

AMENDED IN SENATE APRIL 17, 2006  
AMENDED IN ASSEMBLY MARCH 29, 2005  
CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 343**

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**Introduced by Assembly Member Huff**

February 10, 2005

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An act to ~~add Section 7284.5 to amend Section 7102 of the Revenue and Taxation Code, relating to taxation transportation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 343, as amended, Huff. ~~Utility user taxes: exemption. Transportation: Public Transportation Account: funds.~~

*Existing law requires sales tax revenues on all taxable sales that are paid to the state to be deposited in the Retail Sales Tax Fund. Existing law requires a portion of the sales tax on gasoline to be estimated by application of a specified formula and to be transferred to the Public Transportation Account for expenditure for various transportation purposes. However, for the 2005–06 fiscal year, existing law provides for no transfer to be made under this provision to the Public Transportation Account, and instead provides for those funds to be transferred to the General Fund. For the 2006–07 fiscal year, existing law provides for the first \$200 million of these funds to be transferred to the General Fund, and for the next \$125 million of these funds to be transferred to the Bay Area Toll Account for Bay Bridge seismic-related work. Existing law also requires the sales tax on diesel fuel to be estimated and transferred to the Public Transportation Account for expenditure for various transportation purposes, and also requires various other transfers. After these*

portions of the sales tax have been transferred, all remaining sales tax revenues are transferred to the General Fund. Under Proposition 116 of 1990, the Public Transportation Account was created as a trust fund, with revenues available for appropriation for certain transportation purposes, and amendments of Proposition 116 generally require a  $\frac{2}{3}$  vote of each house of the Legislature for passage and must be consistent with the purposes of the initiative.

This bill, beginning with the 2007–08 fiscal year, would require an amount of revenue equivalent to that which would have been transferred to the Public Transportation Account under these provisions but that is instead transferred to the General Fund or any other fund or account pursuant to legislation enacted on or after January 1, 2007, to be transferred by the Controller from the recipient fund or account to the Public Transportation Account no later than the end of the 3rd fiscal year after the date of transfer to the recipient fund or account. Because this provision would amend Proposition 116, it would thereby require a  $\frac{2}{3}$  vote of each house of the Legislature for passage.

~~Existing law authorizes the board of supervisors of any county to levy a utility user tax on the consumption of electricity, gas, water, sewer, telephone, telegraph, and cable television services in the unincorporated area of the county.~~

~~This bill would exempt from any utility user tax imposed by any jurisdiction, as defined, the consumption of natural gas by a local agency or a school district for transportation purposes if that natural gas is dispensed by a gas compressor that is separately metered and is dedicated to serve the local agency or the school district. This bill would make legislative findings and declarations regarding the statewide purposes of the bill.~~

Vote: ~~majority~~ <sup>$\frac{2}{3}$</sup> . Appropriation: no. Fiscal committee: ~~no~~  
yes. State-mandated local program: no.

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

- 1     SECTION 1. Section 7102 of the Revenue and Taxation Code
- 2     is amended to read:
- 3     7102. The money in the fund shall, upon order of the
- 4     Controller, be drawn therefrom for refunds under this part,
- 5     credits or refunds pursuant to Section 60202, and refunds

1 pursuant to Section 1793.25 of the Civil Code, or be transferred  
2 in the following manner:

3 (a) (1) All revenues, less refunds, derived under this part at  
4 the  $4\frac{3}{4}$ -percent rate, including the imposition of sales and use  
5 taxes with respect to the sale, storage, use, or other consumption  
6 of motor vehicle fuel which would not have been received if the  
7 sales and use tax rate had been 5 percent and if motor vehicle  
8 fuel, as defined for purposes of the Motor Vehicle Fuel License  
9 Tax Law (Part 2 (commencing with Section 7301)), had been  
10 exempt from sales and use taxes, shall be estimated by the State  
11 Board of Equalization, with the concurrence of the Department  
12 of Finance, and shall be transferred quarterly to the Public  
13 Transportation Account, a trust fund in the State Transportation  
14 Fund.

15 (A) For the 2001–02 fiscal year, those transfers may not be  
16 more than eighty-one million dollars (\$81,000,000) plus one-half  
17 of the amount computed pursuant to this paragraph that exceeds  
18 eighty-one million dollars (\$81,000,000).

19 (B) For the 2002–03 fiscal year, those transfers may not be  
20 more than thirty-seven million dollars (\$37,000,000) plus  
21 one-half of the amount computed pursuant to this paragraph that  
22 exceeds thirty-seven million dollars (\$37,000,000).

23 (C) For the 2003–04 fiscal year, no transfers shall be made  
24 pursuant to this paragraph, except that if the amount to be  
25 otherwise transferred pursuant to this paragraph is in excess of  
26 eighty-seven million four hundred fifty thousand dollars  
27 (\$87,450,000), then the amount of that excess shall be  
28 transferred.

29 (D) For the 2004–05 fiscal year, no transfers shall be made  
30 pursuant to this paragraph, and of the amount that would  
31 otherwise have been transferred, one hundred forty million  
32 dollars (\$140,000,000) shall instead be transferred to the Traffic  
33 Congestion Relief Fund as partial repayment of amounts owed by  
34 the General Fund pursuant to Item 2600-011-3007 of the Budget  
35 Act of 2002 (Chapter 379 of the Statutes of 2002).

36 (E) For the 2005–06 fiscal year, no transfers shall be made  
37 pursuant to this paragraph.

38 (F) For the 2006–07 fiscal year, no transfers shall be made  
39 pursuant to this paragraph, except that if the amount to be  
40 otherwise transferred pursuant to this paragraph is in excess of

1 two hundred million dollars (\$200,000,000), then the amount of  
2 that excess shall be transferred.

3 (2) All revenues, less refunds, derived under this part at the  
4  $4\frac{3}{4}$ -percent rate, resulting from increasing, after December 31,  
5 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel  
6 License Tax Law on motor vehicle fuel, as defined for purposes  
7 of that law, shall be transferred quarterly to the Public  
8 Transportation Account, a trust fund in the State Transportation  
9 Fund.

10 (3) All revenues, less refunds, derived under this part at the  
11  $4\frac{3}{4}$ -percent rate from the imposition of sales and use taxes on  
12 fuel, as defined for purposes of the Use Fuel Tax Law (Part 3  
13 (commencing with Section 8601)) and the Diesel Fuel Tax Law  
14 (Part 31 (commencing with Section 60001)), shall be estimated  
15 by the State Board of Equalization, with the concurrence of the  
16 Department of Finance, and shall be transferred quarterly to the  
17 Public Transportation Account, a trust fund in the State  
18 Transportation Fund.

19 (4) All revenues, less refunds, derived under this part from the  
20 taxes imposed pursuant to Sections 6051.2 and 6201.2 shall be  
21 transferred to the Sales Tax Account of the Local Revenue Fund  
22 for allocation to cities and counties as prescribed by statute.

23 (5) All revenues, less refunds, derived from the taxes imposed  
24 pursuant to Section 35 of Article XIII of the California  
25 Constitution shall be transferred to the Public Safety Account in  
26 the Local Public Safety Fund created in Section 30051 of the  
27 Government Code for allocation to counties as prescribed by  
28 statute.

29 (b) The balance shall be transferred to the General Fund.

30 (c) The estimates required by subdivision (a) shall be based on  
31 taxable transactions occurring during a calendar year, and the  
32 transfers required by subdivision (a) shall be made during the  
33 fiscal year that commences during that same calendar year.  
34 Transfers required by paragraphs (1), (2), and (3) of subdivision  
35 (a) shall be estimated by the State Board of Equalization, with  
36 the concurrence of the Department of Finance, and shall be made  
37 quarterly.

38 (d) Notwithstanding the designation of the Public  
39 Transportation Account as a trust fund pursuant to subdivision  
40 (a), the Controller may use the Public Transportation Account for

1 loans to the General Fund as provided in Sections 16310 and  
2 16381 of the Government Code. The loans shall be repaid with  
3 interest from the General Fund at the Pooled Money Investment  
4 Account rate.

5 *(e) Beginning with the 2007–08 fiscal year, an amount of*  
6 *revenue equivalent to that which would have been transferred to*  
7 *the Public Transportation Account pursuant to subdivision (a)*  
8 *but that is instead transferred to the General Fund or any other*  
9 *fund or account (recipient fund or account) pursuant to*  
10 *legislation enacted on or after January 1, 2007, shall be*  
11 *transferred by the Controller from the recipient fund or account*  
12 *to the Public Transportation Account no later than the end of the*  
13 *third fiscal year after the date of transfer to the recipient fund or*  
14 *account.*

15 (e)

16 (f) The Legislature may amend this section, by statute passed  
17 in each house of the Legislature by rollcall vote entered in the  
18 journal, two-thirds of the membership concurring, if the statute is  
19 consistent with, and furthers the purposes of this section.

20 ~~SECTION 1. Section 7284.5 is added to the Revenue and~~  
21 ~~Taxation Code, to read:~~

22 ~~7284.5. (a) The consumption of natural gas by a local agency~~  
23 ~~or a school district for transportation purposes is exempt from~~  
24 ~~any utility user tax that is imposed by any local jurisdiction, if~~  
25 ~~that natural gas is dispensed by a gas compressor that is~~  
26 ~~separately metered and is dedicated to serve the local agency or~~  
27 ~~the school district.~~

28 ~~(b) For purposes of this section, “local jurisdiction” means any~~  
29 ~~city, county, city and county, including any chartered city,~~  
30 ~~county, or city and county, district, or public or municipal~~  
31 ~~corporation.~~

32 ~~SEC. 2. The Legislature finds and declares that exempting the~~  
33 ~~consumption of natural gas by local agencies and school districts~~  
34 ~~from local utility user taxes will ensure statewide uniformity and~~  
35 ~~fairness in the cost of providing vital local government services.~~  
36 ~~Therefore, exempting the consumption of natural gas by local~~  
37 ~~agencies and school districts from local utility user taxes is a~~  
38 ~~matter of statewide concern.~~

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- 2 **CORRECTIONS:**
- 3 **Digest - Page 2.**
- 4 **Text - Pages 3 and 4.**
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