

AMENDED IN SENATE AUGUST 15, 2011

AMENDED IN SENATE JULY 12, 2011

AMENDED IN SENATE JUNE 28, 2011

AMENDED IN ASSEMBLY APRIL 7, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1164

Introduced by Assembly Member Gordon

February 18, 2011

An act to amend Section 8879.77 of, and to add and repeal Article 13 (commencing with Section 8879.79) to of Chapter 12.491 of Division 1 of Title 12 of, the Government Code, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1164, as amended, Gordon. Federal transportation funds.

Existing law generally provides for programming and allocation of state and federal transportation capital improvement program funds pursuant to the state transportation improvement program process administered by the California Transportation Commission.

Existing law provides for allocation of certain other transportation capital improvement funds outside the state transportation improvement program process, including federal regional surface transportation improvement program funds, state bond funds, funds set aside for state highway rehabilitation under the state highway operation and protection program, and funds from various other sources.

Existing law authorizes the Department of Transportation, with the approval of the Director of Finance, to make loans from the State

Highway Account of certain federal transportation economic stimulus funds to advance bond-funded projects pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, as specified.

This bill would enact similar provisions authorizing the department, until September 30, 2015, to make loans from the State Highway Account of other specified federal transportation funds to advance *fund* bond-funded projects pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 ~~that meet certain requirements, if the department has determined the loans will not impact the funding other programs or projects, as specified, and only under circumstances in which federal funds might otherwise be lost, as specified.~~ The bill would appropriate those federal transportation funds in the State Highway Account for these purposes and would require those funds to be obligated to advance the bond-funded projects, as specified. The bill would require the loans to be repaid to the State Highway Account within 3 years from the proceeds of bonds sold pursuant to the bond act and would provide for the appropriation of those repaid funds to the department for use on projects in the state highway operation and protection program or the local assistance program, as specified. The bill would require the department to report to the Joint Legislative Budget Committee each year that federal transportation funds are loaned pursuant to these provisions.

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. Section 8879.77 of the Government Code is
2 amended to read:
3 8879.77. (a) The department, with the approval of the Director
4 of Finance, may make a loan or loans from the State Highway
5 Account of federal funds made available to it pursuant to
6 subparagraph (B) of paragraph (2) of subdivision (b) of Section
7 2423 of the Streets and Highways Code for purposes of advancing
8 a project, or a portion of a project, that has been programmed, on
9 or before February 17, 2009, to be funded by Chapter 12.49
10 (commencing with Section 8879.20) and that is ready to be
11 obligated within 120 days of federal apportionment. The board,
12 as defined in subdivision (a) of Section 8879.22, may request the

1 department to make a loan or loans. The aggregate amount of the
2 request shall not exceed the amount of the unsold bonds that the
3 committee, as defined in subdivision (b) of Section 8879.22, has,
4 by resolution, authorized to be sold, less any amount loaned
5 pursuant to Section 8879.31 or 8879.79 or withdrawn pursuant to
6 Section 8879.32. Any amount loaned shall be deposited in the
7 fund, as defined by subdivision (c) of Section 8879.22, and shall
8 be transferred to the appropriate account for the project, or portion
9 of a project, being advanced. Contracts for projects to be advanced
10 with loan funds shall be awarded within 180 days of federal
11 apportionment. The loan or loans shall be repaid without interest
12 to the State Highway Account from the proceeds of bonds sold
13 pursuant to Chapter 12.49 (commencing with Section 8879.20).
14 The board shall execute any documents as required by the
15 department to obtain and repay the loan or loans.

16 (b) Federal funds made available to the department pursuant to
17 subparagraph (B) of paragraph (2) of subdivision (b) of Section
18 2423 of the Streets and Highways Code, except for funds to be
19 loaned to eligible projects described in Section 8879.52, shall be
20 allocated in the manner provided in Section 188 of the Streets and
21 Highways Code. A loan may not be made pursuant to subdivision
22 (a) if it would necessarily result in the aggregate of those federal
23 funds, excluding funds to be loaned to eligible projects described
24 in Section 8879.52, being allocated contrary to this subdivision.

25 (c) Upon repayment of a loan made pursuant to subdivision (a),
26 those funds are hereby appropriated to the department for use on
27 projects in the state highway operations and protection program.

28 **SECTION 4.**

29 **SEC. 2.** Article 13 (commencing with Section 8879.79) is added
30 to Chapter 12.491 of Division 1 of Title 12 of the Government
31 Code, to read:

32
33 Article 13. Federal Transportation Funds
34

35 8879.79. (a) Notwithstanding any other provision of law, the
36 department, with the approval of the Director of Finance and the
37 California Transportation Commission, may make a loan or loans
38 from the State Highway Account of federal funds made available
39 to it pursuant to Title 23 of the United States Code for purposes
40 of advancing funding a project, or a portion of a project, that has

1 been programmed; to be funded by Chapter 12.49 (commencing
2 with Section 8879.20). The department may make a loan of federal
3 funds under this section only if it has determined that the loan of
4 those funds will not impact the department's ability to fund
5 programmed projects delivered under the State Highway
6 Operations and Protection Program or the State Transportation
7 Improvement Program. The board, as defined in subdivision (a)
8 of Section 8879.22, may request the department to make a loan or
9 loans. *state highway operation and protection program, the state*
10 *transportation improvement program, or any program or project*
11 *funded with local subvention funds, including, but not limited to,*
12 *projects contained in the report submitted to the department*
13 *pursuant to subdivision (f) of Section 182.6 of the Streets and*
14 *Highways Code.* The aggregate amount of the ~~request~~ loan shall
15 not exceed the amount of the unsold bonds that the committee, as
16 defined in subdivision (b) of Section 8879.22, has, by resolution,
17 authorized to be sold, less any amount loaned pursuant to Section
18 8879.31 or 8879.77 or withdrawn pursuant to Section 8879.32.
19 Federal funds loaned under this section are hereby appropriated
20 for that purpose, and shall be obligated directly to the project or
21 projects funded under this section. That obligation shall be
22 considered a loan of federal funds as authorized by this section.
23 The loan or loans shall be repaid without interest to the State
24 Highway Account from the proceeds of bonds sold pursuant to
25 Chapter 12.49 (commencing with Section 8879.20) within three
26 years of the date of the original ~~loan~~. The board shall execute any
27 documents as required by the department to obtain and repay the
28 loan or loans. *loan.*

29 (b) (1) Except as specified in paragraph (2), upon repayment
30 of a loan made pursuant to subdivision (a), those funds are hereby
31 appropriated to the department for use on projects in the state
32 highway operation and protection program.

33 (2) If a loan of funds pursuant to subdivision (a) is made from
34 local subvention funds, the funds received for repayment of the
35 loan are hereby appropriated to the department for use in the local
36 assistance program consistent with the manner in which the loaned
37 federal funds would have otherwise been used.

38 (e) ~~Federal funds loaned under this section shall be limited by~~
39 ~~the department as necessary to ensure that priority, to the extent~~
40 ~~allowable under federal law, is given to the use of federal funds~~

1 for projects that repair or rehabilitate the existing transportation
2 system and for state transportation improvement program projects.

3 (c) (1) *The department shall make loans under this section only*
4 *under circumstances in which federal funds might otherwise be*
5 *lost to the state. Those circumstances may include, but are not*
6 *limited to, significant unplanned project savings, delayed project*
7 *delivery, or a change in federal funding.*

8 (2) *Nothing in this section shall be construed to change or*
9 *supersede the department's normal guidelines and procedures for*
10 *managing obligation authority or the obligation of federal funds.*

11 (3) *Nothing in this section shall be construed to give priority*
12 *to projects funded by Chapter 12.49 (commencing with Section*
13 *8879.20) over state or local projects planned to be funded with*
14 *federal funds.*

15 (d) Within 45 days after the end of each fiscal year in which the
16 loan authority under subdivision (a) has been exercised, the
17 department shall report to the Joint Legislative Budget Committee
18 on the loans made and the methodology used for selecting the
19 projects funded.

20 (e) The loan authority provided by this section shall be available
21 only until September 30, 2015.

22 (f) This article shall become inoperative when all loans are
23 repaid pursuant to subdivision (a), and shall be repealed on January
24 1, 2019, unless a later enacted statute that is enacted before January
25 1, 2019, deletes or extends the dates on which it becomes
26 inoperative or is repealed.