

AMENDED IN SENATE JUNE 1, 1999

AMENDED IN SENATE MAY 11, 1999

AMENDED IN SENATE APRIL 27, 1999

AMENDED IN SENATE APRIL 13, 1999

SENATE BILL

No. 928

Introduced by Senator Burton

February 25, 1999

An act to repeal the heading of Chapter 4 (immediately following Section 14536) of Part 5.3 of Division 3 of, to repeal the heading of Article 1 (immediately following Section 14536) of Chapter 4 of Part 5.3 of Division 3 of, and to add Chapter 4 (commencing with Section 14550) to Part 5.3 of Division 3 of, the Government Code, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 928, as amended, Burton. Transportation: financing.

Existing law requires that all money in the State Highway Account in the State Transportation Fund derived from federal sources or from appropriations to other state agencies, or deposited in the account by local agencies or by others, be continuously appropriated to, and be available for expenditure by, the Department of Transportation for the purposes for which the money was made available. Unless otherwise expressly provided for by law, none of the balance of the money in the account may be expended until it has been specifically appropriated by the Legislature.

This bill would continuously appropriate the amounts specified in the Budget Act as having been deposited in the account from federal transportation funds and pledged by the California Transportation Commission, as specified below, to the Treasurer for the purposes of issuing federal highway grant anticipation notes, as specified, to fund transportation projects selected by the commission. The bill thereby would make an appropriation.

The bill would require the commission, in order to provide security for the repayment of the notes, to adopt a resolution dedicating and pledging any future receipts of federal transportation funds to the payment of the notes. Upon taking that action, the commission would be authorized to request the Treasurer to issue the notes.

The bill would require the Treasurer to issue the notes pursuant to the commission's resolution and would require the proceeds from the sale of the notes to be deposited in the Transportation Financing Subaccount, which the bill would create in the account. The funds in the subaccount would be available for use as directed by the commission and administered by the Department of Transportation and to pay costs associated with the issuance of the notes.

The bill would provide that the notes may not be deemed to constitute a debt or liability of the state or any political subdivision thereof, or a pledge of the full faith and credit of the state or any political subdivision thereof, but shall be paid solely from the funds and revenues pledged for that purpose.

The bill would limit the eligible projects to transportation projects that are listed on the most recent state transportation improvement plan, are eligible for payment from federal transportation funds and have been designated for accelerated construction by the commission.

The bill would prohibit funds that are subject to Section 1 or 2 of Article XIX of the California Constitution from being allocated under the bill's provisions.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.



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

1 SECTION 1. The heading of Chapter 4 (immediately
2 following Section 14536) of Part 5.3 of Division 3 of the
3 Government Code is repealed.

4 SEC. 2. The heading of Article 1 (immediately
5 following Section 14536) of Chapter 4 of Part 5.3 of
6 Division 3 of the Government Code is repealed.

7 SEC. 3. Chapter 4 (commencing with Section 14550)
8 is added to Part 5.3 of Division 3 of the Government Code,
9 to read:

10
11 CHAPTER 4. FEDERAL HIGHWAY GRANT ANTICIPATION
12 NOTES
13

14 Article 1. Legislative Findings and Declarations
15

16 14550. The Legislature hereby finds and declares all
17 of the following:

18 (a) Between 1970 and 1990, California’s population
19 grew by 50 percent, while the total number of miles
20 driven in the state increased by 100 percent.

21 (b) Conservative estimates have the state adding an
22 additional 6 million new residents by the end of the next
23 decade.

24 (c) Revenues available for investment in California’s
25 transportation system have not kept pace with that
26 increasing state population, or with the increased
27 demand on the state’s transportation infrastructure.

28 (d) California is now home to five of the nation’s
29 most congested urban areas.

30 (e) Between 1987 and 1995, the number of California
31 drivers who sit idle in traffic congestion has grown by 70
32 percent, and California drivers now sit idle in traffic
33 congestion more than 300,000 hours per day.

34 (f) It is estimated that traffic congestion in California
35 now costs the state’s businesses more than two million
36 eight hundred thousand dollars (\$2,800,000) per day in
37 lost time and resources.



1 (g) The United States Congress recently authorized
 2 states under the federal National Highway System
 3 Designation Act of 1995 and the federal Transportation
 4 Equity Act for the 21st Century to issue “GARVEE
 5 bonds,” which are tax-exempt anticipation notes backed
 6 by annual federal appropriations for federal aid
 7 transportation projects.

8 (h) Utilizing revenue anticipation notes to finance
 9 federal transportation projects can greatly accelerate
 10 projects and can result in significant cost savings to the
 11 state, since those transportation projects can be
 12 completed at present-day costs.

13 (i) Funding transportation projects with revenue
 14 anticipation notes can also deliver projects to the public
 15 significantly sooner than traditional funding mechanisms.

16 (j) Therefore, it is in the best interest of the State of
 17 California to develop these new and innovative methods
 18 for funding and accelerating critical transportation
 19 infrastructure projects.

20
 21 Article 2. Definitions

22
 23 14552. Unless the context otherwise requires, the
 24 definitions in this article govern the construction of this
 25 chapter.

26 14552.2. “Eligible Project” means any highway or
 27 other transportation project listed on the most recent
 28 state transportation improvement plan that is eligible for
 29 payment from federal transportation funds and has been
 30 designated for accelerated construction by the
 31 commission.

32 14552.4. “Federal transportation funds” means any
 33 funds apportioned to the state by the United States
 34 Department of Transportation, either directly or through
 35 a local government agency of the state, including, but not
 36 be limited to, funds paid pursuant to the Transportation
 37 Equity Act for the 21st Century (Public Law 105-178).

38 14552.6. A “note” is a federal highway grant
 39 anticipation note issued by the Treasurer under this
 40 chapter.



1 Article 3. Selection of Projects

2
3 14553. (a) The commission may from time to time
4 select and designate projects already approved on the
5 most recent state transportation improvement program
6 to be funded from the proceeds of notes, if the project has
7 been approved by the Federal Highway Administration
8 , is eligible for payment from federal transportation
9 funds, has been approved by the regional transportation
10 planning agency, and has completed the environmental
11 clearance and project design.

12 (b) Notwithstanding Section 7550.5 of the
13 Government Code, on or before April 1 of each year, the
14 commission, in conjunction with the Treasurer's office,
15 shall prepare an annual analysis of the bonding capacity
16 of federal transportation funds deposited in the State
17 Highway Account in the State Transportation Fund.

18 14553.2. The commission, in cooperation with the
19 department and regional transportation planning
20 agencies, shall establish guidelines for eligibility for
21 funding allocations under this chapter. *The guidelines*
22 *shall be nondiscriminatory and shall be designed to allow*
23 *as many counties as possible to establish eligibility for*
24 *funding allocations under this chapter, regardless of the*
25 *population or geographic location of the county.*

26 ~~14553.4. Funds allocated under this chapter to any~~
27 ~~county, including principal and interest, shall not exceed~~
28 ~~50 percent of that county's share of expected federal~~
29 ~~highway revenues for 10 years from the funding~~
30 ~~allocation date.~~

31 *14553.4. The aggregate amount of federal*
32 *transportation funds committed by the commission to the*
33 *repayment of notes issued under this chapter may not be*
34 *more than 30 percent of the amount of federal*
35 *transportation funds estimated to be deposited in the*
36 *State Highway Account in the State Transportation Fund*
37 *over a 10-year period commencing on January 1, 2000.*

38 14553.6. All funds allocated to a project under this
39 chapter, including cost overruns and financing costs, shall
40 be counted against the state transportation improvement

1 program county share for the county in which the project
2 is located.

3 14553.8. In order to provide security for repayment of
4 the notes, the commission shall adopt a resolution
5 dedicating and pledging any future receipts of federal
6 transportation funds received by the state to the payment
7 of principal of, and interest and premium on the notes, for
8 as long as any notes remain outstanding. That action shall
9 constitute a pledge or receipt of those moneys as
10 collateral within the meaning of subdivision (b) of
11 Section 5450. The commission shall be deemed a “public
12 body” for purposes of Section 5451, as defined in Section
13 5450.

14 14553.9. (a) Upon taking the actions authorized
15 under this article, the commission may request the
16 Treasurer to issue notes to provide funds for the eligible
17 projects.

18 (b) Notwithstanding Section 7550.5 of the
19 Government Code, on or before April 1 of each year, the
20 commission shall prepare and submit an annual report
21 regarding the preceding calendar year to the Governor
22 and the Legislature. Each report shall compile and detail
23 the total amount of outstanding debt issued pursuant to
24 this chapter and the projects funded by that outstanding
25 debt.

26
27 Article 4. Issuance of Notes

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29 14554. (a) In order to provide for the financing of
30 selected projects, the Treasurer may issue tax-exempt or
31 taxable notes under this article. Proceeds of the sale of
32 those notes shall be deposited in the Transportation
33 Financing Subaccount, which is hereby created in the
34 State Highway Account in the State Transportation Fund.
35 The funds in the subaccount shall be available for use as
36 directed by the commission and administered by the
37 department and to pay costs associated with the issuance
38 or further security of the notes or for capitalized interest
39 of up to 12 months.



1 (b) Any issue of notes may be secured and made more
2 attractive to capital markets through financial
3 instruments, including, but not limited to, the following:

4 (1) Credit enhancements, including, but not limited
5 to, letters of credit, notes of insurance, and surety notes
6 provided by private sector financial institutions.

7 (2) Insurance and guarantees provided by any other
8 agency of the state.

9 14554.2. The Treasurer shall issue notes from time to
10 time pursuant to a resolution from the commission. The
11 resolution may contain any of the following provisions,
12 which shall be a part of the contract with the holders of
13 the notes to be authorized:

14 (a) Provisions pledging receipt of future federal
15 transportation funds to secure the payment of the notes
16 or of any particular issue of notes, subject to those
17 agreements with noteholders as may then exist, and
18 pledging moneys held in funds and accounts pursuant to
19 the note issue, or the earnings thereon. The Treasurer
20 may authorize classes of notes having different priority in
21 the receipt of available federal transportation funds.

22 (b) Provisions for the investment of proceeds of the
23 notes or of the moneys received by the Treasurer for
24 repayment of the notes.

25 (c) Provisions setting aside reserves or sinking funds,
26 and the regulation and disposition thereof.

27 (d) Limitations on the issuance of additional notes, the
28 terms upon which additional notes may be issued and
29 secured, and the refunding of outstanding notes.

30 (e) The procedure, if any, by which the terms of any
31 contract with noteholders may be amended or abrogated,
32 the amount of notes and the holders thereof that are
33 required to give consent thereto, and the manner in
34 which the consent may be given.

35 (f) Definitions of acts or omissions to act that
36 constitute a default in the duties of the state to holders of
37 the notes, and provisions on the rights and remedies of the
38 holders in the event of a default.

39 14554.4. Any notes issued under this chapter may be
40 secured by a trust agreement, indenture, or resolution by



1 and between the Treasurer and a trustee. The trustee
2 may be a bank or trust company chartered under the laws
3 of this state or of the United States.

4 14554.6. The notes shall be authorized by resolution or
5 resolutions of the Treasurer, shall be in the form, shall
6 bear the date or dates, and shall mature at the time or
7 times, as the resolution or resolutions may provide, except
8 that no note may mature more than 30 years from the
9 date of its issue. The notes shall bear interest at the rate
10 or rates, be in the denominations, be in the form, be
11 executed in the manner, be payable in the medium of
12 payment at the place or places within or without the state,
13 be subject to the terms of redemption and contain the
14 terms and conditions, that the resolution or resolutions
15 may provide. The notes shall be sold at public or private
16 sale by the Treasurer at, above, or below the par value, on
17 the terms and conditions and for the consideration that
18 the Treasurer shall determine.

19 14554.8. (a) Notwithstanding Section 13340 of the
20 Government Code, the amounts specified in the annual
21 Budget Act as having been deposited in the State
22 Highway Account in the State Transportation Fund from
23 federal transportation funds, and pledged by the
24 commission under this chapter, are hereby continuously
25 appropriated, without regard to fiscal years, to the
26 Treasurer for the purposes of, and in accordance with,
27 this chapter.

28 (b) No funds that are subject to Section 1 or 2 of Article
29 XIX of the California Constitution may be used for
30 purposes of this chapter.

31 14555. Upon request of the commission, the Treasurer
32 may issue refunding notes to refund any outstanding
33 notes, and to pay costs associated with that refunding.

34 14555.2. Whenever the Treasurer deems that it will
35 increase the salability or the price of the notes to obtain,
36 prior to or after sale, a legal opinion, other than that of the
37 Attorney General, as to the validity or tax-exempt nature
38 of the notes, the Treasurer may obtain that legal opinion.
39 Payment for those legal services shall be made from the
40 proceeds of the sale of the notes.



1 14555.4. The Treasurer may employ financial
2 consultants, advisers, underwriters, and accountants as
3 may be necessary in his or her judgment in connection
4 with the issuance and sale of any notes of the Treasurer.
5 Payment for these services may be made out of the
6 proceeds of the sale of the notes.

7 14555.6. Section 10295 of the Public Contract Code
8 and Article 4 (commencing with Section 10335) of, and
9 Article 5 (commencing with Section 10355) of, Chapter
10 2 of Part 2 of Division 2 of the Public Contract Code do
11 not apply to agreements entered into by the Treasurer
12 pursuant to the sale of notes authorized under this
13 chapter.

14 14555.8. Notes issued under this chapter are a legal
15 investment for any state special or trust fund
16 notwithstanding any provision of law limiting the
17 investments that may be made by the special or trust
18 fund. The notes shall be legal investments in which all
19 public officers and public bodies of the state, its political
20 subdivisions, all municipalities and municipal
21 subdivisions, all insurance companies and associations
22 and other persons carrying on an insurance business, all
23 banks, savings and loan associations, savings banks and
24 savings associations, investment companies, all
25 administrators, guardians, executors, trustees and other
26 fiduciaries, and all other persons authorized to invest in
27 notes or in other obligations of the state, may properly
28 and legally invest funds, including capital, in their control
29 or belonging to them. The notes may be used as security
30 for public deposits. The notes are also securities that may
31 properly and legally be deposited with and received by
32 all public officers and bodies of state or any agency or
33 political subdivision of the state and all municipalities and
34 public corporations for any purpose for which the deposit
35 of notes or other obligations of the state is authorized by
36 law, including deposits to secured public funds.

37 14555.9. Notes issued under the provisions of this
38 chapter may not be deemed to constitute a debt or
39 liability of the state or of any political subdivision thereof,
40 or a pledge of the full faith and credit of the state or of any



1 political subdivision thereof, but shall be payable solely
2 from the funds and revenues pledged therefor. All the
3 notes shall contain on their face a statement to the effect
4 that the State of California shall not be obligated to pay
5 the principal, or the interest on the notes, except from the
6 revenues received by the Treasurer as shall be provided
7 by the documents governing the revenue note issuance,
8 and that neither the faith and credit nor the taxing power
9 of the State of California or of any of its political
10 subdivisions is pledged to the payment of the principal or
11 interest on the notes. The issuance of notes under this part
12 shall not directly or indirectly or contingently obligate
13 the state or any of its political subdivisions to levy or to
14 pledge any form of taxation whatever or to make any
15 appropriation for their payment.

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