

Assembly Bill No. 1164

CHAPTER 406

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

[Approved by Governor October 2, 2011. Filed with
Secretary of State October 2, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1164, 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 fund bond-funded projects pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, if the department has determined the loans will not impact the funding of 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 fund 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.

Appropriation: yes.

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

SECTION 1. Section 8879.77 of the Government Code is amended to read:

8879.77. (a) The department, with the approval of the Director of Finance, may make a loan or loans from the State Highway Account of federal funds made available to it pursuant to subparagraph (B) of paragraph (2) of subdivision (b) of Section 2423 of the Streets and Highways Code for purposes of advancing a project, or a portion of a project, that has been programmed, on or before February 17, 2009, to be funded by Chapter 12.49 (commencing with Section 8879.20) and that is ready to be obligated within 120 days of federal apportionment. The board, as defined in subdivision (a) of Section 8879.22, may request the department to make a loan or loans. The aggregate amount of the request shall not exceed the amount of the unsold bonds that the committee, as defined in subdivision (b) of Section 8879.22, has, by resolution, authorized to be sold, less any amount loaned pursuant to Section 8879.31 or 8879.79 or withdrawn pursuant to Section 8879.32. Any amount loaned shall be deposited in the fund, as defined by subdivision (c) of Section 8879.22, and shall be transferred to the appropriate account for the project, or portion of a project, being advanced. Contracts for projects to be advanced with loan funds shall be awarded within 180 days of federal apportionment. The loan or loans shall be repaid without interest to the State Highway Account from the proceeds of bonds sold pursuant to Chapter 12.49 (commencing with Section 8879.20). The board shall execute any documents as required by the department to obtain and repay the loan or loans.

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

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

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

Article 13. Federal Transportation Funds

8879.79. (a) Notwithstanding any other provision of law, the department, with the approval of the Director of Finance and the California Transportation Commission, may make a loan or loans from the State Highway Account of federal funds made available to it pursuant to Title 23 of the United States Code for purposes of funding a project, or a portion of a project, that has been programmed to be funded by Chapter 12.49 (commencing with Section 8879.20). The department may make a loan of federal funds under this section only if it has determined that the loan of those funds will not impact the department's ability to fund programmed projects delivered under the state highway operation and protection program, the state transportation improvement program, or any program or project funded with local subvention funds, including, but not limited to, projects contained in the report submitted to the department pursuant to subdivision (f) of Section 182.6 of the Streets and Highways Code. The aggregate amount of the loan shall not exceed the amount of the unsold bonds that the committee, as defined in subdivision (b) of Section 8879.22, has, by resolution, authorized to be sold, less any amount loaned pursuant to Section 8879.31 or 8879.77 or withdrawn pursuant to Section 8879.32. Federal funds loaned under this section are hereby appropriated for that purpose, and shall be obligated directly to the project or projects funded under this section. That obligation shall be considered a loan of federal funds as authorized by this section. The loan or loans shall be repaid without interest to the State Highway Account from the proceeds of bonds sold pursuant to Chapter 12.49 (commencing with Section 8879.20) within three years of the date of the original loan.

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

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

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

(2) In the case of local subvention funds controlled by a regional transportation planning agency, the department may not make a loan of funds under this section except at the request of the specific regional transportation planning agency to which the funds were previously allocated.

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

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

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

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

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