

AMENDED IN SENATE AUGUST 20, 2008
AMENDED IN SENATE AUGUST 18, 2008
AMENDED IN SENATE AUGUST 4, 2008
AMENDED IN SENATE JULY 1, 2008
AMENDED IN SENATE JUNE 16, 2008
AMENDED IN ASSEMBLY MAY 7, 2008
AMENDED IN ASSEMBLY APRIL 8, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 3021

Introduced by Assembly Member Nava

February 22, 2008

An act to add Division 3 (commencing with Section 64100) to Title 6.7 of the Government Code, and to amend Section 149.7 of the Streets and Highways Code, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 3021, as amended, Nava. California Transportation Financing Authority: toll facilities.

(1) Existing law generally provides for programming and allocation of transportation capital improvement funds pursuant to the state transportation improvement program process administered by the California Transportation Commission. Existing law authorizes the development of toll road projects under certain conditions. Existing law authorizes the commission and the Department of Transportation to

operate and manage the Transportation Finance Bank to make loans for transportation projects. Existing law creates the California Infrastructure and Economic Development Bank to assist in the financing of various public infrastructure projects. Existing law authorizes the state to issue tax-exempt revenue anticipation notes backed by federal transportation appropriations.

This bill would create the California Transportation Financing Authority with specified powers and duties relative to issuance of bonds to fund transportation projects to be backed, in whole or in part, by various revenue streams of transportation funds, and toll revenues under certain conditions, in order to increase the construction of new capacity or improvements for the state transportation system consistent with specified goals. The bill would set forth the requirements for a project sponsor to obtain bond funding from the authority, would allow the authority to approve the imposition and collection of tolls on a proposed project under certain conditions, and would require the authority to report to the California Transportation Commission annually beginning June 30, 2010. The bill would create the California Transportation Financing Authority Fund, which would be continuously appropriated for these purposes. The bill would enact other related provisions.

(2) Existing law, until January 1, 2012, authorizes a regional transportation agency, in cooperation with the department, to apply to the commission to develop and operate high-occupancy toll lanes, with not more than 4 facilities to be approved under these provisions. Following public hearings by the commission, the commission is required to forward an eligible application and public comments to the Legislature for approval or rejection of the project, with approval to be achieved by the enactment of a statute.

This bill, with respect to these 4 projects, would delete the requirement for the commission to forward the applications to the Legislature for approval or rejection.

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. Division 3 (commencing with Section 64100) is
2 added to Title 6.7 of the Government Code, to read:

1 DIVISION 3. CALIFORNIA TRANSPORTATION
2 FINANCING AUTHORITY

3
4 64100. This division shall be known and may be cited as the
5 California Transportation Financing Authority Act.

6 64101. The California Transportation Financing Authority is
7 hereby created in state government. The authority constitutes a
8 public instrumentality, and the exercise by the authority of the
9 powers conferred by this division shall be deemed and held to be
10 the performance of an essential public function.

11 64102. As used in this division, the following terms shall have
12 the following meanings, unless the context clearly indicates or
13 requires another or different meaning or intent:

14 (a) “Authority” shall mean the California Transportation
15 Financing Authority.

16 (b) “Bonds” shall mean bonds, notes, debentures, commercial
17 paper, or any other evidence of indebtedness, lease, installment,
18 sale, or certificate of participation thereon, issued by the authority
19 or a project sponsor pursuant to this division.

20 (c) “Commission” shall mean the California Transportation
21 Commission.

22 (d) “Cost,” as applied to a project or portion of a project financed
23 under this division, shall mean and include all or any part of the
24 cost of construction and acquisition of all lands, structures, real or
25 personal property rights, rights-of-way, franchises, easements, and
26 interests acquired or used for a project, the cost of demolishing or
27 removing any buildings or structures on land so acquired, including
28 the cost of acquiring any lands to which those buildings or
29 structures may be moved, the cost of all machinery and equipment,
30 financing charges, interest prior to, during, and for a period not to
31 exceed the later of one year or one year following completion of
32 construction, as determined by the authority, the cost of insurance
33 during construction, the cost of funding or financing noncapital
34 expenses, reserves for principal and interest and for extensions,
35 enlargements, additions, replacements, renovations, and
36 improvements, the cost of engineering, architectural, financial,
37 legal, and other necessary services, plans, specifications, studies,
38 surveys, estimates, administrative expenses, and other expenses
39 of funding or financing, that are necessary or incident to
40 determining the feasibility of any project, or that are incident to

1 the construction, rehabilitation, acquisition, or financing of any
2 project.

3 (e) “Department” shall mean the Department of Transportation.

4 (f) “Project” shall mean and include all or a portion of the
5 planning, design, development, finance, construction,
6 reconstruction, rehabilitation, improvement, acquisition, lease,
7 operation, or maintenance of highway, public street, rail, or related
8 facilities supplemental to or improvements upon existing facilities
9 currently owned and operated by the department or other project
10 sponsor.

11 (g) “Project sponsor” shall mean either the department, a
12 regional transportation planning agency designated pursuant to
13 Section 29532 or 29532.1, a county transportation commission as
14 defined in Section 130050, 130050.1, or 130050.2 of the Public
15 Utilities Code, any other local or regional transportation entity that
16 is designated by statute as a regional transportation agency, or a
17 joint exercise of powers authority as defined in Chapter 5
18 (commencing with Section 6500) of Division 7 of Title 1 or an
19 agency designated pursuant to Section 66531 to submit the county
20 transportation plan, with the consent of a transportation planning
21 agency or a county transportation commission for the jurisdiction
22 in which the transportation project will be developed.

23 (h) “Working capital” means moneys to be used by, or on behalf
24 of, a project sponsor to pay or prepay maintenance or operation
25 expenses or any other costs that would be treated as an expense
26 item, under generally accepted accounting principles, in connection
27 with the ownership or operation of a project, including, but not
28 limited to, reserves for maintenance or operation expenses, interest
29 for not to exceed one year on any loan for working capital made
30 pursuant to this division, and reserves for debt service with respect
31 to, and any costs necessary or incidental to, that financing.

32 64103. (a) The authority shall consist of seven members, as
33 follows:

- 34 (1) The Treasurer, who shall serve as the chair of the authority.
- 35 (2) The Director of Finance.
- 36 (3) The Controller.
- 37 (4) The Director of Transportation.
- 38 (5) The executive director of the commission.
- 39 (6) A local agency representative appointed by the Senate
- 40 Committee on Rules.

1 (7) A local agency representative appointed by the Speaker of
2 the Assembly.

3 (b) Members of the authority shall serve without compensation,
4 but the authority may reimburse its members for necessary
5 expenses incurred in the discharge of their duties.

6 (c) The Director of Finance may designate an employee of the
7 Department of Finance to act for him or her at all meetings of the
8 authority.

9 (d) The director of the department may designate an employee
10 of the department to act for him or her at all meetings of the
11 authority.

12 (e) The executive director of the commission may designate an
13 employee of the commission to act for him or her at all meetings
14 of the authority.

15 (f) The chair of the authority shall appoint an executive director.
16 The offices of the authority shall be located in the Office of the
17 Treasurer. The authority may, by resolution, delegate to one or
18 more of its members or its executive director or any employee of
19 the authority such powers and duties that it may deem proper,
20 including, but not limited to, the power to enter into contracts on
21 behalf of the authority.

22 (g) Four members of the authority shall constitute a quorum.
23 The affirmative vote of a quorum of the members present at a duly
24 constituted meeting of the authority shall be necessary for any
25 action taken by the authority.

26 64104. The provisions of this division shall be administered
27 by the authority, which shall have and is hereby vested with all
28 powers reasonably necessary to carry out the powers and
29 responsibilities expressly granted or imposed under this division.

30 64105. The objective of the authority shall be to increase the
31 construction of new capacity or improvements for the state
32 transportation system in a manner that is consistent with and will
33 help meet the state's greenhouse gas reduction goals, air quality
34 improvement goals, and natural resource conservation goals,
35 through the issuance of, or the approval of the issuance of, bonds
36 backed, in whole or in part, by the revenue streams specified in
37 Section 64109.

38 64106. (a) The Attorney General shall be the legal counsel for
39 the authority, however, with the approval of the Attorney General,
40 the authority may employ legal counsel as in its judgment is

- 1 necessary or advisable to carry out the duties and functions imposed
2 upon it by this division, including the employment of bond counsel
3 as may be deemed advisable in connection with the issuance and
4 sale of bonds.
- 5 (b) The Treasurer shall be the treasurer for the authority.
6 64107. The authority may do any of the following:
- 7 (a) Adopt bylaws for the regulation of its affairs and the conduct
8 of its business.
- 9 (b) Adopt an official seal.
- 10 (c) Sue and be sued in its own name.
- 11 (d) Receive and accept from any agency of the United States,
12 any agency of the state, or any municipality, county, or other
13 political subdivision thereof, or from any individual, association,
14 or corporation gifts, grants, or donations of moneys for achieving
15 any of the purposes of this division.
- 16 (e) Engage the services of private consultants to render
17 professional and technical assistance and advice in carrying out
18 the purposes of this division.
- 19 (f) Receive and accept from any source loans, contributions, or
20 grants for, or in aid of, the construction, financing, or refinancing
21 of a project or any portion of a project in money, property, labor,
22 or other things of value.
- 23 (g) Make secured or unsecured loans to, or purchase secured or
24 unsecured loans of, any project sponsor in connection with the
25 financing of a project or working capital in accordance with an
26 agreement between the authority and the project sponsor. However,
27 no loan to finance a project shall exceed the total cost of the project,
28 as determined by the project sponsor and approved by the authority.
- 29 (h) Make secured or unsecured loans to, or purchase secured or
30 unsecured loans of, any project sponsor in accordance with an
31 agreement between the authority and the project sponsor to
32 refinance indebtedness incurred by that project sponsor for the
33 costs of projects undertaken or for projects acquired or for working
34 capital.
- 35 (i) Mortgage all or any portion of the interest of the authority
36 in a project and the property on which that project is located,
37 whether owned or thereafter acquired, including the granting of a
38 security interest in any property, tangible or intangible, and to
39 assign or pledge all or any portion of the interests of the authority
40 in mortgages, deeds of trust, indentures of mortgage or trust, or

1 similar instruments, notes, and security interests in property,
2 tangible or intangible, of projects for which the authority has made
3 loans, and the revenues therefrom, including payments or income
4 from any thereof owned or held by the authority, for the benefit
5 of the holders of bonds issued to finance or refinance a project or
6 issued to refund or refinance outstanding indebtedness of project
7 sponsors as permitted by this division.

8 (j) Charge and equitably apportion among project sponsors, the
9 administrative costs and expenses incurred by the authority in the
10 exercise of its powers and duties conferred by this division.

11 (k) Obtain, or aid in obtaining, from any department or agency
12 of the United States or of the state, any private company, any
13 insurance or guarantee as to, of, or for the payment or repayment
14 of, interest or principal, or both, or any part thereof, on any bond,
15 loan, lease, or obligation, or any instrument evidencing or securing
16 the loan, lease, or obligation, made or entered into pursuant to this
17 division; and notwithstanding any other provisions of this division,
18 to enter into any agreement, contract, or any other instrument
19 whatsoever with respect to that insurance or guarantee, to accept
20 payment in the manner and form as provided therein in the event
21 of default by a project sponsor, and to assign that insurance or
22 guarantee as security for the authority's bonds.

23 (l) Enter into any and all agreements or contracts, including
24 agreements for liquidity and credit enhancement and interest rate
25 swaps or hedges, execute any and all instruments, and do and
26 perform any and all acts or things necessary, convenient, or
27 desirable for the purposes of the authority or to carry out any power
28 expressly granted by this division.

29 (m) Invest any moneys held in reserve or sinking funds or any
30 moneys not required for immediate use or disbursement, at the
31 discretion of the authority, in any obligations authorized by the
32 resolution authorizing the issuance of the bonds secured thereof
33 or authorized by law for the investment of trust funds in the custody
34 of the Treasurer.

35 (n) Employ and fix the compensation of bond counsel, financial
36 consultants, and advisers as may be necessary in its judgment in
37 connection with the issuance and administration of any bonds and
38 contract for engineering, architectural, accounting, or other services
39 as may be necessary in the judgment of the authority for the
40 successful development of any project.

1 (o) Participate in all things necessary and convenient to carry
2 out its purposes and exercise its powers.

3 64108. All expenses of the authority incurred in carrying out
4 the provisions of this division shall be payable solely from funds
5 provided pursuant to this division, and no liability shall be incurred
6 by the authority beyond the extent to which moneys shall have
7 been provided under this division, except that for the purposes of
8 meeting the necessary expenses of initial organization and
9 operation of the authority for the period commencing January 1,
10 2009, and continuing until the date the authority derives money
11 from funds provided to it under the provisions of this division, the
12 authority may borrow moneys as the authority may require. Any
13 moneys borrowed by the authority shall subsequently be charged
14 to and apportioned among project sponsors in an equitable manner
15 and the moneys repaid with appropriate interest over a reasonable
16 period of time. Under no circumstances shall the authority create
17 any debt, liability, or obligation on the part of the State of
18 California payable from any source whatsoever other than the
19 moneys provided under the provisions of this division.

20 64109. (a) To the extent permitted by law, in connection with
21 any project financed or refinanced pursuant to this division, the
22 project sponsor may pledge the following revenue sources as
23 security for revenue bonds issued by the authority:

24 (1) Local transportation funds, including, but not limited to,
25 fuel taxes, Article XIXB fuel sales taxes, local transportation sales
26 taxes, other state revenues approved for this purpose by the
27 Legislature or by initiative, and developer fees. To the extent that
28 these revenue sources are within the control of a local agency, the
29 revenue sources may only be pledged with approval of the
30 governing board of the local agency. To the extent that these
31 revenues are within the control of a state agency, the revenue
32 sources may only be pledged with approval by the department and
33 the commission.

34 (2) Tolls, on facilities where not otherwise prohibited by statute,
35 collected by a project sponsor with the approval of the authority.

36 (b) Where the authority is issuing bonds to finance or refinance
37 a project, the authority shall accept a project sponsor's pledge
38 made pursuant to subdivision (a) and pledge those revenues to the
39 repayment of bonds issued to finance or refinance the applicable
40 project.

1 64110. (a) A project sponsor may apply to the authority for
2 bond financing or refinancing of a transportation project that has
3 been approved by the department and the commission for
4 construction.

5 (b) The authority shall also ensure that the following
6 requirements are met for a project to be financed or refinanced by
7 the authority to the extent these criteria have not already been met
8 through approval of the project by the commission:

9 (1) The project complies with all relevant statutes applicable to
10 planning, programming, and construction of transportation
11 improvement projects, and is contained in the constrained portion
12 of a conforming regional transportation plan prepared pursuant to
13 Section 65080 and identified as a project proposed to be funded
14 under the authority provided by this division. For purposes of this
15 subdivision, a regional transportation plan must be consistent with
16 greenhouse gas reduction targets assigned by the State Air
17 Resources Board, pursuant to Division 25.5 (commencing with
18 Section 35800) of the Health and Safety Code.

19 (2) For projects on the state highway system, the project sponsor
20 has cooperated with the department to secure its support for the
21 project and to ensure that the project is consistent with the needs
22 and requirements of the state highway system.

23 (3) The project is technically feasible in that it conforms to
24 federal standards and meets or exceeds environmental
25 requirements.

26 (4) The project is financially feasible, as determined pursuant
27 to Section 64111.

28 (5) Performance measures have been developed for the project
29 to enable the commission to track and report on the project's
30 performance to the Legislature in the commission's annual report
31 prepared pursuant to Section 14535.

32 (6) The project has ~~strong~~ support in the communities adjacent
33 to or affected by the project. ~~To demonstrate support~~ *ensure that*
34 *such support can be demonstrated*, the project sponsor shall, at a
35 minimum, make available for public review and comment the
36 proposed project, including any proposed toll schedule, no less
37 than 30 days prior to approval by the governing body with
38 jurisdiction over the project.

39 (7) In the case of highway projects, the project sponsor submits
40 to the commission and to the authority a plan that demonstrates

1 how transit service or alternative modes of transportation will be
2 enhanced in the corridor concurrent with the ~~opening~~ *operation*
3 of a toll facility for the purpose of ensuring that the corridor
4 provides for multiple modes of transport that accommodate all
5 users. *Nothing in this section may be construed to require that toll*
6 *revenues be used to finance the enhancement of transit or*
7 *alternative means of transportation in the project corridor.*

8 (c) The authority shall have no power to plan projects, or to
9 approve projects other than provided in this division. The authority
10 shall have no power to assume any of the planning, programming,
11 or allocation authority of the department or the commission.

12 (d) Beginning June 30, 2010, and annually thereafter, the
13 authority shall provide to the commission a summary of actions
14 taken in the previous calendar year, including the number of project
15 sponsors who sought financing through the authority, a description
16 of each project, a summary of the sources of funding used to
17 finance or refinance the project, and any recommendations the
18 authority may have to improve the financing of transportation
19 infrastructure, to be included in the commission's annual report
20 to the Legislature as required by Section 14535.

21 64111. (a) Prior to issuing or approving the issuance of bonds
22 for a project, the authority shall determine that the revenues and
23 other moneys available for a project will be sufficient to pay debt
24 service on the bonds and to operate and maintain the project over
25 the life of the bonds consistent with the objective set forth in
26 Section 64105. The authority may hire outside consultants to assist
27 in making these determinations.

28 (b) The authority may issue or approve the issuance of bonds
29 to achieve any of its purposes under this division and bonds may
30 be issued without investment grade ratings, as long as the bonds
31 are sold only to qualified institutional buyers or accredited investors
32 who attest upon purchase that they understand the nature of the
33 risks of their investment. The bonds may be taxable or tax-exempt
34 and may be sold at public or private negotiated sale. The Treasurer
35 shall serve as the agent for sale for all authority bond issues, and
36 shall be reimbursed from bond proceeds to cover the Treasurer's
37 costs related to the issuance of these bonds. As used in this
38 subdivision, "accredited investor" shall have the meaning as
39 defined in subdivision (a) of Section 5950, and "qualified

1 institutional buyer” shall have the meaning as defined in
2 subdivision (h) of Section 5950.

3 (c) The project sponsor may request that it be the issuer of the
4 bonds. The authority may grant the request if it determines that
5 the revenues and other moneys available for the project will be
6 sufficient to pay debt service on the bonds and to operate and
7 maintain the project over the life of the bonds. A project sponsor
8 for which the authority has granted a request that the project
9 sponsor issue the bonds, in addition to any other powers it may
10 have under any other law, shall have all of the powers of the
11 authority under this division necessary or convenient for the
12 purpose of issuing, securing, and repaying the bonds and financing
13 or refinancing the project. This provision is a complete, additional,
14 and alternative method of accomplishing the matters authorized,
15 and the project sponsor need not comply with any other law relating
16 to the issuance of bonds, financing of projects and, if applicable,
17 the imposition and collection of tolls.

18 (d) The authority may arrange additional credit support for the
19 bond issues. However, the authority may not compel project
20 sponsors to make use of that credit enhancement, nor compel them
21 to contribute to it by becoming part of a common credit or by
22 providing funding for a common reserve or other enhancement
23 mechanism.

24 64112. Notwithstanding any other provision of law, the
25 authority may authorize a project sponsor, or the department, to
26 impose and collect tolls as one source of financing to pay debt
27 service and to operate and maintain a project under the following
28 conditions:

29 (a) The governing body of the project sponsor, by a majority
30 vote of the body, or, for projects sponsored by the department, the
31 commission, has approved the imposition of tolls on users of the
32 project, or a majority of the voters within the jurisdiction of the
33 project sponsor has approved a ballot measure imposing the tolls.

34 (b) Each highway project for which tolls are imposed shall have
35 nontolled alternative lanes available for public use in the same
36 corridor as the proposed toll project. Nothing in this division shall
37 allow the conversion of any existing nontolled or non-user-fee
38 lanes into tolled or user-fee lanes, except for the conversion of
39 high-occupancy vehicle lanes into high-occupancy toll lanes,

1 consistent with the authorizations in Sections 149.1, 149.4, 149.5,
2 149.6, and 149.7 of the Streets and Highways Code.

3 (c) For highway projects, the road segment is on the state
4 highway system. *Nothing in this division shall allow the imposition*
5 *of a toll on any local street or road.*

6 (d) The approval of the tolls pursuant to subdivision (a) shall
7 require that the tolls be set and maintained at a level expected to
8 be sufficient to pay debt service, operations, and maintenance of
9 the project over the life of the bonds consistent with the objective
10 set forth in Section 64105.

11 (e) The project’s financial pro forma shall incorporate life cycle
12 costs for the project, including revenues to pay for maintenance,
13 operation, and rehabilitation.

14 (f) Subject to any constraints in the bond documents necessary
15 to make the bonds marketable, excess revenues from operation of
16 the project, including toll revenues, shall be used exclusively in
17 the corridor from which the revenue was generated to fund
18 acquisition, construction, improvement, maintenance, or operation
19 of high-occupancy vehicle facilities, other transportation purposes,
20 or transit service, including, but not limited to, support for transit
21 operations pursuant to an expenditure plan. The project sponsor,
22 in consultation with the department, shall issue an expenditure
23 plan that describes transportation improvements for the corridor,
24 which shall include projected costs, the use of toll revenues, and
25 a proposed completion schedule. The expenditure plan shall be
26 updated annually. The plan and each annual update shall be made
27 available for public review and comment for no less than 30 days
28 prior to adoption by the governing board of the project sponsor.

29 (g) Except for purposes of implementing congestion
30 management mechanisms pursuant to Section 64113, tolls may
31 not be set to generate more revenue than the expected cost of
32 paying debt service on the bonds, contracts entered into by the
33 authority or the project sponsor in connection with the bonds,
34 funding reserves, operating and maintaining the project, repair and
35 rehabilitation of the project, and providing transportation
36 improvements to the corridor pursuant to subdivision (f).

37 64113. A project sponsor of a project imposing tolls may
38 incorporate congestion management mechanisms to regulate usage
39 and increase mobility, accessibility, and environmental benefits.

1 64114. The authority and the commission shall develop an
2 approval process that results in project approval by the commission
3 and financing approval by the authority in a cooperative manner
4 that is not sequential, in order that both approvals may be delivered
5 to a project at approximately the same time. Both agencies shall
6 work with potential project sponsors to ensure that projects are
7 developed and brought forward for approval in a manner consistent
8 with the commission's project requirements and the authority's
9 financing requirements. No less than 30 days prior to approving
10 the project and its financing plan, the commission and the authority
11 shall make available for public review and comment a description
12 of the project and its financing.

13 64115. (a) The authority is authorized, from time to time, to
14 issue its negotiable bonds in order to provide funds for achieving
15 any of its purposes under this division.

16 (b) Except as may otherwise be expressly provided by the
17 authority, each of its bonds shall be payable from any revenues or
18 moneys of the authority available therefor and not otherwise
19 pledged, subject only to any agreements with the holders of
20 particular bonds or notes pledging any particular revenues or
21 moneys. Notwithstanding that those bonds may be payable from
22 a special fund, they shall be and be deemed to be for all purposes
23 negotiable instruments, subject only to the provisions of those
24 bonds for registration.

25 (c) The authority's bonds may be issued as serial bonds or as
26 term bonds, or the authority, in its discretion, may issue bonds of
27 both types. The issuance of all bonds shall be authorized by
28 resolution of the authority and shall bear the date or dates, mature
29 at the time or times not exceeding 40 years from their respective
30 dates, bear interest at the rate or rates, fixed or variable, be payable
31 at the time or times, be in the denominations, be in the form, either
32 coupon or registered, carry the registration privileges, be executed
33 in the manner, be payable in lawful money of the United States of
34 America at the place or places, and be subject to the terms of
35 redemption, as the indenture, trust agreement, or other document
36 authorized by the resolution, or resolution itself may provide. The
37 authority's bonds or notes may be sold by the Treasurer at public
38 or private negotiated sale, after giving due consideration to the
39 recommendation of the project sponsor, for such price or prices
40 and upon such terms and conditions as the authority shall

1 determine. The Treasurer may sell those bonds at a price below
2 the par value thereof. However, the discount on any bonds so sold
3 shall not exceed 6 percent of the par value thereof, except in the
4 case of any bonds payable in whole or in part from moneys held
5 under one or more outstanding resolutions or indentures. Pending
6 preparation of the definitive bonds, the authority may issue interim
7 receipts or certificates or temporary bonds that shall be exchanged
8 for those definitive bonds.

9 (d) Any resolution or resolutions authorizing the issuance of
10 any bonds or any issue of bonds may contain provisions, which
11 shall be a part of the contract with the holders of the bonds to be
12 authorized, as to pledging all or any part of the revenues of a
13 project or any revenue-producing contract or contracts made by
14 the authority with any individual, partnership, corporation, or
15 association or other body, public or private, to secure the payment
16 of the bonds or of any particular issue of bonds.

17 (e) Neither the members of the authority nor any person
18 executing the bonds shall be liable personally on the bonds or be
19 subject to any personal liability or accountability by reason of the
20 issuance thereof.

21 (f) The authority shall have power out of any funds available
22 therefor to purchase its bonds or bonds issued by a project sponsor
23 under this division. The authority may hold, pledge, cancel, or
24 resell the bonds, subject to and in accordance with agreements
25 with bondholders.

26 64116. In the discretion of the authority, any bonds issued
27 under this division may be secured by a trust agreement or
28 indenture by and between the authority and a corporate trustee or
29 trustees, which may be the Treasurer or any trust company or bank
30 having the powers of a trust company within or without the state.
31 The trust agreement, indenture, or the resolution providing for the
32 issuance of those bonds may pledge or assign the revenues to be
33 received from a project sponsor or pursuant to any
34 revenue-producing contract or as pledged by the authority pursuant
35 to Section 64109. The indenture, trust agreement, or resolution
36 providing for the issuance of those bonds may contain provisions
37 for protecting and enforcing the rights and remedies of the
38 bondholders as may be reasonable and proper and not in violation
39 of law, including, particularly, provisions as have been specifically
40 authorized to be included in any resolution or resolutions of the

1 authority authorizing bonds thereof. The trust agreement or
2 indenture may set forth the rights and remedies of the bondholders
3 and of the trustee or trustees, and may restrict the individual right
4 of action of bondholders. In addition to the foregoing, the
5 indenture, trust agreement, or resolution may contain other
6 provisions as the authority may deem reasonable and proper for
7 the security of the bondholders.

8 64117. Bonds issued under this division shall not be deemed
9 to constitute a debt or liability of the state or of any political
10 subdivision thereof or a pledge of the faith and credit of the state
11 or of the political subdivision, other than the authority, but shall
12 be payable solely from the funds herein provided. The bonds shall
13 contain on the face thereof a statement to the effect that neither
14 the State of California nor the authority shall be obligated to pay
15 the principal of, or the interest thereon, except from revenues
16 pledged therefor by the authority, and that neither the faith and
17 credit nor the taxing power of the State of California or of any
18 political subdivision thereof is pledged to the payment of the
19 principal of or the interest on those bonds. The issuance of bonds
20 under the provisions of this division shall not directly or indirectly
21 or contingently obligate the state or any political subdivision
22 thereof to levy or to pledge any form of taxation therefor or to
23 make any appropriation for their payment.

24 64118. Any holder of bonds issued under this division or any
25 of the coupons appertaining thereto, and the trustee or trustees
26 under any indenture or trust agreement, except to the extent the
27 rights herein given may be restricted by any resolution authorizing
28 the issuance of, or any indenture or trust agreement securing, the
29 bonds, may, either at law or in equity, by suit, action, mandamus,
30 or other proceedings, protect and enforce any and all rights under
31 the laws of the state or granted hereunder or under the resolution
32 or indenture or trust agreement, and may enforce and compel the
33 performance of all duties required by this division or by the
34 resolution, indenture, or trust agreement to be performed by the
35 authority or by any officer, employee, or agent thereof.

36 64119. All moneys received pursuant to this division, whether
37 as proceeds from the sale of bonds or as revenues, shall be deemed
38 to be trust funds to be held and applied solely as provided in this
39 division. Until the funds are applied as provided in this division,
40 and notwithstanding any other provision of law, the moneys may

1 be invested in any obligations or securities authorized by resolution
2 of the authority authorizing the issuance of the bonds or indenture
3 or trust agreement securing the bonds. Any officer with whom, or
4 any bank or trust company with which, the moneys are deposited
5 shall act as trustee of the moneys and shall hold and apply the
6 moneys for the purposes hereof, subject to any regulations adopted
7 pursuant to this division, and the resolution authorizing the issuance
8 of the bonds or the indenture or trust agreement securing the bonds.

9 64120. (a) The authority may provide for the issuance of bonds
10 of the authority for the purpose of refunding any bonds or any
11 series or issue of bonds of the authority then outstanding, including
12 the payment of any redemption premium thereon and any interest
13 accrued or to accrue to the date of redemption, purchase, or
14 maturity of the bonds.

15 (b) The proceeds of any bonds issued for the purpose of
16 refunding of outstanding bonds may, in the discretion of the
17 authority, be applied to the purchase, redemption prior to maturity,
18 or retirement at maturity of any outstanding bonds on their earliest
19 redemption date or dates, upon their purchase or maturity, or paid
20 to a third person to assume the authority's obligation to make the
21 payments, and may, pending that application, be placed in escrow
22 to be applied to the purchase, retirement at maturity, or redemption
23 on the date or dates determined by the authority.

24 (c) Any proceeds placed in escrow may, pending their use, be
25 invested and reinvested in obligations or securities authorized by
26 resolutions of the authority, payable or maturing at the time or
27 times as are appropriate to ensure the prompt payment of the
28 principal, interest, and redemption premium, if any, of the
29 outstanding bonds to be refunded at maturity or redemption of the
30 bonds to be refunded either at their earliest redemption date or
31 dates or any subsequent redemption date or dates or for payment
32 of interest on the refunding bonds on or prior to the final date of
33 redemption or payment of the bonds to be refunded. After the terms
34 of the escrow have been fully satisfied and carried out, any balance
35 of the proceeds and interest, income, and profits, if any, earned or
36 realized on the investments thereof may be returned to the authority
37 for use by the authority.

38 (d) All of the refunding bonds are subject to this division in the
39 same manner and to the same extent as other bonds issued pursuant
40 to this division.

1 64121. Bonds issued by the authority under this division are
2 hereby made securities in which all banks, bankers, savings banks,
3 trust companies and other persons carrying on a banking business,
4 all insurance companies, insurance associations and other persons
5 carrying on an insurance business, and all administrators, executors,
6 guardians, trustees and other fiduciaries, and all other persons
7 whatsoever who now are or may hereafter be authorized to invest
8 in bonds or other obligations of the state, may properly and legally
9 invest any funds, including capital belonging to them or within
10 their control; and the bonds, notes or other securities or obligations
11 are hereby made securities that may properly and legally be
12 deposited with and received by any state or municipal officers or
13 agency of the state for any purpose for which the deposit of bonds
14 or other obligations of the state is now or may hereafter be
15 authorized by law.

16 64122. Any bonds issued under this division, their transfer,
17 and the income therefrom shall at all times be free from taxation
18 of every kind by the state and by all political subdivisions in the
19 state.

20 64123. The State of California does pledge to and agree with
21 the holders of the bonds issued pursuant to this division, and with
22 those parties who may enter into contracts with the authority or a
23 project sponsor pursuant to this division, that the state will not
24 limit, alter, or restrict the rights hereby vested in the authority or
25 a project sponsor to finance or refinance projects and to authorize
26 the imposition and collection of tolls and to fulfill the terms of any
27 agreements made with the holders of bonds authorized by this
28 division, and with the parties who may enter into contracts with
29 the authority or a project sponsor pursuant to this division, or in
30 any way impair the rights or remedies of the holders of those bonds
31 or those parties until the bonds, together with interest thereon, are
32 fully paid and discharged and the contracts are fully performed on
33 the part of the authority or a project sponsor. The authority, and
34 the project sponsor, as a public body, corporate and politic, shall
35 have the right to include the pledge herein made in its bonds and
36 contracts.

37 64124. A pledge by or to the authority of revenues, moneys,
38 accounts, accounts receivable, contract rights, and other rights to
39 payment of whatever kind made by or to the authority pursuant to
40 the authority granted in this division shall be valid and binding

1 from the time the pledge is made for the benefit of pledges and
2 successors thereto. The revenues, moneys, accounts, accounts
3 receivable, contract rights, and other rights to payment of whatever
4 kind pledged by or to the authority or its assignees shall
5 immediately be subject to the lien of the pledge without physical
6 delivery or further act. The lien of the pledge shall be valid and
7 binding against all parties, irrespective of whether the parties have
8 notice of the claim. The indenture, trust agreement, resolution, or
9 another instrument by which the pledge is created need not be
10 recorded.

11 64125. Each lease entered into by the authority with a project
12 sponsor and each agreement, note, mortgage, or other instrument
13 evidencing the obligations of a project sponsor to the authority
14 shall provide that the rents or principal, interest, and other charges
15 payable by the project sponsor shall be sufficient at all times, (a)
16 to pay the principal of, sinking fund payments, if any, the premium,
17 if any, and the interest on outstanding bonds of the authority issued
18 in respect of such project as the same shall become due and
19 payable, (b) to create and maintain reserves which may, but need
20 not, be required or provided for in the resolution relating to the
21 bonds of the authority, and (c) to pay its share of the administrative
22 costs and expenses of the authority. The authority shall pledge the
23 revenues derived, and to be derived, from a project or from a
24 project sponsor for the purposes specified in (a), (b), and (c) of the
25 preceding sentence and additional bonds may be issued which may
26 rank on a parity with other bonds relating to the project to the
27 extent and on the terms and conditions provided in the bond
28 resolution.

29 64126. When the principal of and interest on bonds issued by
30 the authority to finance the cost of a project or working capital or
31 to refinance outstanding indebtedness of one or more project
32 sponsors, including any refunding bonds issued to refund and
33 refinance those bonds, have been fully paid and retired or when
34 adequate provision has been made to fully pay and retire those
35 bonds, and all other conditions of the resolution, the lease, the trust
36 indenture and any mortgage or deed of trust, security interest, or
37 any other instrument or instruments authorizing and securing the
38 bonds have been satisfied and the lien of the mortgage, deed of
39 trust, or security interest has been released in accordance with the
40 provisions thereof, the authority shall promptly do all things and

1 execute those releases, release deeds, reassignments, deeds, and
2 conveyances necessary and required to convey or release any
3 rights, title, and interest of the authority in the project so financed,
4 or securities or instruments pledged or transferred to secure the
5 bonds, to the project sponsor or sponsors.

6 64127. (a) This division shall be deemed to provide a complete,
7 additional, and alternative method for doing the things authorized
8 by this code, and shall be regarded as supplemental and additional
9 to powers conferred by other laws. The issuance of bonds and
10 refunding bonds and the financing or refinancing of projects or
11 the imposition and collection of tolls under this chapter need not
12 comply with any other law applicable to the issuance of bonds or
13 the collection of tolls, including, but not limited to, Division 13
14 (commencing with Section 21000) of the Public Resources Code.

15 (b) Except as provided in subdivision (a), the financing of a
16 project pursuant to this division shall not exempt a project from
17 any requirement of law that is otherwise applicable to the project,
18 and the project sponsor shall provide documentation, before the
19 authority approves the issuance of bonds for the project, that the
20 project has complied with Division 13 (commencing with Section
21 21000) of the Public Resources Code, or is not a project under that
22 division.

23 64128. To the extent that the provisions of this division are
24 inconsistent with any other provisions of any general statute or
25 special act or parts thereof, the provisions of this division shall be
26 deemed controlling.

27 64129. Any net earnings of the authority beyond that necessary
28 for retirement of any obligations issued by the authority or to
29 implement the purposes of this division may inure to the benefit
30 only of the state or the authority.

31 64130. Upon dissolution of the authority, title to all property
32 owned by the authority shall vest in the successor authority created
33 by the Legislature, if any, if the successor authority qualifies under
34 Section 103 of the federal Internal Revenue Code of 1954, as
35 amended, and the regulations promulgated thereunder, as an
36 authority entitled to issue obligations on behalf of the State of
37 California the interest on which is exempt from federal income
38 taxation. If no successor authority is so created, title to the property
39 shall vest in the state.

1 64131. Nothing in this division is intended to limit the authority
2 to develop and finance high-occupancy toll lanes pursuant to
3 Section 149.4, 149.5, 149.6, or 149.7 of the Streets and Highways
4 Code, or to limit the ability of any agency that has existing
5 authority to issue bonds.

6 64132. (a) The California Transportation Financing Authority
7 Fund is hereby created and continued in existence in the State
8 Treasury, to be administered by the authority. Notwithstanding
9 Section 13340 of the Government Code, all moneys in the funds
10 shall be continuously appropriated without regard to fiscal year
11 for the purposes of this division. The authority may pledge any or
12 all of the moneys in the fund as security for payment of the
13 principal of, and interest on, any particular issuance by the authority
14 of bonds issued pursuant to this division, or any particular secured
15 or unsecured loan made pursuant to subdivision (g) or (h) of
16 Section 64107, and, for that purpose or as necessary or convenient
17 to the accomplishment of any other purpose of the authority, may
18 divide the fund into separate accounts. All moneys accruing to the
19 authority pursuant to this part from whatever source shall be
20 deposited in the fund.

21 (b) Subject to the priorities that may be created by the pledge
22 of particular moneys in the fund to secure any issuance of bonds
23 of the authority, and subject further to the costs of loans provided
24 by the authority pursuant to subdivisions (g) and (h) of Section
25 64107, and subject further to any reasonable costs that may be
26 incurred by the authority in administering the program authorized
27 by this division, all moneys in the fund derived from any source
28 shall be held in trust for the security and payment of bonds of the
29 authority and shall not be used or pledged for any other purpose
30 so long as the bonds are outstanding and unpaid. However, nothing
31 in this section shall limit the power of the authority to make loans
32 with the proceeds of bonds in accordance with the terms of the
33 resolution authorizing the same.

34 (c) Pursuant to any agreements with the holders of particular
35 bonds pledging any particular assets, revenues, or moneys, the
36 authority may create separate accounts in the fund to manage
37 assets, revenues, or moneys in the manner set forth in the
38 agreements.

39 (d) The authority may, from time to time, direct the Treasurer
40 to invest moneys in the fund that are not required for its current

1 needs, including proceeds from the sale of any bonds, in the eligible
2 securities specified in Section 16430 as the agency shall designate.
3 The authority may direct the Treasurer to deposit moneys in
4 interest-bearing accounts in state or national banks or other
5 financial institutions having principal offices in this state. The
6 authority may alternatively require the transfer of moneys in the
7 fund to the Surplus Money Investment Fund for investment
8 pursuant to Article 4 (commencing with Section 16470) of Chapter
9 3 of Part 2 of Division 4 of title 2. All interest or other increment
10 resulting from an investment or deposit shall be deposited in the
11 fund, notwithstanding Section 16305.7. Moneys in the fund shall
12 not be subject to transfer to any other fund pursuant to any
13 provision of Part 2 (commencing with Section 16300) of Division
14 4 of Title 2, excepting the Surplus Money Investment Fund.

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

17 149.7. (a) A regional transportation agency, as defined in
18 Section 143, in cooperation with the department, may apply to the
19 commission to develop and operate high-occupancy toll lanes,
20 including the administration and operation of a value pricing
21 program and exclusive or preferential lane facilities for public
22 transit, consistent with the established standards, requirements,
23 and limitations that apply to those facilities in Sections 149, 149.1,
24 149.3, 149.4, 149.5, and 149.6.

25 (b) The commission shall review each application for the
26 development and operation of the facilities described in subdivision
27 (a) according to eligibility criteria established by the commission.
28 For each eligible application, the commission shall conduct at least
29 one public hearing in northern California and one in southern
30 California.

31 (c) The number of facilities approved under this section shall
32 not exceed four, two in northern California and two in southern
33 California.

34 (d) A regional transportation agency that develops or operates
35 a facility, or facilities, described in subdivision (a) shall provide
36 any information or data requested by the commission or the
37 Legislative Analyst. The commission, in cooperation with the
38 Legislative Analyst, shall annually prepare a report on the progress
39 of the development and operation of a facility authorized under
40 this section. The commission may submit this report as a section

- 1 in its annual report to the Legislature required pursuant to Section
- 2 14535 of the Government Code.
- 3 (e) No applications may be approved under this section on or
- 4 after January 1, 2012.

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