

PROP 1 A – Transportation Funding Protection Act (Senate Bill SCA 7 – Introduced by Senator Torlakson)

Staff Recommendation: SUPPORT

Board Recommendation: SUPPORT

Rationale:

In 2002, SDCTA supported Proposition 42 because it was thought that the measure would guarantee that the monies collected from gasoline tax would go specifically toward transportation purposes, which is what the original intent of the sales tax on gasoline was created for. However, since the passage of Prop 42, the vast majority of the gas sales tax continues to be diverted to the general fund. Prop 1A helps to protect Prop 42 revenues and ensures repayment of any revenues that have been loaned to the General Fund.

Background:

The Transportation Investment Fund (TIF) and the Traffic Congestion Relief Fund (TCRF) are the two fund sources for the Traffic Congestion Relief Program (TCRP). The TCRP was enacted by the Legislature in 2000, as a six-year funding plan for state and local transportation needs. TIF money came from the General Fund (one-time) and from the sales tax on gasoline (which provided ongoing revenues for the fund). Various statutes delayed much of the funding for the relief program, so it was extended to 2008-9.

SCA 7 was created to protect revenues for Proposition 42, which was supported by the SDCTA. Passed in March 2002, Proposition 42 dedicated the sales tax on retail gasoline purchases to transportation programs. Before Prop 42, the revenues went to the state's General Fund; those revenues were allocated to the TIF only for the duration of the TCRP. Prop. 42 permanently extended the transfer of gasoline sales tax revenues into the TIF and required that the sales tax on gasoline be split as follows: 40% - State Transportation Improvement Program (STIP), 40% - local streets and roads, 20% - Public Transportation Account.

However, Prop 42 still allowed the Governor to transfer the money to the state's General Fund or use the revenue as a loan after declaring a fiscal emergency and gaining the approval of the legislature (refer to: California Constitution, Article XIX B: Motor Vehicle Fuel Sales Tax Revenues and Transportation Improvement Funding). SCA 7 is intended to protect Prop 42 revenues and ensure repayment of any of revenues that have been loaned to the General Fund. Also, by extending the Constitutional loan conditions on Article XIX funds to any state accounts, SCA 7 would avoid the laundering of such loan funds through new accounts for condition-free loans.¹

¹ California Legislative Analyst's Office (http://www.lao.ca.gov/ballot/2002/42_03_2002.htm and http://www.lao.ca.gov/analysis_2004/transportation/trans_02_cc_funding_anl04.htm#_Toc63831843), SCA 7 Fact Sheet (sent from State Senator Tom Torlakson's office June 7, 2006. Contact: Robert Oakes, legislative consultant), SCA 7 Senate Constitutional Analysis – Bill Analysis, Senate Committee on Elections, Reapportionment and Constitutional Amendments, SCA 7 (Torlakson), 4/27/05.

Proposal:

SCA 7 is a resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 1 of Article XIX B thereof, relating to transportation.

This bill would amend Section 1 of Article XIX B of the California State Constitution. Article XIX B requires, starting from the 2003-4 fiscal year, that sales taxes on motor vehicle fuel that are deposited into the General Fund be transferred to the Transportation Investment Fund (TIF) for allocation for various transportation purposes. This transfer can be suspended for a fiscal year if:

- a) The Governor proclaims a fiscal emergency, and
- b) Each house of the Legislature enacts a statute by a 2/3 vote to suspend the transfer, and this statute must contain no other unrelated provision.

This Proposition, if passed, would amend Section 1 of Article XIX B by adding further provisions. The conditions would now be:

- a) The Governor proclaims the suspension is necessary due to a “severe state fiscal hardship,”
- b) Each house of the Legislature enacts a statute by a 2/3 vote to suspend the transfer, and this statute must contain no other unrelated provision, and
- c)
 - a. **Suspended revenues must be repaid with interest:** The Legislature enacts a statute to repay, with interest, the TIF within 3 years for the amount of any revenues that are not transferred as a result of suspension on or before July 2007. This will ensure that the TIF does not become underfunded over time.
 - b. **The number of suspensions are limited to 2 years out of every 10:** The revenue transfer cannot be suspended for more than two years within any period of 10 fiscal years (the first 10-year period begins with the fiscal year commencing on or after July 1, 2007), and cannot occur in a fiscal year in which a required payment from a prior suspension has not been fully completed.
 - c. **All previous suspended funds must be repaid, with interest, by 2016:** This measure also requires payments to be made from the General Fund to the TIF relative to a portion of the revenues that were not transferred due to a suspension of transfer as of July 1, 2007, with payments made pursuant to a specified schedule (this excludes the amount to be paid to the Transportation Deferred Investment Fund). This amount must be transferred no later than June 30, 2016, until the total amount has been transferred, with a minimum of 1/10 of the total being repaid each year. The Legislature may issue bonds that are secured by these minimum transfer payments; proceeds from bond sales would be allocated for the same purposes as regular TIF funds

Fiscal Effect:

The amount of Prop 42/TIF revenues suspended and used for the General Fund since the passage of Prop 42 in 2002:

- 2003-04: \$868 million
 - 2004-05: \$1.24 billion
 - 2005-06: \$1.31 billion
- TOTAL: \$3.4 Billion**

The total amount of suspended funds is approximately \$3.4 billion. In fiscal years 2004-05 and 2005-06, the total amount of money meant for transfer into the TIF was suspended and transferred to the general fund.²

SCA 7 would limit the state government’s ability to suspend the Article XIX B transfer. The state would have to look for other methods of increasing the amount in the General Fund during tough economic years; such as tax increases or budget cuts to various programs. According to the State Senate analysis, the amount the state would need to compensate for through alternative funding methods would total at least \$1.5 billion. Spreading the repayment of existing funds “owed” due to prior suspensions of the transfer payment will save the General Fund approximately \$690 million for the 2006-7 budget year, and \$1.6 billion over the next three budget years.³

The redirection of funds away from the TIF currently makes it difficult to estimate or predict the amount of funding available for transportation projects. Consistently suspending transfer payments to the TIF also reduces the adequacy of funding. On the other hand, putting narrowly defined restrictions on how and when transfer payments may be suspended would also eliminate a method for addressing future General Fund problems. But the passage of SCA 7 may promote greater fiscal responsibility by encouraging the state to look at its expenses before borrowing money from the TIF to fund programs. There is the additional question of what happens if there is a fiscal crisis for more than two years within a ten-year period.

Arguments of the Proponents:

- California suffers from a congested transportation system in great need of repair and improvement. Proposition 42 was passed to address these problems, but \$2.5 billion in Proposition 42 funds has been siphoned away from its intended use, thanks to a loophole which allows the Legislature to divert this money back into the General Fund.
- Proposition 1A closes this loophole, authorizing loans to the General Fund only in the case of severe state fiscal hardship. Additionally, Prop 1A limits how often Prop 42 money can be diverted, and requires full repayment within three years.
- Proposition 1A will not increase taxes; rather, it will ensure that Prop 42 funds will go to the projects the money was originally intended for.

Supporters of Prop 1A:

- Californians to Improve Traffic Now (see attached list of Coalition groups)⁴

² California Legislative Analyst’s office: “Major Transportation Loans and Transfers to General Fund, Including Governor’s Proposals”

³ SCA 7 Senate Constitutional Analysis – Bill Analysis. Senate Third Reading, SCA 7 (Torlakson), As Amended May 4, 2006, 2/3 Vote.

⁴ <http://yeson1aand1b.com/documents/coalitionlist.pdf>

Arguments of the Opponents: (There were no filed opponent arguments)

Signors for the Arguments in opposition to Prop. 1A: (No argument against the proposition has been filed with the California Secretary of State)

ch