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THIRD READING

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Bill No: SB 321  
Author: Beall (D)  
Amended: 5/27/15  
Vote: 21

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SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 4/15/15  
AYES: Hertzberg, Nguyen, Bates, Beall, Hernandez, Lara, Pavley

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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**SUBJECT:** Motor vehicle fuel taxes: rates: adjustments

**SOURCE:** Author

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**DIGEST:** This bill changes the methodology used to determine the fuel tax rates.

*Senate Floor Amendments of 5/27/15 remove the urgency clause from the bill.*

**ANALYSIS:**

Existing law:

- 1) Requires the Board of Equalization (BOE) to annually adjust the gasoline and diesel fuel excise tax rates either upward or downward. For gasoline, the BOE determines: (a) whether the sales and use tax revenue loss related to the partial exemption was fully offset by the adjusted rate, and (b) the projected sales and use tax revenue loss for the next fiscal year, considering forecasted gasoline prices and consumption. For diesel fuel, the BOE determines: (a) whether the revenue gain from the increased sales and use tax rate on diesel fuel sales and purchases was fully offset by the adjusted diesel fuel excise tax rate, and (b) the projected sales and use tax revenue gain for the next fiscal year, considering forecasted diesel fuel prices and consumption. By March 1 each year, the BOE must determine the rate adjustments, and the adjusted rate applies on the following July 1.

- 2) Requires BOE to maintain revenue neutrality, so that the revenues derived from the increased gasoline excise tax and the increased diesel sales and use tax equals the revenues that would have been derived had the gasoline sales and use tax partial exemption and the diesel fuel excise tax reduction, respectively, not occurred.
- 3) Requires BOE Members approve these rates annually in a public meeting.

This bill:

- 1) Requires BOE to adjust the excise tax rate based on a five-year average that relies on fuel price data, from the immediately preceding four years and estimated fuel prices for the current fiscal year, to generate a forecasted fuel price that is weighted primarily by known fuel price data. That adjusted rate must be determined by July 1, 2015, and that rate would be effective for fiscal year (FY) 2015-16.
- 2) Requires BOE follow the same estimate methodology as above, but the rate be adjusted by March 1 of the fiscal year immediately preceding the applicable fiscal year, beginning FY 2016-17.
- 3) Allows BOE to adjust the rate before March 1, but not sooner than six months between the intervening adjustments, if changes in either fuel prices or consumption in the state occur.

## **Background**

In 2010, the Legislature enacted two “fuel tax swap” measures that changed the imposition and rates of state taxes on gasoline and diesel fuel, and required the BOE to annually determine the appropriate excise tax rate adjustments to maintain revenue neutrality (ABX8-6, Committee on Budget, Chapter 11) and (SB 70, Committee on Budget and Fiscal Review, Chapter 9). The gasoline tax changes became operative on July 1, 2010, and the diesel fuel tax changes on July 1, 2011.

The fuel tax swap was partly enacted, to allow the use of additional existing transportation revenue for highway purposes, including General Obligation bond debt service, where that debt service was related to transportation projects.

The swap bills exempted sales and purchases of gasoline from the state sales and use tax rate. To offset the revenue loss related to this partial exemption, the law increased the gasoline excise tax rate from \$0.18 per gallon to \$0.353 per gallon. Conversely, the measure reduced the diesel fuel excise tax rate from \$0.18 to \$0.13

per gallon, but increased the sales and use tax rate on diesel fuel sales to offset the loss related from the reduction, resulting in the following rates:

- 1.87%, effective July 1, 2011,
- 2.17%, effective July 1, 2012,
- 1.94%, effective July 1, 2013,
- 1.75%, effective July 1, 2014, and thereafter.

**FISCAL EFFECT:** Appropriation: No   Fiscal Com.: Yes   Local: No

**SUPPORT:** (Verified 5/29/15)

Associated General Contractors  
California Alliance for Jobs  
California Association of Councils of Government  
California State Association of Counties  
California Transit Association  
California Transportation Commission  
City of Crescent City  
City of Lakewood  
City of Rolling Hills Estates  
City of Saratoga  
County of Los Angeles  
Glendale City Employees Association  
League of California Cities  
Orange County Transportation Authority  
Organization of SMUD Employees  
Rural County Representatives of California  
San Bernardino Public Employees Association  
San Diego County Court Employees Association  
San Luis Obispo County Employees Association  
Santa Clara Valley Transportation Authority  
Self-Help Counties Coalition  
State Board of Equalization  
Transportation Agency for Monterey County  
Transportation California  
Urban Counties Caucus

**OPPOSITION:** (Verified 5/29/15)

None received

**ARGUMENTS IN SUPPORT:** According to the author, “The Board of Equalization (BOE) annually adjusts the price-based portion of the excise tax on gasoline in order to collect roughly the same amount of revenue, as the state would have collected if it still charged a sales tax on gasoline. Difficulty in forecasting gas prices inevitably results in either over- or under-collecting revenue and future adjustments must reconcile this discrepancy. The reconciling adjustment, or “true up,” leads to volatility from year to year. Uncertainty, in future revenue puts a significant strain on state and local governments when preparing their multiyear transportation budgets. SB 321 makes changes to the administrative process, for setting the price-based excise tax in order to give BOE the tools necessary to reduce the overall volatility of this revenue.”

Prepared by: Myriam Bouaziz / GOV. & F. / (916) 651-4119  
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