

ASSEMBLY BILL

No. 41

Introduced by Assembly Members Solorio and Charles Calderon
(Principal coauthor: Senator Wolk)
(Coauthors: Assembly Members Alejo and Wiecekowski)

August 31, 2011

An act to amend Sections 10752.2, 11001.5, and 11005 of the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 41, as introduced, Solorio. Vehicle license fees.

The Vehicle License Fee Law, in lieu of any ad valorem property tax upon vehicles, imposes an annual license fee on any vehicle subject to registration in this state in the amount, on and after July 1, 2011, of 0.65% of the market value of that vehicle, as provided. For all initial and renewal registrations due on and after May 1, 2009, but before July 1, 2011, existing law also imposes an additional fee equal to 0.15% of the market value of specified vehicles, as determined by the Department of Motor Vehicles, to be deposited in the General Fund and transferred to the Local Safety and Protection Account. Existing law continuously appropriates all moneys in the Local Safety and Protection Account without regard to fiscal year, to the Controller for allocation, as provided.

This bill would, for all initial and renewal registrations due on and after January 1, 2012, impose an additional vehicle license fee equal to 0.15% of the market value of the above-described vehicles, as specified. It would also require all revenues from the additional license fee to be deposited in the General Fund. During the 2011–12 fiscal year, the bill

would transfer an amount to the Local Law Enforcement Services Account in the Local Revenue Fund 2011, a continuously appropriated fund, for allocation to cities, counties, and cities and counties, as specified. The bill would require a transfer of revenues, during the 2012-13 fiscal year and each fiscal year thereafter to be allocated according the following order: first to be transferred to the Local Law Enforcement Services Account in the Local Revenue Fund 2011, as specified; and second, a total of \$35,000,000 to be transferred to the Bureau of Narcotics Enforcement and Bureau of Investigation and Intelligence Fund, which the bill would create as a continuously appropriated fund. Funds not transferred would continue to be General Fund moneys. By depositing moneys into a continuously appropriated fund and by establishing a new, continuously appropriated fund, the bill would make an appropriation.

Existing law requires that a specified portion of the motor vehicle license fee revenues deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund be allocated or transferred by the Controller with those revenues being allocated on or after July 1, 2004, but before July 1, 2011, first to the County of Orange and next to each city and county meeting specified criteria; and those revenues being allocated on or after July 1, 2011, to the Local Law Enforcement Services Account in the Local Revenue Fund 2011, for allocation to cities, counties, and cities and counties.

This bill would instead limit that allocation for the 2011–12 fiscal year and each fiscal year thereafter to \$300,000,000 in monthly installments. The bill would then allocate the moneys to the County of Orange, and to other cities and counties meeting specified criteria in the order specified prior to July 1, 2011, as provided. By authorizing revenues deposited in the Motor Vehicle License Fee Account in the Transportation Tax Fund, a continuously appropriated fund, to be used for a new purpose, the bill would make an appropriation.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. The Legislature hereby finds and declares both
2 of the following:

3 (a) Chapter 35 of the Statutes of 2011 amended Section 11003
4 of the Revenue and Taxation Code to delete the previous transfer
5 of revenues from the Motor Vehicle License Fee Account in the
6 Transportation Tax Fund for use by the Department of Motor
7 Vehicles and the Franchise Tax Board for the enforcement of the
8 Vehicle License Fee Law (Part 5 (commencing with Section 10701)
9 of Division 2 of the Revenue and Taxation Code). For the 2011–12
10 fiscal year, the deletion of this transfer means that an additional
11 \$300,000,000 is available for allocation from the account pursuant
12 to Section 11005 of the Revenue and Taxation Code.

13 (b) It is the intent of the Legislature to allocate this additional
14 amount to the Local Law Enforcement Services Account in the
15 Local Revenue Fund 2011 for use by cities, counties, and cities
16 and counties.

17 SEC. 2. Section 10752.2 of the Revenue and Taxation Code
18 is amended to read:

19 10752.2. (a) (1) For initial or renewal registrations due on
20 and after May 19, 2009, but before July 1, 2011, in addition to the
21 annual license fee for a vehicle, other than a commercial motor
22 vehicle described in Section 9400.1 of the Vehicle Code, imposed
23 pursuant to Sections 10752 and 10752.1, a sum equal to 0.15
24 percent of the market value of the vehicle, as determined by the
25 department, shall be added to that annual fee.

26 (2) *For initial or renewal registrations due on and after January*
27 *1, 2012, in addition to the annual license fee for a vehicle, other*
28 *than a commercial motor vehicle described in Section 9400.1 of*
29 *the Vehicle Code, imposed pursuant to Sections 10752 and*
30 *10752.1, a sum equal to 0.15 percent of the market value of the*

1 *vehicle, as determined by the department, shall be added to that*
2 *annual fee.*

3 (b) (1) Notwithstanding Chapter 5 (commencing with Section
4 11001) or any other law to the contrary, all revenues (including
5 penalties), less refunds, derived from fees collected pursuant to
6 *paragraph (1) of subdivision (a)* shall be deposited in the General
7 Fund and transferred to the Local Safety and Protection Account,
8 which is hereby established in the Transportation Tax Fund.
9 Notwithstanding Section 13340 of the Government Code, all
10 moneys in the account *derived from fees collected pursuant to*
11 *paragraph (1) of subdivision (a)* are hereby continuously
12 appropriated, without regard to fiscal year, to the Controller for
13 allocation pursuant to Sections 29553, 30061, and 30070 of the
14 Government Code, Section 13821 of the Penal Code, and Sections
15 18220 and 18220.1 of the Welfare and Institutions Code. All
16 revenue derived from *paragraph (1) of subdivision (a)* that is
17 received after June 30, 2011, shall be deemed to have been received
18 during the 2010–11 fiscal year for purposes of allocation by the
19 Controller.

20 (2) Notwithstanding Chapter 5 (commencing with Section
21 11001) or any other law to the contrary, all revenues (including
22 penalties), less refunds, derived from fees collected pursuant to
23 *paragraph (2) of subdivision (a)* shall be deposited in the General
24 Fund and transferred as follows:

25 (A) Moneys received during the 2011–12 fiscal year derived
26 from *paragraph (2) of subdivision (a)* shall be transferred to the
27 Local Law Enforcement Services Account in the Local Revenue
28 Fund 2011, as established by Section 30025 of the Government
29 Code, for allocation to cities, counties, and cities and counties, in
30 an amount that, together with the amount deposited pursuant to
31 subdivision (b) of Section 30027 of the Government Code, does
32 not exceed four hundred eighty-nine million nine hundred thousand
33 dollars (\$489,900,000). Notwithstanding any other law, those
34 moneys transferred to the Local Law Enforcement Services Account
35 pursuant to this subparagraph and subdivision (b) of Section 30027
36 of the Government Code shall be allocated in the manner provided
37 in paragraphs (1) to (6), inclusive, of subdivision (e) of Section
38 30029 of the Government Code. The references contained in this
39 subparagraph to sections of the Government Code refer to those
40 sections as they read on July 8, 2011.

1 (B) Moneys received during the 2012–13 fiscal year and each
2 fiscal year thereafter derived from paragraph (2) of subdivision
3 (a) shall:

4 (i) First, be transferred to the Local Law Enforcement Services
5 Account in the Local Revenue Fund 2011, as established by Section
6 30025 of the Government Code, for allocation to cities, counties,
7 and cities and counties in an amount that, together with the amount
8 deposited pursuant to subdivision (b) of Section 30027 of the
9 Government Code, does not exceed four hundred eighty-nine
10 million nine hundred thousand dollars (\$489,900,000).
11 Notwithstanding any other law, those moneys transferred to the
12 Local Law Enforcement Services Account pursuant to this
13 subparagraph and subdivision (b) of Section 30027 of the
14 Government Code shall be allocated in the manner provided in
15 paragraphs (1) to (6), inclusive, of subdivision (e) of Section 30029
16 of the Government Code. The references contained in this clause
17 to sections of the Government Code refer to those sections as they
18 read on July 8, 2011.

19 (ii) Second, a total of thirty-five million dollars (\$35,000,000)
20 shall be transferred to the Bureau of Narcotics Enforcement and
21 Bureau of Investigation and Intelligence Fund, which is hereby
22 established in the State Treasury. Notwithstanding Section 13340
23 of the Government Code, all moneys in the fund are hereby
24 continuously appropriated without regard to fiscal year to the
25 Department of Justice for the performance of the duties performed
26 by the Bureau of Narcotics Enforcement and the Bureau of
27 Investigation and Intelligence.

28 (3) All moneys deposited in the General Fund pursuant to
29 paragraph (2) and not transferred pursuant to subparagraphs (A)
30 and (B) of paragraph (2) shall continue to be General Fund
31 moneys.

32 (c) (1) In ~~2010~~ 2011 and each calendar year thereafter, the
33 Director of Finance shall, no later than January 10 and upon the
34 enactment of the Budget Act during the calendar year, make a
35 written determination of whether any of the moneys derived from
36 fees collected pursuant to *paragraph (1) or (2)* of subdivision (a)
37 are being allocated by the state for any purpose not authorized by
38 *paragraph (1) or (2), as applicable, of subdivision (b), respectively,*
39 and shall immediately submit his or her written determination to
40 all of the following:

- 1 (A) The Director of the Department of Motor Vehicles.
- 2 (B) The Joint Legislative Budget Committee.
- 3 (C) The Senate and Assembly Appropriations Committees.
- 4 (D) The Senate and Assembly Revenue and Taxation
- 5 Committees.

6 (2) If the Director of Finance determines that any moneys
 7 derived from fees collected pursuant to *paragraph (1) or (2) of*
 8 *subdivision (a) are being allocated by the state for a purpose not*
 9 *authorized by paragraph (1) or (2), as applicable, of subdivision*
 10 *(b), the Director of the Department of Motor Vehicles shall, upon*
 11 *receipt of the written determination, immediately cease collection*
 12 *of the those fees imposed by paragraph (1) or (2) of subdivision*
 13 *(a), and shall resume collection of those fees only upon his or her*
 14 *receipt of written determination provided under paragraph (1) that*
 15 *specifies that none of the moneys derived from those fees collected*
 16 *pursuant to paragraph (1) or (2) of subdivision (a) are being*
 17 *allocated by the state for a purpose not authorized by paragraph*
 18 *(1) or (2), as applicable, of subdivision-(a) (b).*

19 SEC. 3. Section 11001.5 of the Revenue and Taxation Code
 20 is amended to read:

21 11001.5. (a) (1) Notwithstanding Section 11001, and except
 22 as provided in paragraph (2) and in subdivisions (b) and (d), 24.33
 23 percent, and on and after July 1, 2004, 74.9 percent; of the moneys
 24 collected by the department under this part shall be reported
 25 monthly to the Controller, and at the same time, deposited in the
 26 State Treasury to the credit of the Local Revenue Fund, as
 27 established pursuant to Section 17600 of the Welfare and
 28 Institutions Code. All other moneys collected by the department
 29 under this part shall continue to be deposited to the credit of the
 30 Motor Vehicle License Fee Account in the Transportation Tax
 31 Fund and ~~in accordance with the following:~~ *allocated to the County*
 32 *of Orange as provided in paragraph (1) of subdivision (b) of*
 33 *Section 11005 and as necessary for the service of indebtedness as*
 34 *pledged by Sections 25350.6 and 53585.1 of the Government Code*
 35 *and in accordance with written instructions provided by the*
 36 *Controller under Sections 25350.7, 25350.9, and 53585.1 of the*
 37 *Government Code, and to each city and city and county as provided*
 38 *by law.*

39 ~~(A) Before July 1, 2011, first allocated to the County of Orange~~
 40 ~~as provided in subdivision (b) of Section 11005 and as necessary~~

1 ~~for the service of indebtedness as pledged by Sections 25350.6~~
 2 ~~and 53585.1 of the Government Code and in accordance with~~
 3 ~~written instructions provided by the Controller under Sections~~
 4 ~~25350.7, 25350.9, and 53585.1 of the Government Code, and the~~
 5 ~~balance shall be allocated to each city and city and county as~~
 6 ~~otherwise provided by law.~~

7 ~~(B) On and after July 1, 2011, allocated pursuant to subdivision~~
 8 ~~(a) of Section 11005.~~

9 (2) For the period beginning on and after July 1, 2003, and
 10 ending on February 29, 2004, the Controller shall deposit an
 11 amount equal to 28.07 percent of the moneys collected by the
 12 department under this part in the State Treasury to the credit of
 13 the Local Revenue Fund. All other moneys collected by the
 14 department under this part shall continue to be deposited to the
 15 credit of the Motor Vehicle License Fee Account in the
 16 Transportation Tax Fund and allocated to each city, county, and
 17 city and county as otherwise provided by law.

18 (b) (1) Notwithstanding Section 11001, net funds collected as
 19 a result of procedures developed for greater compliance with
 20 vehicle license fee laws in order to increase the amount of vehicle
 21 license fee collections shall be reported monthly to the Controller,
 22 and at the same time, deposited in the State Treasury to the credit
 23 of the Vehicle License Collection Account of the Local Revenue
 24 Fund as established pursuant to Section 17600 of the Welfare and
 25 Institutions Code. All revenues in excess of fourteen million dollars
 26 (\$14,000,000) in the 2004–05 fiscal year and in any fiscal year
 27 thereafter shall be allocated to cities, counties, and cities and
 28 counties as follows:

29 (A) (i) Fifty percent shall be paid to the cities and cities and
 30 counties of this state in the proportion that the population of each
 31 city or city and county bears to the total population of all cities
 32 and cities and counties in this state, as determined by the population
 33 research unit of the Department of Finance. For purposes of this
 34 subparagraph, the population of each city or city and county is that
 35 population determined by the last federal decennial or special
 36 census, or a subsequent census validated by the population research
 37 unit or subsequent estimate prepared pursuant to Section 2107.2
 38 of the Streets and Highways Code.

39 (ii) In the case of a city incorporated subsequent to the last
 40 federal census, or a subsequent census validated by the population

1 research unit, the population research unit shall determine the
2 population of the city. In the case of unincorporated territory
3 annexed to a city subsequent to the last federal census, or a
4 subsequent census validated by the population research unit, the
5 population research unit shall determine the population of the
6 annexed territory by the use of any federal decennial or special
7 census, or estimate prepared pursuant to Section 2107.2 of the
8 Streets and Highways Code. In the case of the consolidation of
9 one city with another subsequent to the last federal census, or a
10 subsequent census validated by the population research unit, the
11 population of the consolidated city, for the purpose of this
12 subparagraph, is the aggregate population of the respective cities
13 as determined by the last federal census, or a subsequent census
14 or estimate validated by the population research unit.

15 (B) Fifty percent shall be paid to the counties and cities and
16 counties in the proportion that the population of each county or
17 city and county bears to the total population of all counties and
18 cities and counties, as determined by the population research unit.
19 For purposes of this subparagraph, the population of each county
20 or city and county is that determined by the last federal census, or
21 subsequent census validated by the population research unit, or as
22 determined by Section 11005.6 of the Revenue and Taxation Code.

23 (2) ~~The amendments made to this section by the act that added~~
24 ~~this paragraph Chapter 78 of the Statutes of 2006 are operative~~
25 ~~upon the enactment of that act on July 18, 2006.~~ However, the
26 amendments made by ~~the act that added this paragraph Chapter~~
27 ~~78 of the Statutes of 2006~~ apply to revenues in the Vehicle License
28 Collection Account in excess of fourteen million dollars
29 (\$14,000,000) in the 2004–05 fiscal year and any fiscal year
30 thereafter.

31 (c) Notwithstanding Section 11001, 25.72 percent of the moneys
32 collected by the department on or after August 1, 1991, and before
33 August 1, 1992, under this part shall be reported monthly to the
34 Controller, and at the same time, deposited in the State Treasury
35 to the credit of the Local Revenue Fund, as established pursuant
36 to Section 17600 of the Welfare and Institutions Code. All other
37 moneys collected by the department under this part shall continue
38 to be deposited to the credit of the Motor Vehicle License Fee
39 Account in the Transportation Tax Fund and allocated to each city,
40 county, and city and county as otherwise provided by law.

1 (d) Notwithstanding any other provision of law, both of the
2 following apply:

3 (1) This section is operative for the period beginning on and
4 after March 1, 2004.

5 (2) It is the intent of the Legislature that the total amount
6 deposited by the Controller in the State Treasury to the credit of
7 the Local Revenue Fund for the 2003–04 fiscal year be equal to
8 the total amount that would have been deposited to the credit of
9 the Local Revenue Fund if paragraph (1) of subdivision (a) was
10 applied during that entire fiscal year. The department shall calculate
11 and notify the Controller of the adjustment amounts that are
12 required by this paragraph to be deposited in the State Treasury
13 to the credit of the Local Revenue Fund. The amounts deposited
14 in the State Treasury to the credit of the Local Revenue Fund
15 pursuant to this paragraph shall be deemed to have been deposited
16 during the 2003–04 fiscal year.

17 (e) This section does not amend nor is it intended to amend or
18 impair Section 25350 and following of, Section 53584 and
19 following of, the Government Code, or any other statute dealing
20 with the interception of funds.

21 SEC. 4. Section 11005 of the Revenue and Taxation Code is
22 amended to read:

23 11005. After payment of refunds therefrom and after making
24 the deductions authorized by Section 11003 and reserving the
25 amount determined necessary by the Pooled Money Investment
26 Board to meet the transfers ordered or proposed to be ordered
27 pursuant to Section 16310 of the Government Code, the balance
28 of all motor vehicle license fees and any other money appropriated
29 by law for expenditure pursuant to this section, deposited to the
30 credit of the Motor Vehicle License Fee Account in the
31 Transportation Tax Fund, and remaining unexpended in that
32 account at the close of business on the last day of the calendar
33 month, shall be allocated by the Controller by the 10th day of the
34 following month in accordance with the following:

35 ~~(a) On and after July 1, 2011, to the Local Law Enforcement~~
36 ~~Services Account in the Local Revenue Fund 2011, as established~~
37 ~~by Section 30025 of the Government Code, for allocation to cities,~~
38 ~~counties, and cities and counties.~~

39 ~~(b) On or after July 1, 2004, but before July 1, 2011:~~

1 (a) For the 2011–12 fiscal year and each fiscal year thereafter,
 2 three hundred million dollars (\$300,000,000) payable in monthly
 3 installments to the Local Law Enforcement Services Account in
 4 the Local Revenue Fund 2011, as established by Section 30025 of
 5 the Government Code, for allocation to cities, counties, and cities
 6 and counties.

7 (b) After the allocation made pursuant to subdivision (a), as
 8 follows:

9 (1) First, to the County of Orange as required by paragraph (1)
 10 of subdivision (a) of Section 11001.5. For the 2004–05 fiscal year,
 11 that county shall be allocated fifty-four million dollars
 12 (\$54,000,000) in monthly installments. For the 2005–06 fiscal year
 13 and each fiscal year thereafter, that county shall receive, in monthly
 14 installments, an amount equal to the amount allocated under this
 15 section for the prior fiscal year, adjusted for the percentage change
 16 in the amount of revenues credited to the Motor Vehicle License
 17 Fee Account in the Transportation Tax Fund from the revenues
 18 credited to that account in the prior fiscal year. Moneys allocated
 19 to the County of Orange under this subdivision shall be used first
 20 for the service of indebtedness as provided in paragraph (1) of
 21 subdivision (a) of Section 11001.5. Any amounts in excess of the
 22 amount required for this service of indebtedness may be used by
 23 that county for any lawful purpose.

24 (2) Second, to each city, the population of which is determined
 25 under Section 11005.3 on August 5, 2004, in an amount equal to
 26 the additional amount of vehicle license fee revenue, including
 27 offset transfers, that would be allocated to that city under Sections
 28 11000 and 11005, as those sections read on January 1, 2004, as a
 29 result of that city’s population being determined under subdivision
 30 (a) or (b) of Section 11005.3.

31 (3) Third, to each city that was incorporated from an
 32 unincorporated territory after August 5, 2004, in monthly
 33 installments from the date of incorporation, in an amount equal
 34 to the product of the following two amounts:

- 35 (A) The quotient derived from the following fraction:
- 36 (i) The numerator is the product of the following two amounts:
- 37 (I) Fifty dollars (\$50) per year.
- 38 (II) The fraction determined as the total amount of vehicle
- 39 license fee revenue collected during the most recent fiscal year

1 divided by the total amount of vehicle license fee revenue collected
2 during the 2004–05 fiscal year.

3 (ii) The denominator is the fraction determined as the actual
4 population, as defined in subdivision (e) of Section 11005.3, of
5 all cities during the most recent fiscal year, divided by the actual
6 population, as defined in subdivision (e) of Section 11005.3, of
7 all cities in the 2004–05 fiscal year.

8 (B) The city’s population determined in accordance with Section
9 11005.3.

10 (4) Fourth, to each city that was incorporated before August 5,
11 2004, *in monthly installments*, in an amount equal to the product
12 of the following two amounts:

13 (A) The quotient derived from the following fraction:

14 (i) The numerator is the product of the following two amounts:

15 (I) Fifty dollars (\$50) per year.

16 (II) The fraction determined as the total amount of vehicle
17 license fee revenue collected during the most recent fiscal year
18 divided by the total amount of vehicle license fee revenue collected
19 during the 2004–05 fiscal year.

20 (ii) The denominator is the fraction determined as the actual
21 population, as defined in subdivision (e) of Section 11005.3, of
22 all cities during the most recent fiscal year, divided by the actual
23 population, as defined in subdivision (e) of Section 11005.3, of
24 all cities in the 2004–05 fiscal year.

25 (B) The actual population, as defined in subdivision (e) of
26 Section 11005.3, residing in areas annexed after August 5, 2004,
27 as of the date of annexation.

28 (5) Fifth, to the cities and cities and counties of this state in the
29 proportion that the population of each city or city and county bears
30 to the total population of all cities and cities and counties in this
31 state, as determined by the Demographic Research Unit of the
32 Department of Finance. For the purpose of this subdivision, the
33 population of each city or city and county shall be determined in
34 accordance with Section 11005.3.

35 (c) *The Controller shall make any adjustments necessary to*
36 *ensure that allocations for the 2010–11 fiscal year and 2011–12*
37 *fiscal year are equal to the allocations that would have been made*
38 *had this section been in effect between July 1, 2011, and the*
39 *effective date of the act that adds this subdivision.*

1 SEC. 5. This act addresses the fiscal emergency declared and
2 reaffirmed by the Governor by proclamation on January 20, 2011,
3 pursuant to subdivision (f) of Section 10 of Article IV of the
4 California Constitution.

5 SEC. 6. This act is an urgency statute necessary for the
6 immediate preservation of the public peace, health, or safety within
7 the meaning of Article IV of the Constitution and shall go into
8 immediate effect. The facts constituting the necessity are:

9 In order to protect public safety and timely avoid adverse effects
10 upon cities, counties, or a city and county resulting from the
11 enactment of Chapter 35 of the Statutes of 2011, it is necessary
12 for this act to take effect immediately.

O