
THIRD READING

Bill No: ACA 5
Author: Frazier (D) and Newman (D), et al.
Amended: 4/4/17 in Assembly
Vote: 27

ASSEMBLY FLOOR: Not available

SUBJECT: Motor vehicle fees and taxes: restriction on expenditures:
appropriations limit

SOURCE: Author

DIGEST: This constitutional amendment proposes to amend the California Constitution to prohibit the Legislature from borrowing revenues from fees and taxes imposed on vehicles or their use or operation, and from using those revenues other than as specifically permitted in the Constitution.

ANALYSIS:

Existing law, pursuant to the California Constitution:

- 1) Restricts the use of fuel excise tax revenues (from vehicles used on public streets and highways) and vehicle registration fee revenues to transportation purposes.
- 2) Restricts the Legislature from borrowing revenues from the Highway Users Tax Account.
- 3) Restricts fuel excise tax revenues to development and construction of roads and highways, unless a majority of voters in an election throughout a county or counties approves the use of the revenues for fixed-guideway mass transit.
- 4) Allows the Legislature to pledge fuel excise tax revenues for payment of bonds to fund voter-approved fixed-guideway mass transit projects.

- 5) Allows the Legislature to use up to 25% of the state's share of fuel excise tax revenues for payment of state-issued, voter-approved bonds for transportation purposes issued after November 2010.
- 6) Allows a city or county to use up to 25% of its share of fuel excise tax revenues for payment of locally issued, voter-approved bonds for transportation purposes.
- 7) Specifies that the restrictions on fuel excise tax and vehicle registration fee revenues do not apply to revenues derived from sales taxes or vehicle license fees.
- 8) Establishes the Public Transportation Account (PTA) as a trust fund and provides that revenues in the fund may only be used for specified transportation planning and mass transportation purposes. Further specifies that the Legislature is prohibited from borrowing revenues from the PTA, loaning or transferring them to the General Fund, or using the revenues for any purposes not specifically authorized.
- 9) Imposes an appropriation limit on the state and most local governments which limits the amount of spending to a base level, adjusted annually for inflation and population growth. State appropriations from the proceeds of taxes must be made within the state appropriation limit (SAL) or Gann limit. If state appropriations subject to those restrictions exceed the SAL, any revenue in excess of the SAL over two consecutive years must be appropriated for purposes exempt from the SAL (such as debt service), or used for a combination of Proposition 98 education spending and taxpayer rebates.

This constitutional amendment:

- 1) Requires diesel fuel sales tax revenues to be deposited into the PTA and prohibits the Legislature from diverting or appropriating those funds for purposes other than transportation planning and mass transportation.
- 2) Requires revenues derived from a proposed Transportation Improvement Fee to be used solely for transportation purposes, prohibits those revenues from being used to pay for previously authorized transportation bond debt service, and prohibits the Legislature from borrowing or using those revenues for unauthorized purposes.
- 3) Exempts appropriations of revenues generated as part of the proposed Road Repair and Accountability Act of 2017 (SB 1, Beall) from counting towards the state appropriation limit (Gann Limit).

- 4) Requires the provisions specified in this measure are subject to voter approval in the 2018.

Comments

- 1) *Purpose.* According to the authors, “ACA 5 will ensure that future revenues passed by the Legislature to pay for road and highway maintenance will be spent exclusively on vitally needed repairs and not on other legislative priorities.

“According to the American Society of Civil Engineers, 68% of California’s roads are considered to be in ‘poor’ or ‘mediocre’ condition. Not only does poor road quality affect individual users, it also impacts the efficient movement of goods throughout the state, which directly impacts job growth and the competitiveness of California’s ports and goods movement industries. With freight movement predicted to increase significantly, Californians will see increased deterioration of their roads due to the heavier vehicle use. Because preventative maintenance costs 10 to 12 times less than pavement and road rehabilitation, California is at an opportune moment to make needed repairs and avoid facing even higher maintenance costs down the road.

“In order to fund needed repairs to the states roads and highways, the Legislature is considering a number of options that would provide increased funding for transportation projects but provide no oversight or protection on how funds would be spent. Without the protections in SCA 2, revenues that are raised to pay for the repair and maintenance of the state’s roads and highways could be used for non-transportation related purposes. Not only would this fail to fix our roads and highways, it would also defy the intent of the Legislature and violate the public trust of our constituents.”

- 2) *Current restrictions.* Most transportation revenues, including gasoline and diesel excise taxes and vehicle registration fees, are constitutionally protected from being borrowed or used for purposes other than transportation. This protection does not apply to vehicle license fees and fuel excise taxes for usage outside of public roads. Additionally, since 2011, weight fees have been used to pay down transportation-related general obligation bonds.
- 3) *The need for new funding.* The deterioration of California’s state and local streets and roads has been widely documented. For example, at the January 2017 California Transportation Commission (CTC) hearing, a local streets and roads needs assessment presented to the CTC found that the statewide average pavement condition index, which rates the condition of the surface of a road

network, to be 65. This score indicates that statewide, roads on average are in “fair/at risk” condition and are becoming worn down to the point where rehabilitation, rather than routine maintenance, may be needed to prevent rapid deterioration. The needs assessment further found that in order to *maintain local roads* at their *existing* condition would require an additional \$3.5 billion annually. Overall, according to the “Fix Our Roads” Coalition, total deferred maintenance shortfalls total approximately \$78 billion, while the shortfall is estimated at \$59 billion for the deferred maintenance backlog at the state level.

- 4) *A response to the need.* Introduced in the current legislative session, SB 1 (Beall) serves the consensus transportation funding package between the Senate, Assembly, and Governor. Serving as the legislative vehicle, SB 1 proposes to increase a number of transportation-related taxes and fees to raise roughly \$5.2 billion in new transportation revenues annually and makes annual inflation adjustments. SB 1 proposes the funding to be used towards deferred maintenance on the state highways and local streets and roads, improve the state’s trade corridors, and transit. SB 1 further contains a number of additional transportation-related reforms including creating a Transportation Inspector General subject to Senate confirmation within the newly created Caltrans Office of Audits and Investigations, granting CTC additional oversight over the SHOPP projects, including staffing support, and developing an Advance Mitigation Program. ACA 5 serves as the companion measure to provide constitutional protections for the revenues generated under SB 1.

Related/Prior Legislation

ACA 5 is an identical measure to SCA 2 (Newman, 2017) which was heard in the Transportation and Housing Committee, the Elections and Constitutional Amendments Committee, and the Appropriations Committee of the Senate. SCA 2 is currently on the Senate Floor awaiting a final Senate vote; however as part of the consensus transportation funding package, ACA 5 will serve as the companion measure to SB 1.

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

According to the Senate Appropriations Committee analysis of SCA 2:

- One-time General Fund costs in the range of \$414,000 to \$552,000 to the Secretary of State, likely in 2017-18, for printing and mailing costs to place the measure on the ballot in a statewide election. Actual costs may be higher or lower, depending on the length of required elements and the overall size of the ballot.

- New constitutional protections that ensure diesel fuel sales tax revenues are deposited into the PTA and not subject to diversion or appropriation for purposes other than transportation planning and mass transportation would apply to approximately \$500 million in annual revenues.
- New constitutional protections that require revenues from the proposed Transportation Improvement Fee be used solely for specified transportation purposes, and not for existing bond debt service, would apply to an estimated \$1.5 billion to \$1.6 billion in new annual revenues, if SB 1 is enacted.
- Exempts appropriations of approximately \$2 billion in new annual revenues generated by SB 1 from counting towards the Gann Limit. Absent this provision, state spending could be constrained in future years, to the extent appropriations of SB 1 revenues result in state appropriations exceeding the Gann Limit for two consecutive years in the future.

SUPPORT: (Verified 4/6/17)

None received

OPPOSITION: (Verified 4/6/17)

None received

Prepared by: Manny Leon / T. & H. /
4/6/17 18:16:49

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