

TRANSPORTATION FUNDING PROTECTION. LEGISLATIVE CONSTITUTIONAL AMENDMENT.

OFFICIAL TITLE AND SUMMARY ★ ★ ★

Prepared by the Attorney General

TRANSPORTATION FUNDING PROTECTION. LEGISLATIVE CONSTITUTIONAL AMENDMENT.

- Protects transportation funding for traffic congestion relief projects, safety improvements, and local streets and roads.
- Prohibits the state sales tax on motor vehicle fuels from being used for any purpose other than transportation improvements.
- Authorizes loans of these funds only in the case of severe state fiscal hardship. Requires loans of revenues from state sales tax on motor vehicle fuels to be fully repaid within the three years. Restricts loans to no more than twice in any 10-year period.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- No direct revenue or cost effects. Increases stability of funding for state and local transportation uses in 2007 and thereafter; reduces somewhat the state's authority to use these funds for other, nontransportation priorities.

FINAL VOTES CAST BY THE LEGISLATURE ON SCA 7 (PROPOSITION 1A)

Senate:	Ayes 38	Noes 0
Assembly:	Ayes 58	Noes 11

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

California spends about \$20 billion a year to maintain, operate, and improve its highways, streets and roads, passenger rail, and transit systems. About one-half of the funding comes from various local sources, including local sales and property taxes, as well as transit fares. The remainder comes from the state and federal levels, largely from gasoline and diesel fuel taxes, and truck weight fees.

Currently, the state levies two types of taxes on motor fuels:

- An excise tax of 18 cents per gallon on gasoline and diesel fuel. (This is generally referred to as the gas tax.)
- A statewide 6 percent tax on the sale of gasoline and diesel fuel ("sales tax").

Gas Tax. Revenues from the state excise tax on gasoline and diesel fuel used on public roads total about \$3.4 billion per year. The State Constitution

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

restricts the use of these revenues to specific transportation purposes. These include constructing, maintaining, and operating public streets and highways, acquiring right of way and constructing public transit systems, as well as mitigating the environmental effects of these facilities.

Sales Tax. The state's sales tax on gasoline and diesel fuel currently provides about \$2 billion a year. Until 2002, most of the revenues from the state sales tax on gasoline were not used for transportation purposes. Instead, these revenues were used for various general purposes including education, health, social services, and corrections. Proposition 42, which was approved by voters in 2002, amended the State Constitution to dedicate most of the revenue from the sales tax on gasoline to transportation uses. Specifically, Proposition 42 requires those revenues that previously went to the General Fund be transferred to the Transportation Investment Fund to provide for improvements to highways, streets and roads, and transit systems. Proposition 42, however, allows the transfer to be suspended when the state faces fiscal difficulties. Proposition 42 is silent as to whether suspended transfer amounts are to be repaid to transportation.

Since 2002, the state has suspended the Proposition 42 transfer twice because of the state's fiscal condition. In 2003–04, the transfer was suspended partially, and in 2004–05, the full amount of the transfer was suspended. Existing law requires that these suspended amounts, with interest, be repaid to transportation by 2008–09 and 2007–08, respectively.

PROPOSAL

This measure amends the State Constitution to further limit the conditions under which the Proposition 42 transfer of gasoline sales tax revenues for transportation uses can be suspended. Specifically, the measure requires Proposition 42 suspensions to be treated as loans to the General Fund that must be repaid in full, including interest, within three years of suspension. Furthermore, the measure only allows suspension to occur twice in ten consecutive fiscal years. No suspension could occur unless prior suspensions (excluding those made prior to 2007–08) have been repaid in full.

In addition, the measure lays out a new schedule to repay the Proposition 42 suspensions that occurred in 2003–04 and 2004–05. Specifically, the suspended amounts must be repaid and dedicated to transportation uses no later than June 30, 2016, at a specified minimum annual rate of repayment.

FISCAL EFFECTS

This measure would have no direct revenue or cost effect. By limiting the frequency and the conditions under which Proposition 42 transfers may be suspended in a ten-year period, the measure would make it more difficult to use Proposition 42 gasoline sales tax revenues for nontransportation purposes when the state experiences fiscal difficulties. As a result, the measure would increase the stability of funding to state and local transportation in 2007 and thereafter. However, the state's authority to direct available funds to meet other nontransportation priorities in the event the state faces fiscal difficulties would be somewhat reduced.

PROP 1A TRANSPORTATION FUNDING PROTECTION.
1A LEGISLATIVE CONSTITUTIONAL AMENDMENT. ★ ★ ★

ARGUMENT IN FAVOR OF PROPOSITION 1A

YES ON PROPOSITION 1A: USE EXISTING GAS TAXES FOR ROADS AND TRANSPORTATION PROJECTS

In 2002, California voters made their commitment to California roads a priority by passing Proposition 42. Voters said they wanted their gas taxes spent on making roads and highways safer and less congested. But a loophole in the law has made it easy—too easy—for the politicians to use those funds for other purposes. In the last three years, nearly \$2.5 billion has been siphoned away from road and highway projects—bringing critical safety and congestion relief projects to a halt.

YES ON 1A STOPS OUR EXISTING GAS TAXES FROM BEING USED FOR OTHER PROJECTS

Proposition 1A closes the loophole in the law and ensures that the gas taxes you *already* pay are spent only on transportation projects benefiting California's 20 million drivers.

YES ON 1A BUILDS NEW ROADS AND HIGHWAYS

California currently has the most congested roads in the nation and our streets and highways are in major disrepair. Drivers spend \$20.7 billion in extra fuel each year and 500,000 hours stuck in traffic every day because of our overcrowded roads. Prop. 1A ensures a stable source of long-term funding to get urgently needed transportation improvement projects off the drawing board, allowing engineers to:

- Make traffic safety improvements
- Repair the most dangerous sections of state highways
- Reduce congestion on major freeways
- Widen freeways to prevent bottlenecks
- Complete our network of carpool lanes
- Fix neglected streets and roads
- Improve public transit

YES ON 1A MEANS A STRONGER ECONOMY

California's economy depends on a first-rate transportation system (something we used to have). Without a major emphasis on improving our infrastructure so we can move people and goods throughout the state, our economic future will suffer.

YES ON 1A: PART OF A LONG-TERM PLAN TO REBUILD CALIFORNIA

Proposition 1A is part of the Rebuild California Plan, the first comprehensive infrastructure plan in 40 years. The plan uses the taxes we're already paying to build the roads, housing, schools, and water systems we need to sustain our economy and our quality of life for the long-term.

REBUILD CALIFORNIA: YES ON 1A, 1B, 1C, 1D, and 1E

California's population will reach 50 million in the next 20 years—twice what our current infrastructure was designed for—and it can't be rebuilt overnight. That's why we've got to start now.

To learn more about how this infrastructure plan will benefit you and your community, visit www.ReadForYourself.org.

YES ON 1A: ENSURE EXISTING GAS TAX DOLLARS ARE USED TO IMPROVE CALIFORNIA'S ROADS, HIGHWAYS AND MASS TRANSIT SYSTEMS

THOMAS V. MCKERNAN, President
Automobile Club of Southern California (AAA)

MICHAEL BROWN, Commissioner
California Highway Patrol

MARIAN BERGESON, Chair
California Transportation Commission

REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 1A

Excellent public schools and universities have made California the "Golden State." Education is the engine that drives California's economy.

Proposition 1A removes Education from being the top budget priority!

The People passed Proposition 42 with *exceptions* for drastic times. *It currently takes 2/3 of the Legislature and the Governor to agree to borrow gasoline taxes.*

Some say \$2.5 billion has been "siphoned off" the gasoline taxes. The borrowed money is being repaid *with interest*. *And, the "Rebuild California Plan" will not be affected if Proposition 1A is defeated.*

You must *Vote "NO" on Proposition 1A* unless you believe there will never again be a recession in California.

You must *Vote "NO" on Proposition 1A* unless you know there will never again be a sizeable earthquake, flood, levee break, or fire in California that requires a quick response to save lives and property.

You must *Vote "NO" on Proposition 1A* unless you think that emergency rooms, hospitals, and trauma centers will never again need to have funding priority.

And, you must *Vote "NO" on Proposition 1A* unless you think it was OK to *withhold \$2 billion* from the minimum guarantee to our K-12 schools and to continue to *raise student fees* at our state colleges and universities. *These terrible cuts to education would have been much worse if Proposition 1A had been in effect.*

For our children, for our economy, and to make sure that we can continue to deal with the aftermath of disasters, *Vote "NO" on Proposition 1A.*

JACKIE GOLDBERG, Chair
Assembly Education Committee

TRANSPORTATION FUNDING PROTECTION. PROP
★ ★ ★ LEGISLATIVE CONSTITUTIONAL AMENDMENT. 1A

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ARGUMENT AGAINST PROPOSITION 1A

When the next recession hits, the Legislature and the Governor must be able to prioritize both cuts and expenditures.

Proposition 1A would put still more of California's budget on "automatic pilot." That means that the Governor and the Legislature won't be able to set priorities. If education, healthcare, public safety, or childcare funds are in need of money, during any recession, the *first priority* for gasoline taxes will be potholes and highways. Highways and potholes are very important. But on this ballot Proposition 1B will provide almost \$20 billion dollars for Transportation.

Proposition 42 of 2002 already has strong protections for highway and pothole funds. Money can *only* be borrowed by a 2/3 vote of both houses and the signature of the Governor. It must be repaid and with interest for the full time it was borrowed. Proposition 1A tightens the restrictions, and makes borrowing almost impossible.

Everyone seems to agree in California that our number one priority is Public Education! But, if Proposition 1A were to pass, that would no longer be true. We only have to look at recent history to understand the impact of Proposition 1A.

In 2003–04, the Legislature and the Governor borrowed \$868 million from the sales tax revenue on gasoline. And in 2004–05, we again borrowed \$1.258 billion from the same funds. Without the ability to borrow money internally, the choices would have been to borrow from Wall Street, make massive cuts to health and education, or raise taxes.

Even with about \$2 billion in borrowing from gasoline tax funds, K–12 public schools still were cut \$2 billion from what they were guaranteed. We also cut funds for textbooks and maintenance of classrooms and school buildings. Community college students saw their fees more than double, rising from \$11 per unit to \$26 per unit, and hundreds of thousands of community college students had to quit college as a result. University of California and California State University students saw their undergraduate fees rise a whopping 30% in three years time.

We have not repaid the \$2 billion cut made to K–12 education in 2004–05. And, if Proposition 1A had been in effect, the cut to K–12 public education could have been \$4 billion!

In bad years, the Legislature and the Governor need the flexibility to shift funds temporarily to ensure that education receives at least its minimum guarantee. The Legislature and the Governor need to be able to set priorities as they come up. If there is an earthquake, flood, or major fires, or if trauma centers and emergency rooms continue to close, we need to be able to address those emergencies. Don't tie the hands of those whose job it is to reflect your priorities in the State budget. VOTE "NO" ON PROPOSITION 1A!

JACKIE GOLDBERG, Chair
Assembly Education Committee

REBUTTAL TO ARGUMENT AGAINST PROPOSITION 1A

Proposition 1A is about upholding the will of voters and setting priorities. In 2002, nearly 70% of voters approved a measure that was supposed to dedicate our gas taxes to transportation improvements. The voters said building new roads, relieving congestion, and improving highway safety are priorities.

Unfortunately, as the opponent points out, politicians have been exploiting a loophole in that law. They've diverted nearly \$2.5 billion in gas taxes that were supposed to go to transportation and spent that money on other programs. As a result, our transportation system is badly neglected and the backlog of congestion relief, highway safety, and road repair projects has grown larger.

IT'S TIME TO UPHOLD THE WILL OF VOTERS AND CLOSE THE GAS TAX LOOPHOLE ONCE AND FOR ALL.

YES ON 1A simply makes sure the gas taxes we pay at the pump are actually used to build new roads and improve our transportation system.

Prop. 1A *will not* reduce funding for education or any other state program. Education funding is constitutionally protected and Proposition 1A does not change that.

- That's why educators leading taxpayer, environmental, business, and public safety groups support Prop. 1A.

Proposition 1A is part of the Rebuild California Plan, the first comprehensive infrastructure plan in 40 years.

VOTE YES ON 1A. Ensure our existing gas tax dollars are used to improve California's roads, highways, and mass transit systems.

STEVE KRULL, President
California Police Chiefs Association

MARK WATTS, Interim Executive Director
Transportation California

ALLAN ZAREMBERG, President
California Chamber of Commerce

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PROPOSITION 1A

This amendment proposed by Senate Constitutional Amendment 7 of the 2005–2006 Regular Session (Resolution Chapter 49, Statutes of 2006) expressly amends the California Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO SECTION 1 OF ARTICLE XIX B

SECTION 1. (a) For the 2003–04 fiscal year and each fiscal year thereafter, all moneys that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, and that are deposited in the General Fund of the State pursuant to that law, shall be transferred to the Transportation Investment Fund, which is hereby created in the State Treasury.

(b) (l) For the 2003–04 to 2007–08 fiscal years, inclusive, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on ~~the operative date of this article~~ *March 6, 2002*.

(2) For the 2008–09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated solely for the following purposes:

(A) Public transit and mass transportation.

(B) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program, or any successor to that program.

(C) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.

(D) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.

(c) For the 2008–09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, as follows:

(A) Twenty percent of the moneys for the purposes set forth in subparagraph (A) of paragraph (2) of subdivision (b).

(B) Forty percent of the moneys for the purposes set forth in subparagraph (B) of paragraph (2) of subdivision (b).

(C) Twenty percent of the moneys for the purposes set forth in subparagraph (C) of paragraph (2) of subdivision (b).

(D) Twenty percent of the moneys for the ~~purpose~~ *purposes* set forth in subparagraph (D) of paragraph (2) of subdivision (b).

(d) ~~The~~ (1) *Except as otherwise provided by paragraph (2), the transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may be suspended, in whole or in part, for a fiscal year if both all of the following conditions are met:*

(+) (A) ~~The Governor has issued~~ *issues* a proclamation that declares that, *due to a severe state fiscal hardship, the suspension of the transfer of revenues pursuant to required by subdivision (a) will result in a significant negative fiscal impact on the range of functions of government funded by the General Fund of the State is necessary.*

(+) (B) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues ~~pursuant to required by subdivision (a); provided that~~ *and* the bill does not contain any other unrelated provision.

(C) *No later than the effective date of the statute described in subparagraph (B), a separate statute is enacted that provides for the full repayment to the Transportation Investment Fund of the total amount of revenue that was not transferred to that fund as a result of the suspension, including interest as provided by law. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the suspension applies.*

(2) (A) *The transfer required by subdivision (a) shall not be suspended*

for more than two fiscal years during any period of 10 consecutive fiscal years, which period begins with the first fiscal year commencing on or after July 1, 2007, for which the transfer required by subdivision (a) is suspended.

(B) *The transfer required by subdivision (a) shall not be suspended during any fiscal year if a full repayment required by a statute enacted in accordance with subparagraph (C) of paragraph (1) has not yet been completed.*

(e) The Legislature may enact a statute that modifies the percentage shares set forth in subdivision (c) by a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the moneys described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).

(f) (1) *An amount equivalent to the total amount of revenues that were not transferred from the General Fund of the State to the Transportation Investment Fund, as of July 1, 2007, because of a suspension of transfer of revenues pursuant to this section as it read on January 1, 2006, but excluding the amount to be paid to the Transportation Deferred Investment Fund pursuant to Section 63048.65 of the Government Code, shall be transferred from the General Fund to the Transportation Investment Fund no later than June 30, 2016. Until this total amount has been transferred, the amount of transfer payments to be made in each fiscal year shall not be less than one-tenth of the total amount required to be transferred by June 30, 2016. The transferred revenues shall be allocated solely for the purposes set forth in this section as if they had been received in the absence of a suspension of transfer of revenues.*

(2) *The Legislature may provide by statute for the issuance of bonds by the state or local agencies, as applicable, that are secured by the minimum transfer payments required by paragraph (1). Proceeds from the sale of those bonds shall be allocated solely for the purposes set forth in this section as if they were revenues subject to allocation pursuant to paragraph (2) of subdivision (b).*

PROPOSITION 1B

This law proposed by Senate Bill 1266 of the 2005–2006 Regular Session (Chapter 25, Statutes of 2006) is submitted to the people in accordance with the provisions of Article XVI of the California Constitution.

This proposed law adds sections to the Government Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Chapter 12.49 (commencing with Section 8879.20) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 12.49. THE HIGHWAY SAFETY, TRAFFIC REDUCTION, AIR QUALITY, AND PORT SECURITY BOND ACT OF 2006

Article 1. General Provisions

8879.20. (a) *This chapter shall be known as the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006.*

(b) *This chapter shall only become operative upon adoption by the voters at the November 7, 2006, statewide general election.*

8879.22. *As used in this chapter, the following terms have the following meanings:*

(a) *“Board” means any department receiving an allocation of bond proceeds pursuant to this chapter.*

(b) *“Committee” means the Highway Safety, Traffic Reduction, Air Quality, and Port Security Committee created pursuant to Section 8879.27.*

(c) *“Fund” means the Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006 created pursuant to Section 8879.23.*

Article 2. Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006 and Program