

AMENDED IN SENATE MARCH 26, 2015

SENATE BILL

No. 321

Introduced by Senator Beall

February 23, 2015

An act to amend Section 7360 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 321, as amended, Beall. Motor vehicle fuel taxes: rates: adjustments.

Existing law, as of July 1, 2010, exempts the sale of, and the storage, use, or other consumption of, motor vehicle fuel from specified sales and use taxes and increases the excise tax on motor vehicle fuel, as provided.

Existing law requires the State Board of Equalization, for the 2011–12 fiscal year and each fiscal year thereafter, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, to adjust the motor vehicle fuel tax rate in a manner as to generate an amount of revenue equal to the amount of revenue loss attributable to the sales and use tax exemption on motor vehicle fuel, based on estimates made by the board. Existing law also requires, in order to maintain revenue neutrality, the board to take into account actual net revenue gain or loss for the fiscal year ending prior to the rate adjustment date. Existing law requires this determined rate to be effective during the state's next fiscal year.

This bill would, for the 2015–16 fiscal year and each fiscal year thereafter, instead require the board, on or before July 1, 2015, or March 1 of the fiscal year immediately preceding the applicable fiscal year,

as specified, to adjust the rate in a manner as to generate an amount of revenue equal to the ~~average~~ amount of revenue loss attributable to the ~~exemption over the next five fiscal years~~, *exemption*, based on estimates made by the board *that reflect the combined average of the actual fuel price over the previous 4 fiscal years and the estimated fuel price for the current fiscal year*, and continuing to take into account adjustments required by existing law to maintain revenue neutrality. This bill would authorize, for rate adjustments made after January 1, 2015, in order to reduce the potential volatility of the revenues generated by the motor vehicle fuel tax, the board to make partial adjustments over *up to 3* consecutive years to take into account the net revenue gain or loss of any fiscal year.

This bill would also authorize, if, due to clear changes in either fuel prices or consumption in the state, the board makes a determination that the amount of revenue being generated by the motor vehicle fuel tax will be significantly different than the estimates made by the board, the board to adjust the rate more frequently than annually, but no more frequently than ~~quarterly~~ *every 6 months* in order to reduce the potential volatility of the revenues.

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 7360 of the Revenue and Taxation Code
2 is amended to read:
3 7360. (a) (1) A tax of eighteen cents (\$0.18) is hereby imposed
4 upon each gallon of fuel subject to the tax in Sections 7362, 7363,
5 and 7364.
6 (2) If the federal fuel tax is reduced below the rate of nine cents
7 (\$0.09) per gallon and federal financial allocations to this state for
8 highway and exclusive public mass transit guideway purposes are
9 reduced or eliminated correspondingly, the tax rate imposed by
10 paragraph (1), on and after the date of the reduction, shall be
11 recalculated by an amount so that the combined state rate under
12 paragraph (1) and the federal tax rate per gallon equal twenty-seven
13 cents (\$0.27).

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

(b) (1) On and after July 1, 2010, in addition to the tax imposed by subdivision (a), a tax is hereby imposed upon each gallon of motor vehicle fuel, other than aviation gasoline, subject to the tax in Sections 7362, 7363, and 7364 in an amount equal to seventeen and three-tenths cents (\$0.173) per gallon.

(2) (A) For the 2011–12 fiscal year to the 2014–15 fiscal year, inclusive, the board shall, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the rate in paragraph (1) in that manner as to generate an amount of revenue that will equal the amount of revenue loss attributable to the exemption provided by Section 6357.7, based on estimates made by the board, and that rate shall be effective during the state’s next fiscal year.

(B) For the 2015–16 fiscal year, the board shall, on or before July 1, 2015, adjust the rate in paragraph (1) in that manner as to generate an amount of revenue that will equal the ~~average~~ amount of revenue loss attributable to the exemption provided by Section ~~6357.7 over the next five fiscal years, 6357.7~~, based on estimates made by the board *that reflect the combined average of the actual fuel price over the previous four fiscal years and the estimated fuel price for the current fiscal year*, and that rate shall be effective during the 2015–16 fiscal year.

(C) For the 2016–17 fiscal year and each fiscal year thereafter, the board shall, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the rate in paragraph (1) in that manner as to generate an amount of revenue that will equal the ~~average~~ amount of revenue loss attributable to the exemption provided by Section ~~6357.7 over the next five fiscal years, 6357.7~~, based on estimates made by the board *that reflect the combined average of the actual fuel price over the previous four fiscal years and the estimated fuel price for the current fiscal year*, and that rate shall be effective during the state’s next fiscal year.

(3) In order to maintain revenue neutrality, beginning with the rate adjustment on or before March 1, 2012, the adjustment under paragraph (2) shall also take into account the extent to which the actual amount of revenues derived pursuant to this subdivision

1 and, as applicable, Section 7361.1, the revenue loss attributable
2 to the exemption provided by Section 6357.7 resulted in a net
3 revenue gain or loss for the fiscal year ending prior to the rate
4 adjustment date on or before March 1. For rate adjustments made
5 after January 1, 2015, in order to reduce the potential volatility of
6 the revenues generated by the tax imposed under this subdivision,
7 the board may make partial adjustments over *up to* three
8 consecutive years to take into account the net revenue gain or loss
9 of any fiscal year.

10 (4) If, due to clear changes in either fuel prices or consumption
11 in the state, the board makes a determination that the amount of
12 revenue being generated by the tax imposed by this section will
13 be significantly different than the estimates made by the board,
14 the board may adjust the rate in paragraph (1) more frequently
15 than annually, but no more frequently than ~~quarterly~~ *every six*
16 *months* in order to reduce the potential volatility of the revenues.

17 (5) The intent of paragraphs (2) and (3) is to ensure that Chapter
18 6 of the Statutes of 2011, which added this subdivision and Section
19 6357.7, does not produce a net revenue gain in state taxes.

20 (6) *It is the intent of the Legislature that the amendments made*
21 *by the act adding this paragraph does not produce a net revenue*
22 *gain in state taxes. Revenue neutrality, as used in this section, does*
23 *not refer to revenues generated in any particular fiscal year, but*
24 *instead means that, over a reasonable period of fiscal years, the*
25 *actual amount of revenues derived pursuant to this subdivision is*
26 *equal to the estimated amount of revenue loss attributable to the*
27 *exemption provided by Section 6357.7.*

28 SEC. 2. This act is an urgency statute necessary for the
29 immediate preservation of the public peace, health, or safety within
30 the meaning of Article IV of the Constitution and shall go into
31 immediate effect. The facts constituting the necessity are:

32 In order to avoid a significant and devastating decrease in the
33 amount of funding available for the maintenance of California's
34 local streets and roads, it is necessary that this act take effect
35 immediately.