

BILL: AB 2620 (Eng, D – Monterey Park)
Introduced February 19, 2010
Amended April 8, 2010
Amended April 26, 2010

SUBJECT: Redirects a percentage of toll revenues from future high-occupancy toll lanes to state highway maintenance, preservation, and rehabilitation needs.

STATUS: Passed Assembly Transportation Committee 10-0
Pending in Assembly Appropriations Committee

SUMMARY AS OF MAY 5, 2010:

AB 2620 would require that an unspecified percentage of revenues generated by a toll facility developed on the state highway system after January 1, 2011, be dedicated to state highway maintenance, preservation, and rehabilitation needs, including projects within the state highway operation and protection program (SHOPP). A cooperative agreement between the public agency and the California Department of Transportation (Caltrans) would specify that the applicable revenues would go to Caltrans to be deposited in the State Highway Account, subject to appropriation by the state legislature. AB 2620 exempts the following high-occupancy toll (HOT) lane projects from these provisions: the Los Angeles County Metropolitan Transportation Authority projects along the Santa Monica Freeway (Interstate 10) and the Harbor Freeway (Interstate 110), Riverside County Transportation Commission's project on the Ontario Freeway (Interstate 15), and projects planned by the San Diego County Association of Governments, the Santa Clara Valley Transportation Authority and Alameda County Transportation Improvement Authority.

Among the projects that are not specifically excluded is the extension of the 91 Express Lanes into Riverside County as authorized by SB 1316 (Chapter 714, Statutes of 2008). In addition, unlimited public-private partnership (P3) authority for transportation projects was granted last year under SBX2 4 (Chapter 2, Statutes of 2009) until 2017. None of these projects are excluded under AB 2620. Furthermore, any HOT lane project that pursues independent legislative authority in its creation would be subject to these provisions. One of the key benefits of toll facilities for motorists is that excess revenues are reinvested in the corridor where they are generated, providing relief for general purpose lane users as well. If enacted, AB 2620 removes one of the most significant advantages of these facilities and reduces regional support for the creation of future facilities.

The stated purpose of the bill is to address the recent underfunding of state highway maintenance, preservation, and rehabilitation needs. The bill asserts that with the rise in the use of toll facilities, at least a portion of the revenues garnered through such facilities should be used to maintain the highways that serve as their backbone. However, existing agreements for many toll facilities already requires that toll agencies

use revenues to maintain the facilities, and once the toll facility's term ends, to return the lanes to Caltrans in a specified condition. Including additional provisions that require facilities to also pay for SHOPP projects create a situation where motorists are paying twice for the maintenance of that facility.

Furthermore, the bill does not limit where in the state the unspecified portion of revenues directed at Caltrans can be used. This means that revenues raised at a toll facility in one part of the state could theoretically be used by Caltrans, per appropriation by the Legislature, in another part of the state.

EFFECTS ON ORANGE COUNTY:

The Orange County Transportation Authority (OCTA) is the current operator of the 91 Express Lanes, a ten-mile toll road along the Riverside Freeway (State Route 91). Existing law controlling OCTA's operation of the lanes specifies that toll revenues are first to be used for the maintenance, rehabilitation, repair and operations of the facility for both the tolled and adjacent lanes in the corridor. Furthermore, existing law requires that when OCTA's lease of the lanes expires, they must be returned to Caltrans in a condition that meets the performance and maintenance standards established by Caltrans. Instead of targeting specific toll facilities that may not have similar protections, AB 2620 attempts to create a broad framework which may not best meet the needs of a specific region.

AB 2620 would apply to any future toll facility contemplated by OCTA. Rather than providing the flexibility for OCTA and Caltrans to come to an independent agreement about how toll revenues are best used on the facility or in the region, the process under AB 2620 would automatically divert an unspecified portion of the revenues to the state. Should a specific toll facility need all collected toll revenues to maintain and operate that facility, this legislator would require a portion of the revenues to be diverted to the state for other projects. Furthermore, although the SHOPP, has experienced recent funding shortages, SHOPP projects may not always be the most imminent need of the state or region. For instance, during recent solicitations for projects for federal economic stimulus funds, SHOPP projects were often times not shovel-ready for implementation. In addition, because southern California often has more limited SHOPP needs, it is likely that that a potential result of this bill would be to re-allocate revenues generated in southern California to projects in northern California.

In addition, when establishing a toll road, a lead agency often issues bonds to finance the projects, which are paid back with toll revenues. Not only will the framework under AB 2620 impact bondholders through the automatic diversion of some revenues, but could also discourage entities from pursuing the creation of toll roads.

The intent of SBX4 2 last year and authorization to extend use of P3 authority across the state was to create economic stimulus and to allow the state to investigate and learn various best practices related to toll roads, believing such authority to be valuable in the future as transportation revenues continue to be constrained. This bill would eliminate

the ability for one state to establish practices by limiting the terms of all future agreements.

OCTA POSITION:

Staff recommends: OPPOSE

AMENDED IN ASSEMBLY APRIL 26, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2620

Introduced by Assembly Member Eng

February 19, 2010

An act to add Section 149.05 to the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2620, as amended, Eng. Transportation: toll facilities.

Existing law provides that the Department of Transportation shall have full possession and control of the state highway system and associated property. Existing law provides for the development of high-occupancy toll lanes on the state highway system by regional transportation agencies under specified circumstances and specifies the use of toll revenues generated from these facilities.

This bill would require an unspecified percentage of net toll revenues generated by ~~a toll facility~~ *certain toll facilities* on the state highway system *developed on and after January 1, 2011*, to be dedicated to maintenance, preservation, and rehabilitation of the state highway system, including funding of projects in the state highway operation and protection program. The bill would also make legislative findings and declarations in that regard.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

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

(a) The level of funding available for maintenance, preservation, and rehabilitation of the state highway system is straining the ability to meet ~~rehabilitation~~ *rehabilitation* and preservation needs of the system.

(b) Rehabilitation and reconstruction needs on the state highway system are increasing as the infrastructure ages.

(c) The continued increase in vehicle travel and goods movement contributes to an increased rate of pavement and bridge deterioration, new accident concentration locations, and increasing hours of traffic congestion.

(d) Continued underfunding of maintenance, preservation, and rehabilitation needs delays projects and increases the cost when the work is eventually undertaken.

(e) Transportation agencies are increasingly interested in developing tolled facilities on the state highway system, a state-owned asset.

(f) At least a portion of the proceeds from tolled facilities should be directed to maintenance, preservation, and rehabilitation of the state highway system, which serves as a backbone to those facilities.

SEC. 2. Section 149.05 is added to the Streets and Highways Code, to read:

149.05. Notwithstanding any other provision of law, _____ percent of net toll revenues generated by a toll facility on the state highway system shall be dedicated to maintenance, preservation, and rehabilitation of the state highway system, including funding of projects in the state highway operation and protection program. This section shall ~~only~~ apply to toll facilities developed on and after January 1, 2011, that are the subject of a cooperative agreement between the department and another public agency entered into on and after that date, *but shall not apply to toll facilities developed pursuant to Sections 149.1, 149.3, 149.4, 149.5, 149.6, 149.8, or 149.9.* The cooperative agreement between the department and the other public agency shall provide for the payment of these revenues to the department for deposit in the State Highway Account. Those revenues shall be subject to

1 appropriation by the Legislature for purposes consistent with this
2 section.

O