

## Amendment No. 199

Senate Amendment to Senate Bill No. 206

(BDR 35-1091)

**Proposed by:** Senate Committee on Energy, Infrastructure and Transportation**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

| ASSEMBLY ACTION |                          |      |                          | Initial and Date | SENATE ACTION |                          |      |                          | Initial and Date |
|-----------------|--------------------------|------|--------------------------|------------------|---------------|--------------------------|------|--------------------------|------------------|
| Adopted         | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____            | Adopted       | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____            |
| Concurred In    | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            | Concurred In  | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            |
| Receded         | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            | Receded       | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            |

EXPLANATION: Matter in (1) **blue bold italics** is new language in the original bill; (2) **green bold italic underlining** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold dashed underlining** is newly added transitory language.

HAC/BJE



Date: 4/13/2009

S.B. No. 206—Establishes provisions governing the construction and operation of certain toll roads. (BDR 35-1091)



## SENATE BILL NO. 206—SENATOR LEE

MARCH 11, 2009

Referred to Committee on Energy, Infrastructure and Transportation

SUMMARY—Establishes provisions governing the construction and operation of certain toll roads. (BDR 35-1091)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to highways; establishing provisions governing the construction and operation of certain toll roads in this State; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

This bill sets forth certain guidelines governing the construction and operation of privately operated toll roads upon public highways in this State. This bill requires that any privately operated toll road constructed or operated upon any public highway in this State be constructed and operated: (1) consistent with the public interest; (2) in a manner designed to return a fair value to the people of this State; ~~and (3) utilizing state-of-the-art construction, maintenance and safety standards; and (4)~~ ***and (3) subject to the control and supervision of the Department of Transportation. This bill also requires that any contract for the construction or operation of a privately operated toll road upon any public highway in this State be negotiated through a clear and open public process, controlled by the rules of open competitive bidding and (b) subject to final approval by the [Legislature] Board of Directors of the Department of Transportation.*** This bill prohibits the conversion of any currently existing public highway in this State to a privately operated toll road, ***except under certain circumstances,*** and specifies that any toll, fee or other charge imposed for the use of a privately operated toll road upon any public highway in this State must, except for costs of administration, be used exclusively for the construction, maintenance and repair of the public highways of this State. (Nev. Const. Art. 9, § 5)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 408 of NRS is hereby amended by adding thereto ~~a new section to read as follows:~~ ***the provisions set forth as sections 2 to 6, inclusive, of this act.***

**Sec. 2. 1. Any privately operated toll road constructed or operated upon any public highway in this State must be constructed and operated:**

***(a) Consistent with the public interest;***

***(b) In a manner designed to return a fair value to the people of this State; and***

~~(c) Utilizing state-of-the-art construction, maintenance and safety standards; and~~

~~(d) Subject to the control and supervision of the Department.~~

2. Before any contract is entered into for the construction or operation of any privately operated toll road upon any public highway in this State, the Department shall prepare a written analysis of the costs and benefits of the project that satisfies the requirements of NRS 408.3195.

3. Any contract for the construction or operation of a privately operated toll road upon any public highway in this State must ~~be~~:

(a) Be negotiated through a clear and open public process, controlled by rules of open competitive bidding and ~~be~~ subject to final approval by the Legislature.

~~3. Not Board; and~~

(b) Include a provision stating that the requirement for the payment of prevailing wages as set forth in NRS 338.013 to 338.090, inclusive, applies to the construction and operation of the toll road, regardless of whether the toll road, for financing or other purposes, is publicly or privately owned and, solely for the purposes of those provisions, the toll road shall be deemed to be a public work and the Department shall be deemed to be a party to the contract.

4. Except as otherwise provided in section 3 of this act, no public highway in this State ~~(that is in existence on October 1, 2009),~~ may be sold or transferred for use as a privately operated toll road or otherwise converted to a publicly operated toll road.

~~4. 5.~~ Any toll, fee or other charge imposed for the use of a privately operated toll road upon any public highway in this State must, except for costs of administration, be used exclusively for the construction, maintenance and repair of the public highways of this State.

Sec. 3. 1. No privately operated toll road may be constructed or operated upon a public highway in this State unless there exists an alternate road that can accommodate the same classes of vehicles as the toll road.

2. The Board may authorize that a portion of a public highway in this State be converted to a publicly operated toll road if the public highway will consist of at least the same number of lanes which will not be subject to the toll, fee or other charge imposed for the use of the toll road as the public highway consisted of before the existence of the toll road.

Sec. 4. If the Board approves the construction or operation of a privately operated toll road upon any public highway in this State, a Tolling Revenue Commission must be created, which must consist of the following members who serve ex officio:

1. The Governor, the Lieutenant Governor, the State Controller and the Attorney General.

2. The Director of the Department of Transportation.

3. The director of the regional transportation commission from each county in which the toll road will be constructed or operated.

4. One member of the Board from each highway district in which the toll road will be constructed or operated who was appointed to the Board pursuant to subsection 2 of NRS 408.106.

5. One member of the board of the convention and visitors authority from each county in which the toll road will be constructed or operated.

6. One member of the board of county commissioners from each county in which the toll road will be constructed or operated. A member of the board who is appointed to the Commission pursuant to this subsection must have been elected at large by the qualified electors of the county.

7. The Chairmen of the Assembly and Senate Standing Committees on Transportation.

Sec. 5. 1. If the Board approves the construction or operation of a privately operated toll road upon any public highway in this State, the Tolling Revenue Commission created pursuant to section 4 of this act shall determine the amount of the toll, fee or other charge that may be imposed for the use of the toll road.

2. Any toll, fee or other charge imposed for the use of a privately operated toll road upon any public highway in this State must:

(a) Be deposited in the State Highway Fund in a separate account for the county from which the money was received;

(b) Except for costs of administration, be used exclusively for the construction, maintenance and repair of the public highways of this State; and

(c) Subject to the limitations set forth in paragraph (b), be distributed in the manner set forth by the Tolling Revenue Commission.

Sec. 6. On or before January 1 and July 1 of each year, the Director of the Department shall prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report concerning each privately operated toll road constructed or operated upon any public highway in this State.