

ASSEMBLY BILL

No. 798

Introduced by Assembly Member Nava

February 26, 2009

An act to add Division 3 (commencing with Section 64100) to Title 6.7 of the Government Code, and to amend Section 149.7 of the Streets and Highways Code, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 798, as introduced, Nava. California Transportation Financing Authority: toll facilities.

(1) Existing law generally provides for programming and allocation of transportation capital improvement funds pursuant to the state transportation improvement program process administered by the California Transportation Commission. Existing law authorizes the development of toll road projects under certain conditions. Existing law authorizes the commission and the Department of Transportation to operate and manage the Transportation Finance Bank to make loans for transportation projects. Existing law creates the California Infrastructure and Economic Development Bank to assist in the financing of various public infrastructure projects. Existing law authorizes the state to issue tax-exempt revenue anticipation notes backed by federal transportation appropriations.

This bill would create the California Transportation Financing Authority with specified powers and duties relative to issuance of bonds to fund transportation projects to be backed, in whole or in part, by various revenue streams of transportation funds, and toll revenues under certain conditions, in order to increase the construction of new capacity

or improvements for the state transportation system consistent with specified goals. The bill would set forth the requirements for a project sponsor to obtain bond funding from the authority, would allow the authority to approve the imposition and collection of tolls on a proposed project under certain conditions, and would require the authority to report to the California Transportation Commission annually beginning June 30, 2011. The bill would create the California Transportation Financing Authority Fund, which would be continuously appropriated for these purposes. The bill would enact other related provisions.

(2) Existing law, until January 1, 2012, authorizes a regional transportation agency, in cooperation with the department, to apply to the commission to develop and operate high-occupancy toll lanes, with not more than 4 facilities to be approved under these provisions. Following public hearings by the commission, the commission is required to forward an eligible application and public comments to the Legislature for approval or rejection of the project, with approval to be achieved by the enactment of a statute.

This bill, with respect to these 4 projects, would delete the requirement for the commission to forward the applications to the Legislature for approval or rejection.

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

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

1 SECTION 1. Division 3 (commencing with Section 64100) is
2 added to Title 6.7 of the Government Code, to read:

3

4 DIVISION 3. CALIFORNIA TRANSPORTATION
5 FINANCING AUTHORITY

6

7 64100. This division shall be known and may be cited as the
8 California Transportation Financing Authority Act.

9 64101. The California Transportation Financing Authority is
10 hereby created in state government. The authority constitutes a
11 public instrumentality, and the exercise by the authority of the
12 powers conferred by this division shall be deemed and held to be
13 the performance of an essential public function.

64102. As used in this division, the following terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Authority" shall mean the California Transportation Financing Authority.

(b) "Bonds" shall mean bonds, notes, debentures, commercial paper, or any other evidence of indebtedness, lease, installment, sale, or certificate of participation thereon, issued by the authority or a project sponsor pursuant to this division.

(c) "Commission" shall mean the California Transportation Commission.

(d) "Cost," as applied to a project or portion of a project financed under this division, shall mean and include all or any part of the cost of construction and acquisition of all lands, structures, real or personal property rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during, and for a period not to exceed the later of one year or one year following completion of construction, as determined by the authority, the cost of insurance during construction, the cost of funding or financing noncapital expenses, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements, the cost of engineering, architectural, financial, legal, and other necessary services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses of funding or financing, that are necessary or incident to determining the feasibility of any project, or that are incident to the construction, rehabilitation, acquisition, or financing of any project.

(e) "Department" shall mean the Department of Transportation.

(f) "Project" shall mean and include all or a portion of the planning, design, development, finance, construction, reconstruction, rehabilitation, improvement, acquisition, lease, operation, or maintenance of highway, public street, rail, or related facilities supplemental to or improvements upon existing facilities currently owned and operated by the department or other project sponsor.

(g) “Project sponsor” shall mean either the department, a regional transportation planning agency designated pursuant to Section 29532 or 29532.1, a county transportation commission as defined in Section 130050, 130050.1, or 130050.2 of the Public Utilities Code, any other local or regional transportation entity that is designated by statute as a regional transportation agency, or a joint exercise of powers authority as defined in Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 or an agency designated pursuant to Section 66531 to submit the county transportation plan, with the consent of a transportation planning agency or a county transportation commission for the jurisdiction in which the transportation project will be developed.

(h) “Working capital” means moneys to be used by, or on behalf of, a project sponsor to pay or prepay maintenance or operation expenses or any other costs that would be treated as an expense item, under generally accepted accounting principles, in connection with the ownership or operation of a project, including, but not limited to, reserves for maintenance or operation expenses, interest for not to exceed one year on any loan for working capital made pursuant to this division, and reserves for debt service with respect to, and any costs necessary or incidental to, that financing.

64103. (a) The authority shall consist of seven members, as follows:

- (1) The Treasurer, who shall serve as the chair of the authority.
- (2) The Director of Finance.
- (3) The Controller.
- (4) The Director of Transportation.
- (5) The executive director of the commission.
- (6) A local agency representative appointed by the Senate Committee on Rules.
- (7) A local agency representative appointed by the Speaker of the Assembly.

(b) Members of the authority shall serve without compensation, but the authority may reimburse its members for necessary expenses incurred in the discharge of their duties.

(c) The Director of Finance may designate an employee of the Department of Finance to act for him or her at all meetings of the authority.

1 (d) The director of the department may designate an employee
2 of the department to act for him or her at all meetings of the
3 authority.

4 (e) The executive director of the commission may designate an
5 employee of the commission to act for him or her at all meetings
6 of the authority.

7 (f) The chair of the authority shall appoint an executive director.
8 The offices of the authority shall be located in the Office of the
9 Treasurer. The authority may, by resolution, delegate to one or
10 more of its members or its executive director or any employee of
11 the authority such powers and duties that it may deem proper,
12 including, but not limited to, the power to enter into contracts on
13 behalf of the authority.

14 (g) Four members of the authority shall constitute a quorum.
15 The affirmative vote of a quorum of the members present at a duly
16 constituted meeting of the authority shall be necessary for any
17 action taken by the authority.

18 64104. The provisions of this division shall be administered
19 by the authority, which shall have and is hereby vested with all
20 powers reasonably necessary to carry out the powers and
21 responsibilities expressly granted or imposed under this division.

22 64105. The objective of the authority shall be to increase the
23 construction of new capacity or improvements for the state
24 transportation system in a manner that is consistent with and will
25 help meet the state's greenhouse gas reduction goals, air quality
26 improvement goals, and natural resource conservation goals,
27 through the issuance of, or the approval of the issuance of, bonds
28 backed, in whole or in part, by the revenue streams specified in
29 Section 64109.

30 64106. (a) The Attorney General shall be the legal counsel for
31 the authority, however, with the approval of the Attorney General,
32 the authority may employ legal counsel as in its judgment is
33 necessary or advisable to carry out the duties and functions imposed
34 upon it by this division, including the employment of bond counsel
35 as may be deemed advisable in connection with the issuance and
36 sale of bonds.

37 (b) The Treasurer shall be the treasurer for the authority.

38 64107. The authority may do any of the following:

39 (a) Adopt bylaws for the regulation of its affairs and the conduct
40 of its business.

1 (b) Adopt an official seal.

2 (c) Sue and be sued in its own name.

3 (d) Receive and accept from any agency of the United States,
4 any agency of the state, or any municipality, county, or other
5 political subdivision thereof, or from any individual, association,
6 or corporation gifts, grants, or donations of moneys for achieving
7 any of the purposes of this division.

8 (e) Engage the services of private consultants to render
9 professional and technical assistance and advice in carrying out
10 the purposes of this division.

11 (f) Receive and accept from any source loans, contributions, or
12 grants for, or in aid of, the construction, financing, or refinancing
13 of a project or any portion of a project in money, property, labor,
14 or other things of value.

15 (g) Make secured or unsecured loans to, or purchase secured or
16 unsecured loans of, any project sponsor in connection with the
17 financing of a project or working capital in accordance with an
18 agreement between the authority and the project sponsor. However,
19 no loan to finance a project shall exceed the total cost of the project,
20 as determined by the project sponsor and approved by the authority.

21 (h) Make secured or unsecured loans to, or purchase secured or
22 unsecured loans of, any project sponsor in accordance with an
23 agreement between the authority and the project sponsor to
24 refinance indebtedness incurred by that project sponsor for the
25 costs of projects undertaken or for projects acquired or for working
26 capital.

27 (i) Mortgage all or any portion of the interest of the authority
28 in a project and the property on which that project is located,
29 whether owned or thereafter acquired, including the granting of a
30 security interest in any property, tangible or intangible, and to
31 assign or pledge all or any portion of the interests of the authority
32 in mortgages, deeds of trust, indentures of mortgage or trust, or
33 similar instruments, notes, and security interests in property,
34 tangible or intangible, of projects for which the authority has made
35 loans, and the revenues therefrom, including payments or income
36 from any thereof owned or held by the authority, for the benefit
37 of the holders of bonds issued to finance or refinance a project or
38 issued to refund or refinance outstanding indebtedness of project
39 sponsors as permitted by this division.

1 (j) Charge and equitably apportion among project sponsors, the
2 administrative costs and expenses incurred by the authority in the
3 exercise of its powers and duties conferred by this division.

4 (k) Obtain, or aid in obtaining, from any department or agency
5 of the United States or of the state, any private company, any
6 insurance or guarantee as to, of, or for the payment or repayment
7 of, interest or principal, or both, or any part thereof, on any bond,
8 loan, lease, or obligation, or any instrument evidencing or securing
9 the loan, lease, or obligation, made or entered into pursuant to this
10 division; and notwithstanding any other provisions of this division,
11 to enter into any agreement, contract, or any other instrument
12 whatsoever with respect to that insurance or guarantee, to accept
13 payment in the manner and form as provided therein in the event
14 of default by a project sponsor, and to assign that insurance or
15 guarantee as security for the authority's bonds.

16 (l) Enter into any and all agreements or contracts, including
17 agreements for liquidity and credit enhancement and interest rate
18 swaps or hedges, execute any and all instruments, and do and
19 perform any and all acts or things necessary, convenient, or
20 desirable for the purposes of the authority or to carry out any power
21 expressly granted by this division.

22 (m) Invest any moneys held in reserve or sinking funds or any
23 moneys not required for immediate use or disbursement, at the
24 discretion of the authority, in any obligations authorized by the
25 resolution authorizing the issuance of the bonds secured thereof
26 or authorized by law for the investment of trust funds in the custody
27 of the Treasurer.

28 (n) Employ and fix the compensation of bond counsel, financial
29 consultants, and advisers as may be necessary in its judgment in
30 connection with the issuance and administration of any bonds and
31 contract for engineering, architectural, accounting, or other services
32 as may be necessary in the judgment of the authority for the
33 successful development of any project.

34 (o) Participate in all things necessary and convenient to carry
35 out its purposes and exercise its powers.

36 64108. All expenses of the authority incurred in carrying out
37 the provisions of this division shall be payable solely from funds
38 provided pursuant to this division, and no liability shall be incurred
39 by the authority beyond the extent to which moneys shall have
40 been provided under this division, except that for the purposes of

1 meeting the necessary expenses of initial organization and
2 operation of the authority for the period commencing January 1,
3 2010, and continuing until the date the authority derives money
4 from funds provided to it under the provisions of this division, the
5 authority may borrow moneys as the authority may require. Any
6 moneys borrowed by the authority shall subsequently be charged
7 to and apportioned among project sponsors in an equitable manner
8 and the moneys repaid with appropriate interest over a reasonable
9 period of time. Under no circumstances shall the authority create
10 any debt, liability, or obligation on the part of the State of
11 California payable from any source whatsoever other than the
12 moneys provided under the provisions of this division.

13 64109. (a) To the extent permitted by law, in connection with
14 any project financed or refinanced pursuant to this division, the
15 project sponsor may pledge the following revenue sources as
16 security for revenue bonds issued by the authority:

17 (1) Local transportation funds, including, but not limited to,
18 fuel taxes, Article XIXB fuel sales taxes, local transportation sales
19 taxes, other state revenues approved for this purpose by the
20 Legislature or by initiative, and developer fees. To the extent that
21 these revenue sources are within the control of a local agency, the
22 revenue sources may only be pledged with approval of the
23 governing board of the local agency. To the extent that these
24 revenues are within the control of a state agency, the revenue
25 sources may only be pledged with approval by the department and
26 the commission.

27 (2) Tolls, on facilities where not otherwise prohibited by statute,
28 collected by a project sponsor with the approval of the authority.

29 (b) Where the authority is issuing bonds to finance or refinance
30 a project, the authority shall accept a project sponsor's pledge
31 made pursuant to subdivision (a) and pledge those revenues to the
32 repayment of bonds issued to finance or refinance the applicable
33 project.

34 64110. (a) A project sponsor may apply to the authority for
35 bond financing or refinancing of a transportation project that has
36 been approved by the department and the commission for
37 construction.

38 (b) The authority shall also ensure that the following
39 requirements are met for a project to be financed or refinanced by

1 the authority to the extent these criteria have not already been met
2 through approval of the project by the commission:

3 (1) The project complies with all relevant statutes applicable to
4 planning, programming, and construction of transportation
5 improvement projects, and is contained in the constrained portion
6 of a conforming regional transportation plan prepared pursuant to
7 Section 65080 and identified as a project proposed to be funded
8 under the authority provided by this division. For purposes of this
9 subdivision, a regional transportation plan must be consistent with
10 greenhouse gas reduction targets assigned by the State Air
11 Resources Board, pursuant to Division 25.5 (commencing with
12 Section 35800) of the Health and Safety Code.

13 (2) For projects on the state highway system, the project sponsor
14 has cooperated with the department to secure its support for the
15 project and to ensure that the project is consistent with the needs
16 and requirements of the state highway system.

17 (3) The project is technically feasible in that it conforms to
18 federal standards and meets or exceeds environmental
19 requirements.

20 (4) The project is financially feasible, as determined pursuant
21 to Section 64111.

22 (5) Performance measures have been developed for the project
23 to enable the commission to track and report on the project's
24 performance to the Legislature in the commission's annual report
25 prepared pursuant to Section 14535.

26 (6) The project has support in the communities adjacent to or
27 affected by the project. To ensure that such support can be
28 demonstrated, the project sponsor shall, at a minimum, make
29 available for public review and comment the proposed project,
30 including any proposed toll schedule, no less than 30 days prior
31 to approval by the governing body with jurisdiction over the
32 project.

33 (7) In the case of highway projects, the project sponsor submits
34 to the commission and to the authority a plan that demonstrates
35 how transit service or alternative modes of transportation will be
36 enhanced in the corridor concurrent with the operation of a toll
37 facility for the purpose of ensuring that the corridor provides for
38 multiple modes of transport that accommodate all users. Nothing
39 in this section may be construed to require that toll revenues be

1 used to finance the enhancement of transit or alternative means of
2 transportation in the project corridor.

3 (c) The authority shall have no power to plan projects, or to
4 approve projects other than provided in this division. The authority
5 shall have no power to assume any of the planning, programming,
6 or allocation authority of the department or the commission.

7 (d) Beginning June 30, 2011, and annually thereafter, the
8 authority shall provide to the commission a summary of actions
9 taken in the previous calendar year, including the number of project
10 sponsors who sought financing through the authority, a description
11 of each project, a summary of the sources of funding used to
12 finance or refinance the project, and any recommendations the
13 authority may have to improve the financing of transportation
14 infrastructure, to be included in the commission's annual report
15 to the Legislature as required by Section 14535.

16 64111. (a) Prior to issuing or approving the issuance of bonds
17 for a project, the authority shall determine that the revenues and
18 other moneys available for a project will be sufficient to pay debt
19 service on the bonds and to operate and maintain the project over
20 the life of the bonds consistent with the objective set forth in
21 Section 64105. The authority may hire outside consultants to assist
22 in making these determinations.

23 (b) The authority may issue or approve the issuance of bonds
24 to achieve any of its purposes under this division and bonds may
25 be issued without investment grade ratings, as long as the bonds
26 are sold only to qualified institutional buyers or accredited investors
27 who attest upon purchase that they understand the nature of the
28 risks of their investment. The bonds may be taxable or tax-exempt
29 and may be sold at public or private negotiated sale. The Treasurer
30 shall serve as the agent for sale for all authority bond issues, and
31 shall be reimbursed from bond proceeds to cover the Treasurer's
32 costs related to the issuance of these bonds. As used in this
33 subdivision, "accredited investor" shall have the meaning as
34 defined in subdivision (a) of Section 5950, and "qualified
35 institutional buyer" shall have the meaning as defined in
36 subdivision (h) of Section 5950.

37 (c) The project sponsor may request that it be the issuer of the
38 bonds. The authority may grant the request if it determines that
39 the revenues and other moneys available for the project will be
40 sufficient to pay debt service on the bonds and to operate and

1 maintain the project over the life of the bonds. A project sponsor
2 for which the authority has granted a request that the project
3 sponsor issue the bonds, in addition to any other powers it may
4 have under any other law, shall have all of the powers of the
5 authority under this division necessary or convenient for the
6 purpose of issuing, securing, and repaying the bonds and financing
7 or refinancing the project. This provision is a complete, additional,
8 and alternative method of accomplishing the matters authorized,
9 and the project sponsor need not comply with any other law relating
10 to the issuance of bonds, financing of projects and, if applicable,
11 the imposition and collection of tolls.

12 (d) The authority may arrange additional credit support for the
13 bond issues. However, the authority may not compel project
14 sponsors to make use of that credit enhancement, nor compel them
15 to contribute to it by becoming part of a common credit or by
16 providing funding for a common reserve or other enhancement
17 mechanism.

18 64112. Notwithstanding any other provision of law, the
19 authority may authorize a project sponsor, or the department, to
20 impose and collect tolls as one source of financing to pay debt
21 service and to operate and maintain a project under the following
22 conditions:

23 (a) The governing body of the project sponsor, by a majority
24 vote of the body, or, for projects sponsored by the department, the
25 commission, has approved the imposition of tolls on users of the
26 project, or a majority of the voters within the jurisdiction of the
27 project sponsor has approved a ballot measure imposing the tolls.

28 (b) Each highway project for which tolls are imposed shall have
29 nontolled alternative lanes available for public use in the same
30 corridor as the proposed toll project. Nothing in this division shall
31 allow the conversion of any existing nontolled or non-user-fee
32 lanes into tolled or user-fee lanes, except for the conversion of
33 high-occupancy vehicle lanes into high-occupancy toll lanes,
34 consistent with the authorizations in Sections 149.1, 149.4, 149.5,
35 149.6, and 149.7 of the Streets and Highways Code.

36 (c) For highway projects, the road segment is on the state
37 highway system. Nothing in this division shall allow the imposition
38 of a toll on any local street or road.

39 (d) The approval of the tolls pursuant to subdivision (a) shall
40 require that the tolls be set and maintained at a level expected to

1 be sufficient to pay debt service, operations, and maintenance of
2 the project over the life of the bonds consistent with the objective
3 set forth in Section 64105.

4 (e) The project's financial pro forma shall incorporate life-cycle
5 costs for the project, including revenues to pay for maintenance,
6 operation, and rehabilitation.

7 (f) Subject to any constraints in the bond documents necessary
8 to make the bonds marketable, excess revenues from operation of
9 the project, including toll revenues, shall be used exclusively in
10 the corridor from which the revenue was generated to fund
11 acquisition, construction, improvement, maintenance, or operation
12 of high-occupancy vehicle facilities, other transportation purposes,
13 or transit service, including, but not limited to, support for transit
14 operations pursuant to an expenditure plan. The project sponsor,
15 in consultation with the department, shall issue an expenditure
16 plan that describes transportation improvements for the corridor,
17 which shall include projected costs, the use of toll revenues, and
18 a proposed completion schedule. The expenditure plan shall be
19 updated annually. The plan and each annual update shall be made
20 available for public review and comment for no less than 30 days
21 prior to adoption by the governing board of the project sponsor.

22 (g) Except for purposes of implementing congestion
23 management mechanisms pursuant to Section 64113, tolls may
24 not be set to generate more revenue than the expected cost of
25 paying debt service on the bonds, contracts entered into by the
26 authority or the project sponsor in connection with the bonds,
27 funding reserves, operating and maintaining the project, repair and
28 rehabilitation of the project, and providing transportation
29 improvements to the corridor pursuant to subdivision (f).

30 64113. A project sponsor of a project imposing tolls may
31 incorporate congestion management mechanisms to regulate usage
32 and increase mobility, accessibility, and environmental benefits.

33 64114. The authority and the commission shall develop an
34 approval process that results in project approval by the commission
35 and financing approval by the authority in a cooperative manner
36 that is not sequential, in order that both approvals may be delivered
37 to a project at approximately the same time. Both agencies shall
38 work with potential project sponsors to ensure that projects are
39 developed and brought forward for approval in a manner consistent
40 with the commission's project requirements and the authority's

1 financing requirements. No less than 30 days prior to approving
2 the project and its financing plan, the commission and the authority
3 shall make available for public review and comment a description
4 of the project and its financing.

5 64115. (a) The authority is authorized, from time to time, to
6 issue its negotiable bonds in order to provide funds for achieving
7 any of its purposes under this division.

8 (b) Except as may otherwise be expressly provided by the
9 authority, each of its bonds shall be payable from any revenues or
10 moneys of the authority available therefor and not otherwise
11 pledged, subject only to any agreements with the holders of
12 particular bonds or notes pledging any particular revenues or
13 moneys. Notwithstanding that those bonds may be payable from
14 a special fund, they shall be and be deemed to be for all purposes
15 negotiable instruments, subject only to the provisions of those
16 bonds for registration.

17 (c) The authority's bonds may be issued as serial bonds or as
18 term bonds, or the authority, in its discretion, may issue bonds of
19 both types. The issuance of all bonds shall be authorized by
20 resolution of the authority and shall bear the date or dates, mature
21 at the time or times not exceeding 40 years from their respective
22 dates, bear interest at the rate or rates, fixed or variable, be payable
23 at the time or times, be in the denominations, be in the form, either
24 coupon or registered, carry the registration privileges, be executed
25 in the manner, be payable in lawful money of the United States of
26 America at the place or places, and be subject to the terms of
27 redemption, as the indenture, trust agreement, or other document
28 authorized by the resolution, or resolution itself may provide. The
29 authority's bonds or notes may be sold by the Treasurer at public
30 or private negotiated sale, after giving due consideration to the
31 recommendation of the project sponsor, for such price or prices
32 and upon such terms and conditions as the authority shall
33 determine. The Treasurer may sell those bonds at a price below
34 the par value thereof. However, the discount on any bonds so sold
35 shall not exceed 6 percent of the par value thereof, except in the
36 case of any bonds payable in whole or in part from moneys held
37 under one or more outstanding resolutions or indentures. Pending
38 preparation of the definitive bonds, the authority may issue interim
39 receipts or certificates or temporary bonds that shall be exchanged
40 for those definitive bonds.

(d) Any resolution or resolutions authorizing the issuance of any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to pledging all or any part of the revenues of a project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation, or association or other body, public or private, to secure the payment of the bonds or of any particular issue of bonds.

(e) Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The authority shall have power out of any funds available therefor to purchase its bonds or bonds issued by a project sponsor under this division. The authority may hold, pledge, cancel, or resell the bonds, subject to and in accordance with agreements with bondholders.

64116. In the discretion of the authority, any bonds issued under this division may be secured by a trust agreement or indenture by and between the authority and a corporate trustee or trustees, which may be the Treasurer or any trust company or bank having the powers of a trust company within or without the state. The trust agreement, indenture, or the resolution providing for the issuance of those bonds may pledge or assign the revenues to be received from a project sponsor or pursuant to any revenue-producing contract or as pledged by the authority pursuant to Section 64109. The indenture, trust agreement, or resolution providing for the issuance of those bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, particularly, provisions as have been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. The trust agreement or indenture may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action of bondholders. In addition to the foregoing, the indenture, trust agreement, or resolution may contain other provisions as the authority may deem reasonable and proper for the security of the bondholders.

1 64117. Bonds issued under this division shall not be deemed
2 to constitute a debt or liability of the state or of any political
3 subdivision thereof or a pledge of the faith and credit of the state
4 or of the political subdivision, other than the authority, but shall
5 be payable solely from the funds herein provided. The bonds shall
6 contain on the face thereof a statement to the effect that neither
7 the State of California nor the authority shall be obligated to pay
8 the principal of, or the interest thereon, except from revenues
9 pledged therefor by the authority, and that neither the faith and
10 credit nor the taxing power of the State of California or of any
11 political subdivision thereof is pledged to the payment of the
12 principal of or the interest on those bonds. The issuance of bonds
13 under the provisions of this division shall not directly or indirectly
14 or contingently obligate the state or any political subdivision
15 thereof to levy or to pledge any form of taxation therefor or to
16 make any appropriation for their payment.

17 64118. Any holder of bonds issued under this division or any
18 of the coupons appertaining thereto, and the trustee or trustees
19 under any indenture or trust agreement, except to the extent the
20 rights herein given may be restricted by any resolution authorizing
21 the issuance of, or any indenture or trust agreement securing, the
22 bonds, may, either at law or in equity, by suit, action, mandamus,
23 or other proceedings, protect and enforce any and all rights under
24 the laws of the state or granted hereunder or under the resolution
25 or indenture or trust agreement, and may enforce and compel the
26 performance of all duties required by this division or by the
27 resolution, indenture, or trust agreement to be performed by the
28 authority or by any officer, employee, or agent thereof.

29 64119. All moneys received pursuant to this division, whether
30 as proceeds from the sale of bonds or as revenues, shall be deemed
31 to be trust funds to be held and applied solely as provided in this
32 division. Until the funds are applied as provided in this division,
33 and notwithstanding any other provision of law, the moneys may
34 be invested in any obligations or securities authorized by resolution
35 of the authority authorizing the issuance of the bonds or indenture
36 or trust agreement securing the bonds. Any officer with whom, or
37 any bank or trust company with which, the moneys are deposited
38 shall act as trustee of the moneys and shall hold and apply the
39 moneys for the purposes hereof, subject to any regulations adopted

1 pursuant to this division, and the resolution authorizing the issuance
2 of the bonds or the indenture or trust agreement securing the bonds.

3 64120. (a) The authority may provide for the issuance of bonds
4 of the authority for the purpose of refunding any bonds or any
5 series or issue of bonds of the authority then outstanding, including
6 the payment of any redemption premium thereon and any interest
7 accrued or to accrue to the date of redemption, purchase, or
8 maturity of the bonds.

9 (b) The proceeds of any bonds issued for the purpose of
10 refunding of outstanding bonds may, in the discretion of the
11 authority, be applied to the purchase, redemption prior to maturity,
12 or retirement at maturity of any outstanding bonds on their earliest
13 redemption date or dates, upon their purchase or maturity, or paid
14 to a third person to assume the authority's obligation to make the
15 payments, and may, pending that application, be placed in escrow
16 to be applied to the purchase, retirement at maturity, or redemption
17 on the date or dates determined by the authority.

18 (c) Any proceeds placed in escrow may, pending their use, be
19 invested and reinvested in obligations or securities authorized by
20 resolutions of the authority, payable or maturing at the time or
21 times as are appropriate to ensure the prompt payment of the
22 principal, interest, and redemption premium, if any, of the
23 outstanding bonds to be refunded at maturity or redemption of the
24 bonds to be refunded either at their earliest redemption date or
25 dates or any subsequent redemption date or dates or for payment
26 of interest on the refunding bonds on or prior to the final date of
27 redemption or payment of the bonds to be refunded. After the terms
28 of the escrow have been fully satisfied and carried out, any balance
29 of the proceeds and interest, income, and profits, if any, earned or
30 realized on the investments thereof may be returned to the authority
31 for use by the authority.

32 (d) All of the refunding bonds are subject to this division in the
33 same manner and to the same extent as other bonds issued pursuant
34 to this division.

35 64121. Bonds issued by the authority under this division are
36 hereby made securities in which all banks, bankers, savings banks,
37 trust companies and other persons carrying on a banking business,
38 all insurance companies, insurance associations and other persons
39 carrying on an insurance business, and all administrators, executors,
40 guardians, trustees and other fiduciaries, and all other persons

1 whatsoever who now are or may hereafter be authorized to invest
2 in bonds or other obligations of the state, may properly and legally
3 invest any funds, including capital belonging to them or within
4 their control; and the bonds, notes or other securities or obligations
5 are hereby made securities that may properly and legally be
6 deposited with and received by any state or municipal officers or
7 agency of the state for any purpose for which the deposit of bonds
8 or other obligations of the state is now or may hereafter be
9 authorized by law.

10 64122. Any bonds issued under this division, their transfer,
11 and the income therefrom shall at all times be free from taxation
12 of every kind by the state and by all political subdivisions in the
13 state.

14 64123. The State of California does pledge to and agree with
15 the holders of the bonds issued pursuant to this division, and with
16 those parties who may enter into contracts with the authority or a
17 project sponsor pursuant to this division, that the state will not
18 limit, alter, or restrict the rights hereby vested in the authority or
19 a project sponsor to finance or refinance projects and to authorize
20 the imposition and collection of tolls and to fulfill the terms of any
21 agreements made with the holders of bonds authorized by this
22 division, and with the parties who may enter into contracts with
23 the authority or a project sponsor pursuant to this division, or in
24 any way impair the rights or remedies of the holders of those bonds
25 or those parties until the bonds, together with interest thereon, are
26 fully paid and discharged and the contracts are fully performed on
27 the part of the authority or a project sponsor. The authority, and
28 the project sponsor, as a public body, corporate and politic, shall
29 have the right to include the pledge herein made in its bonds and
30 contracts.

31 64124. A pledge by or to the authority of revenues, moneys,
32 accounts, accounts receivable, contract rights, and other rights to
33 payment of whatever kind made by or to the authority pursuant to
34 the authority granted in this division shall be valid and binding
35 from the time the pledge is made for the benefit of pledges and
36 successors thereto. The revenues, moneys, accounts, accounts
37 receivable, contract rights, and other rights to payment of whatever
38 kind pledged by or to the authority or its assignees shall
39 immediately be subject to the lien of the pledge without physical
40 delivery or further act. The lien of the pledge shall be valid and

1 binding against all parties, irrespective of whether the parties have
2 notice of the claim. The indenture, trust agreement, resolution, or
3 another instrument by which the pledge is created need not be
4 recorded.

5 64125. Each lease entered into by the authority with a project
6 sponsor and each agreement, note, mortgage, or other instrument
7 evidencing the obligations of a project sponsor to the authority
8 shall provide that the rents or principal, interest, and other charges
9 payable by the project sponsor shall be sufficient at all times, (a)
10 to pay the principal of, sinking fund payments, if any, the premium,
11 if any, and the interest on outstanding bonds of the authority issued
12 in respect of such project as the same shall become due and
13 payable, (b) to create and maintain reserves which may, but need
14 not, be required or provided for in the resolution relating to the
15 bonds of the authority, and (c) to pay its share of the administrative
16 costs and expenses of the authority. The authority shall pledge the
17 revenues derived, and to be derived, from a project or from a
18 project sponsor for the purposes specified in (a), (b), and (c) of the
19 preceding sentence and additional bonds may be issued which may
20 rank on a parity with other bonds relating to the project to the
21 extent and on the terms and conditions provided in the bond
22 resolution.

23 64126. When the principal of and interest on bonds issued by
24 the authority to finance the cost of a project or working capital or
25 to refinance outstanding indebtedness of one or more project
26 sponsors, including any refunding bonds issued to refund and
27 refinance those bonds, have been fully paid and retired or when
28 adequate provision has been made to fully pay and retire those
29 bonds, and all other conditions of the resolution, the lease, the trust
30 indenture and any mortgage or deed of trust, security interest, or
31 any other instrument or instruments authorizing and securing the
32 bonds have been satisfied and the lien of the mortgage, deed of
33 trust, or security interest has been released in accordance with the
34 provisions thereof, the authority shall promptly do all things and
35 execute those releases, release deeds, reassignments, deeds, and
36 conveyances necessary and required to convey or release any
37 rights, title, and interest of the authority in the project so financed,
38 or securities or instruments pledged or transferred to secure the
39 bonds, to the project sponsor or sponsors.

1 64127. (a) This division shall be deemed to provide a complete,
2 additional, and alternative method for doing the things authorized
3 by this code, and shall be regarded as supplemental and additional
4 to powers conferred by other laws. The issuance of bonds and
5 refunding bonds and the financing or refinancing of projects or
6 the imposition and collection of tolls under this chapter need not
7 comply with any other law applicable to the issuance of bonds or
8 the collection of tolls, including, but not limited to, Division 13
9 (commencing with Section 21000) of the Public Resources Code.

10 (b) Except as provided in subdivision (a), the financing of a
11 project pursuant to this division shall not exempt a project from
12 any requirement of law that is otherwise applicable to the project,
13 and the project sponsor shall provide documentation, before the
14 authority approves the issuance of bonds for the project, that the
15 project has complied with Division 13 (commencing with Section
16 21000) of the Public Resources Code, or is not a project under that
17 division.

18 64128. To the extent that the provisions of this division are
19 inconsistent with any other provisions of any general statute or
20 special act or parts thereof, the provisions of this division shall be
21 deemed controlling.

22 64129. Any net earnings of the authority beyond that necessary
23 for retirement of any obligations issued by the authority or to
24 implement the purposes of this division may inure to the benefit
25 only of the state or the authority.

26 64130. Upon dissolution of the authority, title to all property
27 owned by the authority shall vest in the successor authority created
28 by the Legislature, if any, if the successor authority qualifies under
29 Section 103 of the federal Internal Revenue Code of 1954, as
30 amended, and the regulations promulgated thereunder, as an
31 authority entitled to issue obligations on behalf of the State of
32 California the interest on which is exempt from federal income
33 taxation. If no successor authority is so created, title to the property
34 shall vest in the state.

35 64131. Nothing in this division is intended to limit the authority
36 to develop and finance high-occupancy toll lanes pursuant to
37 Section 149.4, 149.5, 149.6, or 149.7 of the Streets and Highways
38 Code, or to limit the ability of any agency that has existing
39 authority to issue bonds.

1 64132. (a) The California Transportation Financing Authority
2 Fund is hereby created and continued in existence in the State
3 Treasury, to be administered by the authority. Notwithstanding
4 Section 13340 of the Government Code, all moneys in the funds
5 shall be continuously appropriated without regard to fiscal year
6 for the purposes of this division. The authority may pledge any or
7 all of the moneys in the fund as security for payment of the
8 principal of, and interest on, any particular issuance by the authority
9 of bonds issued pursuant to this division, or any particular secured
10 or unsecured loan made pursuant to subdivision (g) or (h) of
11 Section 64107, and, for that purpose or as necessary or convenient
12 to the accomplishment of any other purpose of the authority, may
13 divide the fund into separate accounts. All moneys accruing to the
14 authority pursuant to this part from whatever source shall be
15 deposited in the fund.

16 (b) Subject to the priorities that may be created by the pledge
17 of particular moneys in the fund to secure any issuance of bonds
18 of the authority, and subject further to the costs of loans provided
19 by the authority pursuant to subdivisions (g) and (h) of Section
20 64107, and subject further to any reasonable costs that may be
21 incurred by the authority in administering the program authorized
22 by this division, all moneys in the fund derived from any source
23 shall be held in trust for the security and payment of bonds of the
24 authority and shall not be used or pledged for any other purpose
25 so long as the bonds are outstanding and unpaid. However, nothing
26 in this section shall limit the power of the authority to make loans
27 with the proceeds of bonds in accordance with the terms of the
28 resolution authorizing the same.

29 (c) Pursuant to any agreements with the holders of particular
30 bonds pledging any particular assets, revenues, or moneys, the
31 authority may create separate accounts in the fund to manage
32 assets, revenues, or moneys in the manner set forth in the
33 agreements.

34 (d) The authority may, from time to time, direct the Treasurer
35 to invest moneys in the fund that are not required for its current
36 needs, including proceeds from the sale of any bonds, in the eligible
37 securities specified in Section 16430 as the agency shall designate.
38 The authority may direct the Treasurer to deposit moneys in
39 interest-bearing accounts in state or national banks or other
40 financial institutions having principal offices in this state. The

1 authority may alternatively require the transfer of moneys in the
2 fund to the Surplus Money Investment Fund for investment
3 pursuant to Article 4 (commencing with Section 16470) of Chapter
4 3 of Part 2 of Division 4 of Title 2. All interest or other increment
5 resulting from an investment or deposit shall be deposited in the
6 fund, notwithstanding Section 16305.7. Moneys in the fund shall
7 not be subject to transfer to any other fund pursuant to any
8 provision of Part 2 (commencing with Section 16300) of Division
9 4 of Title 2, excepting the Surplus Money Investment Fund.

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

12 149.7. (a) A regional transportation agency, as defined in
13 Section 143, in cooperation with the department, may apply to the
14 commission to develop and operate high-occupancy toll lanes,
15 including the administration and operation of a value pricing
16 program and exclusive or preferential lane facilities for public
17 transit, consistent with the established standards, requirements,
18 and limitations that apply to those facilities in Sections 149, 149.1,
19 149.3, 149.4, 149.5, and 149.6.

20 (b) The commission shall review each application for the
21 development and operation of the facilities described in subdivision
22 (a) according to eligibility criteria established by the commission.
23 For each eligible application, the commission shall conduct at least
24 one public hearing in northern California and one in southern
25 California.

26 ~~(c) Following public hearings, the commission shall submit an~~
27 ~~eligible application and any public comments made during the~~
28 ~~hearings to the Legislature for approval or rejection. Approval~~
29 ~~shall be achieved by the enactment of a statute.~~ The number of
30 facilities approved under this section shall not exceed four, two in
31 northern California and two in southern California.

32 (d) A regional transportation agency that develops or operates
33 a facility, or facilities, described in subdivision (a) shall provide
34 any information or data requested by the commission or the
35 Legislative Analyst. The commission, in cooperation with the
36 Legislative Analyst, shall annually prepare a report on the progress
37 of the development and operation of a facility authorized under
38 this section. The commission may submit this report as a section
39 in its annual report to the Legislature required pursuant to Section
40 14535 of the Government Code.

- 1 (e) No applications may be approved under this section on or
- 2 after January 1, 2012.

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