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RN 19 13992 PAGE 1

An act to add Section 104.30 to the Streets and Highways Code, relating to state highways.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 104.30 is added to the Streets and Highways Code, to read:

104.30. (a) The department may make available for lease airspace or real property for the purposes described in this section if it determines that the airspace or real property is available for rent and that the airspace or real property has independent site access separate from an access-controlled highway or highway structure. The department may offer the airspace or real property for lease to a city, county, political subdivision of a city or county, or state agency for the purpose of conducting a temporary emergency shelter or feeding program. As a condition of entering into the lease, the lessee shall agree that, during the period of the lease, the airspace or real property and its improvements shall not be used as childcare facilities and that no playground equipment shall be permitted under the lease. Any existing lease of airspace or real property between the department and a city, county, political subdivision of a city or county, or state agency may be terminated without penalty at any time, upon mutual agreement of both the department and the lessee, for the purpose of entering into a new lease pursuant to this section.

(b) The determination of availability and identification of specific parcels of airspace or real property eligible for lease under this section shall be made by the department.

(c) Notwithstanding Chapter 7.8 (commencing with Section 8698) of Division 1 of Title 2 of the Government Code, all structures that are constructed or modified under this section shall be compliant with the minimum standards provided in the 2016 California Building Code Appendix N and the 2016 California Residential Code Appendix X or any future standards adopted by the Department of Housing and Community Development related to emergency housing or emergency housing facilities. Any improvements to the leased property shall meet the following conditions:

(1) No improvements of a permanent nature are allowed, except for appropriate utilities to support the temporary emergency shelter or feeding program as approved by the department.

(2) Any improvements in which people live, eat, recreate, receive services, or otherwise occupy shall not be underneath a transportation structure, and shall not be within 20 horizontal feet from the farthest edge of a transportation structure.

(d) Notwithstanding any other law, for any leases executed pursuant to this section or any other section by the department for the purpose of conducting a temporary emergency shelter or feeding program, the enforcement of building standards published in the California Building Code and the California Residential Code, including those relating to fire and panic safety, and any future standards adopted by the Department of Housing and Community Development related to emergency housing or emergency housing facilities, shall be the responsibility of the lessee.

(e) (1) The monthly rent of a lease entered into pursuant to this section shall be one dollar (\$1) per month. The lessee may pay the rental amounts due for the entire term of the lease in advance of the term covered in order to reduce the administrative costs associated with the payment of the monthly rental fee.

(2) The lessee shall reimburse the department for its costs associated with initializing the lease, including, but not limited to, environmental review, contract



development, and legal review. The lessee shall pay an initial deposit of no less than fifteen thousand dollars (\$15,000) to the department to cover the department's lease initialization costs. If the deposit exceeds the department's costs associated with initializing the lease, as determined by the department, the department shall return the remainder of the deposit to the lessee.

(3) To cover the department's costs, the lease shall require the lessee to pay an administrative fee of the greater of two thousand dollars (\$2,000) per year or the department's actual cost for administering the lease, as determined by the department.

(4) (A) If the department determines at any time after the commencement of the lease that the leased property is needed for departmental purposes, the department may terminate the lease without penalty or reimbursement of prior lease payments made to the department, except that the department shall reimburse any advance lease payments and fees made to the department on a prorated basis.

(B) Notwithstanding any other law, if the department terminates the lease pursuant to subparagraph (A), neither the lessee nor any occupants of the leased property shall be entitled to relocation benefits or reimbursement of relocation expenses payable by the department or the state as result of that termination.

(C) The department shall provide the lessee with no less than 90 days' written notice before the termination of a lease entered into pursuant to this section, except in the case of an emergency.

(5) The lessee shall defend, indemnify, and hold the state, its officers, officials, employees, agents, and volunteers harmless from any and all losses, claims, injuries, damages, losses, suits, obligations, penalties, judgments, awards, and other liabilities including attorney fees, whether caused by, relating to, based upon, arising out of, or in connection with, the performance of the lease, the temporary emergency shelter, or the feeding program.

(6) The lessee shall be responsible for all site conditions, including, not but limited to, maintenance, litter and graffiti abatement, security, environmental testing and remediation, and other legal and permitting requirements at the leased site, as required by the department.

(f) The Legislature finds and declares that the lease of airspace or real property pursuant to this section serves a public purpose.

(g) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall not apply to any activity or approval by the department necessary for, or incidental to, planning, design, site acquisition, construction, operation, or maintenance of an emergency shelter or feeding program on property leased pursuant to this section.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.
General Subject: State highways: property leases.

Existing law vests the Department of Transportation with full possession and control of the state highway system, including associated property. Existing law authorizes the department to lease certain property, including the area above or below a state highway, and certain property held for future highway purposes, to public agencies under specified terms and conditions. Existing law also authorizes the department to lease airspace under a freeway, or real property acquired for highway purposes, located in various cities and counties, that is not excess property, to specified entities for certain purposes, including for purposes of an emergency shelter or feeding program, subject to certain conditions.

This bill would authorize the department to offer for lease to a city, county, political subdivision of a city or county, or state agency airspace and real property acquired for highway purposes that meets certain requirements for purposes of a temporary emergency shelter or feeding program. The bill would require the entity that enters into the lease to pay certain costs to the department including \$1 per month for the lease, reimbursement of the department's costs associated with initializing the lease, and an annual administrative fee of \$2,000 or the department's actual cost of administering the lease, whichever is greater. The bill would authorize the lease to be terminated without penalty if the department determines the airspace or real property is needed for departmental purposes, as specified. The bill would require the lease to contain other specified terms and conditions.

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

