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AB-1157 Controller: transportation funds: distribution and reporting requirements. (2021-2022)

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Date Published: 09/23/2021 02:00 PM

Assembly Bill No. 1157

CHAPTER 205

An act to amend Sections 99243 and 99243.5 of the Public Utilities Code, and to amend Section 2103 of the Streets and Highways Code, relating to transportation.

[Approved by Governor September 22, 2021. Filed with Secretary of State September 22, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1157, Lee. Controller: transportation funds: distribution and reporting requirements.

Existing law, for purposes of the State Transit Assistance Program, requires local transportation agencies to report to the Controller by June 15 of each year the public transportation operators within its jurisdiction that are eligible to claim specified local transportation funds.

This bill would instead require local transportation agencies to report this information within 7 months after the end of each fiscal year.

Existing law requires the Controller to submit an annual report to the Legislature on the revenues available and expenditures made with regard to local transportation funds available for public transportation and other purposes in each county within 3 months of receiving specified annual reports regarding the expenditure of those funds for public transit purposes and specified information regarding the expenditure of those funds for streets and highways purposes.

This bill would no longer require the Controller to submit this annual report to the Legislature and would instead require the Controller to compile, publish, and make publicly available on the Controller's internet website this data and information on or before November 1 of each year.

Existing law creates the Highway Users Tax Account, in which motor vehicle fuel tax and diesel fuel tax revenues are deposited and available for allocation to transportation purposes. Existing law requires the Controller, after certain transfers are made or actions are taken, to apportion or transfer, as applicable, at least 90% of the balance deposited to the credit of the Highway Users Tax Account by the 28th day of each month by the 2nd working day thereafter, except for June, in which case the apportionment or transfer is required to be made the same day, to, among others, cities and counties and the State Highway Account.

This bill instead would require the Controller, after certain transfers are made or actions are taken, to apportion or transfer, as applicable, at least 90% of the balance deposited in that account by the 28th day of each month by the 7th working day thereafter.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 99243 of the Public Utilities Code is amended to read:

99243. (a) The Controller, in cooperation with the department and the operators, shall design and adopt a uniform system of accounts and records, from which the operators shall prepare and submit annual reports of their operation to transportation planning agencies, county transportation commissions, or the San Diego Metropolitan Transit Development Board having jurisdiction over them and to the Controller within seven months after the end of the fiscal year. The report shall contain underlying data from audited financial statements prepared in accordance with generally accepted accounting principles, if this data is available. The report shall specify (1) the amount of revenue generated from each source and its application for the prior fiscal year, and (2) the data necessary to determine which section, with respect to Sections 99268.1, 99268.2, 99268.3, 99268.4, 99268.5, and 99268.9, the operator is required to be in compliance in order to be eligible for funds under this article.

(b) (1) For the purposes of the State Transit Assistance Program, which is governed by Sections 99312 to 99314.9, inclusive, the Controller shall provide a mechanism for each transportation planning agency, county transportation commission, and the San Diego Metropolitan Transit Development Board to report to the Controller those operators within its jurisdiction that are STA-eligible operators, as defined in paragraph (2) of subdivision (b) of Section 99312.2.

(2) The mechanism shall require each transportation planning agency, county transportation commission, and the San Diego Metropolitan Transit Development Board to report to the Controller those STA-eligible operators within its jurisdiction that are both:

(A) Eligible to claim local transportation funds under either Article 4 (commencing with Section 99260) or Article 8 (commencing with Section 99400), or under both articles.

(B) A public transportation operator, as defined in paragraph (1) of subdivision (b) of Section 99312.2.

(3) The Controller shall rely upon that verification to determine whether or not an operator is an STA-eligible operator pursuant to paragraph (2) of subdivision (b) of Section 99312.2. The transportation planning agency, county transportation commission, and the San Diego Metropolitan Transit Development Board shall provide this information to the Controller within seven months after the end of each fiscal year.

(c) As a supplement to the annual report prepared pursuant to subdivision (a), each operator shall include an estimate of the amount of revenues to be generated from each source and its proposed application for the next fiscal year, and a report on the extent to which it has contracted with the Prison Industry Authority, including the nature and dollar amounts of all contracts entered into during the reporting period and proposed for the next reporting period.

(d) The Controller shall instruct the county auditor to withhold payments from the fund to an operator that has not submitted its annual report to the Controller within the time specified by subdivision (a).

(e) In establishing the uniform system of accounts and records, the Controller shall include the data required by the United States Department of Transportation and the department.

(f) Notwithstanding any other law or any regulation, including any California Code of Regulations provision, the City of El Segundo, the City of Huntington Beach, the City of Inglewood, the City of Long Beach, or the City of South Lake Tahoe may select, for purposes of this chapter, on a one-time basis, a fiscal year that does not end on June 30. After the city has sent a written notice to the Secretary of Transportation and the Controller that the city has selected a fiscal year other than one ending on June 30, the fiscal year selected by the city shall be its fiscal year for all reports required by the state under this chapter.

SEC. 2. Section 99243.5 of the Public Utilities Code is amended to read:

99243.5. (a) On the basis of data in the annual reports submitted pursuant to Section 99243 and the information submitted pursuant to Section 99406 to the Controller, the Controller shall compile, publish, and make publicly available on the Controller's internet website the submitted data and information on or before November 1 of each year.

(b) The Controller shall take steps as the Controller deems necessary to ensure that the data and information submitted are adequate and accurate.

SEC. 3. Section 2103 of the Streets and Highways Code is amended to read:

2103. (a) Notwithstanding Section 13340 of the Government Code, of the net revenues deposited to the credit of the Highway Users Tax Account that are derived from the increases in the rates of taxes that are imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 of the Revenue and Taxation Code, all of the following shall occur on a monthly basis:

(1) (A) By the 15th day of every month, the Treasurer's office, in consultation with the Department of Finance, shall notify the Controller of the amount of debt service that will be paid on each transportation bond during that month.

(B) Within two business days following the 28th day of each month, the Controller shall transfer to the Transportation Debt Service Fund an amount equal to the amount of monthly debt service paid by the General Fund on any bonds issued pursuant to the Seismic Retrofit Bond Act of 1996 (Chapter 12.48 (commencing with Section 8879) of Division 1 of Title 2 of the Government Code) or any other bonds issued for highway or eligible guideway projects consistent with the requirements applicable to the expenditure of revenues under Article XIX of the California Constitution as identified by the Department of Finance pursuant to Section 16965 of the Government Code, and three-quarters of the amount of monthly debt service paid on any bonds issued pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code) for reimbursement of the General Fund for these costs. If revenues available pursuant to this subdivision in any given month are insufficient to fully reimburse the General Fund for the debt service payments made, the first revenues available pursuant to this subdivision in the following month or months shall be transferred to the Transportation Debt Service Fund so that all debt service payments made on these bonds from the General Fund in a given fiscal year are fully reimbursed. No further transfers shall be made pursuant to this subparagraph once the transfers for the months of July to October, inclusive, in 2010 have been made. Any transfers made from the net revenues identified in this paragraph for highway and eligible guideway bond debt service for months after October 2010 shall be reversed and shall instead be made from weight fee revenues in the State Highway Account, as described in subparagraph (F).

(C) Beginning November 2, 2010, the Controller shall transfer to the State Highway Account within two business days following the 28th day of each month all of the monthly net revenues identified in subparagraph (B) that were designated for highway and eligible guideway bond debt service reimbursement but that have not been transferred, or that were transferred by means of a transfer that was reversed, pursuant to that subparagraph. To the extent the Controller has distributed any of those net revenues to cities and counties pursuant to subparagraph (C) of paragraph (3) between November 2, 2010, and March 24, 2011, the Controller shall subsequently reduce the amount transferred to cities and counties on a monthly basis pursuant to subparagraph (C) of paragraph (3) and shall instead transfer these funds to the State Highway Account until all of the revenues that would otherwise have been transferred to the State Highway Account on and after November 2, 2010, pursuant to this subparagraph have been so transferred. For the 2011–12 fiscal year, the Controller shall transfer to the State Highway Account within two business days following the 28th day of each month an amount equal to the weight fee revenues transferred to the Transportation Debt Service Fund pursuant to subdivision (b) of Section 9400.4 of the Vehicle Code, including forty-three million seven hundred thousand dollars (\$43,700,000) authorized pursuant to Item 2660-013-0042 of Section 2.00 of the Budget Act of 2011 and an amount equal to weight fee revenues transferred to the General Fund as a loan pursuant to subdivision (b) of Section 9400.4 of the Vehicle Code. To the extent the Controller has distributed any of those revenues to cities and counties pursuant to subparagraph (C) of paragraph (3), the Controller shall subsequently reduce the amount transferred to cities and counties on a monthly basis pursuant to subparagraph (C) of paragraph (3) and instead transfer these funds to the State Highway Account until all of the revenues that would otherwise have been transferred to the State Highway Account in the 2011–12 fiscal year pursuant to this subparagraph have been so transferred.

(D) Notwithstanding subparagraph (C), commencing with the 2012–13 fiscal year and every fiscal year thereafter, the Controller shall transfer to the State Highway Account within two business days following the 28th day of each month an amount equal to the amount of weight fee revenues transferred to the Transportation Debt Service Fund for highway and eligible guideway bond debt service and to the General Fund as a loan pursuant to subdivision (c) of Section 9400.4 of the Vehicle Code.

(E) Beginning July 1, 2011, transfers made under subparagraphs (C) and (D) during a fiscal year shall not exceed the annual revenue generated from weight fees, as determined by Sections 9400.4 and 42205 of the Vehicle Code, at the rates in effect as of March 24, 2011, as determined by the Department of Finance.

(F) Any remaining amount of the highway or eligible guideway bond debt service reimbursement authorized by this paragraph that has not been made pursuant to subparagraph (B) on and after November 2, 2010, shall instead be made pursuant to subdivisions (a), (b), and (c) of Section 9400.4 of the Vehicle Code from revenues in the State Highway Account derived from weight fees deposited in the account pursuant to subdivision (e) of Section 9400.1 and Section 42205 of the Vehicle Code.

(2) (A) In the 2010–11 fiscal year, after the monthly transfer made pursuant to paragraph (1), the sum of fifty-four million one hundred sixty-seven thousand dollars (\$54,167,000) per month shall be held in the account for future appropriation by the Legislature.

(B) Notwithstanding any other law, with respect to the monthly net revenues described in subparagraph (A), no further transfers of these revenues for the purpose of loans to the General Fund shall be made pursuant to Item 2660-011-0062 of Section 2.00 of the Budget Act of 2010 once the loan transfers for the months of July to October, inclusive, in 2010 have been made. Notwithstanding the loan repayment date specified in the provisional language for that item, the funds loaned shall be repaid by June 30, 2021. Any transfers made from the monthly net revenues in subparagraph (A) for months after October 2010 shall be reversed and shall instead be made from weight fee revenues in the State Highway Account, as described in subparagraph (D). The revenues from loan repayments shall be held in the Highway Users Tax Account for future appropriation by the Legislature.

(C) Beginning November 2, 2010, all of the monthly net revenues described in subparagraph (A) shall instead be transferred by the Controller to the State Highway Account within two business days following the 28th day of each month. To the extent that the Controller has distributed any of the revenues identified in this paragraph to cities and counties pursuant to subparagraph (C) of paragraph (3) between October 14, 2010, and March 24, 2011, the Controller shall subsequently reduce the amount transferred to cities and counties on a monthly basis pursuant to subparagraph (C) of paragraph (3) and shall instead transfer these funds to the State Highway Account until all of the revenues that would have been transferred to the General Fund as a loan pursuant to Item 2660-011-0062 of Section 2.00 of the Budget Act of 2010 on and after November 2, 2010, have instead been transferred to the State Highway Account.

(D) Any remaining amount of the loans to the General Fund authorized pursuant to Item 2660-011-0062 of Section 2.00 of the Budget Act of 2010 that has not been made pursuant to subparagraph (B) on and after November 2, 2010, shall instead be made pursuant to Section 9400.4 of the Vehicle Code from revenues in the State Highway Account derived from weight fees deposited in the account pursuant to subdivision (e) of Section 9400.1 and Section 42205 of the Vehicle Code.

(3) The Controller shall transfer any remaining net revenues subject to this subdivision as follows:

(A) Forty-four percent shall be transferred to the State Highway Account to fund projects in the State Transportation Improvement Program that are consistent with Section 2 of Article XIX of the California Constitution.

(B) Twelve percent shall be transferred to the State Highway Account to fund projects in the State Highway Operation and Protection Program.

(C) Forty-four percent shall be apportioned by the Controller for local street and road purposes, except in the 2010–11 fiscal year, 50 percent shall be transferred for purposes of this subparagraph as follows:

(i) Fifty percent shall be apportioned by the Controller to cities, including a city and county, in the proportion that the total population of the city bears to the total population of all the cities in the state.

(ii) Fifty percent shall be apportioned by the Controller to counties, including a city and county, in accordance with the following formulas:

(I) Seventy-five percent shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles that are registered in the county bear to the number of fee-paid and exempt vehicles registered in the state.

(II) Twenty-five percent shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bear to the total number of miles of maintained county roads in the state. For purposes of apportioning funds under this subclause, any roads within the boundaries of a city and county that are not state highways shall be deemed to be county roads.

(b) After the transfers or other actions pursuant to subdivision (a), at least 90 percent of the balance deposited to the credit of the Highway Users Tax Account in the Transportation Tax Fund by the 28th day of each month shall be apportioned or transferred, as applicable, by the Controller by the seventh working day thereafter. These apportionments or transfers shall be made as provided for in Sections 2104 to 2122, inclusive. If information is not available to make the apportionment or transfer as required, the apportionment or transfer shall be made on the basis of the information of the previous month. Amounts not apportioned or transferred shall be included in the apportionment or transfer of the subsequent month.

(c) Notwithstanding any other law, the funds apportioned by the Controller to cities and counties pursuant to subparagraph (C) of paragraph (3) of subdivision (a) are not subject to Section 7104 or 7104.2 of the Revenue and Taxation Code. These funds may be expended for any street and road purpose consistent with the requirements of this chapter.