

# California State Auditor

B U R E A U O F S T A T E A U D I T S

## **Department of Transportation:**

*Seismic Retrofit Expenditures Are in  
Compliance With the Bond Act*



September 2000  
2000-010

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# CALIFORNIA STATE AUDITOR

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MARY P. NOBLE  
ACTING STATE AUDITOR

STEVEN M. HENDRICKSON  
CHIEF DEPUTY STATE AUDITOR

September 28, 2000

2000-010

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As required by Chapter 310, Statutes of 1995, the Bureau of State Audits presents its audit report concerning the Department of Transportation's (department) revenues and expenditures authorized by the Seismic Retrofit Bond Act of 1996 (Bond Act). This report concludes that the department has ensured that seismic retrofit projects funded with bond proceeds are consistent with the purpose of the Bond Act. However, the department has yet to reimburse the State Highway Account and the Consolidated Toll Bridge Fund for expenditures incurred during fiscal years 1994-95 and 1995-96, as required by the Bond Act. The department recently prepared a reimbursement plan, which will take effect in fiscal year 2000-01.

Respectfully submitted,

*Elaine M. Howle*

ELAINE M. HOWLE  
State Auditor

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# SUMMARY

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## RESULTS IN BRIEF

Legislation passed in 1995 requires the California State Auditor to ensure that projects funded by the Seismic Retrofit Bond Act of 1996 (Bond Act) are consistent with that measure's purposes, which are to reconstruct, replace, or retrofit state-owned highways and bridges, including toll bridges. This is the fifth in a series of annual reports on the Department of Transportation's (department) revenues and expenditures, authorized by the Bond Act, for retrofitting California's highway and toll bridges.

As of June 30, 2000, the department had spent \$1.36 billion for projects on more than 1,150 bridges and seven state-owned toll bridges, completing 97.4 percent of the retrofitting for highway bridges and having all of the toll bridges either in retrofit design or under construction. Our review found that the department has done a good job of ensuring that seismic retrofit projects do meet the criteria for funding under the Bond Act. However, the department has not resolved a long-standing issue of reimbursing other accounts for interim funding obtained during fiscal years 1994-95 and 1995-96. During those years, the State Highway Account (highway account) and the Consolidated Toll Bridge Fund (toll bridge fund) provided a total of \$114 million in expenditures and commitments for retrofitting California's bridges. The Bond Act requires that the department use bond proceeds to reimburse the highway account and the toll bridge fund for these prior expenditures.

In attempting to make the reimbursements, however, the department encountered opposition from the State Treasurer's Office, which pointed to a possible loss of the bonds' tax-exempt status, and the Department of Finance, which objected that the department's source of reimbursement funds could be used only for current expenditures. Provisions in 1997 legislation removed both of these objections. However, the department had not taken any action as of June 30, 2000, to reimburse the expenses. The department recently prepared a reimbursement plan, which will take effect in fiscal year 2000-01.

## **AGENCY COMMENTS**

The Business, Transportation and Housing Agency agrees with the information provided in our report. ■

# INTRODUCTION

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## BACKGROUND

Since the 1971 Sylmar earthquake struck the Los Angeles area, the Department of Transportation (department) has been engaged in a seismic retrofit program for bridges throughout the State. Seismic retrofit involves structural analysis to determine a bridge's vulnerability during earthquakes and a strategy meeting with engineers to discuss retrofit approaches and to determine the final retrofit design. Current retrofit work includes strengthening the columns of existing bridges by encircling them with a steel casing, enlarging and strengthening some of the bridge footings by placing additional pilings in the ground or by using steel tie-down rods to better anchor the footings to the ground, and enlarging the hinges that connect sections of bridge decks to help prevent them from separating during severe ground movement.

Before the January 1994 Northridge earthquake, the department classified all state-owned highway bridges (except toll bridges) into two groups: single-column bridges and multiple-column bridges. After the Northridge earthquake, the department reclassified the bridges into Phase I and Phase II categories. Phase I includes bridges determined in the strategy process to have required retrofitting before January 1, 1994; these bridges are thus not eligible for funding from the Seismic Retrofit Bond Act of 1996 (Bond Act). Phase II includes all of the remaining state-owned bridges (excluding toll bridges), for which no retrofit strategy was in place by January 1, 1994.

In March 1996, California voters approved the Bond Act, which authorizes the State to sell \$2 billion in general-obligation bonds to reconstruct, replace, or retrofit Phase II bridges and state-owned toll bridges. The Bond Act will remain in effect until all construction activities for the seismic retrofit of state-owned toll bridges are complete or until June 30, 2005, whichever is sooner.

The Bond Act initially required the department to use \$650 million of the bond proceeds for seismic retrofit of toll bridges and the remaining \$1.35 billion for Phase II retrofits. However, on August 20, 1997, the governor signed into law

Chapter 327, Statutes of 1997, which shifted the allocation of expenditures in the Bond Act to \$790 million for toll bridges and \$1.21 billion for Phase II retrofits. Since the estimate to retrofit or replace the state-owned toll bridges is \$2.62 billion, the legislation also authorized additional funds from various state accounts and toll bridge revenue accounts for retrofitting the seven toll bridges.

The Bond Act also requires the department to use bond proceeds to reimburse the State Highway Account and the Consolidated Toll Bridge Fund, which, along with other state funds, provided approximately \$114 million in interim funding for fiscal years 1994-95 and 1995-96 expenditures for Phase II and toll bridge retrofits.

In fiscal year 1996-97, the Seismic Retrofit Bond Fund of 1996 was created to account for seismic retrofit expenditures and revenues. Before bonds can be issued, this fund uses loans from the State Pooled Money Investment Account to cover expenditures for the seismic retrofit program.

## STATUS OF THE BOND ISSUANCES

Since the inception of the seismic retrofit program, the State has issued eight general-obligation bonds under the Bond Act. Table 1 shows the date and amount of each issuance.

**TABLE 1**

**Seismic Retrofit Bond Act  
General Obligation Bond Issuances  
(In Millions)**

Bond Series	Date Sold	Amount Sold
A	03/18/97	\$50.0
B	10/08/97	300.0
C	10/07/98	344.9
D	02/23/99	100.0
E	04/07/99	76.0
F	06/09/99	20.0
G	10/20/99	66.0
H	04/09/00	134.5
<b>Total</b>		<b>\$1,091.4</b>



## SCOPE AND METHODOLOGY

Chapter 310, Statutes of 1995, requires the California State Auditor to annually audit revenues and expenditures authorized by the Bond Act to ensure that the projects funded are consistent with the act's purpose.

To gain an understanding of the seismic retrofit program, we reviewed the Bond Act's provisions and the related policies and procedures developed by the department for expenditures charged to the Seismic Retrofit Bond Fund of 1996. We also interviewed administrators and staff to determine their responsibilities for implementing provisions of the Bond Act and their manner of meeting those responsibilities.

To determine how fully the department complied with the requirements of the Bond Act, we reviewed a sample of seismic retrofit projects for fiscal year 1999-2000 and assessed whether the projects were eligible for funding. In addition, we reviewed a sample of seismic retrofit expenditures from the \$1.36 billion in expenditures recorded as of June 30, 2000, for all years combined.

We also followed up on the issues raised by the State Treasurer's Office and the Department of Finance regarding the federal tax and fiscal implications of using bond proceeds to reimburse fiscal years 1994-95 and 1995-96 Phase II seismic retrofit expenditures. We reviewed the department's records and interviewed administrators to determine whether any reimbursements have been made.

Finally, we reviewed bond-issuance records available through August 2000 to determine the status of the bond issuances and their use. ■

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# AUDIT RESULTS

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## **THE DEPARTMENT MADE APPROPRIATE CHARGES TO THE SEISMIC RETROFIT BOND FUND**

As of June 30, 2000, Department of Transportation (department) records showed that 565 active seismic retrofit projects related to 1,155 Phase II bridges and seven toll bridges were eligible to use Seismic Retrofit Bond Act of 1996 (Bond Act) proceeds. The department has retrofitted 97.4 percent of the Phase II bridges. The department has also completed 6 of the 13 construction contracts that it currently has for retrofitting six of the state-owned toll bridges. In addition, the department projects that it will award all contracts for the San Francisco-Oakland Bay Bridge, the seventh state-owned toll bridge, by 2001. Appendix A shows the status of the seismic retrofit program. As of June 30, 2000, the department had recorded over \$1.36 billion in expenditures for both types of projects funded with Bond Act revenues. Appendix B shows the breakdown of these expenditures.

We reviewed 50 expenditure accounts related to 48 seismic retrofit projects for fiscal year 1999-2000. Only Phase II and state-owned toll bridge projects are eligible for funding with Bond Act proceeds. Our review found that the 48 seismic retrofit projects were eligible for bond funding. In addition, our review of 50 expenditures charged to the Seismic Retrofit Bond Fund of 1996 found that the expenditures met the intended purpose of the program.

## **THE DEPARTMENT HAS NOT YET REIMBURSED EARLY SEISMIC RETROFIT EXPENDITURES**

Article 2 of the Bond Act requires that bond proceeds be used to reimburse the State Highway Account (highway account) and the Consolidated Toll Bridge Fund (toll bridge fund) for seismic retrofit expenditures during the fiscal years 1994-95 and 1995-96. Department records show approximately \$114 million in expenditures and commitments for seismic retrofit during these two fiscal years. Included in this total are \$103 million from the highway account and \$11 million from the toll bridge fund.

However, as we stated in previous reports, the department found two problems that prevented it from complying with this requirement.

First, the State Treasurer's Office raised the concern that reimbursing these past expenditures with bond proceeds would jeopardize the bonds' federal tax-exempt status. If tax-exempt status were lost, the State would pay bond purchasers a higher interest rate to compensate them for paying federal taxes on interest earnings. According to the State's bond counsel, under federal treasury regulation, an issuer wanting to use the proceeds of tax-exempt bonds to reimburse expenditures must adopt a resolution of official intent no later than 60 days after the payment of the original expenditures. The resolution must indicate that the issuer expects to reimburse the expenditures with bond proceeds. Because the 60-day window for early retrofit expenditures has long since passed without the required official resolution, the reimbursement of expenditures does not meet the requirements for tax exemption.

Further, because of fiscal considerations, the Department of Finance objected to using Pooled Money Investment Account loans to provide interim reimbursement to the highway account and the toll bridge fund for fiscal years 1994-95 and 1995-96 seismic retrofit expenditures. Loan provisions require that this potential source of reimbursement be used for current expenditures only.

In August 1997, new legislation offered a solution to the problem of preserving the tax-exempt status of the bonds, while meeting the legal reimbursement requirements. Chapter 327, Statutes of 1997, authorizes the use of \$745 million from the highway account to finance seismic retrofit projects for toll bridges. According to the chief of the department's Office of Finance and Capital Budgets, because the new legislation requires highway account contributions for toll bridge retrofits, the department plans to use \$103 million of bond proceeds to pay for future costs of this type, rather than funding these costs from the highway account. In addition, the department intends to fund \$11 million of future toll bridge fund projects with Bond Act revenues. This allows the department to use Bond Act proceeds to reimburse the highway account and the toll bridge fund for the \$114 million in seismic retrofit expenditures incurred during fiscal years 1994-95 and 1995-96. Furthermore, the 1997 legislation also addresses the Department of Finance's

concerns because it allows Pooled Money Investment Account loans to temporarily fund future seismic retrofit projects until bonds are issued.

The Seismic Retrofit Finance Committee, which is responsible for the administration of Bond Act financing programs, approved the department's use of these funds on November 19, 1997. Yet, when we reviewed the department's records, we determined that no actual reimbursement had taken place as of June 30, 2000. According to the department, it has not begun the reimbursement because selecting the best possible projects to facilitate this reimbursement is a complex process. The department recently prepared a reimbursement plan, which will take effect in fiscal year 2000-01. The plan describes the general procedure the department will follow to select specific projects and complete the reimbursement.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



ELAINE M. HOWLE  
State Auditor

Date: September 28, 2000

Staff: Denise L. Vose, CPA  
Nasir Ahmadi, CPA  
Amy Anderson

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# APPENDIX A

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## **Status of the Seismic Retrofit Program**

Tables 2 and 3 depict the status of the seismic retrofit program for both Phase II bridges and toll bridges as of June 30, 2000.

**TABLE 2**

### **Status of Phase II Bridges**

District	Retrofit Complete	Under Construction	In Design	Total
1	64	1	4	69
2	12	0	0	12
3	36	0	0	36
4	137	8	6	151
5	104	0	3	107
6	77	0	0	77
7	291	1	1	293
8	124	0	6	130
9	7	0	0	7
10	40	0	0	40
11	172	0	0	172
12	61	0	0	61
<b>Totals</b>	<b>1,125</b>	<b>10</b>	<b>20</b>	<b>1,155</b>

Source: Quarterly Seismic Retrofit Report, 4th quarter, 1999-2000, issued July 17, 2000, by the Department of Transportation.

**TABLE 3****Status of Toll Bridges**

<b>Toll Facility</b>	<b>Number of Projects</b>	<b>Current Status</b>	<b>Current Retrofit Completion Date</b>
San Francisco-Oakland Bay Bridge			
East Bay Span	To be determined	Design	Fall 2005
West Bay Span	8	Construction/Design	Spring 2007
Benicia-Martinez Bridge	2	Under Construction	Summer 2002
San Mateo-Hayward Bridge	4	Under Construction	Fall 2000
Richmond-San Rafael Bridge	1	Design	Spring 2005
Carquinez Bridge (eastbound)	1	Under Construction	Spring 2001
Vincent Thomas Bridge	1	Under Construction	Spring 2000
San Diego-Coronado Bridge	4	Under Construction/Design	Fall 2001

Source: Quarterly Seismic Retrofit Report, 4th quarter, 1999-2000, issued July 17, 2000, by the Department of Transportation.



# APPENDIX B

## ***Bond Act Expenditures as of June 30, 2000***

**TABLE 4**

**Breakdown of Seismic Retrofit Expenditures  
(In Thousands)**

Expenditures	Fiscal Year						Total
	1994-95	1995-96	1996-97	1997-98	1998-99	1999-2000	
<b>Phase II bridges</b>							
State operations							
Administration	\$0	\$0	\$7,248	\$18,314	\$24,038	\$10,010	\$59,610
Legal	0	0	0	0	0	0	0
Operations	0	0	0	0	1	17	18
Capital outlay—support	12,452	19,248	70,609	80,542	34,928	21,321	239,100
<b>Subtotal</b>	<b>12,452</b>	<b>19,248</b>	<b>77,857</b>	<b>98,856</b>	<b>58,967</b>	<b>31,348</b>	<b>298,728</b>
Capital outlay							
Major construction	0	0	0	0	0	0	0
Major contracts	4,085	1,880	185,215	172,184	65,256	63,250	491,870
Minor construction	0	0	0	0	0	0	0
Minor contracts	1,043	1,961	4,615	1,718	219	796	10,352
Right-of-way	57	259	562	1,118	443	373	2,812
<b>Subtotal</b>	<b>5,185</b>	<b>4,100</b>	<b>190,392</b>	<b>175,020</b>	<b>65,918</b>	<b>64,419</b>	<b>505,034</b>
<b>Total Phase II</b>	<b>17,637</b>	<b>23,348</b>	<b>268,249</b>	<b>273,876</b>	<b>124,885</b>	<b>95,767</b>	<b>803,762</b>
<b>Toll bridges</b>							
State operations							
Administration	0	0	3,490	11,789	15,694	6,536	37,509
Legal	0	0	0	0	0	0	0
Operations	0	0	0	0	0	0	0
Capital outlay—support	14,978	48,447	44,548	47,511	7,339	23	162,846
<b>Subtotal</b>	<b>14,978</b>	<b>48,447</b>	<b>48,038</b>	<b>59,300</b>	<b>23,033</b>	<b>6,559</b>	<b>200,355</b>
Capital outlay							
Major construction	0	0	0	0	0	0	0
Major contracts	877	7,285	5,938	39,572	161,658	120,082	335,412
Minor construction	0	0	0	0	0	0	0
Minor contracts	0	0	0	0	0	0	0
Right-of-way	2	0	492	7,334	15,512	38	23,378
<b>Subtotal</b>	<b>879</b>	<b>7,285</b>	<b>6,430</b>	<b>46,906</b>	<b>177,170</b>	<b>120,120</b>	<b>358,790</b>
<b>Total toll bridges</b>	<b>15,857</b>	<b>55,732</b>	<b>54,468</b>	<b>106,206</b>	<b>200,203</b>	<b>126,679</b>	<b>559,145</b>
<b>Grand Total</b>	<b>\$33,494</b>	<b>\$79,080</b>	<b>\$322,717</b>	<b>\$380,082</b>	<b>\$325,088</b>	<b>\$222,446</b>	<b>\$1,362,907</b>

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*Agency's comments provided as text only.*

Business, Transportation and Housing Agency  
980 9th, Suite 2450  
Sacramento, CA 95814

September 20, 2000

Elaine M. Howle  
State Auditor  
Bureau of State Audits  
555 Capitol Mall  
Sacramento, CA 95814

Dear Ms. Howle:

Attached is the Department of Transportation's (Caltrans) five-day response to the Bureau of State Audits' (BSA) September 14, 2000, draft audit report, *Department of Transportation: Seismic Retrofit Expenditures Are in Compliance With the Bond Act (Report No. 2000-010)*. Thank you for your attention to this issue and the opportunity to respond to the draft report.

I am pleased that Caltrans has properly ensured that the seismic retrofit projects meet the funding criteria of the Bond Act and that no exceptions were noted by the BSA auditors in their review of expenditure accounts.

In addition, I look forward to having the reimbursement plan recently approved by the California Transportation Commission provide resolution to the issue of a \$114 million reimbursement to the State Highway Account and the Consolidated Toll Bridge Fund.

The Business, Transportation and Housing (BT&H) Agency and Caltrans appreciate the assistance of the BSA in ensuring our compliance with the Bond Act. If you need additional information, please do not hesitate to contact me, or Michael Tritz, Chief of the Office of Internal Audits within the BT&H Agency, at (916) 324-7517.

Sincerely,

*(Signed by: Maria Contreras-Sweet)*

MARIA CONTRERAS-SWEET  
Secretary

Attachment

Department of Transportation  
Office of the Director  
1120 N Street  
P.O. Box 942873  
Sacramento, CA 94273

September 15, 2000

MARIA CONTRERAS-SWEET, Secretary  
Business, Transportation and Housing Agency  
980 – 9th Street, Suite 2450  
Sacramento, CA 95814

Dear Secretary Contreras-Sweet:

I am pleased to provide our response to the State Auditor's report on Seismic Retrofit Expenditures for fiscal year 1999-2000. The report noted that seismic retrofit expenditures complied with the Bond Act.

The audit also reported that Caltrans has not yet reimbursed early seismic retrofit expenditures incurred in fiscal years 1994-95 and 1995-96 to the State Highway Account (highway account) and the Consolidated Toll Bridge Fund (toll bridge fund). This was due to the State Treasurer's concern that reimbursing these expenditures with bond funds might jeopardize the bonds' tax-exempt status, as well as the Department of Finance's objection to using Pooled Money Investment Account loans to provide interim reimbursement.

New legislation in August 1997 offered a solution to the problem of preserving the tax-exempt status of the bonds, while meeting the legal reimbursement requirements. The legislation authorizes the use of \$745 million from the highway account to finance seismic retrofit projects for toll bridges. Because the new legislation requires highway account contributions for toll bridge projects, Caltrans plans to use \$103 million of bond proceeds to pay for future costs of this type. In addition, Caltrans intends to fund \$11 million of future toll bridge fund projects with Bond Act revenues. This allows Caltrans to use Bond Act proceeds to reimburse the highway account and the toll bridge fund. The legislation also addresses the Department of Finance's concerns because it allows Pooled Money Investment Account loans to temporarily fund future seismic retrofit projects until bonds are issued.

Caltrans intended to accomplish the reimbursement of the highway account and the toll bridge fund from Proposition 192 funds in fiscal year 1999-00 on the basis of the 1997 legislation. This did not occur because selecting the best possible projects to facilitate the

reimbursement is a complex process. Caltrans has now prepared a reimbursement plan that was accepted by the California Transportation Commission in June 2000. The plan will take effect in fiscal year 2000-01. It describes the general procedures Caltrans will follow to select specific projects and complete the reimbursement.

If you have any questions, or require further information, please do not hesitate to contact Gerald Long at (916) 323-7122.

Sincerely,

*(Signed by: Jeff Morales)*

JEFF MORALES  
Director

cc: Members of the Legislature  
Office of the Lieutenant Governor  
Milton Marks Commission on California State  
Government Organization and Economy  
Department of Finance  
Attorney General  
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