

Assembly Bill No. 595

CHAPTER 878

An act to add Chapter 12 (commencing with Section 8500) to Part 2 of Division 2 of the Revenue and Taxation Code, relating to transportation.

[Approved by Governor October 11, 1997. Filed
with Secretary of State October 12, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 595, Brown. Metropolitan Transportation Commission: tax: motor vehicle fuel.

(1) Under existing law, the Metropolitan Transportation Commission is created to provide comprehensive regional transportation planning for the 9-county region comprising the commission's jurisdiction. Generally, the commission is responsible for planning, approving, and carrying out various transportation-related activities within the region, including functions pertaining to highways, toll bridges, ferries, and transit systems, and the allocation of state funds and toll bridge revenues to local agencies and transit operators within the region.

This bill would, in addition, authorize the commission to impose a tax on the privilege of selling within the region motor vehicle fuel, as defined, excluding motor vehicle fuel used to power aircraft. The bill would require the commission to adopt a regional transportation expenditure plan for the revenues derived from the tax, if it is imposed. The tax would be levied at a rate established by the commission, but not exceeding 10¢ per gallon.

The bill would impose a state-mandated local program by requiring, upon the request of the commission, the board of supervisors of each county and city and county within the region to submit to the voters at a local election consolidated with a statewide primary or general election specified by the commission a measure, adopted by the commission, authorizing the commission to impose the tax commencing on January 1 of the year following the election approving the tax, for a 20-year period. The bill would require the commission to reimburse each county and city and county in the region for the cost of submitting the measure to the voters. The bill would provide that these costs shall be reimbursed from revenues derived from the tax if the measure is approved by the voters and from any available funds of the commission if the measure is not approved.

This bill would provide that the board of supervisors may elect not to submit the measure to the voters if it submits an alternative

countywide transportation funding measure to the voters at the same election.

The commission would be authorized to impose the tax upon approval of the measure by the voters within the region at the election.

The bill would require the commission to contract with the State Board of Equalization to administer the tax.

The bill would also authorize the commission, upon voter approval, to issue limited obligation bonds.

(2) 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 the Legislature finds there is no mandate contained in the bill that will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to these constitutional and statutory provisions.

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

SECTION 1. Chapter 12 (commencing with Section 8500) is added to Part 2 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 12. METROPOLITAN TRANSPORTATION COMMISSION

8500. Except when the context otherwise requires, the definitions given in this chapter govern the construction of this chapter.

8501. As used in this chapter, the following definitions have the following meanings:

(a) "Commission" means the Metropolitan Transportation Commission created by Title 7.1 (commencing with Section 66500) of the Government Code.

(b) "Region" means the region comprising the commission's jurisdiction, prescribed by Section 66502 of the Government Code.

(c) "Bonds" means indebtedness and securities of any kind or class, including bonds, notes, bond anticipation notes, and commercial paper.

8502. The commission may impose, in addition to any other tax authorized by this division, a tax on the privilege of selling within the region, motor vehicle fuel, as defined by Section 7304. The tax shall not apply to motor vehicle fuel used to power aircraft. The tax shall be levied at a rate established by the commission, but not exceeding ten cents (\$0.10) per gallon. Commencing on January 1 of the year



following the election approving the tax, the tax may be imposed for a period not to exceed 20 years.

8503. (a) Prior to imposing the tax, the commission shall adopt a regional transportation expenditure plan for the revenues derived from the tax. The regional transportation expenditure plan shall describe specific proposed transportation projects and the estimated cost of each project.

(b) The regional transportation expenditure plan shall also meet the following minimum objectives and criteria:

(1) Project expenditures shall reflect an equitable distribution of revenues throughout the region with not less than 95 percent of revenues from each county, based on population, being invested over the 20-year life of the tax in projects attributable to that county. In addition, during every five-year period, no less than 80 percent of the revenues from each county, based on population, invested during that period shall be invested in projects attributable to that county. The commission shall allocate any accrued interest according to the same formula. At the time of the development of the expenditure plan, the commission shall use population data from the most recent United States census, and shall take into account estimated increases in population over the 20-year period projected by the Association of Bay Area Governments.

(2) Projects included in the expenditure plan shall be consistent with the commission's regional transportation plan, a congestion management program, or a countywide transportation plan. The commission shall, in prioritizing projects in the expenditure plan, give additional consideration to projects where local land use policies reduce dependence on single-occupant motor vehicle travel. The expenditure plan development process shall include consultation with cities, counties, transit operators, congestion management agencies, and other interested groups.

(3) Cost estimates for each project shall be prepared by the commission, in consultation with project sponsors, and verified by an independent cost-estimating firm retained by the commission for that purpose. Estimates of other funding required to complete any project shall be based on an estimate of funds reasonably expected to be available during the 20-year period commencing with the year that the tax is initially imposed.

(4) To be eligible for inclusion in the expenditure plan, a project shall meet at least one of the following regional transportation needs:

(A) Fund maintenance and rehabilitation of local streets and roads, sidewalks, or bicycle routes, or close a gap in the local street and road system.

(B) Fund capital or operating expenses of public transit systems.

(C) Fund rail extension projects in the commission's Resolution 1876, Tier I funding plan, dated February 26, 1992, as contained in the commission's regional transportation plan.



(D) Provide an alternative to single occupancy automobile travel.

(E) Improve safety on specific roadway segments where accident or fatality rates exceed the expected rate for those segments over a multiyear timeframe, including, but not limited to, expansion or realignment of the roadway.

(F) Improve the operational efficiency of the existing roadway system without a physical expansion of the system. However, expansion projects to reconfigure existing interchanges are eligible for inclusion in the plan.

(G) Fund implementation of the requirements of the federal Americans with Disabilities Act of 1990 (P.L. 101-336), or those requirements as revised, on public transit systems and other transportation-related facilities.

(H) Fund seismic retrofitting of transportation facilities, except toll bridges.

(I) Fund intermodal freight or passenger facilities.

(J) Fund transportation enhancement activities, as defined in subsection (a) of Section 101 of Title 23 of the United States Code.

(K) Defray interest costs and other expenses associated with the issuance of revenue bonds or revenue anticipation notes.

(5) If not otherwise available, sufficient funding shall be included in the cost estimates and expenditure plan presented to the voters to operate and maintain each included project for the duration of the tax.

8504. Following the adoption by the commission of a regional transportation expenditure plan, the board of supervisors of each county and city and county in the region shall, upon the request of the commission, submit to the voters at a local election consolidated with a statewide primary or general election specified by the commission, a measure, adopted by the commission, authorizing the commission to impose the tax throughout the region. The commission shall reimburse each county and city and county in the region for the cost of submitting the measure to the voters. These costs shall be reimbursed from revenues derived from the tax if the measure is approved by the voters and from any available funds of the commission if the measure is not approved. The board of supervisors of a county or city and county may elect not to submit the measure adopted by the commission to the voters if it submits an alternative countywide transportation funding measure to the voters at the same election.

8505. Upon approval of the measure by the margin of voters within the region voting at a local election as determined necessary by the California Constitution or other applicable statutory provisions, the commission may impose the tax in all counties in the region in which the measure appeared on the ballot.

8506. The commission shall contract with the State Board of Equalization for the administration of any tax imposed under this



chapter, and the board shall be reimbursed for its actual cost in the administration of the tax and for its actual cost of preparation to administer the tax based upon an independent audit.

8507. The State Board of Equalization shall adopt the necessary rules and regulations to administer the tax.

8508. After deducting its cost of administering the tax, the State Board of Equalization shall periodically transmit the net revenues to the commission as promptly as possible. Transmittal of those revenues shall be made at least twice in each calendar quarter.

8509. The net revenues received by the commission shall be expended only in accordance with the regional transportation expenditure plan adopted pursuant to Section 8503, except that the commission may deduct from those revenues funds to reimburse it for expenses incurred in the initial implementation of this chapter, and thereafter, its cost of administration, not to exceed 1 percent of annual net revenues.

8510. In order to be eligible for funds derived from the tax, project sponsors shall comply with all applicable commission rules and regulations including, but not limited to, those adopted pursuant to Section 66516 of the Government Code and Sections 99244 and 99246 of the Public Utilities Code. In consultation with cities, counties, transit operators, congestion management agencies, and other interested groups, the commission shall also develop and implement a program to ensure that project sponsors expend funds derived from the tax in an efficient and effective manner. No operating or maintenance funding provided from the tax shall be used to supplant any funds within the discretionary control of the recipient agency that are used for existing transportation operating or maintenance activities.

8511. The commission's regional transportation expenditure plan shall include a process of ensuring periodic public review of the progress of the regional transportation expenditure plan and citizen oversight.

8512. The commission may, by a two-thirds vote, amend the regional transportation expenditure plan after a minimum of two public hearings in accordance with Section 8511. Any amendment shall comply with all of the requirements for the plan prescribed by this chapter.

8513. (a) If requested to do so by the commission in its resolution calling for an election, the board of supervisors, as part of the ballot proposition to approve the imposition of the tax, shall include authorization for the commission to issue bonds for capital outlay expenditures as may be provided for in the ordinance expenditure plan payable from the proceeds of the tax.

(b) The maximum bonded indebtedness that may be outstanding at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated



proceeds of the tax, as determined by the plan. The amount of bonds outstanding at any one time does not include the amount of bonds, refunding bonds, or bond anticipation notes for which funds necessary for the payment thereof have been set aside for that purpose in a trust or escrow account.

(c) The proposition shall set forth each of the following:

(1) The actual percent of the tax.

(2) The duration of the tax if the plan specifies a time limit.

(3) The amount of bonds, if any, payable from the proceeds of the tax.

(4) The commission as the agency imposing the tax.

(5) The appropriations limit of the commission, pursuant to Section 4 of Article XIII B of the California Constitution.

(d) The sample ballot to be mailed to the voters, pursuant to Section 13303 of the Elections Code, shall be the full proposition, as set forth in the ordinance calling the election, and the voter information handbook shall include the entire ordinance expenditure plan.

8514. (a) The bonds authorized by the voters concurrently with the approval of the tax may be issued at any time by the commission and shall be payable from the proceeds of the tax. The bonds shall be referred to as "limited tax bonds."

The bonds may be secured by a pledge of revenues from the proceeds of the tax.

(b) The pledge of the tax to the limited tax bonds authorized under this chapter shall have priority over the use of any of the tax for "pay-as-you-go" financing, except to the extent that this priority is expressly restricted in the resolution authorizing the issuance of the bonds.

8515. Limited tax bonds shall be issued pursuant to a resolution adopted at any time by a two-thirds vote of the commission. Each resolution shall provide for the issuance of bonds in the amounts as may be necessary, until the full amount of bonds authorized have been issued. The full amount of bonds may be divided into two or more series and different dates of payment fixed for the bonds of each series. A bond need not mature on its anniversary date.

8516. (a) A resolution authorizing the issuance of bonds shall state all of the following:

(1) The purposes for which the proposed debt is to be incurred, which may include all costs and estimated costs incidental to, or connected with, the accomplishment of those purposes, including, without limitation, engineering, inspection, legal, fiscal agent, financial consultant and other fees, bond and other reserve funds, working capital, bond interest estimated to accrue during the construction period and for a period not to exceed three years thereafter, and expenses of all proceedings for the authorization, issuance, and sale of the bonds.



(2) The estimated cost of accomplishing those purposes.

(3) The amount of the principal of the indebtedness.

(4) The maximum term the bonds proposed to be issued shall run before maturity, which shall not be beyond the date of termination of the imposition of the tax.

(5) The maximum rate of interest to be paid, which shall not exceed the maximum allowable by law.

(6) The denomination or denominations of the bonds, which shall not be less than five thousand dollars (\$5,000).

(7) The form of the bonds, including, without limitation, registered bonds and coupon bonds, to the extent permitted by federal law, and the form of any coupons to be attached thereto, the registration, conversion, and exchange privileges, if any, pertaining thereto, and the time when all of, or any part of, the principal becomes due and payable.

(b) The resolution may also contain any other matters authorized by this chapter or any other law.

8517. The bonds shall bear interest at a rate or rates not exceeding the maximum allowable by law, payable at intervals determined by the commission, except that the first interest payable on the bonds, or any series thereof, may be for any period not exceeding one year, as determined by the commission.

8518. In the resolution authorizing the issuance of the bonds, the commission may also provide for the call and redemption of the bonds prior to maturity at the times and prices and upon other terms as specified. However, no bond is subject to call or redemption prior to maturity, unless it contains a recital to that effect or unless a statement to that effect is printed.

8519. The principal of, and interest on, the bonds shall be payable in lawful money of the United States at the office of the treasurer of the commission, or at other places as may be designated, or at both the office and other places at the option of the holders of the bonds.

8520. The bonds, or each series thereof, shall be dated and numbered consecutively and shall be signed by the chairperson or vice chairperson of the commission and the auditor-controller of the commission, and the official seal, if any, of the commission shall be attached.

The interest coupons of the bonds shall be signed by the auditor-controller of the commission. All of the signatures and seal may be printed, lithographed, or mechanically reproduced.

If any officer whose signature appears on the bonds or coupons ceases to be that officer before the delivery of the bonds, the officer's signature is as effective as if the officer had remained in office.

8521. The bonds may be sold as the commission determines by resolution, and the bonds may be sold at a price below par, whether by negotiated or public sale.



8522. Delivery of any bonds may be made at any place either inside or outside the state, and the purchase price may be received in cash or bank credits.

8523. All accrued interest and premiums received on the sale of the bonds shall be placed in the fund to be used for the payment of the principal of, and interest on, the bonds, and the remainder of the proceeds of the bonds shall be placed in the treasury of the commission and applied to secure the bonds or for the purposes for which the debt was incurred. However, when the purposes have been accomplished, any money remaining shall be either (a) transferred to the fund to be used for the payment of principal of, and interest on, the bonds or (b) placed in a fund to be used for the purchase of the outstanding bonds in the open market at prices and in the manner, either at public or private sale or otherwise, as determined by the commission. Bonds so purchased shall be canceled immediately.

8524. (a) The commission may provide for the issuance, sale, or exchange of refunding bonds to redeem or retire any bonds issued by the commission upon the terms, at the times, and in the manner which it determines.

(b) Refunding bonds may be issued in a principal amount sufficient to pay all, or any part of, the principal of the outstanding bonds, the premiums, if any, due upon call and redemption thereof prior to maturity, all expenses of the refunding, and either of the following:

(1) The interest upon the refunding bonds from the date of sale thereof to the date of payment of the bonds to be refunded out of the proceeds of the sale of the refunding bonds or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holders of the bonds.

(2) The interest upon the bonds to be refunded from the date of sale of the refunding bonds to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holder of the bonds.

(c) The provisions of this chapter for the issuance and sale of bonds apply to the issuance and sale of refunding bonds.

8525. (a) The commission may borrow money in anticipation of the sale of bonds which have been authorized pursuant to this chapter, but which have not been sold or delivered, and may issue negotiable bond anticipation notes therefor and may renew the bond anticipation notes from time to time. However, the maximum maturity of any bond anticipation notes, including the renewals thereof, shall not exceed five years from the date of delivery of the original bond anticipation notes.

(b) The bond anticipation notes, and the interest thereon, may be paid from any money of the commission available therefor, including the revenues from the tax. If not previously otherwise paid, the bond



anticipation notes, or any portion thereof, or the interest thereon, shall be paid from the proceeds of the next sale of the bonds of the commission in anticipation of which the notes were issued.

(c) The bond anticipation notes shall not be issued in any amount in excess of the aggregate amount of the bonds which the commission has been authorized to issue, less the amount of any bonds of the authorized issue previously sold, and also less the amount of other bond anticipation notes therefor issued and then outstanding. The bond anticipation notes shall be issued and sold in the same manner as the bonds.

(d) The bond anticipation notes and the resolutions authorizing them may contain any provisions, conditions, or limitations which a resolution of the commission may contain.

8526. Any bonds issued under this chapter are legal investment for all trust funds; for the funds of insurance companies, commercial and savings banks, and trust companies; and for state school funds; and whenever any money or funds may, by any law now or hereafter enacted, be invested in bonds of cities, counties, school districts, or other districts within the state, that money or those funds may be invested in the bonds issued under this chapter, and whenever bonds of cities, counties, school districts, or other districts within the state may, by any law now or hereafter enacted, be used as security for the performance of any act or the deposit of any public money, the bonds issued under this chapter may be so used. The provisions of this chapter are in addition to all other laws relating to legal investments and shall be controlling as the latest expression of the Legislature with respect thereto.

SEC. 2. Pursuant to Section 17579 of the Government Code, the Legislature finds that there is no mandate contained in this act that will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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

