Senate Bill No. 463

CHAPTER 446

An act to add Section 143.1 to the Streets and Highways Code, relating to transportation.

[Approved by Governor September 25, 2006. Filed with Secretary of State September 25, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 463, Ducheny. Toll roads: State Highway Route 125.

Existing law, until January 1, 2003, authorized the Department of Transportation to solicit proposals and enter into agreements for the construction and lease of no more than 2 toll road projects, and specified the terms and requirements applicable to those projects. Existing law provides that the toll roads constructed under these provisions shall be owned by the state, but leased to a private entity for up to 35 years under the agreement.

This bill, with respect to the agreement entered into by the department under these provisions for State Highway Route 125 in San Diego County, would allow tolls to be collected for that project for a period of up to 45 years, rather than 35 years, under specified terms and conditions. The bill would also authorize the San Diego Association of Governments (SANDAG) to continue the collection of tolls thereafter subject to a ⅔ vote of the SANDAG board, with excess toll revenues to be used for various projects that improve the operation of the SR 125 corridor.

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

SECTION 1. Section 143.1 is added to the Streets and Highways Code, to read:

143.1. (a) Notwithstanding any other provision of law, the demonstration toll road project known as State Highway Route 125 (SR 125) in the County of San Diego, authorized pursuant to authority granted to the department by Chapter 107 of the Statutes of 1989, as subsequently amended by Chapter 1115 of the Statutes of 1990 and Chapter 688 of the Statutes of 2002, shall be subject to tolls for a period of up to 45 years under the following additional terms and conditions:

(1) If agreed to by the private entity and the department, and subject to concurrence by the San Diego Association of Governments (SANDAG), the County of San Diego, the City of San Diego, and the City of Chula Vista, by January 2010, all of whom shall exercise their good faith efforts to reach that agreement and concurrence, the SR 125 franchise agreement

shall be amended to provide for a lease period of up to 45 years, which shall be reflected in the SR 125 Development Franchise Agreement, dated January 30, 1991, as amended. If an amendment to extend the lease period is agreed to by the parties, the tolls collected during any extension period shall be used for one or more of the following purposes, as specified in the amendment to the agreement:

(A) By the private entity to reimburse it for project costs incurred on behalf of the department or SANDAG.

(B) By the private entity to compensate or reimburse it for project costs or other impacts for which it is entitled to compensation pursuant to the development franchise agreement or other agreements in effect as of June 30, 2006, with or between the private entity and SANDAG concerning SR 125.

(C) By the private entity to reimburse the department or SANDAG for project costs permitted under the development franchise agreement in effect as of June 30, 2006.

(D) By the private entity for one or more of the following purposes: the private entity's capital outlay costs for the project; the costs associated with operations, toll collection, and administration of the facility; reimbursement of the state for the costs of maintenance and police services; or a reasonable return on investment to the private entity.

(E) The development franchise agreement or any amendment thereto shall require that any excess toll revenue either be applied to repayment of the indebtedness incurred by the private entity with respect to the project, or payment into the State Highway Account for the benefit of the San Diego region, or both.

(2) If an amendment to the SR 125 Development Franchise Agreement is not executed by January 31, 2010, or if an amendment to the agreement is executed by January 31, 2010, that extends the lease period for less than 10 additional years, the department and SANDAG may agree, subject to concurrence by the County of San Diego, the City of San Diego, and the City of Chula Vista, to operate and maintain the toll road for any remaining period of time up to a maximum of 10 years following expiration of the agreement. Tolls collected by the department or SANDAG shall be used to reimburse the department or SANDAG, as applicable, for the SR 125 project costs permitted under the development franchise agreement in effect as of June 30, 2006.

(3) Except as specifically amended consistent with this section, the SR 125 Development Franchise Agreement shall remain in full force and effect as set forth therein, and this section shall not be deemed to modify any rights or obligations of the parties thereto.

(b) SANDAG may operate the SR 125 facility and continue the collection of tolls upon the expiration of the SR 125 Development Franchise Agreement or the up to 10-year period specified in paragraph (2) of subdivision (a), as applicable, subject to a ⅔ vote of the SANDAG board, pursuant to a plan that specifies the expenditure of toll revenues for projects within the SR 125 corridor. The operation and toll collection may

be done in cooperation with the department or solely by SANDAG, with toll revenues to be available for the costs associated with operations, toll collection, and administration of the facility, and reimbursement of the state for the costs of maintenance and police services. Projects eligible for funding from excess toll revenues shall be limited to projects that improve the operation of SR 125, including highway and street projects, truck-only lanes, and transit services and facilities. Any changes to the plan shall require a ⅔ vote of the SANDAG board.

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