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AMENDED IN SENATE JUNE 17, 2008
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AMENDED IN ASSEMBLY APRIL 21, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2558

Introduced by Assembly Members Feuer, Huffman, and Levine

February 22, 2008

~~An act to add Sections 66538, 66538.1, and 66538.2 to the~~ *An act to add the heading of Division 1 (commencing with Section 66500) to Title 7.1 of, and to add Division 2 (commencing with Section 66538) to Title 7.1 of, the Government Code, to add Article 6.5 (commencing with Section 130356) to Chapter 4 of Division 12 of the Public Utilities Code, and to repeal Chapter 12 (commencing with Section 8500) of Part 2 of Division 2 of the Revenue and Taxation Code, relating to transportation.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2558, as amended, Feuer. Los Angeles County Metropolitan Transportation Authority: Metropolitan Transportation Commission: climate change mitigation and adaptation fee.

Existing

(1) *Existing* law creates the Los Angeles County Metropolitan Transportation Authority, with specified powers and duties relative to transportation planning, programming, and operations in the County of Los Angeles. Existing law creates the Metropolitan Transportation

Commission, with specified powers and duties relative to transportation planning and programming in the Bay Area.

This bill would authorize the authority and the commission, *subject to voter approval*, to impose a climate change mitigation and adaptation fee in their respective jurisdictions, ~~subject to approval of an ordinance by a majority of the applicable governing board and majority voter approval of a ballot measure containing the fee and an expenditure plan, to appear on the ballot no later than November 6, 2012. The bill would specify 2 alternative options for imposing the fee, which would be either a motor vehicle fuel fee or a vehicle fee, subject to specified maximum amounts. Revenues from the fee would be used for public transit and congestion management projects and programs, with capital projects subject to a requirement that they be able to begin construction by December 31, 2018. The fee would be implemented for a period not to exceed 30 years. The bill would specify 2 alternative options for imposing the fee, which would either be a motor vehicle fuel fee or a vehicle fee, subject to specified maximum amounts.~~

In the Bay Area, the bill would provide for the fee to be imposed for a maximum of 30 years pursuant to a regional climate change and adaption expenditure plan adopted jointly by majority vote of the Metropolitan Transportation Commission and the Bay Area Air Quality Management District, with fee revenues to be used for programs and projects to cost-effectively reduce greenhouse gas emissions directly associated with the operation of motor vehicles. The bill would require the board of supervisors of each county in the Bay Area region, upon the request of the commission and district, to submit a ballot measure to the region's voters, thereby imposing a state-mandated local program. The ballot measure would require approval by voters as determined necessary by the California Constitution or other applicable statutory provisions.

In the County of Los Angeles, the bill would provide for the fee to be imposed for a maximum of 30 years pursuant to a climate change and adaption expenditure plan adopted by a majority vote of the Los Angeles County Metropolitan Transportation Authority, with fee revenues to be used for public transit and congestion management projects and programs, with capital projects subject to a requirement that they be able to begin construction by December 31, 2018. The bill would require the portions of the expenditure plan relating to public transit to first be approved by a $\frac{2}{3}$ vote of the municipal transit operators in the county and a $\frac{2}{3}$ vote of the authority. The bill would provide for the authority

to call a special election no later than November 6, 2012, for the purpose of submitting the ordinance containing the fee and expenditure plan to the voters of the County of Los Angeles, with majority voter approval required.

The bill would also provide that if the State Air Resources Board adopts a statewide fee on motor vehicles or on the retail sale of motor vehicle fuels under its existing authority, then that fee shall be collected in the Bay Area region and in the County of Los Angeles only to the extent that it exceeds a fee imposed pursuant to this bill for the duration of the term that this fee is imposed.

(2) Existing law authorizes the Metropolitan Transportation Commission to impose a motor vehicle fuel tax within its jurisdiction.

This bill would repeal this authorization.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that the Legislature finds there is no mandate contained in the bill that will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to these constitutional and statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. The heading of Division 1 (commencing with
2 Section 66500) is added to Title 7.1 of the Government Code, to
3 read:

4

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DIVISION 1. GENERAL PROVISIONS

6

7 SECTION 1. ~~Section 66538 is added to the Government Code,~~
8 ~~to read:~~

9 ~~66538. (a) Subject to approval of an ordinance pursuant to~~
10 ~~Section 66538.1 and majority voter approval pursuant to Section~~
11 ~~66538.2~~

12 SEC. 2. Division 2 (commencing with Section 66538) is added
13 to Title 7.1 of the Government Code, to read:

DIVISION 2. CLIMATE CHANGE MITIGATION AND ADAPTATION FEE

66538. (a) Subject to approval of the voters pursuant to subdivision (c), the Metropolitan Transportation Commission may impose a regionwide climate change mitigation and adaptation fee within the Bay Area region. As used in this section, "Bay Area region" means the area within the jurisdiction of the commission, as defined in Section 66502.

The fee shall be in addition to any other levies that the commission is authorized to impose. The fee may be implemented for a period not to exceed 30 years. In implementing the fee, the commission shall utilize one of the following mechanisms:

(1) A fee on all motor vehicle fuels sold in the Bay Area region. As used in this paragraph, "motor vehicle" does not include aircraft. The fee shall be established by the commission at a rate determined by the commission, but not to exceed 3 percent of the retail sales price of motor vehicle fuel.

(2) An annual per-vehicle fee for each vehicle registered in the Bay Area region that would vary based on the carbon emissions produced by the vehicle. If the commission imposes the fee under this mechanism, the commission shall consult with the Department of Motor Vehicles and other appropriate state or federal agencies for applicable data to determine the amount of the fee for each vehicle. The rate of the fee shall not exceed ninety dollars (\$90). A registered owner of a vehicle who meets the eligibility requirements for assistance programs under Chapter 2 (commencing with Section 11200) or Chapter 3 (commencing with Section 12000) of Part 3 of, Part 5 (commencing with Section 17000) of, or Chapter 10 (commencing with Section 18900), Chapter 10.1 (commencing with Section 18930), or Chapter 10.3 (commencing with Section 18937) of Part 6 of, Division 9 of, the Welfare and Institutions Code shall be exempt from the payment of any fee imposed pursuant to this paragraph.

~~(b) As part of the ordinance under Section 66538.1, the commission shall adopt a climate change mitigation and adaptation expenditure plan. The expenditure plan shall describe the specific projects and programs that would be eligible for the revenues from the fee, consistent with subdivision (c). The expenditure plan shall also describe funds other than revenues from the fee that the~~

1 ~~commission anticipates will be expended on those projects and~~
2 ~~programs, and a schedule for anticipated availability of funds for~~
3 ~~the projects and programs.~~

4 ~~(e) The commission shall use no more than 2 percent of fee~~
5 ~~revenues to administer the fee and the projects and programs~~
6 ~~funded by fee revenues.~~

7 ~~(d) Fee revenues shall be deposited in the Climate Change~~
8 ~~Mitigation and Adaptation Fund, to be created by the commission.~~
9 ~~Revenues in the fund shall be available to the commission to fund~~
10 ~~projects and programs that advance the goals of the expenditure~~
11 ~~plan. Fee revenues may be used in conjunction with other funds~~
12 ~~available to the commission for these purposes.~~

13 ~~(e) (1) Net fee revenues, after administrative costs as described~~
14 ~~in subdivision (e), shall be used to fund both of the following:~~

15 ~~(A) Public transit projects and programs.~~

16 ~~(B) Congestion management projects and programs.~~

17 ~~(2) A minimum of two-thirds of net fee revenues shall be used~~
18 ~~for the purposes in subparagraph (A) of paragraph (1).~~

19 ~~(3) A capital project listed in the expenditure plan to be approved~~
20 ~~by the voters pursuant to Section 66538.2 must be able to begin~~
21 ~~construction no later than December 31, 2018. A capital project~~
22 ~~that is not able to comply with this requirement shall not be funded~~
23 ~~from fee revenues.~~

24 ~~(b) (1) The commission and the Bay Area Air Quality~~
25 ~~Management District shall jointly adopt a regional climate change~~
26 ~~and adaption expenditure plan for the revenues derived from the~~
27 ~~fee by a majority vote of each board. The regional climate change~~
28 ~~and adaption expenditure plan shall fund programs and projects~~
29 ~~to cost-effectively reduce greenhouse gas emissions directly~~
30 ~~associated with the operation of motor vehicles. The regional~~
31 ~~climate change and adaption expenditure plan shall describe~~
32 ~~proposed transportation projects and programs and the estimated~~
33 ~~cost of each. Adoption of the expenditure plan by the commission~~
34 ~~and the district shall include a finding by the commission and the~~
35 ~~district that the expenditure plan will achieve a nexus between~~
36 ~~payment of the fee and the mitigation of greenhouse gas emissions.~~

37 ~~(2) In developing the expenditure plan, the commission and the~~
38 ~~district shall prioritize expenditures that are most cost effective at~~
39 ~~producing reductions in greenhouse gas emissions from motor~~
40 ~~vehicle use in the Bay Area region. These reductions should include~~

1 *the associated greenhouse gas emission reduction benefits of*
2 *reduced traffic congestion to ensure the reductions accurately*
3 *reflect the full benefits of the project or program. The expenditure*
4 *plan development process shall include the development of a*
5 *diverse working group, with representatives from regional agencies*
6 *and commissions, local agencies such as cities, counties, and*
7 *congestion management agencies, nonprofit transportation and*
8 *land use experts, academic institutions working on climate change*
9 *and vehicle miles traveled reduction, and other interested groups.*
10 *This working group shall make recommendations to the commission*
11 *and the district on which projects to include in the expenditure*
12 *plan.*

13 (3) *Estimates of cost, greenhouse gas reduction, and mobility*
14 *improvement for each project shall be prepared by the commission*
15 *and district, in consultation with project sponsors. An equity*
16 *analysis shall be conducted, showing the costs and benefits to each*
17 *income and geographic group of the proposed expenditure plan.*
18 *A goal of the regional climate change and adaption expenditure*
19 *plan is to select projects that cost-effectively reduce climate*
20 *emissions, and provide at least as much benefit to low-income*
21 *households, on average, as may be imposed in costs. Estimates of*
22 *other funding required to complete any project shall be based on*
23 *an estimate of funds reasonably expected to be available during*
24 *the duration of the fee commencing with the year that the fee is*
25 *initially imposed.*

26 (4) *If not otherwise available, sufficient funding shall be*
27 *included in the cost estimates and expenditure plan presented to*
28 *the voters to operate and maintain each included project for the*
29 *duration of the fee.*

30 (c) (1) *Following the joint adoption by the commission and*
31 *district of a regional climate change and adaptation expenditure*
32 *plan, the board of supervisors of each county and city and county*
33 *in the Bay Area region shall, upon the request of the commission*
34 *and district, submit to the voters at a local election consolidated*
35 *with a statewide primary or general election specified by the*
36 *commission, a measure, adopted by the commission, authorizing*
37 *the commission to impose the fee throughout the Bay Area region.*

38 (2) *The measure may not be grouped with state or local*
39 *measures on the ballot, but shall be set forth in a separate category.*

1 (3) *The commission shall reimburse each county and city and*
2 *county in the region for the cost of submitting the measure to the*
3 *voters. These costs shall be reimbursed from revenues derived*
4 *from the fee if the measure is approved by the voters or, if the*
5 *measure is not approved, from any funds of the commission that*
6 *are available for general transportation planning.*

7 (d) *Upon approval of the measure by the margin of voters within*
8 *the region voting at a local election as determined necessary by*
9 *the California Constitution or other applicable statutory provisions,*
10 *the commission may impose the fee in all counties in the Bay Area*
11 *region.*

12 (e) *The net revenues of the fee shall be deposited into the*
13 *Transportation Fund for Climate Protection, to be created and*
14 *administered by the commission, and shall be expended in*
15 *accordance with this section.*

16 (f) *The net revenues received by the commission shall be*
17 *expended only in accordance with the regional climate change*
18 *and adaptation expenditure plan adopted pursuant to subdivision*
19 *(b), except that the commission may deduct from those revenues*
20 *funds to reimburse the commission and district for expenses*
21 *incurred in the initial implementation of this section and,*
22 *thereafter, its cost of administration, not to exceed 5 percent of*
23 *annual net revenues.*

24 (g) *The regional climate change and adaptation expenditure*
25 *plan shall include a process of ensuring periodic public review of*
26 *the progress of the expenditure plan and citizen oversight.*

27 (h) *The commission shall update the regional climate change*
28 *and adaptation expenditure plan to reflect the completion of*
29 *projects included in the initial voter-approved plan and to add*
30 *additional projects that meet the requirements of subdivision (b).*
31 *Any amendment shall comply with all of the requirements for the*
32 *plan prescribed by this section.*

33 (f)

34 (i) *The commission may issue bonds payable from fee revenues.*
35 *Proceeds from the bonds shall be used for the purposes in*
36 *subdivision (e) (b).*

37 ~~SEC. 2.—Section 66538.1 is added to the Government Code, to~~
38 ~~read:~~

39 ~~66538.1. To impose the fee authorized under Section 66538,~~
40 ~~both of the following shall be required:~~

1 (a) ~~An ordinance proposing the fee and the expenditure plan~~
2 ~~and submitting the fee and the expenditure plan to the voters for~~
3 ~~approval is approved by a majority vote of the membership of the~~
4 ~~commission.~~

5 (b) ~~A majority of the voters in the Bay Area region approve a~~
6 ~~ballot measure pursuant to Section 66538.2.~~

7 ~~SEC. 3. Section 66538.2 is added to the Government Code, to~~
8 ~~read:~~

9 ~~66538.2. The commission may call a special election, to occur~~
10 ~~no later than November 6, 2012, for the purposes of submitting~~
11 ~~the ordinance containing the fee and the expenditure plan described~~
12 ~~in Section 66538.1 to the voters of each county in the Bay Area~~
13 ~~region. The election shall be consolidated with a statewide primary~~
14 ~~or general election specified by the commission.~~

15 (j) *If the State Air Resources Board adopts a statewide fee on*
16 *motor vehicles or on the retail sale of motor vehicle fuels under*
17 *its authority in Section 38597 of the Health and Safety Code, then*
18 *that fee shall be collected in counties in the Bay Area region only*
19 *in an amount by which that fee exceeds the amount of the fee*
20 *imposed under this division for the duration of the term that the*
21 *fee under this division is imposed, notwithstanding any other*
22 *provision of law.*

23 (k) *The provisions of this section are severable. If any provision*
24 *of this section or its application is held invalid, that invalidity shall*
25 *not affect other provisions or applications that can be given effect*
26 *without the invalid provision or application.*

27 ~~SEC. 4.~~

28 ~~SEC. 3. Article 6.5 (commencing with Section 130356) is added~~
29 ~~to Chapter 4 of Division 12 of the Public Utilities Code, to read:~~

30

31 Article 6.5. CLIMATE CHANGE MITIGATION AND
32 ADAPTATION FEE

33

34 130356. (a) Subject to approval of an ordinance pursuant to
35 Section 130357 and majority voter approval pursuant to Section
36 130358, the Los Angeles County Metropolitan Transportation
37 Authority may impose a countywide climate change mitigation
38 and adaptation fee. The fee shall be in addition to any other levies
39 that the authority is authorized to impose. The fee may be

1 implemented for a period not to exceed 30 years. In implementing
2 the fee, the authority shall utilize one of the following mechanisms:

3 (1) A fee on all motor vehicle fuels sold in the County of Los
4 Angeles. As used in this paragraph, “motor vehicle” does not
5 include aircraft. The fee shall be established by the authority at a
6 rate determined by the authority, but not to exceed 3 percent of
7 the retail sales price of motor vehicle fuel.

8 (2) An annual per-vehicle fee for each vehicle registered in the
9 County of Los Angeles that would vary based on the *carbon*
10 emissions produced by the vehicle. If the authority imposes the
11 fee under this mechanism, the authority shall consult with the
12 Department of Motor Vehicles and other appropriate state or federal
13 agencies for applicable data to determine the amount of the fee for
14 each vehicle. The rate of the fee shall not exceed ninety dollars
15 (\$90). A registered owner of a vehicle who meets the eligibility
16 requirements for assistance programs under Chapter 2
17 (commencing with Section 11200) or Chapter 3 (commencing with
18 Section 12000) of Part 3 of, Part 5 (commencing with Section
19 17000) of, or Chapter 10 (commencing with Section 18900),
20 Chapter 10.1 (commencing with Section 18930), or Chapter 10.3
21 (commencing with Section 18937) of Part 6 of, Division 9 of, the
22 Welfare and Institutions Code shall be exempt from the payment
23 of any fee imposed pursuant to this paragraph.

24 (b) As part of the ordinance under Section 130357, the authority
25 shall adopt a climate change mitigation and adaptation expenditure
26 plan. The expenditure plan shall describe the specific projects and
27 programs that would be eligible for the revenues from the fee,
28 consistent with subdivision ~~(e)~~ (f). The expenditure plan shall also
29 describe funds other than revenues from the fee that the authority
30 anticipates will be expended on those projects and programs, and
31 a schedule for anticipated availability of funds for the projects and
32 programs.

33 (c) *The climate change mitigation and adaptation expenditure*
34 *plan development process shall include a working group with*
35 *representatives from the authority and from the municipal transit*
36 *operators in Los Angeles County. The working group shall make*
37 *recommendations to the authority on which projects to include in*
38 *the expenditure plan. Before the authority may adopt the*
39 *expenditure plan pursuant to subdivision (b), the provisions of the*
40 *plan that relate to transit projects and expenditures shall be*

1 *approved by a two-thirds majority of the municipal transit*
2 *operators in Los Angeles County and a two-thirds vote of the*
3 *authority. The expenditure plan shall provide for an allocation of*
4 *all transit operating funds in accordance with Section 99285.*

5 ~~(e)~~

6 (d) The authority shall use no more than 2 percent of fee
7 revenues to administer the fee and the projects and programs
8 funded by fee revenues.

9 ~~(d)~~

10 (e) Fee revenues shall be deposited in the Climate Change
11 Mitigation and Adaptation Fund, to be created by the authority.
12 Revenues in the fund shall be available to the authority to fund
13 projects and programs that advance the goals of the expenditure
14 plan. Fee revenues may be used in conjunction with other funds
15 available to the authority for these purposes. The authority may
16 distribute a portion of revenues through a competitive grant
17 program for the county and cities within the jurisdiction of the
18 authority through the authority's existing call for projects program
19 *as established by Los Angeles County Proposition A of 1980 and*
20 *Proposition C of 1990.*

21 ~~(e)~~

22 (f) (1) Net fee revenues, after administrative costs as described
23 in subdivision ~~(e)~~ (d), shall be used to fund both of the following:

24 (A) Public transit projects and programs.

25 (B) Congestion management projects and programs *of the type*
26 *provided in Section 182.7 of the Streets and Highways Code.*

27 (2) A minimum of two-thirds of net fee revenues shall be used
28 for the purposes in subparagraph (A) of paragraph (1).

29 (3) A capital project listed in the expenditure plan to be approved
30 by the voters pursuant to Section 130357 must be able to begin
31 construction no later than December 31, 2018. A capital project
32 that is not able to comply with this requirement shall not be funded
33 from fee revenues.

34 ~~(f)~~

35 (g) The authority may issue bonds payable from fee revenues.
36 Proceeds from the bonds shall be used for the purposes in
37 subdivision ~~(e)~~ (f).

38 (h) *If the State Air Resources Board adopts a statewide fee on*
39 *motor vehicles or on the retail sale of motor vehicle fuels under*
40 *its authority in Section 38597 of the Health and Safety Code, then*

1 *that fee shall be collected in Los Angeles County only in an amount*
2 *by which that fee exceeds the amount of the fee imposed under this*
3 *article for the duration of the term that the fee under this article*
4 *is imposed, notwithstanding any other provision of law.*

5 130357. To impose the fee authorized under this article, both
6 of the following shall be required:

7 (a) An ordinance proposing the fee and the expenditure plan
8 and submitting the fee and the expenditure plan to the voters for
9 approval is approved by a majority vote of the board.

10 (b) A majority of the voters in the County of Los Angeles
11 approve a ballot measure pursuant to Section 130358.

12 130358. The authority may call a special election, to occur no
13 later than November 6, 2012, for the purposes of submitting the
14 ordinance containing the fee and the expenditure plan to the voters
15 of the County of Los Angeles. The election shall be consolidated
16 with a statewide primary or general election specified by the
17 authority.

18 130359. *The provisions of this article are severable. If any*
19 *provision of this article or its application is held invalid, that*
20 *invalidity shall not affect other provisions or applications that can*
21 *be given effect without the invalid provision or application.*

22 ~~SEC. 5.~~

23 *SEC. 4.* Chapter 12 (commencing with Section 8500) of Part
24 2 of Division 2 of the Revenue and Taxation Code is repealed.

25 *SEC. 5.* *The Legislature finds that there is no mandate*
26 *contained in this act that will result in costs incurred by a local*
27 *agency or school district for a new program or higher level of*
28 *service which require reimbursement pursuant to Section 6 of*
29 *Article XIII B of the California Constitution and Part 7*
30 *(commencing with Section 17500) of Division 4 of Title 2 of the*
31 *Government Code.*