



SACOG Board of Directors

Item #15-5-6
Consent

May 14, 2015

Approve Consideration of SB 321 – Variable Gas Tax Rate Adjustment

Issue: Should SACOG support SB 321, which would modify the way that the state tax on gasoline is adjusted?

Recommendation: The Government Relations & Public Affairs Committee recommends that the Board support SB 321.

Committee Action/Discussion: Under current law, the state charges variable excise taxes on gasoline and diesel, which are adjusted annually by the Board of Equalization based on a forecast of what would have been raised under a sales tax on gasoline. Based on a near 40-percent drop in fuel prices in 2014, the Board of Equalization voted on February 24, 2015, to cut the state's gasoline tax by 6 cents effective July 1, 2015—a 56 percent reduction in these funds for cities and counties. Additionally, these taxes also fund the state highway system and projects funded by SACOG. SB 321 contains an urgency clause, so it would take effect immediately upon passage and avoid this dramatic decrease, if enacted before July 1.

SB 321 corrects the potential for large fluctuations in the tax by incorporating recent price data into the rate-setting calculation and allowing a semi-annual adjustment if prices vary drastically from estimates. The excise tax rates would be set based on a five-year period, and true-up adjustments could be made on a three-year average. This stability is beneficial to local governments as they forecast their own revenues. A copy of the legislative language is attached.

SB 321 is supported by the California Association of Councils of Governments (CALCOG), the League of California Cities, the California State Association of Counties, Transportation California, Associated General Contractors, California Alliance for Jobs, California State Council of Laborers, and the Self-Help Counties Coalition, among others. There are no known opponents.

SB 321 has passed the Senate Governance and Finance Committee and the Senate Appropriations Committee. It is pending on the Senate Floor.

Approved by:

Mike McKeever
Chief Executive Officer

MM:EJ:ts
Attachment

Key Staff: Erik Johnson, Manager of Policy and Administration, (916) 340-6247

AMENDED IN SENATE APRIL 23, 2015
AMENDED IN SENATE MARCH 26, 2015

SENATE BILL

No. 321

Introduced by Senator Beall

February 23, 2015

An act to amend Section 7360 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 321, as amended, Beall. Motor vehicle fuel taxes: rates: adjustments.

Existing law, as of July 1, 2010, exempts the sale of, and the storage, use, or other consumption of, motor vehicle fuel from specified sales and use taxes and increases the excise tax on motor vehicle fuel, as provided.

Existing law requires the State Board of Equalization, for the 2011–12 fiscal year and each fiscal year thereafter, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, to adjust the motor vehicle fuel tax rate in a manner as to generate an amount of revenue equal to the amount of revenue loss attributable to the sales and use tax exemption on motor vehicle fuel, based on estimates made by the board. Existing law also requires, in order to maintain revenue ~~neutrality~~ *for each year*, the board to take into account actual net revenue gain or loss for the fiscal year ending prior to the rate adjustment date. Existing law requires this ~~determined~~ *adjusted* rate to be effective during the state's next fiscal year.

This bill ~~would~~, for the 2015–16 fiscal year and each fiscal year thereafter *would*, instead require the board, on or before July 1, 2015,

or March 1 of the fiscal year immediately preceding the applicable fiscal year, as specified, to adjust the rate in a manner as to generate an amount of revenue equal to the amount of revenue loss attributable to the exemption, based on estimates made by the board that reflect the combined average of the actual fuel price over the previous 4 fiscal years and the estimated fuel price for the current fiscal year, and continuing to take into account adjustments required by existing law to maintain revenue neutrality. ~~This bill would authorize, for rate adjustments made after January 1, 2015, in order to reduce the potential volatility of the revenues generated by the motor vehicle fuel tax, the board to make partial adjustments over up to 3 consecutive years to take into account the net revenue gain or loss of any fiscal year.~~

This bill would also authorize, if, due to clear changes in either fuel prices or consumption in the state, the board makes a determination that the amount of revenue being generated by the motor vehicle fuel tax will be significantly different than the estimates made by the board, the board to adjust the rate more frequently than annually, but no more frequently than every 6 months in order to reduce the potential volatility of the revenues.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7360 of the Revenue and Taxation Code
2 is amended to read:
3 7360. (a) (1) A tax of eighteen cents (\$0.18) is hereby imposed
4 upon each gallon of fuel subject to the tax in Sections 7362, 7363,
5 and 7364.
6 (2) If the federal fuel tax is reduced below the rate of nine cents
7 (\$0.09) per gallon and federal financial allocations to this state for
8 highway and exclusive public mass transit guideway purposes are
9 reduced or eliminated correspondingly, the tax rate imposed by
10 paragraph (1), on and after the date of the reduction, shall be
11 recalculated by an amount so that the combined state rate under
12 paragraph (1) and the federal tax rate per gallon equal twenty-seven
13 cents (\$0.27).

1 (3) If any person or entity is exempt or partially exempt from
2 the federal fuel tax at the time of a reduction, the person or entity
3 shall continue to be so exempt under this section.

4 (b) (1) On and after July 1, 2010, in addition to the tax imposed
5 by subdivision (a), a tax is hereby imposed upon each gallon of
6 motor vehicle fuel, other than aviation gasoline, subject to the tax
7 in Sections 7362, 7363, and 7364 in an amount equal to seventeen
8 and three-tenths cents (\$0.173) per gallon.

9 (2) (A) For the 2011–12 fiscal year to the 2014–15 fiscal year,
10 inclusive, the board shall, on or before March 1 of the fiscal year
11 immediately preceding the applicable fiscal year, adjust the rate
12 in paragraph (1) in that manner as to generate an amount of revenue
13 that will equal the amount of revenue loss attributable to the
14 exemption provided by Section 6357.7, based on estimates made
15 by the board, and that rate shall be effective during the state’s next
16 fiscal year.

17 (B) For the 2015–16 fiscal year, the board shall, on or before
18 July 1, 2015, adjust the rate in paragraph (1) in that manner as to
19 generate an amount of revenue that will equal the amount of
20 revenue loss attributable to the exemption provided by Section
21 6357.7, based on estimates made by the board that reflect the
22 combined average of the actual fuel price over the previous four
23 fiscal years and the estimated fuel price for the current fiscal year,
24 and that rate shall be effective during the 2015–16 fiscal year.

25 (C) For the 2016–17 fiscal year and each fiscal year thereafter,
26 the board shall, on or before March 1 of the fiscal year immediately
27 preceding the applicable fiscal year, adjust the rate in paragraph
28 (1) in that manner as to generate an amount of revenue that will
29 equal the amount of revenue loss attributable to the exemption
30 provided by Section 6357.7, based on estimates made by the board
31 that reflect the combined average of the actual fuel price over the
32 previous four fiscal years and the estimated fuel price for the
33 current fiscal year, and that rate shall be effective during the state’s
34 next fiscal year.

35 (3) In order to maintain revenue neutrality, beginning with the
36 rate adjustment on or before March 1, 2012, the adjustment under
37 paragraph (2) shall also take into account the extent to which the
38 actual amount of revenues derived pursuant to this subdivision
39 and, as applicable, Section 7361.1, the revenue loss attributable
40 to the exemption provided by Section 6357.7 resulted in a net

1 revenue gain or loss for the fiscal year ending prior to the rate
2 adjustment date on or before March 1. ~~For rate adjustments made~~
3 ~~after January 1, 2015, in order to reduce the potential volatility of~~
4 ~~the revenues generated by the tax imposed under this subdivision,~~
5 ~~the board may make partial adjustments over up to three~~
6 ~~consecutive years to take into account the net revenue gain or loss~~
7 ~~of any fiscal year.~~

8 (4) If, due to clear changes in either fuel prices or consumption
9 in the state, the board makes a determination that the amount of
10 revenue being generated by the tax imposed by this section will
11 be significantly different than the estimates made by the board,
12 the board may adjust the rate in paragraph (1) more frequently
13 than annually, but no more frequently than every six months in
14 order to reduce the potential volatility of the revenues.

15 (5) The intent of paragraphs (2) and (3) is to ensure that Chapter
16 6 of the Statutes of 2011, which added this subdivision and Section
17 6357.7, does not produce a net revenue gain in state taxes.

18 (6) It is the intent of the Legislature that the amendments made
19 by the act adding this paragraph does not produce a net revenue
20 gain in state taxes. Revenue neutrality, as used in this section, does
21 not refer to revenues generated in any particular fiscal year, but
22 instead means that, over a reasonable period of fiscal years, the
23 actual amount of revenues derived pursuant to this subdivision is
24 equal to the estimated amount of revenue loss attributable to the
25 exemption provided by Section 6357.7.

26 SEC. 2. This act is an urgency statute necessary for the
27 immediate preservation of the public peace, health, or safety within
28 the meaning of Article IV of the Constitution and shall go into
29 immediate effect. The facts constituting the necessity are:

30 In order to avoid a significant and devastating decrease in the
31 amount of funding available for the maintenance of California's
32 local streets and roads, it is necessary that this act take effect
33 immediately.