

Assembly Bill No. 194

Passed the Assembly September 11, 2015

Chief Clerk of the Assembly

Passed the Senate September 10, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 149.7 of, and to add Section 149.12 to, the Streets and Highways Code, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 194, 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 authorize a regional transportation agency or the department to apply to the commission to develop and operate HOT lanes or other toll facilities, as 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 and provide for the review and approval by the commission of each proposed toll facility pursuant to those eligibility criteria. The bill would require toll facilities approved by the commission on or after January 1, 2016, to be subject to specified minimum requirements, including those relating to toll facility revenues. 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 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 at or near the proposed toll facility. 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 and to enter into specified agreements with the department and the Department of the California Highway Patrol. Before submitting an application to the commission, the bill would require a regional transportation agency to consult with every local transportation authority 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 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.

This bill would become operative only if AB 914 is enacted and takes effect on or before January 1, 2016.

Appropriation: yes.

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

SECTION 1. The Legislature finds and declares all of the following:

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

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

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

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

149.7. (a) Notwithstanding Sections 149 and 30800, a regional transportation agency, as defined in subdivision (k), or the department may apply to the commission to develop and operate high-occupancy toll lanes or other toll facilities, including the administration and operation of a value pricing program and exclusive or preferential lane facilities for public transit or freight.

(b) Each application for the development and operation of the toll facilities described in subdivision (a) shall be subject to review and approval by the commission pursuant to eligibility criteria set forth in guidelines established by the commission. Prior to approving an application, the commission shall conduct at least one public hearing at or near the proposed toll facility for the purpose of receiving public comment. Upon approval of an

application, the regional transportation agency or the department may develop and operate the toll facility proposed in the application.

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

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

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

(3) Evidence of cooperation between the applicable regional transportation agency and the department.

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

(5) A requirement that a project initiation document has been completed for the proposed toll facility.

(6) A demonstration that a complete funding plan has been prepared.

(d) A regional transportation agency that applies to the commission to develop and operate toll facilities pursuant to this section shall reimburse the commission for all of the commission's costs and expenses incurred in processing the application.

(e) Toll facilities approved by the commission on or after January 1, 2016, pursuant to this section, shall be subject to the following minimum requirements:

(1) A regional transportation agency sponsoring a toll facility shall enter into an agreement with the Department of the California Highway Patrol that addresses all law enforcement matters related to the toll facility and an agreement with the department that addresses all matters related to design, construction, maintenance, and operation of the toll facility, including, but not limited to, liability, financing, repair, rehabilitation, and reconstruction.

(2) A regional transportation agency sponsoring a toll facility shall be responsible for reimbursing the department and the Department of the California Highway Patrol for their costs related to the toll facility pursuant to an agreement between the agency

and the department and an agreement between the agency and the Department of the California Highway Patrol.

(3) The sponsoring agency shall be responsible for establishing, collecting, and administering tolls, and may include discounts and premiums for the use of the toll facility.

(4) The revenue generated from the operation of the toll facility shall be available to the sponsoring agency for the direct expenses related to the following:

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

(B) The development, maintenance, repair, rehabilitation, improvement, reconstruction, administration, and operation of the toll facility, including toll collection and enforcement.

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

(5) All remaining revenue generated by the toll facility shall be used in the corridor from which the revenue was generated pursuant to an expenditure plan developed by the sponsoring agency, as follows:

(A) (i) For a toll facility sponsored by a regional transportation agency, the regional transportation agency shall develop the expenditure plan in consultation with the department.

(ii) For a toll facility sponsored by the department, the department shall develop the expenditure plan in consultation with the applicable regional transportation agency.

(B) (i) For a toll facility sponsored by a regional transportation agency, the governing board of the regional transportation agency shall review and approve the expenditure plan and any updates.

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

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

(f) For any project under this section involving the conversion of an existing high-occupancy vehicle lane to a high-occupancy toll lane, the sponsoring agency shall demonstrate that the project will, at a minimum, result in expanded efficiency of the corridor

in terms of travel time reliability, passenger throughput, or other efficiency benefit.

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

(h) A sponsoring agency that develops or operates a toll facility pursuant to this section shall provide any information or data requested by the commission or the Legislative Analyst. The commission, in cooperation with the Legislative Analyst, shall annually prepare a summary report on the progress of the development and operation of any toll facilities authorized pursuant to this section. The commission may submit this report as a section in its annual report to the Legislature required pursuant to Section 14535 of the Government Code.

(i) (1) A regional transportation agency may issue bonds, refunding bonds, or bond anticipation notes, at any time, to finance construction of, and construction-related expenditures for, a toll facility approved pursuant to this section, and construction and construction-related expenditures that are included in the expenditure plan adopted pursuant to paragraph (5) of subdivision (e), payable from the revenues generated from the toll facility. The bonds, refunding bonds, and bond anticipation notes shall bear such interest rates and other features and terms as the regional transportation agency shall approve and may be sold by the regional transportation agency at public or private sale.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) Nothing in this section shall 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.

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

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

149.12. The Highway Toll Account is hereby created in the State Transportation Fund for the management of funds received by the department for toll facilities authorized pursuant to Section 149.7 and operated by the department. Notwithstanding Section 13340 of the Government Code, moneys in the Highway Toll Account designated and necessary for the payment of any debt service associated with a toll facility project shall be continuously appropriated, without regard to fiscal year, to the department for the purposes described in subparagraph (A) of paragraph (4) of subdivision (e) of Section 149.7. All other moneys deposited in the Highway Toll Account that are derived from premium and accrued interest on bonds sold pursuant to Section 149.7 shall be reserved in the account and shall be available for expenditure, upon appropriation by the Legislature, as specified in subdivision (e) of Section 149.7. Pursuant to Chapter 4 (commencing with

Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, the cost of bond issuance shall be paid out of the bond proceeds, including premium, if any.

SEC. 4. This act shall become operative only if Assembly Bill 914 of the 2015–16 Regular Session is enacted and takes effect on or before January 1, 2016.

Approved _____, 2015

Governor