

Memorandum

To: CHAIR AND COMMISSIONERS

Date: November 23, 2009

From: BIMLA RHINEHART
Executive Director

Reference No. 4.19
INFORMATION

Ref: Route 238 Hayward Bypass – Commission's Role With Legislative Changes By AB 1386 (Hayashi)

Issue:

How will the recently enacted AB 1386 (Hayashi) change the Commission's role with regards to the Route 238 Hayward Bypass?

Recommendation:

Information, no action required.

Legislative Summary:

AB 1386 (Hayashi) signed by the Governor in October will be effective January 1, 2010. The bill deals with the Route 238 Bypass in the City of Hayward, the properties that may become excess if the route is relinquished, the disposition and sale of the properties, and the use of the revenues from the sale of excess properties for transportation improvements. The bill amended Government Code Sections 14528.5 and 14528.6 to:

- Broaden the use of revenues from the sales of excess properties to include any highway purpose rather than be restricted to state highway purposes.
- Create a special account(s) in which to deposit the revenues from excess property sales.
- Authorize local agencies to advance projects in the Commission-approved local alternative transportation improvement program (LATIP) with local funds and be reimbursed when revenues from excess property sales becomes available.
- Enacts provisions for a settlement agreement related to the disposition of excess properties among the City of Hayward, Caltrans and the representatives for members of a specified class of residents in the Route 238 corridor.

AB 1386:

- Continues the Commission's existing authority regarding the content and final approval of LATIPs presented by the local agency and Caltrans.
- Continues the Commission's authority to allocate funds for approved projects in priority order in the LATIP, with the proviso that the funds come from the newly created Special Deposit Fund(s).
- Requires the Commission to develop and adopt guidelines in consultation with Caltrans and local transportation agencies in Alameda County as part of the State Transportation Improvement

Program Guidelines, thereby permitting local agencies to advance projects in the LATIP with later reimbursement coming from the sale of excess properties, providing revenues become available.

- Continues the Commission's authority to relinquish State Highways and specifies that portions of State Routes 92, 185 and 238 in the City of Hayward may be relinquished.

Historical Background:

The existing State Route 238 facility serves local traffic, traffic destined for the San Mateo - Hayward Bridge (Route 92) and those seeking to avoid congestion on the paralleling Route 880 freeway. The route for the Route 238 Hayward Bypass was adopted in 1961. This freeway would have traversed the Hayward foothills from Route 580 in Castro Valley to Route 680 in Mission San Jose, while providing regional congestion relief with Central Alameda County. Opposition to the Route 238 Hayward Bypass happened almost from the date of adoption. A class action lawsuit was filed in June 1971 seeking to halt land acquisition, relocation activities and other preparations for the project. This was followed by a preliminary injunction in November 1971 and a consent decree in January 1990.

In 1980, the Commission was asked to rescind the entire bypass route from the junction of Route 238/Route 580 to the junction of Route 680. The Commission rescinded the eastern portion of Route 238 from Industrial Parkway to Route 680. The remaining western portion of Route 238 from Industrial to Route 580 was to be studied for a local option and financing. If a financial plan was not forthcoming by 1982, the remainder of Route 238 would be rescinded.

Subsequently, in 1982, legislation (AB 3179, Holmdahl) created a process to allow local public agencies to develop an alternative transportation project or projects (LATIP) to address congestion on existing Route 238 and to provide flexibility to local decision makers by ensuring that the investment of funds on the adopted freeway alignment would not preclude consideration of other options.

In 2004, the Legislature passed SB 509 (Government Code section 14528.5) to extend the provisions of the LATIP process to July 2010. The Alameda County Congestion Management Agency, working with the City of Hayward, Alameda County, the City of San Leandro, the Alameda County Transportation Authority and Caltrans is charged with the responsibility of developing the LATIP.

Subsequent legislation made clarifications to SB 509. AB 1386 is the latest legislation to deal with the Route 238 Hayward Bypass over its checkered 48 year history.