

## **Existing State and Federal Law and Policy Overview**

### **Applicable to the Long Beach Gerald Desmond Bridge Replacement Project**

The following State and Federal Laws and Policy provide the guidance for agencies to include bicycle and pedestrian facilities in major infrastructure projects. Excerpts and a limited analysis of the relevant portions of the documents are provided. The hyperlinks below provide direct access to the text of each.

[CA State Highways Code 888](#)

[CalTrans Project Development Procedures Manual \(PDPM\) Chapter 31, Article 1](#)

[California Complete Streets Act, Assembly Bill 1358](#)

[CalTrans Deputy Directive - DD 64 R-1](#)

[California Coastal Act \(2010\)](#)

[Federal: Title 23 U.S.C. §217: Bicycle Transportation and Pedestrian Walkways](#)

#### **State of California**

##### **State Highways Code 888 (Excerpted):**

888. The department shall not construct a state highway as a freeway that will result in the severance or destruction of an existing major route for nonmotorized transportation traffic and light motorcycles, unless it provides a reasonable, safe, and convenient alternate route or such a route exists.

888.2. The department shall also incorporate nonmotorized transportation facilities in the design of freeways on the state highway system along corridors where nonmotorized facilities do not exist, upon a finding that the facilities would conform to the California Recreational Trails System Plan specified in Section 5070.7 of the Public Resources Code or upon a finding, following a public hearing, that the facilities would conform to the master plans of local agencies for the development of nonmotorized facilities and would not duplicate existing or proposed routes, and that community interests would be enhanced by the construction of the facilities.

**Analysis: SHC 888:** The *alternate route should not consist of significant out-of-direction travel, additional grades of significant length or slope*, or high-volume routes with narrow shoulders. *Thus, it is not acceptable to route cyclists out of their way and with the significant grade changes initially proposed by the Port of Long Beach.*

*The Port originally proposed an alternate route around Terminal Island, sending bicyclists up the LA River trail more than a mile to Anaheim Street. That plan would result in significantly out-of-direction travel and clearly violates the intent of the Code. There is also no current bicycle access allowed across the Schuyler Heim Bridge south to Terminal Island at this time.*

Further, nonmotorized facilities proposed after a freeway has been constructed DO NOT QUALIFY as an "alternate route" for a severed or destroyed nonmotorized route. Instead, such facilities are to be developed as a cooperative project under the provisions of Sections 887.6 and 888.2 of the S&H Code.

*Thus it is not acceptable for the Port of Long Beach or CalTrans to propose a future accommodation; such accommodation SHALL be a part of the design-build contract.*

# Existing State and Federal Law and Policy Overview

## Applicable to the Long Beach Gerald Desmond Bridge Replacement Project

### CalTrans Project Development Procedures Manual (PDPM) Chapter 31, Article 1

[Summarized by Dan Gutierrez, Caltrans District 7 Bicycle Advisory Committee, Policy Chair]

#### Routes Severed by Freeways:

An **existing major route** for nonmotorized traffic **may be any** of the following:

- Conventional highway or expressway [e.g., Existing Gerald Desmond Bridge]
- Sidewalk on a conventional highway: The sidewalk may be principally for pedestrian use but may also be used by bicyclists when permitted by local ordinance. [e.g., Existing Gerald Desmond Bridge walkway]

#### Alternative Routes

A reasonable, safe, and convenient alternate route can consist of a system of local routes or State highways. The **alternate route should not consist of significant out-of-direction travel, additional grades of significant length or slope**, or high-volume routes with narrow shoulders.

### California Complete Streets Act, Assembly Bill 1358 (Effective January 1, 2009)

[Legislative Summary] AB 1358 requires the legislative body of a city or county, upon revision of the circulation element of their general plan, to identify how the jurisdiction will provide for the routine accommodation of all users of the roadway including motorists, pedestrians, bicyclists, individuals with disabilities, seniors, and users of public transportation. **The bill also directs the Office of Planning and Research to amend guidelines for the development of general plan circulation elements so that the building and operation of local transportation facilities safely and conveniently accommodate everyone, regardless of their mode of travel.**

### CalTrans Deputy Directive - DD 64 R-1 (Effective October 2, 2008)

#### TITLE: Complete Streets - Integrating the Transportation System

POLICY: The California Department of Transportation (Department) provides for the needs of travelers of all ages and abilities in all planning, programming, design, construction, operations, and maintenance activities and products on the State highway system. The Department views all transportation improvements as opportunities to improve safety, access, and mobility for all travelers in California and recognizes bicycle, pedestrian, and transit modes as integral elements of the transportation system. The Department develops integrated multimodal projects in balance with community goals, plans, and values. Addressing the safety and mobility needs of bicyclists, pedestrians, and transit users in all projects, regardless of funding, is implicit in these objectives. Bicycle, pedestrian, and transit travel is facilitated by creating "complete streets" beginning early in system planning and continuing through project delivery and maintenance and operations. Developing a network of "complete streets" requires collaboration among all Department functional units and stakeholders to establish effective partnerships.

#### Analysis: DD 64 R-1

Road improvement projects funded in whole or part by regional funds (federal, STIP, tolls, e.g.) must consider the needs of nonmotorized roadway users of all ages and abilities and exceptions are to be granted only in extreme circumstances. The Federal Highway Administration recommends including up to 20% of the project cost to address non-motorized access improvements. The \$48 Million worst-case scenario estimate by the Port's own initial calculations is approximately 5% of the total estimated cost of the project.

## **Existing State and Federal Law and Policy Overview**

### **Applicable to the Long Beach Gerald Desmond Bridge Replacement Project**

*Thus, because facilities currently exist, it is de facto shown not to be an exception category, and further easily meets the financial burden guideline, and so must comply with DD-64.*

#### **California Coastal Act (2010), Public Resources Code, Division 20**

##### **Article 2, Public Access**

##### **Section 30212 New development projects**

**(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects** except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

##### **Section 30211 Development not to interfere with access**

**Development shall not interfere with the public's right of access to the sea** where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

##### **Article 6, Development**

##### **Section 30252 Maintenance and enhancement of public access**

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, **(3) providing nonautomobile circulation within the development...**

#### **Federal: Title 23 U.S.C. §217: Bicycle Transportation and Pedestrian Walkways (Excerpted)**

**(a) Use Of STP [Surface Transportation Program] And Congestion Mitigation Program Funds.**--Subject to project approval by the Secretary, a State may obligate funds apportioned to it under sections 104(b)(2) and 104(b)(3) of this title for construction of pedestrian walkways and bicycle transportation facilities and for carrying out nonconstruction projects related to safe bicycle use.

**(b) Use Of National Highway System Funds.**--Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(1) of this title for construction of pedestrian walkways and bicycle transportation facilities on land adjacent to any highway on the National Highway System.

**(c) Use Of Federal Lands Highway Funds.**-- Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways and bicycle transportation facilities.

## **Existing State and Federal Law and Policy Overview**

### **Applicable to the Long Beach Gerald Desmond Bridge Replacement Project**

**(d) State Bicycle And Pedestrian Coordinators.**-- Each State receiving an apportionment under sections 104(b)(2) and 104(b)(3) of this title shall use such amount of the apportionment as may be necessary to fund in the State department of transportation a position of bicycle and pedestrian coordinator for promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities.

**(e) Bridges.**-- In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

**(f) Federal Share.**-- For all purposes of this title, construction of a pedestrian walkway and a bicycle transportation facility shall be deemed to be a highway project and the Federal share payable on account of such construction shall be determined in accordance with section 120(b).

**(g) Planning and Design.**--

1. In General.--Bicyclists and pedestrians shall be given due consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively. Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.
2. Safety considerations.--Transportation plans and projects shall provide due consideration for safety and contiguous routes for bicyclists and pedestrians. Safety considerations shall include the installation, where appropriate, and maintenance of audible traffic signals and audible signs at street crossings.

#### **United States Department of Transportation**

#### **Policy Statement on Bicycle and Pedestrian Accommodation**

#### **Regulations and Recommendations (Signed on March 11, 2010)**

##### **Purpose**

The United States Department of Transportation (DOT) is providing this Policy Statement to reflect the Department's support for the development of fully integrated active transportation networks. The establishment of well-connected walking and bicycling networks is an important component for livable communities, and their design should be a part of Federal-aid project developments. Walking and bicycling foster safer, more livable, family-friendly communities; promote physical activity and health; and reduce vehicle emissions and fuel use. Legislation and regulations exist that require inclusion of bicycle and pedestrian policies and projects into transportation plans and project development. Accordingly, transportation agencies should plan, fund, and implement improvements to their walking and bicycling networks, including linkages to transit. In addition, DOT encourages transportation

## **Existing State and Federal Law and Policy Overview**

### **Applicable to the Long Beach Gerald Desmond Bridge Replacement Project**

agencies to go beyond the minimum requirements, and proactively provide convenient, safe, and context-sensitive facilities that foster increased use by bicyclists and pedestrians of all ages and abilities, and utilize universal design characteristics when appropriate. Transportation programs and facilities should accommodate people of all ages and abilities, including people too young to drive, people who cannot drive, and people who choose not to drive.

#### **Policy Statement**

**The DOT policy is to incorporate safe and convenient walking and bicycling facilities into transportation projects. Every transportation agency, including DOT, has the responsibility to improve conditions and opportunities for walking and bicycling and to integrate walking and bicycling into their transportation systems.** Because of the numerous individual and community benefits that walking and bicycling provide — including health, safety, environmental, transportation, and quality of life — transportation agencies are encouraged to go beyond minimum standards to provide safe and convenient facilities for these modes.

#### **Authority**

This policy is based on various sections in the United States Code (U.S.C.) and the Code of Federal Regulations (CFR) in Title 23—Highways, Title 49—Transportation, and Title 42—The Public Health and Welfare. These sections, provided in the Appendix, describe how bicyclists and pedestrians of all abilities should be involved throughout the planning process, should not be adversely affected by other transportation projects, and should be able to track annual obligations and expenditures on nonmotorized transportation facilities.