

AMENDED IN SENATE MAY 30, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 939**

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**Introduced by Assembly Member Low**

February 16, 2017

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An act to amend ~~Section 14202 of the Elections Code, relating to elections. Sections 53075.5, 53075.51, and 53075.52 of the Government Code, relating to local government.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 939, as amended, Low. ~~Elections: precincts: postings. Local government: taxicab transportation services.~~

(1) Existing law, commencing on January 1, 2019, requires every city or county in which a taxicab is substantially located to adopt an ordinance or resolution in regard to taxicab transportation service and requires each city or county to provide for a policy for entry into the business of providing taxicab transportation service, the establishment or registration of rates for the provision of taxicab transportation service, and a mandatory controlled substance and alcohol testing certification program for drivers. Existing law similarly authorizes the City and County of San Francisco, regardless whether or not a taxicab company is substantially located within that city and county. Existing law prohibits a city or county from requiring a taxicab company or driver to comply with specified local regulations, unless that taxicab company or driver is substantially located within that city or county. Existing law makes it unlawful to operate a taxicab without a valid permit to operate issued by each jurisdiction in which the taxicab company or driver is substantially located.

*This bill would, instead, provide that it is unlawful to operate a taxicab company without a valid permit to operate issued by each applicable permitting entity in which the taxicab company is substantially located, and would prohibit a taxicab company from operating within a county unless the company is substantially located within at least one city within the county or in the unincorporated area of the county. The bill would define the term “applicable permitting entity” for these purposes to mean a city in which the taxicab company is substantially located, a county in which the taxicab company is substantially located, a joint powers authority or transit agency formed to regulate taxicabs, as described below, and the City and County of San Francisco, consistent with existing requirements that apply to that city and county. The bill would define “taxicab company” for these purposes to include a taxicab driver.*

*(2) Existing law deems a city or county in which a taxicab company operates as a city or county in which a taxicab company driver is substantially located if the city or county enacts a resolution of intention to enter into a joint exercise of powers agreement or join a joint powers authority, or to enter into an agreement with a transit agency, for the purpose of regulating or administering taxicab companies.*

*This bill would, instead, authorize a city or county to enter into an agreement with another city or county to form a joint powers authority, or to enter into an agreement with a transit agency, for the purpose of regulating or administering taxicab companies that are substantially located within the jurisdictional boundaries of that entity.*

*(3) Existing law defines the term “substantially located” for these purposes to mean that the taxicab company has a primary business address within that jurisdiction, or that trips originating within that jurisdiction account for the largest share of the company’s total number of trips within the county within the past year, and determined every 5 years thereafter. Existing law requires a taxicab company to collect specified data in order to determine what jurisdiction that company is substantially located in.*

*This bill would modify the test to specify that a taxicab company is substantially located within an applicable permitting entity if that company has a primary business address within the jurisdiction of that entity, or if, for the time period of January 1, 2019, to January 1, 2024, inclusive, the total number of prearranged and nonprearranged trips and gross receipts that originate within the applicable permitting entity’s jurisdiction account for the largest share of the company’s total number*

of trips and gross receipts during the 2018 calendar year. This bill would provide that after January 1, 2024, and every 5 years thereafter, a company is substantially located within an applicable permitting entity if the total number of trips and gross receipts, as described above, account for the largest share of the company's total number of trips and gross receipts as calculated over the last 5 years. The bill would make conforming changes to that effect.

(4) By imposing additional duties on local governments, this bill would impose a state-mandated local program.

(5) 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, before opening the polls, requires the precinct board to post at least two copies of the index to the affidavits of voter registration for that precinct in separate, convenient places at or near the polling place. Existing law allows the copies of the index to be by street address in numerical order.~~

~~This bill instead would require the copies of the index to be by street address in numerical order. By imposing additional duties on elections officials, the bill would impose a state-mandated local program.~~

~~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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

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

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

- 1     SECTION 1. Section 53075.5 of the Government Code, as
- 2     added by Section 3 of Chapter 753 of the Statutes of 2017, is
- 3     amended to read:
- 4     53075.5. (a) Notwithstanding Chapter 8 (commencing with
- 5     Section 5351) of Division 2 of the Public Utilities Code, every

1 city or county in which a taxicab company is substantially located,  
2 as defined in ~~subparagraph (B) of paragraph (2)~~ *paragraph (6)* of  
3 subdivision (k), shall protect the public health, safety, and welfare  
4 by adopting an ordinance or resolution in regard to taxicab  
5 transportation service rendered in vehicles designed for carrying  
6 not more than eight persons, excluding the driver, which are  
7 operated within the jurisdiction of the city or county.

8 (b) Each city or county that adopts an ordinance pursuant to  
9 subdivision (a) shall provide for, but is not limited to providing  
10 for, the following: ~~the following:~~ *following in that ordinance:*

11 (1) A policy for entry into the business of providing taxicab  
12 transportation service. The policy shall include, but need not be  
13 limited to, all of the following provisions:

14 (A) Employment, or an offer of employment, as a taxicab driver  
15 in the jurisdiction, including compliance with all of the  
16 requirements of the program adopted pursuant to paragraph (3),  
17 shall be a condition of issuance of a driver's permit.

18 (B) The driver's permit shall become void upon termination of  
19 employment.

20 (C) The driver's permit shall state the name of the employer.

21 (D) The employer shall notify the city or county upon  
22 termination of employment.

23 (E) The driver shall return the permit to the city or county upon  
24 termination of employment.

25 (2) The establishment or registration of rates for the provision  
26 of taxicab transportation service that meets the following  
27 requirements:

28 (A) The taxicab company may set fares or charge a flat rate.  
29 However, a city or county may set a maximum rate.

30 (B) The taxicab company may use any type of device or  
31 technology approved by the Division of Measurement Standards  
32 to calculate fares, including the use of Global Positioning System  
33 metering, provided that the device or technology complies with  
34 Section 12500.5 of the Business and Professions Code and with  
35 all regulations established pursuant to Section 12107 of the  
36 Business and Professions Code.

37 (C) The taxicab company shall disclose fares, fees, or rates to  
38 the customer. A permitted taxicab company may satisfy this  
39 requirement by disclosing fares, fees, or rates on its Internet Web

1 site, mobile telephone application, or telephone orders upon request  
2 by the customer.

3 (D) The taxicab company shall notify the passenger of the  
4 applicable rate prior to the passenger accepting the ride for walkup  
5 rides and street hails. The rate may be provided on the exterior of  
6 the vehicle, within an application of a mobile telephone, device,  
7 or other Internet-connected device, or be clearly visible in either  
8 print or electronic form inside the taxicab.

9 (3) (A) A mandatory controlled substance and alcohol testing  
10 certification program. The program shall include, but need not be  
11 limited to, all of the following requirements:

12 (i) Drivers shall test negative for each of the controlled  
13 substances specified in Part 40 (commencing with Section 40.1)  
14 of Title 49 of the Code of Federal Regulations, before employment.  
15 Drivers shall test negative for these controlled substances and for  
16 alcohol as a condition of permit renewal or, if no periodic permit  
17 renewals are required, at such other times as the city or county  
18 shall designate. As used in this section, a negative test for alcohol  
19 means an alcohol screening test showing a breath alcohol  
20 concentration of less than 0.02 percent.

21 (ii) Procedures shall be substantially as in Part 40 (commencing  
22 with Section 40.1) of Title 49 of the Code of Federal Regulations,  
23 except that the driver shall show a valid California driver's license  
24 at the time and place of testing, and except as provided otherwise  
25 in this section. Requirements for rehabilitation and for  
26 return-to-duty and followup testing and other requirements, except  
27 as provided otherwise in this section, shall be substantially as in  
28 Part 382 (commencing with Section 382.101) of Title 49 of the  
29 Code of Federal Regulations.

30 (iii) A test in one jurisdiction shall be accepted as meeting the  
31 same requirement in any other jurisdiction. Any negative test result  
32 shall be accepted for one year as meeting a requirement for periodic  
33 permit renewal testing or any other periodic testing in that  
34 jurisdiction or any other jurisdiction, if the driver has not tested  
35 positive subsequent to a negative result. However, an earlier  
36 negative result shall not be accepted as meeting the preemployment  
37 testing requirement for any subsequent employment, or any testing  
38 requirements under the program other than periodic testing.

39 (iv) In the case of a self-employed independent driver, the test  
40 results shall be reported directly to the city or county, which shall

1 notify the taxicab leasing company of record, if any, of positive  
2 results. In all other cases, the results shall be reported directly to  
3 the employing transportation operator, who may be required to  
4 notify the city or county of positive results.

5 (v) All test results are confidential and shall not be released  
6 without the consent of the driver, except as authorized or required  
7 by law.

8 (vi) Self-employed independent drivers shall be responsible for  
9 compliance with, and shall pay all costs of, this program with  
10 regard to themselves. Employing transportation operators shall be  
11 responsible for compliance with, and shall pay all costs of, this  
12 program with respect to their employees and potential employees,  
13 except that an operator may require employees who test positive  
14 to pay the costs of rehabilitation and of return-to-duty and followup  
15 testing.

16 (vii) Upon the request of a driver applying for a permit, the city  
17 or county shall give the driver a list of the consortia certified  
18 pursuant to Part 382 (commencing with Section 382.101) of Title  
19 49 of the Code of Federal Regulations that the city or county knows  
20 offer tests in or near the jurisdiction.

21 (B) No evidence derived from a positive test result pursuant to  
22 the program shall be admissible in a criminal prosecution  
23 concerning unlawful possession, sale or distribution of controlled  
24 substances.

25 (c) Each city or county may levy service charges, fees, or  
26 assessments in an amount sufficient to pay for the costs of carrying  
27 out an ordinance or resolution adopted in regard to taxicab  
28 transportation services pursuant to this section.

29 (d) (1) ~~A city or county~~ *The applicable permitting entity* may  
30 issue to a taxicab company that complies with all provisions of  
31 this section and Section 53075.52, and with all applicable local  
32 ordinances or resolutions of that ~~city or county~~, *applicable*  
33 *permitting entity*, an inspection ~~sticker~~ *sticker*, *photo permit*, or  
34 other inspection compliance device. ~~A city or county shall issue~~  
35 ~~to a taxi driver that complies with all provisions of this section and~~  
36 ~~Section 53075.52, and with all applicable local ordinances or~~  
37 ~~resolutions of that county, a photo permit, and that driver~~ *A taxicab*  
38 *driver* is required to display ~~that a photo permit issued as described~~  
39 *in the previous sentence*, in a place visible to a passenger.

1 (2) A city or county may accept a taxicab company ~~or driver~~  
2 permit issued by another city or county as valid, and may issue to  
3 that taxicab company ~~or driver~~ an inspection sticker or photo permit  
4 that authorizes that taxicab company ~~or driver~~ to operate within  
5 the county.

6 (e) A city or county shall not require a taxicab company ~~or driver~~  
7 to obtain a business license, service permit, car inspection  
8 certification, or driver permit, or to comply with any requirement  
9 under this section or Section 53075.52, unless the company ~~or~~  
10 ~~driver~~ is substantially located within the jurisdiction of that city  
11 or county.

12 (f) A permitted taxicab company may provide prearranged trips  
13 anywhere within the county in which it has obtained a permit under  
14 subdivision ~~(a)~~. (d).

15 (g) A permitted taxicab company shall not prejudice,  
16 disadvantage, or require different rates or provide different service  
17 to a person because of race, national origin, religion, color,  
18 ancestry, physical disability, medical condition, occupation, marital  
19 status or change in marital status, sex, or any characteristic listed  
20 or defined in Section 11135 of the Government Code.

21 (h) A permitted taxicab company shall do all of the following:

22 (1) Maintain reasonable financial responsibility to conduct  
23 taxicab transportation services in accordance with the requirements  
24 of an ordinance adopted pursuant to subdivision (a).

25 (2) Participate in the pull-notice program pursuant to Section  
26 1808.1 of the Vehicle Code to regularly check the driving records  
27 of all taxicab drivers, whether employees or contractors.

28 (3) Maintain a safety education and training program in effect  
29 for all taxicab drivers, whether employees or contractors.

30 (4) Maintain a disabled access education and training program  
31 to instruct its taxicab drivers on compliance with the federal  
32 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101  
33 et seq.) and amendments thereto, and state disability rights laws,  
34 including making clear that it is illegal to decline to serve a person  
35 with a disability or who has a service animal.

36 (5) Maintain its motor vehicles used in taxicab transportation  
37 services in a safe operating condition, and in compliance with the  
38 Vehicle Code and obtain a Bureau of Automotive Repair inspection  
39 annually.

1 (6) Provide the ~~city or county~~ *applicable permitting entity* that  
2 has issued a permit under this article an address of an office or  
3 terminal where documents supporting the factual matters specified  
4 in the showing required by this subdivision may be inspected by  
5 the ~~permitting city or county~~. *applicable permitting entity*.

6 (7) Provide for a taxicab driver fingerprint-based criminal history  
7 check and a drug and alcohol testing program pursuant to paragraph  
8 (3) of subdivision (b).

9 (8) Comply with all provisions of an ordinance adopted pursuant  
10 to subdivision (a).

11 (9) Provide documentation in the format required by an  
12 ordinance adopted pursuant to subdivision (a) substantiating that  
13 ~~50 percent or more of the revenues from fares of the taxicab~~  
14 ~~company or driver are generated from within a specific jurisdiction.~~  
15 *the total number of prearranged and nonprearranged trips and*  
16 *total gross receipts originate within that city or county's*  
17 *jurisdiction account for the largest share of the taxicab company's*  
18 *total number of trips and gross receipts over the applicable time*  
19 *period described in clause (ii) of subparagraph (A) of paragraph*  
20 *(6) of subdivision (k).*

21 (i) (1) It shall be unlawful to operate a taxicab without a valid  
22 permit to operate issued by each ~~jurisdiction~~ *applicable permitting*  
23 *entity* in which the taxicab company ~~or driver~~ is substantially  
24 located.

25 (2) The minimum fine for violation of paragraph (1) shall be  
26 five thousand dollars (\$5,000) and may be imposed  
27 administratively by the ~~permitting city or county~~. *applicable*  
28 *permitting entity*.

29 (j) (1) A taxicab company ~~or a taxicab driver~~ shall not operate  
30 within a county unless the company ~~and the driver are~~ *is*  
31 substantially located in at least one city within that county or the  
32 unincorporated area of the county.

33 (2) (A) Notwithstanding paragraph ~~(2)~~ (6) of subdivision (k),  
34 a city or county ~~shall be deemed to have a taxicab company or~~  
35 ~~taxicab driver substantially located within its jurisdiction if the~~  
36 ~~company or driver operates within the jurisdiction of the city or~~  
37 ~~county and the city or county has enacted a resolution of intention~~  
38 ~~to do either of the following:~~ *may do either of the following:*

39 (i) ~~Enter into a joint exercise of powers agreement or join a~~  
40 *Enter into an agreement with any other city or county to form a*

1 joint powers authority for the purpose of regulating or  
2 administering taxicab companies ~~and taxicab drivers~~. *that are*  
3 *substantially located within the jurisdictional boundaries of the*  
4 *joint powers authority. For purposes of this clause, the*  
5 *jurisdictional boundaries of the joint powers authority may consist*  
6 *of the boundaries of all constituent members of that authority, and*  
7 *the authority so formed may exercise all powers granted to the*  
8 *constituent members by this section in order to regulate or*  
9 *administer taxicab companies within those boundaries.*

10 (ii) Enter into an agreement with a transit agency for the purpose  
11 of regulating or administering the taxicab companies ~~and taxicab~~  
12 ~~drivers~~. *companies substantially located within the jurisdictional*  
13 *boundaries of the transit agency. For purposes of this clause, the*  
14 *jurisdictional boundaries of the transit agency may include the*  
15 *jurisdictional boundaries of the city or county that enters into an*  
16 *agreement pursuant to this clause, and the transit agency may*  
17 *exercise all powers granted by this section in order to regulate or*  
18 *administer taxicab companies within those boundaries.*

19 (B) A city or county that ~~is deemed to have a taxicab company~~  
20 ~~or taxicab driver substantially located within its jurisdiction~~ *forms*  
21 *a joint powers authority, or enters into an agreement with a transit*  
22 *agency, to regulate or administer taxicab companies pursuant to*  
23 *subparagraph (A) shall not issue permits or require business*  
24 *licenses except through an agreement or joint powers authority.*  
25 *as consistent with the terms of that agreement.*

26 (k) For purposes of this ~~section~~. *Section and Sections 53075.51*  
27 *and 53075.52:*

28 (1) “Applicable permitting entity” means one of the following:

29 (A) A city in which the taxicab company is substantially located.

30 (B) A county in which the taxicab company is substantially  
31 located.

32 (C) A joint powers authority or transit agency that is formed to  
33 regulate taxicab companies pursuant to paragraph (2) of  
34 subdivision (j) in which the taxicab company is substantially  
35 located.

36 (D) The City and County of San Francisco as described in  
37 Section 53075.53.

38 (2) “City or county” includes a charter city or charter county,  
39 but does not include the City and County of San Francisco.

40 (†)

1 (3) “Employment” includes self-employment as an independent  
2 driver.

3 ~~(2) (A) A taxicab company or taxicab driver is substantially~~  
4 ~~located within the jurisdiction where the primary business address~~  
5 ~~of the company or driver is located. A taxicab company or taxicab~~  
6 ~~driver is also substantially located in the jurisdiction within a single~~  
7 ~~county in which trips originating in that jurisdiction account for~~  
8 ~~the largest share of that company or driver’s total number of trips~~  
9 ~~within that county over the past year and determined every five~~  
10 ~~years thereafter.~~

11 ~~(B) A taxicab company or taxicab driver may be substantially~~  
12 ~~located in more than one jurisdiction.~~

13 ~~(3) “City or county” includes a charter city or charter county,~~  
14 ~~but does not include the City and County of San Francisco.~~

15 *(4) “Permitted taxicab company” means a taxicab service*  
16 *provider who obtains all necessary permits required by this article.*

17 ~~(4)~~

18 (5) “Prearranged trip” means trip using an online enabled  
19 application, dispatch, or Internet Web site.

20 (6) (A) “Substantially located” means in reference to an  
21 applicable permitting entity that the taxicab company either:

22 (i) *Has a primary business address within that applicable*  
23 *permitting entity’s jurisdiction.*

24 (ii) *For the time period of January 1, 2019, to January 1, 2024,*  
25 *inclusive, the total number of prearranged and nonprearranged*  
26 *trips and gross receipts that originate within that applicable*  
27 *permitting entity’s jurisdiction account for the largest share of the*  
28 *taxicab company’s total number of trips and gross receipts over*  
29 *the 2018 calendar year. After January 1, 2024, and every five*  
30 *years thereafter, trips and gross receipts that originate within that*  
31 *applicable permitting entity’s jurisdiction account for the largest*  
32 *share of the taxicab company’s total number of trips as calculated*  
33 *over the last five years.*

34 (B) *A taxicab company or taxicab driver may be substantially*  
35 *located in more than one jurisdiction.*

36 (7) *“Taxicab company” includes a taxicab driver. If a taxicab*  
37 *company consists of only one driver, the requirements of this article*  
38 *that apply to any company apply to that driver as if he or she were*  
39 *a company.*

1 (l) Notwithstanding any other provision of this section, an airport  
2 operator shall have separate and ultimate authority to regulate  
3 taxicab access to the airport and set access fees for taxicabs at the  
4 airport.

5 (m) Nothing in this section, or Section 53075.51, 53075.52, or  
6 53075.53 shall affect the authority of a jurisdiction to regulate taxi  
7 access to an airport it owns or operates and to set access fees or  
8 requirements.

9 (n) This section shall become operative on January 1, 2019.

10 *SEC. 2. Section 53075.51 of the Government Code is amended*  
11 *to read:*

12 53075.51. (a) Any city or county, regardless of whether a  
13 taxicab company ~~or driver~~ is substantially located within its  
14 jurisdiction as defined in Section 53075.5, may adopt, by  
15 ordinance, operating requirements for taxicab companies and  
16 taxicab drivers that do not relate to permitting or business licensing,  
17 including, but not limited to, all of the following:

18 (1) Limits on the number of taxicab ~~service providers~~ *company*  
19 that may use taxi stand areas or pickup street hails within that city's  
20 or county's ~~jurisdiction~~ *jurisdictional boundaries*. If a city or  
21 county chooses to limit the number of taxis that use the stand areas  
22 or pick up street hails, the city or county shall identify those  
23 vehicles with a window sticker and shall not establish additional  
24 requirements or costs to the taxis beyond that authorized by Section  
25 53075.5 or this section.

26 (2) Requirements on a taxicab ~~service provider~~ *company* to  
27 provide services in a manner that provides equal accessibility for  
28 all populations within ~~a jurisdiction~~ *the jurisdictional boundaries*  
29 *of the city or county*.

30 (3) Other public health, safety, or welfare ordinances relating  
31 to taxicabs.

32 (b) Compliance with requirements adopted pursuant to  
33 subdivision (a) shall not be a condition for issuance of a permit.

34 (c) A city or county may administratively impose civil liability  
35 for violation of ordinances adopted pursuant to this section. The  
36 minimum fine for violation of ordinances relative to this section  
37 shall be one hundred dollars (\$100) and shall not exceed one  
38 thousand dollars (\$1,000). Civil liability imposed pursuant to this  
39 section shall be paid to the city or county where the violation  
40 occurred and expended solely for the purposes of this chapter.

(d) This section shall become operative on January 1, 2019.

*SEC. 3. Section 53075.52 of the Government Code is amended to read:*

*53075.52. Beginning January 1, 2018, taxicab companies and taxicab drivers shall collect trip data to determine in what jurisdictions each company and driver are substantially located. that demonstrates the total number of prearranged and nonprearranged trips and gross receipts that originate within a particular local jurisdiction for the purpose of determining where that taxicab company is substantially located, and shall provide that data to the applicable permitting entity upon request, consistent with paragraph (9) of subdivision (h) of Section 53075.5. Beginning January 1, 2019, the trip data collected in the previous 12 months shall be provided upon date of renewal to the jurisdictions in which the taxicab company and taxicab driver are substantially located, as defined in Section 53075.5: the applicable permitting entity.*

*SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.*

*SECTION 1. Section 14202 of the Elections Code is amended to read:*

*14202. Before opening the polls, the precinct board shall post in separate, convenient places at or near the polling place, and of easy access to the voters, not less than two of the copies of the index to the affidavits of registration for that precinct. The copies of the index shall be by street address in numerical order.*

*SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.*