

Senate Bill No. 49

Passed the Senate September 14, 2023

Secretary of the Senate

Passed the Assembly September 13, 2023

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2023, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 91.9 to the Streets and Highways Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 49, Becker. Renewable energy: Department of Transportation: evaluation.

Existing law vests the Department of Transportation with full possession and control of all state highways and all property and rights in property acquired for state highway purposes. Existing law authorizes the department to lease, for up to 99 years, areas above or below state highways to public or private entities, as specified. Existing law also authorizes the department to issue certain permits for a state highway's right-of-way necessary for telegraph, telephone, or electrical lines or of any ditches, pipes, drains, sewers, or underground structures, unless otherwise specifically provided in the instrument conveying title.

This bill would require the department, in coordination with the State Energy Resources Conservation and Development Commission and the Public Utilities Commission, to evaluate the issues and policies impeding the development of land within department-owned rights-of-way for renewable energy generation facilities, energy storage facilities, and electrical transmission and distribution facilities, as specified. The bill would require the evaluation to, among other things, consider the department owning the facilities, or leasing, granting easements, or entering into joint-use agreements with public utilities or other entities for this purpose.

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

SECTION 1. Section 91.9 is added to the Streets and Highways Code, to read:

91.9. (a) On or before December 31, 2025, the department, in coordination with the State Energy Resources Conservation and Development Commission and the Public Utilities Commission, shall evaluate the issues and policies impeding development of

land within department-owned rights-of-way as renewable energy generation facilities, energy storage facilities, and electrical transmission and distribution facilities.

(b) The evaluation described in subdivision (a) shall do all of the following:

(1) Consider the department owning the facilities, or leasing, granting easements over, or entering into joint-use agreements with public utilities or other entities for facility development within department-owned rights-of-way.

(2) Evaluate the suitability of the various types of department-owned rights-of-way for the development of renewable energy generation and energy storage facilities.

(3) Identify the issues and policies impeding the use of department-owned rights-of-way that could be made available for the development of renewable energy generation and energy storage facilities, to the maximum extent economically feasible, including consideration of existing laws, safety, suitability, and other priorities that the department has identified for the department-owned rights-of-way.

(4) Identify, to the extent possible, the amount of renewable energy generation and energy storage capacity on the various types of department-owned rights-of-way that could feasibly be developed to achieve the goals stated in Section 454.53 of the Public Utilities Code.

(5) Evaluate, in coordination with the Public Utilities Commission, the Independent System Operator, and other balancing authorities, as defined in subdivision (b) of Section 399.12 of the Public Utilities Code, the suitability of the various types of department-owned rights-of-way for the development of needed electrical transmission and distribution facilities. The evaluation of suitability shall consider and prioritize the need for increased electrical transmission and distribution capacity as identified by the Public Utilities Commission, the Independent System Operator, or other balancing authorities.

(6) Identify issues and policies impeding the use of department-owned rights-of-way for the development of needed electrical transmission and distribution facilities, including consideration of existing laws, safety, suitability, and other priorities that the department has identified for the department-owned rights-of-way.

(7) Include requirements for the development of renewable energy generation, energy storage facilities, and electrical transmission and distribution facilities within department-owned rights-of-way, including any safety or environmental issues and the steps that projects will be required to take to mitigate these issues.

(8) Establish a process for entities interested in leasing or obtaining an easement or joint-use agreement for land within department-owned rights-of-way to operate and build a renewable energy generation facility, an energy storage facility, or an electrical transmission or distribution facility to apply to the department for land use agreements under terms that reasonably encompass the useful life of the project.

(9) Provide recommendations to facilitate the development of renewable energy generation facilities, energy storage facilities, and electrical transmission and distribution facilities on department-owned rights-of-way.

Approved _____, 2023

Governor