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AMENDED IN SENATE JULY 23, 2009

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CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1175

Introduced by Assembly Member Torlakson

February 27, 2009

An act to add Section 12419.12 to the Government Code, and to amend ~~Section 30918~~ *Sections 30918 and 31011* of, and to add Sections 188.61, 188.62, 27566, 30914.1, and 30959 to, the Streets and Highways Code, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1175, as amended, Torlakson. Toll facilities.

(1) Existing law provides for the Controller to offset, among other things, amounts due to various public agencies from a person or entity, against any amount owing that person or entity from state income, franchise, and sales and use tax refunds and winnings in the California State Lottery.

This bill would require the Controller, to the extent feasible, to offset amounts overdue and unpaid for nonpayment of a bridge toll or high-occupancy toll lane fee by a person or entity against state income, franchise, and sales and use tax refunds and winnings in the California State Lottery due to that person or entity, as specified. To the extent insufficient funds are available to satisfy offset requests from all

agencies, the bill would provide that the toll agency shall rank with cities and counties in priority for payment.

(2) Existing law specifies the powers and duties of the Department of Transportation, the Metropolitan Transportation Commission, and the Bay Area Toll Authority with respect to the collection and expenditure of toll revenue from the 7 state-owned toll bridges within the geographic jurisdiction of the commission. Existing law provides a funding plan from various sources, including bridge tolls and state funds, for seismic safety improvement projects for certain of the state-owned toll bridges pursuant to a statutory schedule of cost estimates for each toll bridge. Existing law identifies specified cost overruns beyond those cost estimates for bridges in the geographic jurisdiction of the Metropolitan Transportation Commission, provides a funding plan in that regard, and appropriates various revenues for this purpose. Existing law requires the Bay Area Toll Authority to provide the funding for any additional cost overruns beyond the amounts identified in the funding plan, including revenues from increasing the \$1 seismic toll surcharge. Existing law provides for revenues identified in the funding plan to be shared between the state and the authority pursuant to a specified formula to the extent the cost overruns are less than estimated.

This bill would add seismic safety improvement projects on the Antioch and Dumbarton Bridges to the toll bridge seismic safety program. The bill would provide that surplus cost overrun revenues to be shared between the state and the Bay Area Toll Authority be redirected to the authority for the Antioch and Dumbarton seismic safety projects, and would appropriate those funds for that purpose. The bill would require the authority to provide all other funds necessary to complete those seismic safety projects. The bill would provide for the authority to increase tolls on all Bay Area state-owned toll bridges in that regard. The bill would continuously appropriate to the department all amounts paid to the department by the authority for various purposes relative to the toll bridges. The bill would also authorize the authority to make contributions to the commission in furtherance of the exercise of the authority's powers, as specified.

(3) Existing law provides for a cooperative agreement between the Department of Transportation and the Bay Area Toll Authority and imposes other related requirements relative to project oversight and control responsibilities for the Bay Area toll bridge seismic safety projects.

This bill would provide that those provisions would also apply to the Antioch and Dumbarton bridge seismic safety projects.

(4) Existing law provides for maintenance expenditures on Bay Area state-owned toll bridges to be funded from the State Highway Account or from toll revenues, as specified.

This bill would provide that maintenance expenditures that are to be funded from toll revenues shall be funded from toll revenues remaining after payment of all obligations of the Bay Area Toll Authority that are secured by toll revenues.

(5) Existing law specifies the basic uniform toll rate for various classes of vehicles for all of the Bay Area state-owned toll bridges, but authorizes the authority to increase tolls as may be necessary to meet bond obligations.

This bill, notwithstanding these provisions, would authorize the authority to vary the toll structure on each bridge and to provide discounts for vehicles classified by the authority as high-occupancy vehicles.

(6) Existing law provides for the Department of Transportation, in cooperation with various agencies, to develop and adopt functional specifications and standards for an automatic vehicle identification system for toll collection purposes on toll facilities.

This bill would require the Bay Area Toll Authority, in its role as the administrator of the automatic vehicle identification system, among other things, to provide a cash-based opportunity for customers to obtain an account for paying tolls that does not require the customer to provide a name or address.

(7) Existing law authorizes the Bay Area Toll Authority to reduce the amount of the seismic toll surcharge to encourage electronic toll payment.

This bill would delete this provision.

~~(7)~~

(8) This bill would *also* require the Bay Area Toll Authority to contract with a nationally recognized independent entity with expertise in privacy issues associated with the electronic transmission and storage of data to conduct a review and an analysis of the privacy issues associated with the authority's electronic toll payment collection system, and to report to the Legislature in that regard by January 31, 2011. The bill would thereby impose a state-mandated local program.

~~(8)~~

(9) The bill would enact other related provisions.

(9)

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 12419.12 is added to the Government
2 Code, to read:

3 12419.12. (a) (1) The Controller shall, to the extent feasible,
4 offset any amount overdue and unpaid for a bridge toll or a
5 high-occupancy toll lane fee and any interest, fine, penalty, bail,
6 collection fee, or other charge on account of nonpayment of the
7 bridge toll or high-occupancy toll lane fee as and when due to a
8 government entity entitled thereto, from a person or entity, against
9 any amount owing the person or entity by a state agency on a claim
10 for a refund from the Franchise Tax Board under the Personal
11 Income Tax Law or the Bank and Corporation Tax Law or from
12 winnings in the California State Lottery. Standards and procedures
13 for submission of requests for offsets shall be as prescribed by the
14 Controller. The government entity shall rank with cities and
15 counties in the priority of agency offset requests if insufficient
16 funds are available to satisfy all offset requests.

17 (2) Any request for an offset pursuant to this section shall be
18 submitted within three years of the date the bridge toll or
19 high-occupancy toll lane fee was due.

20 (b) The Controller shall deduct and retain from any amount so
21 offset an amount sufficient to reimburse the Controller, the
22 Franchise Tax Board, the California State Lottery, and the
23 Department of Motor Vehicles for their administrative costs of
24 processing the offset payment.

25 SEC. 2. Section 188.61 is added to the Streets and Highways
26 Code, to read:

1 188.61. (a) The Legislature finds and declares that in order to
2 provide maximum safety for the traveling public and to ensure
3 continuous and unimpeded operation of the state's transportation
4 network, the Antioch Bridge and the Dumbarton Bridge are each
5 in need of a seismic safety retrofit.

6 (b) The Antioch Bridge and the Dumbarton Bridge are hereby
7 deemed to be part of the state toll bridge seismic retrofit program
8 described in Section 188.5. Notwithstanding subdivision (c) of
9 Section 188.6 or any other provision of law, the cost overrun
10 savings described in that subdivision shall not be shared between
11 the state and the Bay Area Toll Authority, but shall instead be
12 transferred to the Bay Area Toll Account, and are hereby
13 appropriated to the authority for expenditure on the Antioch Bridge
14 and the Dumbarton Bridge seismic safety retrofit projects. All
15 other funds required to complete the Antioch Bridge and the
16 Dumbarton Bridge seismic safety retrofit projects shall be provided
17 by the authority. The authority may increase the amount of the
18 tolls collected on the toll bridges described in Section 30910
19 pursuant to Sections 30918 and 31011 for the purpose of
20 completing these projects.

21 (c) All of the requirements of Sections 30952.05, 30952.1,
22 30952.2, and 30952.3 shall also be applied to the seismic retrofit
23 of the Antioch Bridge and the Dumbarton Bridge. The Toll Bridge
24 Program Oversight Committee, established by Section 30952.1,
25 shall have project oversight and control responsibilities for these
26 projects to the same extent as for the Benicia-Martinez Bridge
27 project.

28 (d) All maintenance expenditures required to be funded by
29 Section 188.4 with authority toll revenues shall be funded from
30 toll revenues remaining after provision is made for payment of all
31 obligations of the authority that are secured by a pledge of toll
32 revenues.

33 SEC. 3. Section 188.62 is added to the Streets and Highways
34 Code, to read:

35 188.62. Notwithstanding Section 13340 of the Government
36 Code, there is hereby continuously appropriated to the department
37 for expenditure all amounts paid to the department by the Bay
38 Area Toll Authority for the planning, design, construction,
39 operation, maintenance, repair, replacement, rehabilitation, and
40 seismic retrofit of the state-owned toll bridges specified in Section

1 30910 pursuant to the state toll bridge seismic retrofit program or
2 any other program of the authority, including, without limitation,
3 amounts paid to the department as advances or to reimburse the
4 department for payments to contractors working on the program.

5 SEC. 4. Section 27566 is added to the Streets and Highways
6 Code, to read:

7 27566. (a) In its role as administrator of the automatic vehicle
8 identification system described in Section 27565, the Bay Area
9 Toll Authority shall provide vehicle owners who seek to obtain
10 an account the option of opening and maintaining an account with
11 United States currency or check. That option shall also allow a
12 customer to obtain an account without providing his or her name
13 or address.

14 (b) The Bay Area Toll Authority shall inform the public about
15 the option to obtain a cash-based account for the automatic vehicle
16 identification system on its Internet Web site and in promotional
17 materials.

18 (c) The Bay Area Toll Authority may provide a person with the
19 option of making a payment with United States currency to
20 replenish his or her vehicle identification system account at the
21 toll plaza administration building associated with each of the
22 state-owned toll bridges located within the geographic jurisdiction
23 of the Metropolitan Transportation Commission.

24 (d) The Bay Area Toll Authority shall make a good faith effort
25 to encourage commercial retailers that sell transponders for the
26 automatic vehicle identification system to enable a person to
27 replenish his or her account at the retail location with a variety of
28 payment methods, including, but not limited to, United States
29 currency.

30 SEC. 5. Section 30914.1 is added to the Streets and Highways
31 Code, to read:

32 30914.1. Funding of the TransLink operating program in the
33 amount of twenty million dollars (\$20,000,000) shall be made
34 pursuant to paragraph (10) of subdivision (d) of Section 30914
35 without regard to the three-year limitation stated therein.

36 SEC. 6. Section 30918 of the Streets and Highways Code is
37 amended to read:

38 30918. (a) It is the intention of the Legislature to maintain
39 tolls on all of the bridges specified in Section 30910 at rates
40 sufficient to meet any obligation to the holders of bonds secured

1 by the bridge toll revenues. The authority shall retain authority to
2 set the toll schedule as may be necessary to meet those bond
3 obligations. The authority shall provide at least 30 days' notice to
4 the transportation policy committee of each house of the
5 Legislature and shall hold a public hearing before adopting a toll
6 schedule reflecting the increased toll rate.

7 (b) The authority shall increase the toll rates specified in the
8 adopted toll schedule in order to meet its obligations and covenants
9 under any bond resolution or indenture of the authority for any
10 outstanding toll bridge revenue bonds issued by the authority and
11 the requirements of any constituent instruments defining the rights
12 of holders of related obligations of the authority entered into
13 pursuant to Section 5922 of the Government Code and,
14 notwithstanding Section 30887, subdivision (c) of Section 30916,
15 or any other law, may increase the toll rates specified in the adopted
16 toll schedule to provide funds for the planning, design,
17 construction, operation, maintenance, repair, replacement,
18 rehabilitation, and seismic retrofit of the state-owned toll bridges
19 specified in Section 30910, to provide funding to meet the
20 requirements of Sections 30884 and 30911, and to provide funding
21 to meet the requirements of voter-approved regional measures
22 pursuant to Sections 30914, 30921, and 30921.5.

23 (c) The authority's toll structure for the state-owned toll bridges
24 specified in Section 30910 may vary from bridge to bridge and
25 may include discounts for vehicles classified by the authority as
26 high-occupancy vehicles, notwithstanding any other law.

27 (d) If the authority establishes high-occupancy vehicle lane fee
28 discounts or access for vehicles classified by the authority as
29 high-occupancy vehicles for any bridge, the authority shall
30 collaborate with the department to reach agreement on how the
31 occupancy requirements shall apply on each segment of highway
32 that connects with that bridge.

33 (e) All tolls referred to in this section and Sections 30916,
34 31010, and 31011 may be treated by the authority as a single
35 revenue source for accounting and administrative purposes and
36 for the purposes of any bond indenture or resolution and any
37 agreement entered into pursuant to Section 5922 of the Government
38 Code.

39 (f) It is the intent of the Legislature that the authority should
40 consider the needs and requirements of both its electronic and cash

1 paying customers when it designates toll payment options at the
2 toll plazas for the toll bridges under its jurisdiction.

3 SEC. 7. Section 30959 is added to the Streets and Highways
4 Code, to read:

5 30959. The authority may make contributions to the
6 commission in furtherance of the exercise of the authority's powers
7 under this division, including, without limitation, contributions in
8 the form of personnel services, office space, and funding. The
9 authority may also make contributions to the commission on a
10 reimbursement-for-cost basis; provided, however, that
11 reimbursement shall not be required to the extent that the
12 contributions provided to the commission are determined by the
13 authority to be in furtherance of the exercise of the authority's
14 powers under this division.

15 SEC. 8. *Section 31011 of the Streets and Highways Code is*
16 *amended to read:*

17 31011. (a) The authority may increase the amount of the
18 surcharge described in Section 31010 for the purpose of completing
19 the state toll bridge seismic program described in Section 188.5
20 and to meet its obligations under the act adding this section in the
21 2005–06 Regular Session. No increase shall be made effective
22 prior to January 1, 2007.

23 (b) Notwithstanding any other provision of law, revenues
24 generated by an increase imposed pursuant to this section shall be
25 deposited in the Bay Area Toll Account.

26 (c) The authority shall hold at least two public meetings at least
27 45 days before taking any action pursuant to subdivision (a) to
28 increase the amount of the surcharge.

29 ~~(d) The authority may reduce the amount of the surcharge~~
30 ~~described in subdivision (a) to encourage electronic toll payment.~~

31 ~~SEC. 8.~~

32 SEC. 9. The Bay Area Toll Authority shall contract with a
33 nationally recognized independent entity with expertise in privacy
34 issues associated with the electronic transmission and storage of
35 data to conduct a review and an analysis of the privacy issues
36 associated with its electronic toll payment collection system. The
37 report shall be transmitted to the Senate Committee on Housing
38 and Transportation and the Assembly Committee on Transportation
39 on or before January 31, 2011. The authority shall pay for the costs
40 of the study from revenues available to the authority.

1 ~~SEC. 9.~~

2 *SEC. 10.* If the Commission on State Mandates determines that
3 this act contains costs mandated by the state, reimbursement to
4 local agencies and school districts for those costs shall be made
5 pursuant to Part 7 (commencing with Section 17500) of Division
6 4 of Title 2 of the Government Code.

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