# Memorandum

**Tab 13**

**To:** CHAIR AND COMMISSIONERS

**CTC Meeting:** March 26, 2015

**Reference No.:** 4.1
Action

**From:** WILL KEMPTON
Executive Director

**Subject:** **STATE AND FEDERAL LEGISLATION**

PINK BOOK ITEM

## ISSUE:

1.) Does the California Transportation Commission (Commission) have comments on the legislation identified and monitored by staff, as depicted in Attachment A?

- ✓ The deadline for the State Legislature to introduce bills in the first year of the two-year session was February 27, 2015.
- ✓ May 1st is the last day for policy committees to hear and report bills with fiscal impact to fiscal committees.
- ✓ May 15th is the last day for policy committees to hear and report to the floor non-fiscal bills introduced in their house of origin.
- ✓ May 22nd is the last day for policy committees to meet prior to June 9th.
- ✓ Sixty-one bills, identified in Attachment A, met the criteria approved by the Commission.

2.) Should the Commission adopt support positions for the following bills: AB 4, AB 194, AB 227, AB 1265, ACA 4, and SB 321?

## RECOMMENDATION:

Staff recommends that the Commission:

1.) Accept the staff report, provide direction to staff on legislation of interest to it; and

2.) Adopt a position of support for AB 4, AB 194, AB 227, AB 1265, ACA 4 and SB 321and direct staff to prepare and send letters to the authors as notification of the Commission's support.

## SUMMARY:

The following bills are summarized below to highlight proposed legislation for which staff recommends the Commission adopt a support position and also to identify legislation currently being monitored that may be of greater impact or interest to the Commission:

**AB 4 (Linder [R – Corona]), Vehicle Weight Fees: Transportation Bond Debt Service**

*Status: In Assembly Transportation Committee, not yet scheduled for hearing*
*Recommended Position: Support*

This bill would prohibit weight fee revenue from being transferred from the State Highway Account to any fund or account for the purpose of payment of debt service on transportation general obligation bonds.

**AB 194 (Frazier [D – Oakley]), High Occupancy Toll Lanes**
*Status: In Assembly Transportation Committee, not yet scheduled for hearing*
*Recommended Position: Support*

This bill adds Section 149.2 to the Streets and Highways Code, providing the opportunity for Caltrans, in addition to regional agencies, to apply to the Commission for the development and operation of high-occupancy toll (HOT) lane facilities. This bill requires the Commission to review and approve such applications and conduct at least one public hearing in northern California and one in southern California. Additionally, the Commission is required to establish guidelines for the development and operation of state-owned HOT lanes facilities. AB 194 also amends Streets and Highways Code Section 149.7 as it relates to regional agency applications for HOT lane implementation, requiring the Commission to establish guidelines for the development and operation of HOT lane facilities by regional agencies. This bill provides for reimbursement to the Commission for all costs and expenses incurred by the Commission in the processing of a regional transportation agency application for a HOT lane facility.

**AB 227 (Alejo [D – Salinas]) Transportation Funding**
*Status: In Assembly Transportation and Budget Committees, not yet scheduled for hearing*
*Recommended Position: Support*

This bill amends the repayment date of loans from transportation funds to the General Fund from January 1, 2019, or later, to December 31, 2018. AB 227 would stop the use of weight fees for debt service on general obligation bonds and would prohibit loans to the General Fund. AB 227 proposes to stop the use of the price-based excise tax to backfill transferred weight fees or to backfill weight fee loans to the General Fund. AB 227 would also stop the non-Article 19 revenue transfers to pay for debt service on mass transportation bonds. Additionally, AB 227 would remove the December 31, 2016 deadline for Public Private Partnerships (P3), thus extending (indefinitely) the authorization for the Department of Transportation and regional transportation agencies, as defined, to enter into comprehensive development lease agreements with public and private entities.

**AB 1265 (Perea [D – Fresno] Transportation Projects: Comprehensive Development)**
*Status: Introduced February 27, 2015, pending referral to Committee*
*Recommended Position: Support*

This bill would extend (indefinitely) the authorization for the Department of Transportation and regional transportation agencies, as defined, to enter into comprehensive development lease agreements with public and private entities (P3).

**AB 1364 (Linder [R – Corona] California Transportation Commission)**

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*Status: Introduced February 27, 2015, pending referral to Committee*
*Recommended Position: Monitor*

This bill would exclude the Commission from the California State Transportation Agency and establish it as its own entity in the state government.

**ACA 4 (Frazier [D – Oakley] Local Government Transportation Projects: Special Taxes)**
*Status: Introduced February 27, 2015, pending referral to Committee*
*Recommended Position: Support*

This measure would reduce the voter threshold from 2/3 to 55% for local transportation projects.

**SB 9 (Beall [D – San Jose]) Greenhouse Gas Reduction Fund Transit/Intercity Rail**
*Status: March 18, 2015 passed with amendments from Senate Environmental Quality to Transportation and Housing Committee*
*Recommended Position: Monitor*

This bill would make modifications to the Transit and Intercity Rail program funded through the Greenhouse Gas Reduction Fund. SB 9 would authorize the Commission to approve a letter of no prejudice (LONP) that allows an applicant to expend its own funds on a project in the adopted program, subject to future reimbursement from program funds for eligible expenditures. Additionally this bill would 1.) Modify the purpose of the program to delete any reference to operational investments and instead specify that the program is intended to fund "large transformative capital improvements with a total cost exceeding $100 million;" 2.) Require CalSTA to consider additional factors such as providing a direct connection to High Speed Rail and supplemental funding from non-state sources when prioritizing/selecting projects for funding; 3.) Require CalSTA to develop, by July 1, 2016, an initial 5 year estimate of reasonably expected revenues for the program, with subsequent 5 year estimates made every other year thereafter; 4.) Require adoption of 5 year programs of projects consistent with those estimates; and 5.) Authorize CalSTA to make a multi-year funding commitment for a project proposed to be funded over more than one fiscal year.

**SB 321 (Beall [D – San Jose]) Motor Vehicle Fuel Taxes: Rate Adjustments**
*Status: March 5, 2015 referred to Senate Governance and Finance Committee*
*Recommended Position: Support in Concept*

SB 321 makes changes to the administrative process for setting the price-based excise tax in order to give the State Board of Equalization (BOE) the tools necessary to reduce the overall volatility of this revenue. Specifically, this bill allows BOE to use a five-year forecasting period (as opposed to its current one year model) to adjust the rate to generate an amount of revenue that maintains revenue neutrality. Additionally SB 321 allows BOE to extend the period to achieve revenue neutrality from one year to three years and to make partial adjustments in order to make more gradual annual adjustments (true-ups). This bill also provides an opportunity for BOE to adjust the excise tax more frequently than annually if changes in fuel prices or consumption will clearly affect predicted versus actual revenue. SB 321 contains an urgency clause.

**BACKGROUND:**

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The Commission approved criteria to guide Commission staff in monitoring legislation and selecting bills that should be brought forward for Commission consideration. An over-arching criterion is that a bill must directly affect transportation on a statewide basis. Bills meeting one or more of the criteria, provided below, will be brought forward to the Commission for consideration.

- Funding/Financing - funding or a funding mechanism for transportation (capital and operations)
- Environmental Mitigation - implementation of greenhouse gas emissions reduction and transportation (e.g., AB 32), and/or involve the environmental process and transportation (e.g., CEQA)
- Planning - implementation of transportation, land use and planning (e.g., SB 375)
- Project Delivery - changes to the way transportation projects are delivered

Additional criteria for bringing a bill forward include:

- Direct Impact to Commission - changes in Commission responsibility, policy impact or operations
- Commissioner Request - recommended by a Commissioner for consideration by the Commission at its next regularly scheduled meeting

The Commission adopted policy to 1.) consider legislation in relation to its overall policy by topic area prior to taking a position on legislation addressing that topic; and 2.) remain selective in its use of watch, support or opposition on a bill. The rationale for a policy by topic area is it permits the Commission to address a suite of legislative proposals dealing with the same topic by commenting to the author(s) without necessarily taking a position. Rather than taking specific positions on bills in their initial state, the Commission can advise the Legislature on a bill's policy and/or technical aspects, as well as how it helps or hinders transportation. The intent of the Commission's comments is to alert the author of the bill's impact on a policy and/or technical aspect related to transportation planning, programming, financing, mitigation, or project delivery.

Further direction will be provided to staff, by the Chair, on bills that meet the aforementioned criteria.

Attachments
- A – Status of State and Federal Legislation
- B – AB 4, AB 194, AB 227, AB 1265, ACA 4, and SB 321 Bill Text

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| Bill # | Author | Title | Description | Status |
|---|---|---|---|---|
| **AB 4** | Linder (R - Corona) | Vehicle Weight Fees: Transportation Bond Debt Service | This bill would prohibit weight fee revenues from being transferred from the State Highway Account to the Transportation Debt Service Fund, the Transportation Bond Direct Payment Account, or any other fund or account for the purpose of payment of the debt service on transportation obligation bonds. This bill would also prohibit loans of weight fee revenues to the General Fund. | ***Last Action*** Referred to Committee January 16, 2015 ***Current Location*** Assembly Transportation Committee |
| **AB 23** | Patterson (R - Fresno) | Global Warming Solutions Act of 2006: Compliance | Exempts categories of persons or entities that did not have a compliance obligation under a market-based compliance mechanism from being subject to that market-based compliance mechanism. | ***Last Action*** Failed passage in Natural Resources Committee, reconsideration granted March 23, 2015 ***Current Location*** Assembly Natural Resources Committee |
| **AB 103** | Weber (D - San Diego) | Budget Act of 2015 | Makes appropriations for the support of state government, including the Commission, for the 2015-16 fiscal year. | ***Last Action*** Referred to Committee January 26, 2015 ***Current Location*** Assembly Budget Committee |
| **AB 156** | Perea (D - Fresno) | Global Warming Solutions Act of 2006: Investment Plan | Requires the Department of Finance to include in the 3-year investment plan for moneys deposited in the Greenhouse Gas Reduction Fund an allocation to provide technical assistance to disadvantaged communities to assist them in proposing specified projects for inclusion in the investment plan. | ***Last Action*** Referred to Committee February 2, 2015 ***Current Location*** Assembly Natural Resources Committee |
| **AB 157** | Levine (D - San Rafael) | Richmond-San Rafael Bridge | Requires the lead agency to complete the design work for the project simultaneously with the environmental review conducted pursuant to the California Environmental Quality Act if the Metropolitan Transportation Commission and the Department of Transportation develop a project to open the third lane on the Richmond-San Rafael Bridge to automobile traffic on the eastbound level and to bicycle traffic on the westbound level. | ***Last Action*** Passed Assembly Transportation Committee March 23, 2015 ***Current Location*** Asssembly Second Reading File |
| **AB 194** | Frazier (D- Oakley) | High Occupancy Toll Lanes | Deletes the requirement that high occupancy toll (HOT) lanes facilities be consistent with the established standards, requirements and limitations that apply to specified facilities. Requires the State Transportation Commission to establish guidelines for the development and operation of the facilities approved by the Commission on or after a specified date, subject to specified minimum requirements. Prohibits conversion of non-toll lanes, except for HOT lanes. Removes limits on the number of such lanes. | ***Last Action*** Referred to Committee February 9, 2015 ***Current Location*** Assembly Transportation Committee |

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| Bill # | Author | Title | Description | Status |
|---|---|---|---|---|
| **AB 208** | Bigelow (R - O'Neals) | Bikeways | Makes nonsubstantive changes to existing law that requires all city, county, regional, and other local agencies responsible for the development or operation of bikeways or roadways where bicycle travel is permitted to utilize all minimum safety design criteria and uniform specifications and symbols for signs, markers, and traffic control devices. | ***Last Action*** Introduced January 29, 2015 ***Current Location*** Assembly |
| **AB 210** | Gatto (D - Glendale) | High-Occupancy Vehicles Lanes: Los Angeles County | Prohibits any high-occupancy vehicle lane from being established on specified portions of state highway routes in the County of Los Angeles, unless that lane is established as a high-occupancy vehicle lane only during the hours of heavy commuter traffic. Requires any existing high-occupancy vehicle lane established on the specified portions of these routes to be modified to conform with those requirements. | ***Last Action*** Passed Assembly Transportation Committee March 23, 2015 ***Current Location*** Assembly Appropriations Committee |
| **AB 212** | Achadjian (R - San Luis Obispo) | State Highways | Makes technical nonsubstantive changes to existing law that establishes the Department of Transportation and the California Transportation Commission and provides that the department has full possession and control of all state highways and all property and rights in property acquired for state highway purposes. | ***Last Action*** Introduced February 2, 2015 ***Current Location*** Assembly |
| **AB 218** | Melendez (R - Lake Elsinore) | State Highway Route 74 | This bill would authorize the commission to relinquish to the County of Riverside that portion of State Highway Route 74 located in the unincorporated area east of the City of Lake Elsinore and west of the City of Perris under specified conditions. | ***Last Action*** Passed Assembly Transportation Committee March 23, 2015 ***Current Location*** Assembly Appropriations Committee |
| **AB 227** | Alejo (D - Salinas) | Transportation Funding | This bill would retain weight fee revenues in the State Highway Account. Deletes the provisions relating to the reimbursement of the State Highway Account for weight fee revenues and relating to the making of loans to the General Fund, thereby providing for the portion of fuel excise tax revenues that is derived from increases in the motor vehicle fuel excise tax in 2010 to be allocated to the State Transportation Improvement Program, to the State Highway Operation Program, and to city and county roads. | ***Last Action*** Referred to Committee February 17, 2015 ***Current Location*** Assembly Budget and Transportation Committees |
| **AB 323** | Olsen (R - Modesto) | Environmental Quality Act: Exemption | Amends the California Environmental Quality Act that exempts a project or an activity to repair, maintain, or make minor alterations to an existing roadway, if the project activity is carried out by a city or county with a population of less than 100,000 persons to improve public safety and meets other specified requirements to extend the above exemption indefinitely. | ***Last Action*** Passed Assembly Natural Resources Committee March 23, 2015 ***Current Location*** Assembly Transportation Committee |

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| Bill # | Author | Title | Description | Status |
|---|---|---|---|---|
| **AB 338** | Hernandez, R<br>(D - West Covina) | ~~County Transportation Commission: Los Angeles County.~~ Los Angeles County Metropolitan Transportation Authority: transactions and use tax. | ~~Makes an additional legislative finding that transportation resources should be equitably distributed within Los Angeles county.~~*This bill would authorize the MTA to impose an additional transportation transactions and use tax at a rate of 0.5%, for a period not to exceed 30 years, subject to various requirements, including the adoption of an expenditure plan and voter approval. The Transactions and Use Tax Law limits to 2% the combined rate of all transactions and use taxes imposed in any county, with certain exceptions. This bill would exempt the transactions and use tax authorized by the bill from this limitation.* | ***Last Action***<br>Read second time and amended. Re-referred to Committee on Local Government.<br>March 19, 2015<br>***Current Location***<br>Assembly Local Government and Transportation Committees |
| **AB 378** | Mullin<br>(D - South San Francisco) | State Highway 101 Corridor | Declares the intent of the Legislature to enact legislation that will enable responsible local, regional, and state agencies to substantially improve mobility in the State Highway 101 corridor. | ***Last Action***<br>Introduced<br>February 18, 2015<br>***Current Location***<br>Assembly |
| **AB 448** | Brown<br>(D - San Bernardino) | Local Government Finance: Vehicle License Fee | Relates to county vehicle license fee property tax compensation funds and the funding of additional allocations from ad valorem property tax revenues otherwise required to be allocated to educational entities. Modifies certain reduction and transfer provisions, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation. | ***Last Action***<br>Introduced<br>March 5, 2015<br>***Current Location***<br>Assembly Local Government Committee |
| **AB 518** | Frazier<br>(D- Oakley) | Department of Transportation | Amends existing law authorizing a local agency to enter into an agreement with the appropriate transportation planning agency to use its own funds to develop, and construct a project within its own jurisdiction. Deletes a provision requiring the department to compile information and report to the Legislature. | ***Last Action***<br>Referred to Committee<br>March 5, 2015<br>***Current Location***<br>Assembly Transportation Committee |
| **AB 620** | Hernandez, R<br>(D - West Covina) | High-Occupancy Toll Lanes: Exemptions from Tolls | Requires the Los Angeles County Metropolitan Transportation Authority, in implementing the value-pricing and transit development program, to adopt eligibility requirements for mitigation measures for commuters and transit users of low and moderate income. Requires provision of hardship exemptions from the payment of toll charges for commuters who meet the eligibility requirement for specified assistance programs. | ***Last Action***<br>Referred to Committee<br>March 9, 2015<br>***Current Location***<br>Assembly Transportation Committee |
| **AB 633** | Grove<br>(R - Bakersfield) | Highway Relinquishment: Route 202 | Authorizes the Commission to relinquish to the City of Tehachapi and the County of Kern specified portions of State Highway Route 202, under certain conditions. Provides that these relinquishments shall be made only if a specified sum in state funds is appropriated to the City of Tehachapi and the County of Kern for maintenance of the relinquished segments. | ***Last Action***<br>Referred to Committee<br>March 9, 2015<br>***Current Location***<br>Assembly Transportation Committee |

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| Bill # | Author | Title | Description | Status |
|---|---|---|---|---|
| **AB 652** | Cooley<br>(D - Rancho Cordova) | State Highway Route 16: Relinquishment | Extends to the California Transportation Commission authorization to relinquish certain state highway segments to local agencies the portion of State Highway Route 16 that is east of the City of Sacramento boundary and west of Grant Line Road. | ***Last Action***<br>Referred to Committee<br>March 9, 2015<br>***Current Location***<br>Assembly Transportation Committee |
| **AB 810** | Ridley-Thomas<br>(D - Los Angeles) | State Highway Route 170 | Revises the description of Route 170 to delete the unconstructed portion of this route between Los Angeles International Airport and Route 90 from both the state highway system and the California freeway and expressway system. | ***Last Action***<br>Referred to Committee<br>March 12, 2015<br>***Current Location***<br>Assembly Transportation Committee |
| **AB 877** | Chu<br>(D - San Jose) | Transportation: Property Acquisition | Makes nonsubstantive changes to existing law which provides that when the Department of Transportation or the High-Speed Rail Authority acquires title to real property for highway or high-speed rail purposes, and leases that property for commercial or business uses to the former owner for a term exceeding 6 months, the department or authority, may secure fire insurance for the property. | ***Last Action***<br>Introduced<br>February 26, 2015<br>***Current Location***<br>Assembly |
| **AB 914** | Brown<br>(D - San Francisco) | Toll Facilities: County of San Bernardino | Authorizes the San Bernardino County Transportation Commission to construct and operate certain transportation facilities on State Highway Route 10 and 15, as toll facilities in the County of San Bernardino and, with the agreement of affected transportation agencies, in the Counties of Los Angeles and Riverside. Requires the toll revenues to be spent for specified transportation purposes. Authorizes the commission to issue revenue bonds payable from toll revenues. | ***Last Action***<br>Referred to Committee<br>March 16, 2015<br>***Current Location***<br>Assembly Transportation |
| **AB 946** | Ting<br>(D - San Francisco) | Electric Vehicles | Expresses the intent of the Legislature to enact legislation to increase the use of electric vehicles by improving existing infrastructure for electric vehicles. | ***Last Action***<br>Introduced<br>February 26, 2015<br>***Current Location***<br>Assembly |
| **AB 1033** | Garcia, E<br>(D - Coachella) | Infrastructure Financing | Amends the Bergeson-Peace Infrastructure and Economic Development Bank Act, which establishes the California Infrastructure and Economic Development Bank, and authorizes the issuance of bonds. Revises the definition of economic development facilities to include facilities that are used to provide goods movement. Revises the definition of port facilities to reference airports, landports, waterports and railports. | ***Last Action***<br>Referred to Committee<br>March 19, 2015<br>***Current Location***<br>Assembly Jobs, Economic Development and the Economy & Transportation Committees |

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| Bill # | Author | Title | Description | Status |
|---|---|---|---|---|
| **AB 1043** | Salas (D - Bakersfield) | Highways: State Highway Route 43 | This bill would add Route 43 to the existing list of interregional and intercounty routes. | ***Last Action*** Referred to Committee March 19, 2015 ***Current Location*** Assembly Transportation Committee |
| **AB 1171** | Linder (R - Corona) | Construction Manager: General Contractor method | Authorizes regional transportation agencies to use the Construction Manager/General Contractor project delivery method to design and construct certain projects on expressways that are not on the state highway system if the projects are developed in accordance with an approved expenditure plan. Requires specified information provided to a regional transportation agency to be verified under oath. | ***Last Action*** Referred to Committee March 23, 2015 ***Current Location*** Assembly Transportation Committee |
| **AB 1265** | Perea (D - Fresno) | Transportation Project: Comprehensive Development | Existing law authorizes Caltrans and regional transportation agencies to enter into public-private partnerships (P3s) and provides that a P3 may not be entered into on or after January 1, 2017. This bill would extend this authorization indefinitely and would delete obsolete cross-references and make technical changes to these provisions. | ***Last Action*** Referred to Committee March 23, 2015 ***Current Location*** Assembly Transportation Committee |
| **AB 1284** | Baker (R -San Ramon) | Bay Area State-Owned Toll Bridges | Makes the Toll Bridge Program Oversight Committee subject to the Bagley-Keene Open Meeting Act. | ***Last Action*** Referred to Committee March 23, 2015 ***Current Location*** Assembly Transportation & Local Government Committees |
| **AB 1288** | Atkins (D - San Diego) | Global Warming Solutions Act of 2006: Regulations | Authorizes the State Air Resources Board to include the use of market-based compliance mechanisms and to adopt a regulation that establishes a system of market-based declining annual aggregate emissions limits for sources or categories of sources that emit greenhouse gases, applicable from January 1, 2012, to December 31, 2020, inclusive, as specified. | ***Last Action*** Referred to Committee March 23, 2015 ***Current Location*** Assembly Natural Resources Committee |
| **AB 1309** | Gray (D - Merced) | Transportation Projects: County of Merced | Appropriates an unspecified amount from an unspecified fund to the Merced County Association of Governments for allocation to the construction of the Atwater-Merced Expressway and the Campus Parkway projects in the County of Merced. | ***Last Action*** Referred to Committee March 23, 2015 ***Current Location*** Assembly Transportation Committee |

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| Bill # | Author | Title | Description | Status |
|---|---|---|---|---|
| **AB 1364** | Linder<br>(R - Corona) | California Transportation Commission | Excludes the California Transportation Commission from the Transportation Agency and establishes it as an entity in the state government. | ***Last Action***<br>Referred to Committee<br>March 23, 2015<br>***Current Location***<br>Assembly Transportation Committee |
| **ACA 4** | Frazier<br>(D- Oakley) | Local Government Transportation Projects: Special Taxes | Provides that the imposition, extension, or increase of a special tax for the purpose of providing funding for local transportation projects requires the approval of 55% of its voters voting on the proposition. | ***Last Action***<br>Introduced<br>Feburary 27, 2015<br>***Current Location***<br>Assembly |
| **SB 1** | Gaines<br>(R - Roseville) | Global Warming Solutions Act of 2006: Compliance | Amends the State Global Warming Solutions Act of 2006. Authorizes the State Air Resources Board to include the use of market based compliance mechanisms. Exempts categories of persons or entities that did not have a compliance obligation under a market based compliance mechanism from being subject to that market based compliance mechanism. Requires all participating categories of persons or entities to have a compliance obligation beginning on a specified date. | ***Last Action***<br>Referred to Committee<br>January 15, 2015<br>***Current Location***<br>Senate Committee on Environmental Quality<br>Hearing: April 15, 2015<br>@ 9:30 AM, Room 3191 |
| **SB 5** | Vidak<br>(R - Hanford) | Global Warming Solutions Act of 2006: Compliance | Relates to the State Global Warming Solutions Act of 2006. Authorizes the State Air Resources Board to include the use of market based compliance mechanisms. Exempts categories of persons or entities that did not have a compliance obligation under a market based compliance mechanism from being subject to that market based compliance mechanism through a specified date. | ***Last Action***<br>Referred to Committee<br>January 15, 2015<br>***Current Location***<br>Senate Committee on Environmental Quality<br>Hearing: April 15, 2015<br>@ 9:30 AM, Room 3191 |
| **SB 9** | Beall<br>(D - San Jose) | Greenhouse Gas Reduction Fund: Transit/Intercity Rail | This bill would modify the purpose of the program to delete references to operational investments and instead provide for the funding of large, transformative capital improvements with a total cost exceeding $100,000,000. The bill would require the Transportation Agency to consider the extent to which a project reduces greenhouse gas emissions, and would add additional factors to be considered in evaluating applications for funding. The bill would require the agency to develop, by July 1, 2016, an initial 5-year estimate of revenues reasonably expected to be available for the program, with subsequent estimates to be made every other year for additional 5-year periods, and would require the agency to adopt 5-year programs of projects consistent with those estimates. The bill would *authorize* ~~require~~ the agency to make a multiyear funding commitment for a project proposed to be funded over more than one fiscal year, and would authorize the Commission to approve a letter of no prejudice that allows an applicant to expend its own funds on a project in the adopted program of projects, subject to future reimbursement from program funds for eligible expenditures. | ***Last Action***<br>Passed as amended from Environmental Quality Committee to Transportation and Housing Committee<br>March 18, 2015<br>***Current Location***<br>Senate Transportation and Housing Committee |

PINK BOOK ITEM

| Bill # | Author | Title | Description | Status |
|---|---|---|---|---|
| **SB 16** | Beall<br>(D - San Jose) | Department of Transportation: Budgetary Cost-Savings | Requires the Department of Transportation as part of its budget for the 2016-17 fiscal year, to prepare a plan to identify up to a specified amount of funding annually in cost savings from its budget, and to submit the plan to the appropriate committees of the Senate and the Assembly. | ***Last Action***<br>Referred to Senate Rules Committee<br>March 2, 2015<br>***Current Location***<br>Senate Rules Committee |
| **SB 32** | Pavley<br>(D - Agoura Hills) | Global Warming Solutions Act of 2006: Emissions Limit | Requires the State Air Resources Board to approve a specified statewide greenhouse gas emission limit. | ***Last Action***<br>Amended and Re-referred to Environmental Quality Committee<br>March 16, 2015<br>***Current Location***<br>Senate Environmental Quality Committee |
| **SB 63** | Hall<br>(D - Compton) | ~~Port of Los Angeles~~ Seaport infrastructure financing districts | ~~States the intent of the Legislature to enact legislation to increase and diversify economic development at the Port of Los Angeles.~~This bill would include port or harbor infrastructure among the projects that may be financed by an enhanced infrastructure financing district. The bill would require a harbor agency to prepare an infrastructure financing plan for a seaport infrastructure financing district.The bill would increase the vote threshold for a seaport infrastructure financing district to issue bonds to 2/3 of the voters, and would provide that for purposes of these voters, a "landowner" means the entity paying possessory interest tax on state-owned land. The bill would prescribe additional procedures and requirements for the establishment of a seaport enhanced infrastructure financing district. The bill would specify that the State Lands Commission shall retain absolute discretion over the determination of whether or not investment of local resources in port or harbor infrastructure, the actions of a harbor agency, or any other action taken by a seaport infrastructure financing district is consistent with the state's interest in tidelands and submerged lands. | ***Last Action***<br>Amended and Re-referred to Senate Rules Committee<br>March 23, 2015<br>***Current Location***<br>Senate Rules |
| **SB 64** | Liu<br>(D - La Canada Flintridge) | State Transportation Plan | This bill would require the Commission to review recommendations in the update to California Transportation Plan prepared by Caltrans, beginning in 2015 and every 5 years thereafter. This bill would also require the Commission to prepare specific recommendations for statewide system improvements and include those recommendations in a report to the Legislature and the Governor by December 31, 2016 and every 5 years thereafter. | ***Last Action***<br>Referred to Committee<br>January 15, 2015<br>***Current Location***<br>Senate Transportation and Housing Committee |
| **SB 69** | Leno<br>(D - San Francisco) | Budget Act of 2015 | Makes appropriations for the support of state government, including the Commission, for the 2015-16 fiscal year. | ***Last Action***<br>Referred to Committee<br>January 9, 2015<br>***Current Location***<br>Senate Budget & Fiscal Review Committee |

PINK BOOK ITEM

| Bill # | Author | Title | Description | Status |
|---|---|---|---|---|
| **SB 158** | Huff<br>(R - Diamond Bar) | Transportation Projects: Comprehensive Agreements | Deletes obsolete cross-references and makes technical changes to existing law that authorizes the Department of Transportation or a regional agency to enter into a comprehensive development lease with a public or private entity for a transportation project. | ***Last Action***<br>Referred to Committee<br>February 19, 2015<br>***Current Location***<br>Senate Rules Committee |
| **SB 194** | Cannella<br>(R - Ceres) | Vehicles: High-Occupancy Vehicle Lanes | Makes technical, nonsubstantive changes to existing law that authorizes local authorities and the Department of Transportation to establish exclusive or preferential use of highway lanes for high-occupancy vehicles on highways under their respective jurisdictions. | ***Last Action***<br>Referred to Committee<br>February 19, 2015<br>***Current Location***<br>Senate Rules |
| **SB 206** | Gaines<br>(R - Roseville) | On-Board Diagnostic Systems | Prohibits the State Air Resources Board from obtaining information from a motor vehicle's on-board diagnostic system unless the registered owner of the motor vehicle has provided written consent for the collection of that information. Requires the state board to develop a system through which a registered motor vehicle owner may electronically provide his or her consent to maintain a database of those consenting registered motor vehicle owners. | ***Last Action***<br>February 19, 2015<br>***Current Location***<br>Senate Environmental Quality Hearing:<br>April 15, 2015<br>@ 9:30 AM, Room 3191 |
| **SB 207** | Wieckowski<br>(D - Fremont) | Greenhouse Gas Reduction Fund: Investment Plan | Requires the California Global Warming Solutions Act of 2006 investment plan to identify conflicting or overlapping policies in current state strategies to meet the state's greenhouse gas emissions reduction goals and targets by sector. | ***Last Action***<br>February 19, 2015<br>***Current Location***<br>Senate Environmental Quality Hearing:<br>April 15, 2015<br>@ 9:30 AM, Room 3191 |
| **SB 321** | Beall<br>(D - San Jose) | Motor Vehicle Fuel Taxes: Rate Adjustments | Requires the State Board of Equalization to adjust the rate in a manner as to generate an amount of revenue equal to the average amount of revenue loss attributable to a certain exemption over the next five fiscal years, based on estimates made by the board, and continue to take into account adjustments required by existing law to maintain revenue neutrality. | ***Last Action***<br>Referred to Committee<br>March 5, 2015<br>***Current Location***<br>Senate Governance & Finance Committee |
| **SB 348** | Galgiani<br>(D - Stockton) | California Environmental Quality Act: Railroad Crossing | Amends an existing law which grants to the Public Utilities Commission the authority to regulate railroad crossings and exempts from the California Environmental Quality Act the closure of a railroad grade crossing by order of the PUC. Extends a repeal date. | ***Last Action***<br>Referred to Committee<br>March 5, 2015<br>***Current Location***<br>Senate Environment Quality Committee Hearing:<br>April 15, 2015<br>@ 9:30 AM, Room 3191 |

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| Bill # | Author | Title | Description | Status |
|---|---|---|---|---|
| **SB 350** | De Leon<br>(D - Los Angeles)<br>&<br>Leon<br>(D - San Francisco) | Clean Energy & Pollution Reduction Act of 2015 | States the intent of the Legislature for the purposes of the Renewables Portfolio Standard (RPS) program that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount equal to at least 50% by a specified date to require the Public Utilities Commission to establish the quantity of electricity products from eligible renewable energy resources be procured by each retail seller for specified compliance periods. | ***Last Action***<br>Referred to Committees<br>March 5, 2015<br>***Current Location***<br>Referred to Senate Energy, Utilities and Communications & Environmental Quality Committees |
| **SB 491** | Beall<br>(D - San Jose) | Transportation: Omnibus Bill | Relates to a public meeting requirement to adopt criteria for spending vehicle registration funds for air quality projects. Relates to enrolling a driver in the pull notice system. Prohibits driving a commercial motor vehicle with specified experience, training, or both. Extends, in specified counties, the requirement for proof of financial responsibility to register a vehicle. Relates to protected bikeways. Updates federal transportation programming documents. Relates to project projection dates. | ***Last Action***<br>Referred to Committee<br>March 12, 2015<br>***Current Location***<br>Senate Transportation and Housing Committee |
| **SB 508** | Beall<br>(D - San Jose) | Transportation Operations: Financial Requirements | Deletes the requirement that transit operators maintain higher farebox requirements based on a specified fiscal year. Exempts additional expenditures categories from operating costs. Reduces the public transit operator's operating allocation by a specified percentage, based on the percentage amount that the operator failed to meet the efficiency standards. Excludes certain health coverage and pension costs from the definition of operating costs used to calculate compliance with the efficiency standards. | ***Last Action***<br>Referred to Committee<br>March 12, 2015<br>***Current Location***<br>Senate Transportation & Housing Committee |
| **SB 513** | Beall<br>(D - San Jose) | Carl Moyer Program Memorial Air Quality Standards Attainment Program | Amends existing law that establishes the Carl Moyer Memorial Air Quality Standards Attainment Program, which is administered by the State Air Resources Board, to provide grants to offset the incremental cost of eligible projects that reduce emissions of air pollutants from vehicular sources in the state and for funding a fueling infrastructure demonstration program and technology development efforts | ***Last Action***<br>Referred to Committee<br>March 12, 2015<br>***Current Location***<br>Senate Rules Committee |
| **SB 516** | Fuller<br>(R - Bakersfield) | Transportation: Motorist Aid Services | Amends an existing law which authorizes a service authority to impose a fee on vehicles registered in the counties served by the authority. Requires that such moneys be used for service expenses associated with the implementation, maintenance, and operations of a motorist aid system. Authorizes the use of those moneys for traveler information systems, litter and debris removal, and Intelligent Transportation System architecture and infrastructure. | ***Last Action***<br>Referred to Committee<br>March 12, 2015<br>***Current Location***<br>Senate Transportation and Housing Committee |

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| Bill # | Author | Title | Description | Status |
|---|---|---|---|---|
| **SB 564** | Cannella (R - Ceres) | Vehicles: School Zone Fines | Requires that an additional fine be imposed if a certain violation occurred when passing a school building or school grounds and the highway is posted with a standard warning sign and an accompanying sign notifying motorists that increased penalties apply for traffic violations that are committed within that school zone. Requires the funds from additional fines be deposited in the State Highway Account for funding school zone safety projects within the Active Transportation Program. | ***Last Action*** Referred to Committee March 12, 2015 ***Current Location*** Senate Transportation and Housing Committee. Scheduled to be heard April 14, 2015 @ 1:30 PM, Room 4203 |
| **SB 630** | Hancock (D - Oakland) | Public Contract Bidders: Cost Overruns | Prohibits a state agency or department from awarding a public works or purchase contract to a bidder or contractor without requesting information from the bidder or contractor about cost overruns on previous public works projects or purchase contracts awarded to that bidder or contractor. | ***Last Action*** Referred to Committee March 16, 2015 ***Current Location*** State Governmental Organization Committee. Scheduled to be heard April 14, 2015 @ 9:30 AM, Room 4203 |
| **SB 698** | Cannella (R - Ceres) | Active Transportation Program: School Zone Safety | Relates to the Active Transportation Program to encourage increased use of active modes of transportation, such as biking and walking. Appropriates continuously an unspecified amount from the Greenhouse Gas Reduction Fund to the State Highway Account in the State Transportation fund for purposes of funding school zone safety projects within the Active Transportation Program. | ***Last Action*** Referred to Committees March 19, 2015 ***Current Location*** Senate Environmental Quality & Transportation and Housing Committees |
| **SB 747** | McGuire (D - Santa Rosa) | Airports: Financial Assistance: Grant Program | This bill would add a new statue creating a grant program that Department of Transportation would adopt and administer. It would fund an infrastructure project program, allow more than one airport to apply for a single grant and would also provide financial assistance to commercial air carriers and to underserved airports. | ***Last Action*** Referred to Committee March 19, 2015 ***Current Location*** Senate Transportation and Housing Committee |
| **SB 757** | Wieckowski (D - Fremont) | Transportation | States the intent of the Legislature to enact legislation to require the Alameda County Transportation Commission to explore the feasibility of a multimoda station in Fremont at a location that can be served both by trains of the Bay Area Rapid Transit system and the Altamont Commuter Express. | ***Last Action*** Referred to Committeee March 19, 2015 ***Current Location*** Senate Rules Committee |
| **SB 767** | De Leon (D - Los Angeles) | Los Angeles County Metropolitan Transportation Authority | Authorizes the Los Angeles County Metropolitan Transportation Authority to impose an additional transportation transactions and use tax subject to various requirements, including the adoption of an expenditure plan and voter approval. | ***Last Action*** Referred to Committee March 19, 2015 ***Current Location*** Senate Transportation and Housing & Governance and Finance Committees |

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| Bill # | Author | Title | Description | Status |
|---|---|---|---|---|
| **Trailer Bill 402** | Department of Finance | Highway Tolling | Initial language posted on the Department of Finance website relating to statewide highway tolling policy, no policy or trailer bill identified. | ***Last Action*** February 16, 2015 Language posted on Department of Finance website |
| **Trailer Bill 403** | Department of Finance | Relinquishment | Initial language posted on the Department of Finance website relating to statewide highway tolling policy, no policy or trailer bill identified. | ***Last Action*** February 16, 2015 Language posted on Department of Finance website |
| **USHR 309** | Huffman (D - CA) | Carbon Tax | This bill would amend the Internal Revenue Code of 1986 to provide for repealing the gas tax and establishing a carbon tax on highway fuels. | ***Last Action*** Referred to Committee January 16, 2015 ***Current Location*** House Subcommittee on Energy and Power |
| **USHR 679** | Blumenauer (D - OR) | Road Usage Charge Pilot Program Act of 2015 | This bill would establish a Road Usage Charge Pilot Program to study mileage-based fee systems. | ***Last Action*** Referred to Committee February 6, 2015 ***Current Location*** House Subcommittee on Energy and Power |

PINK BOOK ITEM

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

# ASSEMBLY BILL No. 4

**Introduced by Assembly Member Linder**

December 1, 2014

An act to add and repeal Section 9400.5 of the Vehicle Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 4, as introduced, Linder. Vehicle weight fees: transportation bond debt service.

Existing law imposes weight fees on the registration of commercial motor vehicles and provides for the deposit of net weight fee revenues into the State Highway Account. Existing law provides for the transfer of certain weight fee revenues from the State Highway Account to the Transportation Debt Service Fund to reimburse the General Fund for payment of debt service on general obligation bonds issued for transportation purposes. Existing law also provides for the transfer of certain weight fee revenues to the Transportation Bond Direct Payment Account for direct payment of debt service on designated bonds, which are defined to be certain transportation general obligation bonds issued pursuant to Proposition 1B of 2006. Existing law also provides for loans of weight fee revenues to the General Fund to the extent the revenues are not needed for bond debt service purposes, with the loans to be repaid when the revenues are later needed for those purposes, as specified.

This bill, notwithstanding these provisions or any other law, until January 1, 2020, would prohibit weight fee revenues from being transferred from the State Highway Account to the Transportation Debt Service Fund, the Transportation Bond Direct Payment Account, or

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any other fund or account for the purpose of payment of the debt service on transportation general obligation bonds, and would also prohibit loans of weight fee revenues to the General Fund.

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

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

SECTION 1. Section 9400.5 is added to the Vehicle Code, to read:

9400.5. (a) Notwithstanding Sections 9400.1, 9400.4, and 42205 of this code, Sections 16773 and 16965 of the Government Code, Section 2103 of the Streets and Highways Code, or any other law, weight fee revenues shall not be transferred from the State Highway Account to the Transportation Debt Service Fund, the Transportation Bond Direct Payment Account, or any other fund or account for the purpose of payment of the debt service on transportation general obligation bonds, and shall not be loaned to the General Fund.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

# ASSEMBLY BILL No. 194

**Introduced by Assembly Member Frazier**

January 28, 2015

An act to amend Section 149.7 of, and to add Section 149.2 to, the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 194, as introduced, Frazier. High-occupancy toll lanes.

Existing law provides that the Department of Transportation has full possession and control of the state highway system. Existing law authorizes the department to construct exclusive or preferential lanes for buses only or for buses and other high-occupancy vehicles.

Existing law authorizes a regional transportation agency, as defined, in cooperation with the department to apply to the California Transportation Commission to develop and operate high-occupancy toll (HOT) lanes, including administration and operation of a value-pricing program and exclusive or preferential lane facilities for public transit, consistent with established standards, requirements, and limitations that apply to specified facilities. Existing law limits the number of approved facilities to not more than 4, 2 in northern California and 2 in southern California, and provides that no applications may be approved on or after January 1, 2012.

This bill would delete the requirement that the above-described facilities be consistent with the established standards, requirements, and limitations that apply to specified facilities and would instead require the commission to establish guidelines for the development and operation of the facilities approved by the commission on or after January 1, 2016, subject to specified minimum requirements. The bill

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would provide that these provisions do not authorize the conversion of any existing nontoll or nonuser-fee lanes into tolled or user-fee lanes, except that a high-occupancy vehicle lane may be converted into a high-occupancy toll lane pursuant to its provisions. The bill would authorize a regional transportation agency to issue bonds, refunding bonds, or bond anticipation notes backed by revenues generated from the facilities. The bill would additionally authorize the Santa Clara Valley Transportation Authority to apply to the commission for purposes of the above-described provisions. The bill would remove the limitations on the number of approved facilities and would delete the January 1, 2012, deadline for HOT lane applications. The bill would provide that each application is subject to the review and approval of the commission and would require a regional transportation agency that applies to the commission to reimburse the commission for all of the commission's cost and expense incurred in processing the application. Before submitting an application to the commission, the bill would require a regional transportation agency to consult with a local transportation authority whose jurisdiction includes the facility that the regional transportation agency proposes to develop and operate pursuant to the above-described provisions.

This bill would additionally authorize the department to apply to the commission to develop and operate HOT lanes and associated facilities pursuant to similar provisions.

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

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

SECTION 1. Section 149.2 is added to the Streets and Highways Code, to read:

149.2. (a) The department may apply to the commission to develop and operate high-occupancy toll lanes, including the administration and operation of a value pricing program and exclusive or preferential lane facilities for public transit.

(b) Each application for the development and operation of the facilities described in subdivision (a) shall be subject to review and approval by the commission pursuant to eligibility criteria established by the commission. For each eligible application, the commission shall conduct at least one public hearing in northern California and one in southern California.

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(c) The commission shall establish guidelines for the development and operation of facilities described in subdivision (a) and approved by the commission pursuant to this section, subject to the following minimum requirements:

(1) The department shall develop and operate the facilities in cooperation with regional transportation agencies, as applicable, and with the active participation of the Department of the California Highway Patrol.

(2) The department shall be responsible for establishing, collecting, and administering tolls.

(3) The department shall be responsible for paying for the maintenance of the facilities from net toll revenue.

(4) The revenue generated from the operation of the facilities shall be available to the department for the direct expenses related to the maintenance, administration, and operation of the facilities, including toll collection and enforcement.

(5) All remaining revenue generated by the facilities shall be used in the corridor from which the revenue was generated pursuant to an expenditure plan developed by the department and approved by the commission.

(6) This section shall not prevent any regional transportation agency or local agency from constructing facilities that compete with the facilities approved by the commission and the department shall not be entitled to compensation for the adverse effects on toll revenue due to those competing facilities.

(d) The department shall provide any information or data requested by the commission or the Legislative Analyst relating to a facility that the department develops or operates pursuant to this section. The commission, in cooperation with the Legislative Analyst, shall annually prepare a report on the progress of the development and operation of a facility authorized under this section. The commission may submit this report as a section in its annual report to the Legislature required pursuant to Section 14535 of the Government Code.

(e) Nothing in this section shall authorize the conversion of any existing nontoll or nonuser-fee lanes into tolled or user-fee lanes, except that a high-occupancy vehicle lane may be converted into a high-occupancy toll lane.

SEC. 2. Section 149.7 of the Streets and Highways Code is amended to read:

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149.7. (a) A regional transportation agency, as defined in ~~Section 143,~~ *subdivision (h)*, in cooperation with the department, may apply to the commission to develop and operate high-occupancy toll lanes, including the administration and operation of a value pricing program and exclusive or preferential lane facilities for public ~~transit, consistent with the established standards, requirements, and limitations that apply to those facilities in Sections 149, 149.1, 149.3, 149.4, 149.5, and 149.6.~~ *transit.*

(b) ~~The commission shall review each~~ *Each* application for the development and operation of the facilities described in subdivision (a) ~~according~~ *shall be subject* to *review and approval by the commission pursuant to* eligibility criteria established by the commission. For each eligible application, the commission shall conduct at least one public hearing in northern California and one in southern California.

*(c) A regional transportation agency that applies to the commission to develop and operate facilities described in subdivision (a) shall reimburse the commission for all of the commission's costs and expenses incurred in processing the application.*

~~(c)~~

*(d)* The ~~number~~ *commission shall establish guidelines for the development and operation* of facilities *described in subdivision (a) and* approved ~~under~~ *by the commission on or after January 1, 2016, pursuant to* this ~~section shall not exceed four, two in northern California and two in southern California.~~ *section, subject to the following minimum requirements:*

*(1) The regional transportation agency shall develop and operate the facilities in cooperation with the department, and the active participation of the Department of the California Highway Patrol, pursuant to an agreement that addresses all matters related to design, construction, maintenance, and operation of state highway system facilities in connection with the facilities.*

*(2) The regional transportation agency shall be responsible for establishing, collecting, and administering tolls.*

*(3) The regional transportation agency shall be responsible for paying for the maintenance of the facilities from net toll revenue, pursuant to an agreement between the department and the regional transportation agency.*

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*(4) The revenue generated from the operation of the facilities shall be available to the regional transportation agency for the direct expenses related to the maintenance, administration, and operation of the facilities, including toll collection and enforcement.*

*(5) All remaining revenue generated by the facilities shall be used in the corridor from which the revenue was generated pursuant to an expenditure plan adopted by the regional transportation agency.*

*(6) This section shall not prevent the department or any local agency from constructing facilities that compete with the facilities approved by the commission and the regional transportation agency shall not be entitled to compensation for the adverse effects on toll revenue due to those competing facilities.*

~~(d)~~

*(e)* A regional transportation agency that develops or operates a facility, or facilities, described in subdivision (a) shall provide any information or data requested by the commission or the Legislative Analyst. The commission, in cooperation with the Legislative Analyst, shall annually prepare a report on the progress of the development and operation of a facility authorized under this section. The commission may submit this report as a section in its annual report to the Legislature required pursuant to Section 14535 of the Government Code.

*(f) (1) A regional transportation agency may issue bonds, refunding bonds, or bond anticipation notes, at any time, to finance construction of, and construction-related expenditures for, facilities approved pursuant to this section, and construction and construction-related expenditures that are included in the expenditure plan adopted pursuant to paragraph (5) of subdivision (d), payable solely from the revenues generated from the respective facilities.*

*(2) Any bond issued pursuant to this subdivision shall contain on its face a statement to the following effect:*

*"Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of principal of, or the interest on, this bond."*

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*(g) Before submitting an application pursuant to subdivision (a), a regional transportation agency shall consult with any local transportation authority designated pursuant to Division 12.5 (commencing with Section 131000) or Division 19 (commencing with Section 180000) of the Public Utilities Code whose jurisdiction includes the facility that the regional transportation agency proposes to develop and operate.*

*(h) Notwithstanding Section 143, for purposes of this section, "regional transportation agency" means any of the following:*

*(1) A transportation planning agency described in Section 29532 or 29532.1 of the Government Code.*

*(2) A county transportation commission established under Section 130050, 130050.1, or 130050.2 of the Public Utilities Code.*

*(3) Any other local or regional transportation entity that is designated by statute as a regional transportation agency.*

*(4) A joint exercise of powers authority established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, with the consent of a transportation planning agency or a county transportation commission for the jurisdiction in which the transportation project will be developed.*

*(5) The Santa Clara Valley Transportation Authority established pursuant to Part 12 (commencing with Section 100000) of Division 10 of the Public Utilities Code.*

~~(e) No applications may be approved under~~

*(i) Nothing in* this section ~~on~~ *shall authorize the conversion of any existing nontoll* or ~~after January 1, 2012.~~ *nonuser-fee lanes into tolled or user-fee lanes, except that a high-occupancy vehicle lane may be converted into a high-occupancy toll lane.*

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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

# ASSEMBLY BILL No. 227

**Introduced by Assembly Member Alejo**

February 3, 2015

An act to amend Sections 16773, 16965.1, and 63048.67 of, to add Section 16321 to, and to repeal Section 16965 of, the Government Code, to amend Sections 143, 183.1, and 2103 of the Streets and Highways Code, and to amend Sections 9400.1 and 42205 of, and to repeal Section 9400.4 of, the Vehicle Code, relating to transportation, and making an appropriation therefor.

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## LEGISLATIVE COUNSEL'S DIGEST

AB 227, as introduced, Alejo. Transportation funding.

(1) Existing law provides for loans of revenues from various transportation funds and accounts to the General Fund, with various repayment dates specified.

This bill, with respect to any loans made to the General Fund from specified transportation funds and accounts with a repayment date of January 1, 2019, or later, would require the loans to be repaid by December 31, 2018.

(2) Existing law imposes weight fees on the registration of commercial motor vehicles and provides for the deposit of net weight fee revenues into the State Highway Account. Existing law provides for the transfer of certain weight fee revenues from the State Highway Account to the Transportation Debt Service Fund to reimburse the General Fund for payment of debt service on general obligation bonds issued for transportation purposes. Existing law also provides for the transfer of certain weight fee revenues to the transportation Bond Direct Payment Account for direct payment of debt service on designated

bonds, which are defined to be certain transportation general obligation bonds issued pursuant to Proposition 1B of 2006. Existing law also provides for loans of weight fee revenues to the General Fund to the extent the revenues are not needed for bond debt service purposes, with the loans to be repaid when the revenues are later needed for those purposes, as specified.

This bill would repeal these provisions, thereby retaining the weight fee revenues in the State Highway Account. The bill would make other conforming changes in that regard.

(3) Existing law provides for the deposit of fuel excise tax revenues imposed by the state on fuels used in motor vehicles upon public streets and highways in the Highway Users Tax Account, and appropriates those revenues to various purposes. Existing law, with respect to the portion of these revenues that is derived from increases in the motor vehicle fuel excise tax in 2010, requires an allocation of revenues to reimburse the State Highway Account for the amount of weight fee revenues that the State Highway Account is not receiving due to use of weight fee revenues to pay debt service on transportation general obligation bonds and to make certain loans to the General Fund, with the remaining amount of this portion of revenues allocated 44% to the State Transportation Improvement Program, 12% to the State Highway Operation and Protection Program, and 44% to city and county streets and roads.

This bill would delete the provisions relating to the reimbursement of the State Highway Account for weight fee revenues and relating to the making of loans to the General Fund, thereby providing for the portion of fuel excise tax revenues that is derived from increases in the motor vehicle fuel excise tax in 2010 to be allocated 44% to the State Transportation Improvement Program, 12% to the State Highway Operation and Protection Program, and 44% to city and county streets and roads. The bill would thereby make an appropriation.

(4) Existing law requires certain revenues deposited in the State Highway Account that are not restricted as to expenditure by Article XIX of the California Constitution to be transferred to the Transportation Debt Service Fund in the State Transportation Fund, as specified, and continuously appropriates these funds for payment of current year debt service on certain mass transportation bonds.

This bill would delete the requirement to transfer these revenues to the Transportation Debt Service Fund, thereby providing for these

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revenues to be used for any transportation purpose authorized by statute, upon appropriation by the Legislature.

(5) Existing law authorizes the Department of Transportation and regional transportation agencies, as defined, to enter into comprehensive development lease agreements with public and private entities, or consortia of those entities, for certain transportation projects that may charge certain users of those projects tolls and user fees, subject to various terms and requirements. These arrangements are commonly known as public-private partnerships. Existing law provides that a lease agreement may not be entered into under these provisions on or after January 1, 2017.

This bill would delete that date, thereby providing for no lease agreements to be entered into under these provisions after an unspecified date.

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

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

SECTION 1. Section 16321 is added to the Government Code, to read:

16321. Notwithstanding any other provision of law, loans of revenues to the General Fund from the State Highway Account, the Public Transportation Account, the Bicycle Transportation Account, the Motor Vehicle Fuel Account, the Highway Users Tax Account, the Pedestrian Safety Account, the Transportation Investment Fund, the Traffic Congestion Relief Fund, the Motor Vehicle Account, and the Local Airport Loan Account shall be repaid, on or before December 31, 2018, to the account or fund from which the loan was made. This section shall apply to all loans that otherwise have a repayment date of January 1, 2019, or later.

SEC. 2. Section 16773 of the Government Code is amended to read:

16773. (a) Whenever any payment of principal of any bonds shall become due, either upon the maturity of any of the bonds or upon the redemption thereof prior to maturity, and whenever any interest on any of the bonds shall fall due, warrants shall be drawn against the appropriation made by the bond act from the General Fund by the Controller in favor of the Treasurer, or state fiscal

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agents, or other duly authorized agents, pursuant to claims filed with the Controller by the Treasurer, in the amounts so falling due.

(b) For any payments of debt service, as defined in subdivision (c) of Section 998.404 of the Military and Veterans Code, with respect to any bonds issued pursuant to a veterans' farm and home purchase bond act adopted pursuant to Chapter 6 (commencing with Section 980) of Division 4 of the Military and Veterans Code, the Controller shall first draw warrants against the appropriation from the Veterans' Bonds Payment Fund in Section 988.6 of the Military and Veterans Code, and, to the extent moneys in that fund are insufficient to pay the amount of debt service then due, shall draw warrants against the appropriation made by the bond act from the General Fund for payment of any remaining amount then due.

~~(c) (1) For any payments of debt service, as defined in paragraph (4) of subdivision (a) of Section 16965, with respect to any designated bonds issued pursuant to Proposition 1B, the Controller shall first draw warrants against the appropriation from the Transportation Bond Direct Payment Account of the Transportation Debt Service Fund created by subdivision (a) of Section 16965, and, to the extent moneys in that account are insufficient to pay the amount of debt service then due, shall draw warrants from the General Fund for payment of any remaining amount then due against such appropriation as may be available therefor, including the appropriation made by Proposition 1B.~~

~~(2) (A) For purposes of this subdivision and Section 16965, "Proposition 1B" means the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1).~~

~~(B) For purposes of this subdivision, Section 16965, and Section 9400.4 of the Vehicle Code, the term "designated bond" means any designated bond under Proposition 1B, and the term "nondesignated bond" means any bond issued under Proposition 1B, whether issued before or after the enactment of the act adding this subdivision, that is not a designated bond. For purposes of this subdivision, a "designated bond" is an issue of bonds (including refunding bonds) under Proposition 1B that has been designated by the Treasurer upon or prior to its issuance, with the approval of the related finance committee, to be paid pursuant to paragraph (1).~~

SEC. 3. Section 16965 of the Government Code is repealed.

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~~16965. (a) (1) The Transportation Debt Service Fund is hereby created in the State Treasury. Moneys in the fund shall be dedicated to all of the following purposes:~~

~~(A) Payment of debt service with respect to designated bonds, as defined in subdivision (c) of Section 16773, and as further provided in paragraph (3) and subdivision (b).~~

~~(B) To reimburse the General Fund for debt service with respect to bonds.~~

~~(C) To redeem or retire bonds, pursuant to Section 16774, maturing in a subsequent fiscal year.~~

~~(2) The bonds eligible under subparagraph (B) or (C) of paragraph (1) include issued pursuant to the Clean Air and Transportation Improvement Act of 1990 (Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities Code), the Passenger Rail and Clean Air Bond Act of 1990 (Chapter 17 (commencing with Section 2701) of Division 3 of the Streets and Highways Code), the Seismic Retrofit Bond Act of 1996 (Chapter 12.48 (commencing with Section 8879) of Division 1 of Title 2), and the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century (Chapter 20 (commencing with Section 2704) of Division 3 of the Streets and Highways Code), and nondesignated bonds under Proposition 1B, as defined in subdivision (c) of Section 16773.~~

~~(3) (A) The Transportation Bond Direct Payment Account is hereby created in the State Treasury, as a subaccount within the Transportation Debt Service Fund, for the purpose of directly paying the debt service, as defined in paragraph (4), of designated bonds of Proposition 1B, as defined in subdivision (c) of Section 16773. Notwithstanding Section 13340, moneys in the Transportation Bond Direct Payment Account are continuously appropriated for payment of debt service with respect to designated bonds as provided in subdivision (c) of Section 16773. So long as any designated bonds remain outstanding, the moneys in the Transportation Bond Direct Payment Account may not be used for any other purpose, and may not be borrowed by or available for transfer to the General Fund pursuant to Section 16310 or any similar law, or to the General Cash Revolving Fund pursuant to Section 16381 or any similar law.~~

~~(B) Once the Treasurer makes a certification that payment of debt service with respect to all designated bonds has been paid or~~

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~~provided for, any remaining moneys in the Transportation Bond Direct Payment Account shall be transferred back to the Transportation Debt Service Fund.~~

~~(C) The moneys in the Transportation Bond Direct Payment Account shall be invested in the Surplus Money Investment Fund, and all investment earnings shall accrue to the account.~~

~~(D) The Controller may establish subaccounts within the Transportation Bond Direct Payment Account as may be required by the resolution, indenture, or other documents governing any designated bonds.~~

~~(4) For purposes of this subdivision and subdivision (b), and subdivision (c) of Section 16773, "debt service" means payment of all of the following costs and expenses with respect to any designated bond:~~

~~(A) The principal of and interest on the bonds.~~

~~(B) Amounts payable as the result of tender on any bonds, as described in clause (iv) of subparagraph (B) of paragraph (1) of subdivision (d) of Section 16731.~~

~~(C) Amounts payable under any contractual obligation of the state to repay advances and pay interest thereon under a credit enhancement or liquidity agreement as described in clause (iv) of subparagraph (B) of paragraph (1) of subdivision (d) of Section 16731.~~

~~(D) Any amount owed by the state to a counterparty after any offset for payments owed to the state on any hedging contract as described in subparagraph (A) of paragraph (2) of subdivision (d) of Section 16731.~~

~~(b) From the moneys transferred to the fund pursuant to paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the Vehicle Code, there shall first be deposited into the Transportation Bond Direct Payment Account in each month sufficient funds to equal the amount designated in a certificate submitted by the Treasurer to the Controller and the Director of Finance at the start of each fiscal year, and as may be modified by the Treasurer thereafter upon issuance of any new issue of designated bonds or upon change in circumstances that requires such a modification. This certificate shall be calculated by the Treasurer to identify, for each month, the amount necessary to fund all of the debt service with respect to all designated bonds. This calculation shall be done in a manner provided in the resolution, indenture, or other~~

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~~documents governing the designated bonds. In the event that transfers to the Transportation Bond Direct Payment Account in any month are less than the amounts required in the Treasurer's certificate, the shortfall shall carry over to be part of the required payment in the succeeding month or months.~~

~~(c) The state hereby covenants with the holders from time to time of any designated bonds that it will not alter, amend, or restrict the provisions of subdivision (c) of Section 16773 of the Government Code, or Sections 9400, 9400.1, 9400.4, and 42205 of the Vehicle Code, which provide directly or indirectly for the transfer of weight fees to the Transportation Debt Service Fund or the Transportation Bond Direct Payment Account, or subdivisions (a) and (b) of this section, or reduce the rate of imposition of vehicle weight fees under Sections 9400 and 9400.1 of the Vehicle Code as they existed on the date of the first issuance of any designated bonds, if that alteration, amendment, restriction, or reduction would result in projected weight fees for the next fiscal year determined by the Director of Finance being less than two times the maximum annual debt service with respect to all outstanding designated bonds, as such calculation is determined pursuant to the resolution, indenture, or other documents governing the designated bonds. The state may include this covenant in the resolution, indenture, or other documents governing the designated bonds.~~

~~(d) Once the required monthly deposit, including makeup of any shortfalls from any prior month, has been made pursuant to subdivision (b), from moneys transferred to the fund pursuant to paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the Controller shall transfer as an expenditure reduction to the General Fund any amount necessary to offset the cost of current year debt service payments made from the General Fund with respect to any bonds issued pursuant to Proposition 192 (1996) and three-quarters of the amount of current year debt service payments made from the General Fund with respect to any nondesignated bonds, as defined in subdivision (c) of Section 16773, issued pursuant to Proposition 1B (2006). In the alternative, these funds may also be used to redeem or retire the applicable bonds, pursuant to Section 16774, maturing in a subsequent fiscal year as directed by the Director of Finance.~~

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~~(e) From moneys transferred to the fund pursuant to Section 183.1 of the Streets and Highways Code, the Controller shall transfer as an expenditure reduction to the General Fund any amount necessary to offset the cost of current year debt service payments made from the General Fund with respect to any bonds issued pursuant to Proposition 116 (1990). In the alternative, these funds may also be used to redeem or retire the applicable bonds, pursuant to Section 16774, maturing in a subsequent fiscal year as directed by the Director of Finance.~~

~~(f) Once the required monthly deposit, including makeup of any shortfalls from any prior month, has been made pursuant to subdivision (b), from moneysmoneys transferred to the fund pursuant to paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the Controller shall transfer as an expenditure reduction to the General Fund any amount necessary to offset the eligible cost of current year debt service payments made from the General Fund with respect to any bonds issued pursuant to Proposition 108 (1990) and Proposition 1A (2008), and one-quarter of the amount of current year debt service payments made from the General Fund with respect to any nondesignated bonds, as defined in subdivision (c) of Section 16773, issued pursuant to Proposition 1B (2006). The Department of Finance shall notify the Controller by July 30 of every year of the percentage of debt service that is expected to be paid in that fiscal year with respect to bond-funded projects that qualify as eligible guideway projects consistent with the requirements applicable to the expenditure of revenues under Article XIX of the California Constitution, and the Controller shall make payments only for those eligible projects. In the alternative, these funds may also be used to redeem or retire the applicable bonds, pursuant to Section 16774, maturing in a subsequent fiscal year as directed by the Director of Finance.~~

~~(g) On or before the second business day following the date on which transfers are made to the Transportation Debt Service Fund, and after the required monthly deposits for that month, including makeup of any shortfalls from any prior month, have been made to the Transportation Bond Direct Payment Account, the Controller shall transfer the funds designated for reimbursement of bond debt service with respect to nondesignated bonds, as defined in subdivision (c) of Section 16773, and other bonds identified in~~

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~~subdivisions (d), (e), and (f) in that month from the fund to the General Fund pursuant to this section.~~

SEC. 4. Section 16965.1 of the Government Code is amended to read:

16965.1. (a) (1) The loan repayment dates relative to State Highway Account loans to the General Fund that are specified in the provisional language of the following Budget Act items are hereby eliminated, and the Director of Finance may repay any remaining portion of the outstanding balance of these loans in any year in which the director determines the funds are needed to reimburse the General Fund for debt service or to redeem or defease bonds maturing in a subsequent fiscal year, provided that the loans shall be repaid no later than ~~June 30, 2021:~~ *December 31, 2018:*

(A) Item 2660-011-0042 of Section 2.00 of the Budget Act of 2010 (SB 870, Chapter 712 of the Statutes of 2010).

(B) Item 2660-013-0042 of Section 2.00 of the Budget Act of 2010, as added by Section 6 of SB 84 (Chapter 13 of the Statutes of 2011).

(C) Item 2660-013-0042 of Section 2.00 of the Budget Act of 2011, as contained in SB 69 of the 2011–12 Regular Session, if that provision is enacted.

(2) All funds loaned pursuant to the provisions referenced in subparagraphs (A), (B), and (C) of paragraph (1) are hereby determined to have been from weight fee revenues in the State Highway Account fund balance. ~~Upon repayment of those loans to the State Highway Account, those funds shall be immediately transferred by the Controller to the Transportation Debt Service Fund for use pursuant to Section 16965.~~

(b) The loan repayment date relative to the Public Transportation Account that is specified in the provisional language in Item 2660-011-0046 of Section 2.00 of the Budget Act of 2010 (SB 870, Chapter 712 of the Statutes of 2010), is hereby eliminated, and the loan pursuant to this item shall instead be repaid by ~~June 30, 2021.~~ *December 31, 2018.*

SEC. 5. Section 63048.67 of the Government Code is amended to read:

63048.67. The loans made from the State Highway Account through the Traffic Congestion Relief Fund to the General Fund that are referenced in clause (i) of subparagraph (A) of paragraph (1) of subdivision (c) of Section 63048.65 are hereby determined

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to have been from weight fee revenues in the State Highway Account fund balance. ~~Any repayments made to the State Highway Account pursuant to subdivision (e) of Section 63048.65, upon transfer of those funds to the State Highway Account, shall be immediately transferred by the Controller from the State Highway Account to the Transportation Debt Service Fund for use pursuant to Section 16965.~~

SEC. 6. Section 143 of the Streets and Highways Code is amended to read:

143. (a) (1) "Best value" means a value determined by objective criteria, including, but not limited to, price, features, functions, life-cycle costs, and other criteria deemed appropriate by the department or the regional transportation agency.

(2) "Contracting entity or lessee" means a public or private entity, or consortia thereof, that has entered into a comprehensive development lease agreement with the department or a regional transportation agency for a transportation project pursuant to this section.

(3) "Design-build" means a procurement process in which both the design and construction of a project are procured from a single entity.

(4) "Regional transportation agency" means any of the following:

(A) A transportation planning agency as defined in Section 29532 or 29532.1 of the Government Code.

(B) A county transportation commission as defined in Section 130050, 130050.1, or 130050.2 of the Public Utilities Code.

(C) Any other local or regional transportation entity that is designated by statute as a regional transportation agency.

(D) A joint exercise of powers authority as defined in Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, with the consent of a transportation planning agency or a county transportation commission for the jurisdiction in which the transportation project will be developed.

(5) "Public Infrastructure Advisory Commission" means a unit or auxiliary organization established by the ~~Business,~~ Transportation ~~and Housing~~ Agency that advises the department and regional transportation agencies in developing transportation projects through performance-based infrastructure partnerships.

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(6) "Transportation project" means one or more of the following: planning, design, development, finance, construction, reconstruction, rehabilitation, improvement, acquisition, lease, operation, or maintenance of highway, public street, rail, or related facilities supplemental to existing facilities currently owned and operated by the department or regional transportation agencies that is consistent with the requirements of subdivision (c).

(b) (1) The Public Infrastructure Advisory Commission shall do all of the following:

(A) Identify transportation project opportunities throughout the state.

(B) Research and document similar transportation projects throughout the state, nationally, and internationally, and further identify and evaluate lessons learned from these projects.

(C) Assemble and make available to the department or regional transportation agencies a library of information, precedent, research, and analysis concerning infrastructure partnerships and related types of public-private transactions for public infrastructure.

(D) Advise the department and regional transportation agencies, upon request, regarding infrastructure partnership suitability and best practices.

(E) Provide, upon request, procurement-related services to the department and regional transportation agencies for infrastructure partnership.

(2) The Public Infrastructure Advisory Commission may charge a fee to the department and regional transportation agencies for the services described in subparagraphs (D) and (E) of paragraph (1), the details of which shall be articulated in an agreement entered into between the Public Infrastructure Advisory Commission and the department or the regional transportation agency.

(c) (1) Notwithstanding any other provision of law, only the department, in cooperation with regional transportation agencies, and regional transportation agencies, may solicit proposals, accept unsolicited proposals, negotiate, and enter into comprehensive development lease agreements with public or private entities, or consortia thereof, for transportation projects.

(2) Projects proposed pursuant to this section and associated lease agreements shall be submitted to the California Transportation Commission. The commission, at a regularly scheduled public hearing, shall select the candidate projects from projects nominated

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by the department or a regional transportation agency after reviewing the nominations for consistency with paragraphs (3) and (4). Approved projects may proceed with the process described in paragraph (5).

(3) The projects authorized pursuant to this section shall be primarily designed to achieve the following performance objectives:

(A) Improve mobility by improving travel times or reducing the number of vehicle hours of delay in the affected corridor.

(B) Improve the operation or safety of the affected corridor.

(C) Provide quantifiable air quality benefits for the region in which the project is located.

(4) In addition to meeting the requirements of paragraph (3), the projects authorized pursuant to this section shall address a known forecast demand, as determined by the department or regional transportation agency.

(5) At least 60 days prior to executing a final lease agreement authorized pursuant to this section, the department or regional transportation agency shall submit the agreement to the Legislature and the Public Infrastructure Advisory Commission for review. Prior to submitting a lease agreement to the Legislature and the Public Infrastructure Advisory Commission, the department or regional transportation agency shall conduct at least one public hearing at a location at or near the proposed facility for purposes of receiving public comment on the lease agreement. Public comments made during this hearing shall be submitted to the Legislature and the Public Infrastructure Advisory Commission with the lease agreement. The Secretary of ~~Business, Transportation and Housing~~ *Transportation* or the chairperson of the Senate or Assembly fiscal committees or policy committees with jurisdiction over transportation matters may, by written notification to the department or regional transportation agency, provide any comments about the proposed agreement within the 60-day period prior to the execution of the final agreement. The department or regional transportation agency shall consider those comments prior to executing a final agreement and shall retain the discretion for executing the final lease agreement.

(d) For the purpose of facilitating those projects, the agreements between the parties may include provisions for the lease of rights-of-way in, and airspace over or under, highways, public

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streets, rail, or related facilities for the granting of necessary easements, and for the issuance of permits or other authorizations to enable the construction of transportation projects. Facilities subject to an agreement under this section shall, at all times, be owned by the department or the regional transportation agency, as appropriate. For department projects, the commission shall certify the department's determination of the useful life of the project in establishing the lease agreement terms. In consideration therefor, the agreement shall provide for complete reversion of the leased facility, together with the right to collect tolls and user fees, to the department or regional transportation agency, at the expiration of the lease at no charge to the department or regional transportation agency. At the time of the reversion, the facility shall be delivered to the department or regional transportation agency, as applicable, in a condition that meets the performance and maintenance standards established by the department or regional transportation agency and that is free of any encumbrance, lien, or other claims.

(e) Agreements between the department or regional transportation agency and the contracting entity or lessee shall authorize the contracting entity or lessee to use a design-build method of procurement for transportation projects, subject to the requirements for utilizing such a method contained in Chapter 6.5 (commencing with Section ~~6800)~~ *6820)* of Part 1 of Division 2 of the Public Contract Code, other than Sections ~~6802, 6803,~~ *6821* and ~~6813~~ *6822* of that ~~code, if those provisions are enacted by the Legislature during the 2009–10 Regular Session, or a 2009–10 extraordinary session.~~ *code.*

(f) (1) (A) Notwithstanding any other provision of this chapter, for projects on the state highway system, the department is the responsible agency for the performance of project development services, including performance specifications, preliminary engineering, prebid services, the preparation of project reports and environmental documents, and construction inspection services. The department is also the responsible agency for the preparation of documents that may include, but need not be limited to, the size, type, and desired design character of the project, performance specifications covering the quality of materials, equipment, and workmanship, preliminary plans, and any other information deemed

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necessary to describe adequately the needs of the department or regional transportation agency.

(B) The department may use department employees or consultants to perform the services described in subparagraph (A), consistent with Article XXII of the California Constitution. Department resources, including personnel requirements, necessary for the performance of those services shall be included in the department's capital outlay support program for workload purposes in the annual Budget Act.

(2) The department or a regional transportation agency may exercise any power possessed by it with respect to transportation projects to facilitate the transportation projects pursuant to this section. The department, regional transportation agency, and other state or local agencies may provide services to the contracting entity or lessee for which the public entity is reimbursed, including, but not limited to, planning, environmental planning, environmental certification, environmental review, preliminary design, design, right-of-way acquisition, construction, maintenance, and policing of these transportation projects. The department or regional transportation agency, as applicable, shall regularly inspect the facility and require the contracting entity or lessee to maintain and operate the facility according to adopted standards. Except as may otherwise be set forth in the lease agreement, the contracting entity or lessee shall be responsible for all costs due to development, maintenance, repair, rehabilitation, and reconstruction, and operating costs.

(g) (1) In selecting private entities with which to enter into these agreements, notwithstanding any other provision of law, the department and regional transportation agencies may utilize, but are not limited to utilizing, one or more of the following procurement approaches:

(A) Solicitations of proposals for defined projects and calls for project proposals within defined parameters.

(B) Prequalification and short-listing of proposers prior to final evaluation of proposals.

(C) Final evaluation of proposals based on qualifications and best value. The California Transportation Commission shall develop and adopt criteria for making that evaluation prior to evaluation of a proposal.

(D) Negotiations with proposers prior to award.

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(E) Acceptance of unsolicited proposals, with issuance of requests for competing proposals. Neither the department nor a regional transportation agency may award a contract to an unsolicited bidder without receiving at least one other responsible bid.

(2) When evaluating a proposal submitted by the contracting entity or lessee, the department or the regional transportation agency may award a contract on the basis of the lowest bid or best value.

(h) The contracting entity or lessee shall have the following qualifications:

(1) Evidence that the members of the contracting entity or lessee have completed, or have demonstrated the experience, competency, capability, and capacity to complete, a project of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, and a financial statement that ensures that the contracting entity or lessee has the capacity to complete the project.

(2) The licenses, registration, and credentials required to design and construct the project, including, but not limited to, information on the revocation or suspension of any license, credential, or registration.

(3) Evidence that establishes that members of the contracting entity or lessee have the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(4) Evidence that the contracting entity or lessee has workers' compensation experience, history, and a worker safety program of members of the contracting entity or lessee that is acceptable to the department or regional transportation agency.

(5) A full disclosure regarding all of the following with respect to each member of the contracting entity or lessee during the past five years:

(A) Any serious or willful violation of Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the federal Occupational Safety and Health Act of 1970 ~~(P.L.~~ *(Public Law* 91-596).

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(B) Any instance where members of the contracting entity or lessee were debarred, disqualified, or removed from a federal, state, or local government public works project.

(C) Any instance where members of the contracting entity or lessee, or its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive or were found by an awarding body not to be a responsible bidder.

(D) Any instance where members of the contracting entity or lessee, or its owners, officers, or managing employees defaulted on a construction contract.

(E) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), including, but not limited to, alleged violations of federal or state law regarding the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or Federal Insurance Contributions Act (FICA) withholding requirements.

(F) Any bankruptcy or receivership of any member of the contracting entity or lessee, including, but not limited to, information concerning any work completed by a surety.

(G) Any settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the contracting entity or lessee during the five years preceding submission of a bid under this article, in which the claim, settlement, or judgment exceeds fifty thousand dollars ($50,000). Information shall also be provided concerning any work completed by a surety during this five-year period.

(H) If the contracting entity or lessee is a partnership, joint venture, or an association that is not a legal entity, a copy of the agreement creating the partnership or association that specifies that all general partners, joint venturers, or association members agree to be fully liable for the performance under the agreement.

(i) No agreement entered into pursuant to this section shall infringe on the authority of the department or a regional transportation agency to develop, maintain, repair, rehabilitate, operate, or lease any transportation project. Lease agreements may provide for reasonable compensation to the contracting entity or lessee for the adverse effects on toll revenue or user fee revenue due to the development, operation, or lease of supplemental transportation projects with the exception of any of the following:

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(1) Projects identified in regional transportation plans prepared pursuant to Section 65080 of the Government Code.

(2) Safety projects.

(3) Improvement projects that will result in incidental capacity increases.

(4) Additional high-occupancy vehicle lanes or the conversion of existing lanes to high-occupancy vehicle lanes.

(5) Projects located outside the boundaries of a public-private partnership project, to be defined by the lease agreement.

However, compensation to a contracting entity or lessee shall only be made after a demonstrable reduction in use of the facility resulting in reduced toll or user fee revenues, and may not exceed the difference between the reduction in those revenues and the amount necessary to cover the costs of debt service, including principal and interest on any debt incurred for the development, operation, maintenance, or rehabilitation of the facility.

(j) (1) Agreements entered into pursuant to this section shall authorize the contracting entity or lessee to impose tolls and user fees for use of a facility constructed by it, and shall require that over the term of the lease the toll revenues and user fees be applied to payment of the capital outlay costs for the project, the costs associated with operations, toll and user fee collection, administration of the facility, reimbursement to the department or other governmental entity for the costs of services to develop and maintain the project, police services, and a reasonable return on investment. The agreement shall require that, notwithstanding Sections 164, 188, and 188.1, any excess toll or user fee revenue either be applied to any indebtedness incurred by the contracting entity or lessee with respect to the project, improvements to the project, or be paid into the State Highway Account, or for all three purposes, except that any excess toll revenue under a lease agreement with a regional transportation agency may be paid to the regional transportation agency for use in improving public transportation in and near the project boundaries.

(2) Lease agreements shall establish specific toll or user fee rates. Any proposed increase in those rates not otherwise established or identified in the lease agreement during the term of the agreement shall first be approved by the department or regional transportation agency, as appropriate, after at least one public

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hearing conducted at a location near the proposed or existing facility.

(3) The collection of tolls and user fees for the use of these facilities may be extended by the commission or regional transportation agency at the expiration of the lease agreement. However, those tolls or user fees shall not be used for any purpose other than for the improvement, continued operation, or maintenance of the facility.

(k) Agreements entered into pursuant to this section shall include indemnity, defense, and hold harmless provisions agreed to by the department or regional transportation agency and the contracting entity or lessee, including provisions for indemnifying the State of California or the regional transportation agency against any claims or losses resulting or accruing from the performance of the contracting entity or lessee.

(*l*) The plans and specifications for each transportation project on the state highway system developed, maintained, repaired, rehabilitated, reconstructed, or operated pursuant to this section shall comply with the department's standards for state transportation projects. The lease agreement shall include performance standards, including, but not limited to, levels of service. The agreement shall require facilities on the state highway system to meet all requirements for noise mitigation, landscaping, pollution control, and safety that otherwise would apply if the department were designing, building, and operating the facility. If a facility is on the state highway system, the facility leased pursuant to this section shall, during the term of the lease, be deemed to be a part of the state highway system for purposes of identification, maintenance, enforcement of traffic laws, and for the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(m) Failure to comply with the lease agreement in any significant manner shall constitute a default under the agreement and the department or the regional transportation agency, as appropriate, shall have the option to initiate processes to revert the facility to the public agency.

(n) The assignment authorized by subdivision (c) of Section 130240 of the Public Utilities Code is consistent with this section.

(o) A lease to a private entity pursuant to this section is deemed to be public property for a public purpose and exempt from

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leasehold, real property, and ad valorem taxation, except for the use, if any, of that property for ancillary commercial purposes.

(p) Nothing in this section is intended to infringe on the authority to develop high-occupancy toll lanes pursuant to Section 149.4, 149.5, or 149.6.

(q) Nothing in this section shall be construed to allow the conversion of any existing nontoll or nonuser-fee lanes into tolled or user fee lanes with the exception of a high-occupancy vehicle lane that may be operated as a high-occupancy toll lane for vehicles not otherwise meeting the requirements for use of that lane.

(r) The lease agreement shall require the contracting entity or lessee to provide any information or data requested by the California Transportation Commission or the Legislative Analyst. The commission, in cooperation with the Legislative Analyst, shall annually prepare a report on the progress of each project and ultimately on the operation of the resulting facility. The report shall include, but not be limited to, a review of the performance standards, a financial analysis, and any concerns or recommendations for changes in the program authorized by this section.

(s) Notwithstanding any other provision of this section, no lease agreement may be entered into pursuant to the section that affects, alters, or supersedes the Memorandum of Understanding (MOU), dated November 26, 2008, entered into by the Golden Gate Bridge Highway and Transportation District, the Metropolitan Transportation Commission, and the San Francisco County Transportation Authority, relating to the financing of the U.S. Highway 101/Doyle Drive reconstruction project located in the City and County of San Francisco.

(t) No lease agreements may be entered into under this section on or after January 1, ~~2017~~ ____.

SEC. 7. Section 183.1 of the Streets and Highways Code is amended to read:

183.1. ~~(a)~~ Notwithstanding subdivision (a) of Section 182 or any other provision of law, money deposited into the account that is not subject to Article XIX of the California Constitution, including, but not limited to, money that is derived from the sale of documents, charges for miscellaneous services to the public, condemnation deposits fund investments, rental of state property, or any other miscellaneous uses of property or money, may be

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used for any transportation purpose authorized by statute, upon appropriation by the Legislature or, after transfer to another fund, upon appropriation by the Legislature from that fund.

~~(b) Commencing with the 2013–14 fiscal year, and not later than November 1 of each fiscal year thereafter, based on prior year financial statements, the Controller shall transfer the funds identified in subdivision (a) for the prior fiscal year from the State Highway Account to the Transportation Debt Service Fund in the State Transportation Fund, and those funds are continuously appropriated for the purposes specified for the Transportation Debt Service Fund.~~

SEC. 8. Section 2103 of the Streets and Highways Code is amended to read:

2103. (a) Notwithstanding Section 13340 of the Government Code, of the net revenues deposited to the credit of the Highway Users Tax Account that are derived from the increases in the rates of taxes that are imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 of the Revenue and Taxation Code, all of the following shall occur on a monthly basis:

~~(1) (A) By the 15th day of every month, the Treasurer's office, in consultation with the Department of Finance, shall notify the Controller of the amount of debt service that will be paid on each transportation bond during that month.~~

~~(B) Within two business days following the 28th day of each month, the Controller shall transfer to the Transportation Debt Service Fund an amount equal to the amount of monthly debt service paid by the General Fund on any bonds issued pursuant to the Seismic Retrofit Bond Act of 1996 (Chapter 12.48 (commencing with Section 8879) of Division 1 of Title 2 of the Government Code) or any other bonds issued for highway or eligible guideway projects consistent with the requirements applicable to the expenditure of revenues under Article XIX of the California Constitution as identified by the Department of Finance pursuant to Section 16965 of the Government Code, and three-quarters of the amount of monthly debt service paid on any bonds issued pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2) for reimbursement of the General Fund for these costs. If revenues available pursuant to this subdivision in any given month are~~

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~~insufficient to fully reimburse the General Fund for the debt service payments made, the first revenues available pursuant to this subdivision in the following month or months shall be transferred to the Transportation Debt Service Fund so that all debt service payments made on these bonds from the General Fund in a given fiscal year are fully reimbursed. However, no further transfers shall be made pursuant to this subparagraph once the transfers for the months of July to October, inclusive, in 2010 have been made. Any transfers made from the net revenues identified in this paragraph for highway and eligible guideway bond debt service for months after October 2010 shall be reversed and shall instead be made from weight fee revenues in the State Highway Account, as described in subparagraph (F).~~

~~(C) Beginning November 2, 2010, the Controller shall transfer to the State Highway Account within two business days following the 28th day of each month all of the monthly net revenues identified in subparagraph (B) that were designated for highway and eligible guideway bond debt service reimbursement but that have not been transferred, or that were transferred by means of a transfer that was reversed, pursuant to that subparagraph. To the extent the Controller has distributed any of those net revenues to cities and counties pursuant to subparagraph (C) of paragraph (3) between November 2, 2010, and March 24, 2011, the Controller shall subsequently reduce the amount transferred to cities and counties on a monthly basis pursuant to subparagraph (C) of paragraph (3) and shall instead transfer these funds to the State Highway Account until all of the revenues that would otherwise have been transferred to the State Highway Account on and after November 2, 2010, pursuant to this subparagraph have been so transferred. For the 2011–12 fiscal year, the Controller shall transfer to the State Highway Account within two business days following the 28th day of each month an amount equal to the weight fee revenues transferred to the Transportation Debt Service Fund pursuant to subdivision (b) of Section 9400.4 of the Vehicle Code, including forty-three million seven hundred thousand dollars ($43,700,000) authorized pursuant to Item 2660-013-0042 of Section 2.00 of the Budget Act of 2011 and an amount equal to weight fee revenues transferred to the General Fund as a loan pursuant to subdivision (b) of Section 9400.4 of the Vehicle Code. To the extent the Controller has distributed any of those revenues~~

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~~to cities and counties pursuant to subparagraph (C) of paragraph (3), the Controller shall subsequently reduce the amount transferred to cities and counties on a monthly basis pursuant to subparagraph (C) of paragraph (3) and instead transfer these funds to the State Highway Account until all of the revenues that would otherwise have been transferred to the State Highway Account in the 2011–12 fiscal year pursuant to this subparagraph have been so transferred.~~

~~(D) Notwithstanding subparagraph (C), commencing with the 2012–13 fiscal year and every fiscal year thereafter, the Controller shall transfer to the State Highway Account within two business days following the 28th day of each month an amount equal to the amount of weight fee revenues transferred to the Transportation Debt Service Fund for highway and eligible guideway bond debt service and to the General Fund as a loan pursuant to subdivision (c) of Section 9400.4 of the Vehicle Code.~~

~~(E) Beginning July 1, 2011, transfers made under subparagraphs (C) and (D) during a fiscal year shall not exceed the annual revenue generated from weight fees, as determined by Sections 9400.4 and 42205 of the Vehicle Code, at the rates in effect as of March 24, 2011, as determined by the Department of Finance.~~

~~(F) Any remaining amount of the highway or eligible guideway bond debt service reimbursement authorized by this paragraph that has not been made pursuant to subparagraph (B) on and after November 2, 2010, shall instead be made pursuant to subdivisions (a), (b), and (c) of Section 9400.4 of the Vehicle Code from revenues in the State Highway Account derived from weight fees deposited in the account pursuant to subdivision (e) of Section 9400.1 and Section 42205 of the Vehicle Code.~~

~~(2) (A) In the 2010–11 fiscal year, after the monthly transfer made pursuant to paragraph (1), the sum of fifty-four million one hundred sixty-seven thousand dollars ($54,167,000) per month shall be held in the account for future appropriation by the Legislature.~~

~~(B) Notwithstanding any other provision of law, with respect to the monthly net revenues described in subparagraph (A), no further transfers of these revenues for the purpose of loans to the General Fund shall be made pursuant to Item 2660-011-0062 of Section 2.00 of the Budget Act of 2010 once the loan transfers for the months of July to October, inclusive, in 2010 have been made. Notwithstanding the loan repayment date specified in the~~

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~~provisional language for that item, the funds loaned shall be repaid by June 30, 2021. Any transfers made from the monthly net revenues in subparagraph (A) for months after October 2010 shall be reversed and shall instead be made from weight fee revenues in the State Highway Account, as described in subparagraph (D). The revenues from loan repayments shall be held in the Highway Users Tax Account for future appropriation by the Legislature.~~

~~(C) Beginning November 2, 2010, all of the monthly net revenues described in subparagraph (A) shall instead be transferred by the Controller to the State Highway Account within two business days following the 28th day of each month. To the extent that the Controller has distributed any of the revenues identified in this paragraph to cities and counties pursuant to subparagraph (C) of paragraph (3) between October 14, 2010, and March 24, 2011, the Controller shall subsequently reduce the amount transferred to cities and counties on a monthly basis pursuant to subparagraph (C) of paragraph (3) and shall instead transfer these funds to the State Highway Account until all of the revenues that would have been transferred to the General Fund as a loan pursuant to Item 2660-011-0062 of Section 2.00 of the Budget Act of 2010 on and after November 2, 2010, have instead been transferred to the State Highway Account.~~

~~(D) Any remaining amount of the loans to the General Fund authorized pursuant to Item 2660-011-0062 of Section 2.00 of the Budget Act of 2010 that has not been made pursuant to subparagraph (B) on and after November 2, 2010, shall instead be made pursuant to subdivisions (a), (b), and (c) of Section 9400.4 of the Vehicle Code from revenues in the State Highway Account derived from weight fees deposited in the account pursuant to subdivision (e) of Section 9400.1 and Section 42205 of the Vehicle Code.~~

~~(3) The Controller shall transfer any remaining net revenues subject to this subdivision as follows:~~

~~(A)~~

*(1)* Forty-four percent shall be transferred *by the Controller* to the State Highway Account to fund projects in the State Transportation Improvement Program that are consistent with Section ~~1~~ *2* of Article XIX of the California ~~Constitution, except in the 2010–11 fiscal year, 50 percent shall be transferred for purposes of this subparagraph.~~ *Constitution.*

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~~(B)~~

*(2)* Twelve percent shall be transferred to the State Highway Account to fund projects in the State Highway Operation and Protection ~~Program, except in the 2010–11 fiscal year, no revenues shall be transferred for purposes of this subparagraph.~~ *Program.*

~~(C)~~

*(3)* Forty-four percent shall be apportioned by the Controller for local street and road purposes~~, except in the 2010–11 fiscal year, 50 percent shall be transferred for purposes of this subparagraph~~ as follows:

~~(i)~~

*(A)* Fifty percent shall be apportioned by the Controller to cities, including a city and county, in the proportion that the total population of the city bears to the total population of all the cities in the state.

~~(ii)~~

*(B)* Fifty percent shall be apportioned by the Controller to counties, including a city and county, in accordance with the following formulas:

~~(I)~~

*(i)* Seventy-five percent shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles that are registered in the county bear to the number of fee-paid and exempt vehicles registered in the state.

~~(II)~~

*(ii)* Twenty-five percent shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bear to the total number of miles of maintained county roads in the state. For the purposes of apportioning funds under this subparagraph, any roads within the boundaries of a city and county that are not state highways shall be deemed to be county roads.

(b) After the transfers or other actions pursuant to subdivision (a), at least 90 percent of the balance deposited to the credit of the Highway Users Tax Account in the Transportation Tax Fund by the 28th day of each month shall be apportioned or transferred, as applicable, by the Controller by the second working day thereafter, except for June, in which case the apportionment or transfer shall be made the same day. These apportionments or transfers shall be made as provided for in Sections 2104 to 2122, inclusive. If

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information is not available to make the apportionment or transfer as required, the apportionment or transfer shall be made on the basis of the information of the previous month. Amounts not apportioned or transferred shall be included in the apportionment or transfer of the subsequent month.

(c) Notwithstanding any other law, the funds apportioned by the Controller to cities and counties pursuant to ~~subparagraph (C) of~~ paragraph (3) of subdivision (a) are not subject to Section 7104 or 7104.2 of the Revenue and Taxation Code. These funds may be expended for any street and road purpose consistent with the requirements of this chapter.

SEC. 9. Section 9400.1 of the Vehicle Code is amended to read:

9400.1. (a) (1) In addition to any other required fee, there shall be paid the fees set forth in this section for the registration of commercial motor vehicles operated either singly or in combination with a declared gross vehicle weight of 10,001 pounds or more. Pickup truck and electric vehicle weight fees are not calculated under this section.

(2) The weight of a vehicle issued an identification plate pursuant to an application under Section 5014, and the weight of an implement of husbandry as defined in Section 36000, shall not be considered when calculating, pursuant to this section, the declared gross vehicle weight of a towing commercial motor vehicle that is owned and operated exclusively by a farmer or an employee of a farmer in the conduct of agricultural operations.

(3) Tow trucks that are utilized to render assistance to the motoring public or to tow or carry impounded vehicles shall pay fees in accordance with this section, except that the fee calculation shall be based only on the gross vehicle weight rating of the towing or carrying vehicle. Upon each initial or transfer application for registration of a tow truck described in this paragraph, the registered owner or lessee or that owner's or lessee's designee, shall certify to the department the gross vehicle weight rating of the tow truck:

| Gross Vehicle Weight Range | Fee |
|---|---|
| 10,001–15,000 | $ 257 |
| 15,001–20,000 | 353 |
| 20,001–26,000 | 435 |

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| | |
|---|---|
| 26,001–30,000 | 552 |
| 30,001–35,000 | 648 |
| 35,001–40,000 | 761 |
| 40,001–45,000 | 837 |
| 45,001–50,000 | 948 |
| 50,001–54,999 | 1,039 |
| 55,000–60,000 | 1,173 |
| 60,001–65,000 | 1,282 |
| 65,001–70,000 | 1,398 |
| 70,001–75,000 | 1,650 |
| 75,001–80,000 | 1,700 |

(b) The fees specified in subdivision (a) apply to both of the following:

(1) An initial or original registration occurring on or after December 31, 2001, to December 30, 2003, inclusive, of a commercial motor vehicle operated either singly or in combination with a declared gross vehicle weight of 10,001 pounds or more.

(2) The renewal of registration of a commercial motor vehicle operated either singly or in combination, with a declared gross vehicle weight of 10,001 pounds or more for which registration expires on or after December 31, 2001, to December 30, 2003, inclusive.

(c) (1) For both an initial or original registration occurring on or after December 31, 2003, of a commercial motor vehicle operated either singly or in combination with a declared gross vehicle weight of 10,001 pounds or more, and the renewal of registration of a commercial motor vehicle operated either singly or in combination, with a declared gross vehicle weight of 10,001 pounds or more for which registration expires on or after December 31, 2003, there shall be paid fees as follows:

| Gross Vehicle Weight Range | Weight Code | Fee |
|---|---|---|
| 10,001–15,000 | A | $ 332 |
| 15,001–20,000 | B | 447 |
| 20,001–26,000 | C | 546 |
| 26,001–30,000 | D | 586 |
| 30,001–35,000 | E | 801 |
| 35,001–40,000 | F | 937 |
| 40,001–45,000 | G | 1,028 |

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| | | |
|---|---|---|
| 45,001–50,000 | H | 1,161 |
| 50,001–54,999 | I | 1,270 |
| 55,000–60,000 | J | 1,431 |
| 60,001–65,000 | K | 1,562 |
| 65,001–70,000 | L | 1,701 |
| 70,001–75,000 | M | 2,004 |
| 75,001–80,000 | N | 2,064 |

(2) For the purpose of obtaining "revenue neutrality" as described in Sections 1 and 59 of Senate Bill 2084 of the 1999–2000 Regular Session (Chapter 861 of the Statutes of 2000), the Director of Finance shall review the final 2003–04 Statement of Transactions of the State Highway Account. If that review indicates that the actual truck weight fee revenues deposited in the State Highway Account do not total at least seven hundred eighty-nine million dollars ($789,000,000), the Director of Finance shall instruct the department to adjust the schedule set forth in paragraph (1), but not to exceed the following fee amounts:

| Gross Vehicle Weight Range | Weight Code | Fee |
|---|---|---|
| 10,001–15,000 | A | $ 354 |
| 15,001–20,000 | B | 482 |
| 20,001–26,000 | C | 591 |
| 26,001–30,000 | D | 746 |
| 30,001–35,000 | E | 874 |
| 35,001–40,000 | F | 1,024 |
| 40,001–45,000 | G | 1,125 |
| 45,001–50,000 | H | 1,272 |
| 50,001–54,999 | I | 1,393 |
| 55,000–60,000 | J | 1,571 |
| 60,001–65,000 | K | 1,716 |
| 65,001–70,000 | L | 1,870 |
| 70,001–75,000 | M | 2,204 |
| 75,001–80,000 | N | 2,271 |

(d) (1) In addition to the fees set forth in subdivision (a), a Cargo Theft Interdiction Program fee of three dollars ($3) shall be paid at the time of initial or original registration or renewal of registration of each motor vehicle subject to weight fees under this section.

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(2) This subdivision does not apply to vehicles used or maintained for the transportation of persons for hire, compensation or profit, and tow trucks.

(3) For vehicles registered under Article 4 (commencing with Section 8050) of Chapter 4, the fee imposed under this subdivision shall be apportioned as required for registration fees under that article.

(4) Funds collected pursuant to the Cargo Theft Interdiction Program shall not be proportionately reduced for each month and shall be transferred to the Motor Carriers Safety Improvement Fund.

(e) Notwithstanding Section 42270 or any other provision of law, of the moneys collected by the department under this section, one hundred twenty-two dollars ($122) for each initial, original, and renewal registration shall be reported monthly to the Controller, and at the same time, deposited in the State Treasury to the credit of the Motor Vehicle Account in the State Transportation Fund. All other moneys collected by the department under this section shall be deposited to the credit of the State Highway Account in the State Transportation ~~Fund, or directly to the credit of the Transportation Debt Service Fund as provided in paragraph (2) of subdivision (c) of Section 9400.4, as applicable~~ *Fund*. One hundred twenty-two dollars ($122) of the fee imposed under this section shall not be proportionately reduced for each month. For vehicles registered under Article 4 (commencing with Section 8050) of Chapter 4, the fee shall be apportioned as required for registration under that article.

(f) (1) The department, in consultation with the Department of the California Highway Patrol, shall design and make available a set of distinctive weight decals that reflect the declared gross combined weight or gross operating weight reported to the department at the time of initial registration, registration renewal, or when a weight change is reported to the department pursuant to Section 9406.1. A new decal shall be issued on each renewal or when the weight is changed pursuant to Section 9406.1. The decal for a tow truck that is subject to this section shall reflect the gross vehicle weight rating or weight code.

(2) The department may charge a fee, not to exceed ten dollars ($10), for the department's actual cost of producing and issuing each set of decals issued under paragraph (1).

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(3) The weight decal shall be in sharp contrast to the background and shall be of a size, shape, and color that is readily legible during daylight hours from a distance of 50 feet.

(4) Each vehicle subject to this section shall display the weight decal on both the right and left sides of the vehicle.

(5) A person may not display upon a vehicle a decal issued pursuant to this subdivision that does not reflect the declared weight reported to the department.

(6) Notwithstanding subdivision (e) or any other provision of law, the moneys collected by the department under this subdivision shall be deposited in the State Treasury to the credit of the Motor Vehicle Account in the State Transportation Fund.

(7) This subdivision shall apply to vehicles subject to this section at the time of an initial registration, registration renewal, or reported weight change that occurs on or after July 1, 2004.

(8) The following shall apply to vehicles registered under the permanent fleet registration program pursuant to Article 9.5 (commencing with Section 5301) of Chapter 1:

(A) The department, in consultation with the Department of the California Highway Patrol, shall distinguish the weight decals issued to permanent fleet registration vehicles from those issued to other vehicles.

(B) The department shall issue the distinguishable weight decals only to the following:

(i) A permanent fleet registration vehicle that is registered with the department on January 1, 2005.

(ii) On and after January 1, 2005, a vehicle for which the department has an application for initial registration as a permanent fleet registration vehicle.

(iii) On and after January 1, 2005, a permanent fleet registration vehicle that has a weight change pursuant to Section 9406.1.

(C) The weight decal issued under this paragraph shall comply with the applicable provisions of paragraphs (1) to (6), inclusive.

SEC. 10. Section 9400.4 of the Vehicle Code is repealed.

~~9400.4. Weight fee revenue deposited into the State Highway Account pursuant to subdivision (e) of Section 9400.1 and subdivision (a) of Section 42205 net of amounts appropriated for other purposes pursuant to subdivision (b) of Section 42205, and weight fee revenues deposited directly into the Transportation Debt Service Fund pursuant to subdivision (e) of Section 9400.1~~

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~~and subdivision (a) of Section 42205, as applicable, shall be used as follows:~~

~~(a) For the 2010–11 fiscal year, seven hundred fifty-six million three hundred ninety-six thousand dollars ($756,396,000) is hereby appropriated from weight fee revenues in the State Highway Account for transfer to the General Fund as transportation bond debt service reimbursement and loans as follows:~~

~~(1) The Controller shall transfer all weight fee revenues deposited into the State Highway Account in any month to the Transportation Debt Service Fund for transfer to the General Fund as reimbursement for debt service costs until all of the debt service paid on transportation bonds for projects that the Director of Finance indicates qualify for reimbursement as provided for in Section 16965 of the Government Code have been reimbursed.~~

~~(2) After the Director of Finance has notified the Controller that all debt service costs for the 2010–11 fiscal year have been reimbursed, the Controller shall transfer any remaining monthly weight fee revenues in the State Highway Account to the General Fund as a loan until the full amount appropriated in this subdivision has been transferred to the General Fund. The Director of Finance may repay any remaining portion of the outstanding balance of this loan in any year in which the Director of Finance determines the funds are needed to reimburse the General Fund for current year transportation bond debt service or to redeem or retire those bonds, pursuant to Section 16774 of the Government Code, maturing in a subsequent fiscal year, provided that the loans shall be repaid no later than June 30, 2021. All funds loaned pursuant to this section, upon repayment to the State Highway Account, shall be immediately transferred by the Controller to the Transportation Debt Service Fund for use pursuant to Section 16965 of the Government Code.~~

~~(3) By June 15, 2011, the Director of Finance in consultation with the Treasurer shall notify the Controller regarding the final amount of debt service paid from the General Fund during the 2010–11 fiscal year pursuant to Section 16965 of the Government Code and shall direct the Controller to reverse and adjust any transfers made as debt service reimbursements or loans so that a maximum amount of transfers are made for debt service reimbursements and with any loan amounts limited to the difference between this amount and the total amount appropriated~~

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~~in this subdivision. The total amount of weight fee revenues transferred from the State Highway Account for the 2010–11 fiscal year shall not be greater than the total amount of weight fee revenues deposited into the State Highway Account for that year.~~

~~(4) With respect to transfers or portions of transfers that cannot be made in any given month if weight fee revenues are insufficient, the first weight fee revenues available in the following month or months shall be used to complete the transfers for the previous month or months prior to making additional transfers for later months.~~

~~(b) For the 2011–12 fiscal year, all revenue generated from weight fees in the State Highway Account, as determined by Sections 9400.1 and 42205, excluding an amount equal to the loan of forty-three million seven hundred thousand dollars ($43,700,000) authorized pursuant to Item 2660-013-0042 of Section 2.00 of the Budget Act of 2011, is hereby appropriated for transfer to the General Fund as debt service reimbursement and loans as follows:~~

~~(1) The Controller shall transfer all weight fee revenues deposited into the State Highway Account in any month to the Transportation Debt Service Fund for transfer to the General Fund as reimbursement for debt service costs until all of the debt service paid on transportation bonds for projects that the Director of Finance indicates qualify for reimbursement as provided for in Section 16965 of the Government Code have been reimbursed.~~

~~(2) After the Director of Finance has notified the Controller that all debt service costs for the 2011–12 fiscal year have been reimbursed, the Controller shall transfer any remaining weight fee revenues for that fiscal year in the State Highway Account to the General Fund as a loan until all weight fee revenues for that fiscal year appropriated in this subdivision have been transferred to the General Fund, excluding forty-two million dollars ($42,000,000), which shall be transferred to the General Fund as a loan on July 1, 2012. The Director of Finance may repay any portion of the balance of this loan in any year in which the Director of Finance determines the funds are needed to reimburse the General Fund for current year transportation bond debt service or to redeem or retire those bonds, pursuant to Section 16774 of the Government Code, maturing in a subsequent year, provided that the loans shall be repaid no later than June 30, 2021. All funds loaned pursuant~~

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~~to this section, upon repayment to the State Highway Account, shall be immediately transferred by the Controller to the Transportation Debt Service Fund for use pursuant to Section 16965 of the Government Code.~~

~~(3) By June 15, 2012, the Director of Finance in consultation with the Treasurer shall notify the Controller regarding the final amount of debt service paid from the General Fund during the 2011–12 fiscal year pursuant to Section 16965 of the Government Code and shall direct the Controller to reverse and adjust any transfers made as debt service reimbursements or loans so that a maximum amount of transfers are made for debt service reimbursements and with any loan amounts limited to the difference between this amount and the total amount appropriated in this subdivision. The total amount of weight fee revenues transferred from the State Highway Account for the 2011–12 fiscal year shall not be greater than the total amount of weight fee revenues deposited into the State Highway Account in that year.~~

~~(4) With respect to transfers or portions of transfers that cannot be made in any given month if weight fee revenues are insufficient, the first weight fee revenues available in the following month or months shall be used to complete the transfers for the previous month or months prior to making additional transfers for later months.~~

~~(c) (1) (A) Until the month of first issuance of designated bonds as defined in subdivision (c) of Section 16773 of the Government Code, and at any time thereafter that a Treasurer's certification pursuant to subparagraph (B) of paragraph (3) of subdivision (a) of Section 16965 of the Government Code applies, all weight fee revenues subject to this section in any month shall be transferred from the State Highway Account to the Transportation Debt Service Fund.~~

~~(B) Except as provided in paragraph (3), or when subparagraph (A) applies pursuant to a Treasurer's certification, upon the first issuance of designated bonds, as defined in subdivision (c) of Section 16773 of the Government Code, starting in the month following that first issuance, all weight fee revenues received by the Controller from the first day through the 14th day of every month shall be transferred from the State Highway Account to the Transportation Debt Service Fund.~~

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~~(C) All funds transferred pursuant to subparagraphs (A) and (B) are hereby appropriated for transfer to the General Fund by the Controller as reimbursement for debt service costs paid with respect to eligible bonds described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 16965 of the Government Code, until all debt service that the Director of Finance indicates qualifies for reimbursement as provided for in subdivision (d), (e), or (f) of Section 16965 of the Government Code has been reimbursed, or to redeem or retire bonds, pursuant to Section 16774 of the Government Code, as referenced in subdivision (d), (e), or (f) of Section 16965 of the Government Code, that are maturing in a subsequent year. After the Director of Finance has notified the Controller that all debt service costs for the fiscal year have been reimbursed, the Controller shall transfer any remaining revenue generated from weight fees subject to this section for that fiscal year in the State Highway Account to the General Fund as a loan. The Director of Finance may repay any portion of the balance of this loan in any year in which the Director of Finance determines that the funds are needed to reimburse the General Fund for current year transportation bond debt service or to redeem or retire those bonds pursuant to Section 16774 of the Government Code, maturing in a future fiscal year, provided that the loans shall be repaid no later than June 30, 2021. All funds loaned pursuant to this section, upon repayment to the State Highway Account, shall be immediately transferred by the Controller to the Transportation Debt Service Fund for use pursuant to Section 16965 of the Government Code. By June 15 of each year, the Director of Finance, in consultation with the Treasurer, shall notify the Controller regarding the final amount of debt service paid from the General Fund during that fiscal year pursuant to subdivision (d), (e), or (f) of Section 16965 of the Government Code and shall direct the Controller to reverse or adjust any transfers made as debt service reimbursements or loans so that a maximum amount of transfers are made for debt service reimbursements and with any loan amounts limited to the difference between this amount and the total amount of revenue for that fiscal year generated from weight fees, as determined by Sections 9400.1 and 42205. The total amount of weight fee revenues transferred from the State Highway Account in any fiscal year shall not be greater than the~~

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~~total amount of weight fee revenues deposited into the State Highway Account in that year.~~

~~(2) Starting in the month following the first issuance of any designated bonds, unless a Treasurer's certification pursuant to subparagraph (B) of paragraph (3) of subdivision (a) of Section 16965 of the Government Code applies, all weight fee revenues subject to this section that are received by the Controller from the 15th day of every month, or the first business day thereafter if not a business day, through the last day of the month shall be deposited directly in the Transportation Debt Service Fund and are hereby appropriated for transfer as follows:~~

~~(A) First, to the Transportation Bond Direct Payment Account as set forth in subdivision (b) of Section 16965 of the Government Code, to provide for payment of debt service with respect to designated bonds.~~

~~(B) Thereafter, as provided in subparagraph (C) of paragraph (1).~~

~~(3) Notwithstanding paragraphs (1) and (2), if by the last day of a month the transfer for that month relating to designated bonds required by the Treasurer's certificate described in subdivision (b) of Section 16965 of the Government Code has not been made due to insufficient weight fee revenue, weight fee revenue shall continue to be transferred pursuant to paragraph (2) beginning with the first day of the subsequent month and continuing every day until such time as sufficient revenue for full compliance with the certificate has been transferred.~~

~~(4) Except as otherwise provided in paragraph (1), (2), or (3), with respect to any transfers or portions of transfers that cannot be made in any given month if weight fee revenues are insufficient, the first weight fee revenues available in the following month or months shall be used to complete the transfers for the previous month or months prior to making additional transfers for later months.~~

SEC. 11. Section 42205 of the Vehicle Code is amended to read:

42205. (a) Notwithstanding Chapter 3 (commencing with Section 42270), the department shall file, at least monthly with the Controller, a report of money received by the department pursuant to Section 9400 for the previous month and shall, at the same time, remit all money so reported to the Treasurer. On order

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of the Controller, the Treasurer shall deposit all money so remitted into the State Highway Account in the State Transportation ~~Fund, or directly into the Transportation Debt Service Fund as provided in paragraph (2) of subdivision (c) of Section 9400.4, as applicable~~ *Fund*.

(b) The Legislature shall appropriate from the State Highway Account in the State Transportation Fund to the department and the Franchise Tax Board amounts equal to the costs incurred by each in performing their duties pursuant to Article 3 (commencing with Section 9400) of Chapter 6 of Division 3. The applicable amounts shall be determined so that the appropriate costs for registration and weight fee collection activities are appropriated between the recipients of revenues in proportion to the revenues that would have been received individually by those recipients if the total fee imposed under the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code) was 2 percent of the market value of a vehicle. The remainder of the funds collected under Section 9400 and deposited in the account~~, other than the direct deposits to the Transportation Debt Service Fund referenced in subdivision (a),~~ may be appropriated to the Department of Transportation, the Department of the California Highway Patrol, and the Department of Motor Vehicles for the purposes authorized under Section 3 of Article XIX of the California Constitution.

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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

# ASSEMBLY BILL No. 1265

**Introduced by Assembly Member Perea**

February 27, 2015

An act to amend Section 143 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1265, as introduced, Perea. Transportation projects: comprehensive development lease agreements.

Existing law authorizes the Department of Transportation and regional transportation agencies, as defined, to enter into comprehensive development lease agreements with public and private entities, or consortia of those entities, for certain transportation projects that may charge certain users of those projects tolls and user fees, subject to various terms and requirements. These arrangements are commonly known as public-private partnerships. Existing law provides that a lease agreement may not be entered into under these provisions on or after January 1, 2017.

This bill would extend this authorization indefinitely and would delete obsolete cross-references and make technical changes to these provisions.

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

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

SECTION 1. Section 143 of the Streets and Highways Code is amended to read:

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143. (a) (1) "Best value" means a value determined by objective criteria, including, but not limited to, price, features, functions, life-cycle costs, and other criteria deemed appropriate by the department or the regional transportation agency.

(2) "Contracting entity or lessee" means a public or private entity, or consortia thereof, that has entered into a comprehensive development lease agreement with the department or a regional transportation agency for a transportation project pursuant to this section.

(3) "Design-build" means a procurement process in which both the design and construction of a project are procured from a single entity.

(4) "Regional transportation agency" means any of the following:

(A) A transportation planning agency as defined in Section 29532 or 29532.1 of the Government Code.

(B) A county transportation commission as defined in Section 130050, 130050.1, or 130050.2 of the Public Utilities Code.

(C) Any other local or regional transportation entity that is designated by statute as a regional transportation agency.

(D) A joint exercise of powers authority as defined in Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, with the consent of a transportation planning agency or a county transportation commission for the jurisdiction in which the transportation project will be developed.

(5) "Public Infrastructure Advisory Commission" means a unit or auxiliary organization established by the ~~Business,~~ Transportation ~~and Housing~~ Agency that advises the department and regional transportation agencies in developing transportation projects through performance-based infrastructure partnerships.

(6) "Transportation project" means one or more of the following: planning, design, development, finance, construction, reconstruction, rehabilitation, improvement, acquisition, lease, operation, or maintenance of highway, public street, rail, or related facilities supplemental to existing facilities currently owned and operated by the department or regional transportation agencies that is consistent with the requirements of subdivision (c).

(b) (1) The Public Infrastructure Advisory Commission shall do all of the following:

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(A) Identify transportation project opportunities throughout the state.

(B) Research and document similar transportation projects throughout the state, nationally, and internationally, and further identify and evaluate lessons learned from these projects.

(C) Assemble and make available to the department or regional transportation agencies a library of information, precedent, research, and analysis concerning infrastructure partnerships and related types of public-private transactions for public infrastructure.

(D) Advise the department and regional transportation agencies, upon request, regarding infrastructure partnership suitability and best practices.

(E) Provide, upon request, procurement-related services to the department and regional transportation agencies for infrastructure partnership.

(2) The Public Infrastructure Advisory Commission may charge a fee to the department and regional transportation agencies for the services described in subparagraphs (D) and (E) of paragraph (1), the details of which shall be articulated in an agreement entered into between the Public Infrastructure Advisory Commission and the department or the regional transportation agency.

(c) (1) Notwithstanding any other provision of law, only the department, in cooperation with regional transportation agencies, and regional transportation agencies, may solicit proposals, accept unsolicited proposals, negotiate, and enter into comprehensive development lease agreements with public or private entities, or consortia thereof, for transportation projects.

(2) Projects proposed pursuant to this section and associated lease agreements shall be submitted to the California Transportation Commission. The commission, at a regularly scheduled public hearing, shall select the candidate projects from projects nominated by the department or a regional transportation agency after reviewing the nominations for consistency with paragraphs (3) and (4). Approved projects may proceed with the process described in paragraph (5).

(3) The projects authorized pursuant to this section shall be primarily designed to achieve the following performance objectives:

(A) Improve mobility by improving travel times or reducing the number of vehicle hours of delay in the affected corridor.

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(B) Improve the operation or safety of the affected corridor.

(C) Provide quantifiable air quality benefits for the region in which the project is located.

(4) In addition to meeting the requirements of paragraph (3), the projects authorized pursuant to this section shall address a known forecast demand, as determined by the department or regional transportation agency.

(5) At least 60 days prior to executing a final lease agreement authorized pursuant to this section, the department or regional transportation agency shall submit the agreement to the Legislature and the Public Infrastructure Advisory Commission for review. Prior to submitting a lease agreement to the Legislature and the Public Infrastructure Advisory Commission, the department or regional transportation agency shall conduct at least one public hearing at a location at or near the proposed facility for purposes of receiving public comment on the lease agreement. Public comments made during this hearing shall be submitted to the Legislature and the Public Infrastructure Advisory Commission with the lease agreement. The Secretary of ~~Business,~~ Transportation ~~and Housing~~ or the chairperson of the Senate or Assembly fiscal committees or policy committees with jurisdiction over transportation matters may, by written notification to the department or regional transportation agency, provide any comments about the proposed agreement within the 60-day period prior to the execution of the final agreement. The department or regional transportation agency shall consider those comments prior to executing a final agreement and shall retain the discretion for executing the final lease agreement.

(d) For the purpose of facilitating those projects, the agreements between the parties may include provisions for the lease of rights-of-way in, and airspace over or under, highways, public streets, rail, or related facilities for the granting of necessary easements, and for the issuance of permits or other authorizations to enable the construction of transportation projects. Facilities subject to an agreement under this section shall, at all times, be owned by the department or the regional transportation agency, as appropriate. For department projects, the commission shall certify the department's determination of the useful life of the project in establishing the lease agreement terms. In consideration therefor, the agreement shall provide for complete reversion of the

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leased facility, together with the right to collect tolls and user fees, to the department or regional transportation agency, at the expiration of the lease at no charge to the department or regional transportation agency. At the time of the reversion, the facility shall be delivered to the department or regional transportation agency, as applicable, in a condition that meets the performance and maintenance standards established by the department or regional transportation agency and that is free of any encumbrance, lien, or other claims.

(e) Agreements between the department or regional transportation agency and the contracting entity or lessee shall authorize the contracting entity or lessee to use a design-build method of procurement for transportation projects, subject to the requirements for utilizing such a method contained in Chapter 6.5 (commencing with Section ~~6800)~~ *6820)* of Part 1 of Division 2 of the Public Contract Code, other than Sections ~~6802, 6803,~~ *6821* and ~~6813~~ *6822* of that ~~code, if those provisions are enacted by the Legislature during the 2009–10 Regular Session, or a 2009–10 extraordinary session.~~ *code.*

(f) (1) (A) Notwithstanding any other provision of this chapter, for projects on the state highway system, the department is the responsible agency for the performance of project development services, including performance specifications, preliminary engineering, prebid services, the preparation of project reports and environmental documents, and construction inspection services. The department is also the responsible agency for the preparation of documents that may include, but need not be limited to, the size, type, and desired design character of the project, performance specifications covering the quality of materials, equipment, and workmanship, preliminary plans, and any other information deemed necessary to describe adequately the needs of the department or regional transportation agency.

(B) The department may use department employees or consultants to perform the services described in subparagraph (A), consistent with Article XXII of the California Constitution. Department resources, including personnel requirements, necessary for the performance of those services shall be included in the department's capital outlay support program for workload purposes in the annual Budget Act.

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(2) The department or a regional transportation agency may exercise any power possessed by it with respect to transportation projects to facilitate the transportation projects pursuant to this section. The department, regional transportation agency, and other state or local agencies may provide services to the contracting entity or lessee for which the public entity is reimbursed, including, but not limited to, planning, environmental planning, environmental certification, environmental review, preliminary design, design, right-of-way acquisition, construction, maintenance, and policing of these transportation projects. The department or regional transportation agency, as applicable, shall regularly inspect the facility and require the contracting entity or lessee to maintain and operate the facility according to adopted standards. Except as may otherwise be set forth in the lease agreement, the contracting entity or lessee shall be responsible for all costs due to development, maintenance, repair, rehabilitation, and reconstruction, and operating costs.

(g) (1) In selecting private entities with which to enter into these agreements, notwithstanding any other provision of law, the department and regional transportation agencies may utilize, but are not limited to utilizing, one or more of the following procurement approaches:

(A) Solicitations of proposals for defined projects and calls for project proposals within defined parameters.

(B) Prequalification and short-listing of proposers prior to final evaluation of proposals.

(C) Final evaluation of proposals based on qualifications and best value. The California Transportation Commission shall develop and adopt criteria for making that evaluation prior to evaluation of a proposal.

(D) Negotiations with proposers prior to award.

(E) Acceptance of unsolicited proposals, with issuance of requests for competing proposals. Neither the department nor a regional transportation agency may award a contract to an unsolicited bidder without receiving at least one other responsible bid.

(2) When evaluating a proposal submitted by the contracting entity or lessee, the department or the regional transportation agency may award a contract on the basis of the lowest bid or best value.

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(h) The contracting entity or lessee shall have the following qualifications:

(1) Evidence that the members of the contracting entity or lessee have completed, or have demonstrated the experience, competency, capability, and capacity to complete, a project of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, and a financial statement that ensures that the contracting entity or lessee has the capacity to complete the project.

(2) The licenses, registration, and credentials required to design and construct the project, including, but not limited to, information on the revocation or suspension of any license, credential, or registration.

(3) Evidence that establishes that members of the contracting entity or lessee have the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(4) Evidence that the contracting entity or lessee has workers' compensation experience, history, and a worker safety program of members of the contracting entity or lessee that is acceptable to the department or regional transportation agency.

(5) A full disclosure regarding all of the following with respect to each member of the contracting entity or lessee during the past five years:

(A) Any serious or willful violation of Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the federal Occupational Safety and Health Act of 1970 (P.L. 91-596).

(B) Any instance where members of the contracting entity or lessee were debarred, disqualified, or removed from a federal, state, or local government public works project.

(C) Any instance where members of the contracting entity or lessee, or its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive or were found by an awarding body not to be a responsible bidder.

(D) Any instance where members of the contracting entity or lessee, or its owners, officers, or managing employees defaulted on a construction contract.

(E) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the

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Business and Professions Code), including, but not limited to, alleged violations of federal or state law regarding the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or Federal Insurance Contributions Act (FICA) withholding requirements.

(F) Any bankruptcy or receivership of any member of the contracting entity or lessee, including, but not limited to, information concerning any work completed by a surety.

(G) Any settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the contracting entity or lessee during the five years preceding submission of a bid under this article, in which the claim, settlement, or judgment exceeds fifty thousand dollars ($50,000). Information shall also be provided concerning any work completed by a surety during this five-year period.

(H) If the contracting entity or lessee is a partnership, joint venture, or an association that is not a legal entity, a copy of the agreement creating the partnership or association that specifies that all general partners, joint venturers, or association members agree to be fully liable for the performance under the agreement.

(i) No agreement entered into pursuant to this section shall infringe on the authority of the department or a regional transportation agency to develop, maintain, repair, rehabilitate, operate, or lease any transportation project. Lease agreements may provide for reasonable compensation to the contracting entity or lessee for the adverse effects on toll revenue or user fee revenue due to the development, operation, or lease of supplemental transportation projects with the exception of any of the following:

(1) Projects identified in regional transportation plans prepared pursuant to Section 65080 of the Government Code.

(2) Safety projects.

(3) Improvement projects that will result in incidental capacity increases.

(4) Additional high-occupancy vehicle lanes or the conversion of existing lanes to high-occupancy vehicle lanes.

(5) Projects located outside the boundaries of a public-private partnership project, to be defined by the lease agreement.

However, compensation to a contracting entity or lessee shall only be made after a demonstrable reduction in use of the facility resulting in reduced toll or user fee revenues, and may not exceed

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the difference between the reduction in those revenues and the amount necessary to cover the costs of debt service, including principal and interest on any debt incurred for the development, operation, maintenance, or rehabilitation of the facility.

(j) (1) Agreements entered into pursuant to this section shall authorize the contracting entity or lessee to impose tolls and user fees for use of a facility constructed by it, and shall require that over the term of the lease the toll revenues and user fees be applied to payment of the capital outlay costs for the project, the costs associated with operations, toll and user fee collection, administration of the facility, reimbursement to the department or other governmental entity for the costs of services to develop and maintain the project, police services, and a reasonable return on investment. The agreement shall require that, notwithstanding Sections 164, 188, and 188.1, any excess toll or user fee revenue either be applied to any indebtedness incurred by the contracting entity or lessee with respect to the project, improvements to the project, or be paid into the State Highway Account, or for all three purposes, except that any excess toll revenue under a lease agreement with a regional transportation agency may be paid to the regional transportation agency for use in improving public transportation in and near the project boundaries.

(2) Lease agreements shall establish specific toll or user fee rates. Any proposed increase in those rates not otherwise established or identified in the lease agreement during the term of the agreement shall first be approved by the department or regional transportation agency, as appropriate, after at least one public hearing conducted at a location near the proposed or existing facility.

(3) The collection of tolls and user fees for the use of these facilities may be extended by the commission or regional transportation agency at the expiration of the lease agreement. However, those tolls or user fees shall not be used for any purpose other than for the improvement, continued operation, or maintenance of the facility.

(k) Agreements entered into pursuant to this section shall include indemnity, defense, and hold harmless provisions agreed to by the department or regional transportation agency and the contracting entity or lessee, including provisions for indemnifying the State of California or the regional transportation agency against any

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claims or losses resulting or accruing from the performance of the contracting entity or lessee.

(*l*) The plans and specifications for each transportation project on the state highway system developed, maintained, repaired, rehabilitated, reconstructed, or operated pursuant to this section shall comply with the department's standards for state transportation projects. The lease agreement shall include performance standards, including, but not limited to, levels of service. The agreement shall require facilities on the state highway system to meet all requirements for noise mitigation, landscaping, pollution control, and safety that otherwise would apply if the department were designing, building, and operating the facility. If a facility is on the state highway system, the facility leased pursuant to this section shall, during the term of the lease, be deemed to be a part of the state highway system for purposes of identification, maintenance, enforcement of traffic laws, and for the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(m) Failure to comply with the lease agreement in any significant manner shall constitute a default under the agreement and the department or the regional transportation agency, as appropriate, shall have the option to initiate processes to revert the facility to the public agency.

(n) The assignment authorized by subdivision (c) of Section 130240 of the Public Utilities Code is consistent with this section.

(o) A lease to a private entity pursuant to this section is deemed to be public property for a public purpose and exempt from leasehold, real property, and ad valorem taxation, except for the use, if any, of that property for ancillary commercial purposes.

(p) Nothing in this section is intended to infringe on the authority to develop high-occupancy toll lanes pursuant to Section 149.4, 149.5, or 149.6.

(q) Nothing in this section shall be construed to allow the conversion of any existing nontoll or nonuser-fee lanes into tolled or user fee lanes with the exception of a high-occupancy vehicle lane that may be operated as a high-occupancy toll lane for vehicles not otherwise meeting the requirements for use of that lane.

(r) The lease agreement shall require the contracting entity or lessee to provide any information or data requested by the California Transportation Commission or the Legislative Analyst.

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The commission, in cooperation with the Legislative Analyst, shall annually prepare a report on the progress of each project and ultimately on the operation of the resulting facility. The report shall include, but not be limited to, a review of the performance standards, a financial analysis, and any concerns or recommendations for changes in the program authorized by this section.

(s) Notwithstanding any other provision of this section, no lease agreement may be entered into pursuant to the section that affects, alters, or supersedes the Memorandum of Understanding (MOU), dated November 26, 2008, entered into by the Golden Gate Bridge Highway and Transportation District, the Metropolitan Transportation Commission, and the San Francisco County Transportation Authority, relating to the financing of the U.S. Highway 101/Doyle Drive reconstruction project located in the City and County of San Francisco.

~~(t) No lease agreements may be entered into under this section on or after January 1, 2017.~~

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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

# Assembly Constitutional Amendment No. 4

**Introduced by Assembly Member Frazier**
(Coauthor: Senator Wolk)

February 27, 2015

Assembly Constitutional Amendment No. 4—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 4 of Article XIII A thereof, and by amending Section 2 of Article XIII C thereof, relating to taxation.

## LEGISLATIVE COUNSEL'S DIGEST

ACA 4, as introduced, Frazier. Local government transportation projects: special taxes: voter approval.

The California Constitution conditions the imposition of a special tax by a city, county, or special district upon the approval of ⅔ of the voters of the city, county, or special district voting on that tax, except that certain school entities may levy an ad valorem property tax for specified purposes with the approval of 55% of the voters within the jurisdiction of these entities.

This measure would provide that the imposition, extension, or increase of a special tax by a local government for the purpose of providing funding for local transportation projects, as defined, requires the approval of 55% of its voters voting on the proposition. The measure would also make conforming and technical, nonsubstantive changes. This measure would also provide that it shall become effective immediately upon approval by the voters and shall apply to any local measure imposing, extending, or increasing a special tax for local transportation projects submitted at the same election.

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Vote: ⅔. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*Resolved by the Assembly, the Senate concurring*, That the Legislature of the State of California at its 2015–16 Regular Session commencing on the first day of December 2014, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:

First— That Section 4 of Article XIII A thereof is amended to read:

SEC. 4. ~~Cities, Counties and special districts,~~ *Except as otherwise provided by Section 2 of Article XIII C, a city, county, or special district*, by a two-thirds vote of ~~the qualified electors of such district~~ *its voters voting on the proposition*, may impose ~~special taxes on such district~~ *a special tax within that city, county, or special district*, except *an* ad valorem ~~taxes~~ *tax* on real property or a ~~transaction~~ *transactions* tax or sales tax on the sale of real property within ~~such City, County~~ *that city, county,* or special district.

Second— That Section 2 of Article XIII C thereof is amended to read:

SEC. 2. ~~Local Government Tax Limitation.~~ Notwithstanding any other provision of this Constitution:

(a) ~~All taxes~~ *A tax* imposed by any local government ~~shall be deemed to be~~ *is* either *a* general ~~taxes~~ *tax* or *a* special ~~taxes. Special purpose districts~~ *tax. A special district* or ~~agencies~~ *agency*, including *a* school ~~districts, shall have~~ *district, has* no ~~power~~ *authority* to levy *a* general ~~taxes~~ *tax*.

(b) ~~No~~ *A* local government ~~may~~ *shall not* impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax ~~shall~~ *is* not ~~be~~ deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1,

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1995, and prior to the effective date of this article, ~~shall~~ *may* continue to be imposed only if *that general tax is* approved by a majority vote of the voters voting in an election on the issue of the imposition, which election ~~shall be~~ *is* held ~~within two years of the effective date of this article~~ *no later than November 6, 1998,* and in compliance with subdivision (b).

(d) ~~No~~ *(1) Except as otherwise provided in paragraph (2), a* local government ~~may~~ *shall not* impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by ~~a~~ two-thirds ~~vote~~ *of the voters voting on the proposition*. A special tax ~~shall~~ *is* not ~~be~~ deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

*(2) (A) The imposition, extension, or increase of a special tax by a local government for the purpose of providing funding for local transportation projects under its jurisdiction, as may otherwise be authorized by law, requires the approval of 55 percent of the voters voting on the proposition. A special tax for the purpose of providing funding for local transportation projects is not deemed to have been increased if it is imposed at a rate not higher than the maximum rate previously approved in the manner required by law.*

*(B) For purposes of this paragraph, "local transportation project" means the planning, design, development, financing, construction, reconstruction, rehabilitation, improvement, acquisition, lease, operation, or maintenance of local streets, roads, and highways, state highways and freeways, and public transit systems.*

Third— This measure shall become effective immediately upon approval by the voters and shall apply to any local measure imposing, extending, or increasing a special tax for the funding of local transportation projects that is submitted at the same election.

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# SENATE BILL No. 321

**Introduced by Senator Beall**

February 23, 2015

An act to amend Section 7360 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 321, as introduced, Beall. Motor vehicle fuel taxes: rates: adjustments.

Existing law, as of July 1, 2010, exempts the sale of, and the storage, use, or other consumption of, motor vehicle fuel from specified sales and use taxes and increases the excise tax on motor vehicle fuel, as provided.

Existing law requires the State Board of Equalization, for the 2011–12 fiscal year and each fiscal year thereafter, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, to adjust the motor vehicle fuel tax rate in a manner as to generate an amount of revenue equal to the amount of revenue loss attributable to the sales and use tax exemption on motor vehicle fuel, based on estimates made by the board. Existing law also requires, in order to maintain revenue neutrality, the board to take into account actual net revenue gain or loss for the fiscal year ending prior to the rate adjustment date. Existing law requires this determined rate to be effective during the state's next fiscal year.

This bill would, for the 2015–16 fiscal year and each fiscal year thereafter, instead require the board, on or before July 1, 2015, or March 1 of the fiscal year immediately preceding the applicable fiscal year, as specified, to adjust the rate in a manner as to generate an amount of revenue equal to the average amount of revenue loss attributable to the

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exemption over the next five fiscal years, based on estimates made by the board, and continuing to take into account adjustments required by existing law to maintain revenue neutrality. This bill would authorize, for rate adjustments made after January 1, 2015, in order to reduce the potential volatility of the revenues generated by the motor vehicle fuel tax, the board to make partial adjustments over 3 consecutive years to take into account the net revenue gain or loss of any fiscal year.

This bill would also authorize, if, due to clear changes in either fuel prices or consumption in the state, the board makes a determination that the amount of revenue being generated by the motor vehicle fuel tax will be significantly different than the estimates made by the board, the board to adjust the rate more frequently than annually, but no more frequently than quarterly in order to reduce the potential volatility of the revenues.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ⅔. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 7360 of the Revenue and Taxation Code is amended to read:

7360. (a) (1) A tax of eighteen cents ($0.18) is hereby imposed upon each gallon of fuel subject to the tax in Sections 7362, 7363, and 7364.

(2) If the federal fuel tax is reduced below the rate of nine cents ($0.09) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate imposed by paragraph (1), on and after the date of the reduction, shall be recalculated by an amount so that the combined state rate under paragraph (1) and the federal tax rate per gallon equal twenty-seven cents ($0.27).

(3) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be so exempt under this section.

(b) (1) On and after July 1, 2010, in addition to the tax imposed by subdivision (a), a tax is hereby imposed upon each gallon of motor vehicle fuel, other than aviation gasoline, subject to the tax

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in Sections 7362, 7363, and 7364 in an amount equal to seventeen and three-tenths cents ($0.173) per gallon.

(2) *(A)* For the 2011–12 fiscal year ~~and each~~ *to the 2014–15* fiscal year ~~thereafter~~*, inclusive*, the board shall, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the rate in paragraph (1) in that manner as to generate an amount of revenue that will equal the amount of revenue loss attributable to the exemption provided by Section 6357.7, based on estimates made by the board, and that rate shall be effective during the state's next fiscal year.

*(B) For the 2015–16 fiscal year, the board shall, on or before July 1, 2015, adjust the rate in paragraph (1) in that manner as to generate an amount of revenue that will equal the average amount of revenue loss attributable to the exemption provided by Section 6357.7 over the next five fiscal years, based on estimates made by the board, and that rate shall be effective during the 2015–16 fiscal year.*

*(C) For the 2016–17 fiscal year and each fiscal year thereafter, the board shall, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the rate in paragraph (1) in that manner as to generate an amount of revenue that will equal the average amount of revenue loss attributable to the exemption provided by Section 6357.7 over the next five fiscal years, based on estimates made by the board, and that rate shall be effective during the state's next fiscal year.*

(3) In order to maintain revenue neutrality ~~for each year~~, beginning with the rate adjustment on or before March 1, 2012, the adjustment under paragraph (2) shall also take into account the extent to which the actual amount of revenues derived pursuant to this subdivision and, as applicable, Section 7361.1, the revenue loss attributable to the exemption provided by Section 6357.7 resulted in a net revenue gain or loss for the fiscal year ending prior to the rate adjustment date on or before March 1. *For rate adjustments made after January 1, 2015, in order to reduce the potential volatility of the revenues generated by the tax imposed under this subdivision, the board may make partial adjustments over three consecutive years to take into account the net revenue gain or loss of any fiscal year.*

*(4) If, due to clear changes in either fuel prices or consumption in the state, the board makes a determination that the amount of*

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*revenue being generated by the tax imposed by this section will be significantly different than the estimates made by the board, the board may adjust the rate in paragraph (1) more frequently than annually, but no more frequently than quarterly in order to reduce the potential volatility of the revenues.*

~~(4)~~

*(5)* The intent of paragraphs (2) and (3) is to ensure that ~~the act adding~~ *Chapter 6 of the Statutes of 2011, which added* this subdivision and Section ~~6357.7~~ *6357.7,* does not produce a net revenue gain in state taxes.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid a significant and devastating decrease in the amount of funding available for the maintenance of California's local streets and roads, it is necessary that this act take effect immediately.

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