

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: July 15, 2009
POSITION: Oppose unless amended

BILL NUMBER: AB 744
AUTHOR: A. Torrico
RELATED BILLS: AB 1831 (Perez)

BILL SUMMARY: Transportation: Toll Lanes: Express Lane Network

This bill would authorize the Bay Area Transit Authority (BATA) to acquire, construct, administer, and operate a Bay Area Express Lane Network on state highways within the nine Bay Area counties. This bill would authorize BATA to establish the fee structure for the use of the express lanes and determine the types of vehicles that may use the lanes. This bill would provide that the state could not authorize fee-based publicly or privately owned express lanes or high occupancy vehicle lanes within the geographic jurisdiction of BATA other than the lanes provided for in this bill. This bill would authorize the Metropolitan Transportation Commission, in cooperation with the Department of Transportation (Caltrans), to increase the vehicle occupancy qualification requirements for any vehicle using an express lane in the region by one passenger above the level required on January 1, 2010.

FISCAL SUMMARY

Caltrans would have unknown costs to coordinate project efforts with various stakeholder groups.

The California Highway Patrol would be required to enter into agreements with BATA and Caltrans to identify respective obligations and liabilities to the various entities involved. Costs are expected to be minor, but also would be reimbursed from the toll fees.

While this bill has been identified as containing a state mandate, the courts have held that costs to a local entity resulting from an action undertaken at the option of the local entity are not reimbursable as "costs mandated by the state." The bill includes the appropriate local mandate disclaimer language.

COMMENTS

While Finance is supportive of the concept and most provisions in the bill, we are opposed to it unless it is amended to do the following:

- Clarify that maintenance costs for new facilities shall be paid for or reimbursed by BATA.
Coordinate requirements between Caltrans and BATA on the operation of shared routes.
Provide that corridor plans be required to conform to other regional plans including being consistent with any plans adopted pursuant to Chapter 728, Statutes of 2008 (SB 375), Chapter 488, Statutes of 2006 (AB 32), and Caltrans' Corridor Mobility Plan.

Analyst/Principal Date Program Budget Manager Date
(0752) J. Parks Mark Hill

Department Deputy Director Date

Governor's Office: By: Date: Position Approved
Position Disapproved

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

A. Torrico

July 15, 2009

AB 744

**ANALYSIS**

## A. Programmatic Analysis

**Current law** specifies the respective powers and duties of the Department of Transportation (Caltrans) and the Bay Area Toll Authority (BATA) relative to the operation of the state-owned Bay Area toll bridges. Current law provides for Caltrans to designate certain lanes for the exclusive use of buses and high-occupancy vehicles (HOVs) and also provides for various agencies to implement high-occupancy toll (HOT) lanes on state highways.

**This bill** would authorize BATA to acquire, construct, administer, and operate a Bay Area Express Lane Network on state highways within the nine Bay Area counties. This bill would authorize BATA to establish the fee structure for the use of the express lanes and determine the types of vehicles that may use the lanes. This bill would provide that the state could not authorize fee-based publicly or privately owned express lanes or high occupancy vehicle lanes within the geographic jurisdiction of BATA other than the lanes provided for in this bill. This bill would authorize the Metropolitan Transportation Commission, in cooperation with Caltrans, to increase the vehicle occupancy qualification requirements for any vehicle using an express lane in the region by one passenger above the level required on January 1, 2010.

**Discussion:** The nine-county Bay Area region includes a network of around 360 miles of HOV lanes and over 150 additional miles are programmed. BATA proposes to convert these lanes to a network of congestion priced express lanes, which would allow vehicles not meeting HOV occupancy requirements to use the express lanes for a fee based on the congestion of the non HOV lanes.

The provision in this bill that would restrict the state from authorizing privately owned express lanes could significantly impact the ability for public private partnerships to create transportation enhancing facilities in the nine-county Bay Area. This bill needs clarification that maintenance costs for new facilities shall be paid for or reimbursed by BATA. It is also unclear as to how BATA and Caltrans would coordinate operations of shared routes. There is no requirement that corridor plans conform to other regional plans including being consistent with any plans adopted pursuant to Chapter 728, Statutes of 2008, or Chapter 488, Statutes of 2006, as well as Caltrans' Corridor Mobility Plan.

**Related Legislation:** AB 1381 (Perez) would permit the Los Angeles County Metropolitan (LACMTA) Transportation Authority to construct and operate HOT lanes on the State Route 10 and 110 corridors and would permit Caltrans or any local agency to build competing facilities without compensation to the LACMTA.

## B. Fiscal Analysis

Caltrans would have unknown costs for staff resources to coordinate project efforts with various stakeholder groups.

The California Highway Patrol would be required to enter into agreements with BATA and Caltrans to identify respective obligations and liabilities to the various entities involved. Costs are expected to be minor, but also would be reimbursed from the toll fees.

While this bill has been identified as containing a state mandate, the courts have held that costs to a local entity resulting from an action undertaken at the option of the local entity are not reimbursable as "costs mandated by the state."

**BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)**

**AUTHOR**

**AMENDMENT DATE**

**BILL NUMBER**

A. Torrico

July 15, 2009

AB 744

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code
	LA	(Dollars in Thousands)							
	CO	PROP							
	RV	98	FC	2009-2010	FC	2010-2011	FC	2011-2012	
2660/Caltrans	SO	No	-----	See Fiscal Summary	-----			0042	
2720/CHP	SO	No	-----	See Fiscal Summary	-----			0044	
<u>Fund Code</u>	<u>Title</u>								
0042	Highway Account, State, STF								
0044	Motor Vehicle Account, STF								

Suggested Amendments  
AB 744 (As amended July 15, 2009)

SECTION 1. The Legislature finds and declares all of the following:

(a) It is the intent of the Legislature to authorize the Bay Area Toll Authority to ~~acquire, develop, administer, and operate,~~ and maintain a Bay Area Express Lane Network (network) with the following objectives:

(1) More effectively manage the region's freeways in order to provide higher passenger throughput and to reduce delays for all travelers in the corridor, especially those traveling by carpool, vanpool, or bus within each travel corridor.

(2) Provide an efficient, effective, consistent, and seamless system for network customers.

(3) Provide benefits to travelers within each corridor commensurate with the revenues collected in that corridor, including expanded travel options and funding to support nonhighway options that enhance effectiveness and throughput.

(4) Expedite the implementation of the network using a rapid delivery approach that, to the greatest extent possible, recognizing safety, operational, and environmental constraints, relies upon the existing highway ~~right-of-way~~ network and minimizes the environmental impact.

(5) Use network revenue to finance project development and construction of the network and other corridor improvements, operate and maintain the network, and prioritize the use of net corridor revenue to provide transit capital and operations funding to improve transit service in the corridor.

(b) It is the intent of the Legislature that network policies be developed by the Bay Area Toll Authority in a collaborative manner that includes the Department of Transportation, the Department of the California Highway Patrol, and bay area congestion management agencies.

(c) It is the intent of the Legislature that the authority utilize a corridor-based structure that recognizes commute sheds and geographic communities of interest as the most effective and user-responsive models for the network facilities implementation.

(d) It is the intent of the Legislature that the authority reinvest net corridor revenues generated in the corridor to provide benefits to all travelers in the corridor.

(e) It is the intent of the Legislature that corridor investment plans guide the use of net corridor revenues from the express lane network to capital and operating programs serving the corridor commensurate with the net corridor revenue generated by each corridor.

(f) It is the intent of the Legislature that the network provide customers a consistent and efficient system that is easy to use, that is safe, and includes the following elements, but with variances and exceptions as may be necessary to commence network operations in a timely and cost-effective manner:

- (1) Consistent geometric design.
- (2) Consistent signage.
- (3) Common technology.
- (4) Common marketing, logo, and terminology.

SEC. 2. Section 27566 is added to the Streets and Highways Code , to read:

27566. (a) In its role as administrator of the automatic vehicle identification system for toll collection described in Section 27565, the Bay Area Toll Authority shall provide vehicle owners who seek to obtain an account the option of opening and maintaining an account with United States currency or check. That option shall also allow a customer to obtain an account without providing his or her name or address.

(b) The Bay Area Toll Authority shall inform the public about the option to obtain a cash-based account for the automatic vehicle

identification system on its Internet Web site and in promotional materials.

(c) The Bay Area Toll Authority may provide a person the option of making a payment with United States currency to replenish his or her vehicle identification system account at the toll plaza administration building associated with each of the state-owned toll bridges located within the geographic jurisdiction of the Metropolitan Transportation Commission.

(d) The Bay Area Toll Authority shall make a good faith effort to encourage commercial retailers that sell transponders for the automatic vehicle identification system to enable a person to replenish his or her account at the retail location with a variety of payment methods, including, but not limited to, United States currency.

SEC. 3. Section 30913 of the Streets and Highways Code is amended to read:

30913. (a) In addition to any other authorized expenditure of toll bridge revenues, the following major projects may be funded from toll revenues:

- (1) Benicia-Martinez Bridge: Widening of the existing bridge.
- (2) Benicia-Martinez Bridge: Construction of an additional span parallel to the existing bridge.
- (3) Carquinez Bridge: Replacement of the existing western span.
- (4) Richmond-San Rafael Bridge: Major rehabilitation of the bridge, and development of a new easterly approach between the toll plaza and Route 80, near Pinole, known as the Richmond Parkway.
- (5) The Bay Area Express Lane

Network authorized by Section 30914.7, if and to the extent that funding for the network is not available from other sources listed in subdivision (a) of Section 30914.7 at interest rates and on other financing terms and conditions acceptable to the authority, and provided that the authority adopts a finding that its current financial projections indicate that its funding of the network will not necessitate an increase in the bridge toll rates by the authority or preclude the authority from timely performance of its contractual and statutory obligations and provided further that funds so advanced shall be treated as loans to be repaid pursuant to paragraph (3) of subdivision (a) of Section 30914.7 .

(b) The toll increase approved in 1988, which authorized a uniform toll of one dollar (\$1) for two-axle vehicles on the bridges and corresponding increases for multi-axle vehicles, resulted in the following toll increases for two-axle vehicles on the bridges:

	1988 Increase (Two-axle vehicles)
Antioch Bridge	\$0.50
Benicia-Martinez Bridge	.60
Carquinez Bridge	.60
Dumbarton Bridge	.25
Richmond-San Rafael Bridge	.00
San Francisco-Oakland Bay Bridge	.25
San Mateo-Hayward Bridge	.25

Portions of the 1988 toll increase were dedicated to transit purposes, and these amounts shall be calculated as up to 2 percent of the revenue generated each year by the collection on all bridges of the base toll at the level established by the 1988 toll increase. The Metropolitan Transportation Commission shall allocate two-thirds of these amounts for transportation projects, other than those specified in Sections 30912 and 30913 and in subdivision (a) of Section 30914,

which are designed to reduce vehicular traffic congestion and improve bridge operations on any bridge, including, but not limited to, bicycle facilities and for the planning, construction, operation, and acquisition of rapid water transit systems. The commission shall allocate the remaining one-third solely for the planning, construction, operation, and acquisition of rapid water transit systems. The plans for the projects may also be funded by these moneys. Funds made available for rapid water transit systems pursuant to this subdivision shall be allocated to the San Francisco Bay Area Water Emergency Transportation Authority beginning on the date specified in the adopted transition plan developed by the authority pursuant to subdivision (b) of Section 66540.32 of the Government Code.

(c) The department shall not include, in the plans for the new Benicia-Martinez Bridge, toll plazas, highways, or other facilities leading to or from the Benicia-Martinez Bridge, any construction that would result in the net loss of any wetland acreage.

(d) With respect to the Benicia-Martinez and Carquinez Bridges, the department shall consider the potential for rail transit as part of the plans for the new structures specified in paragraphs (2) and (3) of subdivision (a).

(e) At the time the first of the new bridges specified in paragraphs (2) and (3) of subdivision (a) is opened to the public, there shall be a lane for the exclusive use of pedestrians and bicycles available on at least, but not limited to, the original span at Benicia or Carquinez, or the additional or replacement spans planned for those bridges. The design of these bridges shall not preclude the subsequent addition of a lane for the exclusive use of pedestrians and bicycles.

(f) Subject to the rights of the holders of any outstanding toll bridge revenue bonds issued by the authority and the requirements of any constituent instruments defining the rights of holders of related obligations of the authority entered into pursuant to Section 5922 of the Government Code, the authority may pledge toll revenues and other income derived from bridges referred to in Section 30953 to secure bonds issued by it pursuant to Section 30914.7 if and to the extent the authority determines that funding for the network authorized by Section 30914.7 is not available

at interest rates and on other financing terms acceptable to the authority without such a pledge, and provided that the authority adopts a finding that its current financial projections indicate that those obligations will not necessitate an increase in the bridge toll rates by the authority or preclude the authority from timely performance of its contractual and statutory obligations. The authority may increase the amount of the tolls collected on the toll bridges described in Section 30910 pursuant to Section 30918 thereafter if that action is necessary to meet those obligations.

SEC. 4. Section 30914.6 is added to the Streets and Highways Code, to read:

30914.6. (a) The authority shall establish a Bay Area Express Lane Network Project Oversight Committee (committee), which shall consist of a staff representative of the authority (who shall serve as chair of the committee), a representative of the department named by its director, a representative of the Department of the California Highway Patrol named by its commissioner, and a staff representative of each of the congestion management agencies or countywide transportation planning agencies within the geographic jurisdiction of the commission as defined in Section 66502 of the Government Code that choose to participate. For the purposes of this chapter, all references to congestion management agencies shall include countywide transportation planning agencies that operate within the jurisdiction of the commission, as defined in Section 66502 of the Government Code.

(b) The committee shall recommend to the authority an express lane development plan for the network authorized in Section 30914.7 and policies for the network. The plan shall be updated at least every four years and shall be initiated with the authority providing an estimate of funds available for the development, construction, maintenance, and operation of the network. The first development plan shall consist of the following two elements:

(1) A phasing plan for development of the network, including a definition of the geographic boundaries of each of the express lane corridors.

(2) An operational plan that shall recommend consistent standards for the network, including, but not limited to, the following:

- (A) Geometric design.
- (B) Signage.
- (C) Safe and simple operations.
- (D) Technology.
- (E) Shared marketing, logo, and terminology.
- (F) Pricing policies and goals.
- (G) Carpool occupancy requirements.
- (H) Hours of operation.
- (I) Maintenance.
- (J) Enforcement.
- (K) Tort liability.
- (L) Performance standards, consistent with paragraph (1) of subdivision (e) of Section 30914.7.

Subsequent development plans shall include updates on the phasing plan and operational plan as needed.

While development of a consistent regional network shall be the goal, the development plan may allow for variations in design or other policies, as needed. In developing the phasing plan, the committee shall first prioritize those corridors that (1) can be converted to express lanes that have sufficient capacity from existing high-occupancy vehicle lanes or

(2) demonstrate the ability to generate sufficient fee revenue to cover their financing, operating, and maintenance costs. Elements of the plan and any subsequent revisions or updates to the plan that are under the authority of the department or the Department of the California Highway Patrol shall be approved by the department or the Department of the California Highway Patrol, respectively, prior to being recommended to the authority. The authority shall consider and accept or reject any express lane development plan or revised plan recommended to it. If the authority rejects a plan, it shall return the plan to the committee with its comments, and the committee shall revise the plan and recommend it to the authority. The process described in this subdivision, including and through plan acceptance by the authority, shall not be delayed or halted on account of any failure to receive or accept corridor investment plans pursuant to subdivision (e) or (f).

(c) The committee shall establish corridor working groups as subcommittees of the committee. The number of groups shall correspond to the number of express lane travel corridors within the geographic jurisdiction of the commission as specified in the express lane development plan adopted by the authority and as adjusted, from time to time, by the authority to reflect travel patterns after consultation with the affected group or groups and the committee.

(d) Each group shall consist of a staff representative of the authority, a representative of the department named by its director, a representative of the Department of the California Highway Patrol named by its commissioner, and a staff representative of a congestion management agency represented on the committee whose jurisdiction includes a portion or all of the group's express lane corridor or whose residents comprise a significant share of the potential travelers in the corridor. Each group shall establish its voting arrangements to reflect the commute

shed patterns served by the corridor and the level of county or city and county investment in the infrastructure forming part of the corridor. Each group shall select its chair from among the staff representatives of congestion management agencies participating in the group.

(e) In coordination with the department, each group shall be responsible for the preparation of a project study report or equivalent project initiation document and a corridor investment plan that conforms to other regional plans, including the department's Corridor Mobility Plan and plans prepared pursuant to Section 65080 of the Government Code, and Division 25.5 (commencing with Section 38500) of the Health and Safety Code. The project study report shall assess the feasibility and desirability of express lanes in the corridor. The authority shall provide the resources necessary to prepare the elements of the project study report or equivalent project initiation document and corridor investment plan that relate to the network. The group shall submit a complete corridor investment plan to the committee. The corridor investment plan shall consist of:

(1) Proposals and recommendations, including, but not limited to, the following elements:

(A) Phased development of the segment of the network within the corridor of the group.

(B) Carpool occupancy and network fee policies.

(C) Local funding for the development of part or all of the segment of the network within the corridor of the group, which may include the use of bond or other financing backed by local sources other than network fees.

(D) Proposed reimbursement of local agencies for prior expenditures on elements of the high-occupancy vehicle lane or express lane network.

(E) Proposals as to which state, regional, or local agency or other entity ~~should~~ would perform work described in the corridor investment plan, on a project-by-project basis, including, without limitation, planning, environmental review, and design and construction.

(F) An examination and detailed analysis of equity considerations, including, but not limited to, the impact of the proposed segment of the network on low-income travelers in the corridor, transit riders, carpoolers, and the distribution of benefits by geographic area and a proposal for how to minimize any inequities that are identified.

(G) A proposal for improving public transit services in the corridor, including an identification of potential fund sources for those improvements.

(H) An examination of safety and operations, including, but not limited to, express lane ingress and egress as concurred by the department.

(2) Proposals as to projects and programs to be funded with net corridor revenue as defined in subdivision (h) of Section 30914.7, giving highest priority to projects and programs that will

provide cost-effective public transit options in the corridor. Eligible projects shall provide benefits in the corridor, such as improving safety, reducing traffic congestion, reducing vehicular emissions, improving public transit options, or making carpooling and vanpooling more convenient. Corridor working groups shall consult with public transit agencies operating in the corridor in the development of the corridor investment plan. Corridor working groups may also prepare corridor system management plans which include, but are not limited to, express lane operations.

(f) The committee shall review each corridor investment plan for consistency with the express lane development plan and other corridor investment plans and, after any resulting revisions by the group, the committee shall submit each corridor investment plan that it has approved to each of the congestion management agencies represented on the group whose jurisdiction includes a portion or all of the group'

s corridor for review and approval. Each congestion management agency shall have 60 days within which to approve a complete corridor investment plan submitted to it by the committee. If the corridor investment plan is approved by all of the congestion management agencies to which it has been submitted, the committee shall recommend the plan to the authority. If a corridor investment plan is not approved by one or more congestion management agencies to which it has been submitted, each congestion management agency that has not adopted the plan shall advise the group and the committee of its concerns in writing. The group and the committee shall use their best efforts to negotiate changes in the plan that will result in approval by each congestion management agency to which the plan is required to be submitted, and the revised plan shall be submitted to the congestion management agencies to which the initial plan was submitted. Each congestion management agency shall have 60 days within which to approve the revised plan submitted to it. At the end of the 60-day period, the revised plan shall be recommended by the committee to the authority and a representative of each of the congestion management agencies that rejected the revised plan shall be afforded an opportunity to advise the authority of the congestion management agency's reasons for not approving the revised plan. The authority shall review the plan for consistency with the express lane development plan, financing covenants, the regional transportation plan, or any other applicable legal requirements and shall consider and accept or reject any plan or revised plan recommended to it. If the authority rejects a plan, it shall return the plan to the committee with its comments, and the committee and the group that prepared the plan shall revise the plan and repeat the approval process, and the committee shall recommend the resulting revised plan to the authority.

(g) The committee, and each group, is a local agency as that term is defined in the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code). Members of the committee and members of each group shall serve without compensation. The authority shall develop a conflict-of-interest policy that shall be applicable to each member of the committee and each member of a group.

SEC. 5. Section 30914.7 is added to the Streets and Highways Code, to read:

30914.7. (a) Notwithstanding Sections 149 and 30800, and Section 21655.5 of the Vehicle Code, the authority may develop, administer, operate, and maintain an express lane network on state highways within the geographic jurisdiction of the commission. The goal of the express lane network shall be to provide higher person throughput and to reduce delays for all travelers in the corridor, especially those traveling by carpool, vanpool, or bus within each travel corridor.

Expenditures for the network may be funded from the following:

- (1) Network revenues.
- (2) Revenue bonds issued pursuant to this section.
- (3) Contributions and loans from federal, state, or local agencies, including congestion management agencies and the authority.

(b) (1) The authority pursuant to subdivision (c), may direct and authorize the entry and use of the network or segments of the network for a fee.

Subject to Section 5205.5 of the Vehicle Code, as that section read on January 1, 2010, the fee structure shall be established from time to time by the authority and may include free or reduced rate passage for high-occupancy vehicles, public transportation vehicles, low-emission vehicles or energy-efficient vehicles, or motorcycles as concurred by the department and in a manner compliant with applicable federal law, notwithstanding any other law.

(2) In designing and updating its fee structure and access policies, the authority shall prioritize person throughput and travel

time reliability for buses and multioccupant vehicle users of the network. The fee structure shall include a maximum toll determined by the authority. The authority shall also develop methods to temporarily deny access to the network to toll-paying vehicles, to meet the performance standards required by paragraph (1) of subdivision (e) if the authority determines those methods to be necessary. The authority shall develop a program for monitoring, evaluating, and reporting on the network that provides for continuous monitoring of the traffic conditions on the facility.

(3) The authority shall make available for public review and comment its proposed fee schedule and any changes to the fee schedule at least 30 days prior to holding a public hearing concerning the proposed fee schedule or changes to the fee schedule and considering the adoption of the fee schedule or changes to the fee schedule. The public hearing may be scheduled during a public meeting of the authority.

(c) Vehicles that are certified or authorized by the authority for entry into, and use of, the network or segments of the network shall not be in violation of Section 21655.5 of the Vehicle Code because of that entry and use.

(d) The authority shall develop and implement in a collaborative manner with the department, the Department of the California Highway Patrol, and Bay Area congestion management agencies the express lane development plan accepted by it pursuant to subdivision (b) of Section 30914.6, except any elements or features of the plan that the authority determines are (1) impracticable or infeasible, (2) do not provide a significant net benefit to the travelers residing along a corridor, (3) will unduly delay commencement of operation of the network, or (4) may materially and adversely affect the financial condition of the network or the authority or its credit rating. If the authority makes any of the above determinations, a gap in the network may exist.

(e) (1) The authority shall carry out the network program in cooperation with the department and the Department of the California Highway Patrol pursuant to a cooperative agreement that addresses all matters related to design, construction, maintenance, and operation of state highway system facilities in connection with the network program, including the conversion of existing high-occupancy vehicle lanes to express lanes forming part of the network. ~~With the assistance of~~ Subject to approval by the department, the authority shall establish performance standards consistent with federal requirements related to minimum speed for those facilities for the purpose of ensuring optimal use of the network without adversely affecting other traffic on the state highway system.

(2) Notwithstanding Section 13340 of the Government Code, there is hereby continually appropriated to the department for expenditure pursuant to the cooperative agreement all amounts paid to the department by the authority for the network program, including, without limitation, amounts paid as advances or to reimburse the department for payments to contractors working on the program.

(f) (1) Agreements between the authority, the department, and the Department of the California Highway Patrol shall identify the respective obligations and liabilities of those entities and assign them responsibilities relating to the network program. The agreements entered into pursuant to this section shall be consistent with agreements between the department and the United States Department of Transportation relating to programs of this nature. The agreements shall include clear and concise procedures for enforcement by the Department of the California Highway Patrol of laws prohibiting the unauthorized use of the network. The agreements shall ~~provide for~~ ensure the reimbursement of state agencies, from revenues generated by the network program, or

other funding sources that are not otherwise available to state agencies for transportation-related projects, for all costs incurred in connection with the implementation, ~~or~~ operation, and maintenance of the network program.

(2) Notwithstanding Section 13340 of the Government Code, there is hereby continually appropriated to the Department of the California Highway Patrol for expenditure pursuant to agreements authorized by paragraph (1) all amounts paid to the Department of the California Highway Patrol for the network program, including, without limitation, amounts paid as advances.

(g) All revenue generated from the network shall be deposited in the authority's Bay Area Express Lane Network Account, which the authority shall create. Funds in the account shall be available to the authority for the following purposes:

(1) To pay or provide for debt service on revenue bonds issued pursuant to this section, to pay any related obligations of the authority entered into pursuant to Section 5922 of the Government Code, and to comply with the covenants and other requirements of the constituent instruments defining the rights of holders of those revenue bonds and related obligations.

(2) To repay loans pursuant to paragraph (3) of subdivision (a), including financing costs.

(3) To pay or provide for expenses related to the acquisition, development, administration, operation including collection and enforcement, maintenance, construction, and related project development activities, and administration of the network.

(h) Revenue remaining after payment or provision for payment of the obligations and other expenses referred to in paragraphs (1) to (3), inclusive, of subdivision (g) shall constitute "net corridor revenue." Up to 5 percent of net corridor revenue may be retained by the authority as a reserve to pay, and applied to pay, obligations and other expenses referred to in paragraphs (1) to (3), inclusive, of subdivision (g). All remaining net corridor revenue shall be allocated by the authority to those corridors provided for in subdivision (c) of Section 30914.6 in proportion to the net corridor revenue generated by each corridor. The net corridor revenue so allocated to a corridor shall be expended by the authority to implement the projects and programs to be funded in accordance with the corridor investment plan for that corridor accepted by the authority pursuant to subdivision (f) of Section 30914.6. The authority may disburse net corridor revenue to eligible recipients, including congestion management agencies, on a reasonable and timely basis, including, without limitation, advances, pay-as-you-go, or reimbursement methods.

(i) The authority shall control and maintain the Bay Area Express Lane Network Account and those subaccounts as it deems necessary and appropriate to document revenues and expenditures in accordance with generally accepted accounting principles.

(j) The authority and the Sunol Smart Carpool Lane Joint Powers Authority shall enter into an agreement within one year after the effective date of this act providing for the transfer to the authority of all of the rights and obligations of the Sunol Smart Carpool Lane Joint Powers Authority under Section 149.5. The authority shall succeed to all of the rights and obligations of the Sunol Smart Carpool Lane Joint Powers Authority under Section 149.5 on the earlier of the date specified in the agreement, or one year after the date when the project authorized by Section 149.5 commences operation.

(k) The authority and the Alameda County Congestion Management Agency shall enter into an agreement within one year after the effective date of this act providing for the transfer to the authority of all of the rights and obligations of the Alameda County Congestion Management Agency under Section 149.5. The authority shall succeed to all of the rights and obligations of the Alameda County Congestion Management Agency under Section 149.5 on the earlier of

the date specified in the agreement, or one year after the date when the project authorized by Section 149.5 commences operation.

(1) The authority and the Santa Clara Valley Transportation Authority shall enter into an agreement within one year after the effective date of this act providing for the transfer to the authority of all of the rights and obligations of the Santa Clara Valley Transportation Authority under Section 149.6. The authority shall succeed to all of the rights and obligations of the Santa Clara Valley Transportation Authority under Section 149.6 on the earlier of the date specified in the agreement, or one year after the Santa Clara Valley Transportation Authority commences operation of the first of the projects authorized by Section 149.6.

(m) (1) The authority may issue bonds and notes (collectively called bonds) payable from and secured by a pledge of the authority of all or any part of the revenue of the network to finance capital expenditures for the network, including project development, construction, and construction-related expenditures, and sell those bonds at public or private sale in the form and on the terms and conditions as the governing board of the authority shall approve. The authority may pledge all or any part of the revenue of the network to secure those bonds and any related obligations of the authority entered into pursuant to Section 5922 of the Government Code. The authority may issue bonds to refund or purchase or otherwise acquire any bonds on terms and conditions as the governing board of the authority shall approve.

(2) Subject to the rights of the holders of any bonds issued pursuant to paragraph (1) and the rights of the holders of any constituent instruments defining the rights of holders of related obligations of the authority entered into pursuant to Section 5922 of the Government Code, the authority may pledge revenue of the network program to secure bonds issued by it pursuant to Section 30961 if and to the extent it determines that bonds issued by it pursuant to Section 30961 require such a pledge in order to be sold by the authority on terms acceptable to the authority. The authority may increase the amount of the fees provided for in subdivision (b) if necessary to meet those obligations.

(3) Any bond issued pursuant to this section shall contain on its face a statement to the following effect:

"Neither the full faith and credit nor the taxing power of the State of California or the Bay Area Toll Authority is pledged to the payment of principal of, or the interest on, this bond."

(4) Bonds issued pursuant to this section are legal investments for all trust funds, the funds of all insurance companies, banks, trust companies, executors, administrators, trustees, and other fiduciaries. The bonds are securities that may legally be deposited with, and received by, any state or municipal officer, agency, or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

(5) Interest earned on any bonds issued pursuant to this section shall at all times be free from state personal income tax and corporate income tax.

(6) The state hereby pledges to and agrees with the holders of bonds issued pursuant to this section and the holders of related obligations of the authority entered into pursuant to Section 5922 of the Government Code:

~~(A) The state will not authorize fee-based publicly or privately owned express lanes or high occupancy vehicle lanes within the geographic jurisdiction of the commission as defined in Section 66502 of the Government Code other than the express lanes provided for in this section.~~

~~(B) The state will not limit, alter, or restrict the rights hereby vested in the authority to fulfill each pledge of revenues and any~~

other terms of any agreement made with or for the benefit of those holders of bonds and related obligations or in any way impair the rights or remedies of the holders of those bonds and related obligations.

(n) Subject to the approval of the department, the authority is authorized, but not required, to be the lead agency for the preparation of any required environmental studies or other documents for the network provided for in this section, notwithstanding any other provision of law.

(o) On or before October 1 of each year, beginning after the first of the express lanes authorized by this section is operational and under the control of the authority, the authority shall submit to the transportation committee of each house of the Legislature, a report containing all of the following elements:

(1) A description of the network and each corridor.

(2) A description of the projects that are planned, under development, and in operation, including the lead agencies for each project and the date the facility is or is expected to be placed in service.

(3) The costs of each project and an explanation of the project's financing plan.

(4) The amount of toll revenues collected in each corridor and the network as a whole.

(5) Expenditures made from toll revenues for each corridor and for the network as a whole.

(6) The amount of net revenue distributed to each corridor and a description of how those funds will be or are used for each corridor.

(p) The authority shall not convert existing nontolled general purpose lanes to express lanes.

SEC. 6. Section 21655.6 of the Vehicle Code is amended to read:

21655.6. (a) Whenever the Department of Transportation authorizes or permits exclusive or preferential use of highway lanes for high-occupancy vehicles on any highway located within the territory of a transportation planning agency, as defined in Section 99214 of the Public Utilities Code, or a county transportation commission, the department shall obtain the approval of the transportation planning agency or county transportation commission prior to establishing the exclusive or preferential use of the highway lanes.

(b) If the department authorizes or permits additional exclusive or preferential use of highway lanes for high-occupancy vehicles on that portion of State Highway Route 101 located within the boundaries of the City of Los Angeles, the department shall obtain the approval of the Los Angeles County Transportation Commission by at least a two-thirds majority vote of the entire membership eligible to vote prior to establishing the additional exclusion or preferential use of the highway lanes.

(c) If the department restricts or requires the restriction of the use of any lane on any federal-aid highway in the unincorporated areas of Alameda County to high-occupancy vehicles, the Metropolitan Transportation Commission shall review the use patterns of those lanes and shall determine if congestion relief is being efficiently achieved by the creation of the high-occupancy vehicle lanes. The commission shall report its findings and recommendations in its HOV Master Plan Update for the San Francisco Bay area no later than two years after those high-occupancy vehicle lanes become operational.

(d) Notwithstanding any other provision of law, the Metropolitan Transportation Commission, ~~in cooperation with~~ subject to approval by the department, may increase the vehicle occupancy qualification requirements for any vehicles using an express lane within the geographic jurisdiction of the commission, by an additional one passenger above the occupancy level required on January 1, 2010.

(e) Notwithstanding other applicable laws, nothing in this section relieves or detracts from the department's roles, responsibilities, and authority with respect to ownership, maintenance, operations, and future improvement on State highways.

SEC. 7. No reimbursement is

required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.