BILL: SB 264 (Nguyen, R-Garden Grove)
Amended April 04, 2017
Introduced February 08, 2017

SUBJECT: SB 264 defines the corridor for purposes of expending excess toll revenues received from the Interstate 405 Improvement Project in Orange County.

STATUS: Pending in the Senate Transportation and Housing Committee

SUMMARY AS OF APRIL 05, 2017:

SB 264 (Nguyen, R-Garden Grove) would detail allocation requirements for the net excess toll revenues from the high-occupancy toll (HOT) lanes on the Interstate 405 Improvement Project, superseding the process outlined under AB 194 (Chapter 687, Statutes of 2015) for expending and defining excess toll revenues from toll facilities approved under that authority by the California Transportation Commission (CTC).

Under SB 264, "net excess toll revenues" is defined as the revenues available for transportation improvements after debt service and debt service coverage ratios are met and operating and major maintenance reserves are fully funded. The excess revenues would then be allocated as follows:

- 20 percent to the Orange County Transportation Authority (OCTA).
- 70 percent to be equally distributed to project corridor jurisdictions along the project corridor, which is defined to include the Cities of Costa Mesa, Fountain Valley, Huntington Beach, Westminster, and Seal Beach. This does not include any unincorporated areas within that region.
- 10 percent to be equally distributed to project corridor jurisdictions not along the project corridor, which is defined to include the Cities of Santa Ana, Garden Grove, Stanton, Los Alamitos, and County of Orange.

Expenditures of the net excess toll revenues would be limited to capital improvements, operational improvements, and maintenance to on-ramps, off-ramps, connectors, roadways, and bridges related to the tolled or non-tolled lanes within three miles of the Interstate 405 Improvement Project high-occupancy toll lanes. There is no allowance for these revenues to be included for such things as transit and active transportation, as authorized under AB 194.

EFFECTS ON ORANGE COUNTY:

OCTA is currently undertaking one of the largest, most complex transportation projects in the nation, the $1.9 billion Interstate 405 Improvement Project. This project will add one general purpose lane in each direction and will also add an additional lane in each direction that will combine with the existing high-occupancy vehicle lane to provide dual express lanes in each direction. Additionally, the project includes significant improvements to the local street network in the area of the project, including the replacement of 18 local street bridges that travel over

Interstate 405 (I-405). These bridges will be built to their ultimate width and improve local vehicular traffic as well as active transportation modes. When finished, the project will provide multiple corridor improvements, including improved travel times and increased mobility options. The additional capacity added to I-405 will have the benefit of improving local street operations by reducing the local street traffic volumes as more traffic will be carried by the freeway. This project is almost exclusively to be funded by Orange County's local sales tax measure, Measure M2.

Utilizing the authority granted under AB 194 for regional transportation agencies to apply to the CTC to implement locally-controlled toll lanes, OCTA was unanimously granted the authority by the CTC on May 18, 2016, to implement a toll facility on Interstate 405. Also pursuant to AB 194, OCTA has executed a toll operating agreement with the California Department of Transportation (Caltrans) on terms and conditions related to the facility, including operational management and use of revenues. OCTA is currently in the process of working with the federal government to secure a Transportation Infrastructure Finance and Innovation Act (TIFIA) loan for the project, and plans to begin construction on the project at the beginning of 2018.

AB 194 provides local discretion and control to the regional transportation authority implementing a toll project under its authority related to the operations and management of the facility and the use of any excess revenues generated from the project governed by an expenditure plan adopted by the respective regional transportation agency's Board of Directors. Limitations are not currently provided related to investments of excess revenues, other than that they be used in the corridor from which they are generated.

SB 264 significantly infringes upon the local control granted by AB 194 to regional transportation agencies implementing toll facilities, creating a state mandated process for distributing any excess revenues that may result from the project. This is regardless of the fact that the regional transportation agencies, like OCTA, are taking the risk of investing and operating such a facility and securing associated financing. Instead, SB 264 allocates most excess revenues from the project to entities that do not have any investment or liability associated with the facility. This legislation will signify to agencies seeking to implement these facilities that the state may choose at any time to alter the careful agreements entered into as part of the AB 194 process, likely deterring future implementation. This is despite each project being extensively reviewed and monitored by the CTC, and close involvement by Caltrans on each project.

Under current projections for the Interstate 405 Improvement Project, it remains unclear when excess toll revenues will begin to accrue for the facility, if ever. Much of this depends on agreements negotiated with credit or financing agencies, and the operational and management terms agreed to between OCTA and its vendors. Already the definition of "net excess toll revenues" is inconsistent with the provisions of AB 194, agreements with Caltrans, and potential financing agreements. The inconsistency introduced by SB 264 would complicate the ability for regional transportation agencies and other sponsoring entities to obtain the needed funding or financing for these projects to ensure that the facilities are implemented in the most cost-effective manner, preserving key operating features for the facilities advocated by local governments. This could include occupancy requirements and other features.

OCTA has a long and successful experience managing and operating the 91 Express Lanes, a 10-mile facility along State Route 91 from State Route 55 and extending to the Orange/Riverside County line. Pursuant to an expenditure plan adopted by the OCTA Board of Directors, completed with consultation of partner agencies such as Caltrans, OCTA has made significant multi-modal transportation investments in the corridor, including new transit stations and capacity improvements.

Ignoring this long-standing experience associated with the 91 Express Lanes, SB 264 provides that most excess revenues will go to the cities surrounding the newly defined Interstate 405 corridor, limiting the revenues that will be used by OCTA. Without estimates of the excess revenues to be generated, it is unclear how much each city will receive, or OCTA. If the revenues are limited, this will inhibit the ability to provide for any transportation improvements to the corridor or benefits to those driving in the corridor. In addition, the bill prohibits investment in many multi-modal improvements in the corridor, including for transit services and active transportation purposes, preventing efforts to further help alleviate congestion. This is despite statewide environmental standards that agencies must meet related to transportation. Investment limitations and allocation between OCTA and the cities are done in an arbitrary manner that does not take into account the needs surrounding the corridor or improvements that can provide regional benefits to the users of the facility.

Without any reporting mechanism, or consistency requirement with long-range transportation plans, there is nothing in SB 264 that allows for OCTA input on excess revenue investments. Already investments are being made to mitigate the impacts of the Interstate 405 Improvement Project in cities along the project. SB 264 is not about mitigation; it is an attempt to remove local control.

An oppose position is consistent with the OCTA 2017-18 State Legislative Platform's principles to oppose efforts that affect that perseveration of local flexibility in the administration of toll lanes.

OCTA POSITION:

Staff recommends: OPPOSE

AMENDED IN SENATE APRIL 4, 2017

SENATE BILL **No. 264**

Introduced by Senator Nguyen

February 8, 2017

An act to ~~amend~~ *add* Section ~~149.7 of~~ *149.13 to* the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 264, as amended, Nguyen. High-occupancy toll ~~lanes.~~ *lanes: Interstate 405 Improvement Project high-occupancy toll lanes.*

Existing law provides that the Department of Transportation has full possession and control of the state highway system. Existing law authorizes a regional transportation agency or the department to apply to the California Transportation Commission to develop and operate high-occupancy toll (HOT) lanes or other toll facilities. ~~Existing law defines "regional transportation agency" for these purposes to include, among other agencies, a county transportation commission established under the County Transportation Commissions Act.~~ *Existing law requires certain excess revenue generated by the toll facility to be used in the corridor from which the revenue was generated pursuant to an expenditure plan developed by the sponsoring agency, as provided.*

This bill would ~~instead refer to a county transportation commission or authority established under that act.~~ *instead require net excess toll revenues, as defined, received from high-occupancy toll lanes on a specified portion of an approximately 16-mile-long project corridor in the County of Orange on Interstate 405 and that traverses the Cities of Costa Mesa, Fountain Valley, Huntington Beach, Westminster, and Seal Beach to be allocated to the Orange County Transportation Authority and certain project corridor jurisdictions according to a* *specified schedule. The bill would require these moneys to be spent on specified transportation improvement projects.*

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

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

SECTION 1. Section 149.13 is added to the Streets and Highways Code, to read:

149.13. (a) Notwithstanding Section 149.7, Section 14106 of the Government Code, or any other law, this section applies to the Interstate 405 Improvement Project high-occupancy toll lanes in the project corridor between State Highway Route 73 and Interstate 605.

(b) Net excess toll revenue shall be allocated as follows:

(1) Twenty percent to the Orange County Transportation Authority.

(2) Seventy percent to be equally distributed to the project corridor jurisdictions along the project corridor.

(3) Ten percent to be equally distributed to project corridor jurisdictions not along the project corridor.

(c) (1) Moneys received under subdivision (b) shall be expended only to enhance traffic flow, reduce traffic congestion, and to mitigate road wear to streets within three miles of the Interstate 405 Improvement Project high-occupancy toll lanes in the project corridor between State Highway Route 73 and Interstate 605. Eligible expenditures are limited to capital improvements, operational improvements, and maintenance to on-ramps, off-ramps, connector roads, roadways, bridges, or other structures that are related to the tolled or nontolled facilities within three miles of Interstate 405 Improvement Project high-occupancy toll lanes in the project corridor between State Highway Route 73 and Interstate 605.

(2) (A) Subject to paragraph (1), the Orange County Transportation Authority may use its share of excess toll revenues under subdivision (b) as it desires for transportation needs.

(B) Subject to paragraph (1), a project corridor jurisdiction may use its share of excess toll revenues under subdivision (b) as it desires for transportation needs in its jurisdiction.

(d) For purposes of this section the following terms have the following meanings:

(1) "Net excess toll revenue" means all revenues available for transportation improvements after debt service and debt service coverage ratios are met and operating and major maintenance reserves are fully funded.

(2) "Project corridor" means the approximately 16-mile-long project corridor in the County of Orange on Interstate 405 and that traverses the Cities of Costa Mesa, Fountain Valley, Huntington Beach, Westminster, and Seal Beach.

(3) "Project corridor jurisdictions along the project corridor" means the Cities of Costa Mesa, Fountain Valley, Huntington Beach, Westminster, and Seal Beach.

(4) "Project corridor jurisdictions not along the project corridor" means project corridor jurisdictions within three miles, north or south, from the Interstate 405 high-occupancy toll lanes between State Highway Route 73 and Interstate 605, limited to the Cities of Santa Ana, Garden Grove, Stanton, and Los Alamitos and the County of Orange.

All matter omitted in this version of the bill appears in the bill as introduced in the Senate, February 8, 2017. (JR11)

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