Assembly Bill No. 3026

CHAPTER 438

An act to amend Sections 14035, 14038, 14553.6, 14553.8, and 14554.8 of, and to repeal Section 14404 of, the Government Code, to amend Sections 10265 and 19100 of the Public Contract Code, to amend Section 21096 of the Public Resources Code, to amend Sections 21602, 21670.1, 21670.2, 21670.4, 21671.5, 21674, 21674.5, 21674.7, 21675, 21675.1, 21676, 21676.5, 21679, 21679.5, 21681, and 21702 of the Public Utilities Code, to amend Sections 150, 164.16, 170, and 216 of the Streets and Highways Code, and to amend Section 22656 of the Vehicle Code, relating to transportation.

[Approved by Governor September 7, 2002. Filed with Secretary of State September 9, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3026, Committee on Transportation. Transportation.

(1) Existing law authorizes the Department of Transportation to enter into contracts with the National Railroad Passenger Corporation.

This bill would make nonsubstantive changes to those provisions, deleting references to obsolete federal law.

(2) Existing law continuously appropriates to the Treasurer the amounts identified in the Budget Act as having been deposited in the State Highway Account in the State Transportation Fund from federal transportation funds and pledged by the California Transportation Commission, for the purposes of issuing federal highway grant anticipation notes to fund transportation projects selected by the commission. Projects eligible for this special funding are limited to transportation projects that have been designated for accelerated construction by the commission, including toll bridge seismic retrofit projects, projects approved for funding under the Traffic Congestion Relief Act of 2000, and projects programmed under the current adopted State Transportation Improvement Program (STIP) or the current State Highway Operation and Protection Program.

Existing law requires that all federal and state funds to be allocated by the commission or expended by the Department of Transportation for transportation improvements under the STIP, except as specified, be programmed 40 percent in County Group No. 1, as defined, and 60 percent in County Group No. 2, as defined, and allocated among the counties in each county group in accordance with certain county share formulas

Existing law requires that all funds allocated to a project under the provisions of existing law described above relating to federal highway grant anticipation notes be counted against the STIP county share for the county in which the project is located.

This bill would instead provide that the projects included in the STIP would be counted against the STIP interregional improvement program share for a project in the interregional improvement program and the county share for the county in which a project is located for a project in a regional improvement program.

(3) Existing law requires a political subdivision to adopt a comprehensive land use plan to provide for the orderly growth of a public airport within its jurisdiction.

This bill would change the term to "airport land use compatibility plan" in those provisions.

(4) Existing law designates certain state highways and segments of those highways as part of the interregional road system.

This bill would include within this designation the segment of Route 246 between Routes 1 and 101. The bill would also make nonsubstantive changes to provisions pertaining to the state highway system.

(5) Under existing law, any peace officer, as defined, may remove a vehicle from the right-of-way of a railroad, street railway, or light rail line located within the territorial limits in which the officer is empowered to act if the vehicle is parked or abandoned upon any track or within $7^1/_2$ feet of the nearest rail.

This bill would also authorize the officer to remove a vehicle that is parked beyond $7^1/_2$ feet of the nearest rail but within the right-of-way of a railroad, street railway, or light rail if signs are posted giving notice that vehicles may be removed.

(6) Existing law describes the parameters of State Highway Route 91 that constitute the Willard Murray Freeway.

This bill would require the Department of Transportation to revise the description of this freeway.

(7) Under existing law, in the absence of an express provision to the contrary, the last enacted statute prevails over a statute enacted earlier during the same year of a session.

This bill would specify that irrespective of the sequence of enactment, the provisions of another statute enacted during the 2002 calendar year that takes effect on or before January 1, 2003, and that affects a provision amended, added, or repealed by this act would prevail over this act.

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

SECTION 1. Section 14035 of the Government Code is amended to read:

14035. (a) The department may enter into contracts with the National Railroad Passenger Corporation under Section 403(b) of the Rail Passenger Service Act of 1970 to provide commuter and intercity passenger rail services. The contracts may include, but are not limited to, the extension of intercity passenger rail services or the upgrading of commuter rail services.

(b) The department may contract with railroad corporations for the use of tracks and other facilities and the provision of passenger services on terms and conditions as the parties may agree.

(c) The department may construct, acquire, or lease, and improve and operate, rail passenger terminals and related facilities that provide intermodal passenger services along the following corridors: the San Diego-Los Angeles-Santa Barbara corridor, the San Francisco-San Jose-Monterey corridor, the Los Angeles-Riverside-San Bernardino-Calexico corridor, the San Jose-Oakland-Sacramento-Reno corridor, the Los Angeles-Bakersfield-Fresno-Stockton-Sacramento-Oakland corridor, and the Los Angeles-Santa Barbara-Oakland-Sacramento-Redding corridor.

(d) The department may enter into a contract with the National Railroad Passenger Corporation to provide additional trains over the San Joaquin route running between Bakersfield and Oakland and to extend the existing route to Sacramento.

(e) The Transportation Agency of Monterey County may be a party to any contract entered into under this section between the department and the National Railroad Passenger Corporation for passenger rail service along the San Francisco-San Jose-Monterey corridor.

SEC. 2. Section 14038 of the Government Code is amended to read:

14038. (a) The department may purchase, sell, and lease rail passenger cars and locomotives and other self-propelled rail vehicles.

(b) The department may acquire, lease, design, construct, and improve track lines and related facilities, and the department may contract with the private sector for the design, improvement, or construction of track lines and related facilities. If a railroad corporation refuses to allow improvements to tracks and related facilities, the Public Utilities Commission shall, within 60 days after application by the department, order the institution of those improvements, if it finds that the improvements are necessary to the safety of the railroad

corporation's employees, passengers, customers, and the public, and the operating efficiency of the service for which they are requested.

(c) Any facility or equipment acquired or improved by any entity with funds made available to it pursuant to this section shall become the property of that entity at the time and under the conditions as are agreed upon by the department in the agreement that makes the funds available to the entity. Section 10295 of the Public Contract Code does not apply to any agreement entered into pursuant to this section.

(d) The department shall deposit in the Passenger Equipment Acquisition Fund, for expenditure pursuant to Section 14066, the net proceeds from the sale of rail passenger cars and locomotives and other self-propelled rail vehicles.

SEC. 3. Section 14404 of the Government Code is repealed.

SEC. 4. Section 14553.6 of the Government Code is amended to read:

14553.6. Funds allocated to a State Transportation Improvement Program project under this chapter, including cost overruns and financing costs, shall be counted against the interregional improvement program share in the case of a project in the interregional improvement program and the county share for the county in which the project is located in the case of a project in a regional improvement program.

SEC. 5. Section 14553.8 of the Government Code is amended to read:

14553.8. Before notes are issued under this chapter, the commission, in cooperation with the department and the Department of Finance, shall consider and determine the appropriateness of the mechanism authorized by this chapter in comparison to other funding mechanisms, including, but not limited to, pay-as-you-go, federal advance construction, federal incremental advance construction, or other funding methods authorized under federal law to achieve maximum efficiency from the state's federal allocation of transportation funds.

SEC. 6. Section 14554.8 of the Government Code is amended to read:

14554.8. (a) Notwithstanding Section 13340 of the Government Code or any other provision of law, the amounts specified in the annual Budget Act as having been deposited in the State Highway Account in the State Transportation Fund from federal transportation funds, and pledged by the commission under this chapter, are hereby continuously appropriated, without regard to fiscal years, to the Treasurer for the purposes of, and in accordance with, this chapter.

(b) Funds that are subject to Section 1 or 2 of Article XIX of the California Constitution may be used as the state or local principal match

for any project that is eligible for federal matching funds and is funded pursuant to this chapter.

SEC. 7. Section 10265 of the Public Contract Code is amended to read:

10265. A claim pursuant to Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code is not required, but legal action on any claim shall be commenced within the time period specified in Section 10240.1. The department may compromise or otherwise settle any claims arising from the contract at any time.

SEC. 8. Section 19100 of the Public Contract Code is amended to read:

19100. (a) Presentation of a claim pursuant to Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code is not required to commence a legal action or arbitration proceeding for money or damages on a contract with the state, but any action or proceeding shall be commenced not later than six months after either of the following:

(1) The contracting agency's final written decision under contract claim provisions.

(2) The accrual of the cause of action, if there are no contract claim provisions.

(b) This section shall not apply to a claim that is subject to the provisions of Section 10240.1.

SEC. 8.5. Section 21096 of the Public Resources Code is amended to read:

21096. (a) If a lead agency prepares an environmental impact report for a project situated within airport land use compatibility plan boundaries, or, if an airport land use compatibility plan has not been adopted, for a project within two nautical miles of a public airport or public use airport, the Airport Land Use Planning Handbook published by the Division of Aeronautics of the Department of Transportation, in compliance with Section 21674.5 of the Public Utilities Code and other documents, shall be utilized as technical resources to assist in the preparation of the environmental impact report as the report relates to airport-related safety hazards and noise problems.

(b) A lead agency shall not adopt a negative declaration for a project described in subdivision (a) unless the lead agency considers whether the project will result in a safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.

SEC. 9. Section 21602 of the Public Utilities Code is amended to read:

21602. (a) Subject to the terms and within the limits of special appropriations made by the Legislature, the department may render

financial assistance by grant or loan, or both, to political subdivisions jointly, in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled, by a political subdivision or subdivisions, if the financial assistance has been shown by public hearing to be appropriate to the proper development or maintenance of a statewide system of airports. Financial assistance may be furnished in connection with federal or other financial aid for the same purpose.

(b) Notwithstanding subdivision (a) of Section 21681, a city or county designated by the Airport Land Use Commission is eligible to compete for funds held in the Aeronautics Account in the State Transportation Fund on behalf of any privately owned, public use airport that is included in an airport land use compatibility plan. However, the city or county shall be eligible to compete for the funds only when zoning on the parcel is tantamount to a taking of all reasonable uses that might otherwise be permitted on the parcel. The eligible airport and aviation purposes are limited to those specified in paragraphs (4), (5), (6), (9), and (14) of subdivision (f) of Section 21681, and, further, any capital improvements or acquisitions shall become the property of the designated city or county. Matching funds pursuant to subdivision (a) of Section 21684 may include the in-kind contribution of real property, with the approval of the department.

(c) Any grant of funds held in the Aeronautics Account in the State Highway Account on behalf of any privately owned airports shall contain a covenant that the airport remain open for public use for 20 years. Any grant made to a city or county on behalf of a privately owned airport shall contain a payback provision based upon existing market value at the time the private airport ceases to be open for public use.

(d) Upon request, California Aid to Airports Program (CAAP) projects included within the adopted Aeronautics Program, may be funded in advance of the year programmed, with the concurrence of the department, in order to better utilize funds in the account.

(e) There is, in the Aeronautics Account in the State Transportation Fund, a subaccount for the management of funds for loans to local entities pursuant to this chapter. All funds for airport loans in the Special Deposit Fund are hereby transferred to the subaccount. With the approval of the Department of Finance, the department shall deposit in the subaccount all money received by the department from repayments of and interest on existing and future airport loans including, but not limited to, the sums of five hundred forty thousand dollars ($540,000) in repayments from the General Fund due in July 1987, and July 1988, and may, upon appropriation, transfer additional funds from the Aeronautics Account in the State Transportation Fund to the subaccount

as the department deems appropriate. Interest on money in the subaccount shall be credited to the subaccount as it accrues.

(f) Notwithstanding Section 13340 of the Government Code, the money in the subaccount created by subdivision (e) is hereby continuously appropriated to the department without regard to fiscal years for purposes of loans to political subdivisions for airport purposes.

SEC. 10. Section 21670.1 of the Public Utilities Code is amended to read:

21670.1. (a) Notwithstanding any other provision of this article, if the board of supervisors and the city selection committee of mayors in the county each makes a determination by a majority vote that proper land use planning can be accomplished through the actions of an appropriately designated body, then the body so designated shall assume the planning responsibilities of an airport land use commission as provided for in this article, and a commission need not be formed in that county.

(b) A body designated pursuant to subdivision (a) which does not include among its membership at least two members having an expertise in aviation, as defined in subdivision (e) of Section 21670, shall, when acting in the capacity of an airport land use commission, be augmented so that body, as augmented, will have at least two members having that expertise. The commission shall be constituted pursuant to this section on and after March 1, 1988.

(c) (1) Notwithstanding subdivisions (a) and (b), and subdivision (b) of Section 21670, if the board of supervisors of a county and each affected city in that county each makes a determination that proper land use planning pursuant to this article can be accomplished pursuant to this subdivision, then a commission need not be formed in that county.

(2) If the board of supervisors of a county and each affected city makes a determination that proper land use planning may be accomplished and a commission is not formed pursuant to paragraph (1), that county and the appropriate affected cities having jurisdiction over an airport, subject to the review and approval by the Division of Aeronautics of the department, shall do all of the following:

(A) Adopt processes for the preparation, adoption, and amendment of the airport land use compatibility plan for each airport that is served by a scheduled airline or operated for the benefit of the general public.

(B) Adopt processes for the notification of the general public, landowners, interested groups, and other public agencies regarding the preparation, adoption, and amendment of the airport land use compatibility plans.

(C) Adopt processes for the mediation of disputes arising from the preparation, adoption, and amendment of the airport land use compatibility plans.

(D) Adopt processes for the amendment of general and specific plans to be consistent with the airport land use compatibility plans.

(E) Designate the agency that shall be responsible of the preparation, adoption, and amendment of each airport land use compatibility plan.

(3) The Division of Aeronautics of the department shall review the processes adopted pursuant to paragraph (2), and shall approve the processes if the division determines that the processes are consistent with the procedure required by this article and will do all of the following:

(A) Result in the preparation, adoption, and implementation of plans within a reasonable amount of time.

(B) Rely on the height, use, noise, safety, and density criteria that are compatible with airport operations, as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations.

(C) Provide adequate opportunities for notice to, review of, and comment by the general public, landowners, interested groups, and other public agencies.

(4) If the county does not comply with the requirements of paragraph (2) within 120 days, then the airport land use compatibility plan and amendments shall not be considered adopted pursuant to this article and a commission shall be established within 90 days of the determination of noncompliance by the division and an airport land use compatibility plan shall be adopted pursuant to this article within 90 days of the establishment of the commission.

(d) A commission need not be formed in a county that has contracted for the preparation of airport land use compatibility plans with the Division of Aeronautics under the California Aid to Airports Program (Title 21 (commencing with Section 4050) of the California Code of Regulations), Project Ker-VAR 90-1, and that submits all of the following information to the Division of Aeronautics for review and comment that the county and the cities affected by the airports within the county, as defined by the airport land use compatibility plans:

(1) Agree to adopt and implement the airport land use compatibility plans that have been developed under contract.

(2) Incorporated the height, use, noise, safety, and density criteria that are compatible with airport operations as established by this article, and referred to as the Airport Land Use Planning Handbook, published by

the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations as part of the general and specific plans for the county and for each affected city.

(3) If the county does not comply with this subdivision on or before May 1, 1995, then a commission shall be established in accordance with this article.

(e) (1) A commission need not be formed in a county if all of the following conditions are met:

(A) The county has only one public use airport that is owned by a city.

(B) (i) The county and the affected city adopt the elements in paragraph (2) of subdivision (d), as part of their general and specific plans for the county and the affected city.

(ii) The general and specific plans shall be submitted, upon adoption, to the Division of Aeronautics. If the county and the affected city do not submit the elements specified in paragraph (2) of subdivision (d), on or before May 1, 1996, then a commission shall be established in accordance with this article.

SEC. 11. Section 21670.2 of the Public Utilities Code is amended to read:

21670.2. (a) Sections 21670 and 21670.1 do not apply to the County of Los Angeles. In that county, the county regional planning commission has the responsibility for coordinating the airport planning of public agencies within the county. In instances where impasses result relative to this planning, an appeal may be made to the county regional planning commission by any public agency involved. The action taken by the county regional planning commission on an appeal may be overruled by a four-fifths vote of the governing body of a public agency whose planning led to the appeal.

(b) By January 1, 1992, the county regional planning commission shall adopt the airport land use compatibility plans required pursuant to Section 21675.

(c) Sections 21675.1, 21675.2, and 21679.5 do not apply to the County of Los Angeles until January 1, 1992. If the airport land use compatibility plans required pursuant to Section 21675 are not adopted by the county regional planning commission by January 1, 1992, Sections 21675.1 and 21675.2 shall apply to the County of Los Angeles until the airport land use compatibility plans are adopted.

SEC. 12. Section 21670.4 of the Public Utilities Code is amended to read:

21670.4. (a) As used in this section, "intercounty airport" means any airport bisected by a county line through its runways, runway protection zones, inner safety zones, inner turning zones, outer safety

zones, or sideline safety zones, as defined by the department's Airport Land Use Planning Handbook and referenced in the airport land use compatibility plan formulated under Section 21675.

(b) It is the purpose of this section to provide the opportunity to establish a separate airport land use commission so that an intercounty airport may be served by a single airport land use planning agency, rather than having to look separately to the airport land use commissions of the affected counties.

(c) In addition to the airport land use commissions created under Section 21670 or the alternatives established under Section 21670.1, for their respective counties, the boards of supervisors and city selection committees for the affected counties, by independent majority vote of each county's two delegations, for any intercounty airport, may do either of the following:

(1) Establish a single separate airport land use commission for that airport. That commission shall consist of seven members to be selected as follows:

(A) One representing the cities in each of the counties, appointed by that county's city selection committee.

(B) One representing each of the counties, appointed by the board of supervisors of each county.

(C) One from each county having expertise in aviation, appointed by a selection committee comprised of the managers of all the public airports within that county.

(D) One representing the general public, appointed by the other six members of the commission.

(2) In accordance with subdivision (a) or (b) of Section 21670.1, designate an existing appropriate entity as that airport's land use commission.

SEC. 15. Section 21671.5 of the Public Utilities Code is amended to read:

21671.5. (a) Except for the terms of office of the members of the first commission, the term of office of each member shall be four years and until the appointment and qualification of his or her successor. The members of the first commission shall classify themselves by lot so that the term of office of one member is one year, of two members is two years, of two members is three years, and of two members is four years. The body that originally appointed a member whose term has expired shall appoint his or her successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing that member. The expiration date of the term of office of each member shall be the first Monday in May in the year in which that member's term is to expire. Any vacancy in the membership of the

commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant. The chairperson of the commission shall be selected by the members thereof.

(b) Compensation, if any, shall be determined by the board of supervisors.

(c) Staff assistance, including the mailing of notices and the keeping of minutes and necessary quarters, equipment, and supplies shall be provided by the county. The usual and necessary operating expenses of the commission shall be a county charge.

(d) Notwithstanding any other provisions of this article, the commission shall not employ any personnel either as employees or independent contractors without the prior approval of the board of supervisors.

(e) The commission shall meet at the call of the commission chairperson or at the request of the majority of the commission members. A majority of the commission members shall constitute a quorum for the transaction of business. No action shall be taken by the commission except by the recorded vote of a majority of the full membership.

(f) The commission may establish a schedule of fees necessary to comply with this article. Those fees shall be charged to the proponents of actions, regulations, or permits, shall not exceed the estimated reasonable cost of providing the service, and shall be imposed pursuant to Section 66016 of the Government Code. Except as provided in subdivision (g), after June 30, 1991, a commission that has not adopted the airport land use compatibility plan required by Section 21675 shall not charge fees pursuant to this subdivision until the commission adopts the plan.

(g) In any county that has undertaken by contract or otherwise completed airport land use compatibility plans for at least one-half of all public use airports in the county, the commission may continue to charge fees necessary to comply with this article until June 30, 1992, and, if the airport land use compatibility plans are complete by that date, may continue charging fees after June 30, 1992. If the airport land use compatibility plans are not complete by June 30, 1992, the commission shall not charge fees pursuant to subdivision (f) until the commission adopts the land use plans.

SEC. 14. Section 21674 of the Public Utilities Code is amended to read:

21674. The commission has the following powers and duties, subject to the limitations upon its jurisdiction set forth in Section 21676:

(a) To assist local agencies in ensuring compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the

extent that the land in the vicinity of those airports is not already devoted to incompatible uses.

(b) To coordinate planning at the state, regional, and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare.

(c) To prepare and adopt an airport land use compatibility plan pursuant to Section 21675.

(d) To review the plans, regulations, and other actions of local agencies and airport operators pursuant to Section 21676.

(e) The powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.

(f) In order to carry out its responsibilities, the commission may adopt rules and regulations consistent with this article.

SEC. 15. Section 21674.5 of the Public Utilities Code is amended to read:

21674.5. (a) The Department of Transportation shall develop and implement a program or programs to assist in the training and development of the staff of airport land use commissions, after consulting with airport land use commissions, cities, counties, and other appropriate public entities.

(b) The training and development program or programs are intended to assist the staff of airport land use commissions in addressing high priority needs, and may include, but need not be limited to, the following:

(1) The establishment of a process for the development and adoption of airport land use compatibility plans.

(2) The development of criteria for determining airport land use planning boundaries.

(3) The identification of essential elements that should be included in the airport land use compatibility plans.

(4) Appropriate criteria and procedures for reviewing proposed developments and determining whether proposed developments are compatible with the airport use.

(5) Any other organizational, operational, procedural, or technical responsibilities and functions that the department determines to be appropriate to provide to commission staff and for which it determines there is a need for staff training or development.

(c) The department may provide training and development programs for airport land use commission staff pursuant to this section by any means it deems appropriate. Those programs may be presented in any of the following ways:

(1) By offering formal courses or training programs.

(2) By sponsoring or assisting in the organization and sponsorship of conferences, seminars, or other similar events.

(3) By producing and making available written information.

(4) Any other feasible method of providing information and assisting in the training and development of airport land use commission staff.

SEC. 16. Section 21674.7 of the Public Utilities Code is amended to read:

21674.7. An airport land use commission that formulates, adopts, or amends an airport land use compatibility plan shall be guided by information prepared and updated pursuant to Section 21674.5 and referred to as the Airport Land Use Planning Handbook published by the Division of Aeronautics of the Department of Transportation.

SEC. 17. Section 21675 of the Public Utilities Code is amended to read:

21675. (a) Each commission shall formulate an airport land use compatibility plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The airport land use compatibility plan shall include and shall be based on a long-range master plan or an airport layout plan, as determined by the Division of Aeronautics of the Department of Transportation, that reflects the anticipated growth of the airport during at least the next 20 years. In formulating an airport land use compatibility plan, the commission may develop height restrictions on buildings, specify use of land, and determine building standards, including soundproofing adjacent to airports, within the planning area. The airport land use compatibility plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.

(b) The commission may include, within its airport land use compatibility plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any federal military airport for all of the purposes specified in subdivision (a). This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.

(c) The planning boundaries shall be established by the commission after hearing and consultation with the involved agencies.

(d) The commission shall submit to the Division of Aeronautics of the department one copy of the airport land use compatibility plan and each amendment to the airport land use compatibility plan.

(e) If an airport land use compatibility plan does not include the matters required to be included pursuant to this article, the Division of

Aeronautics of the department shall notify the commission responsible for the airport land use compatibility plan.

SEC. 18. Section 21675.1 of the Public Utilities Code is amended to read:

21675.1. (a) By June 30, 1991, each commission shall adopt the airport land use compatibility plan required pursuant to Section 21675, except that any county that has undertaken by contract or otherwise completed airport land use compatibility plans for at least one-half of all public use airports in the county, shall adopt that airport land use compatibility plan on or before June 30, 1992.

(b) Until a commission adopts an airport land use compatibility plan, a city or county shall first submit all actions, regulations, and permits within the vicinity of a public airport to the commission for review and approval. Before the commission approves or disapproves any actions, regulations, or permits, the commission shall give public notice in the same manner as the city or county is required to give for those actions, regulations, or permits. As used in this section, "vicinity" means land that will be included or reasonably could be included within the airport land use compatibility plan. If the commission has not designated a study area for the airport land use compatibility plan, then "vicinity" means land within two miles of the boundary of a public airport.

(c) The commission may approve an action, regulation, or permit if it finds, based on substantial evidence in the record, all of the following:

(1) The commission is making substantial progress toward the completion of the airport land use compatibility plan.

(2) There is a reasonable probability that the action, regulation, or permit will be consistent with the airport land use compatibility plan being prepared by the commission.

(3) There is little or no probability of substantial detriment to or interference with the future adopted airport land use compatibility plan if the action, regulation, or permit is ultimately inconsistent with the airport land use compatibility plan.

(d) If the commission disapproves an action, regulation, or permit, the commission shall notify the city or county. The city or county may overrule the commission, by a two-thirds vote of its governing body, if it makes specific findings that the proposed action, regulation, or permit is consistent with the purposes of this article, as stated in Section 21670.

(e) If a city or county overrules the commission pursuant to subdivision (d), that action shall not relieve the city or county from further compliance with this article after the commission adopts the airport land use compatibility plan.

(f) If a city or county overrules the commission pursuant to subdivision (d) with respect to a publicly owned airport that the city or

county does not operate, the operator of the airport is not liable for damages to property or personal injury resulting from the city's or county's decision to proceed with the action, regulation, or permit.

(g) A commission may adopt rules and regulations that exempt any ministerial permit for single-family dwellings from the requirements of subdivision (b) if it makes the findings required pursuant to subdivision (c) for the proposed rules and regulations, except that the rules and regulations may not exempt either of the following:

(1) More than two single-family dwellings by the same applicant within a subdivision prior to June 30, 1991.

(2) Single-family dwellings in a subdivision where 25 percent or more of the parcels are undeveloped.

SEC. 19. Section 21676 of the Public Utilities Code is amended to read:

21676. (a) Each local agency whose general plan includes areas covered by an airport land use compatibility plan shall, by July 1, 1983, submit a copy of its plan or specific plans to the airport land use commission. The commission shall determine by August 31, 1983, whether the plan or plans are consistent or inconsistent with the airport land use compatibility plan. If the plan or plans are inconsistent with the airport land use compatibility plan, the local agency shall be notified and that local agency shall have another hearing to reconsider its airport land use compatibility plans. The local agency may overrule the commission after the hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.

(b) Prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the airport land use commission pursuant to Section 21675, the local agency shall first refer the proposed action to the commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The local agency may, after a public hearing, overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.

(c) Each public agency owning any airport within the boundaries of an airport land use compatibility plan shall, prior to modification of its airport master plan, refer any proposed change to the airport land use commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The public agency may, after a public hearing, overrule the commission by a two-thirds vote of its governing body if it makes

specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.

(d) Each commission determination pursuant to subdivision (b) or (c) shall be made within 60 days from the date of referral of the proposed action. If a commission fails to make the determination within that period, the proposed action shall be deemed consistent with the airport land use compatibility plan.

SEC. 20. Section 21676.5 of the Public Utilities Code is amended to read:

21676.5. (a) If the commission finds that a local agency has not revised its general plan or specific plan or overruled the commission by a two-thirds vote of its governing body after making specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670, the commission may require that the local agency submit all subsequent actions, regulations, and permits to the commission for review until its general plan or specific plan is revised or the specific findings are made. If, in the determination of the commission, an action, regulation, or permit of the local agency is inconsistent with the airport land use compatibility plan, the local agency shall be notified and that local agency shall hold a hearing to reconsider its plan. The local agency may overrule the commission after the hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670.

(b) Whenever the local agency has revised its general plan or specific plan or has overruled the commission pursuant to subdivision (a), the proposed action of the local agency shall not be subject to further commission review, unless the commission and the local agency agree that individual projects shall be reviewed by the commission.

SEC. 21. Section 21679 of the Public Utilities Code is amended to read:

21679. (a) In any county in which there is no airport land use commission or other body designated to assume the responsibilities of an airport land use commission, or in which the commission or other designated body has not adopted an airport land use compatibility plan, an interested party may initiate proceedings in a court of competent jurisdiction to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, that directly affects the use of land within one mile of the boundary of a public airport within the county.

(b) The court may issue an injunction that postpones the effective date of the zoning change, zoning variance, permit, or regulation until the

governing body of the local agency that took the action does one of the following:

(1) In the case of an action that is a legislative act, adopts a resolution declaring that the proposed action is consistent with the purposes of this article stated in Section 21670.

(2) In the case of an action that is not a legislative act, adopts a resolution making findings based on substantial evidence in the record that the proposed action is consistent with the purposes of this article stated in Section 21670.

(3) Rescinds the action.

(4) Amends its action to make it consistent with the purposes of this article stated in Section 21670, and complies with either paragraph (1) or (2), whichever is applicable.

(c) The court shall not issue an injunction pursuant to subdivision (b) if the local agency that took the action demonstrates that the general plan and any applicable specific plan of the agency accomplishes the purposes of an airport land use compatibility plan as provided in Section 21675.

(d) An action brought pursuant to subdivision (a) shall be commenced within 30 days of the decision or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever is longer.

(e) If the governing body of the local agency adopts a resolution pursuant to subdivision (b) with respect to a publicly owned airport that the local agency does not operate, the operator of the airport shall be immune from liability for damages to property or personal injury from the local agency's decision to proceed with the zoning change, zoning variance, permit, or regulation.

(f) As used in this section, "interested party" means any owner of land within two miles of the boundary of the airport or any organization with a demonstrated interest in airport safety and efficiency.

SEC. 22. Section 21679.5 of the Public Utilities Code is amended to read:

21679.5. (a) Until June 30, 1991, no action pursuant to Section 21679 to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport, shall be commenced in any county in which the commission or other designated body has not adopted an airport land use compatibility plan, but is making substantial progress toward the completion of the airport land use compatibility plan.

(b) If a commission has been prevented from adopting the airport land use compatibility plan by June 30, 1991, or if the adopted airport land

use compatibility plan could not become effective, because of a lawsuit involving the adoption of the airport land use compatibility plan, the June 30, 1991, date in subdivision (a) shall be extended by the period of time during which the lawsuit was pending in a court of competent jurisdiction.

(c) Any action pursuant to Section 21679 commenced prior to January 1, 1990, in a county in which the commission or other designated body has not adopted an airport land use compatibility plan, but is making substantial progress toward the completion of the airport land use compatibility plan, which has not proceeded to final judgment, shall be held in abeyance until June 30, 1991. If the commission or other designated body adopts an airport land use compatibility plan on or before June 30, 1991, the action shall be dismissed. If the commission or other designated body does not adopt an airport land use compatibility plan on or before June 30, 1991, the plaintiff or plaintiffs may proceed with the action.

(d) An action to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport for which an airport land use compatibility plan has not been adopted by June 30, 1991, shall be commenced within 30 days of June 30, 1991, or within 30 days of the decision by the local agency, or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever date is later.

SEC. 23. Section 21681 of the Public Utilities Code is amended to read:

21681. As used in this article, the following terms have the following meanings:

(a) "Own and operate" means that the public entity shall own the property in fee simple or by a long-term lease of a minimum of 20 years, unless otherwise approved by the department, and shall maintain dominion and control of the property, except that the public entity may provide by contract with a person for the operation and management of an airport otherwise meeting the requirements of this article. Operations of the airport shall be for, and on behalf of, the public entity. All leases to the public entity of property are required to be approved by the department. A lease of the property by the public entity to an agent or agency other than to a public entity does not meet the criteria for participation in airport assistance funds.

(b) "Matching funds" means money that is provided by the public entity and does not consist of funds previously received from state or federal agencies or public entity funds previously used to match federal or state funds. This definition shall be retroactive to July 1, 1967.

(c) "General aviation" means all aviation except air carrier and military aviation.

(d) "Public entity" means any city, county, airport district, airport authority, port district, port authority, public district, public authority, political subdivision, airport land use commission, community services district, or public corporation and the University of California.

(e) "Public agency" means the various agencies of the State of California and the federal government.

(f) "Airport and aviation purposes" means expenditures of a capital improvement nature, including the repair or replacement of a capital improvement, and expenditures for compatible land use planning in the area surrounding an airport, for any of the following purposes:

(1) Land acquisition for development and improvement of general aviation aircraft landing facilities.

(2) Grading and drainage necessary for the construction or reconstruction of runways or taxiways.

(3) Construction or reconstruction of runways or taxiways.

(4) Acquisition of "runway protection zones" as defined in Federal Aviation Administration Advisory Circular 150/1500-13.

(5) Acquisition of easements through, or other interests in, airspace as may be reasonably required for safeguarding aircraft operations in the vicinity of an aircraft landing facility.

(6) Removal of natural obstructions from runway protection zones.

(7) Installation of "segmented circle airport marker systems" as defined in current regulations of the Federal Aviation Administration.

(8) Installation of runway, taxiway, boundary, or obstruction lights, together with directly related electrical equipment.

(9) Installation of minimum security fencing around the perimeter of an aircraft landing facility.

(10) Grading and drainage necessary to provide for parking of transient general aviation aircraft.

(11) Construction or reconstruction of transient general aviation aircraft parking areas.

(12) Servicing of revenue or general obligation bonds issued to finance capital improvements for airport and aviation purposes.

(13) Air navigational facilities.

(14) Engineering and preliminary engineering related directly to a project funded under this article.

(15) Other capital improvements as may be designated in rules and regulations adopted by the department.

(16) Activities of an airport land use commission in connection with the preparation of a new or updated airport land use compatibility plan pursuant to Section 21675. Expenditures that cannot be clearly

identified as capital improvements shall be submitted to the department for consideration and approval.

(17) Airport master plans and airport layout plans.

(g) "Operation and maintenance" means expenditures for wages or salaries, utilities, service vehicles, and all other noncapital expenditures that are included in insurance, professional services, supplies, construction equipment, upkeep and landscaping, and other items of expenditure designated as "operation and maintenance" in rules and regulations adopted by the department.

(h) "Enplanement" means the boarding of an aircraft by a revenue passenger, including an original, stopover, or transfer boarding of the aircraft. For purposes of this subdivision, a stopover is a deliberate and intentional interruption of a journey by a passenger scheduled to exceed four hours in the case of an intrastate or interstate passenger or not to exceed 24 hours in the case of an international passenger at a point between the point of departure and the point of destination, and a transfer is an occurrence at an intermediate point in an itinerary whereby a passenger or shipment changes from a flight of one carrier to another flight either of the same or a different carrier with or without a stopover.

SEC. 24. Section 21702 of the Public Utilities Code is amended to read:

21702. The California Aviation System Plan shall include, but not be limited to, all of the following elements:

(a) A background and introduction element, which summarizes aviation activity in California and establishes goals and objectives for aviation improvement.

(b) An air transportation issues element, which addresses issues such as aviation safety, airport noise, airport ground access, transportation systems management, airport financing, airport land use compatibility planning, and institutional relationships.

(c) A regional plan alternative element, which consists of the aviation elements of the regional transportation plans prepared by each transportation planning agency. This element shall include consideration of regional air transportation matters relating to growth, capacity needs, county activity, airport activity, and systemwide activity in order to evaluate adequately the overall impacts of regional activity in relation to the statewide air transportation system. This element shall propose general aviation and air carrier public use airports for consideration by the commission for funding eligibility under this chapter.

(d) A state plan alternative element, which includes consideration of statewide air transportation matters relating to growth, including, but not limited to, county activity, airport activity, and systemwide activity in

order to evaluate adequately the state aviation system and to designate an adequate number of general aviation and air carrier public use airports for state funding in order to provide a level of air service and safety acceptable to the public.

(e) A comparative element, which compares and contrasts the regional plan alternative with the state plan alternative, including, but not limited to, airport noise, air quality, toxic waste cleanup, energy, economics, and passengers served.

(f) A 10-year capital improvement program, which is divided into two five-year phases for each airport, based on the airport's adopted master plan, prepared by each transportation planning agency, and submitted to the division for inclusion in the California Aviation System Plan.

(g) Any other element deemed appropriate by the division and the transportation planning agencies.

(h) A summary and conclusion element, which presents the findings and recommended course of action.

SEC. 25. Section 150 of the Streets and Highways Code is amended to read:

150. When the department, in cooperation with rapid transit districts, recommends that mass public transportation facilities should be located along a proposed freeway corridor in order to establish a planned balanced transportation system, the commission shall consider this recommendation in making its decision as to the location of the freeway.

If the commission determines that the location of mass public transportation facilities should be located along the proposed freeway corridor, it may also direct the department to plan, design, and construct the freeway so as to provide locations for those facilities, and the cost thereof shall be considered as part of the cost of constructing the state highway. In making this determination, the commission shall consider the extent to which the mass public transportation facilities will reduce the volume of traffic on the proposed freeway and the impact the joint development will have on community values. The commission shall also consider whether the rapid transit district has adopted a general plan for the development of its mass public transportation facilities and the likelihood as to whether sufficient funds will be available for the development of mass public transportation service in those locations. The commission shall authorize the department to provide those locations along federal-aid highways only in instances in which it has received assurances of full federal financial participation in the cost of providing those locations.

If mass public transportation facilities other than roadways and other facilities for use of buses are to be constructed and placed in use in those locations, the department may enter into agreements for the sale of the locations to transit districts for that use at a price equal to the market value of the property at the time of sale. If mass public transportation facilities are not placed in use in the locations provided within five years of completion of the freeway, the department may develop those locations for freeway purposes, or it may lease or otherwise dispose of the locations in accordance with the provisions of this code.

The department may, in cooperation with rapid transit districts, develop exclusive or preferential bus lanes in those locations in accordance with Section 149.

SEC. 26. Section 164.16 of the Streets and Highways Code is amended to read:

164.16. For purposes of Section 164.3, the eligible interregional and intercounty routes include all of the following:

Route 120, between Route 5 and Route 395.

Route 126, between the east urban limits of Oxnard-Ventura-Thousand Oaks and Route 5.

Route 127.

Route 128.

Route 129, between Route 1 and Route 101.

Route 132, west of Route 99.

Route 138, between Route 5 and Route 14 in Los Angeles County and between Route 14 in Los Angeles County and Route 18 near Crestline in San Bernardino County.

Route 139, between Route 299 and the Oregon state line.

Route 246, between Route 1 and Route 101.

SEC. 27. Section 170 of the Streets and Highways Code is amended to read:

170. Where it is estimated by the department that the work involved in a project to be constructed under the State Contract Act (Chapter 1 (commencing with Section 10100) of Part 2 of Division 2 of the Public Contract Code) will not be completed within a given fiscal year, the department, in the contract specifications, may provide a limitation upon the amounts that will be paid to the contractor during the first or second fiscal years of the construction period. Subject to this limitation, the contracts shall provide for the completion of the work and full payment therefor.

For the purposes of complying with Section 169, the department may include in any proposed budget, and the commission may allocate, at least the amounts with reference to those construction projects as would

be payable during the fiscal year, together with all necessary engineering and other charges.

SEC. 28. Section 216 of the Streets and Highways Code is amended to read:

216. (a) The noise level produced by the traffic on, or by the construction of, a state freeway shall be measured in the classrooms, libraries, multipurpose rooms, and spaces used for pupil personnel services of a public or private elementary or secondary school if the rooms or spaces are being used for the purpose for which they were constructed and they were constructed under any of the following circumstances:

(1) Prior to the award of the initial construction contract for the freeway route and prior to January 1, 1974.

(2) After December 31, 1973, and prior to the issuance of a statement of present and projected noise levels of the freeway route by the department pursuant to subdivision (f) of Section 65302 of the Government Code.

(3) Subsequent to the construction of the freeway but prior to any alteration or expansion of the freeway that results in a significant and perceptible increase in ambient noise levels in the rooms or spaces.

(b) The measurements shall be made at appropriate times during regular school hours and shall not include noise from sources that exceed the maximum permitted by law.

(c) If the noise level produced from the freeway traffic, or the construction of the freeway, exceeds 55dBA, L10, or 52dBA, Leq., the department shall undertake a noise abatement program in any classroom, library, multipurpose room, or space used for pupil personnel services to reduce the freeway traffic noise level therein to 55dBA, L10, or 52dBA, Leq., or less, by, measures including, but not limited to, installing acoustical materials, eliminating windows, installing air-conditioning, or constructing sound baffle structures.

(d) If the department determines that the construction of the freeway will result in a noise level exceeding 55dBA, L10, or 52dBA, Leq., the department shall complete the temporary or permanent noise abatement program prior to commencing that construction, or as soon as practicable thereafter.

(e) If it becomes necessary to convert the classrooms, libraries, multipurpose rooms, or spaces used for pupil personnel services to other school-related purposes because the freeway traffic noise level therein exceeds 55dBA, L10, or 52dBA, Leq., the department shall pay the cost of the conversions.

(f) If the noise level generated from sources within and without the classrooms, libraries, multipurpose rooms, or spaces used for pupil

personnel services exceeds 55dBA, L10, or 52dBA, Leq. prior to construction of the freeway or completion of the alteration or expansion of the freeway, as the case may be, and the noise from the freeway, or its construction, alteration, or expansion, also exceeds 55dBA, L10, or 52dBA, Leq., the department shall undertake a noise abatement program that will reduce the noise to its preconstruction, prealteration, or preexpansion level.

(g) Priority for noise abatement programs shall be given to those public and private elementary and secondary classrooms, libraries, multipurpose rooms, and spaces used for pupil personnel services constructed in conformance with Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5 of Division 1 of Title 1 of the Education Code or subject to paragraph (3) of subdivision (a).

(h) As used in this section, dBA means decibels measured by the "A" weighting described in Section 3.1 of the American National Standard specification for sound level meters, S1.4-1971, approved April 27, 1971, and published by the American National Standards Institute. L10 is the sound level that is exceeded 10 percent of the time for the period under consideration and is a value which is an indicator of both the magnitude and frequency of occurrence of the loudest noise events. Leq. is the equivalent steady state sound which in a stated period of time would contain the same acoustic energy as the time-varying sound level during the same time period.

SEC. 29. Section 22656 of the Vehicle Code is amended to read:

22656. Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove a vehicle from the right-of-way of a railroad, street railway, or light rail line located within the territorial limits in which the officer is empowered to act if the vehicle is parked or abandoned upon any track or within $7^1/_2$ feet of the nearest rail. The officer may also remove a vehicle that is parked beyond $7^1/_2$ feet of the nearest rail but within the right-of-way of a railroad, street railway, or light rail if signs are posted giving notice that vehicles may be removed.

SEC. 30. The Department of Transportation shall revise the existing designation of the Willard Murray Freeway from "the portion of State Highway Route 91 in the City of Compton from Alameda Road to Central Avenue" to "the segment of State Highway Route 91 between State Highway Route 605 and State Highway Route 110."

SEC. 31. Any section of any act enacted by the Legislature during the 2002 calendar year that does both of the following shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act:

(a) Takes effect on or before January 1, 2003.

(b) Amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, added, or repealed by this act.

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