

Agenda Item # 14

Other Business:

- AB738
- Golf Tournament
- Member City Resolutions



Date: June 19, 2013
To: ABAG PLAN Board of Directors
From: ABAG PLAN Executive Committee
Subject: Assembly Bill 738 (Harkey); Public Entity Liability – Bicycle Lanes

Recommendation

The Executive Committee is recommending that each PLAN member voice their support of this emerging piece of legislation. We are requesting that letters be sent to your representatives in Sacramento in support of this bill.

Overview

AB 738 was introduced on February 21, 2013 by Assembly Member Diane Harkey (73rd District – Southern California) and principally co-authored by Assembly Members Frank Bigelow (5th District – Central California) and Curt Hagman (55th District – Southern California).

As introduced, this bill would provide that a public entity or an employee of a public entity acting within his or her official capacity is not liable for an injury caused to a person riding a bicycle while traveling on a roadway, if the public entity has provided a bike lane on that roadway.

The bill is supported by the California Association of Joint Powers Authority and by a host of insurance pool administrators.

Analysis

AB 738 is officially titled: **An act to add Section 830.7 to the Government Code, and to add Section 21207.1 to the Vehicle Code, relating to public entity liability.**

The bill was originally referred to the Assembly Judiciary Committee to be heard on March 24th. The hearing was re-scheduled for April 23rd but subsequently cancelled at the request of the author.

Existing law gives a public entity or public employee immunity from liability for an injury caused by the plan or design of construction of or improvement to public property in certain cases. Existing law allows public entities to establish bicycle lanes on public roads. This bill would provide that a public entity or an employee of a public entity is not liable for any injury caused to a person riding a bicycle while traveling on a roadway, if the public entity has provided a bike lane on that roadway.

The bill would help cities and towns avoid costly litigation brought against them in certain cases where there may be zero liability on behalf of the city, however, dangerous condition arguments are raised solely based on the installation of the bicycle lane on the public roadway.

Each of our member cities recognizes the value of providing for safe passage of both motorists and bicyclists. Many cities encourage the use of bicycles as an alternative means of travel to reduce traffic congestion and to promote healthy lifestyles. AB738 will provide a sensible reduction in liability for public entities that construct and provide bike lanes as a public benefit to their community constituents if someone is injured while using the bike lane(s).

PLAN's Best Practices program strongly encourages the use of Caltrans specifications when planning and creating bicycle lanes. PLAN member agencies are conscious of the need to keep our streets and sidewalks safe from dangerous conditions. The absence of this bill creates an additional burden on cities that support the bicycling community and choose to install bicycle lanes for the pleasure and use of bicyclist.

Summary

Bicycle lanes are intended to make public roads safer for bicyclists and allow our roads/streets to be shared by both automobiles and bicycles. Liability imposed on public agencies for injuries to bicyclists that are caused by bad drivers discourages the installation of such lanes. **AB 738** would reduce the amount of "deep pocket" lawsuits against public entities for injuries caused to bicyclist by bad drivers. Immunity from these "deep pocket" lawsuits will encourage public entities to install bicycle lanes for the benefit of the bicycling community.

ABAG PLAN strongly supports this legislation. We are currently facing several lawsuits where there is no clear liability on behalf of the city/town and all alleged injuries were the result of bad drivers who struck individuals who were using bicycle lanes. We are requesting all ABAG PLAN members to send letters voicing their support of this legislation to their elected representatives. We are encouraging members to do everything in their power to see that this bill, or a similar bill, is put into effect by our Legislators.

CAJPA, ABAG Legislation & Governmental Organization Committee and their constituents have voiced their support of the Assembly Bill. We are also encouraging other organizations (CSAC, League of Cities) to join in supporting this bill.

Member City Resolution's

Member :	Resolution Dated:	Current:	Comments:
American Canyon	2005, March 17th	No	Resolution # 2005-19, lists Bronda Silva as Board, and Elizabeth Wessman-McGee as Alternate
Atherton	April 17th, 2013	Yes	Resolution # 13-14, Lists "City Manager" as Board, and "Finance Director" as Alternate. However, current representatives are assigned to other Dept's.
Benicia	2004, January 20th	No	Resolution # 04-11, lists "Finance Director" as the Alternate, Also No Board assignment
Burlingame	Not on File	No	No Resolution on File, Letter's dated Feb 13th, 2009 & July 3rd, 2008 list "Clark (Gus) Gulhan", and "Randy Schwartz" as Board, and "Jesus Nava" as Alternate
Campbell	1986, July 1st	No	Resolution # 7203 Lists, Geoffrey Whittaker as Board, and Kevin Duggan as Alternate
Colma	2010, September 21st	Yes	Resolution # 2010-37 Lists Brian Dossey as Board, and Laura Allen as the Alternate
Cupertino	1986, June 10th	No	Resolution # 6864 Lists "City Manager Assistant" as the Board, and "Finance Director" as alternate
Dublin	2010, December 7th	No	Resolution # 90-92, Lists Julie Carter as Board, and Joni Pattillo as Alternate
East Palo Alto	Not on File	No	Not on File
Foster City	1986, June 30th	No	Resolution # 66-113, lists the "City Manager" as the Board, and the "Deputy City Manager/Administrative Services Director" as Alternate. Rec'd letter dated Jan 1st, 2012 with updates matching our files; however, please follow up with Resolution
Citroy	1986, June 2nd	No	Resolution # 66-33, lists John P. Booth, Risk Manager as Board, and Jay Baksa, City Administrator as Alternate.
Haif Moon Bay	2011, February 15th	Yes	Resolution # C-06-11, lists Laura Sniderman as Board, and Katie Crowder as Alternate
Hillsborough	2002, June 28th	No	Resolution # 02-90, Lists "Finance Director" as Board, and the "Assistant City Manager" as Alternate
Los Altos Hills	Not on File	No	No Resolution on File, Letter' dated May 22nd, 2001 lists "City Manager, Maureen Cassingham" as Board, and "Finance Director, Carol Ferrell" as Alternate
Los Gatos	Not on File	No	No Resolution on File, Letter dated June 10th, 1997 lists "Orny P. Korb, Town Attorney" as Board, and "Lisa-Maria Boitoni, Legal Assistant" as Alternate.
Millbrae	Not on File	No	No Resolution on File, Letter dated August 17th, 2009 lists "LaRae Brown, Finance Director" as Board, and Marcia Raines, City Manager" as alternate
Milpitas	1986, July 1st	No	Resolution # 5305, lists "Assistant City Manager" as Board, and the "Director of Financial Services" as Alternate
Morgan Hill	2011, September 28th	No	Resolution # 6479, lists "Danny Wan, City Attorney" as Board, and "Leslie Jensen, Deputy City Attorney" as Alternate. Rec'd letter dated February 5th, 2013 with updates matching our files; however, please follow up with Resolution
Newark	2008, September 11th	No	Resolution # 9515, Only lists approval for the "City Manager" to appoint Board and Alternate. Rec'd letter dated September 21st, 2012 with updates matching our files; however, please follow up with Resolution
Pacifica	1986, June 20th	No	Resolution # 33-86, lists the "Finance Director" as Board, and "City Attorney" as Alternate
Portola Valley	1986, June 25th	No	Resolution # 1158-1986, lists "John James" as Board, and "Town Clerk" as Alternate
Ross	Not on File	No	Not on File
San Bruno	1986, July 1st	No	Resolution # 1986-34, lists the "Finance Director" as the Board, and the "Assistant Finance Director" as the Alternate.
San Carlos	1986, July 3rd	No	Resolution # 1986-54, lists the "Assistant City Administrator/Finance Director" as the Board, and "City Administrator" as the Alternate.
Saratoga	2011, June 1st	No	Resolution # 11-035, lists "Michael Taylor, Risk Manager/ Recreation and Facilities Director" as the Board, and "Ann Sullivan, City Clerk", as Alternate. Rec'd letter dated June 6th, 2011 with updates matching our files; however, please follow up with Resolution
So. San Francisco	1986, June 25th	No	Resolution # 122-86, lists the "City Manager" as the Board, and the "Deputy City Manager/CD&A as the Alternate.
Suisun City	2005, May 17th	No	Resolution # 2005-30, lists the "City Manager" as the Board, and the "Assistant to the City Manager" as the Alternate
Tiburon	1986, September 3rd	No	Resolution # 2404, lists "Robert L. Kleinert, Town Manager" as Board, and "Alan P. Nadrlich, Finance Director" as Alternate.
Woodside	1986, June 17th	No	Resolution # 4390, lists "Leslie Doolittle" as Board, and "Robert Lanzone" as Alternate. Rec'd letter dated May 5th, 2008 listing "Town Manager, Kevin Bryant" as the Alternate however, please follow up with Resolution listing Board and Alternate Appointees.

 Association of Bay Area Governments

24TH ANNUAL GOLF OUTING

Friday, July 26, 2013

REGISTER NOW!
Space is limited

Sponsorship opportunities
available



Chuck Corica Golf Complex
1 Clubhouse Memorial Drive
Alameda, CA

Net proceeds to benefit San Francisco Bay Trail and the Tranter-Leong Management Internship Program

 Association of Bay Area Governments

24TH ANNUAL GOLF OUTING

Friday, July 26, 2013

Chuck Corica Golf Complex
1 Clubhouse Memorial Drive, Alameda

Check-In 11:00 a.m.
(Driving Range, Putting Contest, and Lunch)

Shotgun Start 1:00 p.m. • Dinner 5:30 p.m.

Registration available online
at www.abag.ca.gov/events/golf/



REGISTRATION DEADLINE
JULY 15, 2013

Sponsorship opportunities
available

For information
call Halimah Anderson
510/464-7986

 Association of Bay Area Governments

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Address Service Requested