



WCCTAC BOARD OF DIRECTORS
SPECIAL MEETING NOTICE AND AGENDA:
REGIONAL HOT LANE NETWORK

El Cerrito

Hercules

Pinole

Richmond

San Pablo

Contra Costa
County

AC Transit

BART

WestCAT

DATE & TIME: Monday, July 13, 2009, 8:00 a.m.

LOCATION: City of San Pablo, Council Chambers
13831 San Pablo Avenue (at Church Lane)
San Pablo, California

*Accessible by AC Transit lines #72 and #72R
Additional Parking is available in the City lot two blocks
south of City Hall at 13685 San Pablo Avenue*

AB 744 (Torrico), Regional Express Toll Lanes Network (formerly high-occupancy toll or HOT network). AB 744 would authorize the Bay Area Toll Authority (BATA) to acquire, construct, administer, and operate a Bay Area Express Lane Network. If approved, the bill would authorize BATA to pursue installation of HOT lanes on I-80, among other corridors.

The bill has passed out of the Assembly Transportation Committee, Assembly Appropriations Committee, and Assembly Floor. The bill was heard by the Senate Transportation & Housing Committee on July 7, but was not voted on at that time; instead, the hearing will be continued, perhaps as early as July 14. The legislative analysis prepared for the Senate T&H Committee is attached. At the July 7 hearing, the Senate T&H Committee raised several of the issues identified in the analysis, as well as others, including: revenue generation versus throughput, conversion of general purpose lanes to HOT lanes, financing, reinvestment of revenues on transit, construction and maintenance of the network, and personal privacy. Videos of the hearing are available here: <http://www.calchannel.com/channel/sr1/senate%20transportation>. (The hearing of the bill starts at around 1 hour 50 min. into Part 1 and is continued in Part 2.)

WCCTAC has taken an oppose position on the bill. The purpose of the special meeting is to discuss the recent developments in the Senate and take action as appropriate.

* * *

In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in the WCCTAC Board meeting, or if you need a copy of the agenda and/or agenda packet materials in an alternative format, please contact Nancy Cuneo at 510.215.3035 prior to the meeting. If you have special transportation requirements, please call with as much advance notice as possible.

Please refrain from wearing scented products to the meeting, as there may be attendees susceptible to environmental illnesses. Also, please turn off all cellular phones and pagers during the meeting.

A meeting sign-in sheet will be circulated at the meeting. Sign-in is optional.

This page intentionally left blank.

BILL ANALYSIS

SENATE TRANSPORTATION & HOUSING COMMITTEE
SENATOR ALAN LOWENTHAL, CHAIRMAN

BILL NO: AB 744
AUTHOR: torrico
VERSION: 6/23/09
FISCAL: yes

Analysis by: Jennifer Gress
Hearing date: July 7, 2009

SUBJECT:

Bay Area Express Lane Network

DESCRIPTION:

This bill authorizes the Bay Area Toll Authority (BATA) to acquire, administer, and operate a network of high-occupancy toll (HOT) lanes in the Bay Area, provides authority to finance the development of the network using toll revenues, and establishes a process for regional cooperation.

ANALYSIS:

Metropolitan Transportation Commission (MTC) and the Bay Area Toll Authority (BATA)

Existing law establishes the MTC as a local area planning agency to provide comprehensive regional transportation planning for the City and County of San Francisco and the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma.

Existing law establishes BATA as a public instrumentality governed by the same board as that governing MTC, although BATA is a separate legal entity from MTC. BATA is responsible for the programming, administration, and allocation of all toll revenues, except revenues from the seismic retrofit surcharge, from the seven state-owned toll bridges within the geographic jurisdiction of MTC.

HOT Lanes

AB 713 (Goldsmith), Chapter 962, Statutes of 1993, was passed to establish what would become California's first HOT lane project. The bill authorized the San Diego Association of Governments

(SANDAG) to allow single-occupant vehicles into the high-occupancy vehicle (HOV) lanes on Interstate 15 in San Diego County for a fee. The project was part of a federal demonstration program to assess the application of congestion pricing and to increase revenues for transit development in the I-15 corridor.

In 2004, AB 2032 (Dutra), Chapter 418, authorized the Sunol Smart Carpool Lane Joint Powers Authority, the Alameda County Congestion Management Agency, the Santa Clara Valley Transportation Authority, and SANDAG to develop and operate HOT lane facilities using value or congestion pricing on a specified number of transportation corridors within their jurisdictions, subject to certain conditions.

AB 574 (Torrigo), Chapter 498, Statutes of 2007, permitted those agencies authorized to develop and operate HOT lanes under AB 2032 to issue bonds backed by projected toll revenues to pay for the costs of developing the facilities.

AB 1467 (N??ez), Chapter 32, Statutes of 2006, authorizes, until January 1, 2012, authorized four more HOT lane projects, two in Northern California and two in Southern California.

Facilities authorized under AB 2032, as amended by AB 574 (Torrigo), and under AB 1467 are subject to specified conditions, including:

HOV lanes may only be operated as HOT lanes during the hours that the lanes are otherwise restricted to use by high-occupancy vehicles.

The lanes must be maintained at Level of Service C (generally characterized as good operation with slight delays), Caltrans expressly permits Level of Service D (fair operation with noticeable delays).

Toll revenues are to be made available to the agency for the direct expenses related to the operation (including collection and enforcement), maintenance, and administration of the toll program. All excess revenues are required to be used in the corridor from which the revenues were generated, exclusively for the preconstruction, construction, and other related costs of HOV facilities and transit service.

In total, 13 HOT lane projects are currently authorized statewide for projects that are or will be located in the

following counties: Alameda, Orange, Los Angeles, Riverside, San Diego, Santa Clara.

Of those authorized, two are currently in operation: The SR 91 Express Lanes in Orange County and an 8-mile segment of Interstate 15 in San Diego County. Five facilities authorized under existing law are in development, including a 14-mile segment of I-680 in Alameda County. The southbound lane on I-680 will involve a conversion of an existing lane while the northbound lane will be new construction. Also, the Santa Clara Valley Transportation Authority has three projects in development in Santa Clara County: Segments of SR 85, U.S. 101, and the SR 237/I-880 interchange, all of which involve the conversion of existing HOV lanes into HOT lanes.

This bill authorizes BATA to acquire, administer, and operate a network of HOT lanes in the Bay Area, referred to as the Bay Area Express Lane Network (network), provides authority to finance the development of the network using HOT lane and bridge toll revenues, and establishes a process for regional planning and development. The major provisions are described below.

General Powers and Duties

This bill permits BATA to charge tolls for use of the network and provides that BATA shall establish and revise the toll rate schedule. The initial toll schedule and any subsequent changes shall be made available to the public for review and comment for 30 days prior to adoption by the authority.

The toll schedule may include free or reduced rate passage for HOVs, public transportation vehicles, low-emission or energy-efficient vehicles, or motorcycles in a manner compliant with federal law.

BATA is required to implement the express lane development plan (see below) in a collaborative manner with Caltrans, CHP, and Bay Area congestion management agencies, except any element that the authority determines are impracticable or infeasible, or that may delay commencement of operation of the network or materially and adversely affect the financial condition of the network, BATA, or its credit rating. BATA shall enter into cooperative agreements with Caltrans and CHP that address all matters related to design, construction, maintenance, and operation of the network.

BATA shall enter into agreements with the Sunol Smart Carpool

Lane Point Powers Authority, the Alameda County Congestion Management Agency, and the Santa Clara Valley Transportation Authority by January 1, 2011 providing for the transfer of HOT lane facilities developed by those agencies to BATA.

This bill also prohibits the state from authorizing either publicly- or privately-owned HOT lanes within the jurisdiction of MTC, other than those authorized by this bill.

Financing

The bill establishes several provisions regarding financing the development and operation of the network. Specifically, this bill:

Allows BATA to issue tax-exempt bonds secured by a pledge of all or any part of network revenue.

Provides that expenditures for the network may be funded from network revenues, revenue bonds issued by BATA, grants and loans from federal, state, and local agencies, including congestion management agencies and BATA.

Allows toll bridge revenues to be expended on the network provided that (a) funding from other sources is not available, and, (b) the authority projects that funding the network will not necessitate an increase in bridge toll rates or preclude BATA from upholding its contractual and statutory obligations.

Allows BATA to pledge bridge toll revenues to secure bonds it issues (a) if and to the extent that the authority determines that funding for the network is not available on terms acceptable to the authority without such a pledge, and, (b) if BATA projects that those obligations will not necessitate an increase in bridge toll rates or preclude the authority from upholding its contractual and statutory obligations.

Allows the authority to increase bridge toll rates if it becomes necessary to meet its obligations to bondholders for bonds issued to fund the network.

Use of Network Revenues .

All revenue generated from the network shall be deposited in the Bay Area Express Lane Account, which BATA shall create. Funds may be expended for the following purposes:

To pay debt service on revenue bonds issued to finance the network.

To repay any loans.

To pay or provide for expenses related to the administration, acquisition, operation, maintenance, construction, and related project development activities related to the network.

Any revenues remaining after payment of these obligations is considered "net corridor revenue," 5 percent of which is held in reserves and 95 percent of which is allocated to the corridors in proportion to the net revenue they generated to implement programs and projects in the corridor investment plan.

Regional Planning Process

The bill proposes organizational structures and establishes processes to facilitate regional cooperation in the planning, development, and operation of the network.

The Project Oversight Committee and Network Development Plan. BATA shall establish the Project Oversight Committee (committee), which shall consist of a representative from each of the following organizations: BATA, who will serve as the chair of the committee, Caltrans, CHP, and any congestion management agency or countywide transportation planning agency within MTC's jurisdiction that chooses to participate.

The committee is required to recommend to the authority an express lane development plan for the network. In developing the initial plan, the authority shall provide an estimate of the funds available. The first plan shall consist of two elements: (a) a phasing plan, including a definition of the geographic boundaries of each of the express lane corridors, and, (b) an operational plan that recommends consistent standards for the network regarding design, signage, technology, marketing, pricing policies and goals, occupancy standards for high-occupancy vehicles (HOVs), hours of operation, maintenance, enforcement, and tort liability.

In developing the phasing plan, the committee shall first prioritize those corridors that can be converted to express lanes from HOV lanes or that demonstrate the ability to generate sufficient fee revenue to cover their financing, operating, and maintenance costs.

BATA shall review and accept or reject the development plan submitted to it by the committee. If BATA rejects the plan, it

shall return the plan to the committee with its comments and the committee shall revise and resubmit the plan.

The express lane development plan shall be updated as needed, but at least once every four years.

Corridor working groups and corridor investment plans. The committee shall establish corridor working groups as subcommittees of the committee. The number of working groups shall correspond to the number of express lane corridors as specified in the development plan. Each working group shall consist of a representative from each of the following entities: BATA, Caltrans, CHP, congestion management agencies whose jurisdiction includes a portion or all of the working group's corridor or whose residents comprise a significant share of the potential travelers in the corridor.

Working groups shall establish its voting arrangements to reflect the commuting patterns in the corridor and the level of investment in corridor infrastructure, and shall select its chair from among the staff representatives of the congestion management agencies participating in the group.

Each working group shall prepare a project initiation document and a corridor investment plan. The corridor investment plan shall be submitted to the committee for approval, and shall include proposals and recommendations regarding specified items.

The committee shall review and approve each corridor investment plan. Once approved, the committee submits the plan to each congestion management agency represented in the corridor working group for a 60-day review. If all congestion management agencies approve the investment plan, the committee submits the plan to BATA. If an agency does not approve the plan, the bill establishes a process whereby the committee and working group work with the agency to revise the plan. The agency is given 60 days to review and approve the revised plan. If after 60 days the agency still does not approve the plan, the committee shall recommend the revised plan to BATA. The corridor investment plan may not be implemented until BATA provides final approval.

The committee and working groups are subject to open meeting requirements established by the Ralph M. Brown Act.

COMMENTS:

1.Purpose . The author states that express lanes, also known as HOT lanes, are a form of congestion management that allow carpoolers to travel free of charge in a carpool lane but allows the lane's excess capacity to be used by single-occupant vehicles (SOVs) for a fee. These lanes provide an opportunity to take advantage of existing, unused capacity without forfeiting the benefits of carpooling and express bus service. In addition, the revenue generated would help finance expansion of the carpool lane network and provide funding for public transit improvements within the corridor.

Currently, only Alameda and Santa Clara Counties are authorized to construct, operate, and maintain HOT lanes in the Bay Area. Much of the revenue generated by these lanes will be used in the same corridor for preconstruction, construction, and other related costs of HOV facilities and the improvement and support of transit services within the corridor. Unfortunately, other Bay Area counties do not have access to these potential benefits.

The author and sponsor (MTC) argue that there are many gaps in the current HOV lane system in the region. Filling those gaps would create a seamless network of unobstructed lanes, which would provide a much faster commute for the carpooler and bus riders who currently use them. With existing revenues, however, this network could not be completed for another 30 years. Revenues generated by the express lane network could fund its completion within the next 10 years.

According to the author, a regional, express lane network will provide Bay Area commuters with an effectively managed freeway system with higher vehicle and passenger throughput and a reduction in delay within each travel corridor. In comparison to a traditional carpool lane system, a regional HOT lane network would save 10 million metric tons of carbon dioxide, and also result in significantly lower particulate matter and nitrous oxide emissions. The author concludes that an express lane network would provide an efficient, effective, consistent, and seamless freeway system for Bay Area commuters.

2.Description of the project . The proposed network would be developed by converting 500 miles of existing or fully funded HOV lanes to HOT lanes and constructing an additional 300 miles of new lanes. Of the 300 miles of new lanes, 180 miles are to close gaps in the existing HOV lane network, while 120

miles represents an extension of the system to new areas. The lanes would remain free of charge for carpools and buses, but would be accessible to vehicles not meeting the occupancy requirement for a variable toll that would be collected electronically via FasTrak and adjusted in real time to maintain free-flow conditions in the HOT lanes.

3. Policy shifts . The express lane network proposed by this bill may signal two significant policy shifts from HOV and HOT lane policies that the state has adopted heretofore. The first relates to the fundamental purpose served by HOV lanes, while the second policy concerns the use of revenues derived from HOT lanes. The extent of the shift will depend, in large part, on the revenues generated by each corridor in the network and decisions regarding the management of demand for HOT lanes over time.

Increasing throughput vs. raising revenue. The purpose of HOV facilities is to increase the total number of people moved through a congested corridor by offering two kinds of travel incentives: a substantial savings in travel time and to provide a reliable and predictable travel time. Because HOV lanes carry vehicles with a higher number of occupants, they move significantly more people during congested periods, even if the number of vehicles that use the HOV lane is lower than on the adjoining general purpose lanes. In general, carpoolers, vanpoolers, and bus patrons are the primary beneficiaries of HOV lanes by allowing them to move through congestion.

To the extent there is excess capacity in an HOV lane, allowing SOVs to access the lane for a fee provides a more efficient use of existing highway capacity while also generating revenue that may be reinvested in the transportation system. If HOV lane volumes are low, converting to HOT lanes makes good use of excess capacity and improves the overall efficiency of the freeway system.

Two conditions exist that raise a potential conflict between the traditional purpose of HOV lanes to increase throughput and the purpose to generate revenue: several HOV segments are currently congested during peak hours and many nontolled, general purpose lanes are projected to become increasingly congested in the future. As the nontolled, general purpose lanes become more congested, there will be greater demand for

the HOT lanes, which will contribute to revenue growth. If congestion develops in a HOT lane, however, the lane will generate little revenue and may fail to cover its operating costs.

Congestion in an HOV lane due to carpoolers signals a need to increase occupancy standards for vehicles authorized to access the lane. Congestion in a HOT lane, however, may be due to either carpoolers or SOVs and so may be addressed by increasing either occupancy standards or the price of the toll. This situation raises several questions the committee may wish to consider:

Once HOV lanes are converted into HOT lanes, how will the authority determine how much congestion is due to carpoolers vs. SOVs? Will it opt to increase occupancy standards in order to accommodate SOVs?

What impact will raising occupancy standards have on carpooling, especially on segments where the occupancy standard is currently 3+? Will drivers and their passengers choose or be able to incorporate another person in the carpool or will adding another become infeasible?

If the goal is to enhance throughput, would it be appropriate to charge vehicles with 2 or 3 occupants the same toll as an SOV?

At what point does the tolling policy, which accounts for an occupancy standard, favor revenue-generating SOVs rather than throughput-enhancing HOVs? Is that point knowable?

The bill does not speak to these situations. In response to some of these questions, the sponsor notes that in cases where congestion exists in an HOV lane presently, occupancy standards should be increased regardless of whether or not SOVs are permitted access. Further, the sponsor suggests that it could raise the occupancy standard, and vary toll rates according to the occupancy of the vehicle such that free passage would be granted to those who meet the standard and reduced rate passage to those who carpool but do not meet the standard.

Tolling technology in its present state does not possess the capability of distinguishing the number of people in a

vehicle. A pilot study is beginning in the I-15 corridor in San Diego County to assess whether infrared cameras are capable of doing so, but even if that technology proves capable, it will be many years before it would become available for use on a large scale.

While it is the sponsor's intent to allow carpoolers to access the lanes for free, the shift in policy from an emphasis on enhancing throughput to one of generating revenue is reinforced by language in the bill that permits, but does not require, BATA to offer free or reduce rate passage to carpoolers.

The committee may wish to consider the extent to which it wants to preserve the function of HOV lanes in encouraging higher vehicle occupancy travel. To this end, the committee may wish to consider amending the bill to:

Require explicitly free passage for carpoolers;
 State explicitly that a toll policy should maximize throughput over revenue generation; and/or
 Establish, or require the authority to establish, a standard at which point access to the HOT lanes by SOVs would be denied.

Source of revenue vs. use of revenue. A policy reflected in every HOT lane bill the Legislature has considered is the requirement that toll revenues be reinvested into the same corridor from which they were generated. The premise for this policy is two-fold. First is the belief

that those who pay

for the facility should benefit from that investment. The second is, to the extent that toll lanes may benefit some user groups more than others, revenues can be invested in infrastructure or service that offsets those disproportionate benefits. For example, if higher-income drivers benefit more from tolled lanes, then revenue from those lanes can be used for either nontolled lanes or transit service from which lower-income drivers may also benefit.

The bill speaks to this principle by requiring that 95 percent of net revenue be reinvested in the corridor in proportion to the toll revenue generated from it. The extent to which there is net corridor revenue, however, depends on many factors, including the costs to develop the facility and the extent to which the facility generates sufficient revenue to cover the costs of construction, operation, and maintenance.

MTC estimates the project will cost approximately \$7.6 billion to build, finance, and operate the network over the next 25 years and generate \$13.7 billion in revenue, leaving a net revenue of \$6.1 billion.

Professor Pravin Varaiya with the University of California, Berkeley raises question about some of the revenue forecasts used by MTC, as well as other toll road operators around the country. In his analysis, Professor Varaiya suggests that toll revenues from I-680 South would be unlikely to cover its operational costs, let alone its capital costs. While the capital costs for I-680 will mostly be derived from other sources, Professor Varaiya suggests that over-estimating revenue is a common problem among toll operators (and their consultants) around the country.

Additionally, the capital costs of some projects will depend on the extent to which BATA is able to utilize what is referred to as a "rapid delivery approach" on some projects. A rapid delivery approach assumes converting existing HOV lanes into HOT lanes with design exceptions approved by Caltrans. Design exceptions allow BATA to avoid expanding the highway right-of-way and ensure more timely delivery. Without them, some projects will require right-of-way acquisition and may create environmental impacts, thereby increasing costs and time. It is unclear that design exceptions for all highway segments for which they would be sought are appropriate or will be granted. The Contra Costa County Transportation Authority, for example, has raised safety and operational concerns about converting HOV lanes on segments of I-80 and I-680 in Contra Costa County.

Finally, if toll revenues from each corridor in the network are pooled together to finance the development of HOT lanes throughout the network and the goal is to build the network within the next seven to eight years, how much net revenue is reasonable to expect in the short-term? How will it be calculated, particularly for those corridors in which high-performing HOT lanes end up subsidizing the development of HOT lanes in other corridors?

In sum, the idea of redistributing net revenues to the corridors to fund projects and programs in the corridor investment plan is in keeping with the spirit of previous HOT lane authorities contained in statute, but questions remain

regarding which corridors would actually receive revenue, when the revenue would be forthcoming, and how much the corridors would receive.

4.Related legislation . SB 1175 (Torlakson), among other things, adds the Antioch and Dumbarton bridges to the state toll bridge seismic retrofit program and requires BATA to increase bridge toll rates for purposes of completing those projects.

5.Use of bridge toll revenues . Under this bill, toll bridge revenues may be used to fund the network or be pledged to secure bonds to raise funds for the network, and it allows BATA to increase toll rates if necessary to uphold its obligations to bondholders. This provision creates the possibility that drivers who use any of the seven state-owned bridges may bear the cost of projects within the network if they fail to perform as projected.

According to MTC, with BATA's credit rating, pledging bridge toll revenues dramatically reduces the financing costs associated with the network. MTC further argues that pledging bridge toll revenues will be a secondary form of credit support, behind projected toll revenues from the HOT lane facility for which financing is being sought and projected toll revenues from the network as a whole. Finally, MTC indicates that in the event that bridge toll revenues are used to fund the network, they would likely come from BATA's reserves in the form of loans.

One question the committee may wish to consider concerns the extent to which it is comfortable pledging bridge tolls for the network and whether it may be appropriate to establish some parameters for the use of those revenues.

6.BATA's powers . This bill expands BATA's authority in a significant manner and establishes broad control over the network without specifying limits or parameters. Currently BATA's authority is limited to the Bay Area toll bridges, but under this measure, BATA would have authority for 800 miles of HOT lanes. Under current law, HOT lanes would be developed by either Caltrans or the county-wide transportation agency in cooperation with Caltrans. Other ways in which the bill grants BATA broad control over the network include:

The bill gives BATA the authority to develop HOT lanes

within the "network," but the bill does not define the network. Instead, the authority, along with the oversight committee, would determine the geographic boundaries of the network and the corridors within it. Furthermore, while MTC does not appear to intend to convert general purpose lanes into HOT lanes, this bill does not preclude BATA from doing so.

Corridor working groups offer proposals and recommendations to the authority for the corridor investment plan, but BATA retains authority to approve or reject the plan, regardless of whether county congestion management agencies approve it.

The bill specifies that toll revenues generated from the network shall be used to pay debt service, repay loans, and provide for direct expenses of operating the network. Excess revenues, or net revenues, may be used for programs and policies in the corridor investment plan. There are no requirements or limitations on what may be included in a corridor investment plan, other than priority shall be given to projects that reduce emissions and provide transit. The committee may wish to consider whether it would like to establish parameters for the use of net revenue, for example, limiting it to projects that improve throughput through the corridor.

The bill gives BATA authority for elements of highway projects that typically fall under the purview of Caltrans. For example, Caltrans is the lead agency for all projects on the state highway system unless it agrees to relinquish that authority, however, this bill authorizes BATA to be the lead agency. Additionally, the bill provides that corridor working groups should make recommendations as to which state, regional, or local agency should perform work described in the corridor investment plan. The regional HOT lane network will be part of the state highway system and as such, Caltrans should maintain its responsibilities for these lanes as it does for the rest of the system. For this reason, the committee may wish to consider an amendment to either delete this provision or specify that Caltrans is the lead agency unless it relinquishes its authority to BATA.

The bill seeks to prohibit the state from authorizing other HOT lane facilities in the Bay Area. Any HOT lanes

developed within the nine-county jurisdiction of MTC would be operated by BATA.

7. Who is doing what ? The bill authorizes BATA to "acquire, administer, and operate" a regional HOT lane network. Because the HOT lanes developed under this bill would be part of the state highway system, it is unclear what is meant by "acquire." Furthermore, the bill does not grant BATA authority to "construct," "maintain," or "rehabilitate" these roads. Who is responsible for these activities? In response to questions regarding how "project" would be defined and what entity would be responsible for constructing a project, MTC offers that "decisions on these have not yet made and would be appropriately made on a case-by-case basis as a one-size fits all approach almost certainly wouldn't be the best solution." The bill could maintain flexibility with regard to what agency will be responsible for certain activities while also authorizing BATA to conduct them, such as maintenance. The committee may wish to consider amending the bill to specify BATA's authority with regard to constructing, maintaining, and rehabilitating segments.

8. Greenhouse gas emissions and transit investment . The author asserts that the development of the express lane network will result in a reduction of approximately 10 million metric tons of carbon dioxide over the next 40 years. The reduction in greenhouse gas emissions is attributed principally to the reduction in congestion that may accompany the effective expansion of capacity and to the completion of the HOV system sooner than anticipated, which will provide increased opportunities for carpooling. The Sierra Club, writing in opposition to this measure, argues: "Research on freeway construction projects shows that while increasing freeway capacity may yield a short-term decrease in emissions, we can expect a much larger emissions increase in the long-run as reduced congestion induces more demand." The Sierra Club points to research by the San Francisco Planning and Urban Research League that estimates the network will ultimately produce 67,000 tons of carbon dioxide annually.

To address mobility, social equity, and environmental goals, the bill specifically highlights transit investment as an element of the corridor investment plan and requires that corridor working groups consult with transit operators when developing their investment plan. The extent to which transit service is enhanced, however, will depend on the extent to

which there are sufficient net revenues available after paying for construction, operations, and maintenance, and to which transit service is a priority of the corridor working group and the authority. Transit investment is not guaranteed nor is it required. Furthermore, while the bill requires working groups to consult with transit operators, transit operators are not included in corridor working groups. One question the committee may wish to consider is whether the transit provisions of this bill could be strengthened, for example, by requiring upfront investment in enhanced transit service to occur concurrently with highway expansion, by requiring that transit operators be included in corridor working groups, or by establishing a set-aside of net corridor revenue that must be used for enhanced transit.

9.Social equity . To critics, HOT lanes are best characterized as "Lexus Lanes" as new facilities are developed for those motorists who can afford to pay to use them, leaving those unable to pay mired in traffic congestion. Not only is new capacity built for those who can pay, but there is also concern that improvements made to the facility over time may become concentrated in the tolled lanes.

To help address this issue, the bill provides that corridor investment plans shall include an analysis of equity issues and a proposal for how to minimize any inequities identified. The sponsor notes that most HOT lane users are lower- and middle-income drivers, and points to a Cal Poly San Luis Obispo study of the State Route 91 Express Lanes in Orange County, which found use to be more closely tied to current travel conditions and trip needs than to income.

Focusing on the value of time instead of the price of the toll presents a different story. In operating its value-pricing demonstration program in San Diego County, the San Diego Association of Governments (SANDAG) has suggested that lower-income drivers are occasional users of the facility and access HOT lanes when on-time arrival is particularly important. SANDAG suggests that the value of time savings may be greater to lower-income drivers who may be more negatively impacted by being delayed by traffic congestion. If work, such as painting or cleaning houses, requires traveling, it may be worth more to accommodate an additional job or appointment. HOT lanes provide lower-income drivers an option when presented with difficult circumstances, for example, being late to work on occasion or having to commute long

distances due to a lack of affordable housing near their place of employment.

10. Access to low-emission vehicles . Federal law permits states to allow certain low-emission vehicles to use HOV lanes regardless of the vehicle's occupancy. Under this authority, state law allows certain low-emission vehicles may access HOV lanes if they have proper insignia. All-electric and some compressed natural gas vehicles are issued white stickers and hybrids are issued yellow stickers. White-stickered vehicles using the HOV lane may use the Bay Area toll bridges without being charged a toll. Access to HOV lanes by these vehicles expires January 1, 2011, however, there are several pending in the Legislature that would extend this sunset date for white-stickered vehicles or allow a new class of low-emission vehicle to access the lanes.

This bill allows the authority to grant free or reduced rate passage on the HOT lanes to low-emission vehicles in a manner compliant with federal law, but in doing so, allows the authority to disregard state law. In other words, the bill gives BATA the authority to determine whether or not to allow low-emission vehicles to access HOT lanes without paying a toll, even if state law permits it. MTC argues that this provision gives the authority flexibility to adopt a fee structure that protects the operational and financial needs of the network.

In granting such access to low-emission vehicles, the Legislature did not contemplate not allowing access on certain facilities or in certain areas, and currently low-emission vehicles are permitted on all HOV/HOT facilities in the state.

Furthermore, allowing a vehicle to access a HOT lane in one area but not in another may detract from the purpose of incentivizing the purchase of low-emission vehicles while also confusing the drivers of those vehicles.

The committee may wish to consider whether it would like to establish a consistent, statewide policy with regard to allowing low-emission vehicles to access HOV/HOT lanes.

11. Maintenance . Maintenance of the network is not clearly addressed in the bill. Given the shortage of funding for the State Highway Operations and Preservation Program (SHOPP), maintenance of the facilities should be funded by toll revenues. While the bill provides that toll revenues may be

spent on maintenance, it does not explicitly require BATA to use toll revenues for that purpose. The committee may wish to consider an amendment stating that BATA shall be responsible for funding the maintenance of the HOT lane facilities developed under this authority.

12. Reporting . The bill contains no reporting. The committee may wish to consider that BATA provide an annual report to the Legislature and to the CTC that describes its activities, including but not limited to, the following elements:

- a. A description of the network and each corridor.
- b. A description of the projects that are planned, under development, and in operation, including the lead agencies for each project and the date the facility is or is expected to be placed in service.
- c. The costs of each project and an explanation of the project's financing plan.
- d. The amount of toll revenues collected in each corridor and for the network as a whole.
- e. Expenditures made from toll revenues for each corridor and for the network as a whole.
- f. The amount of net revenue distributed to each corridor and a description of how those funds will be or are used for each corridor.

RELATED LEGISLATION

AB 798 (Nava) establishes the California Transportation Financing Authority to assist transportation agencies in obtaining financing, primarily through issuing bonds backed by specified sources of revenue, to develop transportation projects. In doing so, the bill allows the authority to permit agencies to impose tolls for use of facilities constructed.

AB 1175 (Torlakson), among other provisions, adds the Antioch and Dumbarton bridges to the state toll bridge seismic retrofit program and allows BATA to increase bridge toll rates for purposes of completing those projects.

Assembly Votes:

Floor: 58-18
 Appr: 13-4
 Trans: 12-1

POSITIONS: (Communicated to the Committee before noon on

Wednesday,
July 1, 2009)

SUPPORT: Metropolitan Transportation Commission (sponsor)
AAA of Northern California
Alameda County Congestion Management Agency (in
concept)
Alameda County Transportation Improvement Agency
(in concept)
Alameda-Contra Costa Transit District
California Alliance for Jobs
California Transit Association
Silicon Valley Leadership Group
Solano County Board of Supervisors
Solano Transportation Authority
Santa Clara Valley Transportation Authority

OPPOSED: Contra Costa County Transportation Authority
Sierra Club
West Contra Costa County Transportation Advisory
Committee