

**PROPOSITION 69: CALIFORNIA TRANSPORTATION AND FEES LOCKBOX AND  
APPROPRIATIONS LIMIT EXEMPTION AMENDMENT**

*March 2018*

**SDCTA Position:**

**SUPPORT**

**Rationale for Position:**

Proposition 69 provides additional assurances that tax revenues collected to address California’s deteriorating transportation infrastructure are used solely for specific transportation-related purposes. It is important that taxes raised to improve our pavement condition index and repair bridges and other transportation assets are not diverted to other projects. Proposition 69 does not, however, close all possible loopholes to prevent legislators from spending revenue from transportation taxes and fees on purposes other than those specified in the amendment. SDCTA urges the legislature and voters to consider further measures that could appropriately protect all funds for transportation projects.

**Title:** Assembly Constitutional Amendment No. 5

**Jurisdiction:** State of California

**Type:** Legislatively Referred Constitutional Amendment

**Vote:** Simple Majority

**Status:** On the June 5, 2018 Primary Election Ballot as Proposition 69

**Issue:** Limit spending of state funds collected by SB 1

**Description:** A legislatively referred constitutional amendment to restrict spending of revenue from diesel excise tax and Transportation Improvement Fee for transportation purposes and to exempt revenue from SB 1 from the state appropriations limit

**Fiscal Impact:** Proposition 69 would have one-time General Fund costs between \$414,000 and \$552,000, approximately, for election-related costs. Proposition 69 would have no additional fiscal impact other than ensuring that revenues collected for road and highway maintenance and repair and other transportation-related goals are spent for those purposes. Approximately \$2 billion of SB 1 revenues would be exempt from the appropriations limit. Approximately \$1.5 billion of Transportation Impact Fee annual revenues and \$500 million of annual diesel fuel tax revenues would be committed to transportation purposes.

**Background**

The average pavement condition index of California roads, according to the 2016 *California Statewide Local Streets and Roads Needs Assessment* report, is 65 out of 100.<sup>1</sup> This amounts to an “at risk” condition, which requires more funds and repair than typical preventative maintenance. Additionally, 68% of roads in California are considered to be in poor or mediocre condition, according to the American

<sup>1</sup> *California Statewide Local Streets and Roads Needs Assessment*, NCE, October 2016, [www.savecaliforniastreet.org/wp-content/uploads/2016/10/2016-CA-Statewide-Local-Streets-and-Roads-Needs-Assessment-Final-Report.pdf](http://www.savecaliforniastreet.org/wp-content/uploads/2016/10/2016-CA-Statewide-Local-Streets-and-Roads-Needs-Assessment-Final-Report.pdf).

Society of Civil Engineers.<sup>2</sup> The table below shows estimated costs per square yard for different types of road maintenance and repair.

**Table 1: Road Maintenance and Repair Costs in California**

Classification	Preventative Maintenance	Thin HMA Overlay	Thick HMA Overlay	Reconstruction
Major Roads	\$4.85	\$21.10	\$31.50	\$70.60
Local Roads	\$4.30	\$19.60	\$29.10	\$61.50

Source: 2016 California Statewide Local Streets and Roads Needs Assessment Report

The 2016 report also indicated that local streets are facing a \$73 billion funding shortage over the next decade. In order to maintain the *current* condition of streets, approximately \$3.5 billion is needed on an annual basis. However, current funding sits at about \$1.98 billion each year. In order to reach best management practices level of street condition, \$7 billion is needed annually.<sup>3</sup> The table below shows different funding scenarios for various street conditions.

**Table 2: Funding Scenarios for Address California Pavement Conditions**

Scenarios	Annual Budget	PCI in 2016	Condition Category	% Pavements in Failed Condition	% Pavements in Good Condition
Current Conditions	-	65	At Risk	6.9%	54.8%
1. Existing Funding	\$1.98 B	56	At Risk	22.2%	47%
2. Maintain PCI at 65	\$3.5 B	65	At Risk	21.8%	74%
3. Best Practices	\$7.5 B	87	Excellent	0.0%	100%

Source: 2016 California Statewide Local Streets and Roads Needs Assessment Report

### Existing Law

Existing law, through the Constitution of the State of California, restricts spending for revenues collected from state taxes on gasoline used by motor vehicles on public ways to specified purposes related to streets, highways, and public transit. Vehicle tax and fee revenue is also restricted for public transit and for the enforcement and administration of state laws that regulate these vehicles as they are used on public ways. These restrictions do not currently apply to those taxes and fees imposed under the Vehicle License Fee or Sales and Use Tax laws.

Existing law restricts spending for a certain amount of revenues collected from state Sales and Use Tax on diesel fuel to specific transportation planning and public transit purposes and requires that

<sup>2</sup> Manny Leon, “Senate Floor Analysis,” *California State Senate Rules Committee*, April 6, 2017, [www.leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201720180ACA5#](http://www.leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180ACA5#).

<sup>3</sup> *California Statewide Local Streets and Roads Needs Assessment*, p. 3.

these revenues be deposited into the Public Transportation Account in the State Transportation Fund. These revenues cannot be borrowed by the Legislature.

Existing law allows the Legislature and local governments to use a portion of revenues from the excise tax on fuel for the payment of voter-approved bonds issued for transportation-related purposes.

### *The Gann Limit*

As of November 1979, the constitution of the State of California has in place language which sets the calculation of limits on state and local government appropriations of tax revenue, popularly known as Gann limits, and specifies which appropriations are subject to limitation. These limits are adjusted each year based on changes in population and cost of living. The law requires that state and local governments spend revenues exceeding the Gann limit on purposes exempt from the limit or return to taxpayers any revenue in excess of the appropriations limits for that year.<sup>4</sup> This law currently exempts spending from most taxes on fuel as well as spending on capital projects.

### *California Senate Bill No. 1*

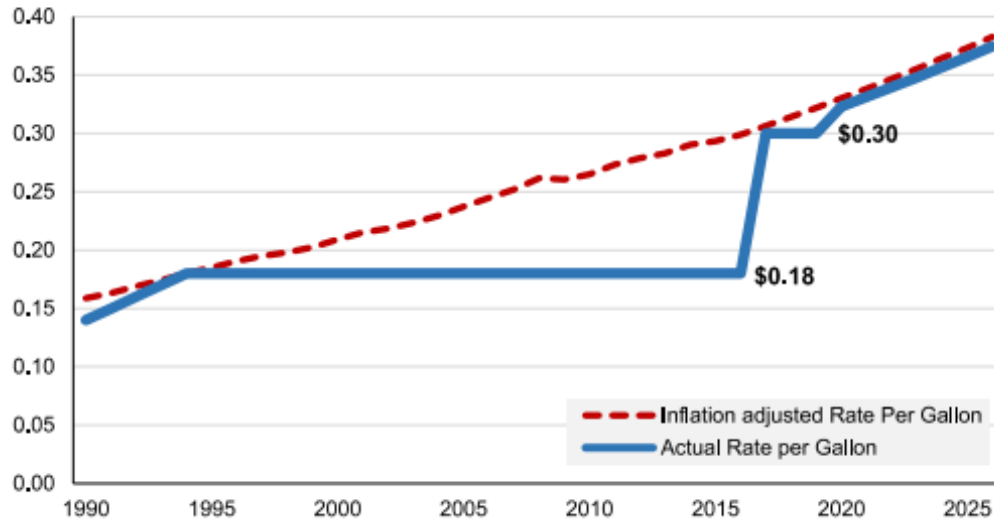
The Road Repair and Accountability Act of 2017, approved by Governor Brown on April 28, 2017, created the Road Maintenance and Rehabilitation Program in order to address deferred maintenance backlog for California's local streets and roads and state highways. Alternatively known as Senate Bill 1 (SB 1), the act also will raise funds for various other state transportation-related programs, including for transit, corridors, and rail.

The gas tax in California was last raised in 1994. Faced with growing inflation and increasingly fuel-efficient vehicles, gas tax revenues have not kept up with the demand for these resources. The chart below demonstrates the changes in gas tax purchasing power since 1990 and the estimated effect of SB 1.

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<sup>4</sup> "Gann Limit," *Kern County Superintendent of Schools*, [www.kern.org/finance/district-advisory-services/gann-limit](http://www.kern.org/finance/district-advisory-services/gann-limit).

Figure TRN-01  
**SB 1 Restored Lost Purchasing Power for the Gas Tax**



Source: California Governor’s Budget Summary 2018-19<sup>5</sup>

The bill increased excise taxes on gasoline by \$0.12 per gallon and excise taxes on diesel by \$0.20 per gallon, as well as increase sales tax for diesel by 4 percent, each with an adjustment for inflation. The bill also imposed a new Transportation Improvement Fee for vehicles amounting to between \$25 and \$175, depending on the value of the vehicle, also with an adjustment for inflation. Lastly, the bill created a new \$100 annual fee, with an inflation adjustment, for model 2020-or-later zero emissions vehicles. The table below shows revenue estimates from the 2018-19 state budget.

**Table 3: Projected Motor Vehicle Fee and Fuel Tax Revenue 2017-2019**

	2016-17 Preliminary	2017-18 Forecast	2018-19 Forecast
<b>Vehicle License Fees</b>	\$2,649,030	\$2,775,708	\$2,892,285
<b>Registration, Weight, &amp; Other Fees</b>	\$4,517,248	\$4,858,268	\$4,987,505
<b>Transportation Improvement Fees</b>	\$0	\$727,000	\$1,510,000
<b>Gasoline Tax</b>	\$4,301,314	\$5,851,420	\$7,058,259
<b>Diesel Tax</b>	\$541,435	\$978,063	\$1,195,159

Source: California Governor’s Budget Summary 2018-19

Most of the funds from these taxes and fees will be placed into a Road Maintenance and Rehabilitation Account in the State Transportation Fund. These funds are intended to be used for transportation improvements, bridges, bike and pedestrian ways, the freeway service patrol program, and

<sup>5</sup> Governor Edmund G Brown Jr., *Governor’s Budget Summary – 2018-19*, January 10, 2018, [www.ebudget.ca.gov/2018-19/pdf/BudgetSummary/RevenueEstimates.pdf](http://www.ebudget.ca.gov/2018-19/pdf/BudgetSummary/RevenueEstimates.pdf).

transportation planning, research, and education. The remainder of the funds are to be used for various corridor and rail programs, and some go to the Department of Food and Agriculture and the Department of Parks and Recreation.

Half of SB 1 revenues will be allocated directly and as matching funds to local cities, counties, and transportation agencies for the repair of local streets and roads and investment in community transportation planning. The other half will be allocated to the state's highway system for improvements and repairs.

SB 1 also set performance goals for California streets over the next decade. These included having at least 98 percent of California roads at a good or fair condition based on the pavement condition index, as well as similar goals for other transportation assets.

Assembly Constitutional Amendment No. 5 (ACA 5) was part of a package of legislation that included SB 1. As California's Constitution currently lays out restrictions for spending of some of the taxes and fees involved in SB 1, ACA 5 is a constitutional amendment to adjust those restrictions. After passing a two-thirds vote of both chambers of the California State Legislature, the amendment was referred to be placed in front of voters in June 2018.

## Proposal

Titled Proposition 69 in the June 2018 election, Assembly Constitutional Amendment No. 5 would amend the Constitution of the State of California in three ways: amend Section 1 of Article XIX A, add Section 15 to Article XIII B, and add Article XIX D. The details of these amendments and additions are outlined below.

Proposition 69 would exclude appropriation of revenues pursuant to the Road Repair and Accountability Act from the appropriations subject to limitation for California government agencies. In other words, in order to encourage spending on important transportation projects, SB 1 revenues do not affect or count toward the appropriations limit for government entities.

The proposal would also restrict the Legislature from borrowing, diverting, or appropriating revenue from the Public Transportation Account for other funds. Specified revenue from sales and use tax on diesel, in addition to what is already required, must be deposited into the Public Transportation Account. The amendment would restrict spending of these revenues to specific purposes related to transportation planning and mass transit, including allocations to transportation commissions and agencies.

Lastly, Proposition 69 would restrict the spending of revenue (over the costs of collection and authorized refunds) from vehicle license fees issued under a specific chapter of the Vehicle License Fee Law to transportation purposes defined below.

*“(1) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for the foregoing purposes, and the administrative costs necessarily incurred in the foregoing purposes.*”

*(2) The research, planning, construction, improvement, maintenance, and operation of public transportation systems (and their related equipment and fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for the foregoing purposes, and the administrative costs necessarily incurred in the foregoing purposes.”*

These revenues would also be prohibited from being spent on principal or interest of state transportation general obligation bonds authorized on or before November 8, 2016, or for those bonds issued after that date unless the bond act specifically authorizes such use. The amendment would also prevent the legislature from borrowing these revenues.

### **Fiscal Impact**

Proposition 69 would have one-time General Fund costs between \$414,000 and \$552,000, approximately, for election-related costs. These estimates were provided by the California Senate Appropriations Committee.

Proposition 69 would have no additional fiscal impact other than ensuring that revenues collected for road and highway maintenance and repair and other transportation-related goals are spent for those purposes. Approximately \$1.5 billion of Transportation Impact Fee annual revenues and \$500 million of annual diesel fuel tax revenues would be committed to transportation purposes.

According to the analysis released by the Legislative Analyst’s Office, less than one-tenth of spending from new SB 1 revenues currently counts toward the state appropriations limit. The office also estimated that California is currently several billion dollars below its spending limit.<sup>6</sup> Should Proposition 69 pass, approximately \$2 billion of SB 1 revenues would be exempt from the Gann limit. This would put the state slightly further below the spending limit.

### **Governance Impact**

Proposition 69 would restrict the ability of California legislators to spend revenues from SB 1 and other transportation funding bills on projects other than transportation-related projects. The specified goal of SB 1 is to raise funds to address deteriorating transportation infrastructure throughout the state.

### **Proponents**

League of California Cities  
League of Women Voters of California  
California Chamber of Commerce  
California State Conference, NAACP  
California Alliance for Jobs  
California Business Roundtable  
California State Association of Counties  
Southern California Partnerships for Jobs

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<sup>6</sup> “Analysis by the Legislative Analyst,” *California Legislative Analyst’s Office*, February 13, 2018, [www.elections.cdn.sos.ca.gov/statewide-elections/2018-primary/vig/prop-69-leg-analysis.pdf](http://www.elections.cdn.sos.ca.gov/statewide-elections/2018-primary/vig/prop-69-leg-analysis.pdf).

Transportation California  
California Transit Association  
Congress of California Seniors

## Proponent Arguments

“Given the urgency of the transportation and infrastructure repair backlog before California, and the additional burden we are asking the state’s taxpayers to take on to address it now, it is essential that we provide Californians with a very clear assurance that these new revenues will be spent only on repairing our aging infrastructure, reducing congestion, and otherwise supporting transportation improvements that foster economic development across the state—in urban, suburban, and rural areas alike. ACA 5 provides voters with the important assurance that their hard-earned money will be spent in a responsible and fiscally prudent manner.” – Senator Josh Newman, Senate District 29.<sup>7</sup>

“Yes on 69 ensures existing transportation revenues we pay at the pump and when we register our vehicles can ONLY be used for road and transportation improvement projects. Proposition 69 constitutionally protects these funds by prohibiting the legislature from using these revenues for non-transportation purposes.” – Ballot Argument in Favor

## Opponents

Assemblyman Frank Bigelow  
Senator John Moorlach

## Opponent Arguments

“While the proponents argue that protecting these dollars ensures traffic congestion relief, filling potholes, and safety improvements, it’s not quite the case. A portion of money protected by Proposition 69 is for transit, which is NOT fixing our roads; no new infrastructure, no updates to California’s crumbling roads, and no traffic relief. Other dollars can go to projects like high speed rail, bike lanes, and protecting habitat. Proposition 69 fails to protect ALL transportation dollars. Sacramento will collect \$1 billion annually in vehicle weight fees, which will go unprotected and backfill the state’s General Fund. Proposition 69 fails to fully protect transportation taxes from being diverted to programs that do nothing to fix our roads and highways.” – Rebuttal to Argument in Favor of Proposition 69

“Proposition 69 exempts the recently enacted transportation taxes and fees from the state spending limit. This effectively raises the cap on General Fund spending by approximately \$2 billion annually. By exempting these expenditures, state spending would be allowed to grow to levels that otherwise could not be reached.” – Argument Against Proposition 69

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<sup>7</sup> “Senator Newman’s Transportation Lockbox Measure Approved by Legislature,” *California State Senate*, April 6, 2017, [www.sd29.senate.ca.gov/news/20170406-senator-newman%E2%80%99s-transportation-lockbox-measure-approved-legislature](http://www.sd29.senate.ca.gov/news/20170406-senator-newman%E2%80%99s-transportation-lockbox-measure-approved-legislature).

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