

*Proposition 91 – Transportation Funding*

**Board Recommendation:**

**SUPPORT**

**Rationale:**

Proposition 91 was originally intended to be placed on the ballot for the November 2006 election as Proposition 1A; instead, the proposal passed by voters was a compromise measure. Current law requires loans to the General Fund, from taxes and fees dedicated to transportation uses, to be repaid within three years. This measure would end the practice of loaning revenues generated from the sales tax on gasoline and diesel fuel to the General Fund, and require all previous loans (approximately \$670 million) to be repaid by 2017.

**Background:**

Proposition 91 was originally intended to be placed on the ballot for the November 2006 election as Proposition 1A; instead, the measure passed by voters was a compromise between the California Teachers Association and the Service Employees International Union placed on the ballot by the Legislature.

The campaign for the original measure turned in some early signatures prior to the November 2006 election because they were up against the signature gathering deadline. Although the campaign did not intend to turn in enough signatures to qualify, Los Angeles County signatures came in with a higher validity rate than their samples, and the measure subsequently qualified for the next statewide ballot, which is now February 2008.

SDCTA supported Proposition 1A with the understanding that the measure would protect Proposition 42 funds and guarantee repayment of any revenues that have been loaned to the General Fund.

**Current Law Under Proposition 1A<sup>1</sup>:**

***Fuel Taxes and Motor Vehicle Fees and Taxes***

Under Article XIX of the State Constitution, the use of revenue from certain motor vehicle related fees and taxes is restricted to transportation purposes only. These taxes and fees include primarily an excise tax of 18 cents per gallon on gasoline and diesel fuel used by motor vehicles, weight fees on commercial vehicles (trucks), driver license fees, and vehicle registration fees. The Constitution, however, allows these revenues to be loaned to the General Fund for non-transportation uses if the amount is repaid in full within the same fiscal year, except that the repayment may be delayed up to 30 days after the enactment of the budget for the following fiscal year. Additionally, under specified conditions, the Constitution allows these revenues to be loaned to the General Fund for up to three fiscal years.

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<sup>1</sup> California Legislative Analyst's Office

***Public Transportation Account (PTA)***

The state also imposes a 5 percent sales tax on gasoline and diesel fuel. Under state law, a portion of this sales tax revenue is deposited in the PTA for public transportation and planning purposes. The Constitution allows funds in the PTA to be loaned to the General Fund if the full amount of the loan is repaid within the same fiscal year, except that the repayment may be delayed up to 30 days after the enactment of the budget for the following fiscal year. Additionally, under specified conditions, the Constitution allows PTA funds to be loaned to the General Fund for up to three fiscal years.

***Proposition 42—Transportation Investment Fund (TIF)***

Until 2002, the portion of the state gasoline sales tax revenue not deposited in the PTA was deposited in the General Fund for general purpose uses. In 2002, voters approved Proposition 42, which constitutionally requires this revenue to be transferred from the General Fund to the TIF for transportation purposes exclusively. Proposition 42 allows the transfer to be suspended under specified conditions. The Proposition 42 transfer was partially suspended in 2003-04 and fully suspended in 2004-05.

**Comparison of 2006 and 2008 Measures:**

<b>Titles</b>	
<b><i>Prop. 91 Transportation Funding. February 2008</i></b> <i>(Initiative Constitutional Amendment &amp; Statute)</i>	<b><i>Prop. 1A Transportation Funding. 2006</i></b> <i>Legislative Constitutional Amendment</i>
<b>Sponsors</b>	
The California Alliance for Jobs (James Earp, Proponent)	Senator Tom Torlakson
<b>Legislative Histories</b>	
This is the original measure that was intended for the November 2006 ballot. Instead, Prop. 1A was put on the ballot instead as a compromise w/California Teachers Association and Service Employees International Union.	SCA 7 Torlakson (Res. Chapter 49, 2006) Assembly: 58-11, May 4, 2006; Senate: 38-0, May 4, 2006
<b>Major Provisions</b>	
Limits to no more than one year the length of time that Article XIX and Proposition 42 transportation funds can be loaned to the General Fund. (This means that loans must be repaid within the same fiscal year, except the repayment may be delayed up to 30 days after the enactment of the budget for the following year. The measure also requires that these short-term loans not impede the transportation purposes for which these revenues were generated. Finally, the measure deletes the authority to make loans to the General Fund from the PTA (Public Transportation Account)	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.

Allows the Proposition 42 transfer to be suspended only in years preceding 2007-08. Thereafter, the suspension authority is deleted.	Allows suspension to occur only 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.
Requires that any suspended amount as of July 1, 2007, be repaid by June 30, 2017, at a specified minimum annual rate of repayment.	States the suspended amounts, that occurred in 2003-04 and 2004-05, must be repaid and dedicated to transportation uses no later than June 30, 2016 (rather than 08-09 and 07-08 respectively) at a specified minimum annual rate of repayment.
The measure also allows the Legislature to authorize the state and local governments to issue bonds secured by the repayments.	

**Fiscal Impact:**

This measure may have an immediate fiscal effect due to the current budget deficit. Proposition 91 would eliminate the ability for the transfer of TIF funds into the General Fund beginning fiscal year 2008-09. The total amount of suspended revenues is unknown until the release of the Governor's proposed budget.

Current outstanding payments to the TIF total approximately \$670 million. Under Proposition 91, these suspended funds must be repaid by June 30, 2017. The measure deletes the authority to suspend Proposition 42 funds beginning in 2007-08. In subsequent fiscal years, the Governor and Legislature will not have the ability to suspend revenue transfers to the TIF to alleviate budget shortfalls. This, together with requiring repayment of previously suspended transfers on a specified schedule and limiting to one year the loan of transportation funds for non-transportation uses, would increase transportation funding stability in 2007-08 and thereafter. Conversely, the state's flexibility to direct available state funds to other priority (non-transportation) activities in the event the state faces fiscal difficulties would be somewhat reduced.