JOINT INFORMATIONAL HEARING

ASSEMBLY REVENUE AND TAXATION AND TRANSPORTATION COMMITTEES
SENATE TRANSPORTATION AND HOUSING COMMITTEE

Initiative Constitutional Amendment:
Voter Approval for Increases to Fuel and Vehicle Taxes and Fees

Monday, June 18, 2018
2:30 P.M. ♦ State Capitol, Room 4202

Background Paper

Purpose of Hearing

The purpose of this hearing is to comply with Election Code Section 9034~~ of the Elections Code~~, specifically to hold a joint public hearing on the subject of a proposed initiative measure which has submitted 25~~%~~ percent of the number of signatures needed to qualify the initiative for the ballot.

Historically, the Legislature's role in statewide initiative measures was limited. However, SB 1253 (Steinberg), Chapter 697, Statutes of 2014, sought to increase the Legislature's role by encouraging the negotiation of legislative solutions between the Legislature, the ~~measure's~~ proposed initiative's proponents, and any other interested party, that would eliminate the need to place the measure on the ballot.

Under SB 1253, once the proponents collect 25~~%~~ percent of the signatures needed to qualify an initiative ~~measure~~ for the ballot, each house will receive from the Secretary of State a copy of the ~~measure~~ initiative together with its circulating title and summary. ~~Measures~~ Initiatives are then assigned to the appropriate committees in each house to consider whether a joint public hearing on the subject of the ~~measure~~ initiative should be held. If the committees decide to hold a hearing, they need to ~~hold~~ conduct the hearing at least 131 days before the election.

Initiative Overview

On October 13, 2017, proponents submitted to the Attorney General's Office the Proposed Initiative No. 17-0033 entitled "ELIMINATES RECENTLY ENACTED ROAD REPAIR AND TRANSPORTATION FUNDING REPEALING REVENUES DEDICATED FOR THOSE PURPOSES. REQUIRES ANY MEASURE TO ENACT CERTAIN VEHICLE FUEL TAXES AND VEHICLE FEES BE SUBMITTED TO AND APPROVED BY THE ELECTORATE.". The proposal adds Section 3.5 to Article XIII A of the California Constitution as follows:

> *Sec. 3.5 (a) Notwithstanding any other provision of law, the Legislature shall not impose, increase or extend any tax, as defined in section 3, on the sale, storage, use or consumption of motor vehicle gasoline or diesel fuel, or in on the privilege of a resident of California to operate on the public highways a vehicle, or trailer coach, unless and until that proposed tax is submitted to the electorate and approved by a majority vote.*
>
> *(b) This section does not apply to taxes on motor vehicle gasoline or diesel fuel, or on the privilege of operating a vehicle of trailer coach at the rates that were in effect on January 1, 2017. Any increase in the rate of such taxes imposed after January 1, 2017, shall cease to be imposed unless and until approved by the electorate as required by this section.*

According to the Legislative Analyst's Office (LAO), passage of this ~~proposal~~ initiative would result in two distinct outcomes. First, the ~~measure~~ initiative creates another hurdle to raising new transportation funding revenues as it requires the Legislature to obtain voter approval to impose, increase, or extend excise and sales taxes on gasoline and diesel fuel, as well as taxes on vehicles (such as vehicle registration fees and the vehicle license fee). This new requirement significantly impedes the Legislature's ability to raise additional revenue for transportation as it would first have to pass any such tax measure with a two-thirds vote of each house and then, in order for the new taxes to go into effect, the ~~measure~~ initiative would also have to be approved by a majority of voters on a statewide ballot.

Second, the new voter approval requirements imposed upon the state by this ~~measure~~ initiative would also apply to transportation-related taxes enacted after January 1, 2017, and up to the effective date of the ~~measure.~~initiative, having the effect ~~This would have the effect~~ of eliminating the taxes recently imposed by SB 1 (Beall), Chapter 5, Statutes of 2017, the Road Repair and Accountability Act of 2017. The LAO states that, by adding the requirement that most transportation-related taxes must be approved by the voters, the ~~measure~~ initiative would make it more difficult to impose such charges in the future. As a result, the state could have less transportation-related revenue than would otherwise be the case.

In its summary of fiscal effects, the LAO estimates the specific fiscal impacts if the ~~measure~~ initiative were to pass. In 2018-19, this ~~measure~~ initiative would reduce SB 1 transportation tax revenues from $4.3 billion to $1.4 billion—a $2.9 billion decrease. (The

$1.4 billion in remaining revenues is attributable to the increased taxes collected from July 1, 2018 until this ~~measure~~ initiative would take effect in early November 2018.) Starting in 2019-20, the ~~measure~~ initiative would eliminate all SB 1 transportation tax revenues. Absent the ~~measure~~initiative, these revenues are estimated to total $4.9 billion annually by 2020-21, the first year all the tax increases are implemented. The funding reductions would primarily affect state highway maintenance and rehabilitation, local streets and roads, and mass transit.

According to proponents of the proposed initiative, this ~~measure~~ initiative is directly related and intended to repeal SB 1. While it does not repeal SB 1 or any of the programs and accountability measures in the bill, the initiative, if passed, would eliminate the revenues funding those new programs and increase the challenge of adequately funding the state's transportation needs in the future.

The Road Repair and Accountability Act (SB 1)

Prior to SB 1, the state's fuel taxes had not been increased since 1994~~,~~ when they were set at ~~18~~ $0.18 cents per gallon. By 2016, according to the California Transportation Commission (CTC) that $0.18 cents was worth $0.078~~7.8~~ cents after factoring in the costs of inflation, construction cost increases, and vehicle fuel efficiencies. On the other hand, since 1994, California's population has grown by eight million, with millions more cars and trucks on our roads. Today, Californians drive more than 350 billion miles a year – more than any other state.

It is widely documented that this reduction in resources and growing demand has led to the deterioration of California's local streets and roads, transit facilities, and state highway system. Specifically, prior to SB 1, the state highway system was facing a $59 billion deferred maintenance backlog for road maintenance and repairs. The total shortfall for local streets and roads maintenance was estimated to be approximately $7.3 billion annually. Transit operators were estimating their funding shortfalls to be $72 billion over the next ~~ten~~ 10 years. Further, studies show that each California driver spends approximately $700 per year in extra vehicle repairs caused by rough roads and estimate that the California economy loses approximately $54 billion each year due to gridlock traffic and poor infrastructure condition.

In April 2017, the Legislature enacted and Governor Brown signed SB 1 (Beall), which increases several taxes and fees to raise the equivalent of roughly $52.4 billion over ~~ten~~ 10 years in new transportation revenues and makes adjustments for inflation every year. In addition, SB 1 directs the funding to be used toward deferred maintenance on the state highways and local streets and roads, and to improve the state's trade corridors, transit systems, and active transportation facilities. Finally, SB 1 includes a number of reform measures to increase accountability of the state and other recipients of transportation funding.

Specifically, SB 1 increases existing excise taxes on gasoline as well as existing excise and sales taxes on diesel. Additionally, the legislation creates two new vehicle taxes: (1) a transportation improvement fee that varies depending on the value of the vehicle (similar to the existing vehicle license fee), and (2) a supplemental registration charge for "zero-emission" vehicles (such as electric cars). The legislation phases in the taxes over time, with some increases already in effect. Altogether, the LAO estimates that the tax increases will increase annual transportation revenues by $2.6 billion in 2017-18, increasing to $4.9 billion in 2020-21 once all the taxes are fully implemented.

SB 1 directs much of the new revenue into the Road Maintenance and Rehabilitation Account (RMRA), to be spent on basic road maintenance and rehabilitation, critical safety projects, and several other transportation programs. Specifically, each year $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. The remainder of funds in the RMRA is split 50/50 between state and local governments for road maintenance and rehabilitation projects. The CTC is required to annually evaluate each agency receiving funds to ensure that the funds are spent appropriately.

In addition, SB 1 allocates an estimated $750 million annually for public transportation capital projects and operating expenses. The newly~~-~~created Trade Corridor Enhancement Account, estimated to receive $300 million annually from SB 1, will fund corridor-based freight projects nominated by the state and local agencies. Finally, the Congested Corridors Program provides $250 million annually for projects that provide congestion relief within the state's most heavily used transportation corridors.

The transportation measure also includes a number of reform and accountability provisions. SB 1 creates a new Transportation Inspector General to investigate and report on waste and abuse of transportation funding. The legislation also directs the California Department of Transportation (Caltrans) to generate up to $100 million in department efficiencies and use those savings on road maintenance and repair. In addition, SB 1 requires additional CTC oversight of the development and management of the state's highway rehabilitation program, including allocating staffing support and reviewing and approving each project. Finally, ~~this bill~~SB 1 includes new 10-year performance targets for the state highway program, including requiring not less than 98~~%~~percent of pavement on the state highway system be in good or fair condition; not less than 90~~%~~percent level of service achieved for maintenance of potholes, spalls, and cracks; not less than 90~~%~~percent of culverts in good or fair condition; not less than 90~~%~~percent of the transportation management system units in good condition; and to fix not less than an additional 500 bridges.

Various other sections of SB 1 further both environmental goals and provide industry relief. For example, SB 1 creates and funds an Advance Mitigation Program, administered by Caltrans, to protect natural resources through project mitigation and to accelerate project delivery. In addition, starting in 2020, SB 1 prohibits the Department of Motor Vehicles (DMV)~~, starting in 2020,~~ from registering or renewing the registration of specified medium and heavy duty diesel trucks unless the truck owner can demonstrate full compliance with applicable emission requirements. However, SB 1 also creates a "useful life" period where a truckers subject to future, undefined regulations can ~~get~~ receive a return on her/his ~~their~~ investment before being asked to replace or modify the vehicle. Thus, if the California Air Resources Board adopts future in-use regulations, operators will not be required to turnover their trucks until they have reached 13 years from the model year the engine and emission control systems are first certified or until they reach 800,000 vehicle miles traveled.

According to a recent study by the American Road and Transportation Builders Association, a sustained increase in California highway, street, bridge, and transit investment will reduce costs for users of the transportation system, provide broad economic benefits to communities across the state and improve the quality of infrastructure. The study states that SB 1 will support at least $182.6 billion in increased economic activity and benefits for California residents and businesses over the next 10 years, averaging $18.3 billion per year.

Conclusion

Should the proposed initiative pass, the state and its residents will experience a number of impacts. First, tax rates on fuels will be reduced, though to what extent this reduction will be seen at the fuel pump is unknown[1]. In addition, certain vehicle registration fees will be eliminated. On the other hand, many new programs will no longer have the necessary funding to continue, which may lead to reduction in transit service, road and other transportation projects no longer being feasible, and perhaps even projects currently in the process of construction being curtailed or delayed. In a world of insufficient resources for all its transportation needs, the state will need to take action to reduce its responsibilities and fit its workload within its means. As has always been the case, California's economy will be limited by the efficiency of its transportation system.

The most important impact, however, may be the precedent set by the passage of this initiative. As noted by the LAO, measures raising taxes and fees for any purpose already require support from a two-thirds majority of both the Assembly and the Senate as well as a signature from the Governor. This proposed initiative would then add an additional hurdle for increasing transportation revenues by requiring a separate vote of the people. It is not clear, should this initiative pass, where this effort might lead, and if, at some point, the Legislature's ability to address the state's needs may become so curtailed by initiative directives that it becomes virtually impossible for the state's elected officials to govern the state.

[1] While SB 1 increases the gasoline excise tax by 12 cents, the price of gasoline at the pump is arbitrarily set by the stations. Eliminating the excise tax increase may not have any impact on the price of gasoline at the pump.