Assembly Bill No. 1012

CHAPTER 783

An act to add Sections 14053, 14529.01, 14529.3, 14529.6, and 14529.11 to, and to add and repeal Section 14007.5 of, the Government Code, and to amend Sections 182.6 and 182.7 of the Streets and Highways Code, relating to highways, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1012, Torlakson. Transportation: project delivery: funding.

(1) Existing law generally authorizes the Department of Transportation to plan, design, construct, operate, and maintain those transportation systems that the Legislature has made, or may make, the responsibility of the department.

This bill would require the Director of Transportation, until June 30, 2003, to establish 4 transportation project delivery advisory teams in certain regional districts of the department to assist expeditious delivery of transportation projects. Each team would include, at a minimum, the regional district director, the executive director of each agency responsible for approval of each county's submission to the state transportation improvement program, the executive director of the regional or metropolitan transportation planning organization in the regional district, and other members, to be nominated by the entities to be represented not later than a specified date. The bill would require each team to provide a report identifying how transportation project delivery could be accelerated by changes in federal, departmental, regional, or local agency programs or procedures, changes in federal, state, or local law, or any other strategies that could be taken to accelerate implementation of transportation improvements. The bill would require the report to be submitted not later than a specified date to the Governor, the Legislature, and specified other persons.

The bill would require the department to provide staff support for a management information system committee consisting of representatives of the department, the California Transportation Commission, the Department of Information Technology, counties, cities, the agencies responsible for approving each county's submission to the state transportation improvement program, and the designated, multicounty regional transportation planning agencies. The bill would require the committee to develop a plan for

a management information system for project monitoring and project delivery purposes. The department would be required to submit the plan to the Governor and Legislature not later than a specified date.

(2) Existing law prescribes a 4-year process for estimating the amount of state and federal funds to be available for transportation projects in the state, and for appropriating and allocating the available funds to those projects.

This bill would add an advance project development element to that process.

(3) Existing law authorizes the department, upon the application of the governing authority of any county, city, or other governmental agency, to perform certain work relating to highways for that authority or agency and accept moneys for that work for deposit in the Treasury to the credit of any state fund that the department designates.

This bill would require that funds received by the department as reimbursement for any work performed by the department under contract or other agreement for any local agency or entity or for any other state agency or state entity, as specified, be deposited in the Transportation Reimbursable Work Account which the bill would create in the State Transportation Fund.

The bill would continuously appropriate the money in the account to the department for the purpose of funding the performance of reimbursable work by the department.

The bill would prohibit the department from making expenditures from the account unless the department has determined that it has sufficient resources to complete both the reimbursable project and all projects under the state transportation improvement program in a timely manner.

(4) Existing law requires the funds in the State Highway Account in the State Transportation Fund to be programmed, budgeted, and expended to maximize the use of federal funds based on a specified sequence of priorities. Existing law also requires state operations expenditure amounts of the department for interregional and regional transportation improvement projects to be listed as specified, but states that those amounts, other than those for the acquisition of right-of-way and construction, shall not be subject to allocation by the commission.

Existing law also authorizes a local jurisdiction to advance a project included in the state transportation improvement program to an earlier fiscal year through the use of its own funds. Under these provisions, existing law authorizes a local agency to 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

adopted state transportation improvement program, funded as specified, and pursuant to specified requirements.

This bill would also authorize the commission to advance unallocated funds in the State Highway Account, in the form of loans, to transportation planning agencies, county transportation commissions, transit districts, 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. Thus, by making money in the State Highway Account available for a new purpose, the bill would make an appropriation. The bill also would set forth procedures governing the advancing of these funds and would require the commission to adopt guidelines and procedures governing these provisions not later than specified dates.

The bill would require the commission to begin operation of the loan program not later than a specified date.

(5) Existing law prohibits projects from being included in the interregional transportation improvement program or a regional transportation improvement program without a complete project study report or a major investment study. Projects included in those transportation improvement programs are considered for incorporation in the state transportation improvement program.

This bill would require the commission to adopt, not later than January 30, 2000, guidelines for a process to expedite compliance 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, as specified.

(6) Existing law requires that all federal and state funds to be allocated by the commission be programmed in accordance with certain formulas.

This bill would require the department to be responsible for closely monitoring the use of federal transportation funds and would provide procedures for monitoring the use of those funds.

(7) The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

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

SECTION 1 (a) The Legislature finds and declares all of the following:

(1) The voters at the November 3, 1998, general election passed Proposition 2 to stop future diversion of transportation funds for nontransportation purposes by a 75 percent majority vote, thus indicating overwhelming support for using these funds on needed transportation improvements.

(2) In all of the history of the State Highway Account, in the State Transportation Fund, which is more than 60 years, the cash balance has averaged under five hundred million dollars ($500,000,000).

(3) As of January 1, 1999, the cash balance in the State Highway Account is more than one billion eight hundred million dollars ($1,800,000,000).

(4) There are numerous reasons for this large cash balance.

(5) The people of California who pay for and are dependent on this state's transportation system expect their tax funds to be put to work building, operating, rehabilitating, and maintaining the transportation system.

(6) The people of California do not expect their tax funds to remain deposited in the State Highway Account for years after being collected, where they provide no transportation benefits.

(7) State and local transportation needs are increasing at an accelerating rate as the overall highway and transit system continues to deteriorate rapidly with age, exacerbated by numerous weather, earthquake, and other ravages.

(8) As the state's economy continues its recovery since the mid-1990's, more and more pressure has been put on the transportation system by commerce and the increase in commuter traffic.

(9) The Department of Finance projects another 20 to 25 percent increase in the population that will be trying to use California's already overburdened transportation system over the next 20 years.

(10) In order to bring this cash balance down to a reasonable level, the Department of Transportation needs to update its information management systems to modern standards that reflect current public and private practices and technology.

(11) The Department of Transportation, the California Transportation Commission, regional transportation planning agencies, local transportation commissions, city and county governments, local transit agencies, statewide labor organizations, and businesses and agricultural employers all agree that this cash balance must be used for high priority transportation needs as soon as possible.

(b) Accordingly, it is the intent of the Legislature, by the enactment of this act, to expedite the use of the excessively large cash balance in the State Highway Account and to direct the California Transportation Commission and Department of Transportation to accomplish the tasks necessary to put these taxpayer funds to work at the earliest possible time on needed transportation improvements.

SEC. 2. Section 14007.5 is added to the Government Code, to read:

14007.5. (a) For purposes of this section, "district" means a numbered district of the department.

(b) The director shall establish four transportation project delivery advisory teams, two in northern California districts and two in southern California districts, to assist expeditious delivery of state and local transportation projects. One of the districts selected for the advisory teams shall include a county that has a population of less than one million persons, and another selected district shall include a county that has a population of less than 750,000 persons.

(c) Each team shall include, at a minimum, all of the following members:

(1) The regional district director.

(2) The executive director of each agency responsible for approval of each county's submission to the state transportation improvement program.

(3) The executive director of the regional or metropolitan transportation planning organization in the regional district.

(4) The following members shall be nominated by the entities to be represented not later than 60 days after enactment of the act that added this section to the Government Code during the 1999–2000 Regular Session, as follows:

(A) A member representing the local transit districts. In districts with a population of more than one million persons, there shall be two members, one from a local bus operator and one from a regional rail operator.

(B) A member representing the cities in the regional district. This member shall be a city public works director, chosen by the City Selection Committee. In regional districts with populations of more than one million persons, there shall be two members, one from cities with populations of less than 100,000 persons and one from cities with populations of 100,000 persons or more.

(C) A member who shall be a county public works director, chosen by the counties in the regional district.

(D) A member representing the state employee union representing the department's engineering and professional employees responsible for project delivery functions, chosen by the Professional Engineers in California Government.

(E) A member representing the private construction trade unions, jointly nominated by the Laborers and Operating Engineers unions.

(F) A member of an association that represents private employers, selected by the director, in consultation with the business groups in the district.

(d) In addition to the members listed under subdivision (c), the regional district director shall invite a representative from the federal Department of Transportation to attend meetings of the advisory teams. The project delivery advisory teams shall hold their initial meeting not later than 90 days after enactment of the act that

added this section to the Government Code during the 1999–2000 Regular Session.

(e) Staff support for the project delivery teams shall be made available by the department and the local agencies responsible for submissions to the regional transportation improvement program and the state transportation improvement program.

(f) The district director shall act as team coordinator of each project delivery team for the purpose of setting meetings, making announcements, producing written materials, and providing logistics.

(g) All financial support of the project delivery teams shall be made available from existing planning, programming, and design resources, and other resources currently available to team members.

(h) (1) Notwithstanding Section 7550.5, each project delivery advisory team shall complete reports identifying how transportation project delivery could be significantly accelerated through any or all of the following:

(A) Changes in federal, departmental, regional, or local agency programs, organization, staffing levels, procedures, guidelines or any other actions relating to operation of those agencies.

(B) Changes in local, state, or federal law, procedures, regulations, or guidelines.

(C) Granting of new authority with the intent of accelerating project delivery.

(D) Any other new, creative strategies that could reasonably be taken on a regional district or statewide basis to accelerate implementation of needed transportation improvements.

(2) Each project delivery advisory team, within 180 days after its initial meeting, shall deliver copies of its final report to the Governor, the secretary, the director, the chairperson of the commission, and the Chairperson of the Transportation Policy Committees of both houses of the Legislature. One report shall be provided to each of the state legislators representing the regional district.

(i) This section shall become inoperative on June 30, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, which is enacted before January 1, 2004, deletes or extends the dates on which it becomes inoperative or is repealed.

SEC. 3. Section 14053 is added to the Government Code, to read:

14053. (a) It is the intent of the Legislature, in enacting this section, to establish an advisory body that, among other things, develops recommendations on ways to upgrade and modernize the data automation system within the department in a manner that enables the department to track the status of specific transportation projects and closely monitor the use of federal transportation funds, and includes other features that foster efficiencies in the delivery of transportation projects in this state. It is the intent of the Legislature that the advisory body established under this section develop a plan

that focuses on ways to complement existing efforts within the department to upgrade the department's internal data automation system.

(b) (1) The department shall provide staff support for a management information system committee.

(2) The secretary shall designate the chairperson of the committee and shall appoint representatives to the committee from all of the following:

(A) The commission.

(B) The Department of Information Technology.

(C) Counties.

(D) Cities.

(E) Agencies responsible for approving each county's submission to the state transportation improvement program.

(F) Designated, multicounty regional transportation planning agencies.

(G) The department.

(3) The committee shall develop a plan for a management information system for project monitoring and project delivery purposes. The plan shall specifically deal with the issue of closely monitoring the use of federal transportation funds, including, but not limited to, those funds that are made available through the federal Regional Surface Transportation Program and the federal Congestion Management and Air Quality program to ensure full and timely use of those funds under subdivision (i) of Section 182.6 of, and subdivision (f) of Section 182.7 of, the Streets and Highways Code. The committee shall consider developing all of the following:

(A) A report listing the data that would be required to provide necessary project accountability and tracking, including, but not limited to, requirements for specific project identification, budgeting, scheduling, milestone reporting, expenditures, and progress reports.

(B) A report on the anticipated costs of building and operating the system.

(C) A description of an appropriate procurement process.

(D) Any other information necessary for anticipating and effectively managing project delivery issues in an expeditious manner.

(c) The committee shall examine the feasibility of developing a system designed to reflect the diverse constituency of agencies that may need access to the system, including, but not limited to, regional transportation planning agencies, self-help sales tax authorities, local cities and counties, transit districts, and other recipients of funds under the state transportation improvement program.

(d) The committee shall consider one or more models for implementing the system in each county or region of the state. The model shall be appropriate for use in rural or urban districts.

(e) The plan shall contain recommendations for improvements to the department's internal data management system that can be implemented in phases. The first phase of the plan shall include recommendations on ways to improve project tracking capability. The plan shall also provide for development by the department of protocols regarding input and maintenance of the management information system.

(f) (1) Not later than March 31, 2000, the department shall submit to the Governor and the Legislature a progress report regarding current efforts by the department to improve its management information system capability and regarding development of the plan. The report shall include, but need not be limited to, an estimated completion date for the comprehensive data management system and a timetable for the interim steps that the department will take to provide the information necessary to satisfy the project monitoring requirements under Chapter 622 of the Statutes of 1997 and under the federal Transportation Equity Act for the 21st Century (Public Law 105-178) until the comprehensive data management system is operational.

(2) Not later than October 1, 2000, a draft of the plan shall be circulated to interested parties for review and comment.

(3) Not later than February 1, 2001, the committee shall submit the final plan to the Legislature.

SEC. 4. Section 14529.01 is added to the Government Code, to read:

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) Not later than September 1, 2002, the commission shall report to the Governor and the Legislature on the impact of adding the advance project development element described in subdivision (a) with the funding level described in subdivision (c). The report shall evaluate whether the element has proven effective in producing a steady, deliverable stream of projects and whether addition of the element has resulted in any detrimental effects on the state's transportation system.

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

SEC. 5. Section 14529.3 is added to the Government Code, to read:

14529.3. (a) Funds received by the department as reimbursement for any work authorized by the Legislature through the annual budget process to be performed by the department under contract or other agreement for any local agency or entity or for any other state agency or state entity shall be deposited in the Transportation Reimbursable Work Account which is hereby created in the State Transportation Fund.

(b) Notwithstanding Section 13340 of the Government Code and without regard to fiscal years, the money in the account is hereby continuously appropriated to the department for the purpose of funding the performance of reimbursable work by the department.

(c) The department may not make expenditures from the account unless the department has determined that it has sufficient resources to complete both the reimbursable project and all projects under the state transportation improvement program in a timely manner.

SEC. 6. Section 14529.6 is added to the Government Code, to read:

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.

SEC. 7. Section 14529.11 is added to the Government Code, to read:

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.

SEC. 8. Section 182.6 of the Streets and Highways Code is amended to read:

182.6. (a) Notwithstanding Sections 182 and 182.5, Sections 188, 188.8, and 825 do not apply to the expenditure of an amount of federal funds equal to the amount of federal funds apportioned to the state pursuant to that portion of subsection (b)(3) of Section 104, subsections (a) and (c) of Section 157, and subsection (d) of Section 160 of Title 23 of the United States Code which is allocated within the state subject to subsection (d)(3) of Section 133 of that code. These funds shall be known as the regional surface transportation program funds. The department, the transportation planning agencies, the county transportation commissions, and the metropolitan planning organizations may do all things necessary in their jurisdictions to secure and expend those federal funds in accordance with the intent of federal law and this chapter.

(b) The regional surface transportation program funds shall be apportioned by the department to the metropolitan planning

organizations designated pursuant to Section 134 of Title 23 of the United States Code and, in areas where none has been designated, to the transportation planning agency designated pursuant to Section 29532 of the Government Code. The funds shall be apportioned in the manner and in accordance with the formula set forth in subsection (d)(3) of Section 133 of Title 23 of the United States Code, except that the apportionment shall be among all areas of the state. Funds apportioned under this subdivision shall remain available for three federal fiscal years, including the federal fiscal year apportioned.

(c) Where county transportation commissions have been created by Division 12 (commencing with Section 130000) of the Public Utilities Code, all regional surface transportation program funds shall be further apportioned by the metropolitan planning organization to the county transportation commission on the basis of relative population.

In the Monterey Bay region, all regional surface transportation program funds shall be further apportioned, on the basis of relative population, by the metropolitan planning organization to the regional transportation planning agencies designated under subdivision (b) of Section 29532 of the Government Code.

(d) The applicable metropolitan planning organization, county transportation commission, or transportation planning agency shall annually apportion the regional surface transportation program funds for projects in each county, as follows:

(1) An amount equal to the amount apportioned under the federal-aid urban program in federal fiscal year 1990–91 adjusted for population. The adjustment for population shall be based on the population determined in the 1990 federal census except that no county shall be apportioned less than 110 percent of the apportionment received in the 1990–91 fiscal year. These funds shall be apportioned for projects implemented by cities, counties, and other transportation agencies on a fair and equitable basis based upon an annually updated five-year average of allocations. Projects shall be nominated by cities, counties, transit operators, and other public transportation agencies through a process that directly involves local government representatives.

(2) An amount not less than 110 percent of the amount that the county was apportioned under the federal-aid secondary program in federal fiscal year 1990–91, for use by that county.

(e) The department shall notify each metropolitan planning organization, county transportation commission, and transportation planning agency receiving an apportionment under this section, as soon as possible each year, of the amount of obligation authority estimated to be available for program purposes. The metropolitan planning organization and transportation planning agency, in cooperation with the department, congestion management agencies, cities, counties, and affected transit operators, shall select and

program projects in conformance with federal law. The metropolitan planning organization and transportation planning agency shall submit its transportation improvement program prepared pursuant to Section 134 of Title 23 of the United States Code to the department for incorporation into the state transportation improvement program not later than August 1 of each even-numbered year beginning in 1994.

(f) Not later than July 1 of each year, the metropolitan planning organizations, and the regional transportation planning agencies, receiving obligational authority under this article shall notify the department of the projected amount of obligational authority that each entity intends to use during the remainder of the current federal fiscal year, including, but not limited to, a list of projects that will be obligated by the end of the current federal fiscal year. Any federal obligational authority that will not be used shall be redistributed by the department to other projects in a manner that ensures that the state will continue to compete for and receive increased obligational authority during the federal redistribution of obligational authority. If the department does not have sufficient federal apportionments to fully use excess obligational authority, the metropolitan planning organizations or regional transportation planning agencies relinquishing obligational authority shall make sufficient apportionments available to the department to fund alternate projects, when practical, within the geographical areas relinquishing the obligational authority. Notwithstanding this subdivision, the department shall comply with subsections (d)(3) and (f) of Section 133 of Title 23 of the United States Code.

(g) A regional transportation planning agency that is not designated as, nor represented by, a metropolitan planning organization with an urbanized area population greater than 200,000 pursuant to the 1990 federal census may exchange its annual apportionment received pursuant to this section on a dollar-for-dollar basis for nonfederal State Highway Account funds, which shall be apportioned in accordance with subdivision (d).

(h) (1) If a regional transportation planning agency described in subdivision (g) does not elect to exchange its annual apportionment, a county located within the boundaries of that regional transportation planning agency may elect to exchange its annual apportionment received pursuant to paragraph (2) of subdivision (d) for nonfederal State Highway Account funds.

(2) A county not included in a regional transportation planning agency described in subdivision (g), whose apportionment pursuant to paragraph (2) of subdivision (d) was less than 1 percent of the total amount apportioned to all counties in the state may exchange its apportionment for nonfederal State Highway Account funds. If the apportionment to the county was more than $3^1/_2$ percent of the total apportioned to all counties in the state, it may exchange that portion

of its apportionment in excess of $3^1/_2$ percent for nonfederal State Highway Account funds. Exchange funds received by a county pursuant to this section may be used for any transportation purpose.

(i) The department shall be responsible for closely monitoring the use of federal transportation funds, including regional surface transportation program funds to assure full and timely use. The department shall prepare a quarterly report for submission to the commission regarding the progress in use of all federal transportation funds. The department shall notify the commission and the appropriate implementation agency whenever there is a failure to use federal funds within the three-year apportionment period established under subdivision (b).

(j) The department shall provide written notice to implementing agencies when there is one year remaining within the three-year apportionment period established under subdivision (b) of this section.

(k) Within six months of the date of notification required under subdivision (j), the implementing agency shall provide to the department a plan to obligate funds that includes, but need not be limited to, a list of projects and milestones.

(l) If the implementing agency has not met the milestones established in the implementation plan required under subdivision (k), prior to the end of the three-year apportionment period established under subdivision (b), the commission shall redirect those funds for use on other transportation projects in the state.

SEC. 9. Section 182.7 of the Streets and Highways Code is amended to read:

182.7. (a) Notwithstanding Sections 182 and 182.5, Sections 188, 188.8, and 825 do not apply to the expenditure of an amount of federal funds equal to the amount of federal funds apportioned to the state pursuant to subsection (b)(2) of Section 104 of Title 23 of the United States Code. These funds shall be known as the congestion mitigation and air quality program funds and shall be expended in accordance with Section 19 of Title 3 of the United States Code. The department, the transportation planning agencies, and the metropolitan planning organizations may do all things necessary in their jurisdictions to secure and expend those federal funds in accordance with the intent of federal law and this chapter.

(b) The congestion mitigation and air quality program funds, including any funds to which subsection (c) of Section 110 of Title 23 of the United States Code, as added by subdivision (a) of Section 1310 of Public Law 105-178, applies, shall be apportioned by the department to the metropolitan planning organizations designated pursuant to Section 134 of Title 23 of the United States Code and, in areas where none has been designated, to the transportation planning agency established by Section 29532 of the Government Code. The funds shall be apportioned to metropolitan planning

organizations and transportation planning agencies responsible for air quality conformity determinations in federally designated air quality nonattainment and maintenance areas within the state in the manner and in accordance with the formula set forth in subsection (b)(2) of Section 104 of Title 23 of the United States Code. Funds apportioned under this subdivision shall remain available for three federal fiscal years, including the federal fiscal year apportioned.

(c) Notwithstanding subdivision (b), where county transportation commissions have been created by Division 12 (commencing with Section 130000) of the Public Utilities Code, all congestion mitigation and air quality program funds shall be further apportioned by the metropolitan planning organization to the county transportation commission on the basis of relative population within the federally designated air quality nonattainment and maintenance areas after first apportioning to the nonattainment and maintenance areas in the manner and in accordance with the formula set forth in subsection (b)(2) of Section 104 of Title 23 of the United States Code.

In the Monterey Bay region, all congestion mitigation and air quality improvement program funds shall be further apportioned, on the basis of relative population, by the metropolitan planning organization to the regional transportation planning agencies designated under subdivision (b) of Section 29532 of the Government Code.

(d) The department shall notify each metropolitan planning organization, transportation planning agency, and county transportation commission receiving an apportionment under this section, as soon as possible each year, of the amount of obligational authority estimated to be available for expenditure from the federal apportionment. The metropolitan planning organizations, transportation planning agencies, and county transportation commissions, in cooperation with the department, congestion management agencies, cities and counties, and affected transit operators, shall select and program projects in conformance with federal law. Each metropolitan planning organization and transportation planning agency shall, not later than August 1 of each even-numbered year beginning in 1994, submit its transportation improvement program prepared pursuant to Section 134 of Title 23 of the United States Code to the department for incorporation into the state transportation improvement program.

(e) Not later than July 1 of each year, the metropolitan planning organizations and the regional transportation planning agencies receiving obligational authority under this section, shall notify the department of the projected amount of obligational authority that each entity intends to use during the remainder of the current federal fiscal year, including, but not limited to, a list of projects that will use the obligational authority. Any federal obligational authority that will not be used shall be redistributed by the department to other

projects in a manner that ensures that the state will continue to compete for and receive increased obligational authority during the federal redistribution of obligational authority. If the department does not have sufficient federal apportionments to fully use excess obligational authority, the metropolitan planning organization or transportation planning agency relinquishing obligational authority shall make sufficient apportionments available to the department to fund alternate projects, when practical, within the geographical areas relinquishing the obligational authority. Notwithstanding this subdivision, the department shall comply with subsection (f) of Section 133 of Title 23 of the United States Code.

(f) The department shall be responsible for closely monitoring the use of federal transportation funds, including congestion management and air quality funds to assure full and timely use. The department shall prepare a quarterly report for submission to the commission regarding the progress in use of all federal transportation funds. The department shall notify the commission and the appropriate implementation agency whenever there is a failure to use federal funds within the three-year apportionment period established under subdivision (b).

(g) The department shall provide written notice to implementing agencies when there is one year remaining within the three-year apportionment period established under subdivision (b) of this section.

(h) Within six months of the date of notification required under subdivision (g), the implementing agency shall provide to the department a plan to obligate funds that includes, but need not be limited to, a list of projects and milestones.

(i) If the implementing agency has not met the milestones established in the implementation plan required under subdivision (h) above, prior to the end of the three-year apportionment period established under subdivision (b), the commission shall redirect those funds for use on other transportation projects in the state.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to expedite, as soon as possible, the use of the excessively large cash balance in the State Highway Account in the State Transportation Fund and to direct the California Transportation Commission and Department of Transportation to accomplish the tasks necessary to put these taxpayer funds to work at the earliest possible date on needed transportation improvements, it is necessary that this act take effect immediately.

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