AMENDED IN SENATE JUNE 24, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

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 amended, 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:

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

DIVISION 3. CALIFORNIA TRANSPORTATION FINANCING AUTHORITY

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

64101. The California Transportation Financing Authority is hereby created in state government. The authority constitutes a public instrumentality, and the exercise by the authority of the powers conferred by this division shall be deemed and held to be 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, *bus*, 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.

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

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

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

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

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

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

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

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

64107. The authority may do any of the following:

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

(b) Adopt an official seal.

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

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

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

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

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

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

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

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

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

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

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

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

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

64108. All expenses of the authority incurred in carrying out the provisions of this division shall be payable solely from funds provided pursuant to this division, and no liability shall be incurred by the authority beyond the extent to which moneys shall have been provided under this division, except that for the purposes of meeting the necessary expenses of initial organization and operation of the authority for the period commencing January 1, 2010, and continuing until the date the authority derives money from funds provided to it under the provisions of this division, the authority may borrow moneys as the authority may require. Any moneys borrowed by the authority shall subsequently be charged to and apportioned among project sponsors in an equitable manner and the moneys repaid with appropriate interest over a reasonable period of time. Under no circumstances shall the authority create any debt, liability, or obligation on the part of the State of California payable from any source whatsoever other than the moneys provided under the provisions of this division.

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

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

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

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

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

(b) The authority shall also ensure that the following requirements are met for a project to be financed or refinanced by the authority to the extent these criteria have not already been met through approval of the project by the commission:

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

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

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

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

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

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

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

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

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

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

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

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

(c) The project sponsor may request that it be the issuer of the bonds. The authority may grant the request if it determines that the revenues and other moneys available for the project will be sufficient to pay debt service on the bonds and to operate and maintain the project over the life of the bonds. A project sponsor for which the authority has granted a request that the project sponsor issue the bonds, in addition to any other powers it may have under any other law, shall have all of the powers of the authority under this division necessary or convenient for the purpose of issuing, securing, and repaying the bonds and financing or refinancing the project. This provision is a complete, additional, and alternative method of accomplishing the matters authorized, and the project sponsor need not comply with any other law relating to the issuance of bonds, financing of projects and, if applicable, the imposition and collection of tolls.

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

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

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

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

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

(d) The approval of the tolls pursuant to subdivision (a) shall require that the tolls be set and maintained at a level expected to be sufficient to pay debt service, operations, and maintenance of the project over the life of the bonds consistent with the objective set forth in Section 64105.

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

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

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

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

64114. The authority and the commission shall develop an approval process that results in project approval by the commission and financing approval by the authority in a cooperative manner that is not sequential, in order that both approvals may be delivered to a project at approximately the same time. Both agencies shall work with potential project sponsors to ensure that projects are developed and brought forward for approval in a manner consistent with the commission's project requirements and the authority's financing requirements. No less than 30 days prior to approving the project and its financing plan, the commission and the authority shall make available for public review and comment a description of the project and its financing.

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

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

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

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

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

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

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

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

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

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

64121. Bonds issued by the authority under this division are hereby made securities in which all banks, bankers, savings banks, trust companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control; and the bonds, notes, or other securities or obligations are hereby made securities that may properly and legally be deposited with and received by any state or municipal officers or agency of the state for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law.

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

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

64124. A pledge by or to the authority of revenues, moneys, accounts, accounts receivable, contract rights, and other rights to payment of whatever kind made by or to the authority pursuant to the authority granted in this division shall be valid and binding from the time the pledge is made for the benefit of pledges and successors thereto. The revenues, moneys, accounts, accounts receivable, contract rights, and other rights to payment of whatever kind pledged by or to the authority or its assignees shall immediately be subject to the lien of the pledge without physical delivery or further act. The lien of the pledge shall be valid and binding against all parties, irrespective of whether the parties have notice of the claim. The indenture, trust agreement, resolution, or another instrument by which the pledge is created need not be recorded.

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

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

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

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

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

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

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

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

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

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

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

(d) The authority may, from time to time, direct the Treasurer to invest moneys in the fund that are not required for its current needs, including proceeds from the sale of any bonds, in the eligible securities specified in Section 16430 as the agency shall designate. The authority may direct the Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The authority may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2. All interest or other increment resulting from an investment or deposit shall be deposited in the fund, notwithstanding Section 16305.7. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2, excepting the Surplus Money Investment Fund.

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

149.7. (a) A regional transportation agency, as defined in Section 143, 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.

(b) The commission shall review each application for the development and operation of the facilities described in subdivision (a) according 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) The number of facilities approved under this section shall not exceed four, two in northern California and two in southern California.

(d) 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.

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

O