



**Item #08-8-20  
Action**

## **SACOG Board of Directors**

August 13, 2008

### **Oppose AB 3021 (Nava) – California Transportation Financing Authority**

**Issue:** Should SACOG take a position to oppose AB 3021 (Nava)?

**Recommendation:** The Government Relations & Public Affairs Committee recommends that the Board adopt an oppose position.

**Committee Action/Discussion:** Assemblyman Pedro Nava, a member of the Assembly Transportation Committee, introduced AB 3021, at the behest of State Treasurer Bill Lockyer. The bill would set up a California Transportation Financing Authority (CTFA), which could advance various state and local funding streams via revenue bonds to build state highway projects.

At the request of Director Hammond, the Committee heard from Diane Stanton, Legislative Director for Treasurer Lockyer, at its May meeting. Ms. Stanton explained the intent of the bill and how the authority would be used. AB 3021 has been amended since the May GRPA meeting; the latest version is attached. Staff took the bill to the committee in August recommending a support position, but several committee members raised concerns about adding additional bonding authority and further indebtedness, given the state's budget issues.

The bill allows for private financing of transportation projects without some provisions in other proposals for public-private partnerships that can be detrimental to a project, such as: restrictions on state or local agency improvements to a financed project, excessive contract periods (99 years) or unnecessary profit requirements. AB 3021 would allow local jurisdictions to decide whether they or the CTFA issue bonds.

SACOG will continue to seek innovative means of financing project delivery. The bill is sponsored by State Treasurer Bill Lockyer and supported by the California Association of Councils of Governments and the State Building and Construction Trades Council, among others. It is opposed by Environmental Defense.

The bill was passed by the Senate Appropriations Committee; it is at Second Reading.

Approved by:

Mike McKeever  
Executive Director

MM:EJ:RS:ts  
Attachment

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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**

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**Introduced by Assembly Member Nava**

February 22, 2008

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

LEGISLATIVE COUNSEL'S DIGEST

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

**Existing**

(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 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, *would require the authority to report to the California Transportation Commission annually beginning June 30, 2010*, and 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: no. 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:

3  
4 DIVISION 3. CALIFORNIA TRANSPORTATION  
5 FINANCING AUTHORITY  
6

7 64100. This division shall be known and may be cited as the  
8 California Transportation Financing Authority Act.

9 64101. The California Transportation Financing Authority is  
10 hereby created in state government. The authority constitutes a

1 public instrumentality, and the exercise by the authority of the  
2 powers conferred by this division shall be deemed and held to be  
3 the performance of an essential public function.

4 64102. As used in this division, the following terms shall have  
5 the following meanings, unless the context clearly indicates or  
6 requires another or different meaning or intent:

7 (a) “Authority” shall mean the California Transportation  
8 Financing Authority.

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

13 (c) “Commission” shall mean the California Transportation  
14 Commission.

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

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

36 (f) “Project” shall mean and include all or a portion of the  
37 planning, design, development, finance, construction,  
38 reconstruction, rehabilitation, improvement, acquisition, lease,  
39 operation, or maintenance of highway, public street, rail, or related  
40 facilities supplemental to or improvements upon existing facilities

1 currently owned and operated by the department or other project  
 2 sponsor.

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

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

27 64103. (a) The authority shall consist of seven members, as  
 28 follows:

- 29 (1) The Treasurer, who shall serve as the chair of the authority.
- 30 (2) The Director of Finance.
- 31 (3) The Controller.
- 32 (4) The Director of Transportation.
- 33 (5) The executive director of the commission.
- 34 (6) A local agency representative appointed by the Senate
- 35 Committee on Rules.
- 36 (7) A local agency representative appointed by the Speaker of
- 37 the Assembly.

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

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

4 (d) The director of the department may designate an employee  
5 of the department to act for him or her at all meetings of the  
6 authority.

7 (e) The ~~executive officer~~ *director* of the commission may  
8 designate an employee of the commission to act for him or her at  
9 all meetings of the authority.

10 (f) The chair of the authority shall appoint an executive director.  
11 The offices of the authority shall be located in the Office of the  
12 Treasurer. The authority may, by resolution, delegate to one or  
13 more of its members or its executive director powers and duties  
14 that it may deem proper, including the power to enter into contracts  
15 on behalf of the authority. The executive director may appoint a  
16 deputy executive director. In the absence of the executive director,  
17 the chairperson may appoint a deputy executive director.

18 64104. The provisions of this division shall be administered  
19 by the authority, which shall have and is hereby vested with all  
20 powers reasonably necessary to carry out the powers and  
21 responsibilities expressly granted or imposed under this division.

22 64105. The objective of the authority shall be to increase the  
23 construction of new capacity or improvements for the state  
24 transportation system in a manner that is consistent with and will  
25 help meet the state's greenhouse gas reduction goals, air quality  
26 improvement goals, and natural resource conservation goals,  
27 through the issuance of, or the approval of the issuance of, bonds  
28 backed by the revenue streams specified in Section 64109.

29 64106. (a) The Attorney General shall be the legal counsel for  
30 the authority, however, with the approval of the Attorney General,  
31 the authority may employ legal counsel as in its judgment is  
32 necessary or advisable to carry out the duties and functions imposed  
33 upon it by this division, including the employment of bond counsel  
34 as may be deemed advisable in connection with the issuance and  
35 sale of bonds.

36 (b) The Treasurer shall be the treasurer for the authority.

37 64107. The authority may do any of the following:

38 (a) Adopt bylaws for the regulation of its affairs and the conduct  
39 of its business.

40 (b) Adopt an official seal.

1 (c) Sue and be sued in its own name.

2 (d) Receive and accept from any agency of the United States,  
3 any agency of the state, or any municipality, county, or other  
4 political subdivision thereof, or from any individual, association,  
5 or corporation gifts, grants, or donations of moneys for achieving  
6 any of the purposes of this division.

7 (e) Engage the services of private consultants to render  
8 professional and technical assistance and advice in carrying out  
9 the purposes of this division.

10 (f) Receive and accept from any source loans, contributions, or  
11 grants for, or in aid of, the construction, financing, or refinancing  
12 of a project or any portion of a project in money, property, labor,  
13 or other things of value.

14 (g) Make secured or unsecured loans to, or purchase secured or  
15 unsecured loans of, any project sponsor in connection with the  
16 financing of a project or working capital in accordance with an  
17 agreement between the authority and the project sponsor. However,  
18 no loan to finance a project shall exceed the total cost of the project,  
19 as determined by the project sponsor and approved by the authority.

20 (h) Make secured or unsecured loans to, or purchase secured or  
21 unsecured loans of, any project sponsor in accordance with an  
22 agreement between the authority and the project sponsor to  
23 refinance indebtedness incurred by that project sponsor in  
24 connection with projects undertaken or for projects acquired or  
25 for working capital.

26 (i) Mortgage all or any portion of the interest of the authority  
27 in a project and the property on which that project is located,  
28 whether owned or thereafter acquired, including the granting of a  
29 security interest in any property, tangible or intangible, and to  
30 assign or pledge all or any portion of the interests of the authority  
31 in mortgages, deeds of trust, indentures of mortgage or trust, or  
32 similar instruments, notes, and security interests in property,  
33 tangible or intangible, of projects for which the authority has made  
34 loans, and the revenues therefrom, including payments or income  
35 from any thereof owned or held by the authority, for the benefit  
36 of the holders of bonds issued to finance a project or issued to  
37 refund or refinance outstanding indebtedness of project sponsors  
38 as permitted by this division.

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

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

16 (l) Enter into any and all agreements or contracts, including  
17 agreements for liquidity and credit enhancement and interest rate  
18 swaps or hedges, execute any and all instruments, and do and  
19 perform any and all acts or things necessary, convenient, or  
20 desirable for the purposes of the authority or to carry out any power  
21 expressly granted by this division.

22 (m) Invest any moneys held in reserve or sinking funds or any  
23 moneys not required for immediate use or disbursement, at the  
24 discretion of the authority, in any obligations authorized by the  
25 resolution authorizing the issuance of the bonds secured thereof  
26 or authorized by law for the investment of trust funds in the custody  
27 of the Treasurer.

28 (n) Employ and fix the compensation of bond counsel, financial  
29 consultants, and advisers as may be necessary in its judgment in  
30 connection with the issuance and administration of any bonds;  
31 contract for engineering, architectural, accounting, or other services  
32 as may be necessary in the judgment of the authority for the  
33 successful development of any project; and pay the reasonable  
34 costs of consulting engineers, architects, accountants, and  
35 construction experts employed by any project sponsor if, in the  
36 judgment of the authority, those services are necessary to the  
37 successful development of any project, and those services are not  
38 obtainable from any public agency.

39 64108. All expenses of the authority incurred in carrying out  
40 the provisions of this division shall be payable solely from funds

1 provided pursuant to this division, and no liability shall be incurred  
2 by the authority beyond the extent to which moneys shall have  
3 been provided under this division. Under no circumstances shall  
4 the authority create any debt, liability, or obligation on the part of  
5 the State of California payable from any source whatsoever other  
6 than the moneys provided under the provisions of this division.

7 64109. (a) In connection with any project financed pursuant  
8 to this division, the project sponsor may pledge the following  
9 revenue sources as security for revenue bonds issued by the  
10 authority:

11 (1) Local transportation funds, including, but not limited to,  
12 fuel taxes, Article XIX B fuel sales taxes, local transportation sales  
13 taxes, other state revenues approved for this purpose by the  
14 Legislature or by initiative, and developer fees. To the extent that  
15 these revenue sources are within the control of a local agency, the  
16 revenue sources may only be pledged with approval of the  
17 governing board of the local agency. *To the extent that these*  
18 *revenues are within the control of a state agency, the revenue*  
19 *sources may only be pledged with approval by the department and*  
20 *the commission.*

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

23 (b) Where the authority is issuing bonds to finance a project,  
24 the authority shall accept a project sponsor's pledge made pursuant  
25 to subdivision (a) and pledge those revenues to the repayment of  
26 bonds issued to finance the applicable project.

27 64110. (a) A project sponsor may apply to the authority for  
28 bond financing of a transportation project that has been approved  
29 by the department and the commission for construction.

30 (b) The authority shall also ensure that the following  
31 requirements are met for a project to be financed by the authority  
32 to the extent these criteria have not already been met through  
33 approval of the project by the commission:

34 (1) The project complies with all relevant statutes applicable to  
35 planning, programming, and construction of transportation  
36 improvement projects, and is contained in the constrained portion  
37 of a *conforming* regional transportation plan prepared pursuant to  
38 Section 65080. For purposes of this subdivision, a regional  
39 transportation plan must be consistent with greenhouse gas  
40 reduction targets assigned by the State Air Resources Board,

1 pursuant to Division 25.5 (commencing with Section 35800) of  
2 the Health and Safety Code.

3 (2) ~~The~~ *For projects on the state highway system, the project*  
4 *sponsor has cooperated with the department to secure its support*  
5 *for the project and to ensure that the project is consistent with the*  
6 *needs and requirements of the state ~~transportation~~ highway system.*

7 (3) The project is technically feasible in that it conforms to  
8 federal standards, meets or exceeds environmental requirements,  
9 and has been approved as to all necessary permits that will enable  
10 its construction.

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

13 (5) Performance measures have been developed for the project  
14 to enable the commission to track and report on the project's  
15 ~~progress and operation~~ *performance* to the Legislature in the  
16 commission's annual report prepared pursuant to Section 14535.

17 (6) *The project has strong support in the communities adjacent*  
18 *to or affected by the project. To demonstrate support, the project*  
19 *sponsor shall, at a minimum, make available for public review*  
20 *and comment the proposed project, including any proposed toll*  
21 *schedule, no less than 30 days prior to approval by the governing*  
22 *body with jurisdiction over the project.*

23 (7) *In the case of highway projects, the project sponsor submits*  
24 *to the commission and to the authority a plan that demonstrates*  
25 *how transit service or alternative modes of transportation will be*  
26 *enhanced in the corridor concurrent with the opening of a toll*  
27 *facility for the purpose of ensuring that the corridor provides for*  
28 *multiple modes of transport that accommodate all users.*

29 (c) The authority shall have no power to plan projects, or to  
30 approve projects other than provided in this division. The authority  
31 shall have no power to assume any of the planning, programming,  
32 or allocation authority of the department or the commission.

33 (d) *Beginning June 30, 2010, and annually thereafter, the*  
34 *authority shall provide to the commission a summary of actions*  
35 *taken in the previous calendar year, including the number of*  
36 *project sponsors who sought financing through the authority, a*  
37 *description of each project, a summary of the sources of funding*  
38 *used to finance the project, and any recommendations the authority*  
39 *may have to improve the financing of transportation infrastructure,*

1 *to be included in the commission's annual report to the Legislature*  
2 *as required by Section 14535.*

3 64111. (a) Prior to issuing or approving the issuance of bonds  
4 for a project, the authority shall determine that the revenues  
5 available for a project will be sufficient to pay debt service on the  
6 bonds and to operate and maintain the project over the life of the  
7 bonds consistent with the objective set forth in Section 64105. The  
8 authority may hire outside consultants to assist in making these  
9 determinations.

10 (b) The authority may issue or approve the issuance of bonds  
11 to achieve any of its purposes under this division and bonds may  
12 be issued without investment grade ratings, as long as the bonds  
13 are sold only to qualified institutional buyers or accredited investors  
14 who attest upon purchase that they understand the nature of the  
15 risks of their investment. The bonds may be taxable or tax-exempt  
16 and may be sold at public or private sale. The Treasurer shall serve  
17 as the agent for sale for all authority bond issues, and shall be  
18 reimbursed from bond proceeds to cover the Treasurer's costs  
19 related to the issuance of these bonds. As used in this subdivision,  
20 "accredited investor" shall have the meaning as defined in  
21 subdivision (a) of Section 5950, and "qualified institutional buyer"  
22 shall have the meaning as defined in subdivision (h) of Section  
23 5950.

24 (c) The project sponsor may request that it be the issuer of the  
25 bonds. The authority may grant the request if it determines that  
26 the revenues available for the project will be sufficient to pay debt  
27 service on the bonds and to operate and maintain the project over  
28 the life of the bonds. A project sponsor for which the authority has  
29 granted a request that the project sponsor issue the bonds, in  
30 addition to any other powers it may have under any other law,  
31 shall have all of the powers of the authority under this division  
32 necessary or convenient for the purpose of issuing, securing, and  
33 repaying the bonds and financing or refinancing the project. This  
34 provision is a complete, additional, and alternative method of  
35 accomplishing the matters authorized, and the project sponsor need  
36 not comply with any other law relating to the issuance of bonds,  
37 financing of projects and, if applicable, the imposition and  
38 allocation of tolls.

39 (d) The authority may arrange additional credit support for the  
40 bond issues. However, the authority may not compel project

1 sponsors to make use of that credit enhancement, nor compel them  
2 to contribute to it by becoming part of a common credit or by  
3 providing funding for a common reserve or other enhancement  
4 mechanism.

5 64112. Notwithstanding any other provision of law, the  
6 authority may authorize a project sponsor, or the department, to  
7 impose and collect tolls as one source of financing to pay debt  
8 service and to operate and maintain a project under the following  
9 conditions:

10 (a) The governing body of the project sponsor, by a majority  
11 vote of the body, or, for projects sponsored by the department, the  
12 commission, has approved the imposition of tolls on users of the  
13 project, or a majority of the voters within the jurisdiction of the  
14 project sponsor has approved a ballot measure imposing the tolls.

15 (b) Each highway project for which tolls are imposed shall have  
16 nontolled alternative lanes available for public use in the same  
17 corridor as the proposed toll project.

18 (c) *For highway projects, the road segment is on the state*  
19 *highway system.*

20 ~~(e)~~

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

26 ~~(d)~~

27 (e) The project's financial pro forma shall incorporate life cycle  
28 costs for the project, including revenues to pay for maintenance,  
29 operation, and rehabilitation.

30 ~~(e)~~

31 (f) Subject to any constraints in the bond documents necessary  
32 to make the bonds marketable, excess revenues from operation of  
33 the project, including toll revenues, shall be used exclusively in  
34 the corridor from which the revenue was generated to fund  
35 acquisition, construction, improvement, maintenance, or operation  
36 of high-occupancy vehicle facilities, other transportation purposes,  
37 or transit service, including, but not limited to, support for transit  
38 operations pursuant to an expenditure plan. *The project sponsor,*  
39 *in consultation with the department, shall issue an expenditure*  
40 *plan that describes transportation improvements for the corridor,*

1 *which shall include projected costs, the use of toll revenues, and*  
 2 *a proposed completion schedule. The expenditure plan shall be*  
 3 *updated annually. The plan and each annual update shall be made*  
 4 *available for public review and comment for no less than 30 days*  
 5 *prior to adoption by the governing board of the project sponsor.*

6 ~~(f)~~

7 (g) Except for purposes of implementing congestion  
 8 management mechanisms pursuant to Section 64113, tolls may  
 9 not be set to generate more revenue than the cost of paying debt  
 10 service on the bonds, operating and maintaining the project, and  
 11 providing transportation improvements to the corridor pursuant to  
 12 subdivision ~~(e)~~. (f).

13 64113. A project sponsor of a project imposing tolls may  
 14 incorporate congestion management mechanisms to regulate usage  
 15 and increase mobility, accessibility, and environmental benefits.

16 64114. The authority and the commission shall develop an  
 17 approval process that results in project approval by the commission  
 18 and financing approval by the authority in a cooperative manner  
 19 that is not sequential, in order that both approvals may be delivered  
 20 to a project at approximately the same time. Both agencies shall  
 21 work with potential project sponsors to ensure that projects are  
 22 developed and brought forward for approval in a manner consistent  
 23 with the commission’s project requirements and the authority’s  
 24 financing requirements. *No less than 30 days prior to approving*  
 25 *the project and its financing plan, the commission and the authority*  
 26 *shall make available for public review and comment a description*  
 27 *of the project and its financing.*

28 64115. (a) The authority is authorized, from time to time, to  
 29 issue its negotiable bonds in order to provide funds for achieving  
 30 any of its purposes under this division.

31 (b) Except as may otherwise be expressly provided by the  
 32 authority, each of its bonds shall be payable from any revenues or  
 33 moneys of the authority available therefor and not otherwise  
 34 pledged, subject only to any agreements with the holders of  
 35 particular bonds or notes pledging any particular revenues or  
 36 moneys. Notwithstanding that those bonds may be payable from  
 37 a special fund, they shall be and be deemed to be for all purposes  
 38 negotiable instruments, subject only to the provisions of those  
 39 bonds for registration.

1 (c) The authority's bonds may be issued as serial bonds or as  
2 term bonds, or the authority, in its discretion, may issue bonds of  
3 both types. The issuance of all bonds shall be authorized by  
4 resolution of the authority and shall bear the date or dates, mature  
5 at the time or times not exceeding 40 years from their respective  
6 dates, bear interest at the rate or rates, be payable at the time or  
7 times, be in the denominations, be in the form, either coupon or  
8 registered, carry the registration privileges, be executed in the  
9 manner, be payable in lawful money of the United States of  
10 America at the place or places, and be subject to the terms of  
11 redemption, as the indenture, trust agreement, or other document  
12 authorized by the resolution, or resolution itself may provide. The  
13 authority's bonds or notes may be sold by the Treasurer at public  
14 or private sale, after giving due consideration to the  
15 recommendation of the project sponsor, for such price or prices  
16 and upon such terms and conditions as the authority shall  
17 determine. The Treasurer may sell those bonds at a price below  
18 the par value thereof. However, the discount on any bonds so sold  
19 shall not exceed 6 percent of the par value thereof, except in the  
20 case of any bonds payable in whole or in part from moneys held  
21 under one or more outstanding resolutions or indentures. Pending  
22 preparation of the definitive bonds, the authority may issue interim  
23 receipts or certificates or temporary bonds that shall be exchanged  
24 for those definitive bonds.

25 (d) Any resolution or resolutions authorizing the issuance of  
26 any bonds or any issue of bonds may contain provisions, which  
27 shall be a part of the contract with the holders of the bonds to be  
28 authorized, as to pledging all or any part of the revenues of a  
29 project or any revenue-producing contract or contracts made by  
30 the authority with any individual, partnership, corporation, or  
31 association or other body, public or private, to secure the payment  
32 of the bonds or of any particular issue of bonds.

33 (e) Neither the members of the authority nor any person  
34 executing the bonds shall be liable personally on the bonds or be  
35 subject to any personal liability or accountability by reason of the  
36 issuance thereof.

37 (f) The authority shall have power out of any funds available  
38 therefor to purchase its bonds. The authority may hold, pledge,  
39 cancel, or resell the bonds, subject to and in accordance with  
40 agreements with bondholders.

1 64116. In the discretion of the authority, any bonds issued  
2 under this division may be secured by a trust agreement or  
3 indenture by and between the authority and a corporate trustee or  
4 trustees, which may be the Treasurer or any trust company or bank  
5 having the powers of a trust company within or without the state.  
6 The trust agreement, indenture, or the resolution providing for the  
7 issuance of those bonds may pledge or assign the revenues to be  
8 received from a project sponsor or pursuant to any  
9 revenue-producing contract or as pledged by the authority pursuant  
10 to Section 64109. The indenture, trust agreement, or resolution  
11 providing for the issuance of those bonds may contain provisions  
12 for protecting and enforcing the rights and remedies of the  
13 bondholders as may be reasonable and proper and not in violation  
14 of law, including, particularly, provisions as have been specifically  
15 authorized to be included in any resolution or resolutions of the  
16 authority authorizing bonds thereof. The trust agreement or  
17 indenture may set forth the rights and remedies of the bondholders  
18 and of the trustee or trustees, and may restrict the individual right  
19 of action of bondholders. In addition to the foregoing, the  
20 indenture, trust agreement, or resolution may contain other  
21 provisions as the authority may deem reasonable and proper for  
22 the security of the bondholders.

23 64117. Bonds issued under this division shall not be deemed  
24 to constitute a debt or liability of the state or of any political  
25 subdivision thereof or a pledge of the faith and credit of the state  
26 or of the political subdivision, other than the authority, but shall  
27 be payable solely from the funds herein provided. The bonds shall  
28 contain on the face thereof a statement to the effect that neither  
29 the State of California nor the authority shall be obligated to pay  
30 the principal of, or the interest thereon, except from revenues  
31 pledged therefor by the authority, and that neither the faith and  
32 credit nor the taxing power of the State of California or of any  
33 political subdivision thereof is pledged to the payment of the  
34 principal of or the interest on those bonds. The issuance of bonds  
35 under the provisions of this division shall not directly or indirectly  
36 or contingently obligate the state or any political subdivision  
37 thereof to levy or to pledge any form of taxation therefor or to  
38 make any appropriation for their payment.

39 64118. Any holder of bonds issued under this division or any  
40 of the coupons appertaining thereto, and the trustee or trustees

1 under any indenture or trust agreement, except to the extent the  
2 rights herein given may be restricted by any resolution authorizing  
3 the issuance of, or any indenture or trust agreement securing, the  
4 bonds, may, either at law or in equity, by suit, action, mandamus,  
5 or other proceedings, protect and enforce any and all rights under  
6 the laws of the state or granted hereunder or under the resolution  
7 or indenture or trust agreement, and may enforce and compel the  
8 performance of all duties required by this division or by the  
9 resolution, indenture, or trust agreement to be performed by the  
10 authority or by any officer, employee, or agent thereof.

11 64119. All moneys received pursuant to this division, whether  
12 as proceeds from the sale of bonds or as revenues, shall be deemed  
13 to be trust funds to be held and applied solely as provided in this  
14 division. Until the funds are applied as provided in this division,  
15 and notwithstanding any other provision of law, the moneys may  
16 be invested in any obligations or securities authorized by resolution  
17 of the authority authorizing the issuance of the bonds or indenture  
18 or trust agreement securing the bonds. Any officer with whom, or  
19 any bank or trust company with which, the moneys are deposited  
20 shall act as trustee of the moneys and shall hold and apply the  
21 moneys for the purposes hereof, subject to any regulations adopted  
22 pursuant to this division, and the resolution authorizing the issuance  
23 of the bonds or the indenture or trust agreement securing the bonds.

24 64120. (a) The authority may provide for the issuance of bonds  
25 of the authority for the purpose of refunding any bonds or any  
26 series or issue of bonds of the authority then outstanding, including  
27 the payment of any redemption premium thereon and any interest  
28 accrued or to accrue to the date of redemption, purchase, or  
29 maturity of the bonds.

30 (b) The proceeds of any bonds issued for the purpose of  
31 refunding of outstanding bonds may, in the discretion of the  
32 authority, be applied to the purchase, redemption prior to maturity,  
33 or retirement at maturity of any outstanding bonds on their earliest  
34 redemption date or dates, upon their purchase or maturity, or paid  
35 to a third person to assume the authority's obligation to make the  
36 payments, and may, pending that application, be placed in escrow  
37 to be applied to the purchase, retirement at maturity, or redemption  
38 on the date or dates determined by the authority.

39 (c) Any proceeds placed in escrow may, pending their use, be  
40 invested and reinvested in obligations or securities authorized by

1 resolutions of the authority, payable or maturing at the time or  
2 times as are appropriate to ensure the prompt payment of the  
3 principal, interest, and redemption premium, if any, of the  
4 outstanding bonds to be refunded at maturity or redemption of the  
5 bonds to be refunded either at their earliest redemption date or  
6 dates or any subsequent redemption date or dates or for payment  
7 of interest on the refunding bonds on or prior to the final date of  
8 redemption or payment of the bonds to be refunded. After the terms  
9 of the escrow have been fully satisfied and carried out, any balance  
10 of the proceeds and interest, income, and profits, if any, earned or  
11 realized on the investments thereof may be returned to the authority  
12 for use by the authority.

13 (d) All of the refunding bonds are subject to this division in the  
14 same manner and to the same extent as other bonds issued pursuant  
15 to this division.

16 64121. Bonds issued by the authority under this division are  
17 hereby made securities in which all banks, bankers, savings banks,  
18 trust companies and other persons carrying on a banking business,  
19 all insurance companies, insurance associations and other persons  
20 carrying on an insurance business, and all administrators, executors,  
21 guardians, trustees and other fiduciaries, and all other persons  
22 whatsoever who now are or may hereafter be authorized to invest  
23 in bonds or other obligations of the state, may properly and legally  
24 invest any funds, including capital belonging to them or within  
25 their control; and the bonds, notes or other securities or obligations  
26 are hereby made securities that may properly and legally be  
27 deposited with and received by any state or municipal officers or  
28 agency of the state for any purpose for which the deposit of bonds  
29 or other obligations of the state is now or may hereafter be  
30 authorized by law.

31 64122. Any bonds issued under this division, their transfer,  
32 and the income therefrom shall at all times be free from taxation  
33 of every kind by the state and by all political subdivisions in the  
34 state.

35 64123. The State of California does pledge to and agree with  
36 the holders of the bonds issued pursuant to this division, and with  
37 those parties who may enter into contracts with the authority  
38 pursuant to this division, that the state will not limit, alter, or  
39 restrict the rights hereby vested in the authority to finance projects  
40 and to authorize the imposition and collection of tolls and to fulfill

1 the terms of any agreements made with the holders of bonds  
2 authorized by this division, and with the parties who may enter  
3 into contracts with the authority pursuant to this division, or in  
4 any way impair the rights or remedies of the holders of those bonds  
5 or those parties until the bonds, together with interest thereon, are  
6 fully paid and discharged and the contracts are fully performed on  
7 the part of the authority. The authority as a public body, corporate  
8 and politic, shall have the right to include the pledge herein made  
9 in its bonds and contracts.

10 64124. A pledge by or to the authority of revenues, moneys,  
11 accounts, accounts receivable, contract rights, and other rights to  
12 payment of whatever kind made by or to the authority pursuant to  
13 the authority granted in this division shall be valid and binding  
14 from the time the pledge is made for the benefit of pledges and  
15 successors thereto. The revenues, moneys, accounts, accounts  
16 receivable, contract rights, and other rights to payment of whatever  
17 kind pledged by or to the authority or its assignees shall  
18 immediately be subject to the lien of the pledge without physical  
19 delivery or further act. The lien of the pledge shall be valid and  
20 binding against all parties, irrespective of whether the parties have  
21 notice of the claim. The indenture, trust agreement, resolution, or  
22 another instrument by which the pledge is created need not be  
23 recorded.

24 64125. Each lease entered into by the authority with a project  
25 sponsor and each agreement, note, mortgage, or other instrument  
26 evidencing the obligations of a project sponsor to the authority  
27 shall provide that the rents or principal, interest, and other charges  
28 payable by the project sponsor shall be sufficient at all times, (a)  
29 to pay the principal of, sinking fund payments, if any, the premium,  
30 if any, and the interest on outstanding bonds of the authority issued  
31 in respect of such project as the same shall become due and  
32 payable, (b) to create and maintain reserves which may, but need  
33 not, be required or provided for in the resolution relating to the  
34 bonds of the authority, and (c) to pay its share of the administrative  
35 costs and expenses of the authority. The authority shall pledge the  
36 revenues derived, and to be derived, from a project or from a  
37 project sponsor for the purposes specified in (a), (b), and (c) of the  
38 preceding sentence and additional bonds may be issued which may  
39 rank on a parity with other bonds relating to the project to the

1 extent and on the terms and conditions provided in the bond  
2 resolution.

3 64126. When the principal of and interest on bonds issued by  
4 the authority to finance the cost of a project or working capital or  
5 to refinance outstanding indebtedness of one or more project  
6 sponsors, including any refunding bonds issued to refund and  
7 refinance those bonds, have been fully paid and retired or when  
8 adequate provision has been made to fully pay and retire those  
9 bonds, and all other conditions of the resolution, the lease, the trust  
10 indenture and any mortgage or deed of trust, security interest, or  
11 any other instrument or instruments authorizing and securing the  
12 bonds have been satisfied and the lien of the mortgage, deed of  
13 trust, or security interest has been released in accordance with the  
14 provisions thereof, the authority shall promptly do all things and  
15 execute those releases, release deeds, reassignments, deeds, and  
16 conveyances necessary and required to convey or release any  
17 rights, title, and interest of the authority in the project so financed,  
18 or securities or instruments pledged or transferred to secure the  
19 bonds, to the project sponsor or sponsors.

20 64127. (a) This division shall be deemed to provide a complete,  
21 additional, and alternative method for doing the things authorized  
22 by this code, and shall be regarded as supplemental and additional  
23 to powers conferred by other laws. The issuance of bonds and  
24 refunding bonds and the financing of projects or the imposition  
25 and collection of tolls under this chapter need not comply with  
26 any other law applicable to the issuance of bonds, including, but  
27 not limited to, Division 13 (commencing with Section 21000) of  
28 the Public Resources Code.

29 (b) Except as provided in subdivision (a), the financing of a  
30 project pursuant to this division shall not exempt a project from  
31 any requirement of law that is otherwise applicable to the project,  
32 and the project sponsor shall provide documentation, before the  
33 authority approves the issuance of bonds for the project, that the  
34 project has complied with Division 13 (commencing with Section  
35 21000) of the Public Resources Code, or is not a project under that  
36 division.

37 64128. To the extent that the provisions of this division are  
38 inconsistent with any other provisions of any general statute or  
39 special act or parts thereof, the provisions of this division shall be  
40 deemed controlling.

1 64129. Any net earnings of the authority beyond that necessary  
2 for retirement of any obligations issued by the authority or to  
3 implement the purposes of this division may inure to the benefit  
4 only of the state or the authority.

5 64130. Upon dissolution of the authority, title to all property  
6 owned by the authority shall vest in the successor authority created  
7 by the Legislature, if any, if the successor authority qualifies under  
8 Section 103 of the federal Internal Revenue Code of 1954, as  
9 amended, and the regulations promulgated thereunder, as an  
10 authority entitled to issue obligations on behalf of the State of  
11 California the interest on which is exempt from federal income  
12 taxation. If no successor authority is so created, title to the property  
13 shall vest in the state.

14 64131. Nothing in this division is intended to limit the authority  
15 to develop and finance high-occupancy toll lanes pursuant to  
16 Section 149.4, 149.5, ~~or 149.6~~ 149.6, or 149.7 of the Streets and  
17 Highways Code, or to limit the ability of any agency that has  
18 existing authority to issue bonds.

19 *SEC. 2. Section 149.7 of the Streets and Highways Code is*  
20 *amended to read:*

21 149.7. (a) A regional transportation agency, as defined in  
22 Section 143, in cooperation with the department, may apply to the  
23 commission to develop and operate high-occupancy toll lanes,  
24 including the administration and operation of a value pricing  
25 program and exclusive or preferential lane facilities for public  
26 transit, consistent with the established standards, requirements,  
27 and limitations that apply to those facilities in Sections 149, 149.1,  
28 149.3, 149.4, 149.5, and 149.6.

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

35 ~~(c) Following public hearings, the commission shall submit an~~  
36 ~~eligible application and any public comments made during the~~  
37 ~~hearings to the Legislature for approval or rejection. Approval~~  
38 ~~shall be achieved by the enactment of a statute. The number of~~  
39 ~~facilities approved under this section shall not exceed four, two in~~  
40 ~~northern California and two in southern California.~~

- 1 (d) A regional transportation agency that develops or operates  
2 a facility, or facilities, described in subdivision (a) shall provide  
3 any information or data requested by the commission or the  
4 Legislative Analyst. The commission, in cooperation with the  
5 Legislative Analyst, shall annually prepare a report on the progress  
6 of the development and operation of a facility authorized under  
7 this section. The commission may submit this report as a section  
8 in its annual report to the Legislature required pursuant to Section  
9 14535 of the Government Code.
- 10 (e) No applications may be approved under this section on or  
11 after January 1, 2012.