

BILL: SB 768 (Caballero, D-Fresno)
Introduced February 17, 2023
Amended March 22, 2023
Amended January 11, 2024
Amended May 29, 2024

SUBJECT: SB 768 would require the California Transportation Agency study how vehicle miles traveled is used as a metric for measuring transportation impacts under the California Environmental Quality Act.

STATUS: Pending in Assembly Committee on Appropriations
Passed Assembly Natural Resources Committee 10-0
Passed the Senate 34-4
Passed Senate Appropriations 4-2
Passed Senate Environmental Quality Committee 6-1

SUMMARY AS OF JULY 1, 2024:

SB 743 (Chapter 386, Statutes of 2013) required the Office of Planning and Research (OPR) to update the California Environmental Quality Act (CEQA) criteria for analyzing transportation impacts of projects to replace the traditional metric of “levels of service” (LOS). Discretion was provided on using the new metric in transit priority areas or statewide. The goal was to better promote the State’s goals of reducing greenhouse gas emissions and transportation-related air pollution, promoting the development of multimodal transportation system, and providing clean, efficient access to destinations. OPR proposed changing the CEQA guidelines, identifying vehicle miles traveled (VMT) as the best metric to evaluate a project’s transportation impacts both within and beyond transit priority areas.

SB 768 (Caballero, D-Fresno) would require the California Transportation Agency (CalSTA), by January 1, 2028, to study how VMT is used as a metric for measuring transportation impacts pursuant to CEQA. Specifically, in conducting this study, CalSTA would be required to consult with local governments and other interested parties including state agencies, local agencies or organizations represented by member agencies, and industry organizations. Implementation of this legislation is contingent upon appropriation by the Legislature. The study must include all of the following:

- An analysis of the implementation and ramifications of the updated CEQA guidelines.
- An analysis of the methodologies used to create VMT reduction targets as part of a mitigation measure at the local, regional, and statewide level.
- An analysis and comparison of how VMT impacts and mitigation measures are identified, measured, and deployed at the local, regional, and statewide level that must include an exhaustive list of project types that are considered to increase capacity, induce VMT, or both.

- An inventory of the cost of VMT mitigation measures to projects thus far, and an analysis of whether the cost of those measures either indefinitely delayed, temporarily delayed, or necessitated the phasing of those projects.
- An inventory of project types, if any, that are exempted from analysis of VMT.
- An analysis of the differences in the availability and feasibility of mitigation measures for VMT in rural, suburban, and urban areas. The analysis shall include best strategies and planning changes to mitigate VMT in areas where public transportation is inadequate.
- A discussion of the relationship between VMT reduction, greenhouse gas emissions reduction, housing, transportation, economic development, and equity.

EFFECTS ON ORANGE COUNTY:

Since OPR first published updated CEQA guidelines pursuant to SB 743, agencies across the state have grappled with how to effectively deliver their transportation projects while maintaining compliance with CEQA requirements. This shift necessitated significant changes in project evaluation, regulatory compliance, and long-term planning. The new guidelines require the adoption of sophisticated tools and methodologies to assess VMT, straining current analytical capabilities and necessitating extensive training and investment. Moreover, many transportation agencies in the State, like the Orange County Transportation Authority (OCTA), are not responsible for land use decisions and therefore cannot mitigate all VMT. This limitation is particularly pronounced in already urbanized areas, where influencing future land use and development patterns is difficult. Additionally, as transportation agencies in California have begun to develop VMT mitigation for projects, in some instances VMT mitigation has doubled the price of the overall project.

SB 768 provides for an opportunity to evaluate the implementation of VMT as it pertains to CEQA by identifying how it impacts the delivery of transportation infrastructure across the State. By conducting this study, the legislation will provide insights into how VMT metrics can be effectively applied and mitigated, addressing both urban and rural contexts. Understanding challenges associated with the VMT criteria in the updated CEQA guidelines could provide an opportunity to evaluate a path toward more realistic and achievable mitigation measures, ensuring compliance without jeopardizing project timelines or budgets. The study will highlight the practical difficulties and ramifications of implementing VMT guidelines, which can inform adjustments and improvements in the process. This would help transportation agencies plan and budget more effectively, avoiding indefinite or temporary delays. The analysis of differences in mitigation feasibility across rural, suburban, and urban areas could also allow for the development of tailored strategies that consider the unique characteristics and needs of each region. This ensures that mitigation measures are practical and feasible, promoting equitable transportation solutions across the state. Importantly, this legislation also requires consulting with a wide range of stakeholders, including local governments, state agencies, and industry

organizations, fostering collaboration and ensuring that diverse perspectives are considered.

SB 768 represents a step toward refining VMT metric implementation under CEQA, advancing sustainable transportation planning statewide. SB 768 is supported by key stakeholders including the California State Association of Counties, the League of California Cities, the Contra Costa Transportation Authority, and the Riverside County Transportation Commission, among others. A SUPPORT position is consistent with OCTA's 2023-24 State Legislative Platform principle to "Support efforts to ensure local flexibility in meeting the goals of the State's greenhouse gas reduction and vehicle miles traveled initiatives."

OCTA POSITION:

Staff recommends: SUPPORT

AMENDED IN ASSEMBLY MAY 29, 2024
AMENDED IN SENATE JANUARY 11, 2024
AMENDED IN SENATE MARCH 22, 2023

SENATE BILL

No. 768

Introduced by Senator Caballero

February 17, 2023

An act to add and repeal Section 21099.5 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 768, as amended, Caballero. California Environmental Quality Act: ~~State Air Resources Board~~: *Transportation Agency*: vehicle miles traveled: study.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

Existing law requires the Office of Planning and Research to prepare, develop, and transmit to the Secretary of the Natural Resources Agency for certification and adoption proposed revisions to guidelines establishing criteria for determining the significance of transportation

impacts of projects within transit priority areas to promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses.

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, including the Department of Transportation.

~~Existing law creates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards, to conduct research into the causes of and solution to air pollution, and to systematically attack the serious problem caused by motor vehicles, which is the major source of air pollution in many areas of the state. Existing law authorizes the state board to do those acts as may be necessary for the proper execution of the powers and duties granted to, and imposed upon, the state board.~~

~~This bill would require the state board, Transportation Agency, in consultation with local governments and other interested parties, as specified, by January 1, 2026, 2028, and subject to an appropriation by the Legislature for this purpose, to conduct and submit to the Legislature post on its internet website a study on how vehicle miles traveled is used as a metric for measuring transportation impacts pursuant to CEQA, as specified. CEQA. The bill would require the study to include, among other things, an analysis of the differences in the availability and feasibility of mitigation measures for vehicle miles traveled in rural, suburban, and urban areas. The bill would repeal those provisions on January 1, 2029.~~

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

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

- 1 SECTION 1. Section 21099.5 is added to the Public Resources
- 2 Code, to read:
- 3 21099.5. (a) On or before January 1, ~~2026, 2028~~, the State Air
- 4 ~~Resources Board~~ Transportation Agency shall conduct and ~~submit~~
- 5 ~~to the Legislature post on its internet website~~ a study on how
- 6 vehicle miles traveled is used as a metric for measuring
- 7 transportation impacts pursuant to the California Environmental
- 8 Quality Act.

1 (b) ~~The study shall be conducted in collaboration with~~
2 *Transportation Agency, in conducting the study, shall consult with*
3 *local governments and other interested parties, including, but not*
4 *limited to, all of the following:*

5 (1) State agencies, such as the ~~Transportation Agency, State Air~~
6 *Resources Board, the Department of Transportation, the*
7 *Department of Housing and Community Development, and the*
8 *Office of Planning and Research.*

9 (2) Local agencies, *or organizations represented by member*
10 *agencies, such as a council of governments, councils of*
11 *government, metropolitan planning agency, agencies, or regional*
12 *transportation planning agency, agencies, on a volunteer basis.*

13 ~~(3) Academic and research institutions with demonstrated~~
14 ~~expertise in transportation impacts and analyzing vehicle miles~~
15 ~~traveled, on a volunteer basis.~~

16 ~~(4)~~

17 (3) Industry organizations, on a volunteer basis.

18 (c) The study shall include all of the following:

19 ~~(1) A study on the impacts and implementation~~ *An analysis of*
20 *the implementation and ramifications of the guidelines described*
21 *in paragraph (1) of subdivision (b) of Section 21099.*

22 (2) An analysis of the ~~methodology~~ *methodologies* used to create
23 vehicle miles traveled reduction targets as part of a mitigation
24 measure at the local, regional, and statewide level.

25 (3) An analysis *and comparison* of how vehicle miles traveled
26 impacts and mitigation measures are identified, measured, and
27 deployed at the local, regional, and statewide ~~level~~. *level that shall*
28 *include an exhaustive list of project types that are considered to*
29 *increase capacity, induce vehicle miles traveled, or both.*

30 (4) *An inventory of the cost of vehicle miles traveled mitigation*
31 *measures to projects thus far, and an analysis of whether the cost*
32 *of those measures either indefinitely delayed, temporarily delayed,*
33 *or necessitated the phasing of those projects.*

34 (5) *An inventory of project types, if any, that are exempted from*
35 *analysis of vehicle miles traveled.*

36 ~~(4)~~

37 (6) (A) An analysis of the differences in *the availability and*
38 *feasibility of mitigation measures for vehicle miles traveled*
39 ~~mitigation measures used in rural in rural, suburban, and urban~~
40 *areas.*

1 (B) *The analysis shall include best strategies and planning*
2 *changes to mitigate vehicle miles traveled in areas where public*
3 *transportation is inadequate.*

4 ~~(5) An analysis~~

5 (7) *A discussion of the relationship between vehicle miles*
6 *traveled reduction, greenhouse gas emissions reduction, housing,*
7 *transportation, economic development, and equity.*

8 ~~(6) A review of the implications of an electrified mobility future~~
9 ~~on vehicle miles traveled.~~

10 ~~(d) (1) The study required to be submitted pursuant to this~~
11 ~~section shall be submitted in compliance with Section 9795 of the~~
12 ~~Government Code.~~

13 ~~(2) Pursuant to Section 10231.5 of the Government Code, this~~
14 ~~section is repealed on December 31, 2030.~~

15 (d) *Implementation of this section is contingent upon an*
16 *appropriation by the Legislature for purposes of this section in*
17 *the annual Budget Act or another statute.*

18 (e) *This section shall remain in effect only until January 1, 2029,*
19 *and as of that date is repealed.*