Date of Hearing: August 10, 2020

ASSEMBLY COMMITTEE ON TRANSPORTATION
Jim Frazier, Chair
SB 1351 (Beall) – As Amended August 6, 2020

SENATE VOTE: Not relevant

SUBJECT: Transportation improvement fee: revenue bonds

SUMMARY: Creates the Transportation Improvement Fee Finance Committee (TIF Committee) to authorize revenue bonds to be issued to Department of Transportation (Caltrans) to expedite transportation projects. Specifically, this bill:

1) Creates a TIF Committee made up of the following members or their designees to authorize revenue bonds to be issued to Caltrans to expedite transportation projects:

    a) The Treasurer as chair of the committee,

    b) The Controller, and

    c) Director of Finance.

2) Permits the Director of Caltrans to designate projects to be funded by the revenue generated by the bonds issued by the TIF Committee.

3) Limits the projects Caltrans can select for acceleration to projects approved by the California Transportation Commission (CTC) for the 2020 State Highway Operation and Protection Program (SHOPP) that have completed environmental clearance and project design.

4) Requires Caltrans to provide TIF committee with a list of projects that are eligible to be accelerated for construction within 90 days of the enactment of this bill.

5) Creates the Transportation Improvement Fee Subaccount (TIF Subaccount) within the Road Maintenance and Rehabilitation Account (RMRA) and allocates all TIF revenue specified for RMRA into the TIF Subaccount.

6) Creates the State Highway and SHOPP TIF Account (SHOPP TIF Account) within the State Transportation Fund and specifies that revenue generated by the TIF allocated to RMRA that would be allocated to the SHOPP be placed in the SHOPP TIF Account, and authorizes the TIF Committee to bond against the revenues placed in the SHOPP TIF Account.

7) Specifies that TIF revenue in RMRA shall first be used to satisfy the 50% allocation to SHOPP, and if any money remains, to satisfy the 50% allocation for apportionment to cities and counties as allocated by the Controller.

8) Specifies that TIF revenue shall be used to pay for the $5 million allocated to the California Workforce Development Board.

9) Specifies that bonding capacity shall not reduce the amount of TIF revenue that would be allocated to the 50% apportionment to cities and counties and prohibits TIF Committee from pledging those revenues for a bond.

10) Requires Caltrans to prepare and submit an annual report to the Governor and the Legislature compiling the total amount of outstanding debt issued pursuant to this chapter and the projects funded by that outstanding debt.

11) Requires Caltrans to report to the Governor, the Department of Finance, the Legislative Analyst's Office (LAO), and the Chairs of the Senate and Assembly Transportation Committees the amount of revenue bonds that Caltrans intends to request that TIF Committee issue for the subsequent fiscal year.

12) Specifies that TIF Committee is created solely for the purpose of authorizing the issuance and sale of the bonds and the execution and delivery of ancillary obligations and designates the Attorney General (AG) as legal counsel for the Committee unless TIF Committee received approval from AG to employ legal counsel.

13) Provides that a member, officer or agent of TIF Committee is not subject to personal liability on any revenue bonds or ancillary obligations issued or entered into.

14) Specifies that the members of the committee shall serve without compensation.

15) Authorizes revenue bonds to be issued on a tax-exempt basis to finance or refinance eligible projects and to fund necessary reserves for principal and interest, capitalized interest, credit enhancements on liquidity costs, costs of issuance, and administrative expenses associated with the revenue bonds.

16) Authorizes TIF Committee to provide security for repayment of the revenue bonds and ancillary obligations through issuing instrument provisions pledging all or a portion of the interests of the SHOPP TIF Account and any TIF revenues for as long as the revenue bonds or ancillary obligations remain outstanding.

17) Establishes that the revenue bonds shall be authorized by resolutions of the TIF Committee and provides that no revenue bond may mature more than 40 years from the date of its issue.

18) Specifies that amounts deposited into SHOPP TIF Account are continuously appropriated, without regard to fiscal years, to the Treasurer to fulfill the bond requirements.

19) Specifies that monies in the SHOPP TIF Account cannot be borrowed by, or made available for transfer to, the General Fund.

20) Authorizes the Treasurer to employ financial, engineering, or transportation consultants as necessary by the Treasurer's judgment in connection with the issuance and sale of any revenue bonds and specifies that payment for these services may be made out of the proceeds of the sale of the revenue bonds.

21) Specifies that revenue bonds issued are not to be deemed to constitute a debt or liability to the state, or of any political subdivision of the state, and are not and shall not be deemed to

be a pledge of the full faith and credit of the state, and shall be payable solely from the funds and revenues pledged under the issuing instrument.

22) Specifies that the bonds issued shall be free from taxation by the state and by all political subdivisions of the state.

23) Specifies that all challenges to the validity of any revenue bond shall be brought in the Superior Court of the County of Sacramento.

EXISTING LAW:

a) Etabishes TIF, starting January 1, 2018, based on the market value of the vehicle with the fee range described below:

   i) $25 per year for vehicles with a market value of $0 - $4,999;

   ii) $50 per year for vehicles with a market value of $5,000 - $24,999;

   iii) $100 per year for vehicles with a market value of $25,000 - $34,999;

   iv) $150 per year for vehicles with a market value of $35,000 - $59,999; and,

   v) $175 per year for vehicles with a market value of $60,000 and higher

2) Creates the Road Maintenance and Rehabilitation Program. Funds raised by the gasoline excise tax, a portion of the diesel excise tax increase ($0.10), and TIF, and Zero Emission Vehicle (ZEV) fees are deposited into RMRA, which is created within the State Transportation Fund. The RMRA funds shall be spent on basic road maintenance and rehabilitation, critical safety projects, and several other transportation programs.

3) Allocates an estimated $750 million annually for public transportation capital projects and operating expenses. These funds are derived from a portion of the diesel sales tax increase (3.5%) and an annual appropriation of $350 million from the TIF. The increase in the diesel sales tax will fund local transit operators through the exisitng State Transit Assistance Program (STA), with funding allocated by existing formulas, and also provide funding for commuter and intercity passenger rail service. Allocates $350 million from the TIF to the Transit Intercity Rail Capital Program (TIRCP) for transit capital projects.

4) Requires the outstanding loans made to the General Fund from various transportation special funds, a total of $706 million, be repaid over three years. The funds will be allocated as follows: $236 million for the TIRCP, up to $20 million for planning, $225 million for SHOPP, and $225 million for local agencies.

5) Requires certain programs to be funded annually from the newly created RMRA. Specifically, $200 million is set aside for local entities that have passed local sales and use taxes and/or developer fees for transportation purposes; $100 million for the active transportation program for bicycle and pedestrian projects; $400 million for bridge and culvert repair; $25 million for freeway service patrols, $25 million for local and regional SB 375 planning; and $7 million for university transportation research. Additionally, $5 million per year for five years ($25 million total), is set aside for the California Workforce

Development Board to assist local agencies to implement policies to promote preapprenticeship training programs.

6) Requires the remainder of funds in the RMRA to be split 50/50 between state and local governments. The state share will be allocated for road maintenance and SHOPP projects. Local funding is allocated pursuant to existing statutory formulas, where 50% of the allocation goes to cities based on population and 50% goes to counties based on a combination of the number of registered vehicles and the miles of county roads. In order to receive these funds, a city and county must maintain its historic commitment to funding street and highway purposes by annually expending not less than the average of its expenditures over a specified three-year period (i.e. maintenance of effort requirement). The California Transportation Commission (CTC) shall annually evaluate each agency receiving funds to ensure that the funds are spent appropriately.

7) Creates the Congested Corridors Program, to be implemented by the CTC, and allocates $250 million annually from the TIF for projects that provide congestion relief within the state's most heavily used transportation corridors. Eligible projects can be nominated by both the state and regional transportation agencies, however, only up to half of the annual appropriation may be allocated for state-only nominated projects.

8) Directs Caltrans to generate up to $100 million in department efficiencies. The revenue generated through the efficiencies will be allocated to RMRA.

9) Requires Caltrans to develop an asset management plan for SHOPP, with approval by the CTC, to prioritize the state highway assets for funding purposes.

FISCAL EFFECT: Unknown

COMMENTS: After two years, four months, and six days of negotiations, the Legislature passed and Governor Brown signed SB 1 (Beall) Chapter 5, Statutes of 2017. At that time California had not increased the gas tax in 23 years, despite the fact that California's population had grown by 8 million people, adding millions of cars to California's roads without transit and road investments to keep pace with that growth.

At the time that SB 1 passed, California was facing a $59 billion deferred maintenance backlog for road maintenance and repairs. The poor condition of California roads resulted in the state's drivers spending approximately $700 per year in extra vehicle repairs caused by rough roads. In addition, at the time, transit operators were similarly experiencing projected budget shortfalls of $72 billion over the next ten years.

To address these concerns, SB 1 increased the excise tax on gasoline by $0.12 per gallon, increased the excise tax on diesel fuel by $0.20 per gallon, increased the sales tax on diesel fuels by an additional 4% increment, and created TIF, which started on January 1, 2018 and imposed a fee based on the market value of an individual's vehicle.

In total, LAO estimated that SB 1 revenue would generate $5.2 billion annually, with $1.7 generated by TIF. $350 million of TIF revenue, adjusted for inflation, is used for TIRCP for transit capital projects. Another $250 million is used for the new Congested Corridors Program to provide relief for the states most congested corridors. The remaining TIF revenues go to the newly created RMRA.

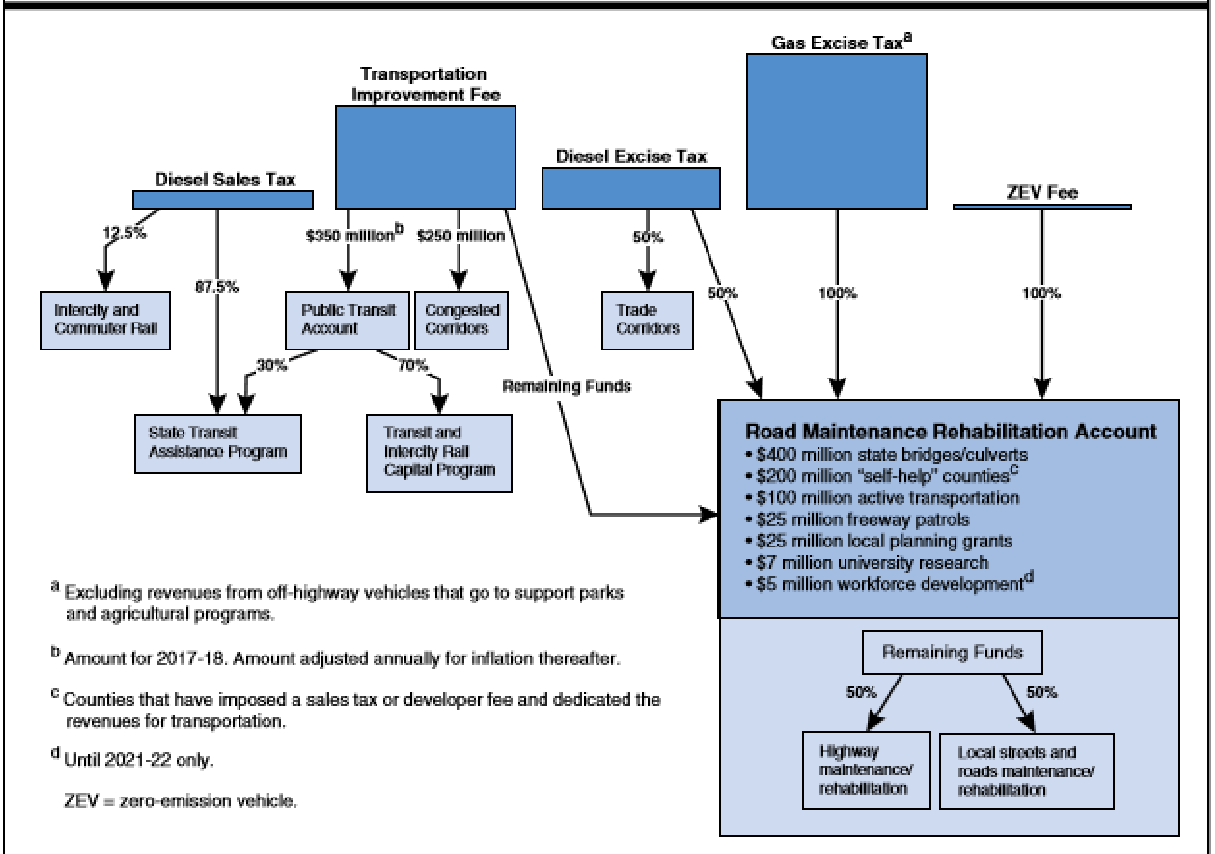
RMRA consists of several programs with statutory set asides, including monies for self help counties, active transportation programs, university research and other programs.

In total, SB 1 has helped fund over 3,000 transportation projects across the state since its implementation.

SB 1 revenue is divided up into several different transportation programs, as illustrated by this chart created by LAO:

Figure 4

Formulas for Distributing New Transportation Revenues



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On March 19, 2020, Governor Newsom issued a statewide order to shelter at home as a result of the COVID-19 pandemic. All nonessential workers were asked to stay home to help stop the spread of COVID-19. As of July 19, 2020, the first draft of this analysis, COVID-19 had claimed the lives of nearly 7,700 Californians and 142,000 Americans. By August 3, 9,399 Californians have died as a result of COVID 19, and 157,000 have died nationwide.

The economy is also doing poorly. The United States Commerce Department estimates that the real gross domestic product decreased at an annual rate of 32.9%, a single year loss nearly equivalent to that of the economic losses of the United States during the Great Depression between 1929 and 1933. California went from having an unemployment rate of 4% in June of 2019 to having an unemployment rate of 16.4% in May of 2020. While the construction industry gained nearly 27,000 jobs between May and June of this year, there are still 37,300 fewer people on payroll in the construction industry in June of 2020 compared to June of 2019.

As a result of the stay at home order, Californians have been driving significantly less. The Mineta Transportation Institute, which receives $2 million in SB 1 funding annually, conducted a study entitled “The Impact of COVID-19 on California Transportation Revenue” at the request of CTC. The study concluded that California could lose up to $20 billion in transportation revenue over the next 10 years because of the COVID-19 pandemic.

This loss of revenue was projected by the Mineta Institute in part due to the fact that vehicle miles traveled (VMT) have been estimated to have dropped 40%, 50%, and even 60% in some areas. The report, written in May, assumed that recovery would begin on June 1, and gasoline consumption would return to pre-COVID-19 levels. Since the report has been written the spread of COVID-19 has gotten worse, and the Governor has ordered many indoor industries to close.

The Road Ecology Center at UC Davis has found that VMT has declined 61% to 90% following various stay-at-home orders. They estimate that the reduced VMT has resulted in a $46 million per week loss of SB 1 fuel tax funds and a $161 million per week loss in total fuel tax revenues. The Road Ecology Center estimates that an eight-week-stay-at-home order would result in a total fuel sales tax loss of $1.3 billion.

The Governor’s May Budget Revision, on the other hand, projects a total loss of $1.5 billion in gas tax revenue between the 2019-2020 Budget Year and the 2020-2021 Budget Year.

In order to reduce the economic loss of gas tax revenue and in order to stimulate the economy during a recession, this bill seeks to allow the California Treasurer to issue revenue bonds backed by TIF revenues that are allocated to SHOPP programs in order to accelerate SHOPP projects.

According to the author, “SB 1351 is an economic stimulus proposal to get people back to work and also expedite the accomplishment of the performance goals set forth in SB 1. Research has indicated that revenues generated from the TIF will continue to increase over the next several years. Therefore, by accelerating shovel-ready SHOPP projects, we can combat the State’s economic downturn by putting people to work in well-paying skilled jobs and also expedite the completion of the performance goals identified in SB 1.”

According to the Professional Engineers in California Government, who are supporting this bill, “SB 1351 will expedite that work at a significant savings to taxpayers by allowing the State to issue lease revenue bonds against the existing road maintenance fee. California has a significant backlog of highway maintenance due to many years of underfunding. PECG agrees it makes sense to accelerate these projects which will put more people back to work while improving the State Highway system.”

California has traditionally sold two main types of bonds: General Fund-supported bonds [the majority of which are general obligation (GO) bonds] and traditional revenue bonds. General obligation bonds require a two-thirds vote by the California Legislature and a majority vote of the electorate and their repayment is guaranteed by the state’s general taxing power. Revenue bonds, on the other hand, are paid for by a designated revenue stream. Revenue bonds only require a majority vote by the Legislature and normally do not require voter approval.

According to LAO, "Bond financing is a type of long-term borrowing that state and local governments frequently use to raise money, primarily for long-lived infrastructure assets. They obtain this money by selling bonds to investors. In exchange, they promise to repay this money, with interest, according to specified schedules. The interest the state has to pay investors on the bonds it issues for public infrastructure is exempt from their federal and state income taxes, which makes the state's interest cost on the bonds less than it otherwise would be."

Bonds can wind up costing the state more money, as bonds generally come with an interest rate and are paid off over the course of 30 years. This bill allows for a 40-year bond. A $100 million bond costs the state $180 million over the course of 30 years. However, LAO notes that "because the repayment is spread over the entire 30-year period, the cost after adjusting for inflation is considerably less-about $1.2 million for each $1 million borrowed."

Interest rate projections currently have revenue bonds at 4% (compared to 3.8% for GO bonds) with the rates steadily increasing to 4.6% in the fall of 2021 (4.4% for GO bonds). The Federal Highway Administration Project Cost Index suggests that construction costs for transportation projects have increased 4 percent per year since 2003. As a result, the interest costs of the bonds may be offset by inflation.

The Treasurer's office provided the following estimates to this committee on the bond revenue that could be generated using TIF revenue and the annual debt service to pay off the bonds for a 20 year bond:

Bond revenue generated (one time)	Annual debt service	Length of loan
$8.028 billion	$512 million	20-years
$6.286 billion	$401 million	20-years
$5.029 billion	$321 million	20-years

For the 2019-20 Budget Year, a total of $1,112,070,000 of TIF revenue went into RMRA. If the gas and diesel excise tax are used to pay off the entirety of the set asides in RMRA, the SHOPP would have received a little more than $556 million in TIF revenue. For example, however unlikely, an $8 billion bond would essentially result in all RMRA revenue dedicated to SHOPP being used for debt service for the next 20 years, while at the same time advancing 15 years' worth of TIF funding in a single year.

Both the League of Cities (The League) and the California State Association of Counties (CSAC) have not taken a position on this bill but have been working closely with this Committee and the author's staff to address concerns they have raised. CSAC and the League have been concerned that the debt service on the bonds may potentially reduce the amount of funding local governments receive under RMRA. To address those concerns, the author recently amended the bill to place the SHOPP's share of RMRA dollars in a separate account and only allow funding in that account to be used to securitize the bonds. In addition, language was added to the bill to specify that it is not the intent for money that would have otherwise been allocated to local governments to be reduced as a result of the debt service on the bonds.

Local governments in California have successfully bonded against sales-tax revenue for transportation projects for years. Contra Costa Transportation Authority, for example, has used revenue bonds to fast track 25 years' worth of projects in 10 years, primarily using bond funds backed by sales tax revenue to pay for projects that have a long useful life (i.e. ones that use concrete, like building new overpass bridges that have a useful life of 75 years).

While local governments have been using revenue bonds for transportation projects for years, the State of California has generally not used revenue bonds based off of California tax revenue to fund projects, more often opting to use GO bonds instead. The last two major GO bond propositions passed by the voters were Proposition 1A (High Speed Rail) and Proposition 1B in 2006, which authorized $19.9 billion in general obligation bonds for various transportation programs.

However, the state has used Federal Grant Anticipation Revenue Vehicle (GARVEE) bond financing for large transportation projects that would otherwise be unaffordable with available State Highway Account (SHA) funding. California must repay the bonds using federal funds expected to be received in the future, and are restricted to being used to cover only the federally funded portion of a project's cost.

GARVEE bonds have been approved by CTC twice, once for a suite of State Transportation Improvement Program (STIP) projects and once for SHOPP projects. In March of 2004, the state issued $614.8 million of GARVEE bonds for eight STIP projects. All 8 projects have been completed and paid for. In October of 2008 the state issued a second set of GARVEE bonds totaling $97.6 million for two SHOPP projects. Those bonds matured from 2009 to 2020, and both have been completed.

Bonding against transportation revenues has the potential to create jobs in the middle of a recession that has resulted in 37,300 fewer construction jobs compared to last year, while also accelerating much needed transportation projects. The White House Council for Economic Advisors found that every $1 billion invested in transportation infrastructure supports 13,000 jobs a year. It's possible the costs of the bonds may even be offset by the cost of labor inflation.

In addition, infrastructure spending has other ancillary benefits to the economy. According to an analysis by TRIP, a national transportation research group, the average return on every $1 spent on highway, street, and bridge investment is $5.20. Other studies put out by the U.S. Treasury Department in 2016 found that for every dollar spent on select infrastructure projects, the net economic benefit ranged between $3.50 and $7.

Injecting $5 billion in transportation spending through the bond process into the economy could result in $25 billion in gains, easily negating the $1.4 billion interest costs that would be made for a $5 billion bond over the course of 20 years.

The 2020 SHOPP was approved by the CTC on May 13, 2020 and includes 986 projects at the cost of $18 billion with funds to be allocated over the next four years and projects to be completed over the next five years. Construction has begun on 19 of those projects, costing a total of $88.5 million. Another $5.8 million worth of projects have cleared the environmental process and are in the final engineering stage. $13.8 billion worth of projects are still in the environmental process.

Using revenue bonds may permit Caltrans to accelerate projects in the 2020 SHOPP to be completed in 2 or 3 years instead of 5, allowing Caltrans to designate billions of dollars' worth of projects for the 2022 SHOPP.

REGISTERED SUPPORT / OPPOSITION:

Support

Professional Engineers in California Government

Opposition

None on file

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