

AMENDED IN ASSEMBLY JUNE 30, 2025

AMENDED IN SENATE APRIL 10, 2025

AMENDED IN SENATE APRIL 9, 2025

SENATE BILL

No. 445

Introduced by Senator Wiener
(Coauthor: Assembly Member Wilson)

February 18, 2025

~~An act to amend Section 671.5 of the Streets and Highways Code, relating to transportation.~~ *An act to add Section 13985 to the Government Code, and to add Division 21 (commencing with Section 19001) to the Public Utilities Code, relating to transportation.*

LEGISLATIVE COUNSEL'S DIGEST

SB 445, as amended, Wiener. Transportation: planning: ~~complete streets facilities: sustainable transportation projects.~~ *Sustainable Transportation Project Delivery Reform Act.*

Existing law establishes the Transportation Agency in state government with various duties and responsibilities. The agency is under the supervision of the Secretary of Transportation, who has the power of general supervision over specified departments and offices.

Existing law requires a local agency to comply with all applicable building ordinances and zoning ordinances of the county or city in which the territory of the local agency is situated and, for purposes of that requirement, excludes rapid transit districts and certain rail transit districts from the definition of a local agency.

This bill would enact the Sustainable Transportation Project Delivery Reform Act. The bill would authorize the secretary to grant a waiver to a local agency, as defined, that is seeking to design and construct a

sustainable transportation project, as defined, from any standards, criteria, specifications, requirements, or other conditions of a third party, as defined, applicable to the sustainable transportation project if the secretary determines that granting the waiver will assist the local agency in delivering the sustainable transportation project in a cost-efficient and timely manner.

This bill would also require a third party, which is defined as a local agency or utility, to publish online by July 1, 2026, a list of every permit or approval that it may require for a facility rearrangement, as defined, and all objective standards, criteria, specifications, and requirements used in evaluating requests by lead agencies, as defined, for delivery of facility rearrangements, as specified. The bill would require the lead agency to provide a specified notice to each third party it reasonably expects it will need to get permits or approvals from or otherwise coordinate with to deliver the facility rearrangements. The bill would set forth a process for delivering the notice and responding to the notices, including by entering into a cooperative agreement or entering into a streamlined project delivery process, as described. The bill would, as part of the streamlined project delivery process, set forth timelines and specifications for submitting and responding to various information and documents for the facility rearrangements, among other things.

This bill would require the lead agency to reimburse the third party for all reasonable third party review activities required by the streamlined project delivery process, among other things. The bill would also authorize a lead agency to invoke a binding dispute resolution process, as described, if a third party does not issue a permit or approval to a lead agency or does not take any other action that is necessary to facilitate the delivery of part or all of a sustainable transportation project. The bill would make its provisions severable and would make related legislative findings and declarations.

By imposing additional duties on local entities, this bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires the Department of Transportation to improve and maintain the state’s highways. Existing law authorizes the department to issue encroachment permits and requires the department to either approve or deny an application from an applicant for an encroachment permit within 60 days of receiving a completed application, as provided. Existing law also requires the department, on or before January 1, 2027, to develop and adopt a project intake, evaluation, and encroachment permit review process for complete streets facilities that are sponsored by a local jurisdiction or a transit agency.~~

~~This bill would instead require the department to develop and adopt the above-described project intake, evaluation, and encroachment review process on or before February 1, 2027. The bill would also state the intent of the Legislature to amend this bill with legislation that accelerates and makes more reliable third-party permits and approvals for preconstruction and construction activities on sustainable transportation projects. The bill would make related findings and declarations.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. *This act shall be known, and may be cited, as the*
2 *Sustainable Transportation Project Delivery Reform Act.*

3 SEC. 2. *The Legislature finds and declares all of the following:*

4 (a) *Sustainable transportation projects are critical for the*
5 *growth of the state in a manner that reduces greenhouse gas*
6 *emissions and helps address the state’s housing shortage.*

7 (b) *Third-party permits and approvals for preconstruction and*
8 *construction activities, including utility relocations, design review,*
9 *and issuance of encroachment or other similar permits, can be a*
10 *source of delay for sustainable transportation projects, potentially*
11 *resulting in cost escalations and projects being built late and over*
12 *budget.*

13 SEC. 3. *Section 13985 is added to the Government Code, to*
14 *read:*

15 13985. (a) *The secretary may grant a waiver to a local agency*
16 *that is seeking to design and construct a sustainable transportation*

1 project from any standards, criteria, specifications, requirements,
2 or other conditions of a third party applicable to the sustainable
3 transportation project if the secretary determines that granting
4 the waiver will assist the local agency in delivering the sustainable
5 transportation project in a cost-efficient and timely manner.

6 (b) The agency shall develop an application for local agencies
7 to seek a waiver described in subdivision (a).

8 (c) For purposes of this section, the following definitions apply:

9 (1) "Local agency" has the same meaning as defined in Section
10 19001 of the Public Utilities Code.

11 (2) "Sustainable transportation project" has the same meaning
12 as defined in Section 19001 of the Public Utilities Code.

13 (3) "Third party" has the same meaning as defined in Section
14 19001 of the Public Utilities Code.

15 SEC. 4. Division 21 (commencing with Section 19001) is added
16 to the Public Utilities Code, to read:

17
18 *DIVISION 21. SUSTAINABLE TRANSPORTATION PROJECT*
19 *DELIVERY REQUIREMENTS*

20
21 *CHAPTER 1. DEFINITIONS*
22

23 19001. For purposes of this division, the following definitions
24 shall apply:

25 (a) "Advanced partial design unit" means a portion of the
26 design documentation for a facility rearrangement submitted to
27 the third party for review and approval prior to submittal or
28 approval of completed design documentation for that facility
29 rearrangement.

30 (b) (1) "Betterment" means work performed for a facility
31 rearrangement that comprises an upgrade, change, or addition to
32 a third-party facility, or to part of a third-party facility, that is
33 requested by the third party, that provides for greater capacity,
34 capability, durability, appearance, efficiency, or function or for
35 another improvement of that third-party facility over that which
36 is currently provided by the third-party facility, and that satisfies
37 at least either of the following:

38 (A) The third-party objective standards or third-party design
39 and construction requirements applicable to that work are changed

1 *or supplemented after the date of the notice required by subdivision*
2 *(a) of Section 19005.02.*

3 *(B) Any other criteria, specifications, and requirements for*
4 *facility rearrangements that the lead agency and third party*
5 *mutually agree to are changed or supplemented after the date of*
6 *the notice described in subdivision (c) of Section 19005.01.*

7 *(2) “Betterment” shall exclude all of the following:*

8 *(A) An upgrade, change, or addition to which the lead agency*
9 *and third party agree will be of direct and principal benefit to the*
10 *construction, operation, or maintenance of the sustainable*
11 *transportation project.*

12 *(B) An upgrade, change, or addition resulting from design or*
13 *construction in accordance with the applicable third-party*
14 *standards as of the date of the notice described in subdivision (a)*
15 *of Section 19005.02, to the extent those third-party standards have*
16 *not been adopted by the third party in breach of subdivision (f) of*
17 *Section 19002.*

18 *(C) An upgrade, change, or addition resulting from design or*
19 *construction in accordance with the criteria, specifications, and*
20 *requirements mutually agreed to and documented in the Stage 1*
21 *project scope document required by Stage 1.*

22 *(D) Measures to mitigate environmental impacts required by a*
23 *final environmental document pursuant to the California*
24 *Environmental Quality Act (Division 13 (commencing with Section*
25 *21000) of the Public Resources Code) or National Environmental*
26 *Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

27 *(E) Replacement of devices or materials no longer regularly*
28 *manufactured with the next highest grade or size.*

29 *(F) An upgrade, change, or addition that is the consequence of*
30 *changes made by the lead agency after the finalization of the Stage*
31 *1 project document for the sustainable transportation project.*

32 *(c) “Cooperative agreement” means an agreement between a*
33 *lead agency and one or more third parties establishing the entities’*
34 *respective obligations, roles and responsibilities, and processes*
35 *and procedures to support the efficient, timely, and safe delivery*
36 *of one or more sustainable transportation projects. The*
37 *agreement’s provisions shall include, but are not limited to, the*
38 *following:*

39 *(1) Duration and scope of the agreement.*

40 *(2) Governance for executing the cooperative agreement.*

- 1 (3) Provisions for cooperation and coordination to identify
2 utility conflicts and ensure utility owners implement utility
3 adjustments required to address utility conflicts.
- 4 (4) Early involvement and coordination.
- 5 (5) Responsibilities for design and construction.
- 6 (6) Procedures for issue resolution.
- 7 (7) Clear establishment of permitting or approval processes for
8 facility rearrangements.
- 9 (8) Evaluation of betterments within the project scope.
- 10 (9) Inspection of work completed in compliance with applicable
11 standards.
- 12 (d) “Coordination meeting” means an informal meeting for the
13 lead agency and third party to discuss the sustainable
14 transportation project.
- 15 (e) “Design documentation” means all specifications, reports,
16 studies, working drawings, shop drawings, calculations, electronic
17 files, records, submittals, and drawings, including plans, profiles,
18 cross sections, notes, elevations, typical sections, details, and
19 diagrams, that are necessary for, or related to, the design of facility
20 rearrangements.
- 21 (f) “Facility rearrangement” means the removal, restoration,
22 alteration, reconstruction, support, or relocation of all or a portion
23 of a third-party facility.
- 24 (g) “Final design documentation” means design documentation
25 for a facility rearrangement that is at 100-percent design level.
26 Elements of final design documentation include final construction
27 drawings, including plans, profiles, cross sections, notes,
28 elevations, typical sections, details, diagrams, design criteria,
29 specifications, reports, studies, calculations, electronic files, and
30 other records.
- 31 (h) “Stage 1” means the process set forth in Article 1
32 (commencing with Section 19005.01) of Chapter 5 of this division.
- 33 (i) “Stage 1 design documentation” means the design
34 documentation required to be prepared in Stage 1, representing
35 up to 15-percent design level.
- 36 (j) “Stage 2” means the process set forth in Article 2
37 (commencing with Section 19005.02) of Chapter 5 of this division.
- 38 (k) “Stage 2 design documentation” means the design
39 documentation required to be prepared in Stage 2, which advances
40 design documentation from the design level required in Stage 1

1 design documentation, which is up to a 15-percent design level,
2 to a 100-percent design level.

3 (l) “Sustainable transportation project” means a project that
4 consists of one or more of the following:

5 (1) Any project identified in subdivision (b) of Section 21080.25
6 of the Public Resources Code.

7 (2) A project whose primary purpose is the institution or
8 improvement of public transit infrastructure, including, but not
9 limited to, transit priority facilities, bus service, bus rapid transit,
10 and passenger rail. For purposes of this paragraph, “passenger
11 rail” includes, but is not limited to, light rail, commuter rail,
12 regional rail, intercity rail, or heavy rail. Heavy rail includes rail
13 transit, as defined in Section 99602.

14 (m) “Third party” means a local agency or utility, including,
15 but not limited to, an electrical corporation, public utility, or
16 private telecommunications provider.

17 (n) “Third-party facility” means a facility owned by a third
18 party.

19 (o) “Lead agency” means the public agency which has the
20 principal responsibility for carrying out or approving a project.
21 “Lead agency” also includes other parties whose services are
22 procured by the lead agency, including, but not limited to, a private
23 contractor or consultant.

24 (p) “Local agency” means any public agency other than a state
25 agency.

26 (q) “Third-party-located section” means a portion of a
27 sustainable transportation project that is located in the
28 right-of-way of a third party.

29 (r) “Working day” means any date that is not a Saturday,
30 Sunday, or federal or state holiday.

31

32 *CHAPTER 2. TRANSPARENT OBJECTIVE PERMITTING AND*
33 *APPROVAL STANDARDS*

34

35 19002. (a) By July 1, 2026, a third party shall publish online
36 a list of every permit or approval that it may require for a facility
37 rearrangement. For each permit or approval, it shall publish online
38 all objective standards, criteria, specifications, and requirements
39 used by the third party when evaluating requests by lead agencies

1 *for delivery of facility rearrangements. These permits or approvals*
2 *may include, but are not limited to, the following:*

3 (1) *An encroachment permit.*

4 (2) *A grading permit.*

5 (3) *A tree removal permit.*

6 (4) *A stormwater permit.*

7 (5) *Construction staging plan approval.*

8 (b) *If the third party modifies any of the above required permits*
9 *or approvals, or objective standards, criteria, specifications, and*
10 *requirements used by the third party when evaluating requests by*
11 *lead agencies for delivery of facility rearrangements, the third*
12 *party shall publish the modifications online promptly, but no later*
13 *than within 15 working days of any modifications.*

14 (c) *Except as otherwise provided by this division, a third party*
15 *shall not inhibit a lead agency's delivery of a facility*
16 *rearrangement that is consistent with the applicable objective*
17 *standards, criteria, specifications, and requirements for permits*
18 *or approvals it is required to identify pursuant to subdivision (a).*

19 (d) *A third party shall not establish any standards, criteria,*
20 *specifications, or requirements that are not objective in nature for*
21 *purposes of evaluating requests by lead agencies for delivery of*
22 *facility rearrangements.*

23 (e) *Nothing in this act prohibits a lead agency and third party*
24 *from mutually agreeing to construction conditions or facility*
25 *rearrangements that are inconsistent with the applicable objective*
26 *standards, criteria, specifications, and requirements for permits*
27 *or approvals it is required to identify pursuant to subdivision (a).*

28 (f) *A third party shall not adopt any new third-party standards*
29 *or otherwise apply, amend, or supplement any existing third-party*
30 *standards for the sole or primary purpose of affecting one or more*
31 *sustainable transportation projects.*

32

33 *CHAPTER 3. BINDING DISPUTE RESOLUTION*

34

35 19003. (a) *If a third party does not issue a permit or approval*
36 *to a lead agency, or does not take any other action that is necessary*
37 *to facilitate the delivery of part or all of a sustainable*
38 *transportation project, the lead agency may elect to invoke the*
39 *binding dispute resolution process described in subdivision (b).*

1 ***(b) The following binding dispute resolution process shall be***
2 ***administered by the Transportation Agency, which shall determine***
3 ***the schedule and duration of binding dispute resolution activities***
4 ***pursuant to this subdivision:***

5 ***(1) The state transportation agency shall designate a neutral***
6 ***mediator to work with the lead agency and third party to resolve***
7 ***the dispute or disputes that caused the lead agency to invoke the***
8 ***binding dispute resolution process described in this subdivision.***
9 ***If the dispute or disputes that caused the lead agency to invoke the***
10 ***binding dispute resolution process described in this subdivision***
11 ***involve matters related to utilities, the Public Utilities Commission***
12 ***shall designate an advisor with relevant experience to provide***
13 ***technical assistance to the neutral mediator for utility-related***
14 ***disputes. The resolution shall be recorded in a binding settlement***
15 ***agreement.***

16 ***(2) For the dispute or disputes that caused the lead agency to***
17 ***invoke the binding dispute resolution process described in this***
18 ***subdivision that were unresolved after the process described in***
19 ***paragraph (1), the neutral mediator shall become a neutral***
20 ***arbitrator, and shall resolve the remaining dispute or disputes***
21 ***following the arbitration processes described in Title 9***
22 ***(commencing with Section 1280) of Part 3 of the Code of Civil***
23 ***Procedure, except as otherwise provided for in this subdivision.***

24 ***(3) The decision of the arbitrator shall be binding upon the lead***
25 ***agency and third party.***

26 ***(4) By mutual agreement, the lead agency and third party may***
27 ***select a different entity to serve as the neutral mediator and***
28 ***arbitrator pursuant to this subdivision.***

29 ***(5) By mutual agreement, the lead agency and third party may***
30 ***instead undergo the process described in paragraph (2), followed***
31 ***by the process described in paragraph (1). The judgment of the***
32 ***neutral arbitrator pursuant to paragraph (2) shall be sealed, and***
33 ***only unsealed and made binding if the subsequent process***
34 ***described in paragraph (1) does not result in resolution of the***
35 ***dispute or disputes.***

1 CHAPTER 4. PATHWAYS FOR SUSTAINABLE TRANSPORTATION
2 PROJECT DELIVERY

3
4 19004. (a) Once a lead agency is ready to transmit the notice
5 described in subdivision (c) of Section 19005.01 for a specific
6 sustainable transportation project, the lead agency shall compile
7 a list of all third parties that it reasonably expects it will need to
8 get permits or approvals from, or otherwise coordinate with, in
9 order to deliver facility rearrangements.

10 (b) Once the lead agency has compiled the list pursuant to
11 subdivision (a), it shall elect one of the following courses of action
12 for engagement with each listed third party:

13 (1) Enter into a cooperative agreement related to the sustainable
14 transportation project if it has not done so already.

15 (2) Commence the streamlined project delivery process
16 described in Chapter 5 (commencing with Section 19005.1) of this
17 division.

18 (3) Follow neither paragraph (1) nor paragraph (2).

19
20 CHAPTER 5. STREAMLINED SUSTAINABLE TRANSPORTATION
21 PROJECT DELIVERY PROCESS

22
23 Article 1. Early Engagement and Initial Design

24
25 19005.01. (a) The lead agency shall reimburse the third party
26 for all reasonable third-party review activities required by the
27 streamlined project delivery process outlined in this chapter. The
28 lead agency and third party shall agree to a reasonable rate of
29 reimbursement for staff time.

30 (b) The lead agency shall designate a point of contact to engage
31 with the relevant third-party staff.

32 (c) The lead agency shall provide a notice to each third party
33 it identified pursuant to Section 19004. The notice shall contain
34 at least all of the following:

35 (1) Lead agency name.

36 (2) Name of the sustainable transportation project.

37 (3) Name and contact information for the point of contact
38 described in subdivision (b).

39 (4) A brief description of the sustainable transportation project.

- 1 (5) *An online link to the sustainable transportation project*
2 *website, if one exists.*
- 3 (6) *The current environmental review status of the sustainable*
4 *transportation project under the California Environmental Quality*
5 *Act (Division 13 (commencing with Section 21000) of the Public*
6 *Resources Code) and National Environmental Policy Act of 1969*
7 *(42 U.S.C 4321 et seq.).*
- 8 (7) *A high-level description or map, or both, of the anticipated*
9 *project right-of-way in third-party-located sections.*
- 10 (8) *Any other conceptual plans or maps relevant to the*
11 *third-party-located sections.*
- 12 (9) *The lead agency’s probable project delivery method.*
- 13 (10) *Proposed date for an initial coordination meeting.*
- 14 (11) *Proposed date for finalizing the Stage 1 project scope*
15 *document.*
- 16 (12) *Anticipated date for issuance of the notice required in*
17 *subdivision (a) of Section 19005.02.*
- 18 (13) *A declaration of whether or not the lead agency seeks entry*
19 *into a cooperative agreement with the third party. This does not*
20 *preclude the lead agency from seeking entry into a cooperative*
21 *agreement at any time later in the project delivery process. This*
22 *also does not preclude the lead agency from continuing to engage*
23 *in the streamlined project delivery process set forth in this division.*
- 24 (d) *The lead agency shall forward a copy of each notice*
25 *described in subdivision (c) to the Transportation Agency. For*
26 *those notices issued to a third party regulated by the Public*
27 *Utilities Commission, the lead agency shall also forward the notice*
28 *to the Public Utilities Commission.*
- 29 19005.01.1. (a) (1) *Within 10 working days of transmittal of*
30 *the notice described in subdivision (c) of Section 19005.01, the*
31 *third party shall respond to the lead agency and confirm whether*
32 *the notice described in subdivision (c) of Section 19005.01 was*
33 *complete. If incomplete, it will describe what information is*
34 *necessary for the notice to be complete.*
- 35 (2) *In its response, the third party shall inform the lead agency*
36 *if it wishes to enter into a cooperative agreement with the lead*
37 *agency. This does not preclude the third party from seeking entry*
38 *into a cooperative agreement with the lead agency at any time*
39 *later in the project delivery process.*

1 **(b)** *The lead agency shall submit the information identified in*
2 *subdivision (a) to make the notice described in subdivision (c) of*
3 *Section 19005.01 complete, and the third party shall be required*
4 *to review the notice for completeness pursuant to subdivision (a)*
5 *of this section.*

6 **(c)** *(1) No sooner than 5 working days and no later than 20*
7 *working days, or a different date as mutually agreed to by the lead*
8 *agency and third party, after the third party finds the notice*
9 *described in subdivision (c) of Section 19005.01 complete pursuant*
10 *to subdivision (a) of this section, the lead agency shall convene*
11 *the initial coordinating meeting described in paragraph (10) of*
12 *subdivision (c) of Section 19005.01.*

13 **(2)** *The third party may request a reasonable extension to the*
14 *deadline to have the initial coordination meeting, which the lead*
15 *agency shall reasonably accommodate. If the initial coordination*
16 *meeting does not occur within 20 working days of delivery, or as*
17 *otherwise mutually agreed to by the lead agency and third party,*
18 *the requirement for the initial coordination meeting will be deemed*
19 *met.*

20 **(d)** *Within 10 working days after the third party confirms*
21 *completeness of the notice described in subdivision (c) of Section*
22 *19005.01 pursuant to subdivision (a) of this section, it shall*
23 *respond to the lead agency with all of the following:*

24 **(1)** *Identification of any existing or planned third-party facilities*
25 *in third-party-located sections of the sustainable transportation*
26 *project that may conflict with the sustainable transportation project*
27 *based on the level of information provided as required by this*
28 *article. This requirement does not preclude the identification of*
29 *additional conflicts as the lead agency updates the project scope,*
30 *or advances design, in the third-party-located sections of the*
31 *sustainable transportation project, provided that the identification*
32 *of those third-party facilities is based on new information or design*
33 *documentation from the lead agency and the third party could not*
34 *have reasonably anticipated the conflicting facility with*
35 *information previously provided by the lead agency.*

36 **(2)** *Any as-built plans, utility maps, or other drawings and*
37 *information regarding the conflicting third-party facilities that it*
38 *is otherwise legally permitted by federal and state law to provide*
39 *to the lead agency.*

1 (3) A written checklist of any information or documents
2 necessary to review and approve preliminary and final designs
3 necessary for facility rearrangements. This does not preclude the
4 identification of additional information or documents necessary
5 to review and approve preliminary and final designs as the lead
6 agency updates the project scope, or advances design, in the
7 third-party-located sections of the sustainable transportation
8 project.

9 (e) Failure of the third party to respond pursuant to subdivision
10 (d) of Section 19005.01 shall relieve the lead agency of the
11 responsibility to include the third party's information required by
12 subdivision (d) of Section 19005.01 in the draft Stage 1 project
13 scope document specified in subdivision (a) of Section 19005.01.2.

14 (f) At its discretion, the lead agency may still include information
15 provided in subdivision (d) of Section 19005.01 if provided by the
16 third party after the deadline and prior to the completion of the
17 draft Stage 1 project scope specified in subdivision (a) of Section
18 19005.01.2.

19 (g) The lead agency shall submit advanced conceptual
20 engineering design documentation for the sustainable
21 transportation project. No later than 20 working days, or a
22 different date as mutually agreed to by the lead agency and third
23 party, after the lead agency submits advanced conceptual
24 engineering design documentation, the lead agency will convene
25 a preliminary design workshop. The third party may request a
26 reasonable extension to the deadline to have the preliminary design
27 workshop, which the lead agency shall reasonably accommodate.
28 If the preliminary design workshop does not occur within 20
29 working days of delivery, or as otherwise mutually agreed to by
30 the lead agency and third party, the requirement for the initial
31 coordination meeting will be deemed met. In the preliminary design
32 workshop, the lead agency and third party shall discuss all of the
33 following:

34 (1) The key aspects of the design or construction of the
35 sustainable transportation project that impact the scope, objective
36 standards, criteria, specifications, or requirements for those
37 proposed facility rearrangements that form or are intended to form
38 the basis of the project scope. Those shall include all of the
39 following:

- 1 (A) Any facility rearrangements which are necessary for the
2 sustainable transportation project to comply with applicable law.
- 3 (B) Any facility rearrangements which are necessary for the
4 lead agency or third party to construct, operate, maintain, or
5 remove for the sustainable transportation project.
- 6 (C) Any new and required third-party facilities which are
7 necessary to install in order for the sustainable transportation
8 project to comply with applicable law and for any facility
9 rearrangements to comply with applicable law and third-party
10 objective standards, criteria, specifications, or requirements.
- 11 (D) Any deviations from the third-party standards or design
12 and construction requirements mutually agreed to by the lead
13 agency and third party.
- 14 (2) Identification of betterments.
- 15 (3) Initial identification of utility conflicts.
- 16 (A) The third party shall provide the lead agency with any
17 location data or other information already in its possession
18 regarding the location of utilities within the third-party-located
19 section of the sustainable transportation project.
- 20 (B) Discussion of objections by the lead agency to third-party
21 standards on the basis of the standard being adopted, amended,
22 supplemented, or applied, for the sole or primary purpose of
23 affecting one or more sustainable transportation projects, or
24 requests for deviations from third-party standards.
- 25 (C) Construction requirements for delivery of the sustainable
26 transportation project.
- 27 (4) Anticipated schedule and timeline for project delivery
28 activities, including the following:
- 29 (A) Key milestones for percentage of design completion when
30 the lead agency shall submit the design documentation described
31 in subparagraphs (B) to (D), inclusive.
- 32 (B) When the lead agency shall submit design documentation
33 for each identified facility rearrangement.
- 34 (C) Whether the lead agency's submission of design
35 documentation for any given facility rearrangement shall be
36 segmented into the submission of design documentation for more
37 than one advanced partial design unit, and what the schedule of
38 submission by the lead agency of each advanced partial design
39 unit to the third party shall be.

1 (D) When, provided timely submittal by the lead agency of the
2 design documentation as identified in subparagraphs (B) and (C),
3 the third party shall return comments on each design
4 documentation and advanced partial design unit for each
5 submission identified in subparagraphs (B) and (C), respectively,
6 for each facility rearrangement.

7 (E) Anticipated schedule for right-of-way acquisition,
8 construction, testing, and commissioning, of the third-party-located
9 section or sections of the sustainable transportation project.

10 (h) Within 30 working days of the workshop described in
11 subdivision (g), the third party shall submit in writing to the lead
12 agency all written comments regarding the topics described in
13 subdivision (g).

14 19005.01.2. (a) (1) Following receipt of the comments
15 described in subdivision (h) of Section 19005.01.1, and as informed
16 by the information provided by each third party that the lead
17 agency is required to engage with pursuant to this chapter, the
18 lead agency shall prepare a draft Stage 1 project scope document.
19 The document shall include the draft project scope, including all
20 identified facility rearrangements, utility adjustments, and
21 betterments, as determined by the early engagement required
22 pursuant to this chapter. The document shall also include the lead
23 agency's probable project delivery method, anticipated schedule
24 of design, right-of-way acquisition, and construction activities,
25 and as-built plans for third-party facilities or utilities, as
26 applicable.

27 (2) The lead agency shall circulate the draft Stage 1 project
28 scope document to each third party for review.

29 (3) Each third party shall have 60 working days to review the
30 draft Stage 1 project scope document to confirm all the relevant
31 information and comments are included and shall provide any
32 additional comments on the document.

33 (4) Failure of the third party to respond to the relevant
34 information within the expected timeframe shall be considered
35 confirmation that all relevant information provided by the third
36 party pursuant to this chapter was accounted for.

37 (b) (1) After the 60-working-day circulation period, the lead
38 agency shall finalize the Stage 1 project scope document and
39 circulate the final document with each identified third party, the
40 Transportation Agency, and, if relevant, the Public Utilities

1 Commission. The lead agency shall record any additional
2 comments provided by the third party pursuant to subdivision (a)
3 in the record of the final Stage 1 project scope, and may
4 incorporate any of those comments into the final Stage 1 project
5 scope at its discretion.

6 (2) The finalized Stage 1 project scope document shall identify
7 matters or issues not yet resolved between the lead agency and
8 each third party. This may include any comments provided by each
9 third party pursuant to paragraph (3) of subdivision (a) that the
10 lead agency did not incorporate into the project scope at its
11 discretion.

12 (3) The Transportation Agency shall develop a standardized
13 form for the relevant fields required by this section, and other
14 relevant fields determined by the Transportation Agency, for the
15 finalized Stage 1 project scope document.

16 (c) If more than two years transpires between the time the lead
17 agency received responses from all relevant third parties pursuant
18 to subdivision (h) of Section 19005.01.1 and the lead agency takes
19 the step in subdivision (b) of this section, the lead agency shall be
20 required to repeat the steps in this section, including reaching out
21 to third parties it already received responses from pursuant to this
22 section.

23

24 Article 2. Design Engineering and Design Review

25

26 19005.02. (a) After the lead agency finalizes the Stage 1
27 project scope document pursuant to the requirements of Stage 1,
28 the lead agency shall provide a notice to the third party of its intent
29 to prepare and submit Stage 2 design documentation, whether
30 through its own staff or through procurement of design services,
31 to the third party for its review, based on the requirements
32 stipulated in the finalized Stage 1 project scope document.

33 (b) The standards, criteria, and specifications adopted by the
34 third party at the time the lead agency transmits the notice
35 described in subdivision (a) shall be the applicable standards,
36 criteria, and specifications that the third party shall use when
37 reviewing, commenting, and approving Stage 2 design
38 documentation, except where the lead agency and third party have
39 mutually agreed to deviate from those standards, criteria, and
40 specifications.

1 (c) *The lead agency shall be responsible for ensuring that it*
2 *submits design documentation, including advanced partial design*
3 *units, consistent with the level of detail required for that level of*
4 *design development identified in the schedule included in the*
5 *finalized Stage 1 project scope document, and the third party is*
6 *responsible for reviewing submitted design documentation,*
7 *including advanced partial design units, for compliance with the*
8 *applicable third-party standards as agreed to in the finalized Stage*
9 *I project scope document. The lead agency shall also ensure that*
10 *each submission of design documentation, including advanced*
11 *partial design units, identifies any material amendments made*
12 *since any earlier submittal of that design documentation or*
13 *advanced partial design unit.*

14 (d) *Within 10 working days, or as otherwise prescribed in the*
15 *schedule identified in the finalized Stage 1 project scope document,*
16 *of receipt of design documentation or advanced partial design*
17 *unit, the third party shall review each submission of design*
18 *documentation or advanced partial design unit, and inform the*
19 *lead agency if the submission does not meet appropriate*
20 *agreed-upon design requirements, relevant third-party standards,*
21 *or the scope, criteria, specifications, and requirements for the*
22 *applicable facility rearrangements.*

23 (e) *If the third party is reasonably able to commence its review*
24 *of the design documentation or advanced partial design unit absent*
25 *resubmitted materials from the lead agency, it shall do so.*

26 (f) *The lead agency shall promptly resubmit the design*
27 *documentation or advanced partial design unit and correct the*
28 *deficiencies identified by the third party pursuant to subdivision*
29 *(d). The third party shall review the documentation for*
30 *completeness pursuant to subdivision (d).*

31 (g) *If the third party does not deliver a notice of incomplete*
32 *information pursuant to subdivision (d), the submission of design*
33 *documentation or advanced partial design unit shall be deemed*
34 *complete and acceptable for the purposes of design review.*

35 (h) (1) *Once the design documentation or advanced partial*
36 *design unit is considered complete pursuant to subdivision (d), the*
37 *third party shall review it in accordance with the schedule*
38 *identified in the finalized Stage 1 project scope document.*

39 (2) *If the lead agency believes a third party's comment on the*
40 *design of the sustainable transportation project that was not*

1 *already identified as constituting a facility rearrangement or*
2 *modification to the design documentation or advanced partial*
3 *design unit that constitutes a betterment constitutes a betterment,*
4 *it shall notify the third party of that within 20 working days of*
5 *receipt of those comments.*

6 *(3) Within 20 working days of this notice, the third party shall*
7 *do one of the following:*

8 *(A) Withdraw or amend the relevant comment.*

9 *(B) Acknowledge the comment as a betterment.*

10 *(C) Dispute the basis of the betterment. If the lead agency and*
11 *third party cannot agree as to whether the facility is a betterment,*
12 *the issue shall be resolved through the binding dispute resolution*
13 *process described in Section 19003.*

14 *(4) If the third party fails to respond within 20 working days of*
15 *the notice, the comment shall be considered a betterment.*

16 *(i) For all review of design documentation or advanced partial*
17 *design units that require final approval by the third party, the third*
18 *party shall determine the completeness of the design*
19 *documentation, complete its review and do all of the following*
20 *pursuant to the schedule identified in the Stage 1 project scope*
21 *document, or as otherwise agreed between the parties:*

22 *(1) Issue comments.*

23 *(2) Confirm approval or rejection of final design documentation.*

24 *(3) The third party may only reject the final design*
25 *documentation if the documentation is incomplete or fails to comply*
26 *with the requirements of this part. The third party must provide*
27 *comments on the design documentation documenting the reason*
28 *for the rejection pursuant to this part.*

29 *(j) The lead agency must respond to a third-party rejection of*
30 *final design documentation in one of the following ways:*

31 *(1) Address the comments provided pursuant to paragraph (3)*
32 *of subdivision (i) and resubmit the design documentation or*
33 *advanced partial design unit.*

34 *(2) Notify the third party that it objects to the rejection. If the*
35 *third party and lead agency are unable to mutually agree on a*
36 *path forward to a modification to the design to address the*
37 *rejection, the issue shall be resolved through the binding dispute*
38 *resolution process in Section 19003.*

39 *(k) For design documentation or advanced partial design units*
40 *described in subdivision (i), the third party shall not raise any new*

1 issues, or make any comments, which are inconsistent with its
2 comments on earlier submittals, or with any changes already
3 agreed to by the third party.

4 (l) The third party shall not withhold approval of design
5 documentation or advanced partial design units described in
6 subdivision (i) if the submittal is complete and consistent with the
7 most recent prior submittal for such facility rearrangement,
8 modified as appropriate to respond to the third party's comments
9 to such prior submittal, to the extent those comments were made
10 pursuant to the requirements of this stage, and to reflect any
11 subsequent changes agreed to by the lead agency and the third
12 party.

13 (m) The third party may raise new comments on design
14 documentation or advanced partial design units described in
15 subdivision (i) as a consequence of design changes made by the
16 lead agency after the third party's review of the most recent prior
17 submittal of designs for such rearrangement.

18 (n) A betterment shall not be required to be constructed if it is
19 not approved by the lead agency. The lead agency shall have a
20 right to refuse a betterment that meets any of the following:

21 (1) The betterment is incompatible with the sustainable
22 transportation project.

23 (2) The betterment cannot be constructed within the constraints
24 of applicable law or the project schedule.

25 (3) The betterment is a facility rearrangement that is requested
26 after the finalization of the Stage I project scope document, unless
27 the facility rearrangement was requested in accordance with the
28 third party's objective standards, criteria, and specifications in
29 effect at the time of the notice described in subdivision (a), and
30 was requested in response to new information that was not
31 available to the third party during the Stage I process.

32 The cost of approved betterments shall be borne by the third
33 party. This includes any increase in costs over the estimation of
34 the cost of the betterment by the lead agency and cost of any
35 mitigations of the betterment required as a result of the
36 environmental review process.

1 *Article 3. Permitting and Construction*

2
3 *19005.03. (a) An approved-for-construction design is a design*
4 *that meets all of the following:*

5 *(1) The lead agency has approved the final design*
6 *documentation.*

7 *(2) The third party has approved the final design documentation.*

8 *(3) The final design document has been signed and sealed by*
9 *the engineer of record that is responsible for that final design*
10 *documentation.*

11 *(4) Any other conditions for the final design documentation to*
12 *be ready for construction set out under the requirements of this*
13 *act have been satisfied.*

14 *(b) Commencement of a single or set of facility rearrangements*
15 *for which an advanced partial design unit is at the final design*
16 *stage may be approved for construction without all of the final*
17 *design being approved for construction.*

18 *(c) Prior to the commencement of construction of a facility*
19 *rearrangement, the lead agency shall transmit a proposed*
20 *construction staging plan for any construction work to be*
21 *performed within the public rights-of-way in the third party's*
22 *jurisdiction. The plan shall include, but not be limited to:*

23 *(1) The handling of vehicular and pedestrian traffic, cyclist*
24 *access, and circulation on streets adjacent to the construction with*
25 *the construction phasing showing street closures, detours, warning*
26 *devices, and temporary traffic signals.*

27 *(2) Accessible routes for pedestrians with physical disabilities*
28 *in compliance with applicable law.*

29 *(3) Actions to maintain access to businesses, schools, and*
30 *residences adjacent to the construction areas, as possible, and*
31 *actions to ensure safe access and circulation for pedestrians and*
32 *vehicular traffic as described in the traffic management plan.*

33 *(4) Elements of public awareness as well as mechanisms to*
34 *assist affected parties in complaint resolutions.*

35 *(d) The third party shall review the submitted construction*
36 *staging plan in accordance with its objective design standards*
37 *and policies for such construction staging plans, and respond to*
38 *the lead agency with a determination of whether the plan is*
39 *complete or not. If incomplete, the third party will notify the lead*
40 *agency of what aspects of the construction staging plan must be*

1 *refined in order for the construction staging plan to be complete*
2 *pursuant to the third party's applicable standards and policies.*
3 *This response shall occur within 10 working days of receipt of the*
4 *notice described in subdivision (c).*

5 *(e) The lead agency shall promptly modify the construction*
6 *staging plan based on the information cited in subdivision (d) and*
7 *resubmit it to the third party. The third party shall review the*
8 *resubmittal for completeness pursuant to subdivision (d).*

9 *(f) Within 10 working days of the acknowledgment of*
10 *completeness identified in subdivision (d), the third party shall*
11 *provide comments, approve, or reject the construction staging*
12 *plan.*

13 *(g) The lead agency may update the construction staging plan*
14 *after it has been approved by the third party and must promptly*
15 *submit each updated construction staging plan to the third party*
16 *for review in accordance with subdivision (d).*

17 *(h) The third party shall impose only the minimum requirements*
18 *for traffic management planning and construction sequencing that*
19 *are necessary in order to provide for public health and safety,*
20 *including, but not limited to, pedestrian and vehicular safety, and*
21 *functionality, including, but not limited to, public and business*
22 *access and circulation. This does not preclude the lead agency*
23 *and third party from agreeing to additional traffic management*
24 *planning and construction sequencing activities.*

25 *(i) The lead agency shall provide 10 working days of advance*
26 *written notice where construction work is to be performed in the*
27 *public rights-of-way for approved street, traffic lane, or sidewalk*
28 *closures.*

29 *(j) If the lead agency fails to perform any construction work*
30 *within the third party's public rights-of-way in accordance with*
31 *the approved-for-construction final design documentation or*
32 *construction staging plans approved by the third party pursuant*
33 *to this section, the third party may issue a written notice of*
34 *noncompliance from the third party and the lead agency must cure*
35 *the noncompliance. If the lead agency and third party are unable*
36 *to agree whether the work was performed correctly, the dispute*
37 *shall be resolved via the binding dispute resolution process*
38 *outlined in Section 19003.*

39 *(k) For third-party communication facilities, the lead agency*
40 *and third party shall agree to a schedule for such work that*

1 *balances minimal system downtime and third-party network*
2 *disruption while maintaining a reasonable project schedule. If the*
3 *lead agency and third party are unable to agree on such a*
4 *schedule, the matter will be resolved by the binding dispute*
5 *resolution process described in Section 19003.*

6 *(l) (1) A third party shall not unreasonably withhold the*
7 *approval of the availability, location, and duration of the use of*
8 *a third-party facility as a temporary facility to facilitate the*
9 *construction of the sustainable transportation project, as otherwise*
10 *permitted by state and federal law. Such approved use of a*
11 *third-party facility shall be made in writing and without cost to*
12 *the lead agency.*

13 *(2) Upon completion of the related construction and lead*
14 *agency's determination that the temporary facilities are no longer*
15 *needed, the lead agency shall remove all temporary facilities and*
16 *restore the area as nearly as practicable to its original condition*
17 *unless the lead agency and third party agree to another*
18 *arrangement.*

19 *(3) If the lead agency believes that a third party is unreasonably*
20 *withholding the approvals described in this subdivision and is*
21 *unable to come to agreement with the third party on these*
22 *approvals, it may elect to resolve the dispute through the binding*
23 *dispute resolution process described in Section 19003.*

24 *(m) For any other third-party permit or approval, identified in*
25 *the finalized Stage 1 project scope document as necessary for the*
26 *lead agency to construct the sustainable transportation project as*
27 *identified in the project schedule, the lead agency shall submit a*
28 *completed permit or approval request to the third party.*

29 *(n) Within 10 working days of receipt of the permit or approval*
30 *request, the third party shall review the permit or approval request*
31 *in accordance with its objective standards and determine whether*
32 *the permit or approval request is complete. If incomplete, the third*
33 *party shall respond to the lead agency and notify the lead agency*
34 *of what information is needed to make the request complete.*

35 *(o) If determined incomplete pursuant to subdivision (n), the*
36 *lead agency shall promptly respond with the relevant information*
37 *noted by the third party in subdivision (n). The third party shall*
38 *review the permit or approval request and respond to the lead*
39 *agency pursuant to subdivision (n).*

1 (p) Within 20 working days of determining the request complete
2 pursuant to subdivision (n), the third party shall review the relevant
3 permit for compliance with all relevant written objective standards,
4 specifications, and criteria that are applicable to the permit or
5 approval request, or have been agreed to between the lead agency
6 and third party, and shall grant approval of the permit or approval
7 request, issue comments, or reject the permit or approval request.

8 (q) The permit request may only be rejected for failure to meet
9 the relevant objective standards, criteria, or specifications that
10 apply to that permit or approval and are consistent with this
11 section.

12 SEC. 5. The provisions of this measure are severable. If any
13 provision of this measure or its application is held invalid, that
14 invalidity shall not affect other provisions or applications that can
15 be given effect without the invalid provision or application.

16 SEC. 6. The Legislature finds and declares that sustainable
17 transportation projects foster the movement of people on a local
18 and regional level for the benefit of the entire state and, for that
19 reason, authorizing the Secretary of Transportation to expedite
20 the implementation of sustainable transportation projects by
21 waiving local regulation of the design and construction of those
22 projects is a matter of statewide concern and is not a municipal
23 affair as that term is used in Section 5 of Article XI of the
24 California Constitution. Therefore, Sections 3 and 4 of this act
25 adding Section 13985 to the Government Code and adding Division
26 21 (commencing with Section 19001) to the Public Utilities Code,
27 respectively, apply to all cities, including charter cities.

28 SEC. 7. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 a local agency or school district has the authority to levy service
31 charges, fees, or assessments sufficient to pay for the program or
32 level of service mandated by this act, within the meaning of Section
33 17556 of the Government Code.

34 ~~SECTION 1. (a) The Legislature finds and declares the~~
35 ~~following:~~

36 ~~(1) Sustainable transportation projects are critical for the growth~~
37 ~~of the state in a manner that reduces greenhouse gas emissions and~~
38 ~~helps address the state's housing shortage. It is in the interest of~~
39 ~~the state to accelerate the construction of sustainable transportation~~

1 projects and avoid cost escalation, ensuring that more projects are
2 built in a cost-effective manner.

3 ~~(2) Third-party permits and approvals for preconstruction and~~
4 ~~construction activities, including utility relocations, design review,~~
5 ~~and issuance of encroachment or other similar permits, can be a~~
6 ~~source of delay for sustainable transportation projects, potentially~~
7 ~~resulting in cost escalations and projects being built late and over~~
8 ~~budget.~~

9 ~~(b) It is the intent of the Legislature to amend this bill with~~
10 ~~legislation that accelerates and makes more reliable third-party~~
11 ~~permits and approvals for preconstruction and construction~~
12 ~~activities on sustainable transportation projects, including through~~
13 ~~requiring lead agencies engage early with third parties, setting~~
14 ~~timelines on design review activities to ensure prompt responses~~
15 ~~between parties, and limiting third-party requirements associated~~
16 ~~with permits and other approvals.~~

17 ~~SEC. 2. Section 671.5 of the Streets and Highways Code is~~
18 ~~amended to read:~~

19 ~~671.5. (a) The department shall either approve or deny an~~
20 ~~application from an applicant for an encroachment permit within~~
21 ~~60 days of receiving a completed application, as determined by~~
22 ~~the department. An application for an encroachment permit is~~
23 ~~complete when all other statutory requirements, including the~~
24 ~~California Environmental Quality Act (Division 13 (commencing~~
25 ~~with Section 21000) of the Public Resources Code), have been~~
26 ~~complied with. The department's failure to notify the applicant~~
27 ~~within that 60-day period that the permit is denied shall be deemed~~
28 ~~to constitute approval of the permit. Thereafter, upon notifying~~
29 ~~the department, the applicant may act in accordance with its permit~~
30 ~~application, as if the permit had been approved.~~

31 ~~(b) All of the following shall apply to the department's review~~
32 ~~of an application for an encroachment permit for a broadband~~
33 ~~facility:~~

34 ~~(1) The department shall specify in writing all permit application~~
35 ~~criteria. It is the intent of the Legislature to ensure a streamlined,~~
36 ~~predictable, and expeditious process by which the department~~
37 ~~reviews broadband facility permit applications in order to achieve~~
38 ~~the rapid deployment of broadband facilities on highways.~~

39 ~~(2) Within 30 days after an application for an encroachment~~
40 ~~permit for a broadband facility is submitted, the department shall~~

1 notify the applicant in writing whether the permit application is
2 deemed complete. If the department does not notify the applicant
3 within that 30-day period that the application is incomplete, the
4 failure to notify shall be deemed to constitute a finding that the
5 permit application is complete.

6 ~~(3) If the department deems a permit application incomplete,~~
7 ~~the department shall do all of the following:~~

8 ~~(A) At the time of notifying the applicant that the application~~
9 ~~is incomplete, furnish to the applicant a detailed explanation why~~
10 ~~the application is incomplete, with reference to the specific~~
11 ~~application criteria that the application does not meet.~~

12 ~~(B) Identify all supplemental information necessary to complete~~
13 ~~the application.~~

14 ~~(C) In a timely manner and no later than 14 days after a meeting~~
15 ~~is requested by the applicant, meet with the applicant to discuss~~
16 ~~any outstanding supplemental information necessary to complete~~
17 ~~the application. The department shall not be required to participate~~
18 ~~in more than three individual meetings with the applicant and shall~~
19 ~~not be required to meet in excess of four hours for each permit~~
20 ~~application.~~

21 ~~(D) Provide the applicant with no less than 30 days to resubmit~~
22 ~~its application with the supplemental information that the~~
23 ~~department identified in the notice. The applicant's failure to~~
24 ~~respond with additional information during that period shall be~~
25 ~~deemed to constitute a withdrawal of the application.~~

26 ~~(4) Within 30 days after receiving supplemental information~~
27 ~~from an applicant pursuant to paragraph (3), the department shall~~
28 ~~approve or deny the application.~~

29 ~~(e) If the department denies an application for an encroachment~~
30 ~~permit, the department shall, at the time of notifying the applicant~~
31 ~~of the denial, furnish to the applicant a detailed explanation of the~~
32 ~~reason for the denial.~~

33 ~~(d) The department shall adopt regulations prescribing~~
34 ~~procedures for an applicant to appeal to the director for a final~~
35 ~~determination of the department's denial of an application. The~~
36 ~~appeal shall be made in writing to the director. There shall be a~~
37 ~~final written determination by the director within 60 calendar days~~
38 ~~after receipt of the applicant's written appeal. The adopted~~
39 ~~regulations shall require the appellant to pay to the department a~~

1 fee of not more than 50 percent of the estimated administrative
 2 cost to the department of conducting the appeal.

3 (e) This section does not preclude an applicant and the
 4 department from mutually agreeing to an extension of any time
 5 limit provided by this section.

6 (f) (1) On or before February 1, 2027, the department shall
 7 develop and adopt a process for project intake, project evaluation,
 8 and encroachment permit review for complete streets facilities,
 9 including pedestrian, bicycle, and transit priority facilities, that
 10 are sponsored by a local jurisdiction or a transit agency. The
 11 department shall design this process to enable the department to
 12 comply with subdivision (a).

13 (2) The department shall report annually to the commission
 14 regarding project applications submitted pursuant to the process
 15 adopted pursuant to paragraph (1). The report shall include, but
 16 not be limited to, all of the following information:

17 (A) The number of completed applications submitted.
 18 (B) The number of encroachment permits issued.
 19 (C) The number of days required to process each application.

20 (3) The department shall post the report described in paragraph
 21 (2) on the department's internet website.

22 (4) The department shall designate an encroachment permit
 23 manager in each district to ensure that applications for complete
 24 streets facilities are reviewed through the process adopted pursuant
 25 to paragraph (1). The encroachment permit manager shall have
 26 expertise in bicycle, pedestrian, and transit priority facilities.

O