

AMENDED IN ASSEMBLY APRIL 8, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 914**

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**Introduced by Assembly Member Brown**  
**(Coauthors: Assembly Members Chang, Linder, Mayes, Obernolte,**  
**Rodriguez, and Steinorth)**  
(Coauthor: Senator Leyva)

February 26, 2015

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An act to add Section 149.11 to the Streets and Highways Code, and to amend Section 5205.5 of the Vehicle Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 914, as amended, Brown. Toll facilities: County of San Bernardino.

Existing law provides for the Department of Transportation and local authorities, with respect to highways under their respective jurisdictions, to authorize or permit exclusive or preferential use of highway lanes for high-occupancy vehicles (HOVs). Existing law authorizes the development and implementation of high-occupancy toll (HOT) lanes under certain circumstances, pursuant to which vehicles that do not meet the vehicle occupancy requirements for use of an HOV lane may use the lane upon payment of a toll.

This bill would authorize the San Bernardino County Transportation Commission to construct and operate certain transportation facilities, as defined, on ~~State~~ *Interstate* Highway Routes 10 and 15, as toll facilities in the County of San Bernardino and, with the agreement of affected transportation agencies, in the Counties of Los Angeles and Riverside. The bill would require the toll revenues to be spent for specified transportation purposes and would authorize the commission

to issue revenue bonds payable from toll revenues. The bill would require the commission to report to the Legislative Analyst on specified matters within 3 years of commencement of toll collection on a facility constructed under the bill. The bill would enact other related provisions.

Existing law authorizes the Department of Motor Vehicles to issue decals to not more than 70,000 vehicles meeting certain air quality standards, and provides that vehicles with these air quality decals may use high-occupancy vehicle lanes without meeting the applicable vehicle occupancy requirements. Existing law generally provides that the vehicles with air quality decals are not exempt from tolls on state-owned toll bridges or certain other toll facilities.

This bill would provide that vehicles with air quality decals would not be exempt from tolls on toll facilities implemented in the County of San Bernardino or adjoining counties under this bill.

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 149.11 is added to the Streets and  
2 Highways Code, to read:

3 149.11. (a) For the purposes of this section, the following  
4 terms shall have the following meanings:

5 (1) "Transportation corridors" means ~~State Interstate~~ Highway  
6 Routes 10 and 15 in the County of San Bernardino, including  
7 approaches and departures to and from, and direct connectors  
8 between, the two highways.

9 (2) "Transportation corridor connectors" means the approaching  
10 and departing connectors on ~~State Interstate~~ Highway Route 10  
11 extending into the County of Los Angeles, as designated by  
12 agreement with the Los Angeles County Metropolitan  
13 Transportation Authority, and the connection to the ~~State Interstate~~  
14 Highway Route 15 express lanes project in the County of Riverside,  
15 as designated by agreement with the Riverside County  
16 Transportation Commission.

17 (3) "Transportation facilities" means toll lanes, high-occupancy  
18 toll lanes, high-occupancy vehicle lanes, lanes or improvements  
19 where tolls may be levied and may vary according to levels of  
20 congestion or according to the type or occupancy of the vehicle,  
21 improvements or lanes utilizing a combination of those options,

1 and approaches to those lanes and facilities incidental to or related  
2 to the lanes or the operation of the lanes.

3 (b) (1) Notwithstanding Sections 149 and 30800 of this code,  
4 and Section 21655.5 of the Vehicle Code, the San Bernardino  
5 County Transportation Commission may finance, plan, develop,  
6 design, construct, reconstruct, rehabilitate, improve, acquire,  
7 administer, maintain, lease, and operate transportation facilities in  
8 the transportation corridors and the transportation corridor  
9 connectors. The commission may acquire property for the  
10 transportation facilities and transportation corridor connectors  
11 pursuant to Section 130220.5 of the Public Utilities Code.

12 (2) The San Bernardino County Transportation Commission  
13 shall have the authority to set, levy, and collect tolls, user fees, or  
14 other similar charges payable for the use of the transportation  
15 facilities in the County of San Bernardino, and any other incidental  
16 or related fees or charges, and to collect those revenues, in a  
17 manner determined by the commission, in amounts as required for  
18 the following expenditures relative to the transportation facilities  
19 in the transportation corridors and transportation corridor  
20 connectors and for the purposes of paragraph (3):

21 (A) Capital outlay, including the costs of design, construction,  
22 right-of-way acquisition, and utilities adjustment.

23 (B) Operations and maintenance, including, but not limited to,  
24 insurance, collection, and enforcement of tolls, fees, and charges.

25 (C) Repair and rehabilitation.

26 (D) Indebtedness incurred and internal loans and advances,  
27 including related financial costs.

28 (E) Reserves.

29 (F) Administration, which shall not exceed 3 percent of the  
30 revenues of toll facilities and associated transportation facilities.

31 (3) All revenue generated pursuant to paragraph (2) in excess  
32 of the expenditure needs of that paragraph shall be used exclusively  
33 for the benefit of the transportation corridors. These excess revenue  
34 expenditures shall be described in an excess revenue expenditure  
35 plan adopted and periodically updated by the board of directors  
36 of the San Bernardino County Transportation Commission and  
37 may include, but need not be limited to, the following eligible  
38 expenditures:

39 (A) Expenditures to enhance transit service designed to reduce  
40 traffic congestion within the transportation corridors in the County

1 of San Bernardino. Eligible expenditures include, but are not  
 2 limited to, transit operating assistance, the acquisition of transit  
 3 vehicles, and transit capital improvements otherwise eligible to be  
 4 funded under the state transportation improvement program  
 5 pursuant to Section 164.

6 (B) Expenditures to make operational or capacity improvements  
 7 designed to reduce traffic congestion or improve the flow of traffic  
 8 in the transportation corridors in the County of San Bernardino.  
 9 Eligible expenditures include, but are not limited to, any phase of  
 10 project delivery to make capital improvements to on ramps, off  
 11 ramps, connector roads, roadways, bridges, or other structures that  
 12 are necessary for or related to the tolled or nontolled transportation  
 13 facilities in the transportation corridors in the County of San  
 14 Bernardino.

15 (4) To the extent the San Bernardino County Transportation  
 16 Commission plans to construct or operate transportation facilities  
 17 *or transportation corridor connectors* in the Counties of Los  
 18 Angeles or Riverside, it shall enter into an agreement with the Los  
 19 Angeles County Metropolitan Transportation Authority or the  
 20 Riverside County Transportation Commission, as applicable,  
 21 subject to approval of the board of directors of the San Bernardino  
 22 County Transportation Commission and the board of directors of  
 23 the affected entity.

24 (5) If the transportation facilities constructed and operated by  
 25 the San Bernardino County Transportation Commission connect  
 26 to, or are near, similar toll facilities constructed and operated by  
 27 the Los Angeles County Metropolitan Transportation Authority  
 28 or the Riverside County Transportation Commission, the respective  
 29 entities shall enter into an agreement providing for the coordination  
 30 of the toll facilities operated by each entity.

31 (c) The San Bernardino County Transportation Commission  
 32 shall carry out the program in cooperation with the department  
 33 pursuant to a cooperative agreement that addresses all matters  
 34 related to the design, construction, maintenance, and operation of  
 35 state highway system facilities in connection with the transportation  
 36 facilities.

37 (d) Single-occupant vehicles that are certified or authorized by  
 38 the San Bernardino County Transportation Commission for entry  
 39 into, and use of, the ~~high-occupancy toll lanes~~ *transportation*  
 40 *facilities* implemented pursuant to this section are exempt from

1 Section 21655.5 of the Vehicle Code, and the driver shall not be  
2 in violation of the Vehicle Code because of that entry and use.

3 (e) Agreements between the San Bernardino County  
4 Transportation Commission, the department, and the Department  
5 of the California Highway Patrol shall identify the respective  
6 obligations, liabilities, and responsibilities of each entity. The  
7 agreements shall provide for reimbursement of state agencies, from  
8 revenues generated by the transportation facility or other funding  
9 sources that are not otherwise available to state agencies for  
10 transportation-related projects, or for costs incurred in connection  
11 with the implementation or operation of the transportation facilities.

12 (f) (1) The San Bernardino County Transportation Commission  
13 may issue bonds at any time to finance any costs necessary to  
14 implement the transportation facilities established pursuant to this  
15 section and any expenditures provided for in paragraphs (2) and  
16 (3) of subdivision (b), payable from the revenues generated from  
17 the transportation facilities and any other sources of revenues  
18 available to the commission that may be used for these purposes,  
19 including, but not limited to, sales tax revenue, development impact  
20 fees, or state and federal grants.

21 (2) The maximum bonded indebtedness that may be outstanding  
22 at any one time shall not exceed an amount that may be serviced  
23 from the projected revenues available as described in paragraph  
24 (1).

25 (3) The bonds shall bear interest at a rate or rates not exceeding  
26 the maximum allowable by law, payable at intervals determined  
27 by the commission.

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

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

33 (5) Bonds shall be issued pursuant to a resolution of the  
34 governing board of the commission adopted by a majority vote of  
35 its governing board. The resolution or bond authorizing instrument  
36 shall state all of the following:

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

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

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

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

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

5 (F) The form of the bonds.

6 (g) Not later than three years after the San Bernardino County  
7 Transportation Commission first collects revenues from any of the  
8 transportation facilities authorized by this section, the commission  
9 shall submit a report to the Legislative Analyst on its findings,  
10 conclusions, and recommendations concerning the transportation  
11 facilities. The report shall include an analysis of the effect of the  
12 transportation facilities on the adjacent mixed-flow lanes and any  
13 comments submitted by the department and the Department of the  
14 California Highway Patrol regarding operation of the transportation  
15 facilities.

16 (h) This section shall not prevent the department or any local  
17 agency from constructing improvements in the transportation  
18 corridors that compete with the transportation facilities, and the  
19 San Bernardino County Transportation Commission shall not be  
20 entitled to compensation for the adverse effects on toll revenue  
21 due to those competing improvements.

22 (i) If any provision of this section or the application thereof is  
23 held invalid, that invalidity shall not affect other provisions or  
24 applications of this section that can be given effect without the  
25 invalid provision or application, and to this extent the provisions  
26 are severable.

27 (j) *Nothing in this section shall authorize the conversion of any*  
28 *existing nontoll or nonuser-fee lanes into tolled or user-fee lanes,*  
29 *except that a high-occupancy vehicle lane may be converted into*  
30 *a transportation facility, as defined in paragraph (3) of subdivision*  
31 *(a).*

32 SEC. 2. Section 5205.5 of the Vehicle Code is amended to  
33 read:

34 5205.5. (a) For purposes of implementing Section 21655.9,  
35 the department shall make available for issuance, for a fee  
36 determined by the department to be sufficient to reimburse the  
37 department for the actual costs incurred pursuant to this section,  
38 distinctive decals, labels, and other identifiers that clearly  
39 distinguish the following vehicles from other vehicles:

1 (1) A vehicle that meets California’s super ultra-low emission  
2 vehicle (SULEV) standard for exhaust emissions and the federal  
3 inherently low-emission vehicle (ILEV) evaporative emission  
4 standard, as defined in Part 88 (commencing with Section  
5 88.101-94) of Title 40 of the Code of Federal Regulations.

6 (2) A vehicle that was produced during the 2004 model-year or  
7 earlier and meets California’s ultra-low emission vehicle (ULEV)  
8 standard for exhaust emissions and the federal ILEV standard.

9 (3) A vehicle that meets California’s enhanced advanced  
10 technology partial zero-emission vehicle (enhanced AT PZEV)  
11 standard or transitional zero-emission vehicle (TZEV) standard.

12 (b) The department shall include a summary of the provisions  
13 of this section on each motor vehicle registration renewal notice,  
14 or on a separate insert, if space is available and the summary can  
15 be included without incurring additional printing or postage costs.

16 (c) The Department of Transportation shall remove individual  
17 HOV lanes, or portions of those lanes, during periods of peak  
18 congestion from the access provisions provided in subdivision (a),  
19 following a finding by the Department of Transportation as follows:

20 (1) The lane, or portion thereof, exceeds a level of service C,  
21 as discussed in subdivision (b) of Section 65089 of the Government  
22 Code.

23 (2) The operation or projected operation of the vehicles  
24 described in subdivision (a) in these lanes, or portions thereof, will  
25 significantly increase congestion.

26 (3) The finding shall also demonstrate the infeasibility of  
27 alleviating the congestion by other means, including, but not  
28 limited to, reducing the use of the lane by noneligible vehicles or  
29 further increasing vehicle occupancy.

30 (d) The State Air Resources Board shall publish and maintain  
31 a listing of all vehicles eligible for participation in the programs  
32 described in this section. The board shall provide that listing to  
33 the department.

34 (e) (1) For purposes of subdivision (a), the Department of the  
35 California Highway Patrol and the department, in consultation  
36 with the Department of Transportation, shall design and specify  
37 the placement of the decal, label, or other identifier on the vehicle.  
38 Each decal, label, or other identifier issued for a vehicle shall  
39 display a unique number, which number shall be printed on, or  
40 affixed to, the vehicle registration.

1 (2) Decals, labels, or other identifiers designed pursuant to this  
2 subdivision for a vehicle described in paragraph (3) of subdivision  
3 (a) shall be distinguishable from the decals, labels, or other  
4 identifiers that are designed for vehicles described in paragraphs  
5 (1) and (2) of subdivision (a).

6 (f) (1) Except as provided in paragraph (2), for purposes of  
7 paragraph (3) of subdivision (a), the department shall issue no  
8 more than 70,000 distinctive decals, labels, or other identifiers that  
9 clearly distinguish a vehicle specified in paragraph (3) of  
10 subdivision (a).

11 (2) The department may issue a decal, label, or other identifier  
12 for a vehicle that satisfies all of the following conditions:

13 (A) The vehicle is of a type identified in paragraph (3) of  
14 subdivision (a).

15 (B) The owner of the vehicle is the owner of a vehicle for which  
16 a decal, label, or other identifier described in paragraph (1) was  
17 previously issued and that vehicle for which the decal, label, or  
18 other identifier was previously issued is determined by the  
19 department, on the basis of satisfactory proof submitted by the  
20 owner to the department, to be a nonrepairable vehicle or a total  
21 loss salvage vehicle.

22 (C) The owner of the vehicle applied for a decal, label, or other  
23 identifier pursuant to this paragraph within six months of the date  
24 on which the vehicle for which a decal, label, or other identifier  
25 was previously issued is declared to be a nonrepairable vehicle or  
26 a total loss salvage vehicle.

27 (g) If the Metropolitan Transportation Commission, serving as  
28 the Bay Area Toll Authority, grants toll-free and reduced-rate  
29 passage on toll bridges under its jurisdiction to a vehicle pursuant  
30 to Section 30102.5 of the Streets and Highways Code, it shall also  
31 grant the same toll-free and reduced-rate passage to a vehicle  
32 displaying an identifier issued by the department pursuant to  
33 paragraph (1) or (2) of subdivision (a).

34 (h) (1) Notwithstanding Section 21655.9, and except as  
35 provided in paragraph (2), a vehicle described in subdivision (a)  
36 that displays a decal, label, or identifier issued pursuant to this  
37 section shall be granted a toll-free or reduced-rate passage in  
38 high-occupancy toll lanes as described in Section 149.7 of the  
39 Streets and Highways Code unless prohibited by federal law.

1 (2) (A) Paragraph (1) does not apply to the imposition of a toll  
2 imposed for passage on a toll road or toll highway, that is not a  
3 high-occupancy toll lane as described in Section 149.7 of the  
4 Streets and Highways Code.

5 (B) On or before March 1, 2014, paragraph (1) does not apply  
6 to the imposition of a toll imposed for passage in lanes designated  
7 for tolls pursuant to the federally supported value pricing and  
8 transit development demonstration program operated pursuant to  
9 Section 149.9 of the Streets and Highways Code for State Highway  
10 Route 10 or 110.

11 (C) Paragraph (1) does not apply to the imposition of a toll  
12 imposed for passage on a transportation facility for which tolls are  
13 imposed pursuant to Section 149.11 of the Streets and Highways  
14 Code.

15 (D) Paragraph (1) does not apply to the imposition of a toll  
16 charged for crossing a state-owned bridge.

17 (i) If the Director of Transportation determines that federal law  
18 does not authorize the state to allow vehicles that are identified by  
19 distinctive decals, labels, or other identifiers on vehicles described  
20 in subdivision (a) to use highway lanes or highway access ramps  
21 for high-occupancy vehicles regardless of vehicle occupancy, the  
22 Director of Transportation shall submit a notice of that  
23 determination to the Secretary of State.

24 (j) This section shall become inoperative on January 1, 2019,  
25 or the date the federal authorization pursuant to Section 166 of  
26 Title 23 of the United States Code expires, or the date the Secretary  
27 of State receives the notice described in subdivision (i), whichever  
28 occurs first, and, as of January 1, 2019, is repealed, unless a later  
29 enacted statute, that becomes operative on or before January 1,  
30 2019, deletes or extends the dates on which it becomes inoperative  
31 and is repealed.