

SENATE TRANSPORTATION & HOUSING COMMITTEE
SENATOR MARK DESAULNIER, CHAIRMAN

BILL NO: SB 1298
AUTHOR: HERNANDEZ
VERSION: 2/21/14
FISCAL: YES

Analysis by: Eric Thronson
Hearing date: April 29, 2014

SUBJECT:

High-occupancy toll lanes

DESCRIPTION:

This bill makes changes to the state's high-occupancy toll (HOT) lane program, and eliminates the sunset date on the HOT lane demonstration project in Los Angeles County.

ANALYSIS:

Until 2012, existing law authorized regional transportation agencies, in cooperation with the California Department of Transportation (Caltrans), to apply to the California Transportation Commission (CTC) to develop and operate HOT lanes. An agency operating a HOT lane essentially sells excess capacity in under-subscribed high-occupancy vehicle lanes to single-occupant vehicle drivers by charging a toll. This authority limited CTC to deeming up to four HOT lane projects eligible for construction, two in Northern California and two in Southern California. CTC was also required to hold public hearings on any eligible project. The original legislation required the Legislature to ultimately approve any HOT lane projects deemed eligible by the CTC; subsequent legislation eliminated the Legislative approval requirement, but failed to identify the replacement entity ultimately responsible for approving the project.

HOT lanes typically employ a pricing method known as value pricing or congestion pricing. Under this scheme, the amount of the toll varies in accordance with the level of congestion in that particular lane, such that as congestion increases, so too will the toll amount. As the price to use the lane goes up, fewer people presumably will choose to use it, thereby reducing demand for the facility and maintaining free-flow travel conditions. With this mechanism, an agency can ensure that operation of the toll facility does not undermine the intended benefits of promoting carpooling with access to the faster high-occupancy vehicle lane.

In 2008, following an eligibility review by the CTC, the Legislature passed and the governor signed SB 1422 (Ridley-Thomas), Chapter 547, which allowed the Los Angeles County Metropolitan Transportation Authority (LACMTA), in cooperation with Caltrans, to operate a value-pricing and transit development demonstration program. Under this program, which LACMTA refers to as "ExpressLanes," LACMTA converted the high-occupancy vehicle lanes on portions of I-10 and I-110 in Los Angeles County to HOT lanes.

SB 1422 established the conditions under which LACMTA could implement the program, including the following:

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- LACMTA could implement the program with Caltrans, and needed Caltrans' consent to establish appropriate performance measures for ensuring optimal use of the HOT lanes.
 - LACMTA could not change the minimum vehicle occupancy standard for free access to the HOT lane during the demonstration period.
 - Each proposed HOT lane must have non-tolled alternatives available for public use in the same corridor.
 - LACMTA could use toll revenues generated from the program for the direct expenses related to the maintenance, administration, and operation, including collection and enforcement, of the demonstration program. It could spend no more than three percent of toll revenues on administration expenses.
 - LACMTA must adopt an expenditure plan in which all revenues in excess of those necessary for the implementation of the program are spent in the corridor from which the revenue was generated exclusively for preconstruction, construction, and related costs of HOV facilities and the improvement of transit service in the corridor.

In addition, SB 1422 required LACMTA to conduct a public outreach plan to solicit input in the development of the demonstration program, and to identify the affected communities and work with those communities to identify impacts and develop measures to mitigate those impacts.

Under existing law, LACMTA and Caltrans shall, by December 31, 2014, provide a report to the Legislature on, among other things, the impact of the program on carpoolers and affected communities, as well as how the program impacted transit service or alternative modes of transportation. The authority for LACMTA to operate this HOT lane demonstration program expires January 15, 2015.

This bill does two things:

1. In relation to the expired authority for regional transportation agencies to apply to CTC for review of HOT lane proposals, this bill eliminates the 2012 sunset date and the limit of up to four total facilities in the state. In this way, the bill enables CTC to review and deem eligible any number of HOT lane facilities in the state without restriction. This bill also eliminates the requirement that the CTC conduct public hearings on each eligible proposal.
2. This bill authorizes LACMTA to continue operating the ExpressLanes HOT lane program on I-10 and I-110 indefinitely, with the following changes to the program:
 - LACMTA no longer needs the consent of Caltrans to establish appropriate performance measures for ensuring optimal use of the HOT lanes.
 - LACMTA may now change the minimum vehicle occupancy standard for free access to the HOT lane.
 - LACMTA is no longer required to provide a report to the Legislature on the impacts of the program.

COMMENTS:

1. Purpose. According to the author, the LACMTA ExpressLanes demonstration project is considered a success by stakeholder groups, cities, and local officials. This bill is necessary to make the project permanent.
2. Funding and prioritizing transportation. Some suggest the way California deals with funding transportation seems out of sync with logic. Generally speaking, there are traditional means for raising transportation revenues (such as the excise tax on fuels and weight fees for commercial vehicles), and there are various alternative methods for funding transportation. Historically, the state collected the traditional transportation revenues and redistributed the funds in various ways with some priority for projects that meet statewide goals. More recently, the state has relinquished much control of these traditional revenues and now allows regions to make most of the spending decisions with these funds based on regional needs and priorities.

With alternative methods of raising transportation revenues, such as local sales taxes or tolls, the state has generally authorized each method individually, with varying restrictions, but allowed local or regional agencies to collect the revenues and administer the program. By doing so, the state complicates the process and creates challenges for local and regional entities to empower themselves and address their unique transportation challenges through these alternative revenue methods, even though they are primarily locally determined efforts.

This misalignment of transportation funding and decision-making creates a number of problems. First of all, because regions determine a large portion of spending decisions involving traditional funding mechanisms, the state has relinquished its ability to affect transportation policymaking in ways that could help achieve the state's changing mobility and environmental goals. Alternatively, the state makes it more difficult for regions and locals to enlist alternative funding methods to address their own unique challenges and priorities. It seems reasonable to begin unwinding this tangled mess, and this bill is a step toward that end.

HOT lanes are an alternative funding strategy that can empower regional entities to begin addressing their own transportation needs with locally-determined funding methods. Existing state law, however, makes this alternative exceedingly difficult for regions to implement. By enabling CTC to review and deem eligible any number of HOT lane facilities in the state without restriction, this bill begins to create easier access for locals to this funding strategy. The Legislature may wish to make this tool available to regions without creating unnecessary hoops that could discourage regional entities, but existing law is still vague on what entity officially approves these projects. **Therefore the committee may wish to amend the bill to clarify that the CTC is approving eligible projects, not just determining their eligibility.**

3. Report to the Legislature. According to LACMTA, the intent of the ExpressLanes program is to test innovative strategies to alleviate congestion, maximize freeway capacity, and enhance transit alternatives in the I-10 and I-110 corridors. In addition to allowing single-occupant vehicles to use high-occupancy vehicle lanes for a fee, LACMTA intends to increase bus service that currently operates in those lanes as well as make a variety of improvements to transit facilities in the region. The original authorization of the

demonstration program, SB 1422, required LACMTA to provide a report to the Legislature on, among other things, the impact of the program on carpoolers and affected communities, as well as how the program impacted transit service or other alternative modes of transportation. This bill eliminates that reporting requirement. Given the unique nature of this demonstration program, the report to the Legislature could shed light on several potential lessons learned that could inform future HOT lane programs of this type and, therefore, could provide real value. **The committee may wish to amend the bill to include the report requirement in existing law so that the Legislature might apply lessons learned from the program to future project requirements.**

4. To what should excess revenue go? As of the publishing of this analysis, the only letter of opposition sent to the committee was from the Professional Engineers in California Government (PECG), who oppose the bill unless it is amended to provide a reasonable amount of HOT lane revenue to the state for maintenance and operations of the state highway system. This concern relates to a larger issue involving how excess revenues from alternative funding sources should be spent.

According to Caltrans and the CTC, the state is underfunding the maintenance of its transportation system. The Legislature has been unwilling to increase transportation resources at the state level, and therefore advocates for the system are looking for any opportunity to identify new resources. As noted in a previous comment, however, the Legislature should begin working to link the source of funds with the decision-making authority of how those funds are spent. Local and regional entities authorizing new funding streams should determine what those funds support, while the state should more effectively administer statewide revenues.

It appears PECG is advocating for more than the cost of maintaining the toll lane on the state's highway. In some ways it seems unfair, and counterproductive, to ask a local entity to increase taxes or fees on its own constituents only to redistribute the funds to be spent elsewhere in the state. The Legislature should consider carefully what precedent this might set, and whether doing so would simply discourage local and regional entities from exploring future alternative funding opportunities. On the other hand, it seems very reasonable for local entities to fund the ongoing maintenance of any new facility on the state system, instead of expecting the rest of the state to subsidize that maintenance cost. This bill is currently unclear about who is to fund the maintenance of the HOT lane. **To provide more clarity, the committee may wish to amend the bill to require, in the cooperative agreement between LACMTA and Caltrans, that toll revenues fund the ongoing maintenance of the HOT lanes.**

5. Technical amendment.

- Page 2, line 4, delete "143" and add "6820 of Public Contract Code".
- Page 2, lines 14-16, reinstitute the CTC public hearing requirements.

POSITIONS: (Communicated to the committee before noon on Wednesday, April 23, 2014.)

SUPPORT: Avalon Church of Christ
Bethany Baptist Church of West Los Angeles
Bible Enrichment Fellowship International Church
Bryant Temple
Christ the Good Shepherd Episcopal Church
Christian's Community Center
City on the Hill
Congregational Church of Christian Fellowship
Divine Deliverance Ministries
Foothill Transit
Grace Temple Baptist Church
Greater True Light M.B.C., Inc.
Greater Zion Church Family
HNTB Corporation
LAX Coastal Chamber of Commerce
Los Angeles Area Chamber of Commerce
Los Angeles County Business Federation
Los Angeles World Airports
Macedonia Baptist Church
Mount Moriah Baptist Church of Los Angeles, Inc.
Mount Zion Missionary Baptist Church
The Music Center
New Shady Grove Missionary Baptist Church
Paradise Baptist Church
Saint Paul Baptist Church
San Bernardino Associated Governments
Southern California Association of Governments
St. Andrews Missionary Baptist Church
The True Friendship Missionary Baptist Church
True Vine Baptist Church
Weller Street Missionary Baptist Church

OPPOSED: Professional Engineers in California Government