

Case No. S262634

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

ROBERT ZOLLY, RAY MCFADDEN AND STEPHEN CLAYTON

Plaintiffs-Appellants,

v.

CITY OF OAKLAND

Defendant-Respondent

PETITIONER CITY OF OAKLAND'S MOTION FOR JUDICIAL NOTICE

After a Published Decision from the Court of Appeal
First Appellate District Court Case No. A154986
Alameda County Superior Court Case No. RG16821376

Cedric C. Chao (SBN 76045)
CHAO ADR, PC
One Market Street
Spear Tower, 36th Floor
San Francisco, CA 94105
cedric.chao@chao-adr.com
Tel: (415) 293-8088

Stanley J. Panikowski (SBN 224232)
Jeanette Barzelay (SBN 261780)
DLA PIPER LLP (US)
555 Mission Street, 24th Floor
San Francisco, CA 94105
stanley.panikowski@us.dlapiper.com
jeanette.barzelay@us.dlapiper.com
Tel: (415) 836-2500
Fax: (415) 836-2501

Barbara Parker (SBN 69722)
Doryanna Moreno (SBN 140976)
Maria Bee (SBN 167716)
Celso Ortiz (SBN 95838)
Zoe Savitsky (SBN 281616)
OAKLAND CITY ATTORNEY'S
OFFICE
City Hall, 6th Floor
1 Frank Ogawa Plaza
Oakland, CA 94612
bparker@oaklandcityattorney.org
dmoreno@oaklandcityattorney.org
mbee@oaklandcityattorney.org
cortiz@oaklandcityattorney.org
zsavitsky@oaklandcityattorney.org
Tel: (510) 238-3601
Fax: (510) 238-6500

Attorneys for Petitioner CITY OF OAKLAND

TABLE OF CONTENTS

	<u>Page(s)</u>
TABLE OF CONTENTS	2
TABLE OF AUTHORITIES.....	3
MOTION FOR JUDICIAL NOTICE.....	4
MEMORANDUM OF POINTS AND AUTHORITIES	6

TABLE OF AUTHORITIES

	<u>Page(s)</u>
CASES	
<i>In re J.W.</i> (2002) 29 Cal.4th 200	8
<i>Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.</i> (2005) 133 Cal.App.4th 26	8
STATUTES	
California Vehicle Code §9400.8.....	5, 7, 8, 9
Evidence Code §452.....	7, 8, 9
§452(c)	7, 8
§452(h).....	5, 7, 8
§453.....	8
§459.....	9
§459(a).....	7
OTHER AUTHORITIES	
California Rules of Court 8.54.....	5
8.252.....	5

MOTION FOR JUDICIAL NOTICE

Petitioner City of Oakland (“Oakland”) respectfully requests, and hereby moves pursuant to California Rules of Court 8.54 and 8.252, that this Court take judicial notice of certain legislative history materials for California Vehicle Code section 9400.8 (“Section 9400.8”). In their May 4, 2021 amicus brief, Amici Curiae Reuben Zadeh, Mable Chu, and Herb Nadel (the “Zadeh Amici” and the “Zadeh Amici Br.”) argue that Section 9400.8 “moots” this appeal because it purportedly prohibits local governments like Oakland from charging for the use of their roads for transportation, which they contend includes franchise fees paid for the use of city streets. As Oakland’s concurrently filed Answer Brief (“Answer”) shows, Section 9400.8 is irrelevant to this appeal and does not apply to franchise fees. Oakland requests that this Court take judicial notice of Section 9400.8’s legislative history, which supports Oakland’s Answer to the Zadeh Amici Brief and is relevant to counter the purported application of Section 9400.8 to the franchise fees at issue here.

As explained in the Memorandum, *infra*, these documents are judicially noticeable under Evidence Code sections 452(c) and 452(h) and are relevant to the Zadeh Amici’s arguments and to Oakland’s Answer. Specifically, Oakland requests that this Court take judicial notice of:

1. **Exhibit 1**, a true and correct copy of the legislative history for California Vehicle Code section 9400.8, as part of California Statutes of

1989, Chapter 1337, Senate Bill 286. The legislative history materials were compiled by LRI History LLC, an online legislative research company, from sources including the California Assembly Office of the Chief Clerk, the California State Law Library, and the California State Archives.

Dated: June 3, 2021

Respectfully submitted,

/s/ Cedric Chao

Cedric Chao
CHAO ADR, PC

/s/ Barbara Parker

Barbara Parker
Oakland City Attorney

Attorneys for Petitioner
CITY OF OAKLAND

MEMORANDUM OF POINTS AND AUTHORITIES

Evidence Code¹ section 459(a) provides that this Court “may take judicial notice of any matter specified in Section 452.” Section 452(c) provides for judicial notice of “[o]fficial acts of the legislative, executive, and judicial departments” of this state. Section 452(h) allows the reviewing court to take judicial notice of “facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.”

Exhibit 1 is a compilation of legislative history materials for Section 9400.8, including the relevant California Session Laws for the 1989-90 Regular Session, the Senate Final History, the Governor’s Chaptered Bill File, Analysis of the Assembly Committee on Ways and Means, Assembly Floor Analysis, Legislative Analysis of the Assembly Republican Caucus, Analysis of the Senate Committee on Appropriations, and materials from the Office of Senate Floor Analyses. Exhibit 1 is relevant because it supports Oakland’s Answer to the Zadeh Amici Brief, in which the Zadeh Amici attempt to invoke Section 9400.8 as “mooting” this appeal in its entirety and prohibiting franchise fees that involve the right to use city streets. Although Oakland disputes that Section 9400.8 is relevant to this appeal, the legislative history materials in Exhibit 1 are relevant to counter the Zadeh Amici’s

¹ Unless otherwise indicated, all further statutory references are to the Evidence Code.

arguments and demonstrate that Section 9400.8 does not govern franchise fees.

Section 452(c) provides that official acts of the legislative department are proper subjects of judicial notice. The court may take judicial notice of records of public entities as official acts pursuant to Section 452, subdivision (c), specifically including legislative history. (*In re J.W.* (2002) 29 Cal.4th 200, 211 (taking judicial notice of legislative history, including bill history and committee analyses).) “To determine the purpose of legislation, a court may consult contemporary legislative committee analyses of that legislation, which are subject to judicial notice.” (*Ibid.*) Bill versions, floor statements, final histories, and legislative committee reports and analyses of the type included in Exhibit 1 are recognized as proper subjects of judicial notice. (See, e.g., *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.* (2005) 133 Cal.App.4th 26 (describing categories of documents that constitute cognizable legislative history).)

Alternatively, the information contained in Exhibit 1 reflects “facts and propositions that are not reasonably subject to dispute” and are “capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy” under Section 452(h).

Under section 453, the Court “shall” take judicial notice of any matter specified in section 452 where notice of the request is provided to the adverse party and where the court is provided sufficient information to verify the

matters subject to the request. Section 452 applies to the documents in Exhibit 1, and those documents should therefore be judicially noticed by this Court under section 459. These documents are proper subjects for judicial notice and relevant to the Court's inquiry in considering the Zadeh Amici's Brief and Oakland's answer.

Respondent respectfully requests that this Court take judicial notice of Exhibit 1 to the extent that it considers the Zadeh Amici's arguments regarding Section 9400.8.

Dated: June 3, 2021

Respectfully submitted,

/s/ Cedric Chao

Cedric Chao
CHAO ADR, PC

/s/ Barbara Parker

Barbara Parker
Oakland City Attorney

*Attorneys for Defendant-Respondent
CITY OF OAKLAND*

EXHIBIT 1

LEGISLATIVE HISTORY

**CALIFORNIA
STATUTES OF 1989
CHAPTER 1337
SENATE BILL 286**





LRI HISTORY LLC

INTENT@LRIHISTORY.COM

WWW.LRIHISTORY.COM

(916) 442-7660

California Session Laws

SOURCE:

CALIFORNIA ASSEMBLY OFFICE OF THE CHIEF CLERK
OFFICIAL ONLINE DATABASE

Volume 3

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1989

Constitution of 1879 as Amended

General Laws, Amendments to the Codes, Resolutions,
and Constitutional Amendments passed by the
California Legislature

1989–90 Regular Session



Compiled by
BION M. GREGORY
Legislative Counsel

(d) This section shall become operative on January 1, 1994.

SEC. 9. The Public Utilities Commission shall report to the Legislature and the Governor on or before September 30, 1992, regarding the use of the class C certificates specified in this act.

CHAPTER 1337

An act to amend Section 35002 of, and to add Sections 9400.7 and 9400 8 to, the Vehicle Code, relating to vehicles.

[Approved by Governor October 2, 1989 Filed with
Secretary of State October 2, 1989]

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

SECTION 1. Section 9400.7 is added to the Vehicle Code, to read:

9400.7. (a) Notwithstanding any other provision of law, except for restrictions in existence on June 1, 1989, and except as provided in subdivision (d), so long as any increases in the weight fees required by Section 9400, as enacted by Assembly Bill 471 of the 1989-90 Regular Session, remain in effect, no local agency located within an urbanized area within a county which is required to prepare a congestion management plan pursuant to Section 65089 of the Government Code may restrict the hours of operation on any street or highway which is otherwise open to truck use unless the local agency determines that the restriction is consistent with the adopted congestion management plan and is coordinated with adjacent local agencies so as to not unreasonably interfere with truck operations.

(b) If an inconsistency in access occurs between cities and counties, the inconsistent access provisions of the congestion management plan may be appealed to the California Transportation Commission. The commission shall review the inconsistent access plan and make a finding within 90 days of the appeal being filed. If the commission fails to make a finding within 90 days, the Director of Transportation shall review the issue and make a finding within 30 days.

(c) The access provisions of the congestion management plan shall not go into effect while an appeal is being made. If the commission makes a finding of inconsistency, the access provisions of the congestion management plan shall not become operative.

(d) (1) This section does not apply to Los Angeles County if the City of Los Angeles establishes restrictions on the hours of operation on any street or highway which is otherwise open to truck use.

(2) If the City of Los Angeles establishes restrictions under paragraph (1) and any other city in the County of Los Angeles establishes restrictions on the hours of operation on any street or highway which is otherwise open to truck use, the restrictions in that

other city shall conform to the restrictions imposed by the City of Los Angeles, except that the other city may appeal nonconforming restrictions to the commission pursuant to subdivision (b) for a determination as to whether a variance from this paragraph should be granted.

(3) The Legislature finds and declares that, because of unique and special traffic congestion problems in the County of Los Angeles and in the City of Los Angeles, the general provisions of this section cannot be made applicable to that county.

SEC. 2. Section 9400.8 is added to Vehicle Code, to read:

9400.8. Notwithstanding any other provision of law, if the voters approve Senate Constitutional Amendment 1 of the 1989-90 Regular Session, no local agency may impose a tax, permit fee, or other charge for the privilege of using its streets or highways, other than a permit fee for extra legal loads, after December 31, 1990, unless the local agency had imposed the fee prior to June 1, 1989.

SEC. 3. Section 35002 of the Vehicle Code is amended to read:

35002. (a) This division does not apply to any authorized emergency vehicle owned or operated by a governmental agency while being used in responding to and returning from emergency fire calls, while being moved from place to place in anticipation of emergency fire calls, when used during training in any fire service application or during fire prevention activities, or when vehicles ordinarily used for those purposes are necessarily transported for vehicle maintenance, repair, or service. This subdivision only applies to vehicles purchased prior to January 1, 1991.

(b) All vehicles purchased on and after January 1, 1991, and described in subdivision (a) shall comply with applicable permit requirements adopted by the Department of Transportation pursuant to this code, and shall meet the following requirements:

(1) It shall be the responsibility of the manufacturer to provide a gross axle weight rating (GAWR), gross combined weight rating (GCWR), and gross vehicle weight rating (GVWR), adequate to carry a full water tank with the allowance for personnel and miscellaneous equipment, including hose load, shown in the table below:

	Personnel	Misc. Equipment
Pumpers	1,200 lbs.	2,000 lbs.
Light Attack Apparatus	600 lbs.	900 lbs.
Water towers	1,200 lbs.	1,500 lbs.
Aerial Platforms with ground ladders	1,200 lbs.	2,500 lbs.
Aerial ladders with ground ladders	1,200 lbs.	2,500 lbs.

Fire apparatus shall be weighed and certified by the manufacturer to determine compliance with the table above prior to acceptance

by the purchaser. Apparatus and chassis manufacturers shall furnish certification of the gross vehicle weight rating (GVWR), gross combined weight rating (GCWR), and gross axle weight rating (GAWR) on a nameplate affixed to the apparatus.

(2) Any fire apparatus exceeding 31,000 pounds shall be equipped with a secondary braking system.

(c) Any other vehicle owned, operated, or rented by a state agency, county flood control district, or a flood control and water conservation district, while the vehicle is being used in responding to an emergency, may be operated as required with verbal permission from an authorized officer or employee of the agency having jurisdiction of the highways used, if a written permit for that use is obtained pursuant to Section 35780 within three days following the termination of the emergency. As used in this subdivision, "emergency" means a condition which poses an imminent threat of loss of property or a hazard to life, as determined by the public agency charged with responsibility to respond thereto.

(d) Any governmental agency operating an authorized emergency vehicle or other vehicle subject to this section is liable to the governmental agency having jurisdiction of any state or county highway for any damage to the highway or any highway structure caused by the operation of the vehicle of a size or weight of vehicle or load exceeding that specified in this division. The cost of repair of the damage is a proper charge against the support fund of the governmental agency operating the oversize or overweight vehicle.

(e) Neither the state nor any agency thereof is liable for damage to any highway or highway structure caused by vehicles operated, pursuant to this section, by or on behalf of a local authority or any other local governmental entity.

SEC 4. Nothing in this act shall be construed to allow local governments to impose fees not otherwise authorized by statute.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Moreover, for other costs, notwithstanding Section 17610 of the Government Code, 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. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1338

An act to add Part 3.5 (commencing with Section 51500) to Division 31 of the Health and Safety Code, relating to corrections, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1989 Filed with
Secretary of State October 2, 1989.]

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

SECTION 1. Part 3.5 (commencing with Section 51500) is added to Division 31 of the Health and Safety Code, to read:

PART 3.5. HOUSING FOR PRISON EMPLOYEES

51500. The Legislature finds and declares all of the following:

(a) In the past five years, the Department of Corrections has erected new state prisons in a number of communities.

(b) In most of these communities, there was insufficient housing to accommodate the needs of employees of the Department of Corrections.

(c) Local government officials and administrators from the Department of Corrections assumed that the free marketplace would generate the new housing which would be necessary to accommodate the needs of employees of the Department of Corrections.

(d) However, experience has shown that single-family housing in most locations and multiple-family housing in a number of locations has not materialized.

(e) This resultant shortage of housing has caused a hardship for employees of the Department of Corrections and local government officials, and further caused the delay in opening of at least one major new state prison.

It is now generally recognized that the necessary housing will not become available unless the state agencies responsible for housing assume a proactive role in removing barriers which have made it difficult or impossible for new housing to be developed in these new prison communities.

51501. The Public Employees' Retirement System (PERS) and the State Teachers' Retirement System (STRS) shall join with the Department of Housing and Community Development, the Office of the State Treasurer, the Department of Corrections, and the California Housing Finance Agency to determine what can be done to help produce affordable housing in communities with prisons. The participation of PERS and STRS in this program shall be in a manner as not to in any way jeopardize the fiscal stability of the retirement funds or to abrogate the fiduciary duty of their members.



LRI HISTORY LLC

INTENT@LRIHISTORY.COM

WWW.LRIHISTORY.COM

(916) 442-7660

Final History

SOURCE:
CALIFORNIA STATE LAW LIBRARY

VOLUME 1
CALIFORNIA LEGISLATURE
AT SACRAMENTO
1989-90 REGULAR SESSION

SENATE FINAL HISTORY

SHOWING ACTION TAKEN IN THIS SESSION ON ALL SENATE BILLS
CONSTITUTIONAL AMENDMENTS, CONCURRENT, JOINT RESOLUTIONS
AND SENATE RESOLUTIONS

CONVENED DECEMBER 5, 1988
ADJOURNED SINE DIE NOVEMBER 30, 1990

DAYS IN SESSION. 269
CALENDAR DAYS. 726

LT. GOVERNOR
President of the Senate

SENATOR DAVID ROBERTI
President pro Tempore

Compiled Under the Direction of
DARRYL R. WHITE
Secretary of the Senate

By
DAVID H. KNEALE, ESQ.
History Clerk

S.B. No. 286—Campbell.

An act to amend Section 35002 of, and to add Sections 9400.7 and 9400.8 to, the Vehicle Code, relating to vehicles

1989

- Jan. 26—Introduced Read first time To Com on RLS for assignment To print
 Jan. 27—From print May be acted upon on or after February 26
 Feb. 2—To Com on TRANS.
 Feb. 14—Set for hearing March 7
 Feb. 17—Hearing postponed by committee
 Mar. 22—Set for hearing April 4
 Mar. 28—Set, first hearing Hearing canceled at the request of author
 April 5—Set for hearing April 18
 April 6—From committee with author's amendments Read second time Amended Re-referred to committee
 April 25—From committee Do pass as amended, but first amend, and re-refer to Com on APPR (Ayes 7. Noes 0. Page 900)
 April 26—Read second time Amended Re-referred to Com on APPR
 May 4—Set for hearing May 15
 May 10—From committee Be placed on second reading file pursuant to Senate Rule 28.8
 May 11—Read second time To third reading
 May 15—To Special Consent Calendar
 May 18—Read third time Passed (Ayes 34. Noes 0 Page 1499) To Assembly
 May 18—In Assembly Read first time. Held at Desk
 May 26—To Com on TRANS
 June 26—Joint Rule 61 suspended
 June 28—Hearing postponed by committee
 July 6—From committee Do pass as amended, but first amend, and re-refer to Com on W & M (Ayes 10 Noes 0)
 July 10—Read second time Amended Re-referred to Com on W & M
 Aug. 23—Placed on W & M suspense file.
 Sept 5—Joint Rule 61 suspended
 Sept 11—From committee Do pass as amended (Ayes 23 Noes 0) Read second time Amended To second reading
 Sept 12—Read second time To third reading
 Sept 13—Read third time. Amended To third reading
 Sept 14—Read third time Passed (Ayes 47 Noes 28 Page 4966) To Senate.
 Sept 14—In Senate To unfinished business
 Sept 15—Re-referred to Com on TRANS Joint Rule 61(a)(10 & (11) suspended.
 Sept 15—From committee. That the Assembly amendments be concurred in (Ayes 7 Noes 5 Page 4132)
 Sept 15—Senate concurs in Assembly amendments (Ayes 25 Noes 10 Page 4080) To enrollment
 Sept. 20—Enrolled. To Governor at 4 p m
 Oct 2—Approved by Governor
 Oct. 2—Chaptered by Secretary of State Chapter 1337, Statutes of 1989

S.B. No. 287—Roberti.

An act to amend Sections 15031, 15035, 15036, and 15043 of, and to add Sections 10528 and 15037.2 to, the Unemployment Insurance Code, relating to literacy training

1989

- Jan 26—Introduced Read first time To Com on RLS for assignment To print
 Jan. 27—From print May be acted upon on or after February 26
 Feb 2—To Com on G O
 April 20—From committee with author's amendments. Read second time Amended. Re-referred to committee
 April 27—Withdrawn from Com on G O Re-referred to Com on I R
 May 2—Set for hearing May 10
 May 10—Set, first hearing Hearing canceled at the request of author.

1990

- Jan 31—Returned to Secretary of Senate pursuant to Joint Rule 56



LRI HISTORY LLC

INTENT@LRIHISTORY.COM

WWW.LRIHISTORY.COM

(916) 442-7660

Governor's Chaptered Bill File

SOURCE:
CALIFORNIA STATE ARCHIVES

STATE CAPITOL
ROOM 5052
SACRAMENTO, CA 95814
PHONE (916) 443-2848

DISTRICT OFFICE
1661 HANOVER ROAD, SUITE 203
CITY OF INDUSTRY, CA 91745
PHONE (818) 964-1443

23161 LAKE CENTER DRIVE
SUITE 205
EL TORO, CA 92630
PHONE (714) 770-5533

JERRY M. HALEVA
CHIEF OF STAFF

BETTY S. ANDERSON
DISTRICT COORDINATOR

Senate
California Legislature



SENATOR

WILLIAM CAMPBELL

COMMITTEES

APPROPRIATIONS

BONDED INDEBTEDNESS &
METHODS OF FINANCING

GOVERNMENTAL ORGANIZATION
VICE CHAIRMAN

HEALTH AND HUMAN SERVICES

INDUSTRIAL RELATIONS
VICE CHAIRMAN

CHAIRMAN JOINT COMMITTEE ON
FIRE, POLICE, EMERGENCY AND
DISASTER SERVICES

CHAIRMAN JOINT LEGISLATIVE
BUDGET COMMITTEE

CHAIRMAN SELECT COMMITTEE
ON BUSINESS DEVELOPMENT

September 20, 1989

The Honorable George Deukmejian
Governor, State of California
State Capitol
Sacramento, CA 95814

Attn: Allan Zaremberg

Dear Governor Deukmejian:

I respectfully request your approval of Senate Bill 286 which is before you for consideration. Senate Bill 286 is part of the total transportation package passed last June.

Senate Bill 286 contains three provisions. The first two were carried on behalf of the California Trucking Association and the third for the California Firefighters Association.

Senate Bill 286 requires local governments to coordinate their hours of truck access when they develop their congestion management plans. Additionally, the bill specifically states that local governments may not impose fees if the voters approve SCA 1 (it is silent on whether fees may be imposed between now and the date of the election). Finally, SB 286 eliminates the weight fee restrictions for fire apparatus equipment.

I request you sign this important bill so that we can put the final piece of the transportation package together.

Sincerely,


WILLIAM CAMPBELL

WC: btp

ENROLLED BILL REPORT

DEPARTMENT

California Highway Patrol

BILL NUMBER

SB 266

SUBJECT

Vehicles: Weight: Exemptions: Emergency Vehicles

AUTHOR

Campbell

SUMMARY

This bill would exempt public fire trucks purchased before January 1, 1991 from Vehicle Code weight, width, and length limits.

IMPACT ASSESSMENT

This bill would, so long as any increase in weight fees enacted by AB 471 is in effect, prohibit local agencies from restricting the hours of operation on any street or highway otherwise open to truck use, which is under a congestion management plan, unless the restriction is consistent with the plan and coordinated. The bill would except from this prohibition the County of Los Angeles if the City of Los Angeles establishes restrictions on the hours of operation of any truck route. The bill would provide for related matters and declare the necessity for a special act for Los Angeles County.

The bill also would provide that if SCA 1 is approved by the voters, no local agency may impose a tax, permit fee, or other charge for the privilege of using its streets or highways, other than a permit fee for extra legal loads, after December 31, 1990, unless the local agency had imposed the fee prior to June 1, 1989.

Under existing law, authorized emergency vehicles owned or operated by a governmental entity are exempt from Vehicle Code restrictions relating to size, weight, and load when being used in responding to, returning from, or being moved in anticipation of, emergency fire calls. Existing law also exempts governmental fire service vehicles from front axle weight limits.

Under existing law, damage to highways and highway structures caused by the operation of oversize or overweight authorized emergency vehicles is the responsibility of the governmental agency operating the vehicle.

This bill would expand the existing exemption from size, weight, and load requirements for vehicles being used for emergency fire calls, to include vehicles operated for additional purposes relating to fire service. The bill would also limit the exemption to vehicles purchased before January 1, 1991.

The bill would require fire service vehicles which are purchased on or after January 1, 1991, to meet applicable permit requirements adopted by the Department of Transportation pursuant to existing provisions of law, and would require the manufacturer to meet specified equipment rating requirements.

RECOMMENDATION

SIGN

DEPARTMENT HEAD
M. J. [Signature]

DATE
9/20/85

AGENCY SECRETARY
Original Signed By
Anne Roberts Ewan

DATE
[Signature]

012-1 (Rev. 7-83)

ARGUMENTS PRO AND CON

Pro

The California State Fireman's Association is sponsoring the language relating to emergency vehicles. The additional language was requested by the California Trucking Association to avoid unreasonable burdens on truck travel that might be imposed by local governments, as an offset for higher truck weight fees imposed by the transportation funding package (AB 471 and SB 300).

Con

The City of Los Angeles opposed the weight fee compromise language.

RECOMMENDATION

The Department recommended and received an approved position of NEUTRAL on this bill. We now recommend the bill be SIGNED because:

This bill would expand the exemption from weight, length, and width limitations for firefighting vehicles to include operation of the vehicles in conjunction with training exercises or for transport to maintenance or repair facilities. This exemption would be applicable to vehicles purchased prior to January 1, 1991.

The bill requires that, any firefighting vehicle purchased after January 1, 1991, must comply with CalTrans permit requirements and meet gross axle weight, gross combined weight, and gross vehicle weight ratings adequate to carry a full water tank, personnel and equipment as certified by the manufacturer to meet weight allowances. This requirement will enhance traffic safety and reduce damage to our roadways.

The Department is not addressing the portion of the bill which deals with prohibiting a local agency from imposing a tax or restricting the hours of operation of truck traffic on local streets.

ENROLLED BILL REPORT

AGENCY RESOURCES	BILL NUMBER SB 286
DEPARTMENT, BOARD OR COMMISSION Forestry and Fire Protection	AUTHOR Campbell

Summary: This bill makes reference to the department by expanding the existing exemption from size, weight, and load requirements for vehicles being used for emergency fire calls. The bill also limits this exemption to vehicles that are purchased before January 1, 1991 and that meet permit requirements adopted by the Department of Transportation. This bill also imposes a state-mandated local program of liability on governmental agencies for damage caused to highways and highway structure by the operation of overweight vehicles.

Impact Statement: The elimination of weight limits applies to all emergency vehicles whether or not owned or operated by a government agency. The bill also eliminates the anticipated or actual need of an emergency to move emergency equipment.

Arguments
Pro & Con:

Emergency equipment is routinely moved under nonemergency conditions to support the Department's overall mission of protecting life and property. Examples of this would be moving heavy equipment to work sites to construct fire roads and assisting other Departments in work projects under inter-agency agreements.

The legislation enables the Department to be able to respond to nonemergency needs in a manner consistent with emergency operations.

Fiscal Effect: The fiscal effect is unknown as it would be in direct relation to the percentage of damage caused versus the increased activity of vehicle operation in nonemergency situations.

Recommendation: SIGN.

Final Votes:

Assembly		Senate (5/18/89)	
Ayes		Ayes	34
Noes		Noes	0

For Information Contact: Carol Williams Bryant, Legislative Manager (916) 445-6441

Date: September 19, 1989

Prepared by: Carol Williams Bryant, Legislative Program Mgr. (916) 445-6441

Fiscal Review by: Neiland Quok (916) 921-5407

RECOMMENDATION:

Sign			
DEPARTMENT HEAD <i>[Signature]</i>	DATE 9-19-89	AGENCY HEAD <i>[Signature]</i>	DATE 9/20

9-19-89

Business Transportation and Housing Agency

Transportation

AUTHOR

Campbell

BILL NUMBER

Trucks; Fire Service Vehicles

SB 286

SUMMARY: Limits the authority of local governments to restrict truck access and impose local fees; subjects newly purchased fire vehicles to weight limits.

IMPACT ASSESSMENT:

A. Policy:

1. Existing law authorizes local governments to impose restrictions on truck travel and parking on local streets and roads.

This bill would, contingent upon the passage of SCA 1,:

- a) Prohibit local agencies that are required to prepare congestion management plans from restricting the hours any street is open to truck traffic, unless the restriction is consistent with the congestion management plan, and is coordinated with adjacent local agencies, as specified. The prohibition would not apply to restrictions in existence on June 1, 1989.
- b) Require the California Transportation Commission (CTC) and the Department to make specified findings if an inconsistency in access occurs between cities and counties and an appeal is filed. Access restrictions would not go into effect during the appeals process.
- c) Except from (a) the County of Los Angeles if the City of Los Angeles establishes restrictions on truck operations. Restrictions by any other city within the county would have to conform with those imposed by the City of Los Angeles, subject to appeal provisions.

The bill would also prohibit local agencies from imposing additional taxes, fees, or other charges on vehicles using local streets, except for those charges in effect on June 1, 1989 and for existing permit fees for oversized trucks, if SCA 1 is approved.

2. Under existing law, vehicles operating on public highways are subject to various weight and size restrictions. Government-owned emergency vehicles are exempt from all weight restrictions when responding to and returning from emergency fire calls or being moved in anticipation of these calls.

RECOMMENDATION
SIGN

DEPARTMENT

AGENCY

DATE

DATE

LEGISLATIVE REPORT REQUIRED: YES NO

DEPARTMENT RESPONSIBLE FOR REPORT

DUE DATE

DEPARTMENT

AUTHOR

BILL NUMBER

Transportation

Campbell

SUBJECT

Trucks; Fire Service Vehicles

SB 286

SUMMARY: Limits the authority of local governments to restrict truck access and impose local fees; subjects newly purchased fire vehicles to weight limits.

IMPACT ASSESSMENT:

A. Policy:

- 1. Existing law authorizes local governments to impose restrictions on truck travel and parking on local streets and roads.

This bill would, contingent upon the passage of SCA 1,:

- a) Prohibit local agencies that are required to prepare congestion management plans from restricting the hours any street is open to truck traffic, unless the restriction is consistent with the congestion management plan, and is coordinated with adjacent local agencies, as specified. The prohibition would not apply to restrictions in existence on June 1, 1989.
b) Require the California Transportation Commission (CTC) and the Department to make specified findings if an inconsistency in access occurs between cities and counties and an appeal is filed. Access restrictions would not go into effect during the appeals process.
c) Except from (a) the County of Los Angeles if the City of Los Angeles establishes restrictions on truck operations. Restrictions by any other city within the county would have to conform with those imposed by the City of Los Angeles, subject to appeal provisions.

The bill would also prohibit local agencies from imposing additional taxes, fees, or other charges on vehicles using local streets, except for those charges in effect on June 1, 1989 and for existing permit fees for oversized trucks, if SCA 1 is approved.

- 2. Under existing law, vehicles operating on public highways are subject to various weight and size restrictions. Government-owned emergency vehicles are exempt from all weight restrictions when responding to and returning from emergency fire calls or being moved in anticipation of these calls.

HP RECOMMENDATION: SIGN

DEPARTMENT

[Signature]

DATE

9/20/89

LEGISLATIVE REPORT REQUIRED: YES [] NO [X]

AGENCY

[Signature]

DATE

9/21/89

DEPARTMENT RESPONSIBLE FOR REPORT:

DUE DATE



This bill would exempt all existing emergency vehicles from weight limits at all times but would require vehicles purchased after January 1, 1991 to comply with Caltrans permit requirements even when responding to emergency calls.

B. Fiscal:

Provisions related to #1 above have no impact on Caltrans. By reducing the weights to which highways and highway bridges will be subjected by fire trucks after January 1, 1991, the provisions related to #2 will save maintenance costs to an undetermined degree.

SPONSOR: State Firemen's Association

ARGUMENTS PRO & CON:

Arguments in Support of the Bill:

1. The bill assures that truck access restrictions are consistent within any given region.
2. Trucking companies, which will contribute several billion dollars in increased taxes and fees to the transportation program if SCA 1 passes, should not be subject to additional fees imposed locally.
3. Fire truck weight reductions will reduce pavement and structure damage.

Arguments in Opposition to the Bill:

1. The bill may prevent the City of Los Angeles from implementing a planned \$60 per truck annual fee.
2. The bill is opposed by the City of Los Angeles, League of California Cities, Teamsters Public Affairs Council, and the California Manufacturers Association.

RECOMMENDATION:

The Department recommends SIGN because:

1. The bill is an integral part of the transportation financing package enacted earlier this year.
2. Truckers' support of that package was predicated on the assumed passage of this bill.

FOR FURTHER INFORMATION CONTACT WARREN WEBER (O) 445-8045
(H) 422-9223

Howard Posner: ayc

SUBJECT

EMERGENCY VEHICLES

This bill would:

- Expand the existing exemption from vehicle weight limitations for firefighting vehicles to include the operation of the vehicles in conjunction with training exercises or for transport to maintenance or repair services. This weight exemption would be applicable to vehicles purchased before January 1, 1991.
- Require firefighting vehicles purchased on or after January 1, 1991 to comply with specified permit requirements and weight limitations.
- Prohibit local agencies, except as specified, from restricting the hours that trucks may operate unless consistent with a congestion management plan.
- If SCA 1 is approved by the voters, prohibit local agencies from imposing a tax, permit fee, or other charge (except for extra load fees) for the use of streets or highways.

SUMMARY OF REASON FOR SIGNATURE

This bill would provide for a reasonable weight exemption for the operation of emergency vehicles, while imposing certain permit requirements and weight limitations on newer emergency vehicles to minimize roadway damage and enhance public safety.

HISTORY, SPONSORSHIP, AND RELATED BILLS

Sponsored by the State Firemen's Association.

Assembly 47-28
Senate 25-10

FISCAL SUMMARY--STATE LEVEL

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands)			Code Fund
		FC 1989-90	FC 1990-91	FC 1991-92	
2660 - Transportation	SO		-None-		

Impact on State Appropriations Limit--No

RECOMMENDATION:

(Continued)

Sign the bill

Department Director

Date

Richard G. ...

SEP 23 1989

Principal Analyst Date
(752) J. Song 9/21/89

Program Budget Manager Date

Governor's Office

Position noted

Position approved

Position disapproved

by:

date:

FR:0685F

(700) Wallis L. Clark

Wallis L. Clark

9/21/89

by: date:

DEPARTMENT
Finance

BILL NUMBER
SB 286

AUTHOR
Campbell

AMENDMENT DATE
September 13, 1989

SUBJECT

EMERGENCY VEHICLES

This bill would:

- Expand the existing exemption from vehicle weight limitations for firefighting vehicles to include the operation of the vehicles in conjunction with training exercises or for transport to maintenance or repair services. This weight exemption would be applicable to vehicles purchased before January 1, 1991.
- Require firefighting vehicles purchased on or after January 1, 1991 to comply with specified permit requirements and weight limitations.
- Prohibit local agencies, except as specified, from restricting the hours that trucks may operate unless consistent with a congestion management plan.
- If SCA-1 is approved by the voters, prohibit local agencies from imposing a tax, permit fee, or other charge (except for extra load fees) for the use of streets or highways.

SUMMARY OF REASON FOR SIGNATURE

This bill would provide for a reasonable weight exemption for the operation of emergency vehicles, while imposing certain permit requirements and weight limitations on newer emergency vehicles to minimize roadway damage and enhance public safety.

HISTORY, SPONSORSHIP, AND RELATED BILLS

Sponsored by the State Firemen's Association.

Assembly 47-28
Senate 25-10

FISCAL SUMMARY--STATE LEVEL

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year)			Code Fund
		FC 1989-90	FC 1990-91	FC 1991-92	
2660 - Transportation	SO	- - - - -	None	- - - - -	

Impact on State Appropriations Limit--No
(Continued)

RECOMMENDATION:

Sign the bill

Department Director: *[Signature]* Date: **SEP 23 1989**

Principal Analyst	Date	Program Budget Manager	Date	Governor's Office
<i>J. Dong</i> (752)	9/21/89	Wallis L. Clark	9/21/89	Position noted
<i>Robert [Signature]</i>		<i>Wallis L. Clark</i>		Position approved
				Position disapproved
				by: date:

FR:0685F

BILL ANALYSIS/ENROLLED BILL REPORT--(Continued)

Form DF-43

AUTHOR

AMENDMENT DATE

BILL NUMBER

Campbell

September 13, 1989

SB 286

FISCAL SUMMARY--STATE LEVEL

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands)			Code Fund
		FC 1989-90	FC 1990-91	FC 1991-92	

FISCAL SUMMARY--LOCAL LEVEL

Reimbursable Expenditures	--	--	--
Non-Reimbursable Expenditures	--	--	--
Revenues	--	--	--

ANALYSIS

A. Specific Findings

Weight Limits

Under current law, vehicles operating on public highways are subject to various weight and size restrictions. Government-owned or operated emergency vehicles are exempt from all weight restrictions when responding to and returning from emergency fire calls or being moved in anticipation of these calls.

This bill would expand the exemption to allow the operation of the vehicles in conjunction with training exercises or for transport to maintenance or repair facilities. This exemption would be applicable to vehicles purchased before January 1, 1991.

The bill would require firefighting vehicles purchased on or after January 1, 1991 to comply with applicable permit requirements adopted by the Department of Transportation (Caltrans) under existing law and to meet specified weight limitations.

According to Caltrans, weight limitations for vehicles are established to prevent damage to pavements and bridge structures and to avert potential hazards from overweight loads. However, contrary to current law prohibiting such activity, firefighting vehicles have been operating on public highways for training or maintenance purposes. Generally, law enforcement agencies have not enforced the prohibition against such activity by these vehicles. While exempting firefighting vehicles purchased before January 1, 1991 from the prohibition, the bill would also require vehicles purchased on or after January 1, 1991 to meet certain permit requirements and weight limitations in order to be exempt from the prohibition. These requirements and limitations, which were negotiated between the author's office, Caltrans and the California Highway Patrol, would minimize roadway damage and enhance public safety.

FR:0685F

AUTHOR

AMENDMENT DATE

BILL NUMBER

Campbell

September 13, 1989

SR 286

ANALYSIS

A. Specific Findings (Continued)

Fees and Operational Restrictions

Chapter 106/89 (AB 471) provides for, among other things, an increase of 40 percent in commercial vehicle weight fees effective 7/1/90 with the passage by the voters of SCA 1. The fee increases an additional 10% effective 1/1/95. A requirement that specified local agencies develop a congestion management plan is also required. Chapter 106/89 is one component of the \$18.5 billion 10-year transportation funding and expenditure plan approved by the Governor and the Legislature.

This bill, as long as Chapter 106/89 is in effect, would prohibit local agencies in urbanized areas from restricting the hours that trucks may operate on any street or highway unless the restriction is consistent with the adopted congestion management plan. Because of unique and special traffic congestion problems in the County and City of Los Angeles, the bill would exempt Los Angeles County from the prohibition if the City of Los Angeles establishes restrictions on the hours of operation on any street or highway which is otherwise open to truck use.

Also, if SCA 1 is approved by the voters, the bill would prohibit local agencies from imposing taxes, permit fees (except for large loads), or other charges for the privilege of using streets or highways.

Caltrans advises that the provisions of this bill related to Chapter 106/89 were accepted in the development of the 10-year transportation plan to make the weight fee increase component of the plan more palatable to the trucking industry.

B. Fiscal Analysis

The bill would have no State fiscal impact.

The Local Cost Estimate indicates that the "crimes and infractions" disclaimer in the bill is appropriate, but that the bill does not contain the appropriate "general" disclaimer. However, failure to include the proper disclaimer should not be a serious problem because the information provided in the Local Cost Estimate Analysis could also be provided to the Commission on State Mandates if any local agency submits a claim for reimbursement to that commission.

FR:0685F

Local Cost	NO. 3	ISSUE DATE SEP 21 1989	BILL NUMBER SB 286
ESTIMATE	AUTHOR		DATE LAST AMENDED
Department of Finance	Campbell		September 13, 1989

I. SUMMARY OF LOCAL IMPACT:

Would expand existing weight and size exemptions for fire service vehicles being used for fire emergencies to include vehicles being operated for additional purposes, as specified. Would limit the exemption to vehicles purchased before January 1, 1991. Would require fire service vehicles purchased on or after January 1, 1991 to meet applicable permit and equipment rating requirements.

II. FISCAL SUMMARY--LOCAL LEVEL	1989-90	1990-91	1991-92
	(Dollars in Thousands)		
Reimbursable Expenditures:	--	--	--
Non-Reimbursable Expenditures:	--	--	--
Revenues:	--	--	--

III. ANALYSIS:

A. Introduction

Current law exempts emergency vehicles owned or operated by a governmental entity from Vehicle Code restrictions on size, weight and load when responding to or returning from emergency fire calls. The exemption does not extend to those times when the vehicles are used in fire training exercises or are being transported for maintenance or repair. This bill would extend those exemptions for fire vehicles to the two nonemergency situations cited in the preceding sentence (essentially at all times) for vehicles purchased before January 1, 1991. After January 1, 1992 fire vehicles would have to comply with Department of Transportation requirements for the movement of oversize loads and manufacturers would be required to meet specified equipment rating requirements. Any violation of those requirements would be crime.

B. Working Data

1. Section 6 of Article XIII B of the California Constitution reads as follows:

Whenever the Legislature or any State agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse

(continued)

SCHEDULE D.3 & A

PREPARED

Date * REVIEWED

Date * APPROVED

Date 9.20.89

(621)
MAY 16 1990
LR:3527L

[Signature]

4/1-6/89 *

[Signature]

AUTHOR

DATE LAST AMENDED

BILL NUMBER

Cambell

September 13, 1989

SB 286

III. ANALYSIS (continued)

B. Working Data (continued)

such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

- (a) Legislative mandates requested by the local agency affected;
- (b) Legislation defining a new crime or changing an existing definition of a crime; or
- (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

2. Under Section 6(b) of Article XIII B of the California Constitution, any costs to a unit of local government which result from legislation defining a new crime or changing an existing definition of a crime are not "state mandated costs" and therefore are not reimbursable by the State. In addition, Section 17556(q) of the Government Code provides that the Commission on State Mandates shall not find a reimbursable mandate in such legislation or in legislation which eliminated a crime or changed the penalty for a crime. It should be noted, however, that Section 2246.2 of the Revenue and Taxation Code requires that funding be included in the Governor's Budget to reimburse local entities for one-half of any additional detention and probation costs in excess of 1 percent of such costs in the preceding year incurred as the result of a bill which increased the penalty for a crime. Any local entity which believes that this bill falls within the purview of these provisions may, as provided by law, file a written request for these funds with the Department of Finance.
3. The courts have held that costs to a local entity resulting from an action undertaken at the option of the local entity are not reimbursable as "costs mandated by the state".

Chapter 1275, Statutes of 1975 modified Code of Civil Procedures Sections 1230.010 et seq. to revise and recodify the eminent domain laws of this state. The revisions included a new requirement that, upon proof of satisfaction of four stated conditions, the owner of a business conducted on the condemned property is entitled to compensation for loss of goodwill (CCP Section 1263.510). "... (In addition)... the Legislature made clear the discretionary nature of acquisition of property by eminent domain by passage of CCP Section 1230.030 which was

AUTHOR	DATE LAST AMENDED	BILL NUMBER
Campbell	September 13, 1988	SB 286

III. ANALYSIS (continued)

B. Working Data (continued)

included within Chapter 1275, Statutes of 1975, the same legislation that changed the law of eminent domain to require compensation for business goodwill. Section 1230.030 provides: "Nothing in this title requires that the power of eminent domain be exercised to acquire property necessary for public use. Whether property necessary for public use is to be acquired by purchase or other means or by eminent domain is a decision left to the discretion of the person authorized to acquire the property."

The City of Merced subsequently acquired some property by eminent domain and, in so doing, incurred costs in paying for the business goodwill associated with the property. The City then sought to recover those costs from the State on the basis that they were costs mandated by the State. In City of Merced v. State of California, 153 Cal. App. 3d 777 (1984), the court said:

"We agree that the Legislature intended for payment of goodwill to be discretionary. ... whether a city or county decides to exercise eminent domain is, essentially, an option of the city or county, rather than a mandate of the state. The fundamental concept is that the city or county is not required to exercise eminent domain. If, however, the power of eminent domain is exercised, then the city will be required to pay for loss of goodwill. Thus, payment for loss of goodwill is not a state-mandated cost."

4. Section 35002(c) of the Vehicle Code provides, in pertinent part, that the cost of repair of the damage to a highway caused by an oversize or overweight vehicle is a proper expense of the government agency operating such a vehicle.

C. Conclusion

Based on the "City of Merced" case cited above, the Department of Finance believes that the provisions of SB 286 simply would make an optional program available to local governments (i.e., transporting oversize or overweight vehicles, on public roadways in certain instances), any costs of which in terms of road repairs would not be reimbursable because they would not be costs mandated by the State. Therefore, a "general" disclaimer would have been appropriate.

AUTHOR

DATE LAST AMENDED

BILL NUMBER

Campbell

September 13, 1989

SR 286

III. ANALYSIS (continued)**C. Conclusion (continued)**

The failure to include the proper disclaimer should not be a serious problem because the information provided in this analysis could also be provided to the Commission on State Mandates if any local agency submits a claim for reimbursement to that Commission.

The "crimes and infractions" disclaimer in Section 5 of the bill is appropriate for the crime established by the bill. This section also contains language which would allow the bill to become operative on January 1, 1990, rather than July 1, 1990, as specified in Section 17580 of the Government Code.

LR:3527L-4

JACK L. HORTON
ANN MACFAY
CHIEF DEPUTIES

JAMES L. ASHFORD
JERRY L. BASSITT
STANLEY M. LOUESHORE
JOHN T. STUDEBAUER
JURGE WING

DAVID D. ALVES
JOHN A. CORENE
C. DAVID DICKERSON
ROBERT CULLEN DUFFY
ROBERT D. GHOSEK
SHERWIN C. MACKENZIE, JR.
TRACY O. POWELL II
MARGUERITE ROHM
PRINCIPAL DEPUTIES

3021 STATE CAPITOL
SACRAMENTO, CA 95814
(916) 447-0057

2011 STATE BUILDING
107 SOUTH BROADWAY
LOS ANGELES, CA 90012
(213) 620-2550
TELECOPIER 916-324-6311

Legislative Counsel of California

BION M. GREGORY

Sacramento, California

September 26, 1989

Honorable George Deukmejian
Governor of California
Sacramento, CA 95814

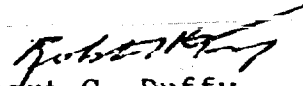
Senate Bill No. 296

Dear Governor Deukmejian:

Pursuant to your request, we have reviewed the above-numbered bill authored by Senator W. Campbell and, in our opinion, the title and form are sufficient and the bill, if chaptered, will be constitutional. The digest on the printed bill as adopted correctly reflects the views of this office.

Very truly yours,

Bion M. Gregory
Legislative Counsel

By 
Robert C. Duffy
Principal Deputy

RCD:wld

Two copies to Honorable William Campbell
pursuant to Joint Rule 34.

GERALD ROSS ADAMS
MARTIN L. ANDERSON
PAUL ANTELLA
DIANA S. APPLING
CHARLES C. ARDRE
JOE J. AYALA
KATHERINE P. BELJUE
DAVID F. BOWEN
ANNEA L. BUDD
EILEEN J. BUXTON
HENRY J. CONTRERAS
EMILIA CUYLER
BEN E. DALE
JEFFREY A. DELANEY
CLYTON J. DEWITT
FRANCIS B. DORRIN
MAUREEN S. DORN
LAWRENCE J. DURAN
SHERON R. FISHER
JOHN FOREBETTE
HARVEY J. FOSTER
CLAY FULLER
ALVIN D. GRESS
RALPH C. HAY
THOMAS R. HEUER
MICHAEL J. HERTZ
L. DOUGLAS HODDY
S. LYNN KLEN
VICTOR KODZLEB
EVE B. KROETZGER
DIANA G. LIM
ROMULO L. LOPEZ
KIM S. LOUIE
ANTHONY P. MARQUEZ
JAMES A. MARSALE
FRANCISCO A. MARTIN
PETER MELNICOE
ROBERT G. MILLER
JOHN A. MAGER
VERNE L. OLIVER
EUGENE L. PANE
MICHAEL S. SALSANO
MARY SHAW
WILLIAM K. STARK
MARK FRANKLIN TERRY
JEFF THOM
MICHAEL H. UPSON
RICHARD B. WEISBERG
DANIEL A. VITZMAN
THOMAS D. WHELAN
JANA T. WHITGROVE
DEBRA J. ZIDICH
CHRISTOPHER ZEDLER
DEPUTIES

THIRD READING

SENATE RULES COMMITTEE Office of Senate Floor Analyses 1100 J Street, Suite 120 445-8814	Bill No.	SB 286
	Author:	Campbell (R)
	Amended:	4/26/88
	Vote Required:	Majority

Committee Votes:

Senate Floor Vote:

DEPARTMENT OF TRANSPORTATION		
BILL NO.:		
SB 286		
DATE OF READING:		
4-18-88		
MEMBERS:	YEA	NO
Bargeron	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dodds	<input checked="" type="checkbox"/>	<input type="checkbox"/>
C. Green	<input checked="" type="checkbox"/>	<input type="checkbox"/>
L. Greene	<input type="checkbox"/>	<input type="checkbox"/>
Hart	<input type="checkbox"/>	<input type="checkbox"/>
Leonard	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Morgan	<input type="checkbox"/>	<input type="checkbox"/>
McWhiney	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Russell	<input type="checkbox"/>	<input type="checkbox"/>
Seymour	<input type="checkbox"/>	<input type="checkbox"/>
Voitch	<input checked="" type="checkbox"/>	<input type="checkbox"/>
McCannodale (VC)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kerr (Ch)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
TOTAL:	9	0

PLACED
ON FILE
PURSUANT
TO SENATE
RULE 28.8

Assembly Floor Vote:

SUBJECT: Vehicles: weight: exceptions: emergency vehicles

SOURCE: California State Firemen's Association

DIGEST: This bill would expand existing weight and size exemptions for fire service vehicles responding to emergencies. It would extend the exemptions to training or fire prevention activities or when the vehicles are transported for maintenance, repair or service.

The new exemptions would apply only to vehicles purchased before January 1, 1991. Vehicles purchased after that date would be required to comply with Department of Transportation permit requirements, specified gross weight ratings and additional braking requirements.

ANALYSIS: Current law exempts emergency vehicles owned or operated by a governmental entity from Vehicle Code restrictions on size, weight and load when responding to or returning from emergency fire calls. The exemption does not extend to those times when the vehicles are used in fire training exercises or being transported for maintenance or repair. Law enforcement authorities, however, reportedly do not cite the vehicles for being oversize during nonemergency operations.

This bill would extend the weight, size and load exemptions for fire vehicles to nonemergency situations (essentially at all times) for vehicles purchased before 1991.

CONTINUED

After 1991 fire vehicles would have to comply with Department of Transportation requirements for the movement of oversize loads. Vehicle manufacturers would have to construct the vehicles so they could carry specified personnel and equipment loads. In addition, fire vehicles exceeding 31,000 pounds would have to have a secondary braking system.

Comment:

According to the Senate Transportation Committee, extending the exemptions to nonemergency situations would codify existing practice. The California Highway Patrol and Department of Transportation reportedly have agreed to the bill's provisions.

FISCAL EFFECT: Appropriation: No Fiscal Committee: Yes Local: Yes

SUPPORT: (Verified 5/11/89)

California State Firemen's Association (source)

RJG:nf 5/11/89 Senate Floor Analyses



LRI HISTORY LLC

INTENT@LRIHISTORY.COM

WWW.LRIHISTORY.COM

(916) 442-7660

Assembly Committee on Ways and Means

SOURCE:
CALIFORNIA STATE ARCHIVES

WAYS AND MEANS COMMITTEE ANALYSIS

Author: Campbell

Amended: 07/10/89

Bill No.: SB 286

Policy Committee: Transportation

Vote: 10 - 00


Urgency: No

Hearing Date: 08/23/89

State Mandated Local Program: Yes

Staff Comments By:

Disclaimed: Yes

Allan Lind 

Summary

This bill prohibits local agencies in urbanized areas, from restricting the operation of trucks on any street or highway which is otherwise open to truck use unless the local agency determines that the restriction is consistent with an adopted Congestion Management Plan (CMP) and is coordinated with adjacent local agencies. This section of the bill is operative only if truck weight fees are increased pursuant to AB 471 (Katz). This section exempts jurisdictions with ordinances adopted prior to June 1, 1989, dealing with truck access restrictions.

The bill provides for an appeal process to CalTrans and the California Transportation Commission for parties objecting to truck access restrictions imposed as a part of a CMP.

The bill also prohibits any local agency from imposing any tax, permit, fee, or other charge for the use of any street or highway, except for (1) taxes and fees in effect as of 6/1/89 and (2) permit fees for extra loads. This section of the bill becomes operative only if truck weight fees are increased pursuant to AB 471 (Katz).

The bill also exempts public emergency vehicles (fire engines, etc.) from weight, size, and load limits to travel on highways in non-emergency situations.

The bill also requires all emergency vehicles purchased after 1/1/91 to meet specified requirements relating to vehicle weight and braking systems.

Fiscal

Unknown, probably minor costs to the State Highway Account for CalTrans and the CTC to review protests of truck access restrictions.

Undetermined local costs to the extent that unrestricted truck access may cause additional road damage. These costs are not state-reimbursable.

Undetermined local costs relating to new requirements for emergency vehicles. These costs are not state-reimbursable.

Legislative Analyst
July 17, 1989

ANALYSIS OF SENATE BILL NO. 286 (Campbell)
As Amended in Assembly July 10, 1989
1989-90 Session

Fiscal Effect:

Cost: Probably minor costs to the State Highway Account for the California Transportation Commission and the Department of Transportation to make findings regarding truck access to local roads.

Revenue: Unknown loss of potential future revenues to local agencies from prohibition of additional charges on trucks for use of local roads, as specified.

Analysis:

This bill makes changes in current law regarding the access of trucks on local roads. These changes would be applicable so long as any increase in weight fees required in Ch 106/89 (AB 471, Katz) remain in effect. Specifically, the bill:

- Prohibits local agencies that are required to prepare congestion management plans from restricting the hours any street is open to truck traffic, unless the restriction is consistent with the congestion management plan, and is coordinated with adjacent local agencies, as specified. The prohibition would not apply to restrictions in existence on June 1, 1989.

- Requires the California Transportation Commission (CTC) and the Department of Transportation (Caltrans) to make specified findings if an inconsistency in access occurs between counties.
- Prohibits local agencies from imposing additional taxes, fees, or other charges on vehicles using local streets, except for those charges in effect on June 1, 1989 and for permit fees for oversized trucks.

Chapter 106, Statutes of 1989 (AB 471), increases weight fees for certain vehicles by about 40 percent, effective August 1, 1990, if voters approve a specified change in the state's appropriations limit in June 1990. The bill would limit local governments' ability to restrict truck access as long as the additional weight fees are effective.

In addition, the bill requires fire trucks purchased after January 1, 1991 to meet specified permit, weight, and equipment requirements and makes governmental agencies operating emergency vehicles liable for any damage to state highways or local roads caused by overweight emergency vehicles.

Under current law, emergency fire vehicles are exempted from permit, weight and equipment requirements when used under specified conditions. The bill would exempt vehicles purchased before January 1, 1991 from these requirements regardless of purpose of use.

Fiscal Effect

Our review indicates that CTC and Caltrans would incur probably minor costs to the State Highway Account to review inconsistent access provisions of local

congestion management plans and make specified findings. The bill would also result in unknown loss of potential future revenue to local agencies, because local agencies would be prohibited from imposing charges on vehicles for using local streets in addition to those in existence on June 1, 1989, as long as weight fee increases specified by Ch 106/89 are in effect.

Mandated Local Program. The bill requires fire trucks to meet specified permit and equipment requirements. Any violations would be a crime. Local law enforcement agencies may incur additional costs to enforce the bill's provisions. These costs would not be state-reimbursable.

86/s8

Date of Hearing: June 29, 1989

ASSEMBLY TRANSPORTATION COMMITTEE
RICHARD KATZ, Chairman

SB 286 (Campbell) - As Proposed to be Amended

SUBJECT

Trucks - exemptions

DIGEST

Existing law:

- 1) Exempts public emergency vehicles from specified weight, size, and load limits, but only when responding to emergency fire calls.
- 2) Authorizes local governments to impose restrictions on truck travel and parking on local streets and roads.

This bill:

- 1) Authorizes public emergency vehicles not complying with specified weight, size, and load limits, to travel on the highways in non-emergency situations as well.
- 2) Requires public emergency vehicles purchased after January 1, 1991, to comply with Department of Transportation (Caltrans) requirements for the movement of oversize loads.
- 3) Also requires vehicles purchased after January 1, 1991, to be manufactured to carry specified personnel and equipment loads. Fire vehicles exceeding 31,000 lbs. would be required to have a secondary braking system.
- 4) Prohibits a local entity in an urbanized area, as defined, which is required to prepare and implement a congestion management plan (CMP) as required by AB 471 (Katz), from imposing restrictions on truck travel on any street or highway under its jurisdiction which is otherwise open to trucks, unless the agency responsible for adopting the CMP determines that the restriction is consistent with the CMP and is coordinated with adjacent local entities to avoid unreasonable interference with trucking operations. Exempts restrictions in existence on June 1, 1989.
- 5) Establishes an appeals process involving the California Transportation Commission and the Director of Transportation for resolving inconsistencies in truck access restrictions.

- continued -

- 6) Prohibits local entities from imposing any taxes, permit fees, or other charges for the privilege of using local streets and highways, except for fees in effect as of June 1, 1989, or permit fees for loads requiring permits under the Vehicle Code.
- 7) Specifies that the prohibitions against restrictions or charges remain in effect as long as truck weight fee increases imposed by AB 471 and SB 300 are effective.

FISCAL EFFECT

Unknown

COMMENTS

This bill contains two parts. The original language relates to exemptions for emergency equipment and is sponsored by the California State Fireman's Association. The additional language was requested by the California Trucking Association to avoid unreasonable burdens on truck travel that might be imposed by local governments, as an offset for higher truck weight fees imposed by the transportation funding package (AB 471 - Katz, SB 300 - Kopp).

SUPPORT

Unknown

OPPOSITION

Unknown

Recommendation

Do pass with amendments to strike the first two sections of the bill dealing with prohibitions on local agencies from restricting truck traffic and assessing taxes, fees, or other charges for operation of trucks on local streets. Otherwise, vote no.

Author and sponsor (California Trucking Association) will resist my suggested amendments.

The author, sponsor, and governor's office believe that the provisions of this bill preempting locals from restricting truck access or charging fees for access is part of the overall transportation package. The League of Cities (including City of San Jose) and CSAC disagree. (Richard Katz opposes the bill privately and his staff is unsure of Richard's view of whether it is part of the package or not).

San Jose has requested your no vote on this bill. They currently restrict truck access on local roads to protect local neighborhoods from noise, safety, and environmental hazards. Truck access restrictions to implement congestion relief is a future option they would like to preserve.

The correct solution here is to empower regional governments to determine access restrictions and fees applicable to an entire region (e.g. SCAG for LA, MTC for SF Bay Area, SANDAG for S.D.). This would eliminate main objection of CTA that uncoordinated access restrictions would create chaos (I agree). The "correct solution," of course, is impossible in that cities don't want to relinquish powers to regional entities.

AL

LR
A



LRI HISTORY LLC

INTENT@LRIHISTORY.COM

WWW.LRIHISTORY.COM

(916) 442-7660

Assembly Floor Analysis

SOURCE:
CALIFORNIA STATE LAW LIBRARY

SENATE THIRD READING

SB 286 (Campbell) - As Amended: September 13, 1989

SENATE VOTE: 34-0

ASSEMBLY ACTIONS:

COMMITTEE TRANS. _____ VOTE 10-0 COMMITTEE _____ W. & M. _____ VOTE 23-0

Ayes: Ayes:

Nays: Nays:

DIGESTExisting law:

- 1) Authorizes local governments to impose restrictions on truck travel and parking on local streets and roads.
- 2) Exempts public emergency vehicles from specified weight, size, and load limits, but only when responding to emergency fire calls.

This bill:

- 1) Prohibits a local entity in an urbanized area, as defined, which is required to prepare and implement a congestion management plan (CMP) as required by AB 471 (Katz), from imposing restrictions on truck travel on any street or highway under its jurisdiction which is otherwise open to trucks, unless the agency responsible for adopting the CMP determines that the restriction is consistent with the CMP and is coordinated with adjacent local entities to avoid unreasonable interference with trucking operations. Exempts restrictions in existence on June 1, 1989.
- 2) Establishes an appeals process involving the California Transportation Commission and the Director of Transportation for resolving inconsistencies in truck access restrictions.
- 3) Provides that truck restrictions may nonetheless be imposed by local governments in the County of Los Angeles (notwithstanding this bill) under specified conditions, if the City of Los Angeles imposes such restrictions and other cities are consistent.
- 4) Prohibits local entities from imposing any taxes, permit fees, or other charges for the privilege of using local streets and highways, except for fees in effect as of June 1, 1989, or permit fees for loads requiring permits under the Vehicle Code.

- continued -

- 5) Specifies that the prohibitions against restrictions or charges remain in effect as long as truck weight fee increases to be imposed by AB 471 and SB 300 are effective.
- 6) Provides that nothing in this measure shall be construed to allow local governments to impose fees not already allowed by existing law.
- 7) Authorizes public emergency vehicles not complying with specified weight, size, and load limits, to travel on the highways in nonemergency situations as well.
- 8) Requires public emergency vehicles purchased after January 1, 1991, to comply with Department of Transportation (Caltrans) requirements for the movement of oversize loads.
- 9) Also requires vehicles purchased after January 1, 1991, to be manufactured to carry specified personnel and equipment loads. Fire vehicles exceeding 31,000 lbs. would be required to have a secondary braking system.

FISCAL EFFECT

Unknown

COMMENTS

- 1) The bill is intended to avoid unreasonable and conflicting restrictions on truck travel on local roads which local governments may impose in an effort to reduce traffic congestion during commute hours.
- 2) Recent amendments provide that the bill's provisions limiting local government authority do not apply to Los Angeles County if the City of Los Angeles imposes a truck restriction program.

Erik Lange
445-7278
9/14/89:atrans

SB 286
Page 2



LRI HISTORY LLC

INTENT@LRIHISTORY.COM

WWW.LRIHISTORY.COM

(916) 442-7660

Assembly Republican Caucus

SOURCE:
CALIFORNIA STATE ARCHIVES

LEGISLATIVE ANALYSIS

2-21-89

Business, Transportation & Housing Agency

DEPARTMENT Transportation	AUTHOR Campbell	NUMBER SB 296 <small>As Amended</small>
SUBJECT Emergency Vehicles		Original

SUMMARY: ~~Example~~ emergency vehicles from weight restrictions.

ANALYSIS:

A. Policy:

Under existing law, vehicles operating on public highways are subject to various weight and size restrictions. Government-owned emergency vehicles are exempt from all weight restrictions when responding to and returning from emergency fire calls or being moved in anticipation of these calls.

This bill would exempt all emergency vehicles from weight limits at all times.

Proponents contend that this exemption is needed so that fire crews can train on the equipment they will use during actual incidents. Conversely, Caltrans maintains that there is no justification for subjecting pavements and bridge structures to the damage and possible danger of overweight loads unless lives and property are directly at stake. In addition, if a blanket statutory exemption is enacted, there will be no incentive for equipment manufacturers to recognize California weight limits and design fire-fighting equipment accordingly.

B. Fiscal:

Increased pavement and structural damage will certainly occur, the extent of which depends upon the degree to which fire districts take advantage of the exemption. Costs are likely to be substantial.

SPONSOR: State Firemen's Association

SUPPORT AND OPPOSITION: Fire departments, the Department of Forestry and emergency vehicle operators will support. Local jurisdictions and auto clubs will oppose.

DEPARTMENTS THAT MAY BE AFFECTED State Fire Marshall, Forestry, CHP		GOVERNOR'S OFFICE	
POSITION OPPOSE		POSITION NOTED	
DEPARTMENT <i>Maloney</i>	AGENCY Original Signed by John K. Harber	POSITION APPROVED	<input checked="" type="checkbox"/>
DATE 2/22/89	DATE FEB 27 1989	POSITION DISAPPROVED	
cc: Dept. of Finance Maloney		BY: <i>MH</i>	DATE: 3/7/89

Legislative Analysis
Page Two
February 21, 1969

SB 286

RECOMMENDATION:

The Department recommends OPPOSE because:

The bill will cause substantial damage to State highways and local roadways while removing any incentive for the design and purchase of equipment which complies with statutory weight limits.

Howard Posner:jg
445-8045

LEGISLATIVE ANALYSIS

Business, Transportation & Housing Agency

DEPARTMENT California Highway Patrol	AUTHOR Campbell R-Hacienda	NUMBER As Amended SB 286
SUBJECT Vehicles: Weight Exceptions: Emergency Vehicles		Orig. 1/26/89

SUMMARY

This bill would exempt authorized emergency vehicles from Vehicle Code weight limits.

ANALYSIS

A. Detailed

Under existing law, authorized emergency vehicles owned or operated by a governmental entity are exempt from Vehicle Code restrictions relating to size, weight, and load when being used in responding to, returning from, or being moved in anticipation of, emergency fire calls. Existing law also exempts governmental fire service vehicles from front axle weight limits.

Under existing law, damage to highways and highway structures caused by the operation of oversize or overweight authorized emergency vehicles is the responsibility of the governmental agency operating the vehicle.

This bill would exempt any authorized emergency vehicle from the Vehicle Code weight limits whether or not responding to, returning from, or being moved in anticipation of, emergency calls. By imposing liability on governmental agencies for damage caused to highways and highway structures by operation of overweight vehicles in additional cases, the bill would impose a state-mandated local program.

B. Cost

Costs to the Department are indeterminable at this time.

DEPARTMENTS THAT MAY BE AFFECTED		GOVERNOR'S OFFICE	
POSITION	OPPOSE UNLESS AMENDED	POSITION NOTED	
DEPARTMENT	AGENCY	POSITION APPROVED	<input checked="" type="checkbox"/>
DATE	DATE	POSITION DISAPPROVED	
CC.	Original Signed By John K. HARPER	BY: <i>MH</i>	DATE: <i>3/1</i>

445-1226

LEGISLATIVE HISTORY

This is a spot bill which the author is carrying on behalf of the California State Firemen's Association. AB 264, Lancaster, would provide an exemption for firefighters from certain driver's license requirements. Support would likely be expressed by other firefighter associations. CalTrans may have concerns with the bill.

ARGUMENTS FOR AND AGAINST

For

None.

Against

See comments under Recommended Position.

RECOMMENDED POSITION

The Department recommends a position of OPPOSE UNLESS AMENDED on this bill.

The bill would unconditionally exempt any authorized emergency vehicle from Vehicle Code weight limits.

The Department recognizes the intent of the bill to accommodate firefighting agencies' acquisition of new equipment which, because of improving technologies, often exceed current weight limits.

However, the language in the bill, as introduced, may be so broad in scope that traffic safety may be negatively impacted.

The Department has been working with the sponsors of the bill to assist in the development of more appropriate language. To that end, we anticipate that amendments will be forthcoming.

Date of Hearing: June 29, 1989

ASSEMBLY TRANSPORTATION COMMITTEE
RICHARD KATZ, Chairman

SB 286 (Campbell) - As Proposed to be Amended

SUBJECT

Trucks - exemptions

DIGEST

Existing law:

- 1) Exempts public emergency vehicles from specified weight, size, and load limits, but only when responding to emergency fire calls.
- 2) Authorizes local governments to impose restrictions on truck travel and parking on local streets and roads.

This bill:

- 1) Authorizes public emergency vehicles not complying with specified weight, size, and load limits, to travel on the highways in non-emergency situations as well.
- 2) Requires public emergency vehicles purchased after January 1, 1991, to comply with Department of Transportation (Caltrans) requirements for the movement of oversize loads.
- 3) Also requires vehicles purchased after January 1, 1991, to be manufactured to carry specified personnel and equipment loads. Fire vehicles exceeding 31,000 lbs. would be required to have a secondary braking system.
- 4) Prohibits a local entity in an urbanized area, as defined, which is required to prepare and implement a congestion management plan (CMP) as required by AB 471 (Katz), from imposing restrictions on truck travel on any street or highway under its jurisdiction which is otherwise open to trucks, unless the agency responsible for adopting the CMP determines that the restriction is consistent with the CMP and is coordinated with adjacent local entities to avoid unreasonable interference with trucking operations. Exempts restrictions in existence on June 1, 1989.
- 5) Establishes an appeals process involving the California Transportation Commission and the Director of Transportation for resolving inconsistencies in truck access restrictions.

- continued -

- 6) Prohibits local entities from imposing any taxes, permit fees, or other charges for the privilege of using local streets and highways, except for fees in effect as of June 1, 1989, or permit fees for loads requiring permits under the Vehicle Code.
- 7) Specifies that the prohibitions against restrictions or charges remain in effect as long as truck weight fee increases imposed by AB 471 and SB 300 are effective.

FISCAL EFFECT

Unknown

COMMENTS

This bill contains two parts. The original language relates to exemptions for emergency equipment and is sponsored by the California State Fireman's Association. The additional language was requested by the California Trucking Association to avoid unreasonable burdens on truck travel that might be imposed by local governments, as an offset for higher truck weight fees imposed by the transportation funding package (AB 471 - Katz, SB 300 - Kopp).

SUPPORT

Unknown

OPPOSITION

Unknown

Erik Lange
445-7278
6/29/89

SB 286
Page 2

WAYS AND MEANS COMMITTEE ANALYSIS

Author: Campbell

Amended: 07/10/89

Bill No.: SB 286

Policy Committee: Transportation

Vote: 10 - 00

Urgency: No

Hearing Date: No

State Mandated Local Program: Yes

Staff Comments By:

Disclaimed: Yes & No

Allan Lind 

SUMMARY

This bill prohibits certain jurisdictions after June 1, 1989, from restricting the operation of trucks on any street or highway which is otherwise open to truck use unless the local agency determines that the restriction is consistent with an adopted congestion management plan and is coordinated with adjacent local agencies. This section of the bill is operative only if truck weight fees are increased pursuant to AB 471 (Katz).

The bill also prohibits any local agency from imposing any tax, permit, fee, or other charge for the use of any street or highway, except for (1) taxes and fees in effect as of 1/6/89 and (2) permit fees for extra loads. This section of the bill becomes operative only if truck weight fees are increased pursuant to AB 471 (Katz).

The bill also exempts public emergency vehicles (fire engines, etc.) from weight, size, and load limits to travel on highways in non-emergency situations.

The bill also requires all emergency vehicles purchased after 1/1/91 to meet specified requirements relating to vehicle weight and braking systems.

Fiscal

No state costs.

Undetermined local costs relating to new requirements for emergency vehicles. These costs are not state-reimbursable.

Undetermined local costs to the extent that unrestricted truck access may cause additional road damage.

Legislative Analyst
July 17, 1989

ANALYSIS OF SENATE BILL NO. 286 (Campbell)
As Amended in Assembly July 10, 1989
1989-90 Session

Fiscal Effect:

Cost: Probably minor costs to the State Highway Account for the California Transportation Commission and the Department of Transportation to make findings regarding truck access to local roads.

Revenue: Unknown loss of potential future revenues to local agencies from prohibition of additional charges on trucks for use of local roads, as specified.

Analysis:

This bill makes changes in current law regarding the access of trucks on local roads. These changes would be applicable so long as any increase in weight fees required in Ch 106/89 (AB 471, Katz) remain in effect. Specifically, the bill:

- Prohibits local agencies that are required to prepare congestion management plans from restricting the hours any street is open to truck traffic, unless the restriction is consistent with the congestion management plan, and is coordinated with adjacent local agencies, as specified. The prohibition would not apply to restrictions in existence on June 1, 1989.

- Requires the California Transportation Commission (CTC) and the Department of Transportation (Caltrans) to make specified findings if an inconsistency in access occurs between counties.
- Prohibits local agencies from imposing additional taxes, fees, or other charges on vehicles using local streets, except for those charges in effect on June 1, 1989 and for permit fees for oversized trucks.

Chapter 106, Statutes of 1989 (AB 471), increases weight fees for certain vehicles by about 40 percent, effective August 1, 1990, if voters approve a specified change in the state's appropriations limit in June 1990. The bill would limit local governments' ability to restrict truck access as long as the additional weight fees are effective.

In addition, the bill requires fire trucks purchased after January 1, 1991 to meet specified permit, weight, and equipment requirements and makes governmental agencies operating emergency vehicles liable for any damage to state highways or local roads caused by overweight emergency vehicles.

Under current law, emergency fire vehicles are exempted from permit, weight and equipment requirements when used under specified conditions. The bill would exempt vehicles purchased before January 1, 1991 from these requirements regardless of purpose of use.

Fiscal Effect

Our review indicates that CTC and Caltrans would incur probably minor costs to the State Highway Account to review inconsistent access provisions of local

congestion management plans and make specified findings. The bill would also result in unknown loss of potential future revenue to local agencies, because local agencies would be prohibited from imposing charges on vehicles for using local streets in addition to those in existence on June 1, 1989, as long as weight fee increases specified by Ch 106/89 are in effect.

Mandated Local Program. The bill requires fire trucks to meet specified permit and equipment requirements. Any violations would be a crime. Local law enforcement agencies may incur additional costs to enforce the bill's provisions. These costs would not be state-reimbursable.

86/s8

Honorable William Campbell
Member of the Senate
State Capitol, Room 5052
Sacramento, CA 95814

DEPARTMENT Finance	AUTHOR Campbell	BILL NUMBER SB 286
SPONSORED BY State Firemen's Association	RELATED BILLS AB 471	AMENDMENT DATE July 10, 1989

BILL SUMMARY

EMERGENCY VEHICLES

This bill would:

- Expand the existing exemption from vehicle weight limitations for firefighting vehicles to include the operation of the vehicles in conjunction with training exercises or for transport to maintenance or repair services. This weight exemption would be applicable to vehicles purchased before January 1, 1991.
- Require firefighting vehicles purchased on or after January 1, 1991 to comply with specified permit requirements and weight limitations.
- Prohibit local agencies from charging fees (except extra load fees) for the use of roads, and from restricting the hours that trucks may operate unless consistent with a congestion management plan.

SUMMARY OF COMMENTS

Because the bill would authorize, but not require, firefighting vehicles to operate on public highways in nonemergency situations, it would not result in State-mandated costs. Therefore, the provision in the bill providing for reimbursement to local agencies should be deleted.

SUMMARY OF CHANGES

This version of the bill makes the following major changes from the previous analysis of the April 26, 1989 version of the bill.

- Prohibits local agencies from imposing taxes/fees (except extra load fees) for the privilege of using streets or highways.
- Prohibits local agencies from restricting trucks on roads during certain hours unless the restriction is consistent with a congestion management plan.

POSITION:

Department Director

Date

Neutral, suggest amendment

Principal Analyst (751) J. Dong	Date 7/13/89	Program Budget Manager (700) Wallis L. Clark	Date 7/14/89	Governor's Office Position noted Position approved Position disapproved by: _____ date: _____
------------------------------------	-----------------	---	-----------------	--

FR:0041F

BILL ANALYSIS/ENROLLED BILL REPORT--(Continued)

Form DF-43

AUTHOR

AMENDMENT DATE

BILL NUMBER

Campbell

July 10, 1989

SB 286

FISCAL SUMMARY--STATE LEVEL

Code/Department Agency or Revenue Type	LEVEL SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands)			Code Fund
		FC 1989-90	FC 1990-91	FC 1991-92	
2660 - Transportation	SO	-None-			

Impact on State Appropriations Limit--No

FISCAL SUMMARY--LOCAL LEVEL

Reimbursable Expenditures	--	--	--
Non-Reimbursable Expenditures	--	--	--
Revenues	--	--	--

ANALYSIS

A. Specific Findings

Weight Limits

Under current law, vehicles operating on public highways are subject to various weight and size restrictions. Government-owned or operated emergency vehicles are exempt from all weight restrictions when responding to and returning from emergency fire calls or being moved in anticipation of these calls.

This bill would expand the exemption to allow the operation of the vehicles in conjunction with training exercises or for transport to maintenance or repair facilities. This exemption would be applicable to vehicles purchased before January 1, 1991.

The bill would require firefighting vehicles purchased on or after January 1, 1991 to comply with applicable permit requirements adopted by the Department of Transportation (Caltrans) under existing law and to meet specified weight limitations.

According to Caltrans, weight limitations for vehicles are established to prevent damage to pavements and bridge structures and to avert potential hazards from overweight loads. However, contrary to current law prohibiting such activity, firefighting vehicles have been operating on public highways for training or maintenance purposes. Generally, law enforcement agencies have not enforced the prohibition against such activity by these vehicles. While exempting firefighting vehicles purchased before January 1, 1991 from the prohibition, the bill would also require vehicles purchased on or after January 1, 1991 to meet certain permit requirements and weight limitations in order to be exempt from the prohibition. These requirements and limitations, which were negotiated between the author's office, Caltrans and the California Highway Patrol, would minimize roadway damage and enhance public safety.

FR:0041F

AUTHOR

AMENDMENT DATE

BILL NUMBER

Campbell

July 10, 1989

SB 286

ANALYSIS

A. Specific Findings (Continued)

Fees and Operational Restrictions

Chapter 106/89 (AB 471) provides for, among other things, an increase of 40 percent in commercial vehicle weight fees effective 7/1/90 with the passage by the voters of SCA I. The fee increases an additional 10% effective 1/1/95. A requirement that specified local agencies develop a congestion management plan is also required. Chapter 106/89 is one component of the \$18.5 billion 10-year transportation funding and expenditure plan approved by the Governor and the Legislature.

This bill, as long as Chapter 106/89 is in effect, would prohibit local agencies from imposing taxes, permit fees (except for large loads), or other charges for the privilege of using streets or highways. The bill would also prohibit local agencies in urbanized areas from restricting the hours that trucks may operate on any street or highway unless the restriction is consistent with the adopted congestion management plan.

Caltrans advises that the provisions of this bill related to Chapter 106/89 were accepted in the development of the 10-year transportation plan to make the weight fee increase component of the plan more palatable to the trucking industry.

B. Fiscal Analysis

The bill would have no State fiscal impact.

The Local Cost Estimate indicates that the "crimes and infractions" disclaimer in the bill is appropriate. However, for other costs, the bill provides for reimbursement to local agencies if the Commission on State Mandates determines that the bill contains costs mandated by the State. Because the bill would authorize, but not require, firefighting vehicles to operate on public highways in nonemergency situations, it would not result in State-mandated costs. Therefore, the provision providing for reimbursement to local agencies should be deleted.

FR:0041F

Local Cost	NO. 2	ISSUE DATE JUL 12 1989	BILL NUMBER SB 286
ESTIMATE	AUTHOR Campbell	DATE LAST AMENDED July 10, 1989	
Department of Finance			

I. SUMMARY OF LOCAL IMPACT:

Would expand existing weight and size exemptions for fire service vehicles being used for fire emergencies to include vehicles being operated for additional purposes, as specified. Would limit the exemption to vehicles purchased before January 1, 1991. Would require fire service vehicles purchased on or after January 1, 1991 to meet applicable permit and equipment rating requirements.

II. FISCAL SUMMARY--LOCAL LEVEL

	1989-90	1990-91	1991-92
	(Dollars in Thousands)		
Reimbursable Expenditures:	--	--	--
Non-Reimbursable Expenditures:	--	--	--
Revenues:	--	--	--

III. ANALYSIS:

A. Introduction

Current law exempts emergency vehicles owned or operated by a governmental entity from Vehicle Code restrictions on size, weight and load when responding to or returning from emergency fire calls. The exemption does not extend to those times when the vehicles are used in fire training exercises or are being transported for maintenance or repair.

This bill would extend those exemptions for fire vehicles to the two nonemergency situations cited in the preceding sentence (essentially at all times) for vehicles purchased before January 1, 1991.

After January 1, 1992 fire vehicles would have to comply with Department of Transportation requirements for the movement of oversize loads and manufacturers would be required to meet specified equipment rating requirements. Any violation of those requirements would be crime.

B. Working Data

1. Section 6 of Article XIII B of the California Constitution reads as follows:

Whenever the Legislature or any State agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse

(continued)

PREPARED #621 Maria Martinez LR:3527C	DATE	REVIEWED * [Signature]	DATE	APPROVED * [Signature]	DATE	[Signature]
--	------	---------------------------	------	---------------------------	------	-------------

AUTHOR	DATE LAST AMENDED	BILL NUMBER
Campbell	July 10, 1989	SB 286

III. ANALYSIS (continued)

8. Working Data (continued)

such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

- (a) Legislative mandates requested by the local agency affected;
- (b) Legislation defining a new crime or changing an existing definition of a crime; or
- (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

2. Under Section 6(b) of Article XIII B of the California Constitution, any costs to a unit of local government which result from legislation defining a new crime or changing an existing definition of a crime are not "state mandated costs" and therefore are not reimbursable by the State. In addition, Section 17556(g) of the Government Code provides that the Commission on State Mandates shall not find a reimbursable mandate in such legislation or in legislation which eliminated a crime or changed the penalty for a crime. It should be noted, however, that Section 2246.2 of the Revenue and Taxation Code requires that funding be included in the Governor's Budget to reimburse local entities for one-half of any additional detention and probation costs in excess of 1 percent of such costs in the preceding year incurred as the result of a bill which increased the penalty for a crime. Any local entity which believes that this bill falls within the purview of these provisions may, as provided by law, file a written request for these funds with the Department of Finance.
3. The courts have held that costs to a local entity resulting from an action undertaken at the option of the local entity are not reimbursable as "costs mandated by the state".

Chapter 1275, Statutes of 1975 modified Code of Civil Procedures Sections 1230.010 et seq. to revise and recodify the eminent domain laws of this state. The revisions included a new requirement that, upon proof of satisfaction of four stated conditions, the owner of a business conducted on the condemned property is entitled to compensation for loss of goodwill (CCP Section 1263.510. "... (In addition,)... the Legislature made clear the discretionary nature of acquisition of property by eminent domain by passage of CCP Section 1230.030 which was

AUTHOR	DATE LAST AMENDED	BILL NUMBER
Campbell	July 10, 1989	SB 286

III. ANALYSIS (continued)

B. Working Data (continued)

included within Chapter 1275, Statutes of 1975, the same legislation that changed the law of eminent domain to require compensation for business goodwill. Section 1230.030 provides: "Nothing in this title requires that the power of eminent domain be exercised to acquire property necessary for public use. Whether property necessary for public use is to be acquired by purchase or other means or by eminent domain is a decision left to the discretion of the person authorized to acquire the property."

The City of Merced subsequently acquired some property by eminent domain and, in so doing, incurred costs in paying for the business goodwill associated with the property. The City then sought to recover those costs from the State on the basis that they were costs mandated by the State. In City of Merced v. State of California, 153 Cal. App. 3d 777 (1984), the court said:

"We agree that the Legislature intended for payment of goodwill to be discretionary. ... whether a city or county decides to exercise eminent domain is, essentially, an option of the city or county, rather than a mandate of the state. The fundamental concept is that the city or county is not required to exercise eminent domain. If, however, the power of eminent domain is exercised, then the city will be required to pay for loss of goodwill. Thus, payment for loss of goodwill is not a state-mandated cost."

4. Section 35002(c) of the Vehicle Code provides, in pertinent part, that the cost of repair of the damage to a highway caused by an oversize or overweight vehicle is a proper expense of the government agency operating such a vehicle.

C. Conclusion

Based on the "City of Merced" case cited above, the Department of Finance believes that the provisions of SB 286 simply would make an optional program available to local governments (i.e., transporting oversize or overweight vehicles, on public roadways in certain instances), any costs of which in terms of road repairs would not be reimbursable because they would not be costs mandated by the State. Therefore, a "general" disclaimer would be appropriate and reads as follows:

AUTHOR	DATE LAST AMENDED	BILL NUMBER
Campbell	July 10, 1989	SB 286

III. ANALYSIS (continued)

C. Conclusion (continued)

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for any costs incurred by a local agency in repairing the damage to any highway caused by its oversize or overweight vehicle because this act does not mandate a new program or higher level of service on local government in that regard. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 4 (commencing with Section 17550) of Part 7 of Division 2 of Title 2 of the Government Code.

The "crimes and infractions" disclaimer in Section 2 of the bill is appropriate for the crime established by the bill. This section also contains language which would allow the bill to become operative on January 1, 1990, rather than July 1, 1990, as specified in Section 17580 of the Government Code.

LR:3527L-4

SB 286 (Campbell)
9/7/89

ASSEMBLY WAYS AND MEANS COMMITTEE
REPUBLICAN ANALYSIS

SB 286 (Campbell) -- TRUCKS

Version: 7/10/89

Vice Chairman: Bill Baker

Recommendation: Support, if not amended

Vote: Majority

Summary: (1) Authorizes public emergency vehicles not complying with weight, size and load limits to be able to travel on highways in non-emergency situations. (2) Requires these emergency vehicles purchased after 1/1/91 to meet Caltrans requirements for movement of oversize loads. (3) Specifies that as long as the new schedule for commercial truck weight fees remains in effect, no other tax, permit fee or other charge for the privilege of using streets or highways by any local jurisdiction may be imposed (other than a business license fee or permit fee). (4) Prohibits a local entity (in an urbanized area, which is required to prepare a congestion management program-CMP) from imposing restrictions on truck travel on streets in its jurisdiction otherwise open to trucks unless the restriction is consistent with the CMP.

Fiscal effect: Unknown

Supported by: Unknown Opposed by: Unknown Governor's position: Unknown

Comments: Committee amendments tentatively forced on author: (1) delete Sec. 2 or bill and (2) permit City of LA to impose restrictions.

As it stands, this bill, without committee amendments, reflects the fees/permit section is a part of the negotiated transportation financing package, and seeks to address truckers concerns about truck restrictions imposed by local jurisdictions, given the higher truck weight fees set forth is a gas tax/weight fee measure is approved. This bill says that for the duration of this weight fee schedule, trucks will not be charged certain fees for using local streets and highways.

The other section on emergency firefighting equipment is sponsored by the California State Fireman's Association.

Senate Republican Floor Vote -- 5/18/89

(34-0) Ayes: All Republicans present

Assembly Republican Committee vote

Trans -- 6/29/89

(10-0) Ayes: All Republicans

Abs.: Quackenbush

Ways & Means -- 6/29/89

(Breakdown not available)

Consultants: Terri McElligott/Mark Watts

SENATE TRANSPORTATION COMMITTEE
Senator Quentin L. Kopp, Chairman

BILL NO.:.....SB 286
AUTHOR:.....CAMPBELL
VERSION:
(Orig.):
(As Amend.):...09/11/89
FISCAL:.....YES

SUBJECT:

Truck restrictions: vehicle weight exceptions.

DESCRIPTION:

This bill would limit the ability of cities and counties to restrict the hours of operation of trucks on any street or highway unless the restriction is consistent with the local congestion management plan, as specified. The bill would exempt Los Angeles County from these provisions.

The bill would, if Senate Constitutional Amendment 1 is approved by voters in June 1990, prohibit local agencies from imposing a tax, permit fee or other charge for using its streets or highways unless the fee was imposed before June 1, 1989.

The bill would extend vehicle weight exemptions for fire service vehicles to include training or fire prevention activities or when the vehicles are moved for maintenance, repair or service.

ANALYSIS:

Existing law authorizes local governments to impose restrictions on truck travel and parking on local streets and roads. Other provisions of law exempt public emergency vehicles from specified size, weight and load limits when responding to emergency fire calls.

This bill would:

1. Make changes in current law regarding the access of trucks on local roads. These changes would be applicable so long as any proposed increase in weight fees required in AB 471 (Katz) and which are subject to the passage of SCA 1 remain in effect. Specifically, the bill would:

a. Prohibit local agencies that are required to prepare congestion management plans from restricting the hours any street is open to truck traffic, unless the restriction is consistent with the congestion management plan, and is coordinated with adjacent local agencies, as specified. The prohibition would not apply to restrictions in existence on June 1, 1989.

b. Require the California Transportation Commission (CTC) and the Department of Transportation to make specified findings if an inconsistency in access occurs between cities and counties and an appeal is filed. Access restrictions would not go into effect during the appeals process.

more.....

c. Except from (a) and (b) the County of Los Angeles if the City of Los Angeles establishes restrictions on truck operations. Restrictions by any other city within the county would have to conform with those imposed by the City of Los Angeles, subject to appeal provisions.

2. The bill would prohibit local agencies from imposing additional taxes, fees, or other charges on vehicles using local streets, except for those charges in effect on June 1, 1989 and for existing permit fees for oversized trucks, if SCA 1 is approved by voters in June 1990.

3. The bill would extend the current weight, size and load exemptions for fire vehicles to nonemergency situations (essentially at all times) for vehicles purchased before 1991.

After 1991 fire vehicles would have to comply with Department of Transportation requirements for the movement of oversize loads. Vehicle manufacturers would have to construct the vehicles so they could carry specified personnel and equipment loads. In addition, fire vehicles exceeding 31,000 pounds would have to have a secondary braking system.

POSITIONS:

SUPPORT: California State Firemen's Association

OPPOSED: California Teamsters Public Affairs Council

09/12/89

SENATE THIRD READING

SB 286 (Campbell) - As Amended: September 13, 1989

SENATE VOTE: 34-0

ASSEMBLY ACTIONS:

COMMITTEE TRANS. VOTE 10-0 COMMITTEE W. & M. VOTE 23-0

Ayes:

Ayes:

Nays:

Nays:

DIGEST

Existing law:

- 1) Authorizes local governments to impose restrictions on truck travel and parking on local streets and roads.
- 2) Exempts public emergency vehicles from specified weight, size, and load limits, but only when responding to emergency fire calls.

This bill:

- 1) Prohibits a local entity in an urbanized area, as defined, which is required to prepare and implement a congestion management plan (CMP) as required by AB 471 (Katz), from imposing restrictions on truck travel on any street or highway under its jurisdiction which is otherwise open to trucks, unless the agency responsible for adopting the CMP determines that the restriction is consistent with the CMP and is coordinated with adjacent local entities to avoid unreasonable interference with trucking operations. Exempts restrictions in existence on June 1, 1989.
- 2) Establishes an appeals process involving the California Transportation Commission and the Director of Transportation for resolving inconsistencies in truck access restrictions.
- 3) Provides that truck restrictions may nonetheless be imposed by local governments in the County of Los Angeles (notwithstanding this bill) under specified conditions, if the City of Los Angeles imposes such restrictions and other cities are consistent.
- 4) Prohibits local entities from imposing any taxes, permit fees, or other charges for the privilege of using local streets and highways, except for fees in effect as of June 1, 1989, or permit fees for loads requiring permits under the Vehicle Code.

- continued -

- 5) Specifies that the prohibitions against restrictions or charges remain in effect as long as truck weight fee increases to be imposed by AB 471 and SB 500 are effective.
- 6) Provides that nothing in this measure shall be construed to allow local governments to impose fees not already allowed by existing law.
- 7) Authorizes public emergency vehicles not complying with specified weight, size, and load limits, to travel on the highways in nonemergency situations as well.
- 8) Requires public emergency vehicles purchased after January 1, 1991, to comply with Department of Transportation (Caltrans) requirements for the movement of oversize loads.
- 9) Also requires vehicles purchased after January 1, 1991, to be manufactured to carry specified personnel and equipment loads. Fire vehicles exceeding 31,000 lbs. would be required to have a secondary braking system.

FISCAL EFFECT

Unknown

COMMENTS

- 1) The bill is intended to avoid unreasonable and conflicting restrictions on truck travel on local roads which local governments may impose in an effort to reduce traffic congestion during commute hours.
- 2) Recent amendments provide that the bill's provisions limiting local government authority do not apply to Los Angeles County if the City of Los Angeles imposes a truck restriction program.

Erik Lange
445-7278
9/14/89:atrans

SB 286
Page 2



LRI HISTORY LLC

INTENT@LRIHISTORY.COM

WWW.LRIHISTORY.COM

(916) 442-7660

Senate Committee on Appropriations

SOURCE:
CALIFORNIA STATE ARCHIVES

SENATE TRANSPORTATION COMMITTEE
Senator Quentin L. Kopp, Chairman

BILL NO.:.....SB 286
AUTHOR:.....CAMPBELL
VERSION:
(Orig.):
(As Amend.):...04/06/89
FISCAL:.....YES

SUBJECT:

Vehicle size, weight and load: exemptions.

DESCRIPTION:

This bill would expand existing weight and size exemptions for fire service vehicles responding to emergencies. It would extend the exemptions to training or fire prevention activities or when the vehicles are transported for maintenance, repair or service.

The new exemptions would apply only to vehicles purchased before January 1, 1992. Vehicles purchased after that date would be required to comply with Department of Transportation permit requirements, specified gross weight ratings and additional braking requirements.

ANALYSIS:

Current law exempts emergency vehicles owned or operated by a governmental entity from Vehicle Code restrictions on size, weight and load when responding to or returning from emergency fire calls. The exemption does not extend to those times when the vehicles are used in fire training exercises or being transported for maintenance or repair. Law enforcement authorities, however, reportedly do not cite the vehicles for being oversize during nonemergency operations.

This bill would extend the weight, size and load exemptions for fire vehicles to nonemergency situations (essentially at all times) for vehicles purchased before 1992.

After 1992 fire vehicles would have to comply with Department of Transportation requirements for the movement of oversize loads. Vehicle manufacturers would have to construct the vehicles so they could carry specified personnel and equipment loads. In addition, fire vehicles exceeding 31,000 pounds would have to have a secondary braking system.

COMMENTS:

1. Extending the exemptions to nonemergency situations would codify existing practice. The California Highway Patrol and Department of Transportation reportedly have agreed to the bill's provisions.

more.....

2. The 1992 date for compliance with new requirements may be too generous. Advancing the date to 1991 would still give manufacturers 20 months (from today) to meet the new safety specifications while putting safer vehicles on the road a year earlier.

POSITIONS:

SUPPORT: California State Firemen's Association

OPPOSED:

2. The 1992 date for compliance with new requirements may be too generous. Advancing the date to 1991 would still give manufacturers 20 months (from today) to meet the new safety specifications while putting safer vehicles on the road a year earlier.

POSITIONS:

SUPPORT: California State Firemen's Association

OPPOSED:

04/10/89

Honorable William Campbell
 Member of the Senate
 State Capitol, Room 5052
 Sacramento, CA 95814

DEPARTMENT Finance	AUTHOR Campbell	BILL NUMBER SB 286
SPONSORED BY State Firemen's Association	RELATED BILLS	AMENDMENT DATE April 26, 1989

BILL SUMMARY

EMERGENCY VEHICLES

This bill would:

- Expand the existing exemption from vehicle weight limitations for firefighting vehicles to include the operation of the vehicles in conjunction with training exercises or for transport to maintenance or repair services. This weight exemption would be applicable to vehicles purchased before January 1, 1991.
- Require firefighting vehicles purchased on or after January 1, 1991 to comply with specified permit requirements and weight limitations.

SUMMARY OF COMMENTS

Because the bill would authorize, but not require, firefighting vehicles to operate on public highways in nonemergency situations, it would not result in State-mandated costs. Therefore, the provision in the bill providing for reimbursement to local agencies should be deleted.

FISCAL SUMMARY--STATE LEVEL

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year)			Code Fund
		FC 1988-89	FC 1989-90	FC 1990-91	
2660 - Transportation	SO		None		

Impact on State Appropriations Limit--No

FISCAL SUMMARY--LOCAL LEVEL

Reimbursable Expenditures	--	--	--
Non-Reimbursable Expenditures	--	--	--
Revenues	--	--	--

POSITION: Department Director Date

Neutral, suggest amendment

Principal Analyst	Date	Program Budget Manager	Date	Governor's Office
(751) J. Dong	5/9/89	(700) Wallis L. Clark		Position noted
<i>Robert Dean</i>		<i>BRK Wallis L. Clark</i>	5/17/89	Position approved
				Position disapproved
				by: date:

FR/r1:0041F

BILL ANALYSIS/ENROLLED BILL REPORT---(Continued)

Form DF-43

AUTHOR	AMENDMENT DATE	BILL NUMBER
Campbell	April 26, 1989	SB 286

ANALYSIS

A. Specific Findings

Under current law, vehicles operating on public highways are subject to various weight and size restrictions. Government-owned or operated emergency vehicles are exempt from all weight restrictions when responding to and returning from emergency fire calls or being moved in anticipation of these calls.

This bill would expand the exemption to allow the operation of the vehicles in conjunction with training exercises or for transport to maintenance or repair facilities. This exemption would be applicable to vehicles purchased before January 1, 1991.

The bill would require firefighting vehicles purchased on or after January 1, 1991 to comply with applicable permit requirements adopted by the Department of Transportation (Caltrans) under existing law and to meet specified weight limitations.

According to Caltrans, weight limitations for vehicles are established to prevent damage to pavements and bridge structures and to avert potential hazards from overweight loads. However, contrary to current law prohibiting such activity, firefighting vehicles have been operating on public highways for training or maintenance purposes. Generally, law enforcement agencies have not enforced the prohibition against such activity by these vehicles. While exempting firefighting vehicles purchased before January 1, 1991 from the prohibition, the bill would also require vehicles purchased on or after January 1, 1991 to meet certain permit requirements and weight limitations in order to be exempt from the prohibition. These requirements and limitations, which were negotiated between the author's office, Caltrans and the California Highway Patrol, would minimize roadway damage and enhance public safety.

B. Fiscal Analysis

The bill would have no State fiscal impact.

The Local Cost Estimate indicates that the "crimes and infractions" disclaimer in the bill is appropriate. However, for other costs, the bill provides for reimbursement to local agencies if the Commission on State Mandates determines that the bill contains costs mandated by the State. Because the bill would authorize, but not require, firefighting vehicles to operate on public highways in nonemergency situations, it would not result in State-mandated costs. Therefore, the provision providing for reimbursement to local agencies should be deleted.

FR/rj:0C41F

Local Cost	NO. 1	ISSUE DATE MAY 10 1989	BILL NUMBER SB 286
ESTIMATE	AUTHOR Campbell		DATE LAST AMENDED April 26, 1989
Department of Finance			

I. SUMMARY OF LOCAL IMPACT:

Expands existing weight and size exemptions for fire service vehicles being used for fire emergencies to include vehicles being operated for additional purposes, as specified. Limits the exemption to vehicles purchased before January 1, 1991. Requires fire service vehicles purchased on or after January 1, 1991 to meet applicable permit and equipment rating requirements.

II. FISCAL SUMMARY--LOCAL LEVEL	1988-89	1989-90	1990-91
		(Dollars in Thousands)	
Reimbursable Expenditures:	--	--	--
Non-Reimbursable Expenditures:	--	--	--
Revenues:	--	--	--

III. ANALYSIS:

A. Introduction

Current law exempts emergency vehicles owned or operated by a governmental entity from Vehicle Code restrictions on size, weight and load when responding to or returning from emergency fire calls. The exemption does not extend to those times when the vehicles are used in fire training exercises or are being transported for maintenance or repair.

This bill would extend those exemptions for fire vehicles to the two nonemergency situations cited in the preceding sentence (essentially at all times) for vehicles purchased before January 1, 1991.

After January 1, 1992 fire vehicles would have to comply with Department of Transportation requirements for the movement of oversize loads and manufacturers would be required to meet specified equipment rating requirements. Any violation of those requirements would be crime.

(continued)

PREPARED (621) Mara S. Winters LR:3527L	Date = REVIEWED Shirley	Date = APPROVED Shirley	DATE
--	----------------------------	----------------------------	------

AUTHOR	DATE LAST AMENDED	BILL NUMBER
Campbell	April 26, 1989	SB 286

III. ANALYSIS (continued)

B. Working Data

1. Section 6 of Article XIII B of the California Constitution reads as follows:

Whenever the Legislature or any State agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

- (a) Legislative mandates requested by the local agency affected;
- (b) Legislation defining a new crime or changing an existing definition of a crime; or
- (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

2. Under Section 6(b) of Article XIII B of the California Constitution, any costs to a unit of local government which result from legislation defining a new crime or changing an existing definition of a crime are not "state mandated costs" and therefore are not reimbursable by the State. In addition, Section 17556(g) of the Government Code provides that the Commission on State Mandates shall not find a reimbursable mandate in such legislation or in legislation which eliminated a crime or changed the penalty for a crime. It should be noted, however, that Section 2246.2 of the Revenue and Taxation Code requires that funding be included in the Governor's Budget to reimburse local entities for one-half of any additional detention and probation costs in excess of 1 percent of such costs in the preceding year incurred as the result of a bill which increased the penalty for a crime. Any local entity which believes that this bill falls within the purview of these provisions may, as provided by law, file a written request for these funds with the Department of Finance.
3. The courts have held that costs to a local entity resulting from an action undertaken at the option of the local entity are not reimbursable as "costs mandated by the state".

LR:3527/2L

AUTHOR	DATE LAST AMENDED	BILL NUMBER
Campbell	April 26, 1989	SB 286

III. ANALYSIS (continued)

B. Working Data (continued)

Chapter 1275, Statutes of 1975 modified Code of Civil Procedures Sections 1230.010 et seq. to revise and recodify the eminent domain laws of this state. The revisions included a new requirement that, upon proof of satisfaction of four stated conditions, the owner of a business conducted on the condemned property is entitled to compensation for loss of goodwill (CCP Section 1263.510."... (In addition,)... the Legislature made clear the discretionary nature of acquisition of property by eminent domain by passage of CCP Section 1230.030 which was included within Chapter 1275, Statutes of 1975, the same legislation that changed the law of eminent domain to require compensation for business goodwill. Section 1230.030 provides: "Nothing in this title requires that the power of eminent domain be exercised to acquire property necessary for public use. Whether property necessary for public use is to be acquired by purchase or other means or by eminent domain is a decision left to the discretion of the person authorized to acquire the property."

The City of Merced subsequently acquired some property by eminent domain and, in so doing, incurred costs in paying for the business goodwill associated with the property. The City then sought to recover those costs from the State on the basis that they were costs mandated by the State. In City of Merced v. State of California, 153 Cal. App. 3d 777 (1984), the court said:

"We agree that the Legislature intended for payment of goodwill to be discretionary. ... whether a city or county decides to exercise eminent domain is, essentially, an option of the city or county, rather than a mandate of the state. The fundamental concept is that the city or county is not required to exercise eminent domain. If, however, the power of eminent domain is exercised, then the city will be required to pay for loss of goodwill. Thus, payment for loss of goodwill is not a state-mandated cost."

4. Section 35002(c) of the Vehicle Code provides, in pertinent part, that the cost of repair of the damage to a highway caused by an oversize or overweight vehicle is a proper expense of the government agency operating such a vehicle.

LR:3527/3L

AUTHOR	DATE LAST AMENDED	BILL NUMBER
Campbell	April 26, 1989	SB 286

III. ANALYSIS (continued)

C. Conclusion

Based on the "City of Merced" case cited above, the Department of Finance believes that the provisions of SB 286 simply would make an optional program available to local governments (i.e., transporting oversize or overweight vehicles, on public roadways in certain instances), any costs of which in terms of road repairs would not be reimbursable because they would not be costs mandated by the State. Therefore, a "general" disclaimer would be appropriate and reads as follows:

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for any costs incurred by a local agency in repairing the damage to any highway caused by its oversize or overweight vehicle because this act does not mandate a new program or higher level of service on local government in that regard. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 4 (commencing with Section 17550) of Part 7 of Division 2 of Title 2 of the Government Code.

The "crimes and infractions" disclaimer in Section 2 of the bill is appropriate for the crime established by the bill. This section also contains language which would allow the bill to become operative on January 1, 1990, rather than July 1, 1990, as specified in Section 17580 of the Government Code.

LR:3527/4L



LRI HISTORY LLC

INTENT@LRIHISTORY.COM

WWW.LRIHISTORY.COM

(916) 442-7660

Office of Senate Floor Analyses

SOURCE:
CALIFORNIA STATE ARCHIVES

UNFINISHED BUSINESS

SENATE RULES COMMITTEE

Office of
Senate Floor Analyses
1100 J Street, Suite 120
445-6614

Bill No. SB 286
Author: Campbell (R)
Amended: 9/13/89
Vote Required: Majority

Committee Votes:

Senate Floor Vote: Page 1499, 5/18/89

COMMITTEE: TRANSPORTATION		
BILL NO.:	SB 286	
DATE OF HEARING:	4-18-89	
SENATORS:	AYE	NO
Bergeson	✓	
Deddeh	✓	
C. Green	✓	
L. Greene		
Hart		
Leonard	✓	
Morgan		
Robbins	✓	
Russell		
Seymour		
Vuich	✓	
McCorquodale (VC)		
Kopp (Ch)	✓	
TOTAL:	9	0

PLACED
ON FILE
PURSUANT
TO SENATE
RULE 28.8

Senate Bill 286—An act to amend Section 35002 of the Vehicle Code, relating to vehicles.

Bill read third time.

Roll Call

The roll was called and the bill was passed by the following vote:
AYES (34)—Senators Ayala, Bergeson, Beverly, Boatwright, Campbell, Craven, Davis, Dills, Doolittle, Garamendi, Cecil Green, Bill Greene, Leroy Greene, Hart, Keene, Kopp, Leonard, Lockyer, Maddy, Marks, McCorquodale, Mello, Nielsen, Petris, Presley, Robbins, Roberti, Rogers, Royce, Russell, Stirling, Torres, Vuich, and Watson.

NOES (0)—None.

Bill ordered transmitted to the Assembly.

Assembly Floor Vote: 47-28, Pg. 4966, 9/14/89

SUBJECT: Vehicles: weight: exceptions: emergency vehicles

SOURCE: California State Firemen's Association
California Trucking Association

DIGEST: This bill would expand existing weight and size exemptions for fire service vehicles responding to emergencies. It would extend the exemptions to training or fire prevention activities or when the vehicles are transported for maintenance, repair or service.

The new exemptions would apply only to vehicles purchased before January 1, 1991. Vehicles purchased after that date would be required to comply with Department of Transportation permit requirements, specified gross weight ratings and additional braking requirements.

The bill would also prohibit a local entity in an urbanized area, which is required to prepare and implement a congestion management plan (CMP) as required by AB 471 (Katz), from imposing restrictions on truck travel on any street or highway under its jurisdiction unless the agency responsible for adopting the CMP determines that the restriction is consistent with the CMP and is coordinated with adjacent local entities.

Assembly Amendments:

- 1) Except for restrictions in existence on June 1, 1989, prohibit a local entity in an urbanized area, which is required to prepare and implement a congestion management plan (CMP) as required by AB 471 (Katz), from imposing restrictions on truck travel on any street or highway under its

jurisdiction which is otherwise open to trucks, unless certain conditions are met.

- 2) Establish an appeals process involving the California Transportation Commission and the Director of Transportation.
- 3) Prohibit local entities from imposing any taxes, permit fees, or other charges for the privilege of using local streets and highways except for fees in effect as of June 1, 1989 or permit fees for loads requiring permits under the Vehicle Code.
- 4) Specify that the prohibitions against restrictions or charges remain in effect as long as truck weight fee increases imposed by AB 471 and SB 300 are effective.
- 5) Provide that truck restrictions may nonetheless be imposed by local governments in the County of Los Angeles (notwithstanding this bill) under specified conditions, if the City of Los Angeles imposes such restrictions and other cities are consistent.
- 6) Provide that nothing in this measure shall be construed to allow local governments to impose fees not already allowed by existing law.

ANALYSIS: Current law exempts emergency vehicles owned or operated by a governmental entity from Vehicle Code restrictions on size, weight and load when responding to or returning from emergency fire calls. The exemption does not extend to those times when the vehicles are used in fire training exercises or being transported for maintenance or repair. Law enforcement authorities, however, reportedly do not cite the vehicles for being oversize during nonemergency operations.

This bill would extend the weight, size and load exemptions for fire vehicles to nonemergency situations (essentially at all times) for vehicles purchased before 1991.

After 1991 fire vehicles would have to comply with Department of Transportation requirements for the movement of oversize loads. Vehicle manufacturers would have to construct the vehicles so they could carry specified personnel and equipment loads. In addition, fire vehicles exceeding 31,000 pounds would have to have a secondary braking system.

Current law authorizes local governments to impose restrictions on truck travel and parking on local streets and roads.

This bill would prohibit a local entity in an urbanized area, as defined, which is required to prepare and implement a congestion management plan (CMP) as required by AB 471 (Katz), from imposing restrictions on truck travel on any street or highway under its jurisdiction which is otherwise open to trucks, unless the agency responsible for adopting the CMP determines that the restriction is consistent with the CMP and is coordinated with adjacent local entities to avoid unreasonable interference with trucking operations. This bill would exempt restrictions in existence on June 1, 1989.

The bill would establish an appeals process involving the California Transportation Commission and the Director of Transportation for resolving inconsistencies in truck access restrictions.

The bill would prohibit local entities from imposing any taxes, permit fees, or other charges for the privilege of using local streets and highways, except for fees in effect as of June 1, 1989, or permit fees for loads requiring permits under the Vehicle Code.

The bill specifies that the prohibitions against restrictions or charges remain in effect as long as truck weight fee increases imposed by AB 471 and SB 300 are effective.

Comment:

This bill contains two parts. The original language, as the bill left the Senate, relates to exemptions for emergency equipment and is sponsored by the California State Fireman's Association. According to the Assembly Transportation Committee, the additional language was requested by the California Trucking Association to avoid unreasonable burdens on truck travel that might be imposed by local governments, as an offset for higher truck weight fees imposed by the transportation funding package (AB 471 - Katz).

FISCAL EFFECT: Appropriation: No Fiscal Committee: Yes Local: Yes

SUPPORT: (Verified 9/14/89)

California State Firemen's Association (co-source)
California Trucking Association (co-source)

OPPOSITION: (Verified 9/14/89)

City of Los Angeles
City of San Jose
League of California Cities

ARGUMENTS IN SUPPORT: According to the California Firemen's Association extending the exemptions to nonemergency situations would codify existing practice. In addition, the bill requires a dual breaking system which will make fire trucks safer.

ARGUMENTS IN OPPOSITION: According to the League of California Cities, this bill preempts local authority to charge fees on commercial trucks for transit system management purposes.

ASSEMBLY FLOOR VOTE:

Senate Bill No. 286 passed by the following vote:

AYES—47

Allen	Eaves	Jones	Polanco
Areias	Epple	Kelley	Pringle
Bader	Felando	Killea	Quackenbush
Baker	Ferguson	Klehs	Seastrand
Bentley	Filante	Lancaster	Statham
Brown, Dennis	Frazee	Leslie	Tanner
Chandler	Frizzelle	Lewis	Waters, Norman
Clute	Hannigan	McClintock	Woodruff
Condit	Hansen	Mojonnier	Wright
Cortese	Hauser	Mountjoy	Wyman
Costa	Hill	Nolan	Mr. Speaker
Eastin	Johnson	Peace	

NOES—28

Bane	Elder	Isenberg	O'Connell
Bates	Farr	Johnston	Roos
Bronzan	Floyd	Katz	Roybal-Allard
Calderon	Friedman	Lempert	Sher
Campbell	Harris	Margolin	Tucker
Chacon	Hayden	Moore	Vasconcellos
Connelly	Hughes	Murray	Waters, Maxine

Bill ordered transmitted to the Senate.

RJG:nf 9/14/89 Senate Floor Analyses

CERTIFICATE OF SERVICE

I, the undersigned, certify and declare that I served the following document(s) described as:

PETITIONER CITY OF OAKLAND'S MOTION FOR JUDICIAL NOTICE

by providing a true and correct copy of the aforementioned document(s) on the interested parties in this action identified as follows and by the means designated below:

Service List

Andrew M. Zacks	az@zpflaw.com
Paul J. Katz	paul@katzappellatelaw.com
Kathleen McCracken	kathleen.McCracken@bbklaw.com
Lutfi Kharuf	lutfi.kharuf@bbklaw.com
Laura Dougherty	laura@hjta.org
Adrienne Weil	aweil@mtc.ca.gov
Eric A. Shumsky	eshumsky@orrick.com
Monica Haymond	mhaymond@orrick.com
Cara Jenkins	cara.jenkins@lc.ca.gov
Ethan Fallon	efallon@orrick.com
Jason Litt	jlitt@horvitzlevy.com
Jeremy Rosen	jrosen@horvitzlevy.com
Joanna Gin	joanna.gin@bbklaw.com
Joshua Nelson	Joshua.Nelson@bbklaw.com
Joshua McDaniel	jmcdaniel@horvitzlevy.com
Larry Peluso	firm@pelusolaw.net
Robin Johansen	rjohansen@olsonremcho.com
Thomas A. Willis	twillis@olsonremcho.com
Margaret Prinzing	mprinzing@olsonremcho.com
Timothy Bittle	tim@hjta.org

BY ELECTRONIC SERVICE – [L.R. 5[II](i)] A TrueFiling user's registration to participate in electronic filing pursuant to this rule constitutes consent to electronic service or delivery of all documents by any other TrueFiling user in the Proceeding or by the court. (Cal. R. 8.71.)

Executed this 3rd day of June, 2021.

/s/ Cedric Chao
Cedric Chao
CHAO ADR, PC

*Attorneys for Petitioner CITY OF
OAKLAND*

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **ZOLLY v. CITY OF
OAKLAND**

Case Number: **S262634**

Lower Court Case Number: **A154986**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **cedric.chao@chao-adr.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
BRIEF	City of Oakland's Answer to Peluso Amicus Briefl
MOTION	City of Oakland's Motion for Judicial Notice ISO Answer to Peluso Amicus Brief

Service Recipients:

Person Served	Email Address	Type	Date / Time
Cara Jenkins Office of Legislative Counsel 271432	cara.jenkins@lc.ca.gov	e- Serve	6/3/2021 4:17:57 PM
Cedric Chao CHAO ADR, PC 76045	cedric.chao@chao-adr.com	e- Serve	6/3/2021 4:17:57 PM
Barbara Parker Office of the City Attorney	bjparker@oaklandcityattorney.org	e- Serve	6/3/2021 4:17:57 PM
Adrienne Weil Metropolitan Transportation Commission	aweil@mtc.ca.gov	e- Serve	6/3/2021 4:17:57 PM
Larry Peluso Peluso Law Group, PC	pelusolaw@gmail.com	e- Serve	6/3/2021 4:17:57 PM
Eric Shumsky Orrick Herrington Sutcliffe LLP 206164	eshumsky@orrick.com	e- Serve	6/3/2021 4:17:57 PM
Joanna Gin Best Best & Krieger LLP 323715	joanna.gin@bbklaw.com	e- Serve	6/3/2021 4:17:57 PM
Jeanette Barzelay DLA Piper LLP (US) 261780	jeanette.barzelay@dlapiper.com	e- Serve	6/3/2021 4:17:57 PM
Jason Litt Horvitz & Levy LLP 163743	jlitt@horvitzlevy.com	e- Serve	6/3/2021 4:17:57 PM
Robin Johansen Olson Remcho LLP 79084	rjohansen@olsonremcho.com	e- Serve	6/3/2021 4:17:57 PM

Monica Haymond Orrick Herrington & Sutcliffe LLP 314098	mhaymond@orrick.com	e-Serve	6/3/2021 4:17:57 PM
Andrew Zacks Zacks, Freedman & Patterson, PC 147794	AZ@zfplaw.com	e-Serve	6/3/2021 4:17:57 PM
Timothy Bittle Howard Jarvis Taxpayers Foundation 112300	tim@hjta.org	e-Serve	6/3/2021 4:17:57 PM
Barbara J. Parker Office of the City Attorney/City of Oakland 69722	bparker@oaklandcityattorney.org	e-Serve	6/3/2021 4:17:57 PM
Joshua Nelson Best Best & Krieger LLP 260803	Joshua.Nelson@bbklaw.com	e-Serve	6/3/2021 4:17:57 PM
Larry Peluso Peluso Law Group, PC 281380	firm@pelusolaw.net	e-Serve	6/3/2021 4:17:57 PM
Joshua McDaniel Horvitz & Levy LLP 286348	jmcdaniel@horvitzlevy.com	e-Serve	6/3/2021 4:17:57 PM
Lutfi Kharuf Best Best & Krieger 268432	lutfi.Kharuf@bbklaw.com	e-Serve	6/3/2021 4:17:57 PM
Ethan Fallon Orrick Herrington & Sutcliffe LLP	efallon@orrick.com	e-Serve	6/3/2021 4:17:57 PM
Robin Johansen Remcho, Johansen & Purcell, LLP 79084	rjohansen@rjp.com	e-Serve	6/3/2021 4:17:57 PM
Maria Bee Office of the City Attorney	mbee@oaklandcityattorney.org	e-Serve	6/3/2021 4:17:57 PM
Paul Katz Katz Appellate Law PC 243932	paul@katzappellatelaw.com	e-Serve	6/3/2021 4:17:57 PM
Jeremy Rosen Horvitz & Levy LLP 192473	jrosen@horvitzlevy.com	e-Serve	6/3/2021 4:17:57 PM
Stanley Panikowski DLA PIPER LLP (US)	stanley.spanikowski@us.dlapiper.com	e-Serve	6/3/2021 4:17:57 PM
Kathleen McCracken	kathleen.mccracken@bbklaw.com	e-Serve	6/3/2021 4:17:57 PM
Laura Dougherty 255855	laura@hjta.org	e-Serve	6/3/2021 4:17:57 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

6/3/2021

Date

/s/Sandy Holstrom

Signature

Chao, Cedric (76045)

Last Name, First Name (PNum)

Chao ADR, PC

Law Firm