

AMENDED IN ASSEMBLY APRIL 4, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2290**

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**Introduced by Assembly Member DeVore**  
**(~~Coauthor: Assembly Member Canciamilla~~ *Coauthors: Assembly***  
***Members Canciamilla, Cogdill, Huff, Niello, and Tran*)**

February 22, 2006

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An act to amend Section 5956.10 of the Government Code, ~~and~~ to add Section 143.1 to the Streets and Highways Code, *and to add Section 35401.2 to the Vehicle Code*, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2290, as amended, DeVore. State highway facilities designated for the exclusive use of commercial trucks: user fees.

(1) Existing law, until January 1, 2003, authorized the Department of Transportation to solicit proposals and enter into agreements with private entities or consortia for the construction and lease of no more than 2 toll road projects, and specified the terms and requirements applicable to those projects.

This bill would authorize the department or regional transportation entities with consent of the department to negotiate and enter into comprehensive development franchise agreements with public and private entities, or consortia thereof, for the construction of transportation projects on state highways designated for exclusive use of commercial trucks, as defined. The bill would authorize user fees to be collected during the franchise agreement period, and would authorize the California Transportation Commission to approve continuation of those fees after the termination of the agreement. The bill would provide for a lease of the facilities to the contracting entity

for up to 50 years and reversion thereafter to the department. The bill would enact other related provisions.

(2) Existing law creates a local government infrastructure financing mechanism under which a local agency enters into an agreement with a private entity relative to construction of infrastructure improvements. Under these provisions, toll roads on state highways are excluded from the types of projects that may be implemented under these provisions.

This bill would provide an exemption from this exclusion for a project on a state highway designated for the exclusive use of commercial trucks.

(3) *Existing law regulates the length of commercial vehicles operating on public highways.*

*This bill would authorize long combination vehicles, with a length that is in excess of the otherwise authorized maximum length, to be operated on a segment of state highway designated for the exclusive use of commercial trucks that is constructed pursuant to this bill.*

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

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

1 SECTION 1. Section 5956.10 of the Government Code is  
 2 amended to read:  
 3 5956.10. Notwithstanding any provision of this chapter,  
 4 neither the state or any state agency may directly or indirectly use  
 5 the authority in this chapter, nor may any governmental agency  
 6 as defined in Section 5956.3, use the authority in this chapter, to  
 7 design, construct, finance, or operate a state project. For purposes  
 8 of this section, a state project includes any of the following:  
 9 (a) Toll roads on state highways, but not including a project on  
 10 a state highway designated for the exclusive use of commercial  
 11 trucks.  
 12 (b) State water projects.  
 13 (c) State park and recreation projects.  
 14 (d) State-financed projects.  
 15 These limitations shall not prohibit the state, any state agency,  
 16 or any governmental agency as defined in Section 5956.3, from  
 17 utilizing authorizations contained in other provisions of law.

1 SEC. 2. Section 143.1 is added to the Streets and Highways  
2 Code, to read:

3 143.1. (a) (1) Pursuant to Chapter 3 (commencing with  
4 Section 30800) of Division 17, the department, or a regional  
5 transportation agency with the consent of the department, may  
6 negotiate and enter into comprehensive development franchise  
7 agreements with public and private entities, or consortia thereof,  
8 for the construction of transportation projects on state highways  
9 ~~designed~~ *designated* for exclusive use of commercial trucks.

10 (2) The department or regional transportation entity shall  
11 solicit proposals through a request for proposals process. A  
12 request for proposals shall be accompanied by materials  
13 explaining the public-private initiatives program under this  
14 section and describing the selection process and criteria. Specific  
15 systems, corridors, or routes may be identified for improvement  
16 by the department or regional transportation entity, or  
17 alternatively, potential projects may be identified and proposed  
18 by any potential contracting entity. Unsolicited proposals may be  
19 accepted by the department or regional transportation agency  
20 subject to criteria governing unsolicited proposals that shall be  
21 specified in regulations adopted by the department.

22 (b) (1) For the purpose of facilitating transportation projects  
23 on state highways ~~designed~~ *designated* for the exclusive use of  
24 commercial trucks, the agreements between the parties may  
25 include provisions for the lease of rights-of-way ~~in~~ *on*, and  
26 airspace over or under, state highways, for the granting of  
27 necessary easements, and for the issuance of permits or other  
28 authorizations to enable the construction of transportation  
29 facilities supplemental to existing state-owned and operated  
30 transportation facilities. Facilities constructed by an entity  
31 pursuant to an agreement under this section shall, at all times, be  
32 owned by the department as an operational part of the state  
33 highway system.

34 (2) The department or regional transportation agency, either  
35 directly or through a designated party, may apply for, receive,  
36 and accept from any federal agency or other governmental entity  
37 grants or financial support of whatever nature for any purpose  
38 described in this section. The department or regional  
39 transportation agency may transfer or lend the proceeds of the  
40 grant, or use the proceeds from the grant available for credit

1 enhancement, to public agencies or contracting parties, on terms  
2 and conditions complying with applicable state and federal law.

3 (3) Regardless of the source of funding, whether public or  
4 private, the agreement shall provide for the lease of those  
5 facilities to the contracting entity for up to 50 years to recover  
6 private investments in the form of expended funds together with  
7 a reasonable rate of return on those funds, negotiated by the  
8 department or regional transportation agency with the contracting  
9 entity. In consideration therefor, the agreement shall provide for  
10 complete reversion of the facility and the right to collect user fees  
11 to the department or regional transportation agency and any other  
12 government entity participating in the funding of the project, if  
13 any, at the expiration of the lease at no charge to the department  
14 or regional transportation entity or the other governmental entity.

15 (c) The department or regional transportation agency may  
16 exercise any power possessed by it with respect to the  
17 development and construction of state highway projects to  
18 facilitate the development and construction of transportation  
19 projects on state highways designated for exclusive use of  
20 commercial trucks that are initiated pursuant to this section.  
21 Agreements for maintenance and police services entered into  
22 pursuant to this section may provide for some form of negotiated  
23 reimbursement for services rendered by the department and other  
24 state agencies. The department may provide services for which it  
25 is reimbursed with respect to preliminary planning,  
26 environmental planning, environmental certification,  
27 environmental review, preliminary design, design, right-of-way  
28 acquisition, and construction of these projects.

29 (d) (1) Agreements entered into pursuant to this section shall  
30 authorize the contracting entity to impose ~~weight- or~~  
31 ~~distance-based~~ fees on commercial trucks; for use of a facility  
32 constructed by it; and shall require that over the term of the  
33 franchise, that the fee revenues will be applied to payment of  
34 some or all of the capital outlay costs for the project, the costs  
35 associated with operations, fee collection, administration of the  
36 facility, reimbursement to the department or other governmental  
37 entity for the costs of services to develop and maintain the  
38 project, police services, and a reasonable return on investment to  
39 the contracting entity. ~~The agreement shall require that,~~  
40 ~~notwithstanding Sections 164, 188, and 188.1, any excess toll~~

1 ~~revenue either be applied to any indebtedness incurred by the~~  
2 ~~contracting entity with respect to the project or be paid into the~~  
3 ~~State Highway Account for use in the same transportation~~  
4 ~~corridor as the dedicated commercial truck facility, or both.~~

5 (2) The collection of user fees for the use of these facilities  
6 may be extended by the commission at the expiration of the  
7 franchise agreement.

8 (e) The plans and specifications for each project constructed  
9 pursuant to this section shall comply with the department's  
10 then-existing standards for similar state highway projects. A  
11 facility constructed by and leased to another entity shall, during  
12 the term of the lease, be deemed to be a part of the state highway  
13 system for purposes of identification, maintenance, enforcement  
14 of traffic laws, and for the purposes of Division 3.6 (commencing  
15 with Section 810) of Title 1 of the Government Code.

16 (f) The assignment authorized by subdivision (c) of Section  
17 130240 of the Public Utilities Code is consistent with this  
18 section.

19 (g) Each franchise agreement entered into by the department  
20 or regional transportation agency shall include provisions  
21 authorizing the department or regional transportation agency to  
22 open competitive facilities to traffic within the designated  
23 corridor. Each franchise agreement entered into by the  
24 department or regional transportation agency shall also include  
25 provisions authorizing the department or regional transportation  
26 agency to construct any safety project needed within the  
27 designated corridor.

28 (h) (1) "Commercial truck," as used in this section, means a  
29 commercial motor vehicle, operating either singly or in  
30 combination, designed for the purpose of hauling freight, with a  
31 declared gross vehicle weight of 10,001 pounds or more.

32 (2) "Regional transportation agency," as used in this section,  
33 means a transportation agency that administers a transactions and  
34 use tax, the proceeds of which are dedicated to transportation  
35 purposes.

36 *SEC. 3. Section 35401.2 is added to the Vehicle Code, to*  
37 *read:*

38 *35401.2. Notwithstanding any other provision of this code,*  
39 *long combination vehicles with a length that is in excess of the*  
40 *maximum otherwise authorized by this code may be operated on*

1 *a segment of state highway designated for the exclusive use of*  
2 *commercial trucks that is constructed pursuant to Section*  
3 *5956.10 of the Government Code or Section 143.1 of the Streets*  
4 *and Highways Code. The Department of the California Highway*  
5 *Patrol, in consultation with the Department of Transportation,*  
6 *may adopt regulations in that regard.*

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