



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #658

### **Sponsorship and Partnership Agreements (DOT -- State Highway Program)**

[LFB 2013-15 Budget Summary: Page 469, #16]

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#### **CURRENT LAW**

With certain limited exceptions, businesses are prohibited from advertising in highway rights-of-way. The exceptions include authorization for the placement of specific information signs (blue signs on freeways and expressways advertising the presence of businesses offering gas, food, lodging, camping, or attractions). Also, with limited exceptions, commercial activities are prohibited within highway rights-of-way of limited access highways. An exception to this restriction is allowed for vending machines at highway rest areas operated by the blind or visually impaired.

#### **GOVERNOR**

Permit the Department of Transportation (DOT) to enter into sponsorship agreements with a public or private entity, under which the Department displays advertising, promotional or sponsorship material, or other information associated with the sponsor at locations owned or controlled by the Department in exchange for the sponsor's payment of fees or provision of services to the Department. Specify that current law restrictions on the placement of signs and on advertising in the highway right-of-way do not apply to activities conducted under such agreements.

Permit the Department to enter into partnership agreements with a public or private entity under which the Department authorizes a partner to engage in commercial activity at locations owned or controlled by the Department in exchange for the partner's payment of fees or provision of services to the Department. Specify that current law restrictions on the conduct of

commercial enterprise within the right-of-way of controlled access highways do not apply to activities conducted under such agreements.

Specify that services provided by sponsors or partners may include maintenance activities, in accordance with Department standards. Deposit all fees collected under sponsorship and partnership agreements in a newly-created, PR appropriation for supplementing highway maintenance program appropriations.

Establish the following provisions regarding sponsorship and partnership agreements: (a) for each agreement, the contract shall be awarded on the basis of competitive proposals in accordance with procedures established by the Department; (b) requests for proposals shall be advertised in the manner determined by the Department; (c) each contract shall be awarded to the partner or sponsor submitting the most advantageous competitive proposal, as determined by the Department; (d) the Department may reject all proposals if the most advantageous proposal is determined by the Department to be less than the estimated reasonable value to the Department or not in the public interest; (e) the DOT Secretary shall enter into each contract on behalf of the state; and (f) sponsorship and partnership contracts would be generally exempt from state purchasing contract provisions, but would be subject to requirements related to: (i) interest on late payments; (ii) procurement from work centers for handicapped individuals; (iii) notification of the Government Accountability Board regarding solicitations; and (iv) preference for American-made materials.

## **DISCUSSION POINTS**

1. The Department requested statutory modifications to allow sponsorship and partnership agreements as a way of funding some of its highway maintenance and traffic operations responsibilities. Under such agreements, the partner or sponsor would pay a fee or provide a service to be allowed to engage in commercial activity, in the case of partnership agreements, or for the placement of a logo or business name, in the case of sponsorship agreements, at locations owned or controlled by the Department. Fees collected through these agreements would be deposited in a PR appropriation and used for maintenance costs.

2. Except for allowing vending machines operated by the blind or visually impaired, federal law has traditionally prohibited commercial activities at interstate highway rest areas. [These restrictions do not apply to tollways established prior to the construction of the interstate system, such as those in Illinois.] A recent change to federal law expanded the types of commercial activities allowed at rest areas to include the sale or distribution of: (a) items designed to promote tourism, limited to books, DVDs, and other media; (b) tickets for events or attractions in the state of a historical or tourism-related nature; (c) travel-related information, including maps, travel booklets, and hotel coupon booklets; and (d) lottery machines, provided that priority is afforded to blind vendors. Any sponsor recognition is restricted to areas where it is visible only by users of the rest area and may not be legible from the main traveled way.

3. In testimony before the Committee on provisions of AB 40, the DOT Secretary indicated that the partnership language in the bill went further than was intended. In a subsequent

budget errata letter to the Committee, the Secretary of the Department of Administration indicated that it was not the Governor's intent to allow commercial activities at rest areas, and requested that the partnership provisions be removed from the bill (Alternative 2). As modified, the provision would continue to allow sponsorship agreements.

4. The Department indicates that there is some interest for sponsorship at rest areas, park-and-ride facilities, freeway service patrols, 511 traveler services sites, and roadway segments. Other opportunities may also be available in future years. The Department indicates that it is somewhat difficult to predict the amount of revenue that would be generated by this provision. However, based on information from other states, the Department estimates that sponsorship agreements could initially generate approximately \$0.5 million per year, perhaps growing to \$1 million to \$2 million as more businesses take advantage of the opportunities.

5. The bill would not include an estimate of the revenue received under this provision in the appropriation schedule, which is consistent with some other program revenue appropriations for which revenues are somewhat unpredictable and variable. In the case of this and other similar appropriations, the appropriations schedule does not limit the amount that may be spent. Instead, the Department may use all moneys received for the designated purpose.

6. The bill would allow sponsor recognition on "locations owned or controlled" by the Department. It is possible that the word location could be interpreted narrowly as a physical place in the right-of-way, which would exclude sponsor recognition on a document (including the folded state highway maps), website, or service patrol vehicle. The Committee could clarify this issue, either by modifying the language to specifically allow sponsorship agreements to include sponsor recognition on documents (including the folded state highway map), websites, vehicles, and equipment (Alternative 3a), or, alternatively, to specifically restrict sponsor recognition to physical areas owned or controlled by the Department (Alternative 3b). Either of these alternatives could be adopted in addition to Alternative 2.

7. Some may take the view that it is inappropriate for the state to be affiliated with any particular advertiser or commercial activity. In this case, the bill could be amended to remove both the partnership and sponsorship agreement provisions and the program revenue appropriation for the collection and expenditure of revenues (Alternative 4)

## **ALTERNATIVES**

1. Approve the Governor's recommendation to permit the Department to enter into partnership or sponsorship agreements and deposit revenues under these agreements in a program revenue appropriation for highway maintenance costs.

2. Modify the bill to remove the authority to enter into partnership agreements, in accordance with the administration's errata letter to the Committee.

3. Modify the bill language by adopting one of the following:

a. Specify that sponsorship agreements may include sponsor recognition placed on non-physical property, including documents, highway maps, websites, vehicles, and equipment owned or controlled by the Department.

b. Specify that sponsorship agreements are restricted to allowing sponsor recognition only on physical property owned or controlled by the Department.

4. Delete provision.

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