

AMENDED IN SENATE SEPTEMBER 3, 2015

CALIFORNIA LEGISLATURE—2015–16 FIRST EXTRAORDINARY SESSION

SENATE BILL

No. 7

Introduced by Senator Allen

July 16, 2015

An act to ~~amend, repeal, and add Sections 6051.8 and 6201.8 of~~ amend Section 99312.1 of the Public Utilities Code, and to amend Sections 6051.8, 6201.8, and 60050 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, ~~to take effect immediately, tax levy: therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 7, as amended, Allen. Diesel sales and use tax.

Existing law, beyond the sales and use tax rate generally applicable, imposes an additional sales and use tax on diesel fuel at the rate of 1.75%, subject to certain exemptions, and provides for the net revenues collected from the additional tax to be transferred to the Public Transportation Account. Existing law continuously appropriates these revenues to the Controller, for allocation by formula to transportation agencies for public transit purposes.

This bill, as of July 1, 2016, would increase the additional sales and use tax rate on diesel fuel to 5.25%. By increasing the revenues deposited in a continuously appropriated fund, the bill would thereby make an appropriation. *The bill would restrict expenditures of revenues from the July 1, 2016, increase in the sales and use tax on diesel fuel to transit capital purposes and certain transit services. The bill would require an existing required audit of transit operator finances to verify that these new revenues have been expended in conformance with these specific restrictions and all other generally applicable requirements.*

Existing law requires the State Board of Equalization to annually modify the diesel excise tax rate on a going-forward basis to account for increases in the sales and use tax on diesel and maintain revenue neutrality, as specified.

This bill would provide that the increase in the additional sales and use tax on diesel fuel imposed by the bill shall not be considered by the board in its annual modification of the diesel excise tax rate.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

~~This bill would take effect immediately as a tax levy.~~

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. Section 99312.1 of the Public Utilities Code is
2 amended to read:

3 99312.1. (a) Revenues transferred to the Public Transportation
4 Account pursuant to Sections 6051.8 and 6201.8 of the Revenue
5 and Taxation Code are hereby continuously appropriated to the
6 Controller for allocation as follows:

7 ~~(a)~~

8 (1) Fifty percent for allocation to transportation planning
9 agencies, county transportation commissions, and the San Diego
10 Metropolitan Transit Development Board pursuant to Section
11 99314.

12 ~~(b)~~

13 (2) Fifty percent for allocation to transportation agencies, county
14 transportation commissions, and the San Diego Metropolitan
15 Transit Development Board for purposes of Section 99313.

16 ~~For~~

17 (b) For purposes of this chapter, the revenues allocated pursuant
18 to this section shall be subject to the same requirements as revenues
19 allocated pursuant to subdivisions (b) and (c), as applicable, of
20 Section 99312.

21 (c) *The revenues transferred to the Public Transportation*
22 *Account that are attributable to the increase in the sales and use*
23 *tax on diesel fuel pursuant to subdivision (b) of Section 6051.8 of*

1 *the Revenue and Taxation Code and subdivision (b) of Section*
 2 *6201.8 of the Revenue and Taxation Code, upon allocation*
 3 *pursuant to Sections 99313 and 99314, shall only be expended on*
 4 *transit capital projects, or on services to maintain or repair a*
 5 *transit operator’s existing transit vehicle fleet or existing transit*
 6 *facilities, including rehabilitation or modernization of existing*
 7 *vehicles or facilities, or for the design, acquisition, and*
 8 *construction of new vehicles or facilities that improve existing*
 9 *transit services or enable the implementation of future planned*
 10 *transit services, or on services that complement local efforts for*
 11 *repair and improvement of local transportation infrastructure.*
 12 *The audit of transit operator finances required pursuant to Section*
 13 *99245 shall verify that these revenues have been expended in*
 14 *conformance with these specific requirements and all other*
 15 *generally applicable requirements.*

16 SECTION 1.

17 SEC. 2. Section 6051.8 of the Revenue and Taxation Code is
18 amended to read:

19 6051.8. (a) Except as provided by Section 6357.3, in addition
 20 to the taxes imposed by this part, for the privilege of selling
 21 tangible personal property at retail a tax is hereby imposed upon
 22 all retailers at the rate of 1.75 percent of the gross receipts of any
 23 retailer from the sale of all diesel fuel, as defined in Section 60022,
 24 sold at retail in this state on and after the operative date of this
 25 subdivision: *state.*

26 ~~(b) Notwithstanding subdivision (a), for the 2011–12 fiscal year~~
27 ~~only, the rate referenced in subdivision (a) shall be 1.87 percent.~~

28 ~~(c) Notwithstanding subdivision (a), for the 2012–13 fiscal year~~
29 ~~only, the rate referenced in subdivision (a) shall be 2.17 percent.~~

30 ~~(d) Notwithstanding subdivision (a), for the 2013–14 fiscal year~~
31 ~~only, the rate referenced in subdivision (a) shall be 1.94 percent.~~

32 (b) *Notwithstanding subdivision (a), commencing July 1, 2016,*
33 *the rate referenced in subdivision (a) shall be increased to 5.25*
34 *percent.*

35 (e)

36 (c) Notwithstanding subdivision (b) of Section 7102, all of the
37 revenues, less refunds, collected pursuant to this section shall be
38 estimated by the State Board of Equalization, with the concurrence
39 of the Department of Finance, and transferred quarterly to the
40 Public Transportation Account in the State Transportation Fund

1 for allocation pursuant to Section 99312.1 of the Public Utilities
2 Code.

3 ~~(f) This section shall become inoperative on July 1, 2016, and,~~
4 ~~as of January 1, 2017, is repealed, unless a later enacted statute,~~
5 ~~that becomes operative on or before January 1, 2017, deletes or~~
6 ~~extends the dates on which it becomes inoperative and is repealed.~~

7 SEC. 2. ~~Section 6051.8 is added to the Revenue and Taxation~~
8 ~~Code, to read:~~

9 ~~6051.8. (a) Except as provided by Section 6357.3, in addition~~
10 ~~to the taxes imposed by this part, for the privilege of selling~~
11 ~~tangible personal property at retail a tax is hereby imposed upon~~
12 ~~all retailers at the rate of 5.25 percent of the gross receipts of any~~
13 ~~retailer from the sale of all diesel fuel, as defined in Section 60022,~~
14 ~~sold at retail in this state.~~

15 ~~(b) Notwithstanding subdivision (b) of Section 7102, all of the~~
16 ~~revenues, less refunds, collected pursuant to this section shall be~~
17 ~~estimated by the State Board of Equalization, with the concurrence~~
18 ~~of the Department of Finance, and transferred quarterly to the~~
19 ~~Public Transportation Account in the State Transportation Fund~~
20 ~~for allocation pursuant to Section 99312.1 of the Public Utilities~~
21 ~~Code.~~

22 ~~(e) This section shall become operative on July 1, 2016.~~

23 SEC. 3. Section 6201.8 of the Revenue and Taxation Code is
24 amended to read:

25 6201.8. (a) Except as provided by Section 6357.3, in addition
26 to the taxes imposed by this part, an excise tax is hereby imposed
27 on the storage, use, or other consumption in this state of diesel
28 fuel, as defined in Section 60022, at the rate of 1.75 percent of the
29 sales price of the diesel fuel on and after the operative date of this
30 subdivision. *fuel.*

31 ~~(b) Notwithstanding subdivision (a), for the 2011–12 fiscal year~~
32 ~~only, the rate referenced in subdivision (a) shall be 1.87 percent.~~

33 ~~(c) Notwithstanding subdivision (a), for the 2012–13 fiscal year~~
34 ~~only, the rate referenced in subdivision (a) shall be 2.17 percent.~~

35 ~~(d) Notwithstanding subdivision (a), for the 2013–14 fiscal year~~
36 ~~only, the rate referenced in subdivision (a) shall be 1.94 percent.~~

37 *(b) Notwithstanding subdivision (a), commencing July 1, 2016,*
38 *the rate referenced in subdivision (a) shall be increased to 5.25*
39 *percent.*

40 (e)

1 (c) Notwithstanding subdivision (b) of Section 7102, all of the
 2 revenues, less refunds, collected pursuant to this section shall be
 3 estimated by the State Board of Equalization, with the concurrence
 4 of the Department of Finance, and transferred quarterly to the
 5 Public Transportation Account in the State Transportation Fund
 6 for allocation pursuant to Section 99312.1 of the Public Utilities
 7 Code.

8 ~~(f) This section shall become inoperative on July 1, 2016, and,~~
 9 ~~as of January 1, 2017, is repealed, unless a later enacted statute,~~
 10 ~~that becomes operative on or before January 1, 2017, deletes or~~
 11 ~~extends the dates on which it becomes inoperative and is repealed.~~

12 ~~SEC. 4. Section 6201.8 is added to the Revenue and Taxation~~
 13 ~~Code, to read:~~

14 ~~6201.8. (a) Except as provided by Section 6357.3, in addition~~
 15 ~~to the taxes imposed by this part, an excise tax is hereby imposed~~
 16 ~~on the storage, use, or other consumption in this state of diesel~~
 17 ~~fuel, as defined in Section 60022, at the rate of 5.25 percent of the~~
 18 ~~sales price of the diesel fuel.~~

19 ~~(b) Notwithstanding subdivision (b) of Section 7102, all of the~~
 20 ~~revenues, less refunds, collected pursuant to this section shall be~~
 21 ~~estimated by the State Board of Equalization, with the concurrence~~
 22 ~~of the Department of Finance, and transferred quarterly to the~~
 23 ~~Public Transportation Account in the State Transportation Fund~~
 24 ~~for allocation pursuant to Section 99312.1 of the Public Utilities~~
 25 ~~Code.~~

26 ~~(e) This section shall become operative on July 1, 2016.~~

27 ~~SEC. 5. This act provides for a tax levy within the meaning of~~
 28 ~~Article IV of the Constitution and shall go into immediate effect.~~

29 ~~SEC. 4. Section 60050 of the Revenue and Taxation Code is~~
 30 ~~amended to read:~~

31 60050. (a) (1) A tax of eighteen cents (\$0.18) is hereby
 32 imposed upon each gallon of diesel fuel subject to the tax in
 33 Sections 60051, 60052, and 60058.

34 (2) If the federal fuel tax is reduced below the rate of fifteen
 35 cents (\$0.15) per gallon and federal financial allocations to this
 36 state for highway and exclusive public mass transit guideway
 37 purposes are reduced or eliminated correspondingly, the tax rate
 38 imposed by paragraph (1), including any reduction or adjustment
 39 pursuant to subdivision (b), on and after the date of the reduction,
 40 shall be increased by an amount so that the combined state rate

1 under paragraph (1) and the federal tax rate per gallon equal what
2 it would have been in the absence of the federal reduction.

3 (3) If any person or entity is exempt or partially exempt from
4 the federal fuel tax at the time of a reduction, the person or entity
5 shall continue to be exempt under this section.

6 (b) (1) On July 1, 2011, the tax rate specified in paragraph (1)
7 of subdivision (a) shall be reduced to thirteen cents (\$0.13) and
8 every July 1 thereafter shall be adjusted pursuant to paragraphs
9 (2) and (3).

10 (2) For the 2012–13 fiscal year and each fiscal year thereafter,
11 the board shall, on or before March 1 of the fiscal year immediately
12 preceding the applicable fiscal year, adjust the rate reduction in
13 paragraph (1) in that manner as to result in a revenue loss
14 attributable to paragraph (1) that will equal the amount of revenue
15 gain attributable to Sections 6051.8 and 6201.8, based on estimates
16 made by the board, and that rate shall be effective during the state's
17 next fiscal year.

18 (3) In order to maintain revenue neutrality for each year,
19 beginning with the rate adjustment on or before March 1, 2013,
20 the adjustment under paragraph (2) shall take into account the
21 extent to which the actual amount of revenues derived pursuant to
22 Sections 6051.8 and 6201.8 and the revenue loss attributable to
23 this subdivision resulted in a net revenue gain or loss for the fiscal
24 year ending prior to the rate adjustment date on or before March
25 1.

26 (4) The intent of paragraphs (2) and (3) is to ensure that the act
27 adding this subdivision and Sections 6051.8 and 6201.8 does not
28 produce a net revenue gain in state taxes.

29 (5) *Notwithstanding any other provision of this subdivision, the*
30 *board shall not make any adjustments to the excise tax rate as a*
31 *result of the increase in the sales and use tax on diesel fuel*
32 *pursuant to subdivision (b) of Section 6051.8 and subdivision (b)*
33 *of Section 6201.8.*

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