

ASSEMBLY BILL

No. 227

Introduced by Assembly Member Alejo

February 3, 2015

An act to amend Sections 16773, 16965.1, and 63048.67 of, to add Section 16321 to, and to repeal Section 16965 of, the Government Code, to amend Sections 143, 183.1, and 2103 of the Streets and Highways Code, and to amend Sections 9400.1 and 42205 of, and to repeal Section 9400.4 of, the Vehicle Code, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 227, as introduced, Alejo. Transportation funding.

(1) Existing law provides for loans of revenues from various transportation funds and accounts to the General Fund, with various repayment dates specified.

This bill, with respect to any loans made to the General Fund from specified transportation funds and accounts with a repayment date of January 1, 2019, or later, would require the loans to be repaid by December 31, 2018.

(2) Existing law imposes weight fees on the registration of commercial motor vehicles and provides for the deposit of net weight fee revenues into the State Highway Account. Existing law provides for the transfer of certain weight fee revenues from the State Highway Account to the Transportation Debt Service Fund to reimburse the General Fund for payment of debt service on general obligation bonds issued for transportation purposes. Existing law also provides for the transfer of certain weight fee revenues to the transportation Bond Direct Payment Account for direct payment of debt service on designated

bonds, which are defined to be certain transportation general obligation bonds issued pursuant to Proposition 1B of 2006. Existing law also provides for loans of weight fee revenues to the General Fund to the extent the revenues are not needed for bond debt service purposes, with the loans to be repaid when the revenues are later needed for those purposes, as specified.

This bill would repeal these provisions, thereby retaining the weight fee revenues in the State Highway Account. The bill would make other conforming changes in that regard.

(3) Existing law provides for the deposit of fuel excise tax revenues imposed by the state on fuels used in motor vehicles upon public streets and highways in the Highway Users Tax Account, and appropriates those revenues to various purposes. Existing law, with respect to the portion of these revenues that is derived from increases in the motor vehicle fuel excise tax in 2010, requires an allocation of revenues to reimburse the State Highway Account for the amount of weight fee revenues that the State Highway Account is not receiving due to use of weight fee revenues to pay debt service on transportation general obligation bonds and to make certain loans to the General Fund, with the remaining amount of this portion of revenues allocated 44% to the State Transportation Improvement Program, 12% to the State Highway Operation and Protection Program, and 44% to city and county streets and roads.

This bill would delete the provisions relating to the reimbursement of the State Highway Account for weight fee revenues and relating to the making of loans to the General Fund, thereby providing for the portion of fuel excise tax revenues that is derived from increases in the motor vehicle fuel excise tax in 2010 to be allocated 44% to the State Transportation Improvement Program, 12% to the State Highway Operation and Protection Program, and 44% to city and county streets and roads. The bill would thereby make an appropriation.

(4) Existing law requires certain revenues deposited in the State Highway Account that are not restricted as to expenditure by Article XIX of the California Constitution to be transferred to the Transportation Debt Service Fund in the State Transportation Fund, as specified, and continuously appropriates these funds for payment of current year debt service on certain mass transportation bonds.

This bill would delete the requirement to transfer these revenues to the Transportation Debt Service Fund, thereby providing for these

revenues to be used for any transportation purpose authorized by statute, upon appropriation by the Legislature.

(5) Existing law authorizes the Department of Transportation and regional transportation agencies, as defined, to enter into comprehensive development lease agreements with public and private entities, or consortia of those entities, for certain transportation projects that may charge certain users of those projects tolls and user fees, subject to various terms and requirements. These arrangements are commonly known as public-private partnerships. Existing law provides that a lease agreement may not be entered into under these provisions on or after January 1, 2017.

This bill would delete that date, thereby providing for no lease agreements to be entered into under these provisions after an unspecified date.

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. Section 16321 is added to the Government Code,
2 to read:

3 16321. Notwithstanding any other provision of law, loans of
4 revenues to the General Fund from the State Highway Account,
5 the Public Transportation Account, the Bicycle Transportation
6 Account, the Motor Vehicle Fuel Account, the Highway Users
7 Tax Account, the Pedestrian Safety Account, the Transportation
8 Investment Fund, the Traffic Congestion Relief Fund, the Motor
9 Vehicle Account, and the Local Airport Loan Account shall be
10 repaid, on or before December 31, 2018, to the account or fund
11 from which the loan was made. This section shall apply to all loans
12 that otherwise have a repayment date of January 1, 2019, or later.

13 SEC. 2. Section 16773 of the Government Code is amended
14 to read:

15 16773. (a) Whenever any payment of principal of any bonds
16 shall become due, either upon the maturity of any of the bonds or
17 upon the redemption thereof prior to maturity, and whenever any
18 interest on any of the bonds shall fall due, warrants shall be drawn
19 against the appropriation made by the bond act from the General
20 Fund by the Controller in favor of the Treasurer, or state fiscal

1 agents, or other duly authorized agents, pursuant to claims filed
2 with the Controller by the Treasurer, in the amounts so falling due.

3 (b) For any payments of debt service, as defined in subdivision
4 (c) of Section 998.404 of the Military and Veterans Code, with
5 respect to any bonds issued pursuant to a veterans' farm and home
6 purchase bond act adopted pursuant to Chapter 6 (commencing
7 with Section 980) of Division 4 of the Military and Veterans Code,
8 the Controller shall first draw warrants against the appropriation
9 from the Veterans' Bonds Payment Fund in Section 988.6 of the
10 Military and Veterans Code, and, to the extent moneys in that fund
11 are insufficient to pay the amount of debt service then due, shall
12 draw warrants against the appropriation made by the bond act from
13 the General Fund for payment of any remaining amount then due.

14 ~~(e) (1) For any payments of debt service, as defined in~~
15 ~~paragraph (4) of subdivision (a) of Section 16965, with respect to~~
16 ~~any designated bonds issued pursuant to Proposition 1B, the~~
17 ~~Controller shall first draw warrants against the appropriation from~~
18 ~~the Transportation Bond Direct Payment Account of the~~
19 ~~Transportation Debt Service Fund created by subdivision (a) of~~
20 ~~Section 16965, and, to the extent moneys in that account are~~
21 ~~insufficient to pay the amount of debt service then due, shall draw~~
22 ~~warrants from the General Fund for payment of any remaining~~
23 ~~amount then due against such appropriation as may be available~~
24 ~~therefor, including the appropriation made by Proposition 1B.~~

25 ~~(2) (A) For purposes of this subdivision and Section 16965,~~
26 ~~“Proposition 1B” means the Highway Safety, Traffic Reduction,~~
27 ~~Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49~~
28 ~~(commencing with Section 8879.20) of Division 1).~~

29 ~~(B) For purposes of this subdivision, Section 16965, and Section~~
30 ~~9400.4 of the Vehicle Code, the term “designated bond” means~~
31 ~~any designated bond under Proposition 1B, and the term~~
32 ~~“nondesignated bond” means any bond issued under Proposition~~
33 ~~1B, whether issued before or after the enactment of the act adding~~
34 ~~this subdivision, that is not a designated bond. For purposes of this~~
35 ~~subdivision, a “designated bond” is an issue of bonds (including~~
36 ~~refunding bonds) under Proposition 1B that has been designated~~
37 ~~by the Treasurer upon or prior to its issuance, with the approval~~
38 ~~of the related finance committee, to be paid pursuant to paragraph~~
39 ~~(1).~~

40 SEC. 3. Section 16965 of the Government Code is repealed.

1 16965. (a) (1) ~~The Transportation Debt Service Fund is hereby~~
2 ~~created in the State Treasury. Moneys in the fund shall be dedicated~~
3 ~~to all of the following purposes:~~

4 (A) ~~Payment of debt service with respect to designated bonds,~~
5 ~~as defined in subdivision (e) of Section 16773, and as further~~
6 ~~provided in paragraph (3) and subdivision (b).~~

7 (B) ~~To reimburse the General Fund for debt service with respect~~
8 ~~to bonds.~~

9 (C) ~~To redeem or retire bonds, pursuant to Section 16774,~~
10 ~~maturing in a subsequent fiscal year.~~

11 (2) ~~The bonds eligible under subparagraph (B) or (C) of~~
12 ~~paragraph (1) include issued pursuant to the Clean Air and~~
13 ~~Transportation Improvement Act of 1990 (Part 11.5 (commencing~~
14 ~~with Section 99600) of Division 10 of the Public Utilities Code),~~
15 ~~the Passenger Rail and Clean Air Bond Act of 1990 (Chapter 17~~
16 ~~(commencing with Section 2701) of Division 3 of the Streets and~~
17 ~~Highways Code), the Seismic Retrofit Bond Act of 1996 (Chapter~~
18 ~~12.48 (commencing with Section 8879) of Division 1 of Title 2),~~
19 ~~and the Safe, Reliable High-Speed Passenger Train Bond Act for~~
20 ~~the 21st Century (Chapter 20 (commencing with Section 2704) of~~
21 ~~Division 3 of the Streets and Highways Code), and nondesignated~~
22 ~~bonds under Proposition 1B, as defined in subdivision (e) of~~
23 ~~Section 16773.~~

24 (3) (A) ~~The Transportation Bond Direct Payment Account is~~
25 ~~hereby created in the State Treasury, as a subaccount within the~~
26 ~~Transportation Debt Service Fund, for the purpose of directly~~
27 ~~paying the debt service, as defined in paragraph (4), of designated~~
28 ~~bonds of Proposition 1B, as defined in subdivision (e) of Section~~
29 ~~16773. Notwithstanding Section 13340, moneys in the~~
30 ~~Transportation Bond Direct Payment Account are continuously~~
31 ~~appropriated for payment of debt service with respect to designated~~
32 ~~bonds as provided in subdivision (e) of Section 16773. So long as~~
33 ~~any designated bonds remain outstanding, the moneys in the~~
34 ~~Transportation Bond Direct Payment Account may not be used~~
35 ~~for any other purpose, and may not be borrowed by or available~~
36 ~~for transfer to the General Fund pursuant to Section 16310 or any~~
37 ~~similar law, or to the General Cash Revolving Fund pursuant to~~
38 ~~Section 16381 or any similar law.~~

39 (B) ~~Once the Treasurer makes a certification that payment of~~
40 ~~debt service with respect to all designated bonds has been paid or~~

1 provided for, any remaining moneys in the Transportation Bond
2 Direct Payment Account shall be transferred back to the
3 Transportation Debt Service Fund.

4 (C) The moneys in the Transportation Bond Direct Payment
5 Account shall be invested in the Surplus Money Investment Fund,
6 and all investment earnings shall accrue to the account.

7 (D) The Controller may establish subaccounts within the
8 Transportation Bond Direct Payment Account as may be required
9 by the resolution, indenture, or other documents governing any
10 designated bonds.

11 (4) For purposes of this subdivision and subdivision (b), and
12 subdivision (c) of Section 16773, “debt service” means payment
13 of all of the following costs and expenses with respect to any
14 designated bond:

15 (A) The principal of and interest on the bonds.

16 (B) Amounts payable as the result of tender on any bonds, as
17 described in clause (iv) of subparagraph (B) of paragraph (1) of
18 subdivision (d) of Section 16731.

19 (C) Amounts payable under any contractual obligation of the
20 state to repay advances and pay interest thereon under a credit
21 enhancement or liquidity agreement as described in clause (iv) of
22 subparagraph (B) of paragraph (1) of subdivision (d) of Section
23 16731.

24 (D) Any amount owed by the state to a counterparty after any
25 offset for payments owed to the state on any hedging contract as
26 described in subparagraph (A) of paragraph (2) of subdivision (d)
27 of Section 16731.

28 (b) From the moneys transferred to the fund pursuant to
29 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the
30 Vehicle Code, there shall first be deposited into the Transportation
31 Bond Direct Payment Account in each month sufficient funds to
32 equal the amount designated in a certificate submitted by the
33 Treasurer to the Controller and the Director of Finance at the start
34 of each fiscal year, and as may be modified by the Treasurer
35 thereafter upon issuance of any new issue of designated bonds or
36 upon change in circumstances that requires such a modification.
37 This certificate shall be calculated by the Treasurer to identify, for
38 each month, the amount necessary to fund all of the debt service
39 with respect to all designated bonds. This calculation shall be done
40 in a manner provided in the resolution, indenture, or other

1 documents governing the designated bonds. In the event that
2 transfers to the Transportation Bond Direct Payment Account in
3 any month are less than the amounts required in the Treasurer's
4 certificate, the shortfall shall carry over to be part of the required
5 payment in the succeeding month or months.

6 ~~(e) The state hereby covenants with the holders from time to~~
7 ~~time of any designated bonds that it will not alter, amend, or restrict~~
8 ~~the provisions of subdivision (e) of Section 16773 of the~~
9 ~~Government Code, or Sections 9400, 9400.1, 9400.4, and 42205~~
10 ~~of the Vehicle Code, which provide directly or indirectly for the~~
11 ~~transfer of weight fees to the Transportation Debt Service Fund~~
12 ~~or the Transportation Bond Direct Payment Account, or~~
13 ~~subdivisions (a) and (b) of this section, or reduce the rate of~~
14 ~~imposition of vehicle weight fees under Sections 9400 and 9400.1~~
15 ~~of the Vehicle Code as they existed on the date of the first issuance~~
16 ~~of any designated bonds, if that alteration, amendment, restriction,~~
17 ~~or reduction would result in projected weight fees for the next~~
18 ~~fiscal year determined by the Director of Finance being less than~~
19 ~~two times the maximum annual debt service with respect to all~~
20 ~~outstanding designated bonds, as such calculation is determined~~
21 ~~pursuant to the resolution, indenture, or other documents governing~~
22 ~~the designated bonds. The state may include this covenant in the~~
23 ~~resolution, indenture, or other documents governing the designated~~
24 ~~bonds.~~

25 ~~(d) Once the required monthly deposit, including makeup of~~
26 ~~any shortfalls from any prior month, has been made pursuant to~~
27 ~~subdivision (b), from moneys transferred to the fund pursuant to~~
28 ~~paragraph (2) or (3) of subdivision (e) of Section 9400.4 of the~~
29 ~~Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the~~
30 ~~Controller shall transfer as an expenditure reduction to the General~~
31 ~~Fund any amount necessary to offset the cost of current year debt~~
32 ~~service payments made from the General Fund with respect to any~~
33 ~~bonds issued pursuant to Proposition 192 (1996) and three-quarters~~
34 ~~of the amount of current year debt service payments made from~~
35 ~~the General Fund with respect to any nondesignated bonds, as~~
36 ~~defined in subdivision (e) of Section 16773, issued pursuant to~~
37 ~~Proposition 1B (2006). In the alternative, these funds may also be~~
38 ~~used to redeem or retire the applicable bonds, pursuant to Section~~
39 ~~16774, maturing in a subsequent fiscal year as directed by the~~
40 ~~Director of Finance.~~

1 ~~(e) From moneys transferred to the fund pursuant to Section~~
2 ~~183.1 of the Streets and Highways Code, the Controller shall~~
3 ~~transfer as an expenditure reduction to the General Fund any~~
4 ~~amount necessary to offset the cost of current year debt service~~
5 ~~payments made from the General Fund with respect to any bonds~~
6 ~~issued pursuant to Proposition 116 (1990). In the alternative, these~~
7 ~~funds may also be used to redeem or retire the applicable bonds,~~
8 ~~pursuant to Section 16774, maturing in a subsequent fiscal year~~
9 ~~as directed by the Director of Finance.~~

10 ~~(f) Once the required monthly deposit, including makeup of any~~
11 ~~shortfalls from any prior month, has been made pursuant to~~
12 ~~subdivision (b), from moneysmoneys transferred to the fund~~
13 ~~pursuant to paragraph (2) or (3) of subdivision (c) of Section 9400.4~~
14 ~~of the Vehicle Code, or pursuant to Section 16965.1 or 63048.67,~~
15 ~~the Controller shall transfer as an expenditure reduction to the~~
16 ~~General Fund any amount necessary to offset the eligible cost of~~
17 ~~current year debt service payments made from the General Fund~~
18 ~~with respect to any bonds issued pursuant to Proposition 108 (1990)~~
19 ~~and Proposition 1A (2008), and one-quarter of the amount of~~
20 ~~current year debt service payments made from the General Fund~~
21 ~~with respect to any nondesignated bonds, as defined in subdivision~~
22 ~~(e) of Section 16773, issued pursuant to Proposition 1B (2006).~~
23 ~~The Department of Finance shall notify the Controller by July 30~~
24 ~~of every year of the percentage of debt service that is expected to~~
25 ~~be paid in that fiscal year with respect to bond-funded projects that~~
26 ~~qualify as eligible guideway projects consistent with the~~
27 ~~requirements applicable to the expenditure of revenues under~~
28 ~~Article XIX of the California Constitution, and the Controller shall~~
29 ~~make payments only for those eligible projects. In the alternative,~~
30 ~~these funds may also be used to redeem or retire the applicable~~
31 ~~bonds, pursuant to Section 16774, maturing in a subsequent fiscal~~
32 ~~year as directed by the Director of Finance.~~

33 ~~(g) On or before the second business day following the date on~~
34 ~~which transfers are made to the Transportation Debt Service Fund,~~
35 ~~and after the required monthly deposits for that month, including~~
36 ~~makeup of any shortfalls from any prior month, have been made~~
37 ~~to the Transportation Bond Direct Payment Account, the Controller~~
38 ~~shall transfer the funds designated for reimbursement of bond debt~~
39 ~~service with respect to nondesignated bonds, as defined in~~
40 ~~subdivision (e) of Section 16773, and other bonds identified in~~

1 subdivisions (d), (e), and (f) in that month from the fund to the
2 General Fund pursuant to this section:

3 SEC. 4. Section 16965.1 of the Government Code is amended
4 to read:

5 16965.1. (a) (1) The loan repayment dates relative to State
6 Highway Account loans to the General Fund that are specified in
7 the provisional language of the following Budget Act items are
8 hereby eliminated, and the Director of Finance may repay any
9 remaining portion of the outstanding balance of these loans in any
10 year in which the director determines the funds are needed to
11 reimburse the General Fund for debt service or to redeem or defease
12 bonds maturing in a subsequent fiscal year, provided that the loans
13 shall be repaid no later than ~~June 30, 2024~~: *December 31, 2018*:

14 (A) Item 2660-011-0042 of Section 2.00 of the Budget Act of
15 2010 (SB 870, Chapter 712 of the Statutes of 2010).

16 (B) Item 2660-013-0042 of Section 2.00 of the Budget Act of
17 2010, as added by Section 6 of SB 84 (Chapter 13 of the Statutes
18 of 2011).

19 (C) Item 2660-013-0042 of Section 2.00 of the Budget Act of
20 2011, as contained in SB 69 of the 2011–12 Regular Session, if
21 that provision is enacted.

22 (2) All funds loaned pursuant to the provisions referenced in
23 subparagraphs (A), (B), and (C) of paragraph (1) are hereby
24 determined to have been from weight fee revenues in the State
25 Highway Account fund balance. ~~Upon repayment of those loans
26 to the State Highway Account, those funds shall be immediately
27 transferred by the Controller to the Transportation Debt Service
28 Fund for use pursuant to Section 16965.~~

29 (b) The loan repayment date relative to the Public Transportation
30 Account that is specified in the provisional language in Item
31 2660-011-0046 of Section 2.00 of the Budget Act of 2010 (SB
32 870, Chapter 712 of the Statutes of 2010), is hereby eliminated,
33 and the loan pursuant to this item shall instead be repaid by ~~June
34 30, 2024~~: *December 31, 2018*.

35 SEC. 5. Section 63048.67 of the Government Code is amended
36 to read:

37 63048.67. The loans made from the State Highway Account
38 through the Traffic Congestion Relief Fund to the General Fund
39 that are referenced in clause (i) of subparagraph (A) of paragraph
40 (1) of subdivision (c) of Section 63048.65 are hereby determined

1 to have been from weight fee revenues in the State Highway
 2 Account fund balance. ~~Any repayments made to the State Highway~~
 3 ~~Account pursuant to subdivision (c) of Section 63048.65, upon~~
 4 ~~transfer of those funds to the State Highway Account, shall be~~
 5 ~~immediately transferred by the Controller from the State Highway~~
 6 ~~Account to the Transportation Debt Service Fund for use pursuant~~
 7 ~~to Section 16965.~~

8 SEC. 6. Section 143 of the Streets and Highways Code is
 9 amended to read:

10 143. (a) (1) “Best value” means a value determined by
 11 objective criteria, including, but not limited to, price, features,
 12 functions, life-cycle costs, and other criteria deemed appropriate
 13 by the department or the regional transportation agency.

14 (2) “Contracting entity or lessee” means a public or private
 15 entity, or consortia thereof, that has entered into a comprehensive
 16 development lease agreement with the department or a regional
 17 transportation agency for a transportation project pursuant to this
 18 section.

19 (3) “Design-build” means a procurement process in which both
 20 the design and construction of a project are procured from a single
 21 entity.

22 (4) “Regional transportation agency” means any of the
 23 following:

24 (A) A transportation planning agency as defined in Section
 25 29532 or 29532.1 of the Government Code.

26 (B) A county transportation commission as defined in Section
 27 130050, 130050.1, or 130050.2 of the Public Utilities Code.

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

30 (D) A joint exercise of powers authority as defined in Chapter
 31 5 (commencing with Section 6500) of Division 7 of Title 1 of the
 32 Government Code, with the consent of a transportation planning
 33 agency or a county transportation commission for the jurisdiction
 34 in which the transportation project will be developed.

35 (5) “Public Infrastructure Advisory Commission” means a unit
 36 or auxiliary organization established by the ~~Business,~~
 37 ~~Transportation and Housing~~ Agency that advises the department
 38 and regional transportation agencies in developing transportation
 39 projects through performance-based infrastructure partnerships.

1 (6) “Transportation project” means one or more of the following:
2 planning, design, development, finance, construction,
3 reconstruction, rehabilitation, improvement, acquisition, lease,
4 operation, or maintenance of highway, public street, rail, or related
5 facilities supplemental to existing facilities currently owned and
6 operated by the department or regional transportation agencies
7 that is consistent with the requirements of subdivision (c).

8 (b) (1) The Public Infrastructure Advisory Commission shall
9 do all of the following:

10 (A) Identify transportation project opportunities throughout the
11 state.

12 (B) Research and document similar transportation projects
13 throughout the state, nationally, and internationally, and further
14 identify and evaluate lessons learned from these projects.

15 (C) Assemble and make available to the department or regional
16 transportation agencies a library of information, precedent,
17 research, and analysis concerning infrastructure partnerships and
18 related types of public-private transactions for public infrastructure.

19 (D) Advise the department and regional transportation agencies,
20 upon request, regarding infrastructure partnership suitability and
21 best practices.

22 (E) Provide, upon request, procurement-related services to the
23 department and regional transportation agencies for infrastructure
24 partnership.

25 (2) The Public Infrastructure Advisory Commission may charge
26 a fee to the department and regional transportation agencies for
27 the services described in subparagraphs (D) and (E) of paragraph
28 (1), the details of which shall be articulated in an agreement entered
29 into between the Public Infrastructure Advisory Commission and
30 the department or the regional transportation agency.

31 (c) (1) Notwithstanding any other provision of law, only the
32 department, in cooperation with regional transportation agencies,
33 and regional transportation agencies, may solicit proposals, accept
34 unsolicited proposals, negotiate, and enter into comprehensive
35 development lease agreements with public or private entities, or
36 consortia thereof, for transportation projects.

37 (2) Projects proposed pursuant to this section and associated
38 lease agreements shall be submitted to the California Transportation
39 Commission. The commission, at a regularly scheduled public
40 hearing, shall select the candidate projects from projects nominated

1 by the department or a regional transportation agency after
2 reviewing the nominations for consistency with paragraphs (3)
3 and (4). Approved projects may proceed with the process described
4 in paragraph (5).

5 (3) The projects authorized pursuant to this section shall be
6 primarily designed to achieve the following performance
7 objectives:

8 (A) Improve mobility by improving travel times or reducing
9 the number of vehicle hours of delay in the affected corridor.

10 (B) Improve the operation or safety of the affected corridor.

11 (C) Provide quantifiable air quality benefits for the region in
12 which the project is located.

13 (4) In addition to meeting the requirements of paragraph (3),
14 the projects authorized pursuant to this section shall address a
15 known forecast demand, as determined by the department or
16 regional transportation agency.

17 (5) At least 60 days prior to executing a final lease agreement
18 authorized pursuant to this section, the department or regional
19 transportation agency shall submit the agreement to the Legislature
20 and the Public Infrastructure Advisory Commission for review.
21 Prior to submitting a lease agreement to the Legislature and the
22 Public Infrastructure Advisory Commission, the department or
23 regional transportation agency shall conduct at least one public
24 hearing at a location at or near the proposed facility for purposes
25 of receiving public comment on the lease agreement. Public
26 comments made during this hearing shall be submitted to the
27 Legislature and the Public Infrastructure Advisory Commission
28 with the lease agreement. The Secretary of ~~Business, Transportation~~
29 ~~and Housing~~ *Transportation* or the chairperson of the Senate or
30 Assembly fiscal committees or policy committees with jurisdiction
31 over transportation matters may, by written notification to the
32 department or regional transportation agency, provide any
33 comments about the proposed agreement within the 60-day period
34 prior to the execution of the final agreement. The department or
35 regional transportation agency shall consider those comments prior
36 to executing a final agreement and shall retain the discretion for
37 executing the final lease agreement.

38 (d) For the purpose of facilitating those projects, the agreements
39 between the parties may include provisions for the lease of
40 rights-of-way in, and airspace over or under, highways, public

1 streets, rail, or related facilities for the granting of necessary
2 easements, and for the issuance of permits or other authorizations
3 to enable the construction of transportation projects. Facilities
4 subject to an agreement under this section shall, at all times, be
5 owned by the department or the regional transportation agency,
6 as appropriate. For department projects, the commission shall
7 certify the department's determination of the useful life of the
8 project in establishing the lease agreement terms. In consideration
9 therefor, the agreement shall provide for complete reversion of the
10 leased facility, together with the right to collect tolls and user fees,
11 to the department or regional transportation agency, at the
12 expiration of the lease at no charge to the department or regional
13 transportation agency. At the time of the reversion, the facility
14 shall be delivered to the department or regional transportation
15 agency, as applicable, in a condition that meets the performance
16 and maintenance standards established by the department or
17 regional transportation agency and that is free of any encumbrance,
18 lien, or other claims.

19 (e) Agreements between the department or regional
20 transportation agency and the contracting entity or lessee shall
21 authorize the contracting entity or lessee to use a design-build
22 method of procurement for transportation projects, subject to the
23 requirements for utilizing such a method contained in Chapter 6.5
24 (commencing with Section ~~6800~~ 6820) of Part 1 of Division 2 of
25 the Public Contract Code, other than Sections ~~6802, 6803, 6821~~
26 and ~~6813~~ 6822 of that code, if those provisions are enacted by the
27 Legislature during the ~~2009-10 Regular Session, or a 2009-10~~
28 ~~extraordinary session.~~ *code.*

29 (f) (1) (A) Notwithstanding any other provision of this chapter,
30 for projects on the state highway system, the department is the
31 responsible agency for the performance of project development
32 services, including performance specifications, preliminary
33 engineering, prebid services, the preparation of project reports and
34 environmental documents, and construction inspection services.
35 The department is also the responsible agency for the preparation
36 of documents that may include, but need not be limited to, the size,
37 type, and desired design character of the project, performance
38 specifications covering the quality of materials, equipment, and
39 workmanship, preliminary plans, and any other information deemed

1 necessary to describe adequately the needs of the department or
2 regional transportation agency.

3 (B) The department may use department employees or
4 consultants to perform the services described in subparagraph (A),
5 consistent with Article XXII of the California Constitution.
6 Department resources, including personnel requirements, necessary
7 for the performance of those services shall be included in the
8 department's capital outlay support program for workload purposes
9 in the annual Budget Act.

10 (2) The department or a regional transportation agency may
11 exercise any power possessed by it with respect to transportation
12 projects to facilitate the transportation projects pursuant to this
13 section. The department, regional transportation agency, and other
14 state or local agencies may provide services to the contracting
15 entity or lessee for which the public entity is reimbursed, including,
16 but not limited to, planning, environmental planning, environmental
17 certification, environmental review, preliminary design, design,
18 right-of-way acquisition, construction, maintenance, and policing
19 of these transportation projects. The department or regional
20 transportation agency, as applicable, shall regularly inspect the
21 facility and require the contracting entity or lessee to maintain and
22 operate the facility according to adopted standards. Except as may
23 otherwise be set forth in the lease agreement, the contracting entity
24 or lessee shall be responsible for all costs due to development,
25 maintenance, repair, rehabilitation, and reconstruction, and
26 operating costs.

27 (g) (1) In selecting private entities with which to enter into
28 these agreements, notwithstanding any other provision of law, the
29 department and regional transportation agencies may utilize, but
30 are not limited to utilizing, one or more of the following
31 procurement approaches:

32 (A) Solicitations of proposals for defined projects and calls for
33 project proposals within defined parameters.

34 (B) Prequalification and short-listing of proposers prior to final
35 evaluation of proposals.

36 (C) Final evaluation of proposals based on qualifications and
37 best value. The California Transportation Commission shall
38 develop and adopt criteria for making that evaluation prior to
39 evaluation of a proposal.

40 (D) Negotiations with proposers prior to award.

1 (E) Acceptance of unsolicited proposals, with issuance of
2 requests for competing proposals. Neither the department nor a
3 regional transportation agency may award a contract to an
4 unsolicited bidder without receiving at least one other responsible
5 bid.

6 (2) When evaluating a proposal submitted by the contracting
7 entity or lessee, the department or the regional transportation
8 agency may award a contract on the basis of the lowest bid or best
9 value.

10 (h) The contracting entity or lessee shall have the following
11 qualifications:

12 (1) Evidence that the members of the contracting entity or lessee
13 have completed, or have demonstrated the experience, competency,
14 capability, and capacity to complete, a project of similar size,
15 scope, or complexity, and that proposed key personnel have
16 sufficient experience and training to competently manage and
17 complete the design and construction of the project, and a financial
18 statement that ensures that the contracting entity or lessee has the
19 capacity to complete the project.

20 (2) The licenses, registration, and credentials required to design
21 and construct the project, including, but not limited to, information
22 on the revocation or suspension of any license, credential, or
23 registration.

24 (3) Evidence that establishes that members of the contracting
25 entity or lessee have the capacity to obtain all required payment
26 and performance bonding, liability insurance, and errors and
27 omissions insurance.

28 (4) Evidence that the contracting entity or lessee has workers'
29 compensation experience, history, and a worker safety program
30 of members of the contracting entity or lessee that is acceptable
31 to the department or regional transportation agency.

32 (5) A full disclosure regarding all of the following with respect
33 to each member of the contracting entity or lessee during the past
34 five years:

35 (A) Any serious or willful violation of Part 1 (commencing with
36 Section 6300) of Division 5 of the Labor Code or the federal
37 Occupational Safety and Health Act of 1970 (~~P.L.~~ *Public Law*
38 91-596).

1 (B) Any instance where members of the contracting entity or
2 lessee were debarred, disqualified, or removed from a federal,
3 state, or local government public works project.

4 (C) Any instance where members of the contracting entity or
5 lessee, or its owners, officers, or managing employees submitted
6 a bid on a public works project and were found to be nonresponsive
7 or were found by an awarding body not to be a responsible bidder.

8 (D) Any instance where members of the contracting entity or
9 lessee, or its owners, officers, or managing employees defaulted
10 on a construction contract.

11 (E) Any violations of the Contractors' State License Law
12 (Chapter 9 (commencing with Section 7000) of Division 3 of the
13 Business and Professions Code), including, but not limited to,
14 alleged violations of federal or state law regarding the payment of
15 wages, benefits, apprenticeship requirements, or personal income
16 tax withholding, or Federal Insurance Contributions Act (FICA)
17 withholding requirements.

18 (F) Any bankruptcy or receivership of any member of the
19 contracting entity or lessee, including, but not limited to,
20 information concerning any work completed by a surety.

21 (G) Any settled adverse claims, disputes, or lawsuits between
22 the owner of a public works project and any member of the
23 contracting entity or lessee during the five years preceding
24 submission of a bid under this article, in which the claim,
25 settlement, or judgment exceeds fifty thousand dollars (\$50,000).
26 Information shall also be provided concerning any work completed
27 by a surety during this five-year period.

28 (H) If the contracting entity or lessee is a partnership, joint
29 venture, or an association that is not a legal entity, a copy of the
30 agreement creating the partnership or association that specifies
31 that all general partners, joint venturers, or association members
32 agree to be fully liable for the performance under the agreement.

33 (i) No agreement entered into pursuant to this section shall
34 infringe on the authority of the department or a regional
35 transportation agency to develop, maintain, repair, rehabilitate,
36 operate, or lease any transportation project. Lease agreements may
37 provide for reasonable compensation to the contracting entity or
38 lessee for the adverse effects on toll revenue or user fee revenue
39 due to the development, operation, or lease of supplemental
40 transportation projects with the exception of any of the following:

1 (1) Projects identified in regional transportation plans prepared
2 pursuant to Section 65080 of the Government Code.

3 (2) Safety projects.

4 (3) Improvement projects that will result in incidental capacity
5 increases.

6 (4) Additional high-occupancy vehicle lanes or the conversion
7 of existing lanes to high-occupancy vehicle lanes.

8 (5) Projects located outside the boundaries of a public-private
9 partnership project, to be defined by the lease agreement.

10 However, compensation to a contracting entity or lessee shall
11 only be made after a demonstrable reduction in use of the facility
12 resulting in reduced toll or user fee revenues, and may not exceed
13 the difference between the reduction in those revenues and the
14 amount necessary to cover the costs of debt service, including
15 principal and interest on any debt incurred for the development,
16 operation, maintenance, or rehabilitation of the facility.

17 (j) (1) Agreements entered into pursuant to this section shall
18 authorize the contracting entity or lessee to impose tolls and user
19 fees for use of a facility constructed by it, and shall require that
20 over the term of the lease the toll revenues and user fees be applied
21 to payment of the capital outlay costs for the project, the costs
22 associated with operations, toll and user fee collection,
23 administration of the facility, reimbursement to the department or
24 other governmental entity for the costs of services to develop and
25 maintain the project, police services, and a reasonable return on
26 investment. The agreement shall require that, notwithstanding
27 Sections 164, 188, and 188.1, any excess toll or user fee revenue
28 either be applied to any indebtedness incurred by the contracting
29 entity or lessee with respect to the project, improvements to the
30 project, or be paid into the State Highway Account, or for all three
31 purposes, except that any excess toll revenue under a lease
32 agreement with a regional transportation agency may be paid to
33 the regional transportation agency for use in improving public
34 transportation in and near the project boundaries.

35 (2) Lease agreements shall establish specific toll or user fee
36 rates. Any proposed increase in those rates not otherwise
37 established or identified in the lease agreement during the term of
38 the agreement shall first be approved by the department or regional
39 transportation agency, as appropriate, after at least one public

1 hearing conducted at a location near the proposed or existing
2 facility.

3 (3) The collection of tolls and user fees for the use of these
4 facilities may be extended by the commission or regional
5 transportation agency at the expiration of the lease agreement.
6 However, those tolls or user fees shall not be used for any purpose
7 other than for the improvement, continued operation, or
8 maintenance of the facility.

9 (k) Agreements entered into pursuant to this section shall include
10 indemnity, defense, and hold harmless provisions agreed to by the
11 department or regional transportation agency and the contracting
12 entity or lessee, including provisions for indemnifying the State
13 of California or the regional transportation agency against any
14 claims or losses resulting or accruing from the performance of the
15 contracting entity or lessee.

16 (l) The plans and specifications for each transportation project
17 on the state highway system developed, maintained, repaired,
18 rehabilitated, reconstructed, or operated pursuant to this section
19 shall comply with the department's standards for state
20 transportation projects. The lease agreement shall include
21 performance standards, including, but not limited to, levels of
22 service. The agreement shall require facilities on the state highway
23 system to meet all requirements for noise mitigation, landscaping,
24 pollution control, and safety that otherwise would apply if the
25 department were designing, building, and operating the facility.
26 If a facility is on the state highway system, the facility leased
27 pursuant to this section shall, during the term of the lease, be
28 deemed to be a part of the state highway system for purposes of
29 identification, maintenance, enforcement of traffic laws, and for
30 the purposes of Division 3.6 (commencing with Section 810) of
31 Title 1 of the Government Code.

32 (m) Failure to comply with the lease agreement in any significant
33 manner shall constitute a default under the agreement and the
34 department or the regional transportation agency, as appropriate,
35 shall have the option to initiate processes to revert the facility to
36 the public agency.

37 (n) The assignment authorized by subdivision (c) of Section
38 130240 of the Public Utilities Code is consistent with this section.

39 (o) A lease to a private entity pursuant to this section is deemed
40 to be public property for a public purpose and exempt from

1 leasehold, real property, and ad valorem taxation, except for the
2 use, if any, of that property for ancillary commercial purposes.

3 (p) Nothing in this section is intended to infringe on the authority
4 to develop high-occupancy toll lanes pursuant to Section 149.4,
5 149.5, or 149.6.

6 (q) Nothing in this section shall be construed to allow the
7 conversion of any existing nontoll or nonuser-fee lanes into tolled
8 or user fee lanes with the exception of a high-occupancy vehicle
9 lane that may be operated as a high-occupancy toll lane for vehicles
10 not otherwise meeting the requirements for use of that lane.

11 (r) The lease agreement shall require the contracting entity or
12 lessee to provide any information or data requested by the
13 California Transportation Commission or the Legislative Analyst.
14 The commission, in cooperation with the Legislative Analyst, shall
15 annually prepare a report on the progress of each project and
16 ultimately on the operation of the resulting facility. The report
17 shall include, but not be limited to, a review of the performance
18 standards, a financial analysis, and any concerns or
19 recommendations for changes in the program authorized by this
20 section.

21 (s) Notwithstanding any other provision of this section, no lease
22 agreement may be entered into pursuant to the section that affects,
23 alters, or supersedes the Memorandum of Understanding (MOU),
24 dated November 26, 2008, entered into by the Golden Gate Bridge
25 Highway and Transportation District, the Metropolitan
26 Transportation Commission, and the San Francisco County
27 Transportation Authority, relating to the financing of the U.S.
28 Highway 101/Doyle Drive reconstruction project located in the
29 City and County of San Francisco.

30 (t) No lease agreements may be entered into under this section
31 on or after January 1, 2017 ____.

32 SEC. 7. Section 183.1 of the Streets and Highways Code is
33 amended to read:

34 183.1. ~~(a)~~Notwithstanding subdivision (a) of Section 182 or
35 any other provision of law, money deposited into the account that
36 is not subject to Article XIX of the California Constitution,
37 including, but not limited to, money that is derived from the sale
38 of documents, charges for miscellaneous services to the public,
39 condemnation deposits fund investments, rental of state property,
40 or any other miscellaneous uses of property or money, may be

1 used for any transportation purpose authorized by statute, upon
2 appropriation by the Legislature or, after transfer to another fund,
3 upon appropriation by the Legislature from that fund.

4 ~~(b) Commencing with the 2013-14 fiscal year, and not later~~
5 ~~than November 1 of each fiscal year thereafter, based on prior year~~
6 ~~financial statements, the Controller shall transfer the funds~~
7 ~~identified in subdivision (a) for the prior fiscal year from the State~~
8 ~~Highway Account to the Transportation Debt Service Fund in the~~
9 ~~State Transportation Fund, and those funds are continuously~~
10 ~~appropriated for the purposes specified for the Transportation Debt~~
11 ~~Service Fund.~~

12 SEC. 8. Section 2103 of the Streets and Highways Code is
13 amended to read:

14 2103. (a) Notwithstanding Section 13340 of the Government
15 Code, of the net revenues deposited to the credit of the Highway
16 Users Tax Account that are derived from the increases in the rates
17 of taxes that are imposed pursuant to subdivision (b) of Section
18 7360 and Section 7361.1 of the Revenue and Taxation Code, all
19 of the following shall occur on a monthly basis:

20 ~~(1) (A) By the 15th day of every month, the Treasurer's office,~~
21 ~~in consultation with the Department of Finance, shall notify the~~
22 ~~Controller of the amount of debt service that will be paid on each~~
23 ~~transportation bond during that month.~~

24 ~~(B) Within two business days following the 28th day of each~~
25 ~~month, the Controller shall transfer to the Transportation Debt~~
26 ~~Service Fund an amount equal to the amount of monthly debt~~
27 ~~service paid by the General Fund on any bonds issued pursuant to~~
28 ~~the Seismic Retrofit Bond Act of 1996 (Chapter 12.48~~
29 ~~(commencing with Section 8879) of Division 1 of Title 2 of the~~
30 ~~Government Code) or any other bonds issued for highway or~~
31 ~~eligible guideway projects consistent with the requirements~~
32 ~~applicable to the expenditure of revenues under Article XIX of the~~
33 ~~California Constitution as identified by the Department of Finance~~
34 ~~pursuant to Section 16965 of the Government Code, and~~
35 ~~three-quarters of the amount of monthly debt service paid on any~~
36 ~~bonds issued pursuant to the Highway Safety, Traffic Reduction,~~
37 ~~Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49~~
38 ~~(commencing with Section 8879.20) of Division 1 of Title 2) for~~
39 ~~reimbursement of the General Fund for these costs. If revenues~~
40 ~~available pursuant to this subdivision in any given month are~~

1 insufficient to fully reimburse the General Fund for the debt service
2 payments made, the first revenues available pursuant to this
3 subdivision in the following month or months shall be transferred
4 to the Transportation Debt Service Fund so that all debt service
5 payments made on these bonds from the General Fund in a given
6 fiscal year are fully reimbursed. However, no further transfers
7 shall be made pursuant to this subparagraph once the transfers for
8 the months of July to October, inclusive, in 2010 have been made.
9 Any transfers made from the net revenues identified in this
10 paragraph for highway and eligible guideway bond debt service
11 for months after October 2010 shall be reversed and shall instead
12 be made from weight fee revenues in the State Highway Account,
13 as described in subparagraph (F).

14 (C) Beginning November 2, 2010, the Controller shall transfer
15 to the State Highway Account within two business days following
16 the 28th day of each month all of the monthly net revenues
17 identified in subparagraph (B) that were designated for highway
18 and eligible guideway bond debt service reimbursement but that
19 have not been transferred, or that were transferred by means of a
20 transfer that was reversed, pursuant to that subparagraph. To the
21 extent the Controller has distributed any of those net revenues to
22 cities and counties pursuant to subparagraph (C) of paragraph (3)
23 between November 2, 2010, and March 24, 2011, the Controller
24 shall subsequently reduce the amount transferred to cities and
25 counties on a monthly basis pursuant to subparagraph (C) of
26 paragraph (3) and shall instead transfer these funds to the State
27 Highway Account until all of the revenues that would otherwise
28 have been transferred to the State Highway Account on and after
29 November 2, 2010, pursuant to this subparagraph have been so
30 transferred. For the 2011-12 fiscal year, the Controller shall
31 transfer to the State Highway Account within two business days
32 following the 28th day of each month an amount equal to the
33 weight fee revenues transferred to the Transportation Debt Service
34 Fund pursuant to subdivision (b) of Section 9400.4 of the Vehicle
35 Code, including forty-three million seven hundred thousand dollars
36 (\$43,700,000) authorized pursuant to Item 2660-013-0042 of
37 Section 2.00 of the Budget Act of 2011 and an amount equal to
38 weight fee revenues transferred to the General Fund as a loan
39 pursuant to subdivision (b) of Section 9400.4 of the Vehicle Code.
40 To the extent the Controller has distributed any of those revenues

1 to cities and counties pursuant to subparagraph (C) of paragraph
2 (3), the Controller shall subsequently reduce the amount transferred
3 to cities and counties on a monthly basis pursuant to subparagraph
4 (C) of paragraph (3) and instead transfer these funds to the State
5 Highway Account until all of the revenues that would otherwise
6 have been transferred to the State Highway Account in the 2011–12
7 fiscal year pursuant to this subparagraph have been so transferred.

8 (D) Notwithstanding subparagraph (C), commencing with the
9 2012–13 fiscal year and every fiscal year thereafter, the Controller
10 shall transfer to the State Highway Account within two business
11 days following the 28th day of each month an amount equal to the
12 amount of weight fee revenues transferred to the Transportation
13 Debt Service Fund for highway and eligible guideway bond debt
14 service and to the General Fund as a loan pursuant to subdivision
15 (e) of Section 9400.4 of the Vehicle Code.

16 (E) Beginning July 1, 2011, transfers made under subparagraphs
17 (C) and (D) during a fiscal year shall not exceed the annual revenue
18 generated from weight fees, as determined by Sections 9400.4 and
19 42205 of the Vehicle Code, at the rates in effect as of March 24,
20 2011, as determined by the Department of Finance.

21 (F) Any remaining amount of the highway or eligible guideway
22 bond debt service reimbursement authorized by this paragraph that
23 has not been made pursuant to subparagraph (B) on and after
24 November 2, 2010, shall instead be made pursuant to subdivisions
25 (a), (b), and (c) of Section 9400.4 of the Vehicle Code from
26 revenues in the State Highway Account derived from weight fees
27 deposited in the account pursuant to subdivision (e) of Section
28 9400.1 and Section 42205 of the Vehicle Code.

29 (2) (A) In the 2010–11 fiscal year, after the monthly transfer
30 made pursuant to paragraph (1), the sum of fifty-four million one
31 hundred sixty-seven thousand dollars (\$54,167,000) per month
32 shall be held in the account for future appropriation by the
33 Legislature.

34 (B) Notwithstanding any other provision of law, with respect
35 to the monthly net revenues described in subparagraph (A), no
36 further transfers of these revenues for the purpose of loans to the
37 General Fund shall be made pursuant to Item 2660-011-0062 of
38 Section 2.00 of the Budget Act of 2010 once the loan transfers for
39 the months of July to October, inclusive, in 2010 have been made.
40 Notwithstanding the loan repayment date specified in the

1 provisional language for that item, the funds loaned shall be repaid
2 by June 30, 2021. Any transfers made from the monthly net
3 revenues in subparagraph (A) for months after October 2010 shall
4 be reversed and shall instead be made from weight fee revenues
5 in the State Highway Account, as described in subparagraph (D).
6 The revenues from loan repayments shall be held in the Highway
7 Users Tax Account for future appropriation by the Legislature.

8 (C) Beginning November 2, 2010, all of the monthly net
9 revenues described in subparagraph (A) shall instead be transferred
10 by the Controller to the State Highway Account within two
11 business days following the 28th day of each month. To the extent
12 that the Controller has distributed any of the revenues identified
13 in this paragraph to cities and counties pursuant to subparagraph
14 (C) of paragraph (3) between October 14, 2010, and March 24,
15 2011, the Controller shall subsequently reduce the amount
16 transferred to cities and counties on a monthly basis pursuant to
17 subparagraph (C) of paragraph (3) and shall instead transfer these
18 funds to the State Highway Account until all of the revenues that
19 would have been transferred to the General Fund as a loan pursuant
20 to Item 2660-011-0062 of Section 2.00 of the Budget Act of 2010
21 on and after November 2, 2010, have instead been transferred to
22 the State Highway Account.

23 (D) Any remaining amount of the loans to the General Fund
24 authorized pursuant to Item 2660-011-0062 of Section 2.00 of the
25 Budget Act of 2010 that has not been made pursuant to
26 subparagraph (B) on and after November 2, 2010, shall instead be
27 made pursuant to subdivisions (a), (b), and (c) of Section 9400.4
28 of the Vehicle Code from revenues in the State Highway Account
29 derived from weight fees deposited in the account pursuant to
30 subdivision (c) of Section 9400.1 and Section 42205 of the Vehicle
31 Code.

32 (3) The Controller shall transfer any remaining net revenues
33 subject to this subdivision as follows:

34 (A)

35 (1) Forty-four percent shall be transferred by the Controller to
36 the State Highway Account to fund projects in the State
37 Transportation Improvement Program that are consistent with
38 Section 12 of Article XIX of the California Constitution, except
39 in the 2010-11 fiscal year, 50 percent shall be transferred for
40 purposes of this subparagraph. *Constitution.*

1 ~~(B)~~
 2 (2) Twelve percent shall be transferred to the State Highway
 3 Account to fund projects in the State Highway Operation and
 4 Protection Program, ~~except in the 2010–11 fiscal year, no revenues~~
 5 ~~shall be transferred for purposes of this subparagraph. Program.~~

6 ~~(C)~~
 7 (3) Forty-four percent shall be apportioned by the Controller
 8 for local street and road purposes, ~~except in the 2010–11 fiscal~~
 9 ~~year, 50 percent shall be transferred for purposes of this~~
 10 ~~subparagraph as follows:~~

11 ~~(i)~~
 12 (A) Fifty percent shall be apportioned by the Controller to cities,
 13 including a city and county, in the proportion that the total
 14 population of the city bears to the total population of all the cities
 15 in the state.

16 ~~(ii)~~
 17 (B) Fifty percent shall be apportioned by the Controller to
 18 counties, including a city and county, in accordance with the
 19 following formulas:

20 ~~(i)~~
 21 (i) Seventy-five percent shall be apportioned among the counties
 22 in the proportion that the number of fee-paid and exempt vehicles
 23 that are registered in the county bear to the number of fee-paid and
 24 exempt vehicles registered in the state.

25 ~~(ii)~~
 26 (ii) Twenty-five percent shall be apportioned among the counties
 27 in the proportion that the number of miles of maintained county
 28 roads in each county bear to the total number of miles of
 29 maintained county roads in the state. For the purposes of
 30 apportioning funds under this subparagraph, any roads within the
 31 boundaries of a city and county that are not state highways shall
 32 be deemed to be county roads.

33 (b) After the transfers or other actions pursuant to subdivision
 34 (a), at least 90 percent of the balance deposited to the credit of the
 35 Highway Users Tax Account in the Transportation Tax Fund by
 36 the 28th day of each month shall be apportioned or transferred, as
 37 applicable, by the Controller by the second working day thereafter,
 38 except for June, in which case the apportionment or transfer shall
 39 be made the same day. These apportionments or transfers shall be
 40 made as provided for in Sections 2104 to 2122, inclusive. If

1 information is not available to make the apportionment or transfer
2 as required, the apportionment or transfer shall be made on the
3 basis of the information of the previous month. Amounts not
4 apportioned or transferred shall be included in the apportionment
5 or transfer of the subsequent month.

6 (c) Notwithstanding any other law, the funds apportioned by
7 the Controller to cities and counties pursuant to ~~subparagraph (C)~~
8 of paragraph (3) of subdivision (a) are not subject to Section 7104
9 or 7104.2 of the Revenue and Taxation Code. These funds may
10 be expended for any street and road purpose consistent with the
11 requirements of this chapter.

12 SEC. 9. Section 9400.1 of the Vehicle Code is amended to
13 read:

14 9400.1. (a) (1) In addition to any other required fee, there
15 shall be paid the fees set forth in this section for the registration
16 of commercial motor vehicles operated either singly or in
17 combination with a declared gross vehicle weight of 10,001 pounds
18 or more. Pickup truck and electric vehicle weight fees are not
19 calculated under this section.

20 (2) The weight of a vehicle issued an identification plate
21 pursuant to an application under Section 5014, and the weight of
22 an implement of husbandry as defined in Section 36000, shall not
23 be considered when calculating, pursuant to this section, the
24 declared gross vehicle weight of a towing commercial motor
25 vehicle that is owned and operated exclusively by a farmer or an
26 employee of a farmer in the conduct of agricultural operations.

27 (3) Tow trucks that are utilized to render assistance to the
28 motoring public or to tow or carry impounded vehicles shall pay
29 fees in accordance with this section, except that the fee calculation
30 shall be based only on the gross vehicle weight rating of the towing
31 or carrying vehicle. Upon each initial or transfer application for
32 registration of a tow truck described in this paragraph, the
33 registered owner or lessee or that owner's or lessee's designee,
34 shall certify to the department the gross vehicle weight rating of
35 the tow truck:

Gross Vehicle Weight Range	Fee
10,001–15,000	\$ 257
15,001–20,000	353
20,001–26,000	435

1 26,001–30,000 552
 2 30,001–35,000 648
 3 35,001–40,000 761
 4 40,001–45,000 837
 5 45,001–50,000 948
 6 50,001–54,999 1,039
 7 55,000–60,000 1,173
 8 60,001–65,000 1,282
 9 65,001–70,000 1,398
 10 70,001–75,000 1,650
 11 75,001–80,000 1,700
 12

13 (b) The fees specified in subdivision (a) apply to both of the
 14 following:

15 (1) An initial or original registration occurring on or after
 16 December 31, 2001, to December 30, 2003, inclusive, of a
 17 commercial motor vehicle operated either singly or in combination
 18 with a declared gross vehicle weight of 10,001 pounds or more.

19 (2) The renewal of registration of a commercial motor vehicle
 20 operated either singly or in combination, with a declared gross
 21 vehicle weight of 10,001 pounds or more for which registration
 22 expires on or after December 31, 2001, to December 30, 2003,
 23 inclusive.

24 (c) (1) For both an initial or original registration occurring on
 25 or after December 31, 2003, of a commercial motor vehicle
 26 operated either singly or in combination with a declared gross
 27 vehicle weight of 10,001 pounds or more, and the renewal of
 28 registration of a commercial motor vehicle operated either singly
 29 or in combination, with a declared gross vehicle weight of 10,001
 30 pounds or more for which registration expires on or after December
 31 31, 2003, there shall be paid fees as follows:

32

33 Gross Vehicle Weight Range	Weight Code	Fee
34 10,001–15,000	A	\$ 332
35 15,001–20,000	B	447
36 20,001–26,000	C	546
37 26,001–30,000	D	586
38 30,001–35,000	E	801
39 35,001–40,000	F	937
40 40,001–45,000	G	1,028

1	45,001–50,000	H	1,161
2	50,001–54,999	I	1,270
3	55,000–60,000	J	1,431
4	60,001–65,000	K	1,562
5	65,001–70,000	L	1,701
6	70,001–75,000	M	2,004
7	75,001–80,000	N	2,064

8

9 (2) For the purpose of obtaining “revenue neutrality” as
10 described in Sections 1 and 59 of Senate Bill 2084 of the
11 1999–2000 Regular Session (Chapter 861 of the Statutes of 2000),
12 the Director of Finance shall review the final 2003–04 Statement
13 of Transactions of the State Highway Account. If that review
14 indicates that the actual truck weight fee revenues deposited in the
15 State Highway Account do not total at least seven hundred
16 eighty-nine million dollars (\$789,000,000), the Director of Finance
17 shall instruct the department to adjust the schedule set forth in
18 paragraph (1), but not to exceed the following fee amounts:

19

20	Gross Vehicle Weight Range	Weight Code	Fee
21	10,001–15,000	A	\$ 354
22	15,001–20,000	B	482
23	20,001–26,000	C	591
24	26,001–30,000	D	746
25	30,001–35,000	E	874
26	35,001–40,000	F	1,024
27	40,001–45,000	G	1,125
28	45,001–50,000	H	1,272
29	50,001–54,999	I	1,393
30	55,000–60,000	J	1,571
31	60,001–65,000	K	1,716
32	65,001–70,000	L	1,870
33	70,001–75,000	M	2,204
34	75,001–80,000	N	2,271

35

36 (d) (1) In addition to the fees set forth in subdivision (a), a
37 Cargo Theft Interdiction Program fee of three dollars (\$3) shall
38 be paid at the time of initial or original registration or renewal of
39 registration of each motor vehicle subject to weight fees under this
40 section.

1 (2) This subdivision does not apply to vehicles used or
2 maintained for the transportation of persons for hire, compensation
3 or profit, and tow trucks.

4 (3) For vehicles registered under Article 4 (commencing with
5 Section 8050) of Chapter 4, the fee imposed under this subdivision
6 shall be apportioned as required for registration fees under that
7 article.

8 (4) Funds collected pursuant to the Cargo Theft Interdiction
9 Program shall not be proportionately reduced for each month and
10 shall be transferred to the Motor Carriers Safety Improvement
11 Fund.

12 (e) Notwithstanding Section 42270 or any other provision of
13 law, of the moneys collected by the department under this section,
14 one hundred twenty-two dollars (\$122) for each initial, original,
15 and renewal registration shall be reported monthly to the Controller,
16 and at the same time, deposited in the State Treasury to the credit
17 of the Motor Vehicle Account in the State Transportation Fund.
18 All other moneys collected by the department under this section
19 shall be deposited to the credit of the State Highway Account in
20 the State Transportation Fund, or directly to the credit of the
21 Transportation Debt Service Fund as provided in paragraph (2) of
22 subdivision (e) of Section 9400.4, as applicable *Fund*. One hundred
23 twenty-two dollars (\$122) of the fee imposed under this section
24 shall not be proportionately reduced for each month. For vehicles
25 registered under Article 4 (commencing with Section 8050) of
26 Chapter 4, the fee shall be apportioned as required for registration
27 under that article.

28 (f) (1) The department, in consultation with the Department of
29 the California Highway Patrol, shall design and make available a
30 set of distinctive weight decals that reflect the declared gross
31 combined weight or gross operating weight reported to the
32 department at the time of initial registration, registration renewal,
33 or when a weight change is reported to the department pursuant
34 to Section 9406.1. A new decal shall be issued on each renewal
35 or when the weight is changed pursuant to Section 9406.1. The
36 decal for a tow truck that is subject to this section shall reflect the
37 gross vehicle weight rating or weight code.

38 (2) The department may charge a fee, not to exceed ten dollars
39 (\$10), for the department's actual cost of producing and issuing
40 each set of decals issued under paragraph (1).

1 (3) The weight decal shall be in sharp contrast to the background
2 and shall be of a size, shape, and color that is readily legible during
3 daylight hours from a distance of 50 feet.

4 (4) Each vehicle subject to this section shall display the weight
5 decal on both the right and left sides of the vehicle.

6 (5) A person may not display upon a vehicle a decal issued
7 pursuant to this subdivision that does not reflect the declared weight
8 reported to the department.

9 (6) Notwithstanding subdivision (e) or any other provision of
10 law, the moneys collected by the department under this subdivision
11 shall be deposited in the State Treasury to the credit of the Motor
12 Vehicle Account in the State Transportation Fund.

13 (7) This subdivision shall apply to vehicles subject to this section
14 at the time of an initial registration, registration renewal, or reported
15 weight change that occurs on or after July 1, 2004.

16 (8) The following shall apply to vehicles registered under the
17 permanent fleet registration program pursuant to Article 9.5
18 (commencing with Section 5301) of Chapter 1:

19 (A) The department, in consultation with the Department of the
20 California Highway Patrol, shall distinguish the weight decals
21 issued to permanent fleet registration vehicles from those issued
22 to other vehicles.

23 (B) The department shall issue the distinguishable weight decals
24 only to the following:

25 (i) A permanent fleet registration vehicle that is registered with
26 the department on January 1, 2005.

27 (ii) On and after January 1, 2005, a vehicle for which the
28 department has an application for initial registration as a permanent
29 fleet registration vehicle.

30 (iii) On and after January 1, 2005, a permanent fleet registration
31 vehicle that has a weight change pursuant to Section 9406.1.

32 (C) The weight decal issued under this paragraph shall comply
33 with the applicable provisions of paragraphs (1) to (6), inclusive.

34 SEC. 10. Section 9400.4 of the Vehicle Code is repealed.

35 ~~9400.4. Weight fee revenue deposited into the State Highway~~
36 ~~Account pursuant to subdivision (e) of Section 9400.1 and~~
37 ~~subdivision (a) of Section 42205 net of amounts appropriated for~~
38 ~~other purposes pursuant to subdivision (b) of Section 42205, and~~
39 ~~weight fee revenues deposited directly into the Transportation~~
40 ~~Debt Service Fund pursuant to subdivision (e) of Section 9400.1~~

1 and subdivision (a) of Section 42205, as applicable, shall be used
2 as follows:

3 (a) ~~For the 2010–11 fiscal year, seven hundred fifty-six million~~
4 ~~three hundred ninety-six thousand dollars (\$756,396,000) is hereby~~
5 ~~appropriated from weight fee revenues in the State Highway~~
6 ~~Account for transfer to the General Fund as transportation bond~~
7 ~~debt service reimbursement and loans as follows:~~

8 (1) ~~The Controller shall transfer all weight fee revenues~~
9 ~~deposited into the State Highway Account in any month to the~~
10 ~~Transportation Debt Service Fund for transfer to the General Fund~~
11 ~~as reimbursement for debt service costs until all of the debt service~~
12 ~~paid on transportation bonds for projects that the Director of~~
13 ~~Finance indicates qualify for reimbursement as provided for in~~
14 ~~Section 16965 of the Government Code have been reimbursed.~~

15 (2) ~~After the Director of Finance has notified the Controller that~~
16 ~~all debt service costs for the 2010–11 fiscal year have been~~
17 ~~reimbursed, the Controller shall transfer any remaining monthly~~
18 ~~weight fee revenues in the State Highway Account to the General~~
19 ~~Fund as a loan until the full amount appropriated in this subdivision~~
20 ~~has been transferred to the General Fund. The Director of Finance~~
21 ~~may repay any remaining portion of the outstanding balance of~~
22 ~~this loan in any year in which the Director of Finance determines~~
23 ~~the funds are needed to reimburse the General Fund for current~~
24 ~~year transportation bond debt service or to redeem or retire those~~
25 ~~bonds, pursuant to Section 16774 of the Government Code,~~
26 ~~maturing in a subsequent fiscal year, provided that the loans shall~~
27 ~~be repaid no later than June 30, 2021. All funds loaned pursuant~~
28 ~~to this section, upon repayment to the State Highway Account,~~
29 ~~shall be immediately transferred by the Controller to the~~
30 ~~Transportation Debt Service Fund for use pursuant to Section~~
31 ~~16965 of the Government Code.~~

32 (3) ~~By June 15, 2011, the Director of Finance in consultation~~
33 ~~with the Treasurer shall notify the Controller regarding the final~~
34 ~~amount of debt service paid from the General Fund during the~~
35 ~~2010–11 fiscal year pursuant to Section 16965 of the Government~~
36 ~~Code and shall direct the Controller to reverse and adjust any~~
37 ~~transfers made as debt service reimbursements or loans so that a~~
38 ~~maximum amount of transfers are made for debt service~~
39 ~~reimbursements and with any loan amounts limited to the~~
40 ~~difference between this amount and the total amount appropriated~~

1 in this subdivision. The total amount of weight fee revenues
2 transferred from the State Highway Account for the 2010–11 fiscal
3 year shall not be greater than the total amount of weight fee
4 revenues deposited into the State Highway Account for that year.

5 (4) With respect to transfers or portions of transfers that cannot
6 be made in any given month if weight fee revenues are insufficient,
7 the first weight fee revenues available in the following month or
8 months shall be used to complete the transfers for the previous
9 month or months prior to making additional transfers for later
10 months.

11 (b) For the 2011–12 fiscal year, all revenue generated from
12 weight fees in the State Highway Account, as determined by
13 Sections 9400.1 and 42205, excluding an amount equal to the loan
14 of forty-three million seven hundred thousand dollars
15 (\$43,700,000) authorized pursuant to Item 2660-013-0042 of
16 Section 2.00 of the Budget Act of 2011, is hereby appropriated for
17 transfer to the General Fund as debt service reimbursement and
18 loans as follows:

19 (1) The Controller shall transfer all weight fee revenues
20 deposited into the State Highway Account in any month to the
21 Transportation Debt Service Fund for transfer to the General Fund
22 as reimbursement for debt service costs until all of the debt service
23 paid on transportation bonds for projects that the Director of
24 Finance indicates qualify for reimbursement as provided for in
25 Section 16965 of the Government Code have been reimbursed.

26 (2) After the Director of Finance has notified the Controller that
27 all debt service costs for the 2011–12 fiscal year have been
28 reimbursed, the Controller shall transfer any remaining weight fee
29 revenues for that fiscal year in the State Highway Account to the
30 General Fund as a loan until all weight fee revenues for that fiscal
31 year appropriated in this subdivision have been transferred to the
32 General Fund, excluding forty-two million dollars (\$42,000,000),
33 which shall be transferred to the General Fund as a loan on July
34 1, 2012. The Director of Finance may repay any portion of the
35 balance of this loan in any year in which the Director of Finance
36 determines the funds are needed to reimburse the General Fund
37 for current year transportation bond debt service or to redeem or
38 retire those bonds, pursuant to Section 16774 of the Government
39 Code, maturing in a subsequent year, provided that the loans shall
40 be repaid no later than June 30, 2021. All funds loaned pursuant

1 to this section, upon repayment to the State Highway Account,
2 shall be immediately transferred by the Controller to the
3 Transportation Debt Service Fund for use pursuant to Section
4 16965 of the Government Code.

5 (3) By June 15, 2012, the Director of Finance in consultation
6 with the Treasurer shall notify the Controller regarding the final
7 amount of debt service paid from the General Fund during the
8 2011–12 fiscal year pursuant to Section 16965 of the Government
9 Code and shall direct the Controller to reverse and adjust any
10 transfers made as debt service reimbursements or loans so that a
11 maximum amount of transfers are made for debt service
12 reimbursements and with any loan amounts limited to the
13 difference between this amount and the total amount appropriated
14 in this subdivision. The total amount of weight fee revenues
15 transferred from the State Highway Account for the 2011–12 fiscal
16 year shall not be greater than the total amount of weight fee
17 revenues deposited into the State Highway Account in that year.

18 (4) With respect to transfers or portions of transfers that cannot
19 be made in any given month if weight fee revenues are insufficient,
20 the first weight fee revenues available in the following month or
21 months shall be used to complete the transfers for the previous
22 month or months prior to making additional transfers for later
23 months.

24 (e) (1) (A) Until the month of first issuance of designated bonds
25 as defined in subdivision (e) of Section 16773 of the Government
26 Code, and at any time thereafter that a Treasurer's certification
27 pursuant to subparagraph (B) of paragraph (3) of subdivision (a)
28 of Section 16965 of the Government Code applies, all weight fee
29 revenues subject to this section in any month shall be transferred
30 from the State Highway Account to the Transportation Debt
31 Service Fund.

32 (B) Except as provided in paragraph (3), or when subparagraph
33 (A) applies pursuant to a Treasurer's certification, upon the first
34 issuance of designated bonds, as defined in subdivision (e) of
35 Section 16773 of the Government Code, starting in the month
36 following that first issuance, all weight fee revenues received by
37 the Controller from the first day through the 14th day of every
38 month shall be transferred from the State Highway Account to the
39 Transportation Debt Service Fund.

1 ~~(C) All funds transferred pursuant to subparagraphs (A) and (B)~~
2 ~~are hereby appropriated for transfer to the General Fund by the~~
3 ~~Controller as reimbursement for debt service costs paid with respect~~
4 ~~to eligible bonds described in subparagraph (A) of paragraph (2)~~
5 ~~of subdivision (a) of Section 16965 of the Government Code, until~~
6 ~~all debt service that the Director of Finance indicates qualifies for~~
7 ~~reimbursement as provided for in subdivision (d), (e), or (f) of~~
8 ~~Section 16965 of the Government Code has been reimbursed, or~~
9 ~~to redeem or retire bonds, pursuant to Section 16774 of the~~
10 ~~Government Code, as referenced in subdivision (d), (e), or (f) of~~
11 ~~Section 16965 of the Government Code, that are maturing in a~~
12 ~~subsequent year. After the Director of Finance has notified the~~
13 ~~Controller that all debt service costs for the fiscal year have been~~
14 ~~reimbursed, the Controller shall transfer any remaining revenue~~
15 ~~generated from weight fees subject to this section for that fiscal~~
16 ~~year in the State Highway Account to the General Fund as a loan.~~
17 ~~The Director of Finance may repay any portion of the balance of~~
18 ~~this loan in any year in which the Director of Finance determines~~
19 ~~that the funds are needed to reimburse the General Fund for current~~
20 ~~year transportation bond debt service or to redeem or retire those~~
21 ~~bonds pursuant to Section 16774 of the Government Code,~~
22 ~~maturing in a future fiscal year, provided that the loans shall be~~
23 ~~repaid no later than June 30, 2021. All funds loaned pursuant to~~
24 ~~this section, upon repayment to the State Highway Account, shall~~
25 ~~be immediately transferred by the Controller to the Transportation~~
26 ~~Debt Service Fund for use pursuant to Section 16965 of the~~
27 ~~Government Code. By June 15 of each year, the Director of~~
28 ~~Finance, in consultation with the Treasurer, shall notify the~~
29 ~~Controller regarding the final amount of debt service paid from~~
30 ~~the General Fund during that fiscal year pursuant to subdivision~~
31 ~~(d), (e), or (f) of Section 16965 of the Government Code and shall~~
32 ~~direct the Controller to reverse or adjust any transfers made as debt~~
33 ~~service reimbursements or loans so that a maximum amount of~~
34 ~~transfers are made for debt service reimbursements and with any~~
35 ~~loan amounts limited to the difference between this amount and~~
36 ~~the total amount of revenue for that fiscal year generated from~~
37 ~~weight fees, as determined by Sections 9400.1 and 42205. The~~
38 ~~total amount of weight fee revenues transferred from the State~~
39 ~~Highway Account in any fiscal year shall not be greater than the~~

1 total amount of weight fee revenues deposited into the State
 2 Highway Account in that year.

3 (2) Starting in the month following the first issuance of any
 4 designated bonds, unless a Treasurer's certification pursuant to
 5 subparagraph (B) of paragraph (3) of subdivision (a) of Section
 6 16965 of the Government Code applies, all weight fee revenues
 7 subject to this section that are received by the Controller from the
 8 15th day of every month, or the first business day thereafter if not
 9 a business day, through the last day of the month shall be deposited
 10 directly in the Transportation Debt Service Fund and are hereby
 11 appropriated for transfer as follows:

12 (A) First, to the Transportation Bond Direct Payment Account
 13 as set forth in subdivision (b) of Section 16965 of the Government
 14 Code, to provide for payment of debt service with respect to
 15 designated bonds.

16 (B) Thereafter, as provided in subparagraph (C) of paragraph
 17 (1).

18 (3) Notwithstanding paragraphs (1) and (2), if by the last day
 19 of a month the transfer for that month relating to designated bonds
 20 required by the Treasurer's certificate described in subdivision (b)
 21 of Section 16965 of the Government Code has not been made due
 22 to insufficient weight fee revenue, weight fee revenue shall
 23 continue to be transferred pursuant to paragraph (2) beginning
 24 with the first day of the subsequent month and continuing every
 25 day until such time as sufficient revenue for full compliance with
 26 the certificate has been transferred.

27 (4) Except as otherwise provided in paragraph (1), (2), or (3),
 28 with respect to any transfers or portions of transfers that cannot
 29 be made in any given month if weight fee revenues are insufficient,
 30 the first weight fee revenues available in the following month or
 31 months shall be used to complete the transfers for the previous
 32 month or months prior to making additional transfers for later
 33 months.

34 SEC. 11. Section 42205 of the Vehicle Code is amended to
 35 read:

36 42205. (a) Notwithstanding Chapter 3 (commencing with
 37 Section 42270), the department shall file, at least monthly with
 38 the Controller, a report of money received by the department
 39 pursuant to Section 9400 for the previous month and shall, at the
 40 same time, remit all money so reported to the Treasurer. On order

1 of the Controller, the Treasurer shall deposit all money so remitted
2 into the State Highway Account in the State Transportation Fund;
3 ~~or directly into the Transportation Debt Service Fund as provided~~
4 ~~in paragraph (2) of subdivision (c) of Section 9400.4, as applicable~~
5 ~~Fund.~~

6 (b) The Legislature shall appropriate from the State Highway
7 Account in the State Transportation Fund to the department and
8 the Franchise Tax Board amounts equal to the costs incurred by
9 each in performing their duties pursuant to Article 3 (commencing
10 with Section 9400) of Chapter 6 of Division 3. The applicable
11 amounts shall be determined so that the appropriate costs for
12 registration and weight fee collection activities are appropriated
13 between the recipients of revenues in proportion to the revenues
14 that would have been received individually by those recipients if
15 the total fee imposed under the Vehicle License Fee Law (Part 5
16 (commencing with Section 10701) of Division 2 of the Revenue
17 and Taxation Code) was 2 percent of the market value of a vehicle.
18 The remainder of the funds collected under Section 9400 and
19 deposited in the account, ~~other than the direct deposits to the~~
20 ~~Transportation Debt Service Fund referenced in subdivision (a);~~
21 may be appropriated to the Department of Transportation, the
22 Department of the California Highway Patrol, and the Department
23 of Motor Vehicles for the purposes authorized under Section 3 of
24 Article XIX of the California Constitution.

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