

Assembly Bill No. 939

Passed the Assembly August 31, 2018

Chief Clerk of the Assembly

Passed the Senate August 28, 2018

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2018, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 53075.5, 53075.51, and 53075.52 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 939, Low. Local government: taxicab transportation services.

(1) Existing law, commencing on January 1, 2019, requires every city or county in which a taxicab is substantially located to adopt an ordinance or resolution in regard to taxicab transportation service and requires each city or county to provide for a policy for entry into the business of providing taxicab transportation service, the establishment or registration of rates for the provision of taxicab transportation service, and a mandatory controlled substance and alcohol testing certification program for drivers. Existing law similarly authorizes the City and County of San Francisco, regardless of whether or not a taxicab company is substantially located within that city and county. Existing law prohibits a city or county from requiring a taxicab company or driver to comply with specified local regulations, unless that taxicab company or driver is substantially located within that city or county. Existing law prohibits a taxicab company or a taxicab driver from operating within a county unless the company and driver are substantially located in at least one city within that county or the unincorporated area of that county. Existing law authorizes a permitted taxicab company to arrange prearranged trips anywhere within the county in which it has obtained a permit.

This bill would, instead, require each city or county in which a taxicab company is substantially located to adopt an ordinance or resolution in regards to taxicab transportation service, that includes provisions for a permitting program for taxicab drivers, and would provide that it is unlawful to operate a taxicab company without a valid permit to operate issued by each city or county in which the taxicab company is substantially located. The bill would remove the prohibition on a taxicab company or a taxicab driver from operating within a county unless the company and driver are substantially located in at least one city within that county or the unincorporated area of that county. The bill would authorize a

taxicab company permitted by a city or a county to arrange prearranged trips anywhere within that county. The bill would define “permitted taxicab company” for these purposes to mean a taxicab service provider that obtains all necessary permits required by these provisions, and to include a taxicab driver if a taxicab company consists of only one driver.

(2) Existing law requires a permitted taxicab company to comply with certain requirements, including that it be subject to an annual inspection by the Bureau of Automotive Repair.

This bill would, instead, require a permitted taxicab company to be subject to an annual inspection by the city or county in which it is substantially located, at a facility that is certified by the National Institute for Automotive Service Excellence or a facility registered with the Bureau of Automotive Repair.

(3) Existing law deems a city or county in which a taxicab company operates as a city or county in which a taxicab company driver is substantially located if the city or county enacts a resolution of intention to enter into a joint exercise of powers agreement or join a joint powers authority, or to enter into an agreement with a transit agency, for the purpose of regulating or administering taxicab companies.

This bill would, instead, authorize a city or county to enter into an agreement with another city or county to form a joint powers authority, or to enter into an agreement with a transit agency, for the purpose of regulating or administering taxicab companies and taxicab drivers, as applicable, that are substantially located within the jurisdictional boundaries of that entity.

(4) Existing law defines the term “substantially located” for these purposes to mean that the taxicab company has a primary business address within that jurisdiction, or that trips originating within that jurisdiction account for the largest share of the company’s total number of trips within the county within the past year, and determined every 5 years thereafter. Existing law requires a taxicab company to collect specified data in order to determine what jurisdiction that company is substantially located in.

This bill would modify the test to specify that a taxicab company is substantially located within a city or county if that company has a primary business address within the jurisdiction of that entity, or if the total number of prearranged and nonprearranged trips that originate within that city’s or county’s jurisdiction account for the

largest share of the taxicab company's total number of trips within each county where the taxicab company operated over the previous calendar year, as determined annually. The bill would establish a modified test for a taxicab company that initiates taxicab operations after January 1, 2019, in a county in which that company had not previously operated, by providing that for the first year of its operation the taxicab company is substantially located only in the jurisdiction in which it has a primary business address, and from that point forward would provide that the general substantially located test described above applies to determine whether the taxicab company is substantially located in a jurisdiction. The bill would make conforming changes to that effect.

The bill would require a taxicab company that changes from being substantially located in one city or county to another to notify the new city or county 6 months before making that change.

(5) By imposing additional duties on local governments, this bill would impose a state-mandated local program.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 53075.5 of the Government Code, as added by Section 3 of Chapter 753 of the Statutes of 2017, is amended to read:

53075.5. (a) Notwithstanding Chapter 8 (commencing with Section 5351) of Division 2 of the Public Utilities Code, every city or county in which a taxicab company is substantially located, as defined in paragraph (5) of subdivision (k), shall protect the public health, safety, and welfare by adopting an ordinance or resolution in regard to taxicab transportation service rendered in vehicles designed for carrying not more than eight persons, excluding the driver, which are operated within the jurisdiction of the city or county.

(b) Each city or county that adopts an ordinance pursuant to subdivision (a) shall provide for, but is not limited to providing for, the following in that ordinance:

(1) A policy for entry into the business of providing taxicab transportation service. The policy shall include, but need not be limited to, a permitting program for taxicab drivers that includes all of the following provisions:

(A) Employment, or an offer of employment, as a taxicab driver in the jurisdiction, including compliance with all of the requirements of the program adopted pursuant to paragraph (3), shall be a condition of issuance of a driver's permit.

(B) The driver's permit shall become void upon termination of employment.

(C) The driver's permit shall state the name of the employer.

(D) The employer shall notify the city or county upon termination of employment.

(E) The driver shall return the permit to the city or county upon termination of employment.

(2) The establishment or registration of rates for the provision of taxicab transportation service that meets the following requirements:

(A) The taxicab company may set fares or charge a flat rate. However, the city or county may set a maximum rate.

(B) The taxicab company may use any type of device or technology approved by the Division of Measurement Standards to calculate fares, including the use of Global Positioning System metering, provided that the device or technology complies with Section 12500.5 of the Business and Professions Code and with all regulations established pursuant to Section 12107 of the Business and Professions Code.

(C) The taxicab company shall disclose fares, fees, or rates to the customer. A permitted taxicab company may satisfy this requirement by disclosing fares, fees, or rates on its Internet Web site, mobile telephone application, or telephone orders upon request by the customer.

(D) The taxicab company shall notify the passenger of the applicable rate prior to the passenger accepting the ride for walkup rides and street hails. The rate may be provided on the exterior of the vehicle, within an application of a mobile telephone, device,

or other Internet-connected device, or be clearly visible in either print or electronic form inside the taxicab.

(3) (A) A mandatory controlled substance and alcohol testing certification program. The program shall include, but need not be limited to, all of the following requirements:

(i) Drivers shall test negative for each of the controlled substances specified in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, before employment. Drivers shall test negative for these controlled substances and for alcohol as a condition of permit renewal or, if no periodic permit renewals are required, at such other times as the city or county shall designate. As used in this section, a negative test for alcohol means an alcohol screening test showing a breath alcohol concentration of less than 0.02 percent.

(ii) Procedures shall be substantially as in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, except that the driver shall show a valid California driver's license at the time and place of testing, and except as provided otherwise in this section. Requirements for rehabilitation and for return-to-duty and followup testing and other requirements, except as provided otherwise in this section, shall be substantially as in Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations.

(iii) A test in one jurisdiction shall be accepted as meeting the same requirement in any other jurisdiction. Any negative test result shall be accepted for one year as meeting a requirement for periodic permit renewal testing or any other periodic testing in that jurisdiction or any other jurisdiction, if the driver has not tested positive subsequent to a negative result. However, an earlier negative result shall not be accepted as meeting the preemployment testing requirement for any subsequent employment, or any testing requirements under the program other than periodic testing.

(iv) In the case of a self-employed independent driver, the test results shall be reported directly to the city or county, which shall notify the taxicab leasing company of record, if any, of positive results. In all other cases, the results shall be reported directly to the employing transportation operator, who may be required to notify the city or county of positive results.

(v) All test results are confidential and shall not be released without the consent of the driver, except as authorized or required by law.

(vi) Self-employed independent drivers shall be responsible for compliance with, and shall pay all costs of, this program with regard to themselves. Employing transportation operators shall be responsible for compliance with, and shall pay all costs of, this program with respect to their employees and potential employees, except that an operator may require employees who test positive to pay the costs of rehabilitation and of return-to-duty and followup testing.

(vii) Upon the request of a driver applying for a permit, the city or county shall give the driver a list of the consortia certified pursuant to Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations that the city or county knows offer tests in or near the jurisdiction.

(B) No evidence derived from a positive test result pursuant to the program shall be admissible in a criminal prosecution concerning unlawful possession, sale, or distribution of controlled substances.

(c) Each city or county may levy service charges, fees, or assessments in an amount sufficient to pay for the costs of carrying out an ordinance or resolution adopted in regard to taxicab transportation services pursuant to this section.

(d) (1) The city or county may issue to a taxicab company that complies with all provisions of this section and Section 53075.52, and with all applicable local ordinances or resolutions of that city or county, an inspection sticker, photo permit, or other inspection compliance device. A taxicab driver shall display the applicable inspection sticker, photo permit, or other inspection compliance device in a place visible to a passenger.

(2) A city or county may accept a taxicab company or driver permit issued by another city or county as valid, and may issue to that taxicab company an inspection sticker or photo permit that authorizes that taxicab company or driver to operate within the county.

(e) A city or county shall not require a taxicab company or driver to obtain a business license, service permit, car inspection certification, or driver permit, or to comply with any requirement under this section or Section 53075.52, unless the company or

driver is substantially located within the jurisdiction of that city or county.

(f) A taxicab company permitted by a city or county may provide prearranged trips anywhere within that county.

(g) A permitted taxicab company shall not prejudice, disadvantage, or require different rates or provide different service to a person because of race, national origin, religion, color, ancestry, physical disability, medical condition, occupation, marital status or change in marital status, sex, or any characteristic listed or defined in Section 11135 of the Government Code.

(h) A permitted taxicab company shall do all of the following:

(1) Maintain reasonable financial responsibility to conduct taxicab transportation services in accordance with the requirements of an ordinance adopted pursuant to subdivision (a).

(2) Participate in the pull-notice program pursuant to Section 1808.1 of the Vehicle Code to regularly check the driving records of all taxicab drivers, whether employees or contractors.

(3) Maintain a safety education and training program in effect for all taxicab drivers, whether employees or contractors.

(4) Maintain a disabled access education and training program to instruct its taxicab drivers on compliance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) and amendments thereto, and state disability rights laws, including making clear that it is illegal to decline to serve a person with a disability or who has a service animal.

(5) Maintain its motor vehicles used in taxicab transportation services in a safe operating condition, and in compliance with the Vehicle Code, subject to annual inspection by the city or county in which it is substantially located, at a facility that is certified by the National Institute for Automotive Service Excellence or a facility registered with the Bureau of Automotive Repair.

(6) Provide the city or county that has issued a permit under this article an address of an office or terminal where documents supporting the factual matters specified in the showing required by this subdivision may be inspected by the permitting city or county.

(7) Provide for a taxicab driver fingerprint-based criminal history check and a drug and alcohol testing program pursuant to paragraph (3) of subdivision (b).

(8) Comply with all provisions of an ordinance adopted pursuant to subdivision (a).

(9) Provide documentation and trip data in the format required by an ordinance adopted pursuant to subdivision (a) substantiating that the total number of prearranged and nonprearranged trips that originate within that city's or county's jurisdiction account for the largest share of the taxicab company's total number of trips over the applicable time period described in clause (ii) of subparagraph (A) or subclause (II) of clause (ii) of subparagraph (B) of paragraph (5) of subdivision (k).

(i) (1) It shall be unlawful to operate a taxicab without a valid permit to operate issued by each city or county in which the taxicab company is substantially located.

(2) The minimum fine for violation of paragraph (1) shall be five thousand dollars (\$5,000) and may be imposed administratively by the permitting city or county.

(j) (1) Notwithstanding paragraph (5) of subdivision (k), a city or county may do either of the following:

(A) Enter into an agreement with any other city or county to form a joint powers authority for the purpose of regulating or administering taxicab companies and taxicab drivers that are substantially located within the jurisdictional boundaries of the joint powers authority. For purposes of this clause, a taxicab company is substantially located within the jurisdictional boundaries of the joint powers authority if it is substantially located within one of the parties to the joint powers agreement.

(B) Enter into an agreement with a transit agency for the purpose of regulating or administering the taxicab companies substantially located within the jurisdictional boundaries of the transit agency. For purposes of this clause, a taxicab company is substantially located within the jurisdictional boundaries of the transit agency if it is substantially located within the city or county that enters into an agreement pursuant to this clause, and the transit agency may exercise all powers granted to the city or county that is a party to the agreement by this section in order to regulate or administer taxicab companies within those boundaries.

(2) A city or county that forms a joint powers authority, or enters into an agreement with a transit agency, to regulate or administer taxicab companies pursuant to paragraph (1) shall not issue permits

or require business licenses except as consistent with the terms of that agreement.

(k) For purposes of this section and Sections 53075.51 and 53075.52:

(1) “City or county” includes a charter city or charter county, but does not include the City and County of San Francisco.

(2) “Employment” includes self-employment as an independent driver.

(3) “Permitted taxicab company” means a taxicab service provider that obtains all necessary permits required by this article, and includes a taxicab driver if a taxicab company consists of only one driver.

(4) “Prearranged trip” means trip using an online enabled application, dispatch, or Internet Web site.

(5) (A) “Substantially located” means in reference to a city or county that the taxicab company meets either of the following:

(i) Has its primary business address within that city’s or county’s jurisdiction.

(ii) The total number of prearranged and nonprearranged trips that originate within that city’s or county’s jurisdiction account for the largest share of the taxicab company’s total number of trips within each county where the taxicab company operated over the previous calendar year, as determined annually.

(B) Notwithstanding subparagraph (A), “substantially located” means, for a taxicab company that initiates taxicab operations after January 1, 2019, in reference to a city or county in which that company had not operated before January 1, 2019, the following:

(i) In the first year of its operation, the jurisdiction where that company has its primary business address.

(ii) After the first year of operation, it meets the test described in subparagraph (A).

(C) A taxicab company may be substantially located in more than one jurisdiction.

(D) Notwithstanding any other provision of this section, an airport operator shall have separate and ultimate authority to regulate taxicab access to the airport and set access fees for taxicabs at the airport.

(m) Nothing in this section, or Section 53075.51, 53075.52, or 53075.53 shall affect the authority of a jurisdiction to regulate taxi

access to an airport it owns or operates and to set access fees or requirements.

(n) This section shall become operative on January 1, 2019.

SEC. 2. Section 53075.51 of the Government Code is amended to read:

53075.51. (a) Any city or county, regardless of whether a taxicab company is substantially located within its jurisdiction as defined in Section 53075.5, may adopt, by ordinance, operating requirements for taxicab companies and taxicab drivers that do not relate to permitting or business licensing, including, but not limited to, all of the following:

(1) Limits on the number of taxicab companies that may use taxi stand areas or pickup street hails within that city's or county's jurisdictional boundaries. If a city or county chooses to limit the number of taxis that use the stand areas or pick up street hails, the city or county shall identify those vehicles with a window sticker and shall not establish additional requirements or costs to the taxis beyond that authorized by Section 53075.5 or this section.

(2) Requirements on a taxicab company to provide services in a manner that provides equal accessibility for all populations within the jurisdictional boundaries of the city or county.

(3) Other public health, safety, or welfare ordinances relating to taxicabs.

(b) Compliance with requirements adopted pursuant to subdivision (a) shall not be a condition for issuance of a permit.

(c) A city or county may administratively impose civil liability for violation of ordinances adopted pursuant to this section. The minimum fine for violation of ordinances relative to this section shall be one hundred dollars (\$100) and shall not exceed one thousand dollars (\$1,000). Civil liability imposed pursuant to this section shall be paid to the city or county where the violation occurred and expended solely for the purposes of this chapter.

(d) This section shall become operative on January 1, 2019.

SEC. 3. Section 53075.52 of the Government Code is amended to read:

53075.52. Beginning January 1, 2018, taxicab companies shall collect data that demonstrates the total number of prearranged and nonprearranged trips that originate within a particular local jurisdiction for the purpose of determining where that taxicab company is substantially located, and shall provide that data to the

city or county in which it is substantially located, consistent with paragraph (9) of subdivision (h) of Section 53075.5. Beginning January 1, 2019, the trip data collected in the previous 12 months shall be provided upon date of renewal to the city or county in which the taxicab company is substantially located. If a taxicab company changes from being substantially located in one city or county to another, the taxicab company shall notify the new city or county six months before making that change and shall comply with the requirements of subparagraph (B) of paragraph (5) of subdivision (k) of Section 53075.5.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Approved _____, 2018

Governor