

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2094**

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**Introduced by Assembly Member Obernolte**

February 17, 2016

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An act to amend Section ~~8603~~ of 39719 of the Health and Safety Code, and to add Section 7202.1 to the Revenue and Taxation Code, relating to ~~taxation~~ transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2094, as amended, Obernolte. ~~Use fuel tax. Transportation: Greenhouse Gas Reduction Fund: state and local transportation funds.~~

*The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The act authorizes the state board to include the use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the state board as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available, upon appropriation, for purposes relating to greenhouse gas emissions reduction.*

*Existing law provides for deposit of revenues from sales and use taxes in the Retail Sales Tax Fund, including revenues from sales and use taxes imposed by local agencies under the Bradley-Burns Uniform Local Sales and Use Tax Law. Existing law provides for revenues from <sup>1</sup>/<sub>4</sub> of 1% of the sales and use tax rate imposed by counties under the Bradley-Burns Uniform Local Sales and Use Tax Law to be transferred from the Retail Sales Tax Fund to local transportation funds created*

*in each county for allocation by transportation planning agencies to various transportation purposes under the Transportation Development Act. The California Constitution imposes certain restrictions on the Legislature relative to the provisions governing the Bradley-Burns Uniform Local Sales and Use Tax Law and local transportation funds.*

*This bill, beginning in the 2016–17 fiscal year, would transfer \$1 billion annually from the Greenhouse Gas Reduction Fund to the Retail Sales Tax Fund, subject to specified conditions, and would state that the transferred revenues shall be considered part of the revenues allocated to local transportation funds from the Retail Sales Tax Fund. The bill, in each fiscal year in which that transfer occurs, would also continuously appropriate \$1 billion from the Retail Sales Tax Fund for allocation to state highway and local street and road purposes. The bill would make legislative findings and declarations in that regard.*

~~The Use Fuel Tax Law imposes a state excise tax on the use of fuel at specified rates. That law defines the term “motor vehicle” for purposes of that law.~~

~~This bill would make nonsubstantive changes to that definition.~~

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

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

1     SECTION 1. *The Legislature finds and declares that this act*  
2 *complies with Section 2 of Article XIX A of the California*  
3 *Constitution, and that:*

4     (a) *Subdivision (e) of Section 2 of Article XIX A of the California*  
5 *Constitution prohibits loans from the Retail Sales Tax Fund, but*  
6 *does not prohibit transfers or diversions from the Retail Sales Tax*  
7 *Fund.*

8     (b) *Pursuant to subdivision (f) of Section 2 of Article XIX A of*  
9 *the California Constitution, the percentage of the sales and use*  
10 *tax imposed pursuant to Section 7202 of the Revenue and Taxation*  
11 *Code allocated to local transportation funds pursuant to this act*  
12 *remains identical to the percentage that was transmitted to those*  
13 *funds during the 2008 calendar year.*

14     SEC. 2. *Section 39719 of the Health and Safety Code is*  
15 *amended to read:*

16     39719. (a) *The Legislature shall appropriate the annual*  
17 *proceeds of the fund for the purpose of reducing greenhouse gas*

1 emissions in this state in accordance with the requirements of  
2 Section 39712.

3 (b) To carry out a portion of the requirements of subdivision  
4 (a), annual proceeds are continuously appropriated for the  
5 following:

6 (1) Beginning in the 2015–16 fiscal year, and notwithstanding  
7 Section 13340 of the Government Code, 35 percent of annual  
8 proceeds are continuously appropriated, without regard to fiscal  
9 years, for transit, affordable housing, and sustainable communities  
10 programs as following:

11 (A) Ten percent of the annual proceeds of the fund is hereby  
12 continuously appropriated to the Transportation Agency for the  
13 Transit and Intercity Rail Capital Program created by Part 2  
14 (commencing with Section 75220) of Division 44 of the Public  
15 Resources Code.

16 (B) Five percent of the annual proceeds of the fund is hereby  
17 continuously appropriated to the Low Carbon Transit Operations  
18 Program created by Part 3 (commencing with Section 75230) of  
19 Division 44 of the Public Resources Code. Funds shall be allocated  
20 by the Controller, according to requirements of the program, and  
21 pursuant to the distribution formula in subdivision (b) or (c) of  
22 Section 99312 of, and Sections 99313 and 99314 of, the Public  
23 Utilities Code.

24 (C) Twenty percent of the annual proceeds of the fund is hereby  
25 continuously appropriated to the Strategic Growth Council for the  
26 Affordable Housing and Sustainable Communities Program created  
27 by Part 1 (commencing with Section 75200) of Division 44 of the  
28 Public Resources Code. Of the amount appropriated in this  
29 subparagraph, no less than 10 percent of the annual proceeds, shall  
30 be expended for affordable housing, consistent with the provisions  
31 of that program.

32 (2) Beginning in the 2015–16 fiscal year, notwithstanding  
33 Section 13340 of the Government Code, 25 percent of the annual  
34 proceeds of the fund is hereby continuously appropriated to the  
35 High-Speed Rail Authority for the following components of the  
36 initial operating segment and Phase I Blended System as described  
37 in the 2012 business plan adopted pursuant to Section 185033 of  
38 the Public Utilities Code:

39 (A) Acquisition and construction costs of the project.

40 (B) Environmental review and design costs of the project.

- 1 (C) Other capital costs of the project.
- 2 (D) Repayment of any loans made to the authority to fund the
- 3 project.

4 (c) *Beginning in the 2016–17 fiscal year, one billion dollars*  
 5 *(\$1,000,000,000) of the annual proceeds of the fund shall be*  
 6 *transferred to the Retail Sales Tax Fund if both of the following*  
 7 *conditions are met:*

8 (1) *The remaining annual proceeds of the fund, after the*  
 9 *appropriations in paragraphs (1) and (2) of subdivision (b), equal*  
 10 *or exceed one billion dollars (\$1,000,000,000).*

11 (2) *The amount of revenue collected by the State Board of*  
 12 *Equalization for allocation to local transportation funds pursuant*  
 13 *to Section 29530 of the Government Code in the applicable fiscal*  
 14 *year equals or exceeds one billion dollars (\$1,000,000,000).*

15 (e)

16 (d) In determining the amount of annual proceeds of the fund  
 17 for purposes of the calculation in subdivision (b), the funds subject  
 18 to Section 39719.1 shall not be included.

19 SEC. 3. *Section 7202.1 is added to the Revenue and Taxation*  
 20 *Code, to read:*

21 7202.1. (a) *In any fiscal year in which funds are transferred*  
 22 *to the Retail Sales Tax Fund pursuant to subdivision (c) of Section*  
 23 *39719 of the Health and Safety Code, one billion dollars*  
 24 *(\$1,000,000,000) of the annual proceeds of the Retail Sales Tax*  
 25 *Fund is hereby continuously appropriated, notwithstanding Section*  
 26 *7204 or Section 13340 of the Government Code and without regard*  
 27 *to fiscal years, as follows:*

28 (1) *Fifty percent to the Department of Transportation for*  
 29 *maintenance of the state highway system, or for projects contained*  
 30 *in the State Highway Operation and Protection Program prepared*  
 31 *pursuant to Section 14526.5 of the Government Code.*

32 (2) *Fifty percent to the Controller, for apportionment to cities*  
 33 *and counties for local street and road purposes pursuant to the*  
 34 *formula contained in subparagraph (C) of paragraph (3) of*  
 35 *subdivision (a) of Section 2103 of the Streets and Highways Code.*

36 (b) *Funds that are transferred to the Retail Sales Tax Fund*  
 37 *pursuant to subdivision (c) of Section 39719 of the Health and*  
 38 *Safety Code shall be considered part of the revenues allocated to*  
 39 *local transportation funds pursuant to Section 29530 of the*  
 40 *Government Code.*

1     ~~SECTION 1. Section 8603 of the Revenue and Taxation Code~~  
2     ~~is amended to read:~~  
3     ~~8603. As used in this part “motor vehicle” includes any~~  
4     ~~self-propelled vehicle operated or suitable for operation on the~~  
5     ~~highway, but does not include a vehicle used exclusively upon~~  
6     ~~stationary rails or tracks.~~

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