

AMENDED IN SENATE AUGUST 4, 2014

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

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

February 20, 2014

An act to amend 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 administer and operate HOT lanes 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.

Existing law, with respect to the above-referenced HOT lane corridors, specifies the authorized uses of toll revenues generated from those lanes, including costs associated with operation of the HOT lanes, transit service improvements, and high-occupancy vehicle facilities within the affected corridor.

This bill would additionally authorize the use of the toll revenues for transportation corridor improvements within the affected corridor.

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) With the consent of the department, SANDAG shall establish
16 appropriate performance measures, such as speed or travel times,
17 for the purpose of ensuring optimal use of the HOT lanes by
18 high-occupancy vehicles without adversely affecting other traffic
19 on the state highway system. Unrestricted access to the lanes by

1 high-occupancy vehicles shall be available at all times, except that
2 those high-occupancy vehicles may be required to have an
3 electronic transponder or other electronic device for enforcement
4 purposes. At least annually, the department shall audit the
5 performance during peak traffic hours and report the results of that
6 audit at meetings of the program management team.

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

12 (d) SANDAG shall carry out the program in cooperation with
13 the department, and shall consult the department in the operation
14 of the project and on matters related to highway design and
15 construction.

16 (e) (1) Agreements between SANDAG, the department, and
17 the Department of the California Highway Patrol shall identify the
18 respective obligations and liabilities of those entities and assign
19 them responsibilities relating to the program. The agreements
20 entered into pursuant to this section shall be consistent with
21 agreements between the department and the United States
22 Department of Transportation relating to this program and shall
23 include clear and concise procedures for enforcement by the
24 Department of the California Highway Patrol of laws prohibiting
25 the unauthorized use of the high-occupancy vehicle lanes. The
26 agreements shall provide for reimbursement of state agencies, from
27 revenues generated by the program, federal funds specifically
28 allocated to SANDAG for the program by the federal government,
29 or other funding sources that are not otherwise available to state
30 agencies for transportation-related projects, for costs incurred in
31 connection with the implementation or operation of the program.
32 Reimbursement for SANDAG's program-related planning and
33 administrative costs in the operation of the program shall not
34 exceed 3 percent of the revenues.

35 (2) All remaining revenue shall be used in the I-15 corridor
36 exclusively for (A) the improvement of transit service, including,
37 but not limited to, support for transit operations, *(B) transportation*
38 *corridor improvements*, and ~~(B)~~ (C) high-occupancy vehicle
39 facilities, and shall not be used for any other purpose.

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

4 SEC. 2. Section 149.4 of the Streets and Highways Code is
5 amended to read:

6 149.4. (a) (1) Notwithstanding Sections 149 and 30800 of
7 this code, and Section 21655.5 of the Vehicle Code, the San Diego
8 Association of Governments (SANDAG) may conduct, administer,
9 and operate a value pricing and transit development demonstration
10 program on a maximum of two transportation corridors in San
11 Diego County.

12 (2) The program, under the circumstances described in
13 subdivision (b), may direct and authorize the entry and use of
14 high-occupancy vehicle lanes in corridors identified in paragraph
15 (1) by single-occupant vehicles during peak periods, as defined
16 by SANDAG, for a fee. The amount of the fee shall be established
17 from time to time by SANDAG, and collected in a manner
18 determined by SANDAG. A high-occupancy vehicle lane may
19 only be operated as a high-occupancy toll (HOT) lane during the
20 hours that the lane is otherwise restricted to use by high-occupancy
21 vehicles.

22 (b) With the consent of the department, SANDAG shall establish
23 appropriate performance measures, such as speed or travel times,
24 for the purpose of ensuring optimal use of the HOT lanes by
25 high-occupancy vehicles without adversely affecting other traffic
26 on the state highway system. Unrestricted access to the lanes by
27 high-occupancy vehicles shall be available at all times, except that
28 those high-occupancy vehicles may be required to have an
29 electronic transponder or other electronic device for enforcement
30 purposes. At least annually, the department shall audit the
31 performance during peak traffic hours and report the results of that
32 audit at meetings of the program management team.

33 (c) Single-occupant vehicles that are certified or authorized by
34 SANDAG for entry into, and use of, the high-occupancy vehicle
35 lanes identified in paragraph (1) of subdivision (a) are exempt
36 from Section 21655.5 of the Vehicle Code, and the driver shall
37 not be in violation of the Vehicle Code because of that entry and
38 use.

39 (d) SANDAG shall carry out the program in cooperation with
40 the department pursuant to an agreement that addresses all matters

1 related to design, construction, maintenance, and operation of state
2 highway system facilities in connection with the value pricing and
3 transit development demonstration program.

4 (e) (1) Agreements between SANDAG, the department, and
5 the Department of the California Highway Patrol shall identify the
6 respective obligations and liabilities of those entities and assign
7 them responsibilities relating to the program. The agreements
8 entered into pursuant to this section shall be consistent with
9 agreements between the department and the United States
10 Department of Transportation relating to this program and shall
11 include clear and concise procedures for enforcement by the
12 Department of the California Highway Patrol of laws prohibiting
13 the unauthorized use of the high-occupancy vehicle lanes. The
14 agreements shall provide for reimbursement of state agencies, from
15 revenues generated by the program, federal funds specifically
16 allocated to SANDAG for the program by the federal government,
17 or other funding sources that are not otherwise available to state
18 agencies for transportation-related projects, for costs incurred in
19 connection with the implementation or operation of the program.

20 (2) The revenue generated from the program shall be available
21 to SANDAG for the direct expenses related to the operation
22 (including collection and enforcement), maintenance, and
23 administration of the demonstration program. Administrative
24 expenses shall not exceed 3 percent of the revenues.

25 (3) All remaining revenue generated by the demonstration
26 program shall be used in the corridor from which the revenue was
27 generated exclusively for preconstruction, construction, and other
28 related costs of high-occupancy vehicle facilities, *transportation*
29 *corridor improvements*, and the improvement of transit service,
30 including, but not limited to, support for transit operations pursuant
31 to an expenditure plan adopted by SANDAG.

32 (f) (1) SANDAG may issue bonds at any time to finance any
33 costs necessary to implement the value pricing program established
34 pursuant to subdivision (a) and any expenditures as may be
35 provided for in the expenditure plan adopted pursuant to paragraph
36 (3) of subdivision (e), payable from the revenues generated from
37 the program.

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

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

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

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

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

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

13 (B) The estimated cost of accomplishing those purposes.

14 (C) The amount of the principal of the indebtedness.

15 (D) The maximum term of the bonds and the interest rate.

16 (E) The denomination or denominations of the bonds, which
17 shall not be less than five thousand dollars (\$5,000).

18 (F) The form of the bonds.

19 (g) Not later than three years after SANDAG first collects
20 revenues from any of the projects described in paragraph (1) of
21 subdivision (a), SANDAG shall submit a report to the Legislature
22 on its findings, conclusions, and recommendations concerning the
23 demonstration program authorized by this section. The report shall
24 include an analysis of the effect of the HOT lanes on the adjacent
25 mixed-flow lanes and any comments submitted by the department
26 and the Department of the California Highway Patrol regarding
27 operation of the lane.

28 SEC. 3. Section 149.6 of the Streets and Highways Code is
29 amended to read:

30 149.6. (a) Notwithstanding Sections 149 and 30800, and
31 Section 21655.5 of the Vehicle Code, the Santa Clara Valley
32 Transportation Authority (VTA) created by Part 12 (commencing
33 with Section 100000) of Division 10 of the Public Utilities Code
34 may conduct, administer, and operate a value pricing program on
35 any two of the transportation corridors included in the
36 high-occupancy vehicle lane system in Santa Clara County in
37 coordination with the Metropolitan Transportation Commission
38 and consistent with Section 21655.6 of the Vehicle Code. A
39 high-occupancy toll (HOT) lane established on State Highway
40 Route 101 pursuant to this section may extend into San Mateo

1 County as far as the high-occupancy vehicle lane in that county
2 existed as of January 1, 2011, subject to agreement of the
3 City/County Association of Governments of San Mateo County.

4 (1) VTA, under the circumstances described in subdivision (b),
5 may direct and authorize the entry and use of those high-occupancy
6 vehicle lanes by single-occupant vehicles for a fee. The fee
7 structure shall be established from time to time by the authority.
8 A high-occupancy vehicle lane may only be operated as a HOT
9 lane during the hours that the lane is otherwise restricted to use by
10 high-occupancy vehicles.

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

14 (b) With the consent of the department, VTA shall establish
15 appropriate performance measures, such as speed or travel times,
16 for the purpose of ensuring optimal use of the HOT lanes by
17 high-occupancy vehicles without adversely affecting other traffic
18 on the state highway system. Unrestricted access to the lanes by
19 high-occupancy vehicles shall be available at all times, except that
20 those high-occupancy vehicles may be required to have an
21 electronic transponder or other electronic device for enforcement
22 purposes. At least annually, the department shall audit the
23 performance during peak traffic hours and report the results of that
24 audit at meetings of the program management team.

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

31 (d) VTA shall carry out the program in cooperation with the
32 department pursuant to an agreement that addresses all matters
33 related to design, construction, maintenance, and operation of state
34 highway system facilities in connection with the value pricing
35 program.

36 (e) (1) Agreements between VTA, the department, and the
37 Department of the California Highway Patrol shall identify the
38 respective obligations and liabilities of those entities and assign
39 them responsibilities relating to the program. The agreements
40 entered into pursuant to this section shall be consistent with

1 agreements between the department and the United States
2 Department of Transportation relating to this program. The
3 agreements shall include clear and concise procedures for
4 enforcement by the Department of the California Highway Patrol
5 of laws prohibiting the unauthorized use of the high-occupancy
6 vehicle lanes, which may include the use of video enforcement.
7 The agreements shall provide for reimbursement of state agencies,
8 from revenues generated by the program, federal funds specifically
9 allocated to the authority for the program by the federal
10 government, or other funding sources that are not otherwise
11 available to state agencies for transportation-related projects, for
12 costs incurred in connection with the implementation or operation
13 of the program.

14 (2) The revenues generated by the program shall be available
15 to VTA for the direct expenses related to the operation (including
16 collection and enforcement), maintenance, construction, and
17 administration of the program. The VTA's administrative costs in
18 the operation of the program shall not exceed 3 percent of the
19 revenues.

20 (3) All remaining revenue generated by the program shall be
21 used in the corridor from which the revenues were generated
22 exclusively for the preconstruction, construction, and other related
23 costs of high-occupancy vehicle facilities, *transportation corridor*
24 *improvements*, and the improvement of transit service, including,
25 but not limited to, support for transit operations pursuant to an
26 expenditure plan adopted by the VTA. To the extent a corridor
27 extends into San Mateo County pursuant to subdivision (a), VTA
28 and the City/County Association of Governments of San Mateo
29 County shall, by agreement, determine how remaining revenue
30 shall be shared for expenditure in Santa Clara County and San
31 Mateo County consistent with this paragraph.

32 (f) (1) The VTA may issue bonds, refunding bonds, or bond
33 anticipation notes, at any time to finance construction and
34 construction-related expenditures necessary to implement the value
35 pricing program established pursuant to subdivision (a) and
36 construction and construction-related expenditures that are provided
37 for in the expenditure plan adopted pursuant to paragraph (3) of
38 subdivision (e), payable from the revenues generated from the
39 program.

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

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

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

9 “Neither the full faith and credit nor the taxing power of the
10 State of California is pledged to the payment of principal of,
11 or the interest on, this bond.”

12 (5) Bonds shall be issued pursuant to a resolution of VTA
13 adopted by a two-thirds vote of its governing board. The resolution
14 shall state all of the following:

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

16 (B) The estimated cost of accomplishing those purposes.

17 (C) The amount of the principal of the indebtedness.

18 (D) The maximum term of the bonds and the interest rate.

19 (E) The denomination or denominations of the bonds, which
20 shall not be less than five thousand dollars (\$5,000).

21 (F) The form of the bonds, including, without limitation,
22 registered bonds and coupon bonds, to the extent permitted by
23 federal law, the registration, conversion, and exchange privileges,
24 if applicable, and the time when all of, or any part of, the principal
25 becomes due and payable.

26 (G) Any other matters authorized by law.

27 (6) The full amount of bonds may be divided into two or more
28 series and different dates of payment fixed for the bonds of each
29 series. A bond shall not be required to mature on its anniversary
30 date.

31 (g) Not later than three years after VTA first collects revenues
32 from any of the projects described in paragraph (1) of subdivision
33 (a), VTA shall submit a report to the Legislature on its findings,
34 conclusions, and recommendations concerning the demonstration
35 program authorized by this section. The report shall include an
36 analysis of the effect of the HOT lanes on adjacent mixed-flow
37 lanes and any comments submitted by the department and the

- 1 Department of the California Highway Patrol regarding operation
- 2 of the lanes.

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