

AMENDED IN SENATE JULY 2, 2015  
AMENDED IN ASSEMBLY JUNE 1, 2015  
AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 194**

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**Introduced by Assembly Member Frazier**  
*(Coauthor: Senator Beall)*

January 28, 2015

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An act to amend Section 149.7 of, and to add Section 149.2 to, the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 194, as amended, Frazier. High-occupancy toll lanes.

Existing law provides that the Department of Transportation has full possession and control of the state highway system. Existing law authorizes the department to construct exclusive or preferential lanes for buses only or for buses and other high-occupancy vehicles.

Existing law authorizes a regional transportation agency, as defined, in cooperation with the department to apply to the California Transportation Commission to develop and operate high-occupancy toll (HOT) lanes, including administration and operation of a value-pricing program and exclusive or preferential lane facilities for public transit, consistent with established standards, requirements, and limitations that apply to specified facilities. Existing law requires the commission to conduct at least one public hearing in northern California and one in southern California for each eligible application submitted by the regional transportation agency. Existing law limits the number of approved facilities to not more than 4, 2 in northern California and

2 in southern California, and provides that no applications may be approved on or after January 1, 2012.

This bill would also authorize a regional transportation agency, in cooperation with the department, to apply to the commission to develop other toll facilities, as specified. The bill would delete the requirement that the facilities be consistent with the established standards, requirements, and limitations that apply to specified facilities and would instead require the commission to establish guidelines for the development and operation of the facilities approved by the commission on or after January 1, 2016, subject to specified minimum requirements. The bill would provide that these provisions do not authorize or prohibit the conversion of any existing nontoll or nonuser-fee lanes into tolled or user-fee lanes, except that a high-occupancy vehicle lane may be converted into a high-occupancy toll lane pursuant to its provisions. The bill would authorize a regional transportation agency to issue bonds, refunding bonds, or bond anticipation notes backed by revenues generated from the facilities. The bill would additionally authorize the Santa Clara Valley Transportation Authority to apply to the commission for purposes of the above-described provisions. The bill would remove the limitations on the number of approved facilities and would delete the January 1, 2012, deadline for HOT lane applications. The bill would delete the requirement that the commission conduct at least one public hearing in northern California and one in southern California for each eligible application and would instead require the commission to conduct at least one public ~~hearing~~ *hearing at or near the proposed facility*. The bill would provide that each application is subject to the review and approval of the commission ~~and pursuant to eligibility criteria developed by the commission subject to certain minimum requirements~~. *The bill* would require a regional transportation agency that applies to the commission to reimburse the commission for all of the commission's costs and expenses incurred in processing the application. Before submitting an application to the commission, the bill would require a regional transportation agency to consult with every local transportation authority, or every congestion management agency, whose jurisdiction includes the facility that the regional transportation agency proposes to develop and operate pursuant to the above-described provisions. The bill would require the regional transportation agency to give a local transportation authority or congestion management agency, as specified, the option of entering into agreements, as needed, for project development, engineering, financial studies, and environmental

documentation for each construction project or segment, and would authorize the local transportation authority or congestion management agency to be the lead agency for those construction projects or segments.

This bill would additionally authorize the department, in cooperation with a regional transportation agency, as applicable, to apply to the commission to develop and operate HOT lanes or other toll facilities and associated facilities pursuant to similar provisions.

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. The Legislature finds and declares ~~that~~  
2 ~~high-occupancy~~ *all of the following:*

3 (a) *The development, improvement, expansion, and maintenance*  
4 *of an efficient, safe, and well-maintained system of roads,*  
5 *highways, and other transportation facilities is essential to the*  
6 *economic well-being and high quality of life of the people of this*  
7 *state.*

8 (b) *High-occupancy toll lanes, express lanes, and toll roads*  
9 *provide an opportunity to more effectively manage state highways*  
10 *in order to increase passenger throughput and to reduce delays for*  
11 *freight shipments and travelers, especially those traveling by*  
12 *carpool, vanpool, or bus.*

13 (c) *Highway tolling should be employed for the purpose of*  
14 *optimizing the performance of the transportation system on a*  
15 *transportation corridor and should not be employed strictly as a*  
16 *revenue generating facility.*

17 SEC. 2. Section 149.2 is added to the Streets and Highways  
18 Code, to read:

19 149.2. (a) The department, in cooperation with a regional  
20 transportation agency, as applicable, may apply to the commission  
21 to develop and operate high-occupancy toll lanes or other toll  
22 facilities, including the administration and operation of a value  
23 pricing program and exclusive or preferential lane facilities for  
24 public transit or freight.

25 (b) Each application for the development and operation of the  
26 facilities described in subdivision (a) shall be subject to review  
27 and approval by the commission pursuant to eligibility criteria  
28 established by the commission. For each eligible application, the

1 commission shall conduct at least one public ~~hearing~~- hearing at  
2 or near the proposed facility for the purpose of receiving public  
3 comment.

4 (c) The eligibility criteria established by the commission  
5 pursuant to subdivision (b) shall include, at a minimum, all of the  
6 following:

7 (1) A demonstration that the proposed facility will improve the  
8 corridor's performance by, for example, increasing passenger  
9 throughput or reducing delays for freight shipments and travelers,  
10 especially those traveling by carpool, vanpool, and transit.

11 (2) A requirement that the proposed facility is contained in the  
12 constrained portion of a conforming regional transportation plan  
13 prepared pursuant to Section 65080 of the Government Code.

14 (3) Evidence of cooperation between the department and the  
15 regional transportation agency whose jurisdiction includes the  
16 corridor within which the facility is proposed.

17 (4) A discussion of how the proposed facility meets the  
18 requirements of this section.

19 (5) A requirement that the proposed facility has received  
20 environmental clearance.

21 (e)

22 (d) The commission shall establish guidelines for the  
23 development and operation of facilities described in subdivision  
24 (a) and approved by the commission pursuant to this section,  
25 subject to the following minimum requirements:

26 (1) The department shall develop and operate the facilities in  
27 cooperation with regional transportation agencies, as applicable,  
28 and with the active participation of the Department of the California  
29 Highway Patrol.

30 (2) The department shall be responsible for establishing,  
31 collecting, and administering tolls.

32 (3) The department shall be responsible for paying for the  
33 maintenance of the facilities.

34 (4) The revenue generated from the operation of the facilities  
35 shall be available to the department for the direct expenses related  
36 to the maintenance, administration, and operation of the facilities,  
37 including toll collection and enforcement. *The department's*  
38 *administrative expenses related to the operation of the facilities*  
39 *shall not exceed 3 percent of the revenues.*

1 (5) All remaining revenue generated by the facilities shall be  
2 used in the corridor from which the revenue was generated pursuant  
3 to an expenditure plan developed by the department and approved  
4 by the commission.

5 (6) This section shall not prevent any regional transportation  
6 agency or local agency from constructing facilities that compete  
7 with the facilities approved by the commission and the department  
8 shall not be entitled to compensation for the adverse effects on toll  
9 revenue due to those competing facilities.

10 (e) *For any project under this section involving the conversion*  
11 *of an existing high-occupancy vehicle lane to a high-occupancy*  
12 *toll lane, the department shall demonstrate that the project will,*  
13 *at a minimum, result in expanded efficiency of the corridor in terms*  
14 *of travel time reliability, passenger throughput, or other efficiency*  
15 *benefit.*

16 ~~(d)~~

17 (f) The department shall provide any information or data  
18 requested by the commission or the Legislative Analyst relating  
19 to a facility that the department develops or operates pursuant to  
20 this section. The commission, in cooperation with the Legislative  
21 Analyst, shall annually prepare a report on the progress of the  
22 development and operation of a facility authorized under this  
23 section. The commission may submit this report as a section in its  
24 annual report to the Legislature required pursuant to Section 14535  
25 of the Government Code.

26 (g) *The department may require any vehicle accessing a toll*  
27 *facility authorized under this section to have an electronic toll*  
28 *collection transponder or other electronic device for enforcement*  
29 *or tolling purposes.*

30 (h) *For purposes of this section, “regional transportation*  
31 *agency” has the same meaning as defined in Section 149.7.*

32 ~~(e)~~

33 (i) Nothing in this section shall authorize or prohibit the  
34 conversion of any existing nontoll or nonuser-fee lanes into tolled  
35 or user-fee lanes, except that a high-occupancy vehicle lane may  
36 be converted into a high-occupancy toll lane.

37 SEC. 3. Section 149.7 of the Streets and Highways Code is  
38 amended to read:

39 149.7. (a) A regional transportation agency, as defined in  
40 subdivision ~~(h)~~; (j), in cooperation with the department, may apply

1 to the commission to develop and operate high-occupancy toll  
2 lanes or other toll facilities, including the administration and  
3 operation of a value pricing program and exclusive or preferential  
4 lane facilities for public transit or freight.

5 (b) Each application for the development and operation of the  
6 facilities described in subdivision (a) shall be subject to review  
7 and approval by the commission pursuant to eligibility criteria  
8 established by the commission. For each eligible application, the  
9 commission shall conduct at least one public ~~hearing~~, *hearing at*  
10 *or near the proposed facility for the purpose of receiving public*  
11 *comment.*

12 (c) *The eligibility criteria established by the commission*  
13 *pursuant to subdivision (b) shall include, at a minimum, all of the*  
14 *following:*

15 (1) *A demonstration that the proposed facility will improve the*  
16 *corridor’s performance by, for example, increasing passenger*  
17 *throughput or reducing delays for freight shipments and travelers,*  
18 *especially those traveling by carpool, vanpool, and transit.*

19 (2) *A requirement that the proposed facility is contained in the*  
20 *most recent five-year regional transportation improvement*  
21 *program submitted to the commission pursuant to Section 65082*  
22 *of the Government Code or the most recent five-year interregional*  
23 *transportation improvement program pursuant to Section 14526*  
24 *of the Government Code.*

25 (3) *Evidence of cooperation between the applicant regional*  
26 *transportation agency and the department.*

27 (4) *A discussion of how the proposed facility meets the*  
28 *requirements of this section.*

29 (5) *A requirement that the proposed facility has received*  
30 *environmental clearance.*

31 ~~(e)~~

32 (d) A regional transportation agency that applies to the  
33 commission to develop and operate facilities described in  
34 subdivision (a) shall reimburse the commission for all of the  
35 commission’s costs and expenses incurred in processing the  
36 application.

37 ~~(e)~~

38 (e) The commission shall establish guidelines for the  
39 development and operation of facilities described in subdivision  
40 (a) and approved by the commission on or after January 1, 2016,

1 pursuant to this section, subject to the following minimum  
2 requirements:

3 (1) The regional transportation agency shall develop and operate  
4 the facilities in cooperation with the department, and the active  
5 participation of the Department of the California Highway Patrol,  
6 pursuant to an agreement that addresses all matters related to  
7 design, construction, maintenance, and operation of state highway  
8 system facilities in connection with the facilities.

9 (2) The regional transportation agency shall be responsible for  
10 establishing, collecting, and administering tolls.

11 (3) The regional transportation agency shall be responsible for  
12 paying for the maintenance of the facilities, pursuant to an  
13 agreement between the department and the regional transportation  
14 agency.

15 (4) The revenue generated from the operation of the facilities  
16 shall be available to the regional transportation agency for the  
17 direct expenses related to the maintenance, administration, and  
18 operation of the facilities, including toll collection and enforcement.  
19 *The regional transportation agency's administrative expenses*  
20 *related to the operation of the facilities shall not exceed 3 percent*  
21 *of the revenues.*

22 (5) All remaining revenue generated by the facilities shall be  
23 used in the corridor from which the revenue was generated pursuant  
24 to an expenditure plan adopted by the regional transportation  
25 agency.

26 (6) This section shall not prevent the department or any local  
27 agency from constructing facilities that compete with the facilities  
28 approved by the commission and the regional transportation agency  
29 shall not be entitled to compensation for the adverse effects on toll  
30 revenue due to those competing facilities.

31 *(f) For any project under this section involving the conversion*  
32 *of an existing high-occupancy vehicle lane to a high-occupancy*  
33 *toll lane, the regional transportation agency shall demonstrate*  
34 *that the project will, at a minimum, result in expanded efficiency*  
35 *of the corridor in terms of travel time reliability, passenger*  
36 *throughput, or other efficiency benefit.*

37 ~~(e)~~

38 (g) A regional transportation agency that develops or operates  
39 a facility, or facilities, described in subdivision (a) shall provide  
40 any information or data requested by the commission or the

1 Legislative Analyst. The commission, in cooperation with the  
2 Legislative Analyst, shall annually prepare a *summary* report on  
3 the progress of the development and operation of ~~a facility~~ *any*  
4 *facilities* authorized under this section. The commission may  
5 submit this report as a section in its annual report to the Legislature  
6 required pursuant to Section 14535 of the Government Code.

7 ~~(f)~~

8 (h) (1) A regional transportation agency may issue bonds,  
9 refunding bonds, or bond anticipation notes, at any time, to finance  
10 construction of, and construction-related expenditures for, facilities  
11 approved pursuant to this section, and construction and  
12 construction-related expenditures that are included in the  
13 expenditure plan adopted pursuant to paragraph (5) of subdivision  
14 ~~(d)~~; (e), payable from the revenues generated from the respective  
15 facilities.

16 (2) A bond, refunding bond, or bond anticipation note issued  
17 pursuant to this subdivision shall contain on its face a statement  
18 to the following effect:

19

20 “Neither the full faith and credit nor the taxing power of the  
21 State of California is pledged to the payment of principal of, or  
22 the interest on, this instrument.”

23

24 ~~(g)~~

25 (i) (1) Before submitting an application pursuant to subdivision  
26 (a), a regional transportation agency shall consult with every local  
27 transportation authority designated pursuant to Division 12.5  
28 (commencing with Section 131000) or Division 19 (commencing  
29 with Section 180000) of the Public Utilities Code, or every  
30 congestion management agency, whose jurisdiction includes the  
31 facility that the regional transportation agency proposes to develop  
32 and operate.

33 (2) A regional transportation agency shall give a local  
34 transportation authority or congestion management agency  
35 described in paragraph (1) the option to enter into agreements, as  
36 needed, for project development, engineering, financial studies,  
37 and environmental documentation for each construction project  
38 or segment that is part of the facility. The local transportation  
39 authority or congestion management agency may be the lead  
40 agency for these construction projects or segments.



1     ~~(h)~~

2     (j) Notwithstanding Section 143, for purposes of this section,  
3 “regional transportation agency” means any of the following:

4     (1) A transportation planning agency described in Section 29532  
5 or 29532.1 of the Government Code.

6     (2) A county transportation commission established under  
7 Section 130050, 130050.1, or 130050.2 of the Public Utilities  
8 Code.

9     (3) Any other local or regional transportation entity that is  
10 designated by statute as a regional transportation agency.

11     (4) A joint exercise of powers authority established pursuant to  
12 Chapter 5 (commencing with Section 6500) of Division 7 of Title  
13 1 of the Government Code, with the consent of a transportation  
14 planning agency or a county transportation commission for the  
15 jurisdiction in which the transportation project will be developed.

16     (5) The Santa Clara Valley Transportation Authority established  
17 pursuant to Part 12 (commencing with Section 100000) of Division  
18 10 of the Public Utilities Code.

19     (k) *A regional transportation agency may require any vehicle*  
20 *accessing a toll facility authorized under this section to have an*  
21 *electronic toll collection transponder or other electronic device*  
22 *for enforcement or tolling purposes.*

23     ~~(i)~~

24     (l) Nothing in this section shall authorize or prohibit the  
25 conversion of any existing nontoll or nonuser-fee lanes into tolled  
26 or user-fee lanes, except that a high-occupancy vehicle lane may  
27 be converted into a high-occupancy toll lane.

28     (m) *Nothing in this section shall apply to, modify, limit, or*  
29 *otherwise restrict the authority of any joint powers authority*  
30 *described in Section 66484.3 of the Government Code to establish*  
31 *or collect tolls, or otherwise operate any toll facility or modify or*  
32 *expand a toll facility.*

O