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# California Infrastructure: Leveraging Today's Economic and Legislative Tools to Become Shovel Ready

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## ***The State of the State's Infrastructure***

- Highways - The Census Bureau ranks California 48th in highway investment and 40th in overall infrastructure investment relative to personal income.
- Water - L.A.'s water system bears the responsibility to provide some 600 million gallons of water to 3.8 million people each day.
- Airports/Ports - The State's major airports remain capacity constrained with little room for expansion.

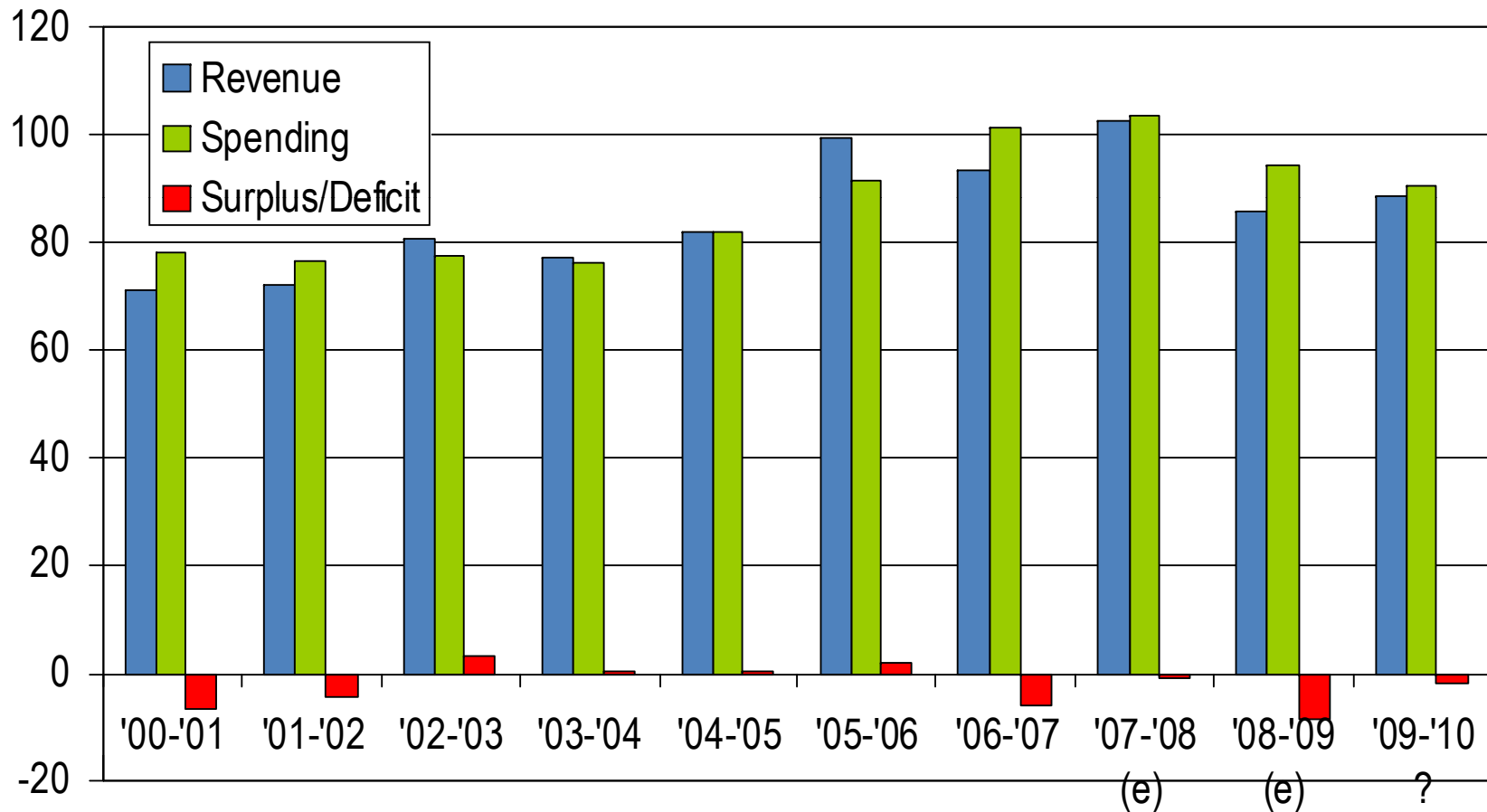


## ***California's Fiscal Situation***

- California's Total Debt: \$63 Billion
- California's Annual Debt Service: \$3.6 Billion
- Amortization (assuming no new debt): 84 years
- Part of California Budget: 60%
- Unfunded Liabilities: \$99 Billion

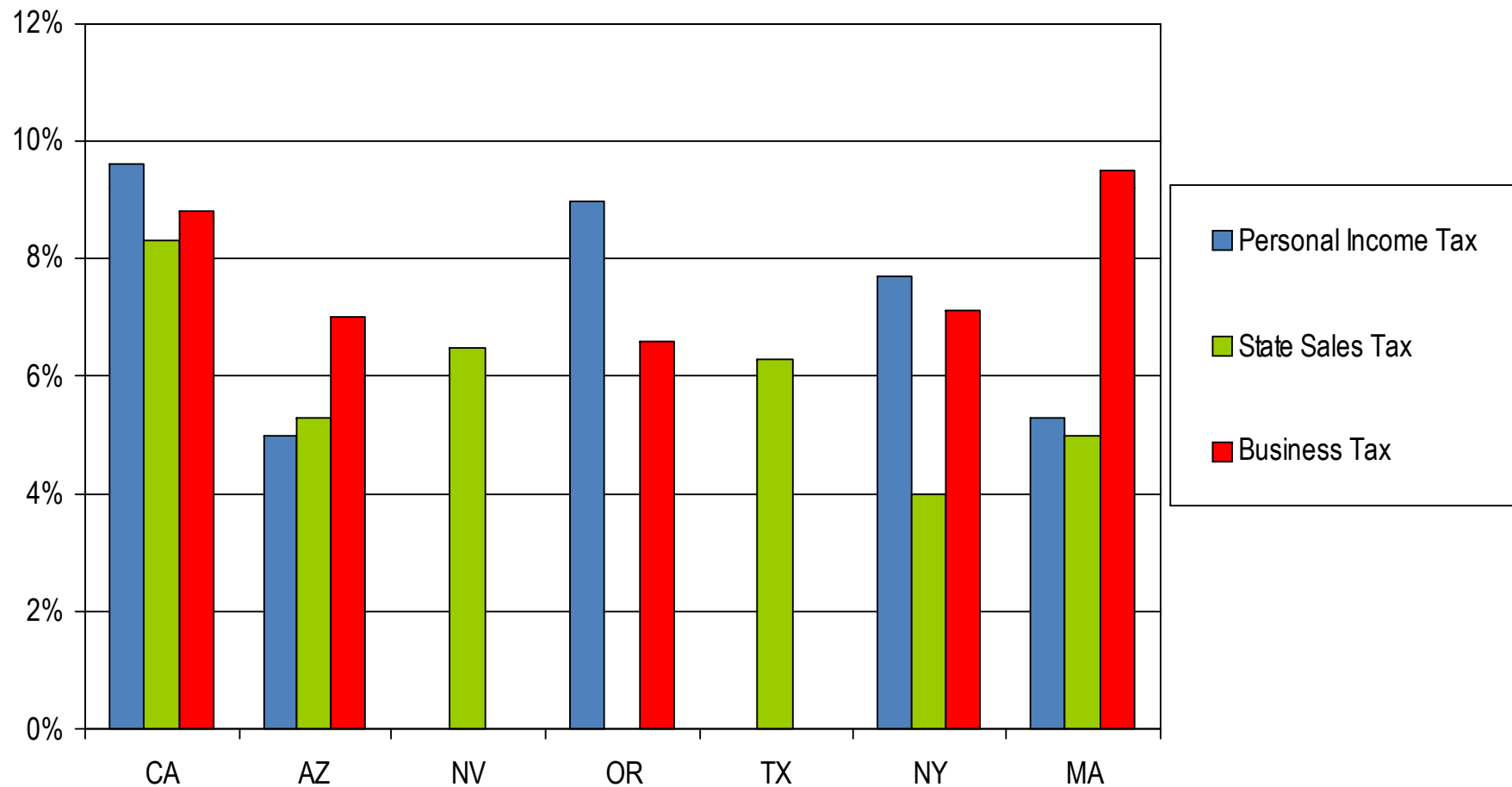


# California's Revenue and Expenditures





## ***Tax Rates Among Competitors***





## ***Sources for Infrastructure Funding***

- Federal Stimulus
- Taxes
- User Fees
- Government Monetization of Assets
- Tax Exempt Bonds and Taxable BABs
- Private Capital
- Private Equity Funds – Over \$180B
- Public Companies/REITs
- International Funds



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## ***Community Facilities Districts*** (“CFDs”)

Most popular local funding mechanism for new public improvements with useful life of five years or more.

### **LIMITATIONS –**

- CFD Special Taxes are absolute dollar amounts that do not vary with home prices, so old CFDs often have tax rates over 2.0% of property values
- Municipal bond marketplace is generally requiring vertical development to secure new CFD bonds, so bond sales are delayed
- High interest rates (e.g., 7.0%) lower the amount of bonds that can be supported by a given CFD special tax amount
- Between lower property values & higher interest rates, amounts of CFD bond issues have been reduced significantly



## ***Federal and State Grants and Loans***

The American Recovery & Reinvestment Act has allocated \$31 billion to the State of California, but much of it is not for infrastructure.

**\$2.8B** allocated for Transportation Improvements

**\$900M** for Integrated Regional Water Management

**\$281M** for Clean Water State Revolving Fund

**\$212M** for Storm Water Flood Control Facilities

**\$159M** for Drinking Water State Revolving Fund

**\$825M** for Energy Projects

### **LIMITATIONS –**

- Much of ARRA financing has been committed to projects previously approved by local Councils of Governments.
- New programs and funding opportunities are made available from time to time, but are not always well publicized.
- State does not have sufficient monies available to fund many of its programs, so even approved projects aren't always funded.





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## ***New Markets Tax Credits*** (“NMTC”)

- 7-Year Tax Credits sold to investors
- Excellent source of “Equity” for Project
- Discounted Price of Tax Credits provides equity equal to 20-23% of Project costs

### **LIMITATIONS –**

- At least 20% of Project valuation must be derived from non-residential development.
- Must be located in Qualified Census Tract with high poverty levels, low median incomes or high unemployment
- Project Proponent must be Qualified Active Low-Income Community Business.
- Project Proponent needs to document sources of remaining funding required for project.



## ***Recovery Zone Facility Bonds*** (“RZFBs”)

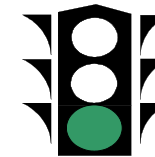
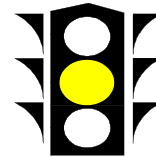
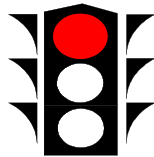
- Recovery Zones may be established by local public agencies under very flexible guidelines.
- Recovery Zone Facility Bonds allow for the use of tax-exempt financing for most types of non-residential development.
- If RZFBs are not used by local agencies, un-utilized allocations will be returned to the State for future allocation.
- Joint Powers Authorities are available to sell RZFBs as long as local agencies or State have assigned allocation to Project.

### **LIMITATIONS –**

- RZFBs can not be sold without Letter of Credit, backing of public agency, long term lease or some other type of security acceptable to bond purchasers.
- Current sunset date for issuance of RZFBs is December 31, 2010.



• **Credit Entitlement Requirement**



	High Risk		Moderate Risk		Safe	
<b>Land Development Stage</b>	Raw Acreage		Entitled Acreage		Finished Lot	Building Complete
<b>Entitlements</b>		General Plan Approved and Zoned	Tentative Map/Development Agreement	Final Subdivision Map	Building Permit	Certificate of Occupancy
<b>Financing</b>	Does not Qualify		Typical Bond Project		Well Qualified	
<b>Amount Invested</b>	\$30,000 (Land Costs)		\$45,000 (Land and Offsites)	\$60,000 (Onsites)	\$90,000 (Building Permit)	\$275,000 (Finished Home)
<b>Lien-to-Value Coverage</b>	2:1		3:1	4:1	6:1	18:1 (Investment Grade)



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## ***Legislative Framework***

**AB 680** →

Added Section 143 to the S&H Code. Authorized Caltrans to enter into agreements with private entities for four P3 demonstration projects

**AB 1467** →

Revised Section 143 to allow Caltrans to enter into agreements with public and private entities for four projects, but required post-award legislative approval and prohibited tolling noncommercial vehicles with three or fewer axles. Also provided limited authority to regional transportation agencies to develop HOT lane projects.

**GC 5956** →

Authorizes local agencies to use P3 for fee producing infrastructure, but prohibits use of state funds and excludes state projects (e.g., toll roads on state highways and state water projects).



# ***New Legislation***

## **SBX2 4 (Passed February 15, 2009)**

### **Transportation DB Projects** (Pub. Contract Code § 6800 et. seq.)

- Local transportation entities (5 projects)
- Caltrans (10 projects)

### **Non-Transportation DB Projects**

- State offices, prisons & court facilities (5 projects) (Gov. Code §§ 14661.1 & 70391.7)
- Redevelopment facilities (10 projects ) (Pub. Contract Code § 20688.6)

### **Transportation public private partnerships** (P3) (S&H Code § 143)

- Regional transportation agencies
- Caltrans
- Number of projects unlimited, but candidate projects must be selected by CTC
- Highways, public streets, rail projects and related (supplemental) facilities



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## ***Case Studies***

- I-595 Corridor Roadway Improvements Project (Florida DOT)
- North Tarrant Express (Texas DOT)
- Mid-Currituck Bridge Project (North Carolina Turnpike Authority)



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## ***Case Studies***

### **I-595 Corridor Roadway Improvements Project (Florida DOT)**

- First availability payment-based transportation P3 in the United States
- Project covers 10.5 miles along I-595 in Ft. Lauderdale, Florida
- Improvements to existing freeway; addition of reversible managed lanes
- Private partner to design, build, finance, operate and maintain the project
  - \$1.2B construction
  - 35 years of O&M (both free and managed lanes)
- Winning price - \$275M under Florida DOT estimates (present value)
- Successful financing despite economic crisis (bank financing – March 2009)
- Florida DOT Goals
  - Shift construction, lifecycle, performance and availability risks to private sector
  - Retain control over, and risk associated with, toll revenues
- By using this P3 model, Florida DOT to complete project 15 years ahead of schedule



## ***Case Studies***

### **North Tarrant Express (Texas DOT)**

- Toll concession and pre-development agreement
- Phase 1 – 52 year toll concession
  - Rebuild 13 miles of I-820/SH 183; add 2 new tolled managed lanes
  - Financing Package - \$2.05B
    - \$400 M of Private Activity Bonds – 30 year maturity
    - \$650 M TIFIA credit – 40 year term
    - \$570 M in public sector funding
    - \$427 M in equity from private partner (includes \$43 M from Dallas Police and Fire Pension System
      - » First time a U.S. pension fund has directly invested equity in a U.S. P3 project
- Remaining Phases – Pre-Development Agreement
- Texas DOT Goals for Phase 1
  - Shift construction, lifecycle, performance and availability risks
  - Shift revenue risk, subject to rate setting restrictions and revenue sharing
- Reached financial close December 2009





## ***Case Studies***

### **Mid-Currituck Bridge Project (North Carolina Turnpike Authority)**

- Construction of 7 mile toll bridge (and related improvements) over Currituck Sound to North Carolina's Outer Banks
- Seasonal traffic to vacation destination
- NEPA process not complete and financial feasibility undetermined
- NCTA brought on a private partner to help define the project and reach financial feasibility
  - Private partner to help with design efforts
  - Pre-development agreement signed April 2009
  - Once feasible and meeting NCTA goals, parties will negotiate an agreement to design, build, finance, operate and maintain the bridge
- NCTA Goals
  - Use private sector to help define the project and determine feasibility



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# ***Relevant Agreements***

## **Public-Private Partnerships (P3)**

- Availability Payment Concessions
- Toll Concessions
- Pre-Development Agreements



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# ***Relevant Agreements***

## **Availability Payment Concessions**

- **Suitable When...**

- Public owner has identified a dedicated source of revenue for the project (toll revenue or other source)
- Public owner desires life-cycle cost efficiencies
- Public owner wishes to retain direct toll rate setting authority and collection
- Revenue or traffic volume is difficult to predict

- **Public Owner...**

- Performs conceptual / preliminary design
- Achieves environmental clearance
- May provide some, but not all, capital funding
- Oversees design and construction
- Operates and maintains the project
- Keeps long term revenue risk
- Pays private party based upon project availability / performance over time



# ***Relevant Agreements***

## **Availability Payment Concessions (cont.)**

- **Developer**
  - Designs, constructs, operates and maintains the project for contract term (35 – 50 years)
  - Assumes life cycle performance risks
  - Primary compensation is through availability payments
    - » May also receive milestone payments from public owner
  - May receive federal tax benefits due to deemed “tax ownership”
- **Availability Payments**
  - Unitary payments for CapEx, O&M expenditures and financing costs
  - Made periodically after substantial completion (e.g., monthly)
  - Fixed amount that may:
    - » Be adjusted downward based on performance
    - » Be adjusted by changes in an index (e.g., CPI)
- **Examples**
  - Florida DOT - I-595 and Port of Miami Tunnel Projects
  - British Columbia MOT – Sea to Sky Highway



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# ***Relevant Agreements***

## **Toll Concession**

- **Suitable When...**
  - Project will directly generate revenues
  - Traffic and revenue risk can be efficiently transferred to private sector
  - Political support exists for private sector toll collection and enforcement
  
- **Public Owner – Same as Availability Payment Conc., Except:**
  - Contributes no or limited public funds to project costs
  - Decides on toll rate setting mechanism over contract life
  - Relieved of all or most toll revenue risk
  - May receive share of toll revenue as/when benchmarks met
  - Possibly receives upfront payment from the developer



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# ***Relevant Agreements***

## **Toll Concession (cont.)**

- **Developer – Same as Availability Payment Conc., except:**
  - Collects tolls in accordance with rate-setting mechanism
  - Assumes all or most project traffic and revenue risk
  - May share excess toll revenues with public owner
  
- **Examples**
  - Texas DOT
    - » SH 130, Segments 5 and 6
    - » North Tarrant Express
    - » I-635
  - Virginia DOT
    - » I-95/395 HOT Lanes



# ***Relevant Agreements***

## **Pre-Development Agreement**

- **Suitable When...**
  - Project not yet completely defined
  - Financial feasibility not yet determined, but preliminarily has good potential
  - Public owner seeks private sector innovation in defining and accelerating an optimally feasible project
  - Environmental analysis is in the early stages
- **Procurement and Award**
  - Owner procures Developer on basis of “best development and financial plans”
  - Award contract with two phases:
    - » Initial phase to determine feasibility
    - » Implementation phase
- **While Rare Internationally, Widely Used in U.S.**
- **Examples**
  - North Carolina Turnpike Authority – Mid-Currituck Bridge Project
  - Virginia DRPT – Dulles Rail Extension



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