

AMENDED IN ASSEMBLY APRIL 15, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 227

Introduced by Assembly ~~Member~~ Members Alejo and Perea
(Coauthor: Assembly Member Linder)

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, 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 amended, 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

1 Fund by the Controller in favor of the Treasurer, or state fiscal
2 agents, or other duly authorized agents, pursuant to claims filed
3 with the Controller by the Treasurer, in the amounts so falling due.

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

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 Section 16965 of the Government Code is repealed.

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

18 16965.1. (a) (1) The loan repayment dates relative to State
19 Highway Account loans to the General Fund that are specified in
20 the provisional language of the following Budget Act items are
21 hereby eliminated, and the Director of Finance may repay any
22 remaining portion of the outstanding balance of these loans in any
23 year in which the director determines the funds are needed to
24 reimburse the General Fund for debt service or to redeem or defease
25 bonds maturing in a subsequent fiscal year, provided that the loans
26 shall be repaid no later than December 31, 2018:

27 (A) Item 2660-011-0042 of Section 2.00 of the Budget Act of
28 2010 (SB 870, Chapter 712 of the Statutes of 2010).

29 (B) Item 2660-013-0042 of Section 2.00 of the Budget Act of
30 2010, as added by Section 6 of SB 84 (Chapter 13 of the Statutes
31 of 2011).

32 (C) Item 2660-013-0042 of Section 2.00 of the Budget Act of
33 2011, as contained in SB 69 of the 2011–12 Regular Session, if
34 that provision is enacted.

35 (2) All funds loaned pursuant to the provisions referenced in
36 subparagraphs (A), (B), and (C) of paragraph (1) are hereby
37 determined to have been from weight fee revenues in the State
38 Highway Account fund balance.

39 (b) The loan repayment date relative to the Public Transportation
40 Account that is specified in the provisional language in Item

1 2660-011-0046 of Section 2.00 of the Budget Act of 2010 (SB
2 870, Chapter 712 of the Statutes of 2010), is hereby eliminated,
3 and the loan pursuant to this item shall instead be repaid by
4 December 31, 2018.

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

7 63048.67. The loans made from the State Highway Account
8 through the Traffic Congestion Relief Fund to the General Fund
9 that are referenced in clause (i) of subparagraph (A) of paragraph
10 (1) of subdivision (c) of Section 63048.65 are hereby determined
11 to have been from weight fee revenues in the State Highway
12 Account fund balance.

13 ~~SEC. 6. Section 143 of the Streets and Highways Code is~~
14 ~~amended to read:~~

15 ~~143. (a) (1) "Best value" means a value determined by~~
16 ~~objective criteria, including, but not limited to, price, features,~~
17 ~~functions, life-cycle costs, and other criteria deemed appropriate~~
18 ~~by the department or the regional transportation agency.~~

19 ~~(2) "Contracting entity or lessee" means a public or private~~
20 ~~entity, or consortia thereof, that has entered into a comprehensive~~
21 ~~development lease agreement with the department or a regional~~
22 ~~transportation agency for a transportation project pursuant to this~~
23 ~~section.~~

24 ~~(3) "Design-build" means a procurement process in which both~~
25 ~~the design and construction of a project are procured from a single~~
26 ~~entity.~~

27 ~~(4) "Regional transportation agency" means any of the~~
28 ~~following:~~

29 ~~(A) A transportation planning agency as defined in Section~~
30 ~~29532 or 29532.1 of the Government Code.~~

31 ~~(B) A county transportation commission as defined in Section~~
32 ~~130050, 130050.1, or 130050.2 of the Public Utilities Code.~~

33 ~~(C) Any other local or regional transportation entity that is~~
34 ~~designated by statute as a regional transportation agency.~~

35 ~~(D) A joint exercise of powers authority as defined in Chapter~~
36 ~~5 (commencing with Section 6500) of Division 7 of Title 1 of the~~
37 ~~Government Code, with the consent of a transportation planning~~
38 ~~agency or a county transportation commission for the jurisdiction~~
39 ~~in which the transportation project will be developed.~~

1 ~~(5) “Public Infrastructure Advisory Commission” means a unit~~
2 ~~or auxiliary organization established by the Transportation Agency~~
3 ~~that advises the department and regional transportation agencies~~
4 ~~in developing transportation projects through performance-based~~
5 ~~infrastructure partnerships.~~

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

13 ~~(b) (1) The Public Infrastructure Advisory Commission shall~~
14 ~~do all of the following:~~

15 ~~(A) Identify transportation project opportunities throughout the~~
16 ~~state.~~

17 ~~(B) Research and document similar transportation projects~~
18 ~~throughout the state, nationally, and internationally, and further~~
19 ~~identify and evaluate lessons learned from these projects.~~

20 ~~(C) Assemble and make available to the department or regional~~
21 ~~transportation agencies a library of information, precedent,~~
22 ~~research, and analysis concerning infrastructure partnerships and~~
23 ~~related types of public-private transactions for public infrastructure.~~

24 ~~(D) Advise the department and regional transportation agencies,~~
25 ~~upon request, regarding infrastructure partnership suitability and~~
26 ~~best practices.~~

27 ~~(E) Provide, upon request, procurement-related services to the~~
28 ~~department and regional transportation agencies for infrastructure~~
29 ~~partnership.~~

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

36 ~~(c) (1) Notwithstanding any other provision of law, only the~~
37 ~~department, in cooperation with regional transportation agencies,~~
38 ~~and regional transportation agencies, may solicit proposals, accept~~
39 ~~unsolicited proposals, negotiate, and enter into comprehensive~~

1 ~~development lease agreements with public or private entities, or~~
2 ~~consortia thereof, for transportation projects.~~

3 ~~(2) Projects proposed pursuant to this section and associated~~
4 ~~lease agreements shall be submitted to the California Transportation~~
5 ~~Commission. The commission, at a regularly scheduled public~~
6 ~~hearing, shall select the candidate projects from projects nominated~~
7 ~~by the department or a regional transportation agency after~~
8 ~~reviewing the nominations for consistency with paragraphs (3)~~
9 ~~and (4). Approved projects may proceed with the process described~~
10 ~~in paragraph (5).~~

11 ~~(3) The projects authorized pursuant to this section shall be~~
12 ~~primarily designed to achieve the following performance~~
13 ~~objectives:~~

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

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

17 ~~(C) Provide quantifiable air quality benefits for the region in~~
18 ~~which the project is located.~~

19 ~~(4) In addition to meeting the requirements of paragraph (3),~~
20 ~~the projects authorized pursuant to this section shall address a~~
21 ~~known forecast demand, as determined by the department or~~
22 ~~regional transportation agency.~~

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

1 consider those comments prior to executing a final agreement and
2 shall retain the discretion for executing the final lease agreement.

3 ~~(d) For the purpose of facilitating those projects, the agreements~~
4 ~~between the parties may include provisions for the lease of~~
5 ~~rights-of-way in, and airspace over or under, highways, public~~
6 ~~streets, rail, or related facilities for the granting of necessary~~
7 ~~easements, and for the issuance of permits or other authorizations~~
8 ~~to enable the construction of transportation projects. Facilities~~
9 ~~subject to an agreement under this section shall, at all times, be~~
10 ~~owned by the department or the regional transportation agency,~~
11 ~~as appropriate. For department projects, the commission shall~~
12 ~~certify the department's determination of the useful life of the~~
13 ~~project in establishing the lease agreement terms. In consideration~~
14 ~~therefor, the agreement shall provide for complete reversion of the~~
15 ~~leased facility, together with the right to collect tolls and user fees,~~
16 ~~to the department or regional transportation agency, at the~~
17 ~~expiration of the lease at no charge to the department or regional~~
18 ~~transportation agency. At the time of the reversion, the facility~~
19 ~~shall be delivered to the department or regional transportation~~
20 ~~agency, as applicable, in a condition that meets the performance~~
21 ~~and maintenance standards established by the department or~~
22 ~~regional transportation agency and that is free of any encumbrance,~~
23 ~~lien, or other claims.~~

24 ~~(e) Agreements between the department or regional~~
25 ~~transportation agency and the contracting entity or lessee shall~~
26 ~~authorize the contracting entity or lessee to use a design-build~~
27 ~~method of procurement for transportation projects, subject to the~~
28 ~~requirements for utilizing such a method contained in Chapter 6.5~~
29 ~~(commencing with Section 6820) of Part 1 of Division 2 of the~~
30 ~~Public Contract Code, other than Sections 6821 and 6822 of that~~
31 ~~code.~~

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

1 specifications covering the quality of materials, equipment, and
2 workmanship, preliminary plans, and any other information deemed
3 necessary to describe adequately the needs of the department or
4 regional transportation agency.

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

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

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

34 (A) Solicitations of proposals for defined projects and calls for
35 project proposals within defined parameters.

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

38 (C) Final evaluation of proposals based on qualifications and
39 best value. The California Transportation Commission shall

1 ~~develop and adopt criteria for making that evaluation prior to~~
2 ~~evaluation of a proposal.~~

3 ~~(D) Negotiations with proposers prior to award.~~

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

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

13 ~~(h) The contracting entity or lessee shall have the following~~
14 ~~qualifications:~~

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

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

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

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

35 ~~(5) A full disclosure regarding all of the following with respect~~
36 ~~to each member of the contracting entity or lessee during the past~~
37 ~~five years:~~

38 ~~(A) Any serious or willful violation of Part 1 (commencing with~~
39 ~~Section 6300) of Division 5 of the Labor Code or the federal~~
40 ~~Occupational Safety and Health Act of 1970 (Public Law 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, ____.~~

32 ~~SEC. 7.~~

33 ~~SEC. 6.~~ Section 183.1 of the Streets and Highways Code is
34 amended to read:

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

1 or any other miscellaneous uses of property or money, may be
2 used for any transportation purpose authorized by statute, upon
3 appropriation by the Legislature or, after transfer to another fund,
4 upon appropriation by the Legislature from that fund.

5 ~~SEC. 8.~~

6 *SEC. 7.* Section 2103 of the Streets and Highways Code is
7 amended to read:

8 2103. (a) Notwithstanding Section 13340 of the Government
9 Code, of the net revenues deposited to the credit of the Highway
10 Users Tax Account that are derived from the increases in the rates
11 of taxes that are imposed pursuant to subdivision (b) of Section
12 7360 and Section 7361.1 of the Revenue and Taxation Code, all
13 of the following shall occur on a monthly basis:

14 (1) Forty-four percent shall be transferred by the Controller to
15 the State Highway Account to fund projects in the State
16 Transportation Improvement Program that are consistent with
17 Section 2 of Article XIX of the California Constitution.

18 (2) Twelve percent shall be transferred to the State Highway
19 Account to fund projects in the State Highway Operation and
20 Protection Program.

21 (3) Forty-four percent shall be apportioned by the Controller
22 for local street and road purposes as follows:

23 (A) Fifty percent shall be apportioned by the Controller to cities,
24 including a city and county, in the proportion that the total
25 population of the city bears to the total population of all the cities
26 in the state.

27 (B) Fifty percent shall be apportioned by the Controller to
28 counties, including a city and county, in accordance with the
29 following formulas:

30 (i) Seventy-five percent shall be apportioned among the counties
31 in the proportion that the number of fee-paid and exempt vehicles
32 that are registered in the county bear to the number of fee-paid and
33 exempt vehicles registered in the state.

34 (ii) Twenty-five percent shall be apportioned among the counties
35 in the proportion that the number of miles of maintained county
36 roads in each county bear to the total number of miles of
37 maintained county roads in the state. For the purposes of
38 apportioning funds under this subparagraph, any roads within the
39 boundaries of a city and county that are not state highways shall
40 be deemed to be county roads.

1 (b) After the transfers or other actions pursuant to subdivision
2 (a), at least 90 percent of the balance deposited to the credit of the
3 Highway Users Tax Account in the Transportation Tax Fund by
4 the 28th day of each month shall be apportioned or transferred, as
5 applicable, by the Controller by the second working day thereafter,
6 except for June, in which case the apportionment or transfer shall
7 be made the same day. These apportionments or transfers shall be
8 made as provided for in Sections 2104 to 2122, inclusive. If
9 information is not available to make the apportionment or transfer
10 as required, the apportionment or transfer shall be made on the
11 basis of the information of the previous month. Amounts not
12 apportioned or transferred shall be included in the apportionment
13 or transfer of the subsequent month.

14 (c) Notwithstanding any other law, the funds apportioned by
15 the Controller to cities and counties pursuant to paragraph (3) of
16 subdivision (a) are not subject to Section 7104 or 7104.2 of the
17 Revenue and Taxation Code. These funds may be expended for
18 any street and road purpose consistent with the requirements of
19 this chapter.

20 ~~SEC. 9:~~

21 *SEC. 8.* Section 9400.1 of the Vehicle Code is amended to
22 read:

23 9400.1. (a) (1) In addition to any other required fee, there
24 shall be paid the fees set forth in this section for the registration
25 of commercial motor vehicles operated either singly or in
26 combination with a declared gross vehicle weight of 10,001 pounds
27 or more. Pickup truck and electric vehicle weight fees are not
28 calculated under this section.

29 (2) The weight of a vehicle issued an identification plate
30 pursuant to an application under Section 5014, and the weight of
31 an implement of husbandry as defined in Section 36000, shall not
32 be considered when calculating, pursuant to this section, the
33 declared gross vehicle weight of a towing commercial motor
34 vehicle that is owned and operated exclusively by a farmer or an
35 employee of a farmer in the conduct of agricultural operations.

36 (3) Tow trucks that are utilized to render assistance to the
37 motoring public or to tow or carry impounded vehicles shall pay
38 fees in accordance with this section, except that the fee calculation
39 shall be based only on the gross vehicle weight rating of the towing
40 or carrying vehicle. Upon each initial or transfer application for

1 registration of a tow truck described in this paragraph, the
 2 registered owner or lessee or that owner’s or lessee’s designee,
 3 shall certify to the department the gross vehicle weight rating of
 4 the tow truck:

5	6	7
	Gross Vehicle Weight Range	Fee
6	10,001–15,000	\$ 257
7	15,001–20,000	353
8	20,001–26,000	435
9	26,001–30,000	552
10	30,001–35,000	648
11	35,001–40,000	761
12	40,001–45,000	837
13	45,001–50,000	948
14	50,001–54,999	1,039
15	55,000–60,000	1,173
16	60,001–65,000	1,282
17	65,001–70,000	1,398
18	70,001–75,000	1,650
19	75,001–80,000	1,700
20		
21		

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

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

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

33 (c) (1) For both an initial or original registration occurring on
 34 or after December 31, 2003, of a commercial motor vehicle
 35 operated either singly or in combination with a declared gross
 36 vehicle weight of 10,001 pounds or more, and the renewal of
 37 registration of a commercial motor vehicle operated either singly
 38 or in combination, with a declared gross vehicle weight of 10,001
 39 pounds or more for which registration expires on or after December
 40 31, 2003, there shall be paid fees as follows:

	Gross Vehicle Weight Range	Weight Code	Fee
1			
2	10,001–15,000	A	\$ 332
3	15,001–20,000	B	447
4	20,001–26,000	C	546
5	26,001–30,000	D	586
6	30,001–35,000	E	801
7	35,001–40,000	F	937
8	40,001–45,000	G	1,028
9	45,001–50,000	H	1,161
10	50,001–54,999	I	1,270
11	55,000–60,000	J	1,431
12	60,001–65,000	K	1,562
13	65,001–70,000	L	1,701
14	70,001–75,000	M	2,004
15	75,001–80,000	N	2,064

16

17 (2) For the purpose of obtaining “revenue neutrality” as
18 described in Sections 1 and 59 of Senate Bill 2084 of the
19 1999–2000 Regular Session (Chapter 861 of the Statutes of 2000),
20 the Director of Finance shall review the final 2003–04 Statement
21 of Transactions of the State Highway Account. If that review
22 indicates that the actual truck weight fee revenues deposited in the
23 State Highway Account do not total at least seven hundred
24 eighty-nine million dollars (\$789,000,000), the Director of Finance
25 shall instruct the department to adjust the schedule set forth in
26 paragraph (1), but not to exceed the following fee amounts:

27

	Gross Vehicle Weight Range	Weight Code	Fee
28			
29	10,001–15,000	A	\$ 354
30	15,001–20,000	B	482
31	20,001–26,000	C	591
32	26,001–30,000	D	746
33	30,001–35,000	E	874
34	35,001–40,000	F	1,024
35	40,001–45,000	G	1,125
36	45,001–50,000	H	1,272
37	50,001–54,999	I	1,393
38	55,000–60,000	J	1,571
39	60,001–65,000	K	1,716
40	65,001–70,000	L	1,870

1	70,001–75,000	M	2,204
2	75,001–80,000	N	2,271

3

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

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

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

16 (4) Funds collected pursuant to the Cargo Theft Interdiction
17 Program shall not be proportionately reduced for each month and
18 shall be transferred to the Motor Carriers Safety Improvement
19 Fund.

20 (e) Notwithstanding Section 42270 or any other provision of
21 law, of the moneys collected by the department under this section,
22 one hundred twenty-two dollars (\$122) for each initial, original,
23 and renewal registration shall be reported monthly to the Controller,
24 and at the same time, deposited in the State Treasury to the credit
25 of the Motor Vehicle Account in the State Transportation Fund.
26 All other moneys collected by the department under this section
27 shall be deposited to the credit of the State Highway Account in
28 the State Transportation Fund. One hundred twenty-two dollars
29 (\$122) of the fee imposed under this section shall not be
30 proportionately reduced for each month. For vehicles registered
31 under Article 4 (commencing with Section 8050) of Chapter 4,
32 the fee shall be apportioned as required for registration under that
33 article.

34 (f) (1) The department, in consultation with the Department of
35 the California Highway Patrol, shall design and make available a
36 set of distinctive weight decals that reflect the declared gross
37 combined weight or gross operating weight reported to the
38 department at the time of initial registration, registration renewal,
39 or when a weight change is reported to the department pursuant
40 to Section 9406.1. A new decal shall be issued on each renewal

1 or when the weight is changed pursuant to Section 9406.1. The
2 decal for a tow truck that is subject to this section shall reflect the
3 gross vehicle weight rating or weight code.

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

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

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

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

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

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

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

25 (A) The department, in consultation with the Department of the
26 California Highway Patrol, shall distinguish the weight decals
27 issued to permanent fleet registration vehicles from those issued
28 to other vehicles.

29 (B) The department shall issue the distinguishable weight decals
30 only to the following:

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

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

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

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

1 ~~SEC. 10.~~

2 *SEC. 9.* Section 9400.4 of the Vehicle Code is repealed.

3 ~~SEC. 11.~~

4 *SEC. 10.* Section 42205 of the Vehicle Code is amended to
5 read:

6 42205. (a) Notwithstanding Chapter 3 (commencing with
7 Section 42270), the department shall file, at least monthly with
8 the Controller, a report of money received by the department
9 pursuant to Section 9400 for the previous month and shall, at the
10 same time, remit all money so reported to the Treasurer. On order
11 of the Controller, the Treasurer shall deposit all money so remitted
12 into the State Highway Account in the State Transportation Fund.

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

O