

Date of Hearing: April 27, 2015

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 914 (Brown) – As Amended April 8, 2015

SUBJECT: Toll facilities: County of San Bernardino

SUMMARY: Grants the San Bernardino County Transportation Commission (Commission) authority to develop HOT lanes and other facilities, under certain conditions. Specifically, **this bill:**

- 1) Defines key terms, most notably:
 - a) "Transportation corridors" to mean Interstate 10 (I-10) and Interstate 15 (I-15) in San Bernardino County, including related approaches and connectors.
 - b) "Transportation facilities" to mean toll lanes, high-occupancy toll (HOT) lanes, high-occupancy vehicle (HOV) lanes, lanes or improvements where tolls may be levied and may vary according to levels of congestion or according to the type or occupancy of a vehicle, improvements or lanes utilizing a combination of those options, and related approaches.
- 2) Authorizes the Commission, notwithstanding specific provisions of existing law related to preferential lanes and tolling, to finance, plan, develop, design, construct, reconstruct, rehabilitate, improve, acquire, administer, maintain, lease, and operate transportation facilities, as defined, in the I-10 and I-15 corridors and connectors (corridors).
- 3) Grants the Commission the power of eminent domain for purposes related to the transportation facilities.
- 4) Grants the Commission authority to set, levy, and collect tolls, user fees, or similar charges to use the transportation facilities in San Bernardino County. Also grants the Commission the authority to collect any other incidental or related fees or charges in a manner determined by the Commission and in the amount required for the following expenditures in the corridors in San Bernardino County:
 - a) Capital outlay, including design, construction, right-of-way acquisition, and utilities adjustment;
 - b) Operations and maintenance;
 - c) Repair and rehabilitation;
 - d) Loans, advances, and related financial costs;
 - e) Reserves; and
 - f) Administration, not to exceed 3 percent of the toll revenues.

- 5) Directs any excess revenues to be used pursuant to an expenditure plan adopted by the Commission's governing board and to the benefit of the corridors, including the following:
 - a) To enhance transit service designed to reduce traffic congestion within the corridors in San Bernardino County, including transit operating assistance, acquisition of transit vehicles, and transit capital improvements; and
 - b) To make operations or capacity improvements to reduce traffic congestion or improve the flow of traffic in the toll or non-tolled segments of the corridors.
- 6) Requires the Commission, to the extent it plans to construct or operate transportation facilities or related connectors in Los Angeles County and Riverside County, to enter into agreements with the county transportation commission in those counties.
- 7) Requires the Commission to carry out the program authorized by these provisions in cooperation with the California Department of Transportation (Caltrans) pursuant to a cooperative agreement.
- 8) Authorizes the Commission to issue bonds to finance any costs related to implementing the transportation facilities and other capital outlay, operations, maintenance, repair, rehabilitation, indebtedness, reserve set aside, and administration purposes related to the corridors; also allows the commission to issue bonds for purposes otherwise identified in the expenditure plan.
- 9) Limits bond indebtedness to no more than may be serviced from projected revenues generated by the transportation facilities.
- 10) Provides that bonds may be issued pursuant to a resolution adopted by a majority vote of the Commission's governing board.
- 11) Requires SANBAG to report to the Legislative Analyst on its findings, conclusions, and recommendations concerning the transportation facilities.
- 12) Explicitly provides that this bill does not limit the authority of Caltrans or any local agency to construct improvements in the corridors that compete with the commission's transportation facilities.
- 13) Provides that the bill's provisions are severable.
- 14) Declares that the provisions of this bill do not authorize the conversion of any existing non-tolled or nonuser-fee lanes, except than an HOV lane may be converted to a HOT lane.
- 15) Explicitly provides that the commission is not required to grant clean air vehicles (i.e., those with white or green HOV access decals) toll-free or reduce-rate passage on its transportation facilities authorized by this bill.

EXISTING LAW:

- 1) Specifically authorizes HOT lane facilities in Alameda, San Diego, and Santa Clara counties.

- 2) Until January 1, 2012, authorized any regional transportation agency to apply to California Transportation Commission (CTC) for authority to develop and operate HOT lanes.
- 3) Limited CTC to approving no more than four applications: two in northern California and two in southern California. (CTC approved HOT lane facilities in the San Francisco Bay Area, Los Angeles County, and Riverside County under this provision.)
- 4) Designates the San Bernardino Associated Governments (SANBAG) as the county transportation commission and establishes its membership as follows:
 - a) Five members of the San Bernardino County Board of Supervisors;
 - b) The Mayor of the City of San Bernardino;
 - c) One member from each of the other incorporated cities of San Bernardino County, who shall be a mayor or a city councilman; and
 - d) One nonvoting member appointed by the Governor.
- 5) Requires that clean air vehicles displaying white or green HOV access decals be granted toll-free or reduced-rate passage in HOT lanes. This requirement does not extend to toll lanes that are not HOT lanes.

FISCAL EFFECT: Unknown

COMMENTS: Value-priced toll facilities (e.g., HOT lanes) are increasingly being implemented in metropolitan areas around the state and the nation, primarily to deal with increased congestion. HOT lanes allow single-occupant or lower-occupancy vehicles to use a HOV lane for a fee while maintaining free or reduced travel to qualifying HOVs. Although value-pricing programs should be primarily a congestion management tool, they may have the added benefit of generating net revenue that can be put back into the corridor from which it was generated for additional improvements or other benefits.

The San Diego Association of Governments (SANDAG) was the first agency to be granted authority to operate a HOT lane, on I-15 [AB 713 (Goldsmith), Chapter 962, Statutes of 1993]. Subsequently, AB 2032 (Dutra), Chapter 418, Statutes of 2004, authorized HOT lane facilities in Alameda, San Diego, and Santa Clara counties. With the successful implementation of these programs (which were all originally authorized as demonstration programs then later extended indefinitely), the Legislature delegated responsibility for approving toll facilities under certain conditions to the CTC [AB 1467 (Nunez), Chapter 32, Statutes of 2005] until January 1, 2012.

SANBAG, which is also legally organized as the Commission, is sponsoring AB 914. The agency is responsible for cooperative regional planning and furthering an efficient multi-modal transportation system countywide. As the county transportation commission, SANBAG supports freeway construction projects, regional and local road improvements, train and bus transportation, railroad crossings, call boxes, ridesharing, congestion management efforts and long-term planning studies. SANBAG also administers Measure I, the half-cent transportation sales tax approved by county voters in 1989.

SANBAG is proposing two projects for which it is seeking authority to impose tolls:

- 1) The proposed I-10 Corridor Project consists of improving all or a portion of the existing 35-mile stretch of I-10 from the City of Pomona to the City of Redlands. As a major regional east-west freeway corridor, I-10 is heavily used by travelers between Los Angeles and San Bernardino counties and it is also a major truck route between southern California and the rest of the nation.
- 2) The proposed I-15 Corridor Project consists of improvements on the 35-mile stretch of I-15 in San Bernardino County. As a major regional north-south freeway corridor, I-15 is heavily used by commuters and recreational travelers, and is also a major goods-movement corridor.

SANBAG hopes to have statutory authority in place to develop toll facilities (including HOT lanes) before it begins the process of applying for financing under the federal Transportation Infrastructure Finance and Innovation Act (TIFIA). The TIFIA program provides federal credit assistance in the form of direct loans, loan guarantees, and standby lines of credit to finance surface transportation projects of national and regional significance. In the case of HOT lanes, the federal government requires legal authority to be established prior to beginning the process of applying for TIFIA financing.

According to the author, the I-10 and I-15 corridors are increasingly urbanized, making continued expansion a challenge. The author notes that these particular corridors are amongst the most congested in the state, and are likely to become even more congested as San Bernardino County's population is expected to grow from 2.1 million to 3.4 million by 2050. The author is pursuing AB 914 to provide an alternative way of managing congestion to serve the growing needs of the area.

Supporters believe AB 914 will give the Commission the tools it needs to better manage its existing congestion as well as accommodate future growth in these commuter and trade corridors.

The bill is opposed by one individual who objects to the imposition of debt that will be needed to finance the value-pricing program.

Committee concerns and suggested amendments:

- 1) AB 914 grants significantly broader authorities than has been included in previous legislation authorizing value-pricing programs. For example, previous legislation granted regional transportation agencies the authority to conduct, administer, develop, and operate toll facilities. AB 914, on the other hand, includes authority for the commission to construct, reconstruct, rehabilitate, improve, acquire, maintain, and lease transportation facilities,

potentially including non-tolled facilities. This scope of authority is too broad and should be pared down to focus on activities related specifically to establishing a value-pricing program for the two corridors.

- 2) Similarly, the types of projects that the bill authorizes include HOV lanes or other lanes or improvement that may (or may not) include tolls. The Commission already has broad authority to do this type of work. It would be confusing to grant duplicative authority in this bill. Consequently, AB 914 should be narrowed to authorize SANBAG to develop and operate the value-pricing program generally and not specific elements, some of which it already has the authority to do (such as, additional lanes of improvement).
- 3) Last year, the Legislature passed and the Governor signed AB 1721 (Linder), Chapter 526, Statutes of 2014, that allows HOT lane operators to impose a reduced rate for clean air vehicles displaying a green or white HOV access decal. Previous to AB 1721, these vehicles were required to be granted toll-free passage. The intent behind AB 1721 was to balance the state's interests in incentivizing the purchase clean air vehicles with the needs of HOT lane operators to manage financial risks associated with having to offer free or reduced toll rates to these vehicles.

AB 914 exempts the toll facilities in SANBAG entirely from these provisions. As a result, clean air vehicles with green or white HOV access decals in San Bernardino would not enjoy the benefits of free or reduced toll rates. This is inconsistent with the Legislature's action just last session and stifles the state's policies goals related to incentivizing purchase of clean air vehicles.

The author intends to request author's amendments in committee to address these concerns by:

- 1) Recasting the tolling authority to reflect a value-pricing program, rather than individual components that would in sum comprise a program; and
- 2) Striking provisions dealing with toll-free or reduce-rate passage for clean air vehicles, thereby leaving the Commission to comply with existing law pursuant to last year's AB 1721.

Related legislation: AB 194 (Frazier) extends indefinitely CTC's authority to administratively authorize high-occupancy toll (HOT) lanes and expands the authority to include other toll facilities. AB 194 passed out of this committee on a vote of 14-1 and is currently in Appropriations. If AB 194 is successfully enacted, it could provide an avenue for the Commission to seek authority to develop a value-pricing program. However, AB 194 could not practically be implemented in time to give the Commission the statutory authority it needs to apply for TIFIA financing in a timely manner; hence the Commission is seeking the standalone authority in this bill.

Previous legislation: AB 1721 (Linder), Chapter 526, Statutes of 2014, allowed clean air vehicles displaying a white or green HOV access decal to be charged a reduced rate in HOT lanes.

AB 2250 (Daly), Chapter 500, Statutes of 2014, required any revenue generated in managed lanes to be used in the corridor in which it was generated.

SB 983 (Hernández) of 2014 was similar to this bill. SB 983 passed out of this committee but was held in the Assembly Appropriations Committee on the suspense file.

SB 1298 (Hernández), Chapter 531, Statutes of 2014, repealed and recast specific authority for the Los Angeles County Metropolitan Transportation Authority to operate a value-pricing and transit development program, including HOT lanes on State Routes 10 and 110.

AB 1467 (Nunez), Chapter 32, Statutes of 2005, originally granted authority to the CTC to review regional transportation agencies' applications for HOT lanes, for up to four projects, until January 1, 2012.

AB 2032 (Dutra), Chapter 418, Statutes of 2004, authorized HOT lane facilities in Alameda, San Diego, and Santa Clara counties.

AB 713 (Goldsmith), Chapter 962, Statutes of 1993, granted SANDAG authority to operate a HOT lane on I-15.

REGISTERED SUPPORT / OPPOSITION:

Support

San Bernardino Associated Governments (Sponsor)
American Council of Engineering Companies of California
California Asphalt Pavement Association
CH2MHill
City of Ontario
City of San Bernardino
Inland Empire Chapter of Women In Transportation
Mobility 21
Orange County Business Council
San Diego Association of Governments
Self-Help Counties Coalition
Southern California Association of Governments

Opposition

One private citizen

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