

Date of Hearing: April 4, 2016

**ASSEMBLY COMMITTEE ON TRANSPORTATION**

Jim Frazier, Chair

AB 1938 (Baker) – As Introduced February 12, 2016

**SUBJECT:** Toll facilities: Metropolitan Transportation Commission

**SUMMARY:** Clarifies that the existing 1% limit on the amount of money that the Bay Area Toll Authority (BATA) may contribute to the Metropolitan Transportation Commission (MTC) applies to any revenues derived from bridge tolls, fees, or taxes, regardless of classification.

**EXISTING LAW:**

- 1) Created MTC as a local area planning agency to provide comprehensive regional transportation planning for the nine-county Bay Area region comprised of the City and County of San Francisco and the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma.
- 2) Created BATA to administer all toll revenues for the state-owned Bay Area toll bridges (except for revenues derived from a \$1 seismic toll surcharge). The same board that governs MTC governs BATA.
- 3) Grants BATA broad authority, including the authority to:
  - a) Acquire, construct, manage, maintain, lease, or operate any public facility or improvements;
  - b) Invest any money not required for its immediate necessities; and,
  - c) Make contributions, up to 1% of gross annual bridge revenues, to MTC in furtherance of BATA's powers, including contributions of personnel services, office space, overhead, and other funding necessary to carry out the function of the authority.

**FISCAL EFFECT:** Unknown

**COMMENTS:** In 2011, MTC and BATA formed a joint powers agency, the Bay Area Headquarters Authority, for the purposes of acquiring an office building in San Francisco to create a joint regional government co-location facility. The building is initially to serve as a regional headquarters for MTC, the Bay Area Air Quality Management District and the Bay Conservation and Development Commission and may later house the Association of Bay Area Governments and the San Francisco Bay Area Conservation and Development Commission. MTC's purchase of the building caused significant controversy. Questions were raised as to why bridge toll revenues from BATA were used to purchase a building, which is much larger than the amount of office space the co-locating agencies need, with the intent to rent out extra space.

In response to concerns regarding the purchase and planned move, the Joint Legislative Audit Committee requested the State Auditor to investigate the proposed move and specifically the use of toll revenues to fund the purchase and improvements of the office building. The audit was released in August 2012 and found, in part, that BATA's use of toll bridge revenues to purchase a

regional headquarters building in San Francisco is likely legally permissible. However, the audit raised concerns that MTC may not realize anticipated cash flow needs sufficient to repay contributed toll revenues by a range of \$1.5 million to \$53.7 million over 30 years.

Ultimately, the State Auditor recommended to the Legislature that, if it believes state law provides BATA too much discretion over its use of toll revenues, then the Legislature should consider amending state law to more narrowly define how toll revenues that are not immediately needed for bridge maintenance or debt service may be spent or invested.

In response to the Auditor's recommendation, the Legislature passed, and the Governor signed, SB 613 (DeSaulnier), Chapter 603, Statutes of 2013, to ensure bridge tolls are not used in the future to purchase property that is not "solely for the management of state-owned toll bridges. SB 613 also limited BATA's authority to contribute to MTC to no more than 1% of the gross annual bridge revenues, as defined.

In November 2014, however, BATA transferred \$33 million to MTC to fund construction costs of the new headquarters in San Francisco, an amount greater than the 1% direct contribution limit. (One percent of annual toll bridge revenues equals about \$7 million.) These funds were savings resulting from the early debt retirement and were classified by BATA as "non-bridge toll revenue." Because of this classification, the contribution to MTC presumably fell outside the limit imposed by SB 613 the year before.

The author introduced AB 1938 to close this loophole and to ensure that BATA's revenues are used for their intended infrastructure purposes rather than "risky real estate ventures."

*Double referral:* This bill will be referred to the Assembly Appropriations Committee should it pass out of this committee.

*Previous legislation:* SB 613 (DeSaulnier) Chapter 603, Statutes of 2013, placed limitations on the use of toll revenues from the seven state-owned toll bridges within the jurisdiction of BATA, including a prohibition from acquiring any office space or facility in addition to the offices it recently acquired in San Francisco and limiting BATA's authority to contribute to MTC to no more than 1% of the gross annual bridge revenues.

AB 1384 (Baker) of 2015, an earlier iteration of this bill, was scheduled to be heard by this committee in January 2016 but was withdrawn by the author prior to the hearing.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Howard Jarvis Taxpayer's Association

### **Opposition**

None on file

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