

1992

## Toll Roads and Highways.

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**157**

**Toll Roads and Highways.  
Legislative Constitutional Amendment.**

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**Official Title and Summary Prepared by the Attorney General**

**TOLL ROADS AND HIGHWAYS.  
LEGISLATIVE CONSTITUTIONAL AMENDMENT.**

- Provides that any toll road or toll highway owned by the state and leased to a private entity shall be permanently toll free upon the expiration of the lease or after tolls have been collected for a total of 35 years, whichever occurs first.
- Legislature may suspend the application of the foregoing provision to any toll roads or toll highways by a statute passed in each house by a two-thirds vote of membership.

**Summary of Legislative Analyst's  
Estimate of Net State and Local Government Fiscal Impact:**

- This measure would result in the potential loss of a revenue source for highway maintenance and operations, beginning no earlier than the year 2030.
  - Potential loss could be tens of millions of dollars annually.
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**Final Votes Cast by the Legislature on SCA 27 (Proposition 157)**

Assembly: Ayes 55	Senate: Ayes 27
Noes 21	Noes 8

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## Analysis by the Legislative Analyst

### Background

Current law allows the Department of Transportation (Caltrans) to contract with private businesses to build and operate four public toll highways. To date, Caltrans has awarded contracts for the construction of one highway in the northern part of the state and three highways in the south. All the projects are still in the planning stages.

When finished, these highways will be owned by the state, but leased to the private businesses for up to 35 years. During the lease, the businesses are allowed to charge tolls to pay for the cost of constructing, maintaining, and operating the highways, and to provide for a reasonable rate of return. After the highways are turned over to the state, Caltrans has the option of continuing toll collections. Presumably, any toll revenues would offset the state's costs of maintaining, operating, and patrolling these highways.

### Proposal

This constitutional amendment bans the collection of

tolls on any road or highway owned by the state and leased to a private entity after tolls have been collected for 35 years or upon expiration of the lease (whichever occurs first). However, the Legislature could suspend the ban with a two-thirds vote of each house. Absent a suspension, the state would no longer have the option of continuing toll collection on the four projects underway or any similar future projects after the leases expire or after tolls have been collected for 35 years (whichever occurs first).

### Fiscal Effect

The ban on tolls means the state would have to use money from other sources, such as state gas tax revenues, to pay for maintenance, operation, and law enforcement of toll highways when the state assumes control of them. The potential loss of toll revenue could be in the tens of millions of dollars annually. Assuming the first of the four toll highways is open for public use in 1995, this effect would occur in 2030 at the earliest.

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For text of Proposition 157 see page 67

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### Argument in Favor of Proposition 157

Keep tolls off public roads in California!

Several private toll roads will be built in this state. Some of them will be built on land that was paid for with your tax dollars. These roads will be turned over to the state after 35 years and should be operated as freeways, *with no tolls.*

But the state says it wants to operate these roads as "feeways," not freeways. They want to charge tolls on these roads even after they become state highways. Proposition 157 will stop that from happening.

You pay income taxes. You pay gas taxes. You pay sales taxes. You and other California voters even approved higher gas taxes two years ago to pay for desperately needed transportation improvements. But now the state

wants to take even more of your money—at toll booths on public highways!

Enough is enough. We don't need more taxes. We don't need more congestion on our highways, with cars backed up waiting to pay a toll. We already pay gas taxes to build and maintain our streets and highways—and collecting tolls is double taxation!

Stop the tolls! Keep our freeways free. Vote yes on Proposition 157.

**BILL LOCKYER**

*State Senator*

**BRIAN HILL**

*President, California State Automobile Association*

### Rebuttal to Argument in Favor of Proposition 157

If you vote for Proposition 157, you are voting to bail out wealthy land speculators and eastern banking interests who are planning private toll roads to allow massive land development projects to go ahead. They will earn huge profits paving over some of our best farmlands, but then plan to turn these roads over to the state to be maintained at public expense. **OUR FUTURE TAXES WILL HAVE TO BE INCREASED** to pay for these toll roads, which will then be worn out and in need of major rehabilitation.

At that point, the land developers and banks will be long gone—and the roads (and additional traffic) will be dumped on the public. How many billions will the state have to pay?

- Protect our air and environment. Stop the sprawl of real estate development across California farmland.
- Stop this brazen grab of our tax dollars. Don't let

subsidies to private highways raise your taxes.

- Let those who use toll roads (such as out of state trucking interests) pay for their upkeep. Why should you pay for a road you never use?
- Let the land speculators and bankers pay their fair share—one S & L bailout is enough. Don't let them take their land development profits out of California and put the burden on us.

Why are state politicians sponsoring this proposition? Do you think they are on our side?

Vote NO on Proposition 157.

**RICHARD TOLMACH**

*President, Modern Transit Society*

**KATHARINE M. THOMPSON**

*Executive Director, California Transit League*

## Toll Roads and Highways. Legislative Constitutional Amendment.

157

### Argument Against Proposition 157

#### IT'S TIME TO STOP SUBSIDIZING HIGHWAYS!

Subsidies to the automobile total \$300 billion in the United States every year. Less than two-thirds of the cost of our federal highway system is paid for by user fees such as gas taxes. That means that taxpayers already heavily subsidize private auto travel. Spending money subsidizing highways takes desperately needed funds away from schools, police and fire departments and other needed services.

#### WE CAN'T AFFORD HIGHWAY WELFARE ANYMORE.

The State Legislature has now approved the construction of a number of new private toll roads. While the state will own these highways, at first they will be privately built and operated. After 35 years the state will assume the sole responsibility for operating and maintaining these highways.

Proposition 157 would prevent the state from charging tolls on these roads once it assumes control of them. While toll-free use sounds attractive to users, it is a needless governmental subsidy. Giving this service away

only perpetuates the unfair burden of financing highways.

Highway users should have to pay for the cost of building, operating and maintaining the highways. But if Proposition 157 passes, it will prevent the state from passing those costs on to the users in the form of tolls.

We should never lock into the State Constitution a permanent restriction which will prevent the State from passing on the costs of these highways, or any other highway, to those who actually benefit from their use.

This measure was put on the ballot by state legislators, who have clearly shown that they are incapable of balancing a budget. *Don't let them put this unnecessary restriction into the State Constitution which will saddle all taxpayers with the costs of maintaining highways which benefit only a privileged few.*

VOTE NO on PROPOSITION 157.

**KATHARINE M. THOMPSON**

*Executive Director, California Transit League*

**RICHARD TOLMACH**

*President, Modern Transit Society, Sacramento Chapter*

### Rebuttal to Argument Against Proposition 157

The opponents of Proposition 157 want you to believe that it would subsidize motorists and other users of our highway system, taking money away from other programs. That is not correct.

Proposition 157 will not take money away from schools, fire, police, and other governmental services. It will simply keep us from being taxed twice for using our highways. We already pay for building and maintaining our state highways with our gas taxes. We should not have to pay again.

We do not need to build toll booths and establish toll authorities and force motorists to wait in long lines of traffic to pay for these facilities. We already have a more efficient "toll" built in right at the gas pump, the gas tax, and gas taxes are set at a level to pay for needed improvements—but no higher. The same can't be said

for tolls, which just keep going up in the states which use them, like New Jersey and Pennsylvania. In those states, some drivers have been forced onto overcrowded, and less safe, local roads because they can't afford to pay tolls. Unlike some Eastern states, the roads in California have historically been *freeways*. Let's keep it that way. Highways should belong to all taxpayers, not just to those who can afford expensive tolls.

Keep our highways open for everybody. Stop the tolls. Vote yes on Proposition 157.

**BILL LOCKYER**

*State Senator*

**BRIAN HILL**

*President, California State Automobile Association*

of Division 3 of Title 2 of the Government Code, as specified in Section 2702.06.

(b) The amount that may be transferred pursuant to subdivision (a) shall not exceed the amount expended from those accounts for those capital improvements and acquisitions of rolling stock.

2702.17. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for purposes of this chapter. The amount of the request shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of this chapter, less any amount borrowed pursuant to Section 2702.18. The board shall execute such documents as required by the Pooled Money Investment Board to obtain and repay the loan. Any amount loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

2702.18. For the purpose of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this chapter, less any amount borrowed pursuant to Section 2702.17. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from the sale of bonds for the purpose of carrying out this chapter.

2702.19. All money deposited in the fund which is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

2702.20. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of the State General Obligation Bond Law.

2702.21. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

2702.22. Notwithstanding any provision of the State General Obligation Bond Law with regard to the proceeds from the sale of bonds authorized by this chapter that are subject to investment under Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, the Treasurer may maintain a separate account for investment earnings, order the payment of those earnings to comply with any rebate requirement applicable under federal law, and may otherwise direct the use and investment of those proceeds so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

### Proposition 157: Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 27 (Statutes of 1992, Resolution Chapter 6) expressly amends the Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED AMENDMENT TO ARTICLE XX

SEC. 7. (a) Any toll road or toll highway owned by the State and leased to a

private entity shall be permanently toll free upon the expiration of the lease or after tolls have been collected for a total of 35 years, whichever occurs first.

(b) The Legislature may suspend the application of subdivision (a) to any toll road or toll highway by a statute passed in each house, by a rollcall vote entered in the journal, with two-thirds vote of the membership of each house concurring.

### Proposition 158: Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 33 (Statutes of 1992, Resolution Chapter 7) expressly amends the Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED AMENDMENT TO ARTICLE IV

Second—That Section 7.4 is added to Article IV thereof, to read:

SEC. 7.4. (a) There is in State government the Office of the California Analyst which shall assist the Legislature in its fiscal and policy functions. The office shall make recommendations to the Legislature on the annual State budget, the revenues and expenditures of the State, and the organization and structure of

State government, in order to make State governmental operations more effective and efficient.

(b) The office shall conduct its work in a strictly nonpartisan manner.

(c) The Joint Legislative Budget Committee authorized in statute shall appoint the California Analyst and employees of the office. The employees of the office shall be appointed and promoted on the basis of merit and professional qualifications.

(d) Expenditures of the Office of the California Analyst shall not be included in the "total aggregate expenditures of the Legislature" for purposes of Section 7.5 of this article.

### Proposition 159: Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 34 (Statutes of 1992, Resolution Chapter 8) expressly amends the Constitution by adding a section thereto and amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED AMENDMENT TO ARTICLE IV AND ARTICLE VII, SECTION 4

Second—That Section 23 is added to Article IV thereof, to read:

SEC. 23. (a) There is in state government an Office of the Auditor General, which shall conduct independent, nonpartisan, professional audits as required by state or federal law or as requested by the Legislature.

(b) Not more than 50 percent of the Joint Legislative Audit Committee shall be composed of members of the same political party.

(c) After recommendation by the Joint Legislative Audit Committee or its successor, the Legislature shall appoint or remove the Auditor General by concurrent resolution.

(d) Expenditures for the Office of the Auditor General shall be used only to pay for the cost of conducting audits, the cost of performing its duties under the Reporting of Improper Governmental Activities Act (Article 3 (commencing with Section 10540) of Chapter 4 of Part 2 of Division 2 of Title 2 of the Government Code), and related expenses. Expenditures of the Office of the Auditor General shall not be included in the "total aggregate expenditures of the Legislature" for purposes of Section 7.5 of this article.

(e) The staff of the Office of the Auditor General shall be hired and promoted on the basis of merit and professional qualifications.

Third—That Section 4 of Article VII thereof is amended to read:

SEC. 4. The following are exempt from civil service:

(a) Officers and employees appointed or employed by the Legislature, either

house, or legislative committees or by the Auditor General.

(b) Officers and employees appointed or employed by councils, commissions or public corporations in the judicial branch or by a court of record or officer thereof.

(c) Officers elected by the people and a deputy and an employee selected by each elected officer.

(d) Members of boards and commissions.

(e) A deputy or employee selected by each board or commission either appointed by the Governor or authorized by statute.

(f) State officers directly appointed by the Governor with or without the consent or confirmation of the Senate and the employees of the Governor's office, and the employees of the Lieutenant Governor's office directly appointed or employed by the Lieutenant Governor.

(g) A deputy or employee selected by each officer, except members of boards and commissions, exempted under Section 4(f).

(h) Officers and employees of the University of California and the California State Colleges.

(i) The teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction.

(j) Member, inmate, and patient help in state homes, charitable or correctional institutions, and state facilities for mentally ill or retarded persons.

(k) Members of the militia while engaged in military service.

(l) Officers and employees of district agricultural associations employed less than 6 months in a calendar year.

(m) In addition to positions exempted by other provisions of this section, the Attorney General may appoint or employ six deputies or employees, the Public Utilities Commission may appoint or employ one deputy or employee, and the Legislative Counsel may appoint or employ two deputies or employees.