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**AB-657 Otay Mesa East Toll Facility Act: public-private partnership agreements: toll revenues.** (2025-2026)

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AMENDED IN ASSEMBLY SEPTEMBER 08, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

**ASSEMBLY BILL**

**NO. 657**

Introduced by Assembly Member Alvarez

February 14, 2025

An act to amend ~~Section 99~~ [Sections 31462, 31467, 31468, 31474, 31475, 31476, and 31483](#) of the Streets and Highways Code, relating to transportation.

**LEGISLATIVE COUNSEL'S DIGEST**

AB 657, as amended, Alvarez. ~~Department of Transportation—state highways—~~[Otay Mesa East Toll Facility Act: public-private partnership agreements: toll revenues.](#)

*The Otay Mesa East Toll Facility Act authorizes the San Diego Association of Governments (SANDAG) to carry out a construction project for the State Highway Route 11 corridor, including, among other things, highway improvements and international border crossing facilities, to be operated as a toll facility. Existing law authorizes SANDAG to fix and revise from time to time and charge and collect tolls and other charges only for entrance to or the use of the corridor, as provided. Existing law authorizes SANDAG to use specified alternative project delivery methods under certain conditions. Existing law requires toll revenues to be used for specified costs, as provided. Existing law defines “project” for purposes of the act to include facilities, whether or not now in existence, acquired or constructed to facilitate the movement of goods and people along the corridor or at the Otay Mesa East Port of Entry.*

*This bill would revise and recast the act by, among other things, (1) revising the definition of “project” for purposes of the act to include facilities, whether or not now in existence, acquired or constructed to facilitate the movement of goods and people adjacent to the Otay Mesa East Port of Entry or to facilitate the generation of revenue for, or related to, the Otay Mesa East Port of Entry, (2) authorizing public-private partnerships, as specified, as an alternative project delivery method, (3) authorizing SANDAG to also impose tolls and other charges for the use of a project or property covered by the act, and (4) adding payments to a private partner under a public-private partnership agreement to the categories of costs for which toll revenues are used under the act, as provided. The bill would also make conforming changes.*

~~Existing law establishes the Department of Transportation and the California Transportation Commission and provides that the department has full possession and control of all state highways and all property and rights in property acquired for state highway~~

~~purposes and authorizes and directs the department to lay out and construct all state highways between the termini designated by law and on the locations as determined by the commission.~~

~~This bill would make nonsubstantive changes to these provisions.~~

Vote: majority Appropriation: no Fiscal Committee: ~~no~~yes Local Program: no

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### **SECTION 1.** *Section 31462 of the Streets and Highways Code is amended to read:*

**31462.** For purposes of this chapter, the following definitions shall apply:

(a) "Best value" means a value determined by evaluation of objective criteria that relate to price, features, functions, life-cycle costs, experience, and past performance. A best value determination may involve the selection of the lowest cost proposal meeting the interests of the local agency and meeting the objectives of the project, selection of the best proposal for a stipulated sum established by the procuring agency, or a tradeoff between price and other specified factors.

(b) "Board" means the board of directors of SANDAG.

(c) "Bonds" means any bonds, notes, variable rate and variable maturity securities, and any other evidence of indebtedness issued pursuant to this chapter.

(d) "Construction Manager/General Contractor method" or "CMGC" means a project delivery method using a best value procurement process in which a construction manager is procured to provide preconstruction services during the design phase of the project and construction services during the construction phase of the project. The execution of the design and the construction of the project may be in sequential phases or concurrent phases.

(e) "Construction manager" means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting and engineering services as needed pursuant to a CMGC contract.

(f) "Corridor" means State Route 11 in the County of San Diego, as defined in Section 311.

(g) "Costs" includes the cost of construction or acquisition; the cost of the acquisition of all land, rights-of-way, property, rights, easements, and interests acquired by SANDAG for the construction; the cost of demolishing or removing any buildings or structures on land acquired, including the cost of acquiring any lands to which buildings or structures may be moved; the cost of all machinery and equipment, financing charges, interest before and during construction and, if considered advisable by SANDAG, costs of accounting, consulting, printing, advertising, and travel, cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, and other expenses necessary or incident to determining the feasibility or practicability of constructing, repairing, or improving a project; administrative expenses; and such other expenses as may be necessary or incident to the construction, repair, or improvement of a project, the financing of the project, the placing and maintaining of a project in operation, and any payments to an entity to cover all or a portion of the costs described in this chapter. Any money paid or advanced to SANDAG with its approval for traffic surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction, repair, or improvement of a project shall be regarded as a part of the cost of a project and may be reimbursed out of the proceeds of the revenue bonds issued for a project as authorized in this chapter. Cost includes the cost to operate, maintain, repair, or improve a project.

(h) "Department" means the Department of Transportation.

(i) "Design-build" means a procurement process in which both the design and construction of a project are procured in a single phase.

(j) "Design sequencing" means a procurement process that enables the sequencing of design activities to permit each construction phase to commence when design for that phase is complete, instead of requiring the design for the entire project to be completed before commencing construction.

(k) "Entity" means the United States or any agency or department of the United States, any State of California agency, department or political subdivision of the state, or any public or private corporation, company, partnership, joint venture, foundation, trust, estate, individual, or other legal business organization.

(l) "Federal agency" means any agency or department of the United States.

(m) "Project" or "projects" means any property and related facilities, whether or not now in existence, acquired or constructed to facilitate the movement of goods and people along the ~~corridor~~ *corridor* or ~~at~~ *at, or adjacent to*, the Otay Mesa East Port of Entry,

or to facilitate the generation of revenue for, or related to, the Otay Mesa East Port of Entry, including property suitable for any of the following purposes:

(1) International ports of entry.

(2) International border crossing facilities.

(3) Transportation facilities, including highway and roadway, public transit, and nonmotorized facilities, and other projects supporting any transportation facility.

(4) A bridge or tunnel, overpasses, underpasses, entrance plazas, toll houses, administration, ~~storage~~ storage, and other buildings and facilities, and all equipment therefor, and may include terminal facilities, customs and immigration facilities, and such approaches and approach highways as may be determined by SANDAG to be necessary to facilitate the flow of traffic or to connect a project with the existing highway systems, together with all property, rights, easements, and interests acquired by SANDAG for the construction or operation of a project, including, but not limited to, energy and communication lines.

(n) "Property" means land, improvements to land, buildings, improvements to buildings, machinery and equipment of any kind, operating capital, and any other real or personal property necessary for a project.

(o) "SANDAG" means the San Diego Association of Governments, as referenced in the San Diego Regional Transportation Consolidation Act, Chapter 3 (commencing with Section 132350) of Division 12.7 of the Public Utilities Code.

(p) "Toll" means a toll, fee, or other charge for entrance to or use of the ~~corridor~~ corridor, a project, or property, and such toll, fee, or other charge as may be governed by an agreement under Section 31483.

(q) "Trustee" means any financial institution or trust company actually doing business in this state.

**SEC. 2. Section 31467 of the Streets and Highways Code is amended to read:**

**31467.** (a) Highway projects constructed pursuant to the act shall, at all times following construction, be owned by the department. International port of entry facilities constructed pursuant to the act, or the land on which those facilities will be constructed, shall, at SANDAG's option, be owned either by the federal government or by SANDAG. If SANDAG chooses to own the land or facilities, it shall lease them to a federal agency. Unless prohibited by law, all other property and facilities constructed pursuant to this chapter shall be owned by SANDAG, unless transferred to a state or federal agency upon agreement between SANDAG and the relevant agency. Any department property conveyed to either SANDAG or the federal government pursuant to this section shall be conveyed free of charge and only upon a finding by the California Transportation Commission that the conveyance is in the state's interest.

(b) The plans and specifications for a transportation project developed, maintained, repaired, rehabilitated, reconstructed, or operated pursuant to the act shall comply with the relevant standards of the department for state transportation projects. Ports of entry projects shall meet the relevant federal agency's published design standards and legal requirements. SANDAG may approve the location, design, and the materials of construction for a project constructed pursuant to this chapter after consultation with the department or the relevant federal agency, as applicable.

(c) SANDAG shall carry out its highway projects in cooperation with the department and shall consult the department in the operation of a project and on matters related to highway design and construction.

(d) For the purpose of facilitating a project, the agreements between SANDAG and other entities may include provisions for the lease of rights-of-way in, and airspace over or under, highways, public streets, rail, or related facilities for the granting of necessary easements, *for the lease of other property*, and for the issuance of permits or other authorizations to enable the construction or operation of a project.

(e) Agreements between SANDAG, appropriate local, state, or federal agencies, or any other entity may be executed to identify the respective obligations and liabilities of one or more of those entities and assign them responsibilities relating to a project. The agreements entered into pursuant to this section shall be consistent with agreements between the department and the United States Department of Transportation relating to a project and may include procedures for enforcement by the Department of the California Highway Patrol.

(f) Any project utilizing the department's services shall be included in the department's capital outlay support program for workload purposes.

**SEC. 3. Section 31468 of the Streets and Highways Code is amended to read:**

**31468.** (a) The Legislature has recognized the merits of alternative project delivery methods in the past by authorizing their use for projects undertaken by school districts, the University of California, specified local government projects, state office buildings, and public transit projects.

(b) It is the intent of the Legislature to provide optional, alternative procedures for delivering the project and its components pursuant to this act. SANDAG may enter into an alternative project delivery method contract authorized in this section on a project or any project component, after comparison of the traditional design, bid, and build process of construction with the proposed alternative project delivery method in a public meeting, if the governing board makes written findings that use of an alternative project delivery method on the specific project or project component under consideration will accomplish at least one of the following objectives: reduce comparable project costs, *improve predictability of project costs*, expedite a project's completion, or provide features not achievable through the traditional design-bid-build method.

(c) SANDAG may utilize the following alternative project delivery methods if the conditions in this section are met:

(1) Design-build.

(2) Design sequencing.

(3) Construction Manager/General Contractor (CMGC).

*(4) Public-private partnerships, including, but not limited to, fee for service arrangements, concessions, or other arrangements that incorporate one or more of the design, development, delivery, construction, financing, operation, or maintenance of a project, and which may include the private partner's payment of a concession or similar fee.*

(d) (1) If a contract for CMGC services is entered into pursuant to this chapter and includes preconstruction services by the construction manager, SANDAG shall enter into a written contract with the construction manager for the preconstruction services, under which SANDAG shall pay the construction manager a fee for preconstruction services in an amount agreed upon by SANDAG and the construction manager. The preconstruction services contract may include fees for services to be performed during the contract period, provided that SANDAG shall not request or obtain a fixed price or a guaranteed maximum price for the construction contract from the construction manager or enter into a construction contract with the construction manager until after SANDAG has entered into a services contract. A preconstruction services contract shall provide for the subsequent negotiation for construction of all or any discrete phase or phases of the project and shall provide for SANDAG to own the design plans and other preconstruction services work products.

(2) A *CMGC* contract for construction services may be awarded after the plans have been sufficiently developed and either a fixed price or a guaranteed maximum price has been successfully negotiated. In the event that a fixed price or a guaranteed maximum price is not successfully negotiated, SANDAG may award the contract for construction services utilizing any other procurement method authorized by law.

(3) The construction manager shall perform not less than 30 percent of the work covered by the fixed price or guaranteed maximum price agreement reached. Work that is not performed directly by the construction manager shall be bid to subcontractors pursuant to Section 6955 of the Public Contract Code.

(e) It is the intent of the Legislature that alternative project delivery methods as authorized in this section shall not be construed to extend, limit, or change in any manner the legal responsibility of public agencies and contractors to comply with existing laws.

**SEC. 4.** *Section 31474 of the Streets and Highways Code is amended to read:*

**31474.** (a) SANDAG may only impose tolls under this chapter for entrance to or the use of the ~~corridor~~ *corridor, a project, or property*. To the extent provided in an agreement under Section 31483, this restriction does not apply to any toll, portion of a toll, or portion of toll revenue transferred by SANDAG to another party to an agreement under Section 31483. This subdivision does not limit uses of toll revenue authorized by this chapter.

(b) SANDAG shall review the adequacy of the toll rates *for the corridor* established to cover the aggregate costs of all *corridor* projects within two years following the opening of the initial project to be supported by toll revenue under this chapter and at least biennially after the initial review for so long as SANDAG imposes tolls under this chapter.

(c) (1) SANDAG's toll structure may include discounts and premiums to encourage efficient use of projects and reduction of congestion and emission of greenhouse gases, including, without limitation, discounts for high-occupancy vehicles, electronic toll collection, and off-peak travel, and premiums for on-peak travel.

(2) SANDAG shall revise or eliminate any free or reduced-rate toll rate schedule adopted pursuant to paragraph (1) as necessary to ensure compliance with obligations described in subdivisions (b) and (f).

(d) SANDAG's toll structure may include adjustments to toll rates to reflect economic factors, including, but not limited to, the Consumer Price Index or other cost indices.

(e) SANDAG's toll structure shall reflect the toll setting policies and procedures set forth in any agreement under Section 31483.

(f) Notwithstanding subdivisions (a) to (e), inclusive, tolls under this chapter shall be maintained at rates sufficient to meet any SANDAG obligation secured by a pledge of revenues under this chapter, *any SANDAG obligation under a public-private partnership agreement*, and covenants set forth in any related resolution, indenture, or constituent instrument.

**SEC. 5. Section 31475 of the Streets and Highways Code is amended to read:**

**31475.** (a) Toll revenues under this chapter may be used to reimburse or finance the costs incurred in connection with the implementation, construction, maintenance, or operation of a project, including reimbursement of federal funds specifically allocated to SANDAG for a project or projects by the federal government or other funds from funding sources that are not otherwise available to state agencies for transportation-related projects. SANDAG shall be reimbursed for administrative costs in an amount that shall not exceed 3 percent of toll revenues under this chapter.

(b) Toll revenues shall be used to pay for costs in the following categories:

(1) Payments pursuant to bonds and resolutions, indentures, and other constituent instruments defining the rights of the holders of bonds and any repayment or reimbursement obligations of SANDAG to any providers of bond insurance or letters of credit or lines of credit related to bonds.

(2) SANDAG costs for operations, toll collection, and administration of the projects.

(3) Reimbursement or payment to federal, state, and local agencies for costs incurred by or payable to those agencies for services, equipment, goods, fixtures, operation, maintenance, personnel, or software provided to or in furtherance of a project that are reimbursable pursuant to a written agreement between SANDAG and the respective agency.

(4) Costs for capital improvements to repair or rehabilitate a project, to expand project capacity, to improve project operations, or to increase public transit and nonmotorized options in the corridor.

(5) Costs for projects that increase transportation options along the corridor or at the Otay Mesa East Port of Entry, including, but not limited to, public transit and nonmotorized transportation that would result in reduced vehicle miles traveled, pursuant to the plan approved by the board pursuant to subdivision (b) of Section 31476 that specifies the expenditure of toll revenues.

(6) Payments pursuant to an agreement under Section 31483.

*(7) Payments to a private partner under a public-private partnership agreement, including, if applicable, for the private partner's collection and use of tolls generated by a project.*

**SEC. 6. Section 31476 of the Streets and Highways Code is amended to read:**

**31476.** (a) At least 30 days prior to setting the initial toll rates for ~~a project~~, *the corridor* and thereafter when adjustments to the toll rates are proposed, the board shall provide a public comment period regarding the proposed rates. The board shall also take public testimony at one or more public meetings during this time period.

(b) The expenditure plan for toll revenues *expended by SANDAG* shall be updated and approved by the board on an annual basis beginning on July 1 following implementation of a toll. Approval of the initial and annual expenditure plan shall take place at a public meeting held by the board following a notice of at least 30 days to the public.

(c) Collection of tolls under this chapter shall cease following repayment of the ~~bonds~~ *bonds, the conclusion of any related public-private partnership agreement, and the repayment of* other project costs in full unless an extension of the time for toll collection is approved by a two-thirds vote of the board at a public meeting following a notice of at least 30 days to the public.

(d) The board shall arrange for a postaudit of the toll revenues expended *by SANDAG* pursuant to this chapter to be made at least annually by a certified public accountant.

**SEC. 7. Section 31483 of the Streets and Highways Code is amended to read:**

**31483.** (a) The Legislature finds and declares both of the following:

(1) Cooperative tolling arrangements can further reduce congestion and wait times at the border and thereby reduce commercial and noncommercial vehicle emissions.

(2) Streamlined cross-border tolling arrangements will preserve public revenues for both the north side and the south side of the Otay Mesa East Port of Entry by providing for a more efficient border region transportation system.

(b) SANDAG shall have and may exercise all rights and powers, expressed or implied, that are necessary to carry out the purposes and intent of this chapter, including the power to do both of the following:

(1) By agreement, exercise one or more of SANDAG's powers to impose and collect tolls, acquire, operate, and maintain tolling facilities, and related powers under this chapter jointly with the tolling powers of one or more of the federal government of Mexico or a governmental agency or unit thereof.

(2) Contract with one or more of the federal government of Mexico or a governmental agency or unit ~~thereof~~ *thereof, or any other entity*, to receive from or provide to the other contracting parties toll collection and remittance functions and services.

(c) Any agreement authorized pursuant *to* subdivision (b) may include provisions ~~to limit or restrict all~~ *regarding any* of the following:

(1) Toll collection ~~to~~ *at* one side of the Otay Mesa East Port of Entry.

(2) Equitable allocation of toll revenues collected by a party to another party or make payments from toll revenues in consideration of covenants made or other value contributed.

(3) Equitable allocation and financing of the operating, maintenance, and capital costs, including financing costs.

(4) Sharing of information regarding toll collections and revenues and information regarding traffic at or near the Otay Mesa East Port of Entry and approaching roadways.

(5) Investment of funds.

(6) Establishment of policies and procedures for toll rate setting in accordance with this chapter.

(7) The time and manner of termination, unwinding, and distribution of property upon termination.

(8) Allocation of liabilities and indemnity.

(9) The adjudication of disputes or disagreements.

(10) The manner that strict accountability of funds will be provided for and auditing.

(11) Other provisions that would enhance the efficiency *of* border crossings at the Otay Mesa East Port of Entry or tolling as well as any other necessary and proper matters agreed upon by the parties.

(d) Toll revenues paid or allocated to a party other than SANDAG under an agreement pursuant this section shall not be subject to the restrictions of this chapter upon transfer to the other party in accordance with the agreement.

(e) This section may only be implemented consistent with federal law, including obtaining any required federal approvals.

~~SECTION 1. Section 90 of the Streets and Highways Code is amended to read:~~

~~90. The Department of Transportation shall have full possession and control of all state highways and all property and rights in property acquired for state highway purposes. The department is authorized and directed to lay out and construct all state highways between the termini designated by law and on the locations as determined by the California Transportation Commission.~~