

Date of Hearing: March 19, 2018

**ASSEMBLY COMMITTEE ON TRANSPORTATION**

Jim Frazier, Chair

AB 1874 (Voepel) – As Introduced January 16, 2018

**SUBJECT:** Fuel taxes: Off-Highway Vehicle Trust Fund

**SUMMARY:** Eliminates the transfer of \$10 million per year from the Off-Highway Vehicle (OHV) Trust Fund to the General Fund, starting after June 30, 2019.

**EXISTING LAW:**

- 1) Establishes the OHV Trust Fund administered by the California Department of Parks and Recreation (DPR) to fund the maintenance, operations and enforcement of State Vehicular Recreation Areas (SVRA) and other state and federal lands allowable for OHV use.
- 2) Creates the OHV Trust Fund and provides for the imposition and collection of OHV registration fees and SVRA entrance fees to be deposited in the fund.
- 3) Provides for the transfers of fuels taxes attributable to OHV and off-highway motor vehicle activity from the Motor Vehicle Fuel Account to the OHV Trust Fund.
- 4) Requires the Controller to withhold \$833,000 per month from the Motor Vehicles Fuel Account to be transferred to the OHV Trust Fund and transfer that amount to the General Fund.

**FISCAL EFFECT:** Unknown

**COMMENTS:** As part of the 2011-12 Budget Act, \$833,000 per month, or \$10 million annually, was redirected from the OHV Trust Fund to the state General Fund as part of numerous loans and diversions from various special funds to help balance the state's budget. According to the author, as a result of that action, the OHV Trust Fund has lost \$50 million that would have otherwise been used to maintain critical infrastructure and services to the OHV recreation community that is responsible for generating the user-fee revenues.

Writing in support of this bill, the Off-Road Vehicle Legislative Coalition states that, "AB 1874 simply ends the original inappropriate diversion of OHV related fuel taxes at the end of the current budget year so that the \$10 million of OHV fuel tax revenues will again go to providing support for the users that pay the user fee/fuel tax, and in doing so AB 1874 will restore the public's confidence that when they pay their taxes on motor fuels, the money is going to benefit the use that is being taxed."

The OHV program was created in 1971, is managed by DPR, and overseen by the California Off-Highway Motor Vehicle Recreation Commission. The program is funded by a combination of proceeds derived from the \$52 biennial registration fee on OHVs, commonly referred to as the "green sticker" program; taxes on motor vehicle fuels, both those consumed by OHVs and those attributable to vehicle use off of the public highways; and entrance fees collected at SVRAs. Since the passage of SB 742 (Steinberg), Chapter 541, Statutes of 2007, the amount of motor

fuel taxes transferred to the OHV Trust Fund is based on the percentage of fuel taxes transferred in 2007. Prior to 2007, the amount of funds attributable to OHV use was determined based on statewide studies that estimated the total gallons of gasoline burned in the course of OHV recreation. In fact, as part of the 2014-15 budget, the Department of Transportation (Caltrans), DPR, and the Department of Motor Vehicles (DMV) were tasked with a study to determine the appropriate level of funds to transfer to the OHV Trust Fund based upon estimated fuel use by off highway vehicles and activities. The study was required to be submitted to the Legislature no later than January 1, 2016, but was finally submitted on May 12, 2017. Although the report was supposed to determine if the estimating methodology is sound or if change is required to better estimate resources attributable to OHV use, the results were “not strongly conclusive”. The report did not contain any recommendations for updated estimating methodology, but did recommend that direct user fees for OHV recreation, such as the green sticker program, would be an appropriate substitute for the fuel excise tax. The actual amount of OHV use in California and the required transfer of gasoline excise taxes attributable to OHV use remains unclear.

Unfortunately, the report did not do much to help inform the reauthorization of the OHV program and its funding which was debated and approved in 2017 in a package of bills, SB 249 (Allen), Chapter 459, Statutes of 2017, which outlines the program parameters, and SB 159 (Allen), Chapter 456, Statutes of 2017, which extended the OHV Trust Fund and funding sources.

Overall, funding from the OHV Trust Fund is used for grants to local, state and federal entities, Native American tribes, educational institutions and non-profit organizations. The grants are split into function areas with 50% for operations and maintenance of trails and facilities, 25% for restoration or repair to habitat damaged by OHV use, 20% for law enforcement, and 5% for education and safety programs.

Additionally, SB 249 added numerous new requirements for the Division of OHV Recreation in DPR, including implementing management and wildlife habitat protection plans in SVRAs; reviewing and updating Soil Conservation Standard and Guidelines; and overall protection of natural, cultural, and archeological resources within SVRAs. SB 249 also requires DPR to convene a stakeholder process to make recommendations to the Governor and Legislature on how to achieve greater diversity in the OHV Commission. Both SB 249 and SB 159 eliminated the sunset dates for the OHV program and fee collection; however, the OHV Commission retained a sunset of January 1, 2023.

Further, in 2017, the Legislature passed and Governors Brown signed into law SB 1 (Beall), Chapter 5, Statutes of 2017. SB 1 provides roughly \$5.2 billion annually for state and local roads, bridges, transit systems, and active transportation. As part of SB 1, the excise tax on gasoline was increased 12 cents per gallon on November 1, 2017. The excise tax revenues attributable to fuel consumption off of the public road way – OHV use – is specifically allocated “to the State Parks and Recreation Fund to be used for state parks, off-highway vehicle programs, or boating programs.” According to the Department of Finance, roughly \$80 million per year is estimated to come from excise taxes paid for OHV and boating activities. It is unclear how much of this funding will be allocated to OHV programs.

*Committee Comments:* To help solve the budget crisis of the Great Recession, numerous loans and diversions were made from the OHV trust fund to help support the state parks budget and the state General Fund. Many of these loans have been repaid over the years culminating with final

payments included in the 2016-17 Budget Act, but the annual \$10 million diversion has not been resolved. AB 1874 is consistent with these actions and would complete the repayments.

Additionally, the passage of SB 249 represents a commitment to a permanent OHV program and expanded the program's goals and responsibilities. As SB 249 is being implemented, the Legislature may want to revisit how the OHV program is funded overall, how the estimates for OHV use and the amount of fuel excise taxes attributable to OHV use are calculated, and whether the OHV budget meets the needs and demands of the program. Understanding the complete picture of OHV use and available funding will help to define future goals and how they will be met.

*Related legislation:* AB 382 (Voepel) of 2017, would have eliminated the transfer of \$10 million per year from the Off-Highway Vehicle (OHV) Trust Fund to the General Fund, starting after June 30, 2018. AB 382 was amended in Assembly Appropriations Committee to authorize up to \$1 million of the new gasoline excise tax be allocated to OHV program grants. AB 382 awaiting a hearing by the Senate Transportation and Housing Committee.

AB 1866 (Fong) would, among other things, eliminate the transfer of \$10 million per year from the OHV Trust Fund to the General Fund. AB 1866 is awaiting a hearing by this committee.

*Previous legislation:* AB 496 (Fong) of 2017, would have, among other things, eliminated the transfer of \$10 million per year from the OHV Trust Fund to the General Fund. AB 496 was referred to this committee and returned to the Chief Clerk pursuant to Joint Rule 56 without being heard.

AB 1077 (O'Donnell) of 2017, would have extended the current Off-Highway Motor Vehicle Recreation program and fee authority indefinitely. AB 1077 was held on the Assembly Appropriations Committee suspense file.

SB 1 (Beall), Chapter 5, Statutes of 2017, provides funding for state and local roads, bridges, transit systems, bicycle and pedestrian facilities, and OHV programs.

SB 249 (Allen), Chapter 459, Statutes of 2017, extends and expands the Off-Highway Motor Vehicle Recreation programs indefinitely, but sunsets the Off-Highway Vehicles Commission on January 1, 2023.

SB 159 (Allen), Chapter 456, Statutes of 2017, extends the Off-Highway Vehicle Trust Fund and the collection of certain fees indefinitely.

AB 2175 (Jones) of 2016, would have eliminated the transfer of \$10 million per year from the Off-Highway Vehicle (OHV) Trust Fund to the General Fund, starting by June 30, 2017. AB 2175 was referred to the Senate Transportation and Housing Committee.

SB 853 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2014), requires the Caltrans, in consultation with Parks and DMV, to do a study to determine the appropriate level of funds transferred to the OHV trust fund based on estimated taxes attributable to OHV use and activities. The study was due to the Legislature no later than January 1, 2016.

SB 742 (Steinberg), Chapter 541, Statutes of 2007, reauthorized the OHV program, created the OHV Recreation Commission and changed the baseline for future funding for OHVs

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Off-Road Vehicle Legislative Coalition

**Opposition**

None on file

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