

AMENDED IN ASSEMBLY MARCH 27, 1995

CALIFORNIA LEGISLATURE—1995-96 REGULAR SESSION

ASSEMBLY BILL

No. 1191

Introduced by Assembly Member Takasugi

February 23, 1995

~~An act to add Section 17085.6 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~
An act to amend Sections 30053 and 30054 of the Government Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1191, as amended, Takasugi. ~~Income taxes: penalties: early distributions: long-term care insurance—~~*Local government finance: sales and use tax revenues: allocation.*

~~The Personal Income Tax Law, by reference to a specified federal statute, provides that certain premature or early distributions from qualified pension plans, employee annuities, and individual retirement accounts are includable in income and imposes certain penalties upon those premature or early distributions.~~

~~This bill would except from those penalties imposed any qualified distribution, as defined, to the extent that the distribution is made to any individual for the purchase of long-term care insurance, as provided.~~

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

Existing law continuously appropriates state sales and use tax revenues deposited in the Local Public Safety Fund to the Controller for allocation, as provided, to each qualified county, as defined. It generally requires the auditor of each

qualified county, in each fiscal year, to allocate that county's share of those revenues to the county and each city located therein in accordance with certain requirements and formulas.

This bill would modify those requirements and formulas to require the auditor to allocate those revenues on a monthly basis, and to establish a new formula for allocations in the 1994-95 fiscal year and each fiscal year thereafter. By imposing new allocation duties on county auditors, this bill would impose a state-mandated local program.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

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

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

- 1 **SECTION 1.**—~~Section 17085.6 is added to the Revenue~~
- 2 *SECTION 1. Section 30053 of the Government Code*
- 3 *is amended to read:*
- 4 30053. (a) On or before the 27th day of each month,
- 5 the Controller shall allocate to each qualified county the
- 6 amounts deposited and remaining unexpended and
- 7 unresolved in the Local Public Safety Fund on the 15th
- 8 day of each month as provided in Section 30052.
- 9 (b) On or before the seventh day of each month, the
- 10 county auditor shall, as provided in Section 30054, allocate
- 11 to the county and to each city within the county those
- 12 amounts allocated to the county in the previous month
- 13 pursuant to subdivision (a).



1 SEC. 2. Section 30054 of the Government Code is
2 amended to read:

3 30054. (a) The amounts allocated pursuant to
4 Sections 30052 and 30053 shall be available only for public
5 safety services, and shall be allocated in each qualified
6 county to local agencies as provided in subdivision (b).

7 (b) (1) Each county shall create a Public Safety
8 Augmentation Fund that shall consist of all revenues
9 received by the county as a result of the allocations
10 pursuant to Sections 30052 and 30053.

11 (2) Except as *otherwise* provided in paragraph (3) or
12 (4), for the 1993–94 fiscal year and each fiscal year
13 thereafter, the augmentation fund described in
14 paragraph (1) shall be allocated among the county and
15 each city in the county that provides public safety
16 services as follows:

17 (A) ~~The~~ For purposes of allocations for the 1993–94
18 fiscal year, the auditor shall ~~determine~~ multiply the
19 monthly amount allocated to the county pursuant to
20 subdivision (a) of Section 30053 by an allocation factor for
21 each city within the county, the numerator of which shall
22 be the amount of revenue shifted from that city to the
23 Educational Revenue Augmentation Fund pursuant to
24 Section 97.035 of the Revenue and Taxation Code for the
25 1993–94 fiscal year less the amount of vehicle license fee
26 revenues allocated to the city pursuant to Section 11005.4
27 of the Revenue and Taxation Code for the 1993–94 fiscal
28 year and the denominator of which shall be the amount
29 of revenue shifted from all cities in the county and from
30 the county to the Educational Revenue Augmentation
31 Fund pursuant to Section 97.035 of the Revenue and
32 Taxation Code for the 1993–94 fiscal year less the amount
33 of vehicle license fee revenues allocated to the county
34 and all cities in the county pursuant to Section 11005.4 of
35 the Revenue and Taxation Code for the 1993–94 fiscal
36 year.

37 (B) ~~The auditor shall multiply the amount in the~~
38 ~~augmentation fund by the allocation factor determined in~~
39 ~~subparagraph (A) for each city.~~



1 ~~(C) The allocation factor to be used for each city for~~
2 ~~the 1993-94 fiscal year shall not result in an allocation that~~
3 ~~exceeds~~ *For the 1993-94 fiscal year, the total allocation of*
4 *revenues to any city shall not exceed 50 percent of the*
5 *difference between the following:*

6 (i) The amount by which the city's allocation of
7 property tax revenues was reduced pursuant to Section
8 97.035 of the Revenue and Taxation Code for the 1993-94
9 fiscal year.

10 (ii) The amount of vehicle license fee revenues
11 allocated to the city pursuant to Section 11005.4 of the
12 Revenue and Taxation Code for the 1993-94 fiscal year.

13 ~~(D) The allocation factor determined pursuant to this~~
14 ~~paragraph for the 1993-94 fiscal year shall also be applied~~
15 ~~in each fiscal year thereafter.~~

16 *(C) For purposes of allocations for the 1994-95 fiscal*
17 *year and each fiscal year thereafter, the auditor shall*
18 *multiply the monthly amount allocated by the Controller*
19 *to the county pursuant to subdivision (a) of Section 30053*
20 *by an allocation factor for each city, the numerator of*
21 *which shall be the limitation amount determined with*
22 *respect to that city pursuant to subparagraph (B), and the*
23 *denominator of which shall be the total amount of*
24 *revenue allocated to the county for the 1993-94 fiscal year*
25 *by the Controller pursuant to Sections 30052 and 30053.*

26 *(D) Notwithstanding any other provision of this*
27 *section, allocation amounts determined pursuant to this*
28 *section for each fiscal year shall equal those allocation*
29 *amounts that would be determined under this section if*
30 *those amounts were calculated based on sales tax as*
31 *allocated by the Controller for the applicable fiscal year*
32 *on an accrual basis. On or before November 15 of each*
33 *fiscal year, the auditor shall reconcile the amounts*
34 *actually allocated pursuant to this section for the previous*
35 *fiscal year with the allocation amounts required for that*
36 *fiscal year by the preceding sentence.*

37 (3) Notwithstanding paragraph (2), for the 1993-94
38 fiscal year and each fiscal year thereafter, the amount in
39 the augmentation fund established pursuant to
40 paragraph (1) of each county described in subparagraph



1 (C) shall be allocated to the cities in the county that
2 provide public safety services as follows:

3 (A) The auditor shall determine an allocation factor
4 for each city within the county, the numerator of which
5 shall be the amount of the revenue shifted from that city
6 to the Educational Revenue Augmentation Fund
7 pursuant to Section 97.035 of the Revenue and Taxation
8 Code for the 1993–94 fiscal year, and the denominator of
9 which shall be the amount of revenue shifted from all
10 cities in the county to the Educational Revenue
11 Augmentation Fund pursuant to Section 97.035 of the
12 Revenue and Taxation Code for the 1993–94 fiscal year.

13 (B) The auditor shall multiply 5 percent of the amount
14 in the augmentation fund established pursuant to
15 paragraph (1) by the allocation factor determined in
16 subparagraph (A). The amount so computed shall be
17 allocated to each respective city.

18 (C) This paragraph applies only to the Counties of
19 Fresno, Kings, Merced, San Bernardino, San Diego, San
20 Joaquin, Solano, and Yolo.

21 (D) This paragraph shall apply to a particular county
22 described in subparagraph (C) only if the total amount
23 allocated under this paragraph to all of the cities therein
24 that provide public safety services is less than the amount
25 that would otherwise be allocated to all of those cities
26 pursuant to paragraph (2).

27 (4) Notwithstanding paragraph (2), for the 1993–94
28 fiscal year and each fiscal year thereafter, the amount in
29 the augmentation fund established pursuant to
30 paragraph (1) for the County of Alameda shall be
31 allocated to the cities in the County of Alameda that
32 provide public safety services as follows:

33 (A) The auditor shall determine an allocation factor
34 for each city within the county, the numerator of which
35 shall be the amount of the revenue shifted from that city
36 to the Educational Revenue Augmentation Fund
37 pursuant to Section 97.035 of the Revenue and Taxation
38 Code for the 1993–94 fiscal year, and the denominator of
39 which shall be the amount of revenue shifted from all
40 cities in the County of Alameda to the Educational



1 Revenue Augmentation Fund pursuant to Section 97.035
2 of the Revenue and Taxation Code for the 1993–94 fiscal
3 year.

4 (B) The auditor shall multiply 6.1 percent of the
5 amount in the augmentation fund established pursuant to
6 paragraph (1) by the allocation factor determined in
7 subparagraph (A). The amount so computed shall be
8 allocated to each city.

9 (5) All moneys in the Public Safety Augmentation
10 Fund not allocated to any city within the county pursuant
11 to paragraph (2), (3), or (4) shall be allocated to the
12 county.

13 *SEC. 3. Notwithstanding Section 17610 of the*
14 *Government Code, if the Commission on State Mandates*
15 *determines that this act contains costs mandated by the*
16 *state, reimbursement to local agencies and school*
17 *districts for those costs shall be made pursuant to Part 7*
18 *(commencing with Section 17500) of Division 4 of Title*
19 *2 of the Government Code. If the statewide cost of the*
20 *claim for reimbursement does not exceed one million*
21 *dollars (\$1,000,000), reimbursement shall be made from*
22 *the State Mandates Claims Fund.*

23 *Notwithstanding Section 17580 of the Government*
24 *Code, unless otherwise specified, the provisions of this act*
25 *shall become operative on the same date that the act*
26 *takes effect pursuant to the California Constitution.*

27 ~~and Taxation Code, to read:~~

28 ~~17085.6. (a) In the case of any qualified distribution~~
29 ~~made on or after January 1, 1995, no additional tax shall~~
30 ~~be imposed in accordance with Section 72(m), (q), or (t)~~
31 ~~of the Internal Revenue Code as modified by Section~~
32 ~~17085(e), relating to the 2½ percent additional tax on~~
33 ~~premature or early distributions, to the extent that the~~
34 ~~qualified distribution is made to any individual for the~~
35 ~~purchase of long-term care insurance for the individual,~~
36 ~~or his or her spouse, dependents, or parents, or the~~
37 ~~parents of his or her spouse.~~

38 ~~(b) For purposes of this section, “qualified~~
39 ~~distribution” means any of the following:~~



1 ~~(1) A distribution from an individual retirement~~
2 ~~account, as defined in Section 408 of the Internal Revenue~~
3 ~~Code.~~

4 ~~(2) A distribution from a plan qualified under Section~~
5 ~~401(a) of the Internal Revenue Code to a self-employed~~
6 ~~individual within the meaning of Section 401(e)(1) of the~~
7 ~~Internal Revenue Code.~~

8 ~~(3) A distribution from a qualified annuity plan~~
9 ~~described in Section 403(a) of the Internal Revenue Code~~
10 ~~to a self-employed individual within the meaning of~~
11 ~~Section 401(e)(1) of the Internal Revenue Code.~~

12 ~~SEC. 2. This act provides for a tax levy within the~~
13 ~~meaning of Article IV of the Constitution and shall go into~~
14 ~~immediate effect.~~

