AMENDED IN SENATE SEPTEMBER 4, 2013

AMENDED IN SENATE JUNE 3, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 701

Introduced by Assembly Member ~~John A. Pérez~~ *Quirk-Silva*
(Coauthors: Assembly Members Allen, Daly, Hagman, Harkey, Mansoor, and Wagner)
(Coauthors: Senators Correa, Huff, Walters, and Wyland)

February 21, 2013

~~An act to amend Section 63021.5 of, and to add Section 63024.2 to, the Government Code, relating to economic development.~~ *An act to amend Section 97.70 of, and to repeal Section 97.80 of, the Revenue and Taxation Code, relating to local government finance.*

LEGISLATIVE COUNSEL'S DIGEST

AB 701, as amended, ~~John A. Pérez~~ *Quirk-Silva*. ~~California Infrastructure and Economic Development Bank.~~ *General Subject: Local government finance: property tax revenue allocation: vehicle license fee adjustments: County of Orange.*

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined.

Existing property tax law requires that, for purposes of determining property tax revenue allocations in each county for the 1992–93 and

1993–94 fiscal years, the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. It requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund in that county for allocation to school districts, community college districts, and the county office of education.

For the 2004–05 fiscal year and each fiscal year thereafter, existing law requires that each city, county, and city and county receive additional property tax revenues in the form of a vehicle license fee adjustment amount, as defined, from a Vehicle License Fee Property Tax Compensation Fund that exists in each county treasury. Existing law requires that these additional allocations be funded from ad valorem property tax revenues otherwise required to be allocated to each county's Educational Revenue Augmentation Fund for the benefit of educational entities.

This bill would modify these reduction and transfer provisions by increasing the vehicle license fee adjustment amount for the County of Orange by $53,000,000 for the 2013–14 fiscal year and requiring that amount to be included in the calculation of the vehicle license fee adjustment amount for that county for each fiscal year thereafter.

This bill would direct the Department of Finance and the Chancellor of the California Community Colleges to work with the County of Orange, the county auditor-controller for the County of Orange, and intervenors in obtaining a judgment that is a final and complete resolution to a specified case in which all parties agree not to seek appellate review. The bill would include findings and declarations that an appropriate resolution would be for the County of Orange to repay specified amounts over a specified period.

By changing the manner in which property tax revenues are allocated by the county officials in the County of Orange, this bill would impose a state-mandated local program.

Existing law, for the 2009–10 fiscal year and for each fiscal year thereafter, requires the auditor of a qualified county, as defined, to increase the total amount of ad valorem property tax revenue otherwise required to be allocated to that county by the county equity amount, as defined, and to commensurately reduce the total amount of ad valorem property tax revenue otherwise required to be allocated to the Educational Revenue Augmentation Fund in the county, as specified.

This bill would repeal these provisions.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Orange.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law establishes the California Infrastructure and Economic Development Bank in the Business, Transportation and Housing Agency. Existing law establishes that the board of directors of the bank consists of 5 members, as specified.~~

~~This bill would add a Member of the Assembly, or a designee of the member, and a Member of the Senate, or a designee of the member, as advisory members of the board. This bill would require the bank to serve as the primary state agency for purposes of developing an application for, and applying to, any federal infrastructure bank or financing authority.~~

~~This bill also would incorporate additional changes made by the Governor's Reorganization Plan No. 2 of 2012.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ *yes*.

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

SECTION 1. Section 97.70 of the Revenue and Taxation Code is amended to read:

97.70. Notwithstanding any other ~~provision of~~ law, for the 2004–05 fiscal year and for each fiscal year thereafter, all of the following apply:

(a) (1) (A) The auditor shall reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to a county's Educational Revenue Augmentation Fund by the countywide vehicle license fee adjustment amount.

(B) If, for the fiscal year, after complying with Section 97.68 there is not enough ad valorem property tax revenue that is otherwise required to be allocated to a county Educational Revenue Augmentation Fund for the auditor to complete the allocation

reduction required by subparagraph (A), the auditor shall additionally reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts and community college districts in the county for that fiscal year by an amount equal to the difference between the countywide vehicle license fee adjustment amount and the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund for that fiscal year. This reduction for each school district and community college district in the county shall be the percentage share of the total reduction that is equal to the proportion that the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the school district or community college district bears to the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts and community college districts in a county. For purposes of this subparagraph, "school districts" and "community college districts" do not include any districts that are excess tax school entities, as defined in Section 95.

(2) The countywide vehicle license fee adjustment amount shall be allocated to the Vehicle License Fee Property Tax Compensation Fund that shall be established in the treasury of each county.

(b) (1) The auditor shall allocate moneys in the Vehicle License Fee Property Tax Compensation Fund according to the following:

(A) Each city in the county shall receive its vehicle license fee adjustment amount.

(B) Each county and city and county shall receive its vehicle license fee adjustment amount.

(2) The auditor shall allocate one-half of the amount specified in paragraph (1) on or before January 31 of each fiscal year, and the other one-half on or before May 31 of each fiscal year.

(c) For purposes of this section, all of the following apply:

(1) "Vehicle license fee adjustment amount" for a particular city, county, or a city and county means, subject to an adjustment under paragraph (2) and Section 97.71, all of the following:

(A) For the 2004–05 fiscal year, an amount equal to the difference between the following two amounts:

(i) The estimated total amount of revenue that would have been deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund, including any amounts that would

have been certified to the Controller by the auditor of the County of Ventura under subdivision (j) of Section 98.02, as that section read on January 1, 2004, for distribution under the law as it read on January 1, 2004, to the county, city and county, or city for the 2004–05 fiscal year if the fee otherwise due under the Vehicle License Fee Law (Pt. 5 (commencing with Section 10701) of Div. 2) was 2 percent of the market value of a vehicle, as specified in Section 10752 and 10752.1 as those sections read on January 1, 2004.

(ii) The estimated total amount of revenue that is required to be distributed from the Motor Vehicle License Fee Account in the Transportation Tax Fund to the county, city and county, and each city in the county for the 2004–05 fiscal year under Section 11005, as that section read on the operative date of the act that amended this clause.

(B) (i) Subject to an adjustment under clause (ii), for the 2005–06 fiscal year, the sum of the following two amounts:

(I) The difference between the following two amounts:

(Ia) The actual total amount of revenue that would have been deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund, including any amounts that would have been certified to the Controller by the auditor of the County of Ventura under subdivision (j) of Section 98.02, as that section read on January 1, 2004, for distribution under the law as it read on January 1, 2004, to the county, city and county, or city for the 2004–05 fiscal year if the fee otherwise due under the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2) was 2 percent of the market value of a vehicle, as specified in Sections 10752 and 10752.1 as those sections read on January 1, 2004.

(Ib) The actual total amount of revenue that was distributed from the Motor Vehicle License Fee Account in the Transportation Tax Fund to the county, city and county, and each city in the county for the 2004–05 fiscal year under Section 11005, as that section read on the operative date of the act that amended this sub-subclause.

(II) The product of the following two amounts:

(IIa) The amount described in subclause (I).

(IIb) The percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the

jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years. For the first fiscal year for which a change in a city's jurisdictional boundaries first applies, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated solely on the basis of the city's previous jurisdictional boundaries, without regard to the change in that city's jurisdictional boundaries. For each following fiscal year, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated on the basis of the city's current jurisdictional boundaries.

(ii) The amount described in clause (i) shall be adjusted as follows:

(I) If the amount described in subclause (I) of clause (i) for a particular city, county, or city and county is greater than the amount described in subparagraph (A) for that city, county, or city and county, the amount described in clause (i) shall be increased by an amount equal to this difference.

(II) If the amount described in subclause (I) of clause (i) for a particular city, county, or city and county is less than the amount described in subparagraph (A) for that city, county, or city and county, the amount described in clause (i) shall be decreased by an amount equal to this difference.

(C) For the 2006–07 fiscal year and for each fiscal year thereafter, the sum of the following two amounts:

(i) The vehicle license fee adjustment amount for the prior fiscal year, if Section 97.71 and clause (ii) of subparagraph (B) did not apply for that fiscal year, for that city, county, and city and county.

(ii) The product of the following two amounts:

(I) The amount described in clause (i).

(II) The percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years. For the first fiscal year for which a change in a city's jurisdictional boundaries first applies, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated solely on the basis of the city's previous jurisdictional boundaries, without regard to the change in that city's jurisdictional boundaries. For each following fiscal year, the percentage change in gross taxable

assessed valuation from the prior fiscal year to the current fiscal year shall be calculated on the basis of the city's current jurisdictional boundaries.

(2) For the 2013–14 fiscal year, the vehicle license fee adjustment amount that is determined under subparagraph (C) of paragraph (1) for the County of Orange shall be increased by fifty-three million dollars ($53,000,000). For the 2014–15 fiscal year and each fiscal year thereafter, the calculation of the vehicle license fee adjustment amount for the County of Orange under subparagraph (C) of paragraph (1) shall be based on a prior fiscal year amount that reflects the full amount of this one-time increase of fifty-three million dollars ($53,000,000).

~~(2)~~

(3) "Countywide vehicle license fee adjustment amount" means, for any fiscal year, the total sum of the amounts described in ~~paragraph~~ *paragraphs* (1) *and (2)* for a county or city and county, and each city in the county.

~~(3)~~

(4) On or before June 30 of each fiscal year, the auditor shall report to the Controller the vehicle license fee adjustment amount for the county and each city in the county for that fiscal year.

(d) For the 2005–06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, shall not reflect, for a preceding fiscal year, any portion of any allocation required by this section.

(e) For purposes of Section 15 of Article XI of the California Constitution, the allocations from a Vehicle License Fee Property Tax Compensation Fund constitute successor taxes that are otherwise required to be allocated to counties and cities, and as successor taxes, the obligation to make those transfers as required by this section shall not be extinguished nor disregarded in any manner that adversely affects the security of, or the ability of, a county or city to pay the principal and interest on any debts or obligations that were funded or secured by that city's or county's allocated share of motor vehicle license fee revenues.

(f) This section shall not be construed to do any of the following:

(1) Reduce any allocations of excess, additional, or remaining funds that would otherwise have been allocated to county superintendents of schools, cities, counties, and cities and counties pursuant to clause (i) of subparagraph (B) of paragraph (4) of

subdivision (d) of Sections 97.2 and 97.3 or Article 4 (commencing with Section 98) had this section not been enacted. The allocations required by this section shall be adjusted to comply with this paragraph.

(2) Require an increased ad valorem property tax revenue allocation or increased tax increment allocation to a community redevelopment agency.

(3) Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is otherwise determined or allocated in a county.

(4) Reduce ad valorem property tax revenue allocations required under Article 4 (commencing with Section 98).

(g) Tax exchange or revenue sharing agreements, entered into prior to the operative date of this section, between local agencies or between local agencies and nonlocal agencies are deemed to be modified to account for the reduced vehicle license fee revenues resulting from the act that added this section. These agreements are modified in that these reduced revenues are, in kind and in lieu thereof, replaced with ad valorem property tax revenue from a Vehicle License Fee Property Tax Compensation Fund or an Educational Revenue Augmentation Fund.

SEC. 2. Section 97.80 of the Revenue and Taxation Code is repealed.

~~97.80. (a) Notwithstanding any other provision of law, for the 2009–10 fiscal year and for each fiscal year thereafter, the auditor of a qualified county shall do both of the following:~~

~~(1) Increase the total amount of ad valorem property tax revenue that is otherwise required to be allocated to that county by the county equity amount.~~

~~(2) (A) Decrease the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund by the county equity amount.~~

~~(B) If, for any fiscal year, there is not enough ad valorem property tax revenue that is otherwise required to be allocated to a county Educational Revenue Augmentation Fund for the auditor to complete the allocation reduction required by subparagraph (A), the auditor shall additionally reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts in the county for that fiscal year by an amount~~

~~equal to the difference between the county equity amount and the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund for that fiscal year. This reduction for each school district in the county shall be the percentage share of the total reduction that is equal to the proportion that the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the school district bears to the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts in a county. For purposes of this subparagraph, "school districts" do not include any districts that are excess tax school entities, as defined in Section 95.~~

~~(C) Any reduction in the amount of ad valorem property tax revenues deposited in the county's Educational Revenue Augmentation Fund as a result of subparagraph (A) shall be applied exclusively to reduce the amounts that are allocated from that fund to school districts and county offices of education, and shall not be applied to reduce the amounts of ad valorem property tax revenues that are otherwise required to be allocated from that fund to community college districts.~~

~~(b) For purposes of this section:~~

~~(1) "Qualified county" means the county that, of all the counties in the state, was allocated the lowest percentage of countywide ad valorem property tax revenue for the 2006–07 fiscal year.~~

~~(2) "County equity amount" means thirty-five million dollars ($35,000,000) for each of the 2009–10 and 2010–11 fiscal years, and fifty million dollars ($50,000,000) for the 2011–12 fiscal year and each fiscal year thereafter.~~

~~(c) For the 2009–10 fiscal year and for each fiscal year thereafter, ad valorem property tax revenue allocations made pursuant to Sections 96.1 and 96.5 shall not incorporate the allocation adjustments made by this section.~~

SEC. 3. (a) The Legislature hereby directs the Department of Finance and the Chancellor of the California Community Colleges to work with the County of Orange, the county auditor-controller for the County of Orange, and the intervenors in obtaining a judgment that is a final and complete resolution to Department of Finance v. Grimes (Superior Court of California, Orange County Case No. 30-2012-005595920-CU-WM-CJC) in which all parties agree not to seek appellate review.

(b) The Legislature finds and declares that an appropriate resolution would be for the County of Orange to repay the amounts owed pursuant to the Department of Finance v. Grimes as follows:

(1) Five million dollars ($5,000,000) in fiscal year 2014–15.

(2) Fifteen million dollars ($15,000,000) in fiscal year 2015–16.

(3) Twenty-five million dollars ($25,000,000) in fiscal year 2016–17.

(4) Fifty million dollars ($50,000,000) in fiscal year 2017–18.

(5) Fifty-five million dollars ($55,000,000) in fiscal year 2018–19.

SEC. 4. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique fiscal pressures being encountered by the County of Orange due to the decrease in the county's allocation of Vehicle License Fee revenues as a result of Chapter 35 of the Statutes of 2011.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

~~SECTION 1. Section 63021.5 of the Government Code is amended to read:~~

~~63021.5. (a) The bank shall be governed and its corporate power exercised by a board of directors that shall consist of the following persons:~~

~~(1) The Director of Finance or his or her designee.~~

~~(2) The Treasurer or his or her designee.~~

~~(3) The Director of the Governor's Office of Economic and Business Development or his or her designee, who shall serve as chair of the board.~~

~~(4) An appointee of the Governor.~~

~~(5) The Secretary of Transportation or his or her designee.~~

~~(6) A Member of the Assembly appointed by the Speaker of the Assembly and a Member of the Senate appointed by the Senate Committee on Rules. The Members of the Legislature shall be nonvoting and shall meet with and, except as otherwise provided by the California Constitution, advise the board, to the extent that their advisory participation is not incompatible with their duties~~

~~as Members of the Legislature. A Member of the Legislature appointed under this paragraph may select a designee to serve in his or her place.~~

~~(b) Any designated director shall serve at the pleasure of the designating power.~~

~~(c) Three of the members shall constitute a quorum and the affirmative vote of three board members shall be necessary for any action to be taken by the board.~~

~~(d) A member of the board shall not participate in any bank action or attempt to influence any decision or recommendation by any employee of, or consultant to, the bank that involves a sponsor of which he or she is a representative or in which the member or a member of his or her immediate family has a personal financial interest within the meaning of Section 87100. For purposes of this section, "immediate family" means the spouse, children, and parents of the member.~~

~~(e) Except as provided in this subdivision, the members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for these expenses is not otherwise provided or payable by another public agency, and shall receive one hundred dollars ($100) for each full day of attending meetings of the authority.~~

~~SEC. 2. Section 63024.2 is added to the Government Code, to read:~~

~~63024.2. The bank shall serve as the primary state agency for the purposes of developing an application for, and applying to, any federal infrastructure bank or financing authority.~~

CORRECTIONS:

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