

Date of Hearing: April 13, 2015

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 227 (Alejo) – As Introduced February 3, 2015

SUBJECT: Transportation funding

SUMMARY: Repeals provisions related to the gas tax swap that direct weight fee revenue to be transferred from the State Highway Account (SHA) to the General Fund to pay debt service on transportation bonds; extends the sunset date on provisions that authorize public-private partnership (P3) agreements for transportation projects. Specifically, **this bill:**

- 1) Requires, by December 31, 2018, the repayment of loans previously made to the General Fund from ten specified transportation-related accounts.
- 2) Repeals provisions that provide for the transfer of weight fee revenue to the Transportation Debt Service Fund for the purpose of directly paying debt service on certain transportation bonds.
- 3) Repeals provisions that designate all transportation loan repayments as weight fee revenue and direct the repaid funds to be transferred to the Transportation Debt Service Fund.
- 4) Extends the sunset date, to an unspecified date, on provisions that authorize P3 agreements for transportation projects. *Note: The author has indicated that he intends to take amendments in committee to strike provisions of AB 227 related to P3 agreements. Consequently, those provisions will not be discussed further in this analysis.*
- 5) Strikes provisions that transfer miscellaneous revenue [for example, from the sale of documents by the California Department of Transportation (Caltrans), miscellaneous services to the public, and rental of state property] from the SHA to the Transportation Debt Service Fund.
- 6) Repeals provisions that direct revenue from the price-based gas tax to be used to backfill the State Highway Account for weight fee revenue that is diverted for debt service on transportation bonds.

EXISTING LAW:

- 1) Imposes weight fees on commercial trucks and directs the revenue to be deposited into the SHA and then transferred to the Transportation Debt Service Fund and the Transportation Bond Direct Payment Account to pay for debt service on transportation bonds.
- 2) Imposes an excise tax on gasoline, comprised of two parts:

- a) A price-based excise tax the rate of which is calculated to generate revenue equal to what would have been generated had sales and use tax been collected on gasoline. The current rate is 18¢ per gallon until July 1, 2015, when it will drop to 12¢ per gallon; and,
 - b) The traditional excise tax of 18¢ per gallon.
- 3) Directs revenue from the price-based excise tax to be used first to backfill the SHA for weight fees that are diverted for debt service and directs the remaining revenue to be used as follows:
- a) 44% for local streets and roads;
 - b) 44% for transportation construction projects identified in the State Transportation Improvement Program (STIP); and,
 - c) 12% for highway maintenance and operations projects, as identified in the State Highway Operations and Protections Program (SHOPP).
- 4) Until January 1, 2017, grants Caltrans and regional transportation agencies authority to enter into P3 agreements.

FISCAL EFFECT: Weight fees generate nearly \$1 billion annually. Under this bill, this money would be directed to transportation uses rather than to the General Fund to pay for transportation bond debt service. Additional provisions that require loans from the General Fund be repaid to transportation accounts could result in additional revenue for transportation.

COMMENTS: The use of weight fees to pay for debt service is part of a larger budgetary and statutory arrangement referred to as the "gas tax swap." ABX8 6 (Committee on Budget), Chapter 11, Statutes of 2010, enacted the original gas tax swap. That bill eliminated the sales tax on gasoline and replaced it with an increase in gasoline excise tax designed to generate an equivalent amount of revenue. Among its many provisions, the original gas tax swap created a new, non-General Fund revenue stream of about \$1 billion annually from the new price-based excise tax. That money was originally used to repay the General Fund's cost of debt service on transportation bonds.

Later in 2010, voters approved Proposition 22 that prohibits excise tax revenues from being used to pay debt service on transportation bonds. As a result of this restriction, excise tax revenue could no longer be used for General Fund relief. In response, the Legislature passed and the Governor signed a reconstituted gas tax swap, AB 105 (Committee on Budget), Chapter 6, Statutes of 2012. Under the reenacted gas tax swap, weight fee revenue, rather than excise tax revenue, is used to provide General Fund relief for debt service on transportation bonds.

AB 227 will repeal provisions of the gas tax swap related to the transfer of funds from the SHA to pay for debt service and to the backfill of the SHA with revenue generated by the price-based excise tax. As a result, an additional nearly \$1 billion in weight fee revenue will be available for distribution using the same formula that revenue from the rest of the price-based excise tax is distributed - that is, 44% for local streets and roads, 44% for STIP projects, and 12% for SHOPP projects.

Funding to pay for maintenance and repair on the state highway system comes primarily from taxes on gasoline and diesel fuel. This revenue source is rapidly declining because of reduced fuel consumption and because of funding shortfalls in the Federal Highway Trust Fund. The estimated funding available from these sources for state highway preservation is less than \$2 billion annually; however, the estimated need for rehabilitation and reconstruction of the state highway system is close to \$8 billion annually. Funding for local streets and roads is in equally desperate straits. Moreover, these costs estimates are for preservation only. Estimated costs for needed improvements are greater still.

The Governor, in his 2015-16 proposed budget, acknowledged this transportation funding crisis, specifically noting a nearly \$59 billion backlog in needed transportation upkeep and repair. In response, his budget proposes an early repayment \$351 million of General Fund loans and calls upon both parties of the Legislature to craft a transportation funding solution.

AB 227 is intended, at least in part, to address this mounting backlog in unmet transportation needs by:

- a) Ensuring previous loans from transportation accounts to the General Fund are repaid within the next few years;
- b) Redirecting weight fee revenue to transportation purposes instead of to the General Fund for debt service; and
- c) Directing revenue from miscellaneous sources be used for transportation, not General Fund relief.

According to the author, "By diverting these funds back to their original purpose...we move a long way toward rebuilding our deteriorating infrastructure without imposing more debt on our grandchildren." Over two dozen engineering firms and transportation agencies that applauded the redirection of transportation money to transportation purposes support AB 227.

Writing in opposition of the bill, the Professional Engineers California Government (PECG) argues that AB 227 lacks clarity regarding the P3 agreement provisions (which are expected to be stricken from the bill).

Related legislation: AB 4 (Linder) stops the transfer of weight fee revenues to the General Fund to pay debt service on transportation bonds, until January 1, 2020. AB 4 was referred to this committee but is not scheduled to be heard this year.

Previous legislation: AB 2651 (Linder) of 2014 would have prohibited weight fee revenue from being transferred from the SHA to the Transportation Debt Service Fund or to the Transportation Bond Direct Payment Account and from being used to pay the debt service on transportation general obligation bonds. AB 2651 was referred to the committee but was not heard at the request of the author.

AB 2652 (Linder) of 2014, among other provisions, would have repaid transportation loans from the General Fund. AB 2652 died in the Assembly Budget Committee.

AB 2653 (Linder) of 2014, would have repealed specific provisions that enacted the weight fee revenue transfer and the SHA backfill. AB 2653 died in the Assembly Budget Committee.

AB 2728 (Perea) of 2014, would have prohibited the use of truck weight fee revenue to pay debt service on transportation-related general obligation bonds, until January 1, 2019. AB 2728 was held in Assembly Appropriations Committee on the suspense file.

SB 1418 (DeSaulnier) of 2014, repealed specific provisions that enacted the weight fee revenue transfer and the SHA backfill. SB 1418 was held in the Senate Appropriations Committee on the suspense file.

Double referral: This bill will be referred to the Assembly Budget Committee should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Note: Many of the letters in support and opposition specifically cited provisions in the bill related to P3 agreements. It is unclear if any of these positions will change once the P3 provisions are deleted from the bill.

Support

ACS Infrastructure Development
American Council of Engineering Companies
Associated General Contractors
Blackburn Consulting
California Alliance for Jobs
California Asphalt Pavement Association
California State Council of Laborers
City/County Association of Governments of San Mateo County
Dimensions 4 Engineering, Inc.
EFS Engineering, Inc.
Fluor
Granite Construction Incorporated
HMH Engineers
Holdrege & Kull
Kennedy & Associates
Kimley Horn
Lane Engineers, Inc.
Lee & Pierce, Inc. Consulting Engineers
Leighton Consulting, Inc.
Leptien, Cronin, Cooper, Morris & Poore, Inc.
Los Angeles County Metropolitan Transportation Authority
Michael Baker International
Mortonpitalo
Orange County Transportation Authority

Rick Engineering Company
Robert L. DeWitt and Associates, Inc.
Shannon & Wilson, Inc.
Skanska
Stantec Consulting Services
The Covello Group
Towill, Inc.
Transportation California
Yeh and Associates, Inc.

Opposition

Professional Engineers in California Government

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