

AMENDED IN SENATE JUNE 5, 2014  
AMENDED IN ASSEMBLY MARCH 27, 2014  
AMENDED IN ASSEMBLY MARCH 19, 2014  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2090**

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**Introduced by Assembly Member Fong  
(Coauthor: Assembly Member Gordon)**

February 20, 2014

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An act to amend ~~Section~~ *Sections 149.1, 149.4, and 149.6* of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2090, as amended, Fong. High-occupancy toll lanes: *San Diego County and Santa Clara County*.

Existing law authorizes the *San Diego Association of Governments (SANDAG)* to administer and operate high-occupancy toll (HOT) lanes on Interstate 15 and on 2 other transportation corridors within the county, under which single-occupancy vehicles may use high-occupancy vehicle lanes by paying a toll. Existing law similarly authorizes the Santa Clara Valley Transportation Authority (VTA) to ~~conduct, administer, and operate high-occupancy toll (HOT) HOT lanes, under which single-occupancy vehicles may use high-occupancy vehicle lanes by paying a toll,~~ on 2 state highway corridors within the county. Existing law requires that implementation of the HOT lanes ensure that specified levels of service, described as Level of Service C or D, as specified, be maintained at all times in the high-occupancy lanes and that unrestricted access to the lanes by high-occupancy vehicles be available at all times.

This bill would delete the reference to Level of Service C or D, and instead would require SANDAG and VTA to establish, with the consent of the Department of Transportation, appropriate performance measures, such as speed or travel times, for the purpose of ensuring optimal use of the HOT lanes by high-occupancy vehicles without adversely affecting other traffic on the state highway system. The bill would provide that high-occupancy vehicles *using these HOT lanes* may be required to have an electronic transponder or other electronic device for enforcement purposes.

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

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

1     SECTION 1. Section 149.1 of the Streets and Highways Code  
 2     is amended to read:  
 3     149.1. (a) Notwithstanding Sections 149 and 30800 of this  
 4     code, and Section 21655.5 of the Vehicle Code, the San Diego  
 5     Association of Governments (SANDAG) may conduct, administer,  
 6     and operate a value pricing and transit development program on  
 7     the Interstate Highway Route 15 (I-15) high-occupancy vehicle  
 8     expressway. The program to *implement high-occupancy toll (HOT)*  
 9     lanes, under the circumstances described in subdivision (b), may  
 10    direct and authorize the entry and use of the I-15 high-occupancy  
 11    vehicle lanes by single-occupant vehicles during peak periods, as  
 12    defined by SANDAG, for a fee. The amount of the fee shall be  
 13    established from time to time by SANDAG, and collected in a  
 14    manner determined by SANDAG.  
 15    ~~(b) Implementation of the program shall ensure that Level of~~  
 16    ~~Service C, as measured by the most recent issue of the Highway~~  
 17    ~~Capacity Manual, as adopted by the Transportation Research~~  
 18    ~~Board, is maintained at all times in the high-occupancy vehicle~~  
 19    ~~lanes, except that subject to a written agreement between the~~  
 20    ~~department and SANDAG that is based on operating conditions~~  
 21    ~~of the high-occupancy vehicle lanes, Level of Service D shall be~~  
 22    ~~permitted on the high-occupancy vehicle lanes. If Level of Service~~  
 23    ~~D is permitted, the department and SANDAG shall evaluate the~~  
 24    ~~impacts of these levels of service of the high-occupancy vehicle~~  
 25    ~~lanes, and indicate any effects on the mixed-flow lanes.~~  
 26    ~~Continuance of Level of Service D operating conditions shall be~~

1 ~~subject to the written agreement between the department and~~  
2 ~~SANDAG~~

3 *(b) With the consent of the department, SANDAG shall establish*  
4 *appropriate performance measures, such as speed or travel times,*  
5 *for the purpose of ensuring optimal use of the HOT lanes by*  
6 *high-occupancy vehicles without adversely affecting other traffic*  
7 *on the state highway system. Unrestricted access to the lanes by*  
8 *high-occupancy vehicles shall be available at all times, except that*  
9 *those high-occupancy vehicles may be required to have an*  
10 *electronic transponder or other electronic device for enforcement*  
11 *purposes. At least annually, the department shall audit the level*  
12 ~~*of service performance*~~ *during peak traffic hours and report the*  
13 *results of that audit at meetings of the program management team.*

14 *(c) Single-occupant vehicles that are certified or authorized by*  
15 *SANDAG for entry into, and use of, the I-15 high-occupancy*  
16 *vehicle lanes are exempt from Section 21655.5 of the Vehicle*  
17 *Code, and the driver shall not be in violation of the Vehicle Code*  
18 *because of that entry and use.*

19 *(d) SANDAG shall carry out the program in cooperation with*  
20 *the department, and shall consult the department in the operation*  
21 *of the project and on matters related to highway design and*  
22 *construction. ~~With the assistance of the department, SANDAG~~*  
23 ~~*shall establish appropriate traffic flow guidelines for the purpose*~~  
24 ~~*of ensuring optimal use of the express lanes by high-occupancy*~~  
25 ~~*vehicles.*~~

26 *(e) (1) Agreements between SANDAG, the department, and*  
27 *the Department of the California Highway Patrol shall identify the*  
28 *respective obligations and liabilities of those entities and assign*  
29 *them responsibilities relating to the program. The agreements*  
30 *entered into pursuant to this section shall be consistent with*  
31 *agreements between the department and the United States*  
32 *Department of Transportation relating to this program and shall*  
33 *include clear and concise procedures for enforcement by the*  
34 *Department of the California Highway Patrol of laws prohibiting*  
35 *the unauthorized use of the high-occupancy vehicle lanes. The*  
36 *agreements shall provide for reimbursement of state agencies, from*  
37 *revenues generated by the program, federal funds specifically*  
38 *allocated to SANDAG for the program by the federal government,*  
39 *or other funding sources that are not otherwise available to state*  
40 *agencies for transportation-related projects, for costs incurred in*

1 connection with the implementation or operation of the program.  
2 Reimbursement for SANDAG's program-related planning and  
3 administrative costs in the operation of the program shall not  
4 exceed 3 percent of the revenues.

5 (2) All remaining revenue shall be used in the I-15 corridor  
6 exclusively for (A) the improvement of transit service, including,  
7 but not limited to, support for transit operations, and (B)  
8 high-occupancy vehicle facilities and shall not be used for any  
9 other purpose.

10 (f) SANDAG, the San Diego Metropolitan Transit Development  
11 Board, and the department shall cooperatively develop a single  
12 transit capital improvement plan for the I-15 corridor.

13 *SEC. 2. Section 149.4 of the Streets and Highways Code is*  
14 *amended to read:*

15 149.4. (a) (1) Notwithstanding Sections 149 and 30800 of  
16 this code, and Section 21655.5 of the Vehicle Code, the San Diego  
17 Association of Governments (SANDAG) may conduct, administer,  
18 and operate a value pricing and transit development demonstration  
19 program on a maximum of two transportation corridors in San  
20 Diego County.

21 (2) The program, under the circumstances described in  
22 subdivision (b), may direct and authorize the entry and use of  
23 high-occupancy vehicle lanes in corridors identified in paragraph  
24 (1) by single-occupant vehicles during peak periods, as defined  
25 by SANDAG, for a fee. The amount of the fee shall be established  
26 from time to time by SANDAG, and collected in a manner  
27 determined by SANDAG. A high-occupancy vehicle lane may  
28 only be operated as a high-occupancy toll (HOT) lane during the  
29 hours that the lane is otherwise restricted to use by high-occupancy  
30 vehicles.

31 ~~(b) Implementation of the program shall ensure that Level of~~  
32 ~~Service C, as measured by the most recent issue of the Highway~~  
33 ~~Capacity Manual, as adopted by the Transportation Research~~  
34 ~~Board, is maintained at all times in the high-occupancy vehicle~~  
35 ~~lanes, except that subject to a written agreement between the~~  
36 ~~department and SANDAG that is based on operating conditions~~  
37 ~~of the high-occupancy vehicle lanes, Level of Service D shall be~~  
38 ~~permitted on the high-occupancy vehicle lanes. If Level of Service~~  
39 ~~D is permitted, the department and SANDAG shall evaluate the~~  
40 ~~impacts of these levels of service of the high-occupancy vehicle~~

1 lanes, and indicate any effects on the mixed-flow lanes.  
2 Continuance of Level of Service D operating conditions shall be  
3 subject to the written agreement between the department and  
4 SANDAG

5 (b) *With the consent of the department, SANDAG shall establish*  
6 *appropriate performance measures, such as speed or travel times,*  
7 *for the purpose of ensuring optimal use of the HOT lanes by*  
8 *high-occupancy vehicles without adversely affecting other traffic*  
9 *on the state highway system. Unrestricted access to the lanes by*  
10 *high-occupancy vehicles shall be available at all times, except that*  
11 *those high-occupancy vehicles may be required to have an*  
12 *electronic transponder or other electronic device for enforcement*  
13 *purposes. At least annually, the department shall audit the level*  
14 *of service performance during peak traffic hours and report the*  
15 *results of that audit at meetings of the program management team.*

16 (c) Single-occupant vehicles that are certified or authorized by  
17 SANDAG for entry into, and use of, the high-occupancy vehicle  
18 lanes identified in paragraph (1) of subdivision (a) are exempt  
19 from Section 21655.5 of the Vehicle Code, and the driver shall  
20 not be in violation of the Vehicle Code because of that entry and  
21 use.

22 (d) SANDAG shall carry out the program in cooperation with  
23 the department pursuant to ~~a cooperative~~ *an* agreement that  
24 addresses all matters related to design, construction, maintenance,  
25 and operation of state highway system facilities in connection with  
26 the value pricing and transit development demonstration program.  
27 ~~With the assistance of the department, SANDAG shall establish~~  
28 ~~appropriate traffic flow guidelines for the purpose of ensuring~~  
29 ~~optimal use of the express lanes by high-occupancy vehicles~~  
30 ~~without adversely affecting other traffic on the state highway~~  
31 ~~system.~~

32 (e) (1) Agreements between SANDAG, the department, and  
33 the Department of the California Highway Patrol shall identify the  
34 respective obligations and liabilities of those entities and assign  
35 them responsibilities relating to the program. The agreements  
36 entered into pursuant to this section shall be consistent with  
37 agreements between the department and the United States  
38 Department of Transportation relating to this program and shall  
39 include clear and concise procedures for enforcement by the  
40 Department of the California Highway Patrol of laws prohibiting

1 the unauthorized use of the high-occupancy vehicle lanes. The  
2 agreements shall provide for reimbursement of state agencies, from  
3 revenues generated by the program, federal funds specifically  
4 allocated to SANDAG for the program by the federal government,  
5 or other funding sources that are not otherwise available to state  
6 agencies for transportation-related projects, for costs incurred in  
7 connection with the implementation or operation of the program.

8 (2) The revenue generated from the program shall be available  
9 to SANDAG for the direct expenses related to the operation  
10 (including collection and enforcement), maintenance, and  
11 administration of the demonstration program. Administrative  
12 expenses shall not exceed 3 percent of the revenues.

13 (3) All remaining revenue generated by the demonstration  
14 program shall be used in the corridor from which the revenue was  
15 generated exclusively for preconstruction, construction, and other  
16 related costs of high-occupancy vehicle facilities and the  
17 improvement of transit service, including, but not limited to,  
18 support for transit operations pursuant to an expenditure plan  
19 adopted by SANDAG.

20 (f) (1) SANDAG may issue bonds at any time to finance any  
21 costs necessary to implement the value pricing program established  
22 pursuant to subdivision (a) and any expenditures as may be  
23 provided for in the expenditure plan adopted pursuant to paragraph  
24 (3) of subdivision (e), payable from the revenues generated from  
25 the program.

26 (2) The maximum bonded indebtedness that may be outstanding  
27 at any one time shall not exceed an amount that may be serviced  
28 from the estimated revenues generated from the program.

29 (3) The bonds shall bear interest at a rate or rates not exceeding  
30 the maximum allowable by law, payable at intervals determined  
31 by SANDAG.

32 (4) Any bond issued pursuant to this subdivision shall contain  
33 on its face a statement to the following effect:

34 “Neither the full faith and credit nor the taxing power of the  
35 State of California is pledged to the payment of principal of,  
36 as the interest of this bond.”

37 (5) Bonds shall be issued pursuant to a resolution of SANDAG  
38 adopted by a two-thirds vote of its governing board. The resolution  
39 shall state all of the following:

40 (A) The purposes for which the proposed debt is to be incurred.

- 1 (B) The estimated cost of accomplishing those purposes.
- 2 (C) The amount of the principal of the indebtedness.
- 3 (D) The maximum term of the bonds and the interest rate.
- 4 (E) The denomination or denominations of the bonds, which
- 5 shall not be less than five thousand dollars (\$5,000).
- 6 (F) The form of the bonds.
- 7 (g) Not later than three years after SANDAG first collects
- 8 revenues from any of the projects described in paragraph (1) of
- 9 subdivision (a), SANDAG shall submit a report to the Legislature
- 10 on its findings, conclusions, and recommendations concerning the
- 11 demonstration program authorized by this section. The report shall
- 12 include an analysis of the effect of the HOT lanes on the adjacent
- 13 mixed-flow lanes and any comments submitted by the department
- 14 and the Department of the California Highway Patrol regarding
- 15 operation of the lane.

16 ~~SECTION 4.~~

17 *SEC. 3.* Section 149.6 of the Streets and Highways Code is

18 amended to read:

19 149.6. (a) Notwithstanding Sections 149 and 30800, and

20 Section 21655.5 of the Vehicle Code, the Santa Clara Valley

21 Transportation Authority (VTA) created by Part 12 (commencing

22 with Section 100000) of Division 10 of the Public Utilities Code

23 may conduct, administer, and operate a value pricing program on

24 any two of the transportation corridors included in the

25 high-occupancy vehicle lane system in Santa Clara County in

26 coordination with the Metropolitan Transportation Commission

27 and consistent with Section 21655.6 of the Vehicle Code. A

28 high-occupancy toll (HOT) lane established on State Highway

29 Route 101 pursuant to this section may extend into San Mateo

30 County as far as the high-occupancy vehicle lane in that county

31 existed as of January 1, 2011, subject to agreement of the

32 City/County Association of Governments of San Mateo County.

33 (1) VTA, under the circumstances described in subdivision (b),

34 may direct and authorize the entry and use of those high-occupancy

35 vehicle lanes by single-occupant vehicles for a fee. The fee

36 structure shall be established from time to time by the authority.

37 A high-occupancy vehicle lane may only be operated as a HOT

38 lane during the hours that the lane is otherwise restricted to use by

39 high-occupancy vehicles.

1 (2) VTA shall enter into a cooperative agreement with the Bay  
2 Area Toll Authority to operate and manage the electronic toll  
3 collection system.

4 (b) With the consent of the department, VTA shall establish  
5 appropriate performance measures, such as speed or travel times,  
6 for the purpose of ensuring optimal use of the HOT lanes by  
7 high-occupancy vehicles without adversely affecting other traffic  
8 on the state highway system. Unrestricted access to the lanes by  
9 high-occupancy vehicles shall be available at all times, except that  
10 *those* high-occupancy vehicles may be required to have an  
11 electronic transponder or other electronic device for enforcement  
12 purposes. At least annually, the department shall audit the  
13 performance during peak traffic hours and report the results of that  
14 audit at meetings of the program management team.

15 (c) Single-occupant vehicles that are certified or authorized by  
16 the authority for entry into, and use of, the high-occupancy vehicle  
17 lanes in Santa Clara County, and, if applicable, San Mateo County  
18 as provided in subdivision (a), are exempt from Section 21655.5  
19 of the Vehicle Code, and the driver shall not be in violation of the  
20 Vehicle Code because of that entry and use.

21 (d) VTA shall carry out the program in cooperation with the  
22 department pursuant to an agreement that addresses all matters  
23 related to design, construction, maintenance, and operation of state  
24 highway system facilities in connection with the value pricing  
25 program.

26 (e) (1) Agreements between VTA, the department, and the  
27 Department of the California Highway Patrol shall identify the  
28 respective obligations and liabilities of those entities and assign  
29 them responsibilities relating to the program. The agreements  
30 entered into pursuant to this section shall be consistent with  
31 agreements between the department and the United States  
32 Department of Transportation relating to this program. The  
33 agreements shall include clear and concise procedures for  
34 enforcement by the Department of the California Highway Patrol  
35 of laws prohibiting the unauthorized use of the high-occupancy  
36 vehicle lanes, which may include the use of video enforcement.  
37 The agreements shall provide for reimbursement of state agencies,  
38 from revenues generated by the program, federal funds specifically  
39 allocated to the authority for the program by the federal  
40 government, or other funding sources that are not otherwise

1 available to state agencies for transportation-related projects, for  
2 costs incurred in connection with the implementation or operation  
3 of the program.

4 (2) The revenues generated by the program shall be available  
5 to VTA for the direct expenses related to the operation (including  
6 collection and enforcement), maintenance, construction, and  
7 administration of the program. The VTA's administrative costs in  
8 the operation of the program shall not exceed 3 percent of the  
9 revenues.

10 (3) All remaining revenue generated by the program shall be  
11 used in the corridor from which the revenues were generated  
12 exclusively for the preconstruction, construction, and other related  
13 costs of high-occupancy vehicle facilities and the improvement of  
14 transit service, including, but not limited to, support for transit  
15 operations pursuant to an expenditure plan adopted by the VTA.  
16 To the extent a corridor extends into San Mateo County pursuant  
17 to subdivision (a), VTA and the City/County Association of  
18 Governments of San Mateo County shall, by agreement, determine  
19 how remaining revenue shall be shared for expenditure in Santa  
20 Clara County and San Mateo County consistent with this paragraph.

21 (f) (1) The VTA may issue bonds, refunding bonds, or bond  
22 anticipation notes, at any time to finance construction and  
23 construction-related expenditures necessary to implement the value  
24 pricing program established pursuant to subdivision (a) and  
25 construction and construction-related expenditures that are provided  
26 for in the expenditure plan adopted pursuant to paragraph (3) of  
27 subdivision (e), payable from the revenues generated from the  
28 program.

29 (2) The maximum bonded indebtedness that may be outstanding  
30 at any one time shall not exceed an amount that may be serviced  
31 from the estimated revenues generated from the program.

32 (3) The bonds shall bear interest at a rate or rates not exceeding  
33 the maximum allowable by law, payable at intervals determined  
34 by the authority.

35 (4) Any bond issued pursuant to this subdivision shall contain  
36 on its face a statement to the following effect:

37 "Neither the full faith and credit nor the taxing power of the  
38 State of California is pledged to the payment of principal of,  
39 or the interest on, this bond."

- 1 (5) Bonds shall be issued pursuant to a resolution of VTA
- 2 adopted by a two-thirds vote of its governing board. The resolution
- 3 shall state all of the following:
- 4 (A) The purposes for which the proposed debt is to be incurred.
- 5 (B) The estimated cost of accomplishing those purposes.
- 6 (C) The amount of the principal of the indebtedness.
- 7 (D) The maximum term of the bonds and the interest rate.
- 8 (E) The denomination or denominations of the bonds, which
- 9 shall not be less than five thousand dollars (\$5,000).
- 10 (F) The form of the bonds, including, without limitation,
- 11 registered bonds and coupon bonds, to the extent permitted by
- 12 federal law, the registration, conversion, and exchange privileges,
- 13 if applicable, and the time when all of, or any part of, the principal
- 14 becomes due and payable.
- 15 (G) Any other matters authorized by law.
- 16 (6) The full amount of bonds may be divided into two or more
- 17 series and different dates of payment fixed for the bonds of each
- 18 series. A bond shall not be required to mature on its anniversary
- 19 date.
- 20 (g) Not later than three years after VTA first collects revenues
- 21 from any of the projects described in paragraph (1) of subdivision
- 22 (a), VTA shall submit a report to the Legislature on its findings,
- 23 conclusions, and recommendations concerning the demonstration
- 24 program authorized by this section. The report shall include an
- 25 analysis of the effect of the HOT lanes on adjacent mixed-flow
- 26 lanes and any comments submitted by the department and the
- 27 Department of the California Highway Patrol regarding operation
- 28 of the lanes.