

AMENDED IN SENATE AUGUST 31, 2015

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~~ *149.12* to, the Streets and Highways Code, relating to ~~transportation~~ *transportation, and making an appropriation therefor.*

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 agency or the department, department to apply to the commission to develop *HOT lanes and other toll facilities, as specified. specified, and would delete the January 1, 2012, deadline for HOT lane applications and remove the existing limitation on the number of facilities that may be approved. The bill would include the Santa Clara Valley Transportation Authority within the definition of regional transportation authority for these purposes.* 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 *eligibility criteria set forth in 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 provide for the review and approval by the commission of each proposed toll facility pursuant to those eligibility criteria.* The bill would authorize a regional transportation agency or the state, as applicable, 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~~ *northern* California and one in southern California for each eligible application and would instead require the commission to conduct at least one public hearing at or near the proposed *toll* facility. ~~The bill would provide that each application is subject to the review and approval of the commission 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~~. *application and to enter into specified agreements with the department.* Before submitting an application to the commission, the bill would require a regional transportation agency to consult with every local transportation authority, ~~or~~ *and* 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. *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 HOT lane pursuant to its provisions.*

~~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.~~ *create the Highway Toll Account in the State Transportation Fund for the management of funds received by the Department of Transportation for toll facilities operated by the department under the bill. The bill would continuously appropriate to the department the portion of revenues designated and necessary for the payment of debt service for those facilities.*

Vote: majority. Appropriation: ~~no~~ yes. 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 all of the
- 2 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

1 economic well-being and high quality of life of the people of this  
2 state.

3 (b) High-occupancy toll lanes, express lanes, and toll roads  
4 provide an opportunity to more effectively manage state highways  
5 in order to increase passenger throughput and to reduce delays for  
6 freight shipments and travelers, especially those traveling by  
7 carpool, vanpool, or bus.

8 (c) Highway tolling should be employed for the purpose of  
9 optimizing the performance of the transportation system on a  
10 transportation corridor and should not be employed strictly as a  
11 revenue generating facility.

12 ~~SEC. 2. Section 149.2 is added to the Streets and Highways~~  
13 ~~Code, to read:~~

14 ~~149.2. (a) The department, in cooperation with a regional~~  
15 ~~transportation agency, as applicable, may apply to the commission~~  
16 ~~to develop and operate high-occupancy toll lanes or other toll~~  
17 ~~facilities, including the administration and operation of a value~~  
18 ~~pricing program and exclusive or preferential lane facilities for~~  
19 ~~public transit or freight.~~

20 ~~(b) Each application for the development and operation of the~~  
21 ~~facilities described in subdivision (a) shall be subject to review~~  
22 ~~and approval by the commission pursuant to eligibility criteria~~  
23 ~~established by the commission. For each eligible application, the~~  
24 ~~commission shall conduct at least one public hearing at or near~~  
25 ~~the proposed facility for the purpose of receiving public comment.~~

26 ~~(c) The eligibility criteria established by the commission~~  
27 ~~pursuant to subdivision (b) shall include, at a minimum, all of the~~  
28 ~~following:~~

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

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

36 ~~(3) Evidence of cooperation between the department and the~~  
37 ~~regional transportation agency whose jurisdiction includes the~~  
38 ~~corridor within which the facility is proposed.~~

39 ~~(4) A discussion of how the proposed facility meets the~~  
40 ~~requirements of this section.~~

1 ~~(5) A requirement that the proposed facility has received~~  
2 ~~environmental clearance.~~  
3 ~~(d) The commission shall establish guidelines for the~~  
4 ~~development and operation of facilities described in subdivision~~  
5 ~~(a) and approved by the commission pursuant to this section,~~  
6 ~~subject to the following minimum requirements:~~  
7 ~~(1) The department shall develop and operate the facilities in~~  
8 ~~cooperation with regional transportation agencies, as applicable,~~  
9 ~~and with the active participation of the Department of the California~~  
10 ~~Highway Patrol.~~  
11 ~~(2) The department shall be responsible for establishing,~~  
12 ~~collecting, and administering tolls.~~  
13 ~~(3) The department shall be responsible for paying for the~~  
14 ~~maintenance of the facilities.~~  
15 ~~(4) The revenue generated from the operation of the facilities~~  
16 ~~shall be available to the department for the direct expenses related~~  
17 ~~to the maintenance, administration, and operation of the facilities,~~  
18 ~~including toll collection and enforcement. The department's~~  
19 ~~administrative expenses related to the operation of the facilities~~  
20 ~~shall not exceed 3 percent of the revenues.~~  
21 ~~(5) All remaining revenue generated by the facilities shall be~~  
22 ~~used in the corridor from which the revenue was generated pursuant~~  
23 ~~to an expenditure plan developed by the department and approved~~  
24 ~~by the commission.~~  
25 ~~(6) This section shall not prevent any regional transportation~~  
26 ~~agency or local agency from constructing facilities that compete~~  
27 ~~with the facilities approved by the commission and the department~~  
28 ~~shall not be entitled to compensation for the adverse effects on toll~~  
29 ~~revenue due to those competing facilities.~~  
30 ~~(e) For any project under this section involving the conversion~~  
31 ~~of an existing high-occupancy vehicle lane to a high-occupancy~~  
32 ~~toll lane, the department shall demonstrate that the project will, at~~  
33 ~~a minimum, result in expanded efficiency of the corridor in terms~~  
34 ~~of travel time reliability, passenger throughput, or other efficiency~~  
35 ~~benefit.~~  
36 ~~(f) The department shall provide any information or data~~  
37 ~~requested by the commission or the Legislative Analyst relating~~  
38 ~~to a facility that the department develops or operates pursuant to~~  
39 ~~this section. The commission, in cooperation with the Legislative~~  
40 ~~Analyst, shall annually prepare a report on the progress of the~~

1 development and operation of a facility authorized under this  
2 section. The commission may submit this report as a section in its  
3 annual report to the Legislature required pursuant to Section 14535  
4 of the Government Code.

5 (g) The department may require any vehicle accessing a toll  
6 facility authorized under this section to have an electronic toll  
7 collection transponder or other electronic device for enforcement  
8 or tolling purposes.

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

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

15 ~~SEC. 3.~~

16 *SEC. 2.* Section 149.7 of the Streets and Highways Code is  
17 amended to read:

18 149.7. (a) ~~A~~ *Notwithstanding Sections 149 and 30800, a*  
19 *regional transportation agency, as defined in subdivision (j), in*  
20 *cooperation with (k), or the department, may apply to the*  
21 *commission to develop and operate high-occupancy toll lanes or*  
22 *other toll facilities, including the administration and operation of*  
23 *a value pricing program and exclusive or preferential lane facilities*  
24 *for public transit or freight.*

25 (b) Each application for the development and operation of the  
26 *toll facilities* described in subdivision (a) shall be subject to review  
27 and approval by the commission pursuant to eligibility criteria *set*  
28 *forth in guidelines* established by the commission. ~~For each eligible~~  
29 *Prior to approving an application, the commission shall conduct*  
30 *at least one public hearing at or near the proposed toll facility for*  
31 *the purpose of receiving public comment. Upon approval of an*  
32 *application, the regional transportation agency or the department*  
33 *may develop and operate the toll facility proposed in the*  
34 *application.*

35 (c) The eligibility criteria *set forth in the guidelines* established  
36 by the commission pursuant to subdivision (b) shall include, at a  
37 minimum, all of the following:

38 (1) A demonstration that the proposed *toll facility* will improve  
39 the corridor’s performance by, for example, increasing passenger

1 throughput or reducing delays for freight shipments and travelers,  
2 especially those traveling by carpool, vanpool, and transit.

3 (2) A requirement that the proposed *toll* facility is contained in  
4 the ~~most recent five-year constrained portion of a conforming~~  
5 ~~regional transportation improvement program submitted to the~~  
6 ~~commission pursuant to Section 65082 of the Government Code~~  
7 ~~or the most recent five-year interregional transportation~~  
8 ~~improvement program pursuant to Section 14526 plan prepared~~  
9 ~~pursuant to Section 65080 of the Government Code.~~

10 (3) Evidence of cooperation between the ~~applicant~~ *applicable*  
11 regional transportation agency and the department.

12 (4) A discussion of how the proposed *toll* facility meets the  
13 requirements of this section.

14 (5) A requirement that ~~the proposed facility has received~~  
15 ~~environmental clearance: a project initiation document has been~~  
16 ~~completed for the proposed toll facility.~~

17 (d) A regional transportation agency that applies to the  
18 commission to develop and operate *toll* facilities ~~described in~~  
19 ~~subdivision (a) pursuant to this section~~ shall reimburse the  
20 commission for all of the commission's costs and expenses incurred  
21 in processing the application.

22 (e) ~~The commission shall establish guidelines for the~~  
23 ~~development and operation of Toll facilities described in~~  
24 ~~subdivision (a) and approved by the commission on or after January~~  
25 ~~1, 2016, pursuant to this section, shall be~~ subject to the following  
26 minimum requirements:

27 (1) ~~The regional transportation agency shall develop and operate~~  
28 ~~the facilities in cooperation with the department, and the active~~  
29 ~~participation of the Department of the California Highway Patrol,~~  
30 ~~pursuant to an agreement that addresses all matters related to~~  
31 ~~design, construction, maintenance, and operation of state highway~~  
32 ~~system facilities in connection with the facilities.~~

33 (1) *A regional transportation agency sponsoring a toll facility*  
34 *shall enter into an agreement with the department that addresses*  
35 *all matters related to design, construction, maintenance, and*  
36 *operation of the toll facility, including, but not limited to, liability,*  
37 *financing, repair, rehabilitation, and reconstruction.*

38 (2) *A regional transportation agency sponsoring a toll facility*  
39 *shall be responsible for reimbursing the department for the*

1 *department's costs related to the toll facility pursuant to an*  
 2 *agreement between the agency and the department.*

3 ~~(2)~~

4 ~~(3) The regional transportation sponsoring agency shall be~~  
 5 ~~responsible for establishing, collecting, and administering tolls.~~  
 6 ~~tolls, and may include discounts and premiums for the use of the~~  
 7 ~~toll facility.~~

8 ~~(3) The regional transportation agency shall be responsible for~~  
 9 ~~paying for the maintenance of the facilities, pursuant to an~~  
 10 ~~agreement between the department and the regional transportation~~  
 11 ~~agency.~~

12 (4) The revenue generated from the operation of the facilities  
 13 toll facility shall be available to the regional transportation  
 14 sponsoring agency for the direct expenses related to the  
 15 maintenance, following:

16 (A) *Debt issued to construct, repair, rehabilitate, or reconstruct*  
 17 *any portion of the toll facility, payment of debt service, and*  
 18 *satisfaction of other covenants and obligations related to*  
 19 *indebtedness of the toll facility.*

20 (B) *The development, maintenance, repair, rehabilitation,*  
 21 *improvement, reconstruction, administration, and operation of the*  
 22 *facilities, toll facility, including toll collection and enforcement.*  
 23 ~~The regional transportation agency's administrative expenses~~  
 24 ~~related to the operation of the facilities shall not exceed 3 percent~~  
 25 ~~of the revenues.~~

26 (C) *Reserves for the purposes specified in subparagraphs (A)*  
 27 *and (B).*

28 (5) All remaining revenue generated by the facilities toll facility  
 29 shall be used in the corridor from which the revenue was generated  
 30 pursuant to an expenditure plan ~~adopted~~ *developed* by the regional  
 31 ~~transportation agency.~~ *sponsoring agency, as follows:*

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

37 (A) *For a toll facility sponsored by a regional transportation*  
 38 *agency, the governing board of the regional transportation agency*  
 39 *shall review and approve the expenditure plan and any updates.*



1 (B) For a toll facility sponsored by the department, the  
2 commission shall review and approve the expenditure plan and  
3 any updates.

4 (6) The sponsoring agency's administrative expenses related  
5 to operation of a toll facility shall not exceed 3 percent of the toll  
6 revenues.

7 (f) For any project under this section involving the conversion  
8 of an existing high-occupancy vehicle lane to a high-occupancy  
9 toll lane, the ~~regional transportation~~ sponsoring agency shall  
10 demonstrate that the project will, at a minimum, result in expanded  
11 efficiency of the corridor in terms of travel time reliability,  
12 passenger throughput, or other efficiency benefit.

13 (g) This section shall not prevent the construction of facilities  
14 that compete with a toll facility approved by the commission  
15 pursuant to this section, and the sponsoring agency shall not be  
16 entitled to compensation for the adverse effects on toll revenue  
17 due to those competing facilities.

18 ~~(g)~~

19 (h) A ~~regional transportation~~ sponsoring agency that develops  
20 or operates a facility, or facilities, described in subdivision (a) toll  
21 facility pursuant to this section shall provide any information or  
22 data requested by the commission or the Legislative Analyst. The  
23 commission, in cooperation with the Legislative Analyst, shall  
24 annually prepare a summary report on the progress of the  
25 development and operation of any toll facilities authorized ~~under~~  
26 pursuant to this section. The commission may submit this report  
27 as a section in its annual report to the Legislature required pursuant  
28 to Section 14535 of the Government Code.

29 ~~(h)~~

30 (i) (1) A regional transportation agency may issue bonds,  
31 refunding bonds, or bond anticipation notes, at any time, to finance  
32 construction of, and construction-related expenditures for, facilities  
33 a toll facility approved pursuant to this section, and construction  
34 and construction-related expenditures that are included in the  
35 expenditure plan adopted pursuant to paragraph (5) of subdivision  
36 (e), payable from the revenues generated from the ~~respective~~  
37 facilities. toll facility. The bonds, refunding bonds, and bond  
38 anticipation notes shall bear such interest rates and other features  
39 and terms as the regional transportation agency shall approve

1 *and may be sold by the regional transportation agency at public*  
2 *or private sale.*

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

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

10  
11 (3) *Bonds, refunding bonds, and bond anticipation notes issued*  
12 *pursuant to this subdivision are legal investments for all trust*  
13 *funds, the funds of all insurance companies, banks, trust*  
14 *companies, executors, administrators, trustees, and other*  
15 *fiduciaries.*

16 (4) *Interest earned on any bonds, refunding bonds, and bond*  
17 *anticipation notes issued pursuant to this subdivision shall at all*  
18 *times be free from state personal income tax and corporate income*  
19 *tax.*

20 (5) (A) *For a toll facility operated by the department, the*  
21 *California Infrastructure and Economic Development Bank or the*  
22 *Treasurer may issue bonds, refunding bonds, or bond anticipation*  
23 *notes, at any time, to finance development, construction, or*  
24 *reconstruction of, and construction-related expenditures for, a toll*  
25 *facility approved pursuant to this section, and construction and*  
26 *construction-related expenditures that are included in the*  
27 *expenditure plan adopted pursuant to paragraph (5) of subdivision*  
28 *(e), payable solely from the toll revenue and ancillary revenues*  
29 *generated from the toll facility.*

30 (B) *This subdivision shall be deemed to provide all necessary*  
31 *state law authority for purposes of Section 63024.5 of the*  
32 *Government Code.*

33 (i)

34 (j) (1) Before submitting an application pursuant to subdivision  
35 (a), a regional transportation agency shall consult with every local  
36 transportation authority designated pursuant to Division 12.5  
37 (commencing with Section 131000) or Division 19 (commencing  
38 with Section 180000) of the Public Utilities Code, ~~or~~ *and every*  
39 *congestion management agency, whose jurisdiction includes the*

1 toll facility that the regional transportation agency proposes to  
2 develop and operate.

3 (2) A regional transportation agency shall give a local  
4 transportation authority or congestion management agency  
5 described in paragraph (1) the option to enter into agreements, as  
6 needed, for project development, engineering, financial studies,  
7 and environmental documentation for each construction project  
8 or segment that is part of the toll facility. The local transportation  
9 authority or congestion management agency may be the lead  
10 agency for these construction projects or segments.

11 ~~(j)~~

12 (k) Notwithstanding Section 143, for purposes of this section,  
13 “regional transportation agency” means any of the following:

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

16 (2) A county transportation commission established under  
17 Section 130050, 130050.1, or 130050.2 of the Public Utilities  
18 Code.

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

21 (4) A joint exercise of powers authority established pursuant to  
22 Chapter 5 (commencing with Section 6500) of Division 7 of Title  
23 1 of the Government Code, with the consent of a transportation  
24 planning agency or a county transportation commission for the  
25 jurisdiction in which the transportation project will be developed.

26 (5) The Santa Clara Valley Transportation Authority established  
27 pursuant to Part 12 (commencing with Section 100000) of Division  
28 10 of the Public Utilities Code.

29 ~~(k)~~

30 (l) A regional transportation agency or the department may  
31 require any vehicle accessing a toll facility authorized under this  
32 section to have an electronic toll collection transponder or other  
33 electronic device for enforcement or tolling purposes.

34 ~~(t)~~

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

39 ~~(m)~~

1 (n) Nothing in this section shall apply to, modify, limit, or  
2 otherwise restrict the authority of any joint powers authority  
3 described in Section 66484.3 of the Government Code to establish  
4 or collect tolls, or otherwise operate any toll facility or modify or  
5 expand a toll facility.

6 SEC. 3. Section 149.12 is added to the Streets and Highways  
7 Code, to read:

8 149.12. The Highway Toll Account is hereby created in the  
9 State Transportation Fund for the management of funds received  
10 by the department for toll facilities authorized pursuant to Section  
11 149.7 and operated by the department. Notwithstanding Section  
12 13340 of the Government Code, moneys in the Highway Toll  
13 Account designated and necessary for the payment of any debt  
14 service associated with a toll facility project shall be continuously  
15 appropriated without regard to fiscal year to the department for  
16 the purposes described in subparagraph (A) of paragraph (4) of  
17 subdivision (e) of Section 149.7. All other moneys deposited in the  
18 Highway Toll Account that are derived from premium and accrued  
19 interest on bonds sold pursuant to Section 149.7 shall be reserved  
20 in the account and shall be available for expenditure, upon  
21 appropriation by the Legislature, as specified in subdivision (e)  
22 of Section 149.7. Pursuant to Chapter 4 (commencing with Section  
23 16720) of Part 3 of Division 4 of Title 2 of the Government Code,  
24 the cost of bond issuance shall be paid out of the bond proceeds,  
25 including premium, if any.