which the projects were made eligible pursuant to subdivision (a). If the funds available are not sufficient to fully reimburse a locally funded project, the department shall seek reimbursement for the next project whose amount can be fully reimbursed. Projects bypassed for reimbursement in one fiscal year shall retain their priority in the next fiscal year in which funding is available.

(g) The commission shall not make a reimbursement pursuant to this section unless the department finds that implementation of advance construction of projects results in the state receiving federal funds in addition to those which would be received in the absence of advanced construction agreements under this section. Reimbursement shall only be made when the commission determines that all county minimum expenditures pursuant to Section 188.8 of the Streets and Highways **Code** can be reasonably met, that the minimum expenditures cannot be met for reasons not related to advance construction reimbursements, or when the county in which a reimbursement would be made is below its minimum expenditure amount pursuant to that section. A project bypassed for reimbursement under this subdivision in one fiscal year shall retain its priority in the next fiscal year in which funding is available.

(h) The department shall notify the commission within 30 days of applying for reimbursement by the federal **government** for locally funded projects.

14529.10. The department shall recommend, and the commission shall adopt, guidelines and procedures to implement Sections 14529.8 and 14529.9.

14529.11. (a) In order to assist in the delivery of high-priority

transportation projects, as determined by the commission, or advance project development work, the commission shall adopt, not later than January 30, 2000, guidelines for an expedited process through which projects may comply with the requirement that a project study report be prepared in order for a project to be considered for inclusion in the state transportation improvement program. The expedited compliance process may be initiated whenever the commission finds it to be in the public interest.

(b) The guidelines required under subdivision (a) shall be developed in consultation with the department, the county agencies responsible for submission of projects for inclusion in the state transportation improvement program, and regional transportation planning agencies.

(c) The guidelines developed by the commission shall require that any request for use of the expedited compliance process be approved by the county agency responsible for submission of projects for inclusion in the state transportation improvement program and that each county approval be reviewed and approved by the department before being considered by the commission.

14529.12. (a) The department and the regional planning agencies shall consult and seek consensus on state highway projects to be proposed for inclusion in the state transportation improvement program under Sections 14526 and 14527.

(b) Agreements between the state and transportation planning agencies or county transportation commissions relating to program approvals or federal or state fund transfers and the expenditure of funds pursuant to those agreements shall comply with all applicable federal and state laws and regulations and be subject to the administrative operating procedures set forth in Federal Office of Management and Budget Circulars A-87, A-102, and A-128, but not to any other state agency procedures or requirements.

14529.17. (a) A regional or local entity that is the sponsor of, or is eligible to receive funding for, a project contained in the state transportation improvement program may expend its own funds for any component of a transportation project within its jurisdiction that is included in an adopted state transportation improvement program and for which the commission has not made an allocation. It is the intent

of the Legislature that local funds expended to advance eligible projects programmed in the state transportation improvement program shall be reimbursed if the requirements of this section are satisfied.

(b) No later than the time of the first expenditure, the regional or local entity shall request an allocation for the project, which shall include a notice to the commission of its intent to expend its own funds in accordance with this section.

(c) The amount expended under subdivision (a) shall be reimbursed by the state, subject to annual appropriation by the Legislature, if all of the following conditions are met:

(1) The commission makes an allocation for, and the department executes an agreement to transfer funds for, the project.

(2) Expenditures made by the regional or local entity are eligible for reimbursement in accordance with state and federal laws and procedures. In the event expenditures made by the regional or local entity are determined to be ineligible, the state has no obligation to reimburse those expenditures.

(3) The regional or local entity complies with all legal requirements for the project, including, but not limited to, authorization by the federal **government**, if required, Section 14520.3, and the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources **Code**).

(d) Upon the execution of an agreement with the department to transfer reimbursement funds for a project described in subdivision (a), the commission may delay reimbursement pursuant to this section only if programming or cash-management issues prevent immediate repayment.

(e) This section shall be limited to projects advanced for expenditure by an eligible regional or local entity programmed in the current fiscal year of the state transportation improvement program.

(f) Nothing in this section shall establish a priority for allocations made by the commission.

(g) Nothing in this section shall allow for the establishment of a timeframe limiting reimbursement to a regional or local entity so long as the regional or local entity has requested an allocation under the timeline established in subdivision (b) and the project is included in the adopted state transportation improvement program when the allocation reimbursement is approved by the commission.

(h) Unless otherwise agreed in advance by the commission and the department, the funds appropriated for the purposes of reimbursement under this section shall be federal funds and state matching funds.

14529.19. (a) If no deficiencies that require clarification by a local or regional entity are identified in the preaward audit for a local or regional project that is included in an adopted state transportation improvement program, the department and the local or regional entity shall execute an agreement to transfer funds for the project within 90 days from the date on which the commission approves an allocation for the project.

(b) Notwithstanding Section 7550.5, on July 1, 2000, and annually thereafter, the department shall compile information and report to the Legislature on the number of projects for which an agreement to transfer funds under subdivision (a) was executed and on all projects for which an agreement was not executed within the period provided under subdivision (a) and the reasons therefor. The information provided by the department shall include a description of any actions taken by the department during the prior fiscal year to streamline, expedite, and simplify the department's process for executing the agreements to transfer funds required under subdivision (a).

14529.23. The department shall implement systems that allow rapid access to funds made available under executed agreements to transfer funds. The Controller shall develop a system that provides access to those funds by electronic transfer of funds. Upon the development of that system by the Controller, the department shall utilize that system to comply with Section 14529.19 to the maximum extent feasible.

14530. The commission may deviate, in the adoption of the state transportation improvement program, from a regional transportation improvement program based on a finding that there (a) are inconsistencies between the program and the appropriate guidelines, (b) are insufficient funds available to implement the program, (c) are conflicts between the regional transportation improvement programs, (d) are conflicts between a regional transportation improvement program and the department's recommendations in its



transportation improvement program, (e) is an overriding state need for a project to adequately accommodate interregional traffic, or (f) is no adopted congestion management program for a county in which a project is proposed.

14530.1. (a) The department, in cooperation with the commission, transportation planning agencies, and county transportation commissions and local governments, shall develop guidelines for the development of the state transportation improvement program and the incorporation of projects into the state transportation improvement program.

(b) The guidelines shall include, but not be limited to, all of the following:

- (1) Standards for project deliverability.
- (2) Standards for identifying projects and project components.
- (3) Standards for cost estimating.
- (4) Programming methods for increases and schedule changes.
- (5) Objective criteria for measuring system performance and cost-effectiveness of candidate projects.

(c) The guidelines shall be the complete and full statement of the policy, standards, and criteria that the commission intends to use in selecting projects to be included in the state transportation improvement program.

(d) The commission may amend the adopted guidelines after conducting at least one public hearing. The commission shall make a reasonable effort to adopt the amended guidelines prior to its adoption of the fund estimate pursuant to Section 14525. In no event shall the adopted guidelines be amended, or otherwise revised, modified, or altered during the period commencing 30 days after the adoption of the fund estimate pursuant to Section 14525 and before the adoption of the state transportation improvement program pursuant to Section 14529.

14531. (a) The commission may amend the state transportation improvement program if the amendment meets both of the following conditions:

- (1) The request for the amendment is made by the entity that submitted the project or projects that are in the program and are to be changed by the amendment.
- (2) The total amount programmed in each county for regional

improvements does not exceed the county's share prior to the amendment, or the total amount programmed in each county is treated as an adjustment to the share pursuant to Section 188.11 of the Streets and Highways **Code**.

(b) Public notice of the proposed amendments to the program or the plan shall be made at least 30 days before the commission takes formal action on the proposed amendments. The notice shall include the text and complete description of the proposed amendments.

14532. (a) In appropriating the funds allocated under paragraph (C) of subdivision (c) of Article XIX B of the California Constitution, the funds shall be apportioned in accordance with the apportionment formula set forth in paragraph (5) of subdivision (c) of Section 7104 of the Revenue and Taxation **Code**.

(b) In appropriating the funds allocated under paragraph (D) of subdivision (c) of Article XIX B of the California Constitution, the funds shall be apportioned in accordance with the apportionment formulas set forth in subparagraphs (A) and (B) of paragraph (4) of subdivision (c) of Section 7104 of the Revenue and Taxation **Code**.

(c) The funds appropriated in accordance with subdivisions (a) and (b) are subject to subdivisions (d) to (f), inclusive, and subdivision (h), of Section 7104 of the Revenue and Taxation **Code**.

(d) This section shall become operative on the date that Assembly Constitutional Amendment No. 4 (Res. Ch. 87, Stats. 2001) is approved by the voters.

14533. The commission shall allocate funds for transportation projects consistent with those provisions of the current and prior Budget Acts that apply to the use of the appropriated funds to be allocated. The commission shall not allocate funds for major projects required to be in a state transportation improvement program, or in the department's highway systems operation and protection plan, that are not included in the adopted state transportation improvement program or in the department's highway systems operation and protection plan, except as follows:

(a) The allocation is necessary for a response to an emergency condition which has placed either people or property in jeopardy or which has caused or threatens to cause closure of a critical state transportation facility or access to it.

(b) Costs will be significantly increased if the project is delayed pending amendment to the program.

(c) When bids are opened, it is necessary to obtain an additional allocation which will make the project a major project and the delay in amending the program will increase the cost of the project significantly.

(d) The allocation is to supplement funding for an advertised project.

14533.1. Not less than 30 days prior to adopting changes to any guidelines for the expenditure of any funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, the California Transportation Commission shall provide written notification to the chairs of the appropriate policy committees and budget committees of the Legislature.

14533.2. (a) A local agency, as defined in Section 99602 of the Public Utilities **Code**, that is a lead applicant agency for a project that may be funded pursuant to the Clean Air and Transportation Improvement Act of 1990 (Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities **Code**) may apply to the commission for a letter of no prejudice for the project or a component of the project. The commission may approve the letter of no prejudice for one or more projects or project components that the commission has programmed, allocated, or otherwise approved for funding. The letter of no prejudice shall reference the project or component thereof and the amount of bond funding that is programmed, allocated, or otherwise approved for that project or project component. The commission may approve a letter of no prejudice without further appropriation of funds in the Clean Air and Transportation Improvement Fund, as moneys in that fund are continuously appropriated to the commission for allocation pursuant to Section 99612 of the Public Utilities **Code**.

(b) Expenditures for the costs, up to the amount set forth in the letter of no prejudice, of a project or project component for which a letter of no prejudice has been issued shall be eligible for reimbursement from the Clean Air and Transportation Improvement Fund if all of the following apply:

(1) The project or project component for which the letter of no

prejudice was requested has commenced and expenditures on the project or project component have been incurred by the local agency.

(2) The expenditures made by the local agency are eligible for reimbursement in accordance with state and federal laws and procedures, and are permitted expenditures under the applicable provisions of the Clean Air and Transportation Improvement Act of 1990 (Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities **Code**). If expenditures made are determined to be ineligible, then the state has no obligation to reimburse for those expenditures.

(3) The local agency complies with all legal requirements for the project, including the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources **Code**).

(4) The expenditures were incurred after the project or project component was programmed, allocated, or otherwise approved for funding by the commission.

(5) There is in the Clean Air and Transportation Improvement Fund an amount sufficient to make the reimbursement payment. Nothing in this section requires the fund to be funded at any particular time or in any particular amount.

(c) The commission and the local agency may enter into an agreement or agreements governing reimbursement as described in this section.

(d) Nothing in this section modifies any requirement under Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities **Code**. Without limiting the foregoing, nothing in this section or in any letter of no prejudice shall eliminate or modify any condition or requirement for granting, allocation, or reallocation of funds or any other provision relating to grants, allocations, or reallocations in Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities **Code**.

(e) For purposes of this section, "letter of no prejudice" means an agreement between a local agency and the commission that makes eligible for future reimbursement from bond proceeds the expenditure of funds under the control of the local agency, subject to availability of bond funds, as provided in this section. The timing and final amount of reimbursement is dependent on the terms of the agreement and the availability of bond funds. The final amount of reimbursement may be less than the amount stated in the letter of no prejudice.

14533.5. (a) The department shall advance funds for an exclusive public mass transit guideway project to a public entity eligible for those funds when all of the following conditions exist:

(1) The commission has allocated the funds pursuant to Section 14533 of this **code** and in accordance with Section 99317 of the Public Utilities **Code** or Section 199 of the Streets and Highways **Code**.

(2) The financing plan and the schedule for the project have been approved by the department pursuant to Section 14085.

(3) The department and the public entity have entered into a fund transfer agreement which specifies the terms of the advance and the procedure for periodic reimbursement of actual costs incurred for the project.

(4) The public entity has demonstrated to the satisfaction of the department that the advance is required to pay current expenses on the project for which the allocation is authorized.

(5) The advance does not exceed 10 percent of the allocation authorized.

(6) The advance will not jeopardize the timely discharge of the other commitments against the account in the State Transportation Fund from which the advance is made.

(b) If, upon completion of the project, the advance of funds, together with interest on the advance of funds earned for the full period of the advance equivalent to the average rate earned by investments in the Pooled Money Investment Account during the same period, exceeds that portion of the actual reimbursable costs for which the public entity has not been reimbursed, the public entity shall repay the excess amount to the state for deposit in the account from which the advance was made.

(c) If the department encounters any substantial problems in carrying out this section, it shall promptly prepare and submit to the Legislature a report which summarizes the procedures adopted to carry out the section, identifies any problems encountered, and indicates the direct and indirect costs to the state incurred in carrying out the section.

14533.6. As used in this chapter:

(a) "Minority business enterprise" means a business concern which is all of the following:

(1) At least 51 percent owned by one or more minorities, or in the case of a publicly owned business, at least 51 percent of the stock

of which is owned by one or more minorities.

(2) Managed by, and the daily business operations are controlled by, one or more minorities.

(3) A domestic corporation with its home office located in the United States.

(b) "Women business enterprise" means a business concern which is all of the following:

(1) At least 51 percent owned by a woman or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more women.

(2) Managed by, and the daily business operations are controlled by, one or more women.

(3) A domestic corporation with its home office located in the United States.

14534. Upon the adoption of the state transportation improvement program, the Secretary of the Business, Transportation and Housing Agency, the commission, and the department shall act in accordance with the program in carrying out their respective powers and duties, except as otherwise provided by law.

The existing adopted state transportation improvement program shall remain in effect until a new state transportation improvement program is adopted by the commission.