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ACA-12 Road usage charges: vote and voter approval requirements. (2025-2026)

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CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

**ASSEMBLY
AMENDMENT**

CONSTITUTIONAL

NO. 12

Introduced by Assembly Member Wallis

March 26, 2025

A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 3 of Article XIII A thereof, by amending Section 1 of Article XIII C thereof, by amending Section 7 of, and adding Section 11 to, Article XIX thereof, by amending Section 2 of, and adding Section 3 to, Article XIX B thereof, and by adding Article XIX E thereto, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

ACA 12, as introduced, Wallis. Road usage charges: vote and voter approval requirements.

The California Constitution requires any change in state statute that increases the tax liability of any taxpayer to be imposed by an act passed by $\frac{2}{3}$ of the membership of each house of the Legislature, and prohibits specified taxes on real property from being so imposed. For these purposes, the California Constitution defines a “tax” as any state levy, charge, or exaction, except as described in certain exceptions. The California Constitution describes one of those exceptions as a charge imposed for entrance to or use of state property, or the purchase, rental, or lease of state property, except charges governed by a specified provision of the California Constitution.

This measure, on or after its effective date, would provide that the exception described above does not include a road usage charge, as described, thereby requiring the imposition of this type of charge to be subject to the $\frac{2}{3}$ vote requirement.

The California Constitution conditions the imposition of a general tax by a local government upon the approval of a majority of its voters voting on the tax, and conditions the imposition of a special tax by a local government upon the approval of $\frac{2}{3}$ of the voters voting on the tax. The California Constitution defines a “tax” for these purposes as any local government levy, charge, or exaction, except as described in certain exceptions, and includes as one of those exceptions a charge imposed for entrance to or use of local government property. The California Constitution defines “special tax” to mean any tax imposed for specific purposes.

This measure, on or after its effective date, would provide that the exception described above does not include a road usage charge, as provided. The measure would also restrict to specific purposes the use of revenues derived from a road usage charge,

described below, thereby subjecting the local imposition of this type of charge to the $\frac{2}{3}$ local voter approval requirements.

This measure would require that any road usage charge be imposed at a uniform rate, and not vary based on any factor. The measure would prohibit the Legislature from imposing both a road usage charge, and either a motor vehicle fuel tax or a tax on the sale, storage, use, or other consumption in this state of motor vehicle fuels that are used in vehicles subject to a road usage charge. The measure would require all revenues derived from a road usage charge imposed at both the state and local level be used solely for transportation purposes, as defined.

The California Constitution authorizes the Legislature to impose a motor vehicle fuel tax, and directs the revenues of that tax, or any alternative source of revenue to replace the revenue derived from that tax, to be deposited in the Highway Users Tax Account in the Transportation Tax Fund. The California Constitution also directs the revenues from a tax on the sale, storage, use, or other consumption in this state of motor vehicle fuels, or any alternative source of revenue to replace the revenue derived from that tax, to be deposited in the Transportation Investment Fund.

The measure would specify that road usage charges are not subject to the above requirements.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2025–26 Regular Session commencing on the second day of December 2024, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

First— That Section 3 of Article XIII A thereof is amended to read:

SEC. 3. (a) Any change in state statute which results in any taxpayer paying a higher tax must be imposed by an act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed.

(b) As used in this section, “tax” means any levy, charge, or exaction of any kind imposed by the State, except the following:

(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the State of conferring the benefit or granting the privilege to the payor.

(2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the State of providing the service or product to the payor.

(3) A charge imposed for the reasonable regulatory costs to the State incident to issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(4) ~~A~~(A) *Except as otherwise provided in subparagraph (B), a* charge imposed for entrance to or use of state property, or the purchase, rental, or lease of state property, except charges governed by Section 15 of Article XI.

(B) On or after the effective date of this subparagraph, subparagraph (A) does not include a road usage charge governed by Article XIX E.

(5) A fine, penalty, or other monetary charge imposed by the judicial branch of government or the State, as a result of a violation of law.

(c) Any tax adopted after January 1, 2010, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax is reenacted by the Legislature and signed into law by the Governor in compliance with the requirements of this section.

(d) The State bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity.

Second— That Section 1 of Article XIII C thereof is amended to read:

SECTION 1. Definitions. As used in this article:

(a) “General tax” means any tax imposed for general governmental purposes.

(b) "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.

(c) "Special district" means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

(d) "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

(e) As used in this article, "tax" means any levy, charge, or exaction of any kind imposed by a local government, except the following:

(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

(2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

(3) A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(4) ~~A~~ *(A) Except as otherwise provided in subparagraph (B), a* charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.

(B) On or after the effective date of this subparagraph, subparagraph (A) does not include a road usage charge governed by Article XIX E.

(5) A fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government, as a result of a violation of law.

(6) A charge imposed as a condition of property development.

(7) Assessments and property-related fees imposed in accordance with the provisions of Article XIII D.

The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

Third— That Section 7 of Article XIX thereof is amended to read:

SEC. 7. (a) If the Legislature reduces or repeals the taxes described in Section 2 and adopts an alternative source of revenue to replace the moneys derived from those taxes, the replacement revenue shall be deposited into the Highway Users Tax Account, dedicated to the purposes listed in Section 2, and allocated to cities, counties, and areas of the State pursuant to Section 4. All other provisions of this article shall apply to any revenues adopted by the Legislature to replace the moneys derived from the taxes described in Section 2.

(b) Notwithstanding subdivision (a), this section shall not apply to any road usage charge governed by Article XIX E.

Fourth— That Section 11 is added to Article XIX thereof, to read:

SEC. 11. The State shall not impose both a road usage charge governed by Article XIX E and a tax pursuant to this article on motor vehicle fuels that are used in vehicles subject to the road usage charge.

Fifth— That Section 2 of Article XIX B thereof is amended to read:

SEC. 2. (a) For the 2003–04 fiscal year and each fiscal year thereafter, all revenues that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code), shall be deposited into the Transportation Investment Fund or its successor, which is hereby

created in the State Treasury and which is hereby declared to be a trust fund. The Legislature may not change the status of the Transportation Investment Fund as a trust fund.

(b) (1) For the 2003–04 to 2007–08 fiscal years, inclusive, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on March 6, 2002.

(2) For the 2008–09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated solely for the following purposes:

(A) Public transit and mass transportation. Moneys appropriated for public transit and mass transportation shall be allocated as follows: (i) Twenty-five percent pursuant to subdivision (b) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009; (ii) Twenty-five percent pursuant to subdivision (c) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009; and (iii) Fifty percent for the purposes of subdivisions (a) and (b) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(B) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program, or any successor to that program.

(C) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.

(D) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.

(c) For the 2008–09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund are hereby continuously appropriated to the Controller without regard to fiscal years, which shall be allocated as follows:

(A) Twenty percent of the moneys for the purposes set forth in subparagraph (A) of paragraph (2) of subdivision (b).

(B) Forty percent of the moneys for the purposes set forth in subparagraph (B) of paragraph (2) of subdivision (b).

(C) Twenty percent of the moneys for the purposes set forth in subparagraph (C) of paragraph (2) of subdivision (b).

(D) Twenty percent of the moneys for the purposes set forth in subparagraph (D) of paragraph (2) of subdivision (b).

(d) The Legislature may not enact a statute that modifies the percentage shares set forth in subdivision (c) until all of the following have occurred:

(1) The California Transportation Commission has held no less than four public hearings in different parts of the State to receive public input about the need for public transit, mass transportation, transportation capital improvement projects, and street and highway maintenance;

(2) The California Transportation Commission has published a report describing the input received at the public hearings and how the modification to the statutory allocation is consistent with the orderly achievement of local, regional and statewide goals for public transit, mass transportation, transportation capital improvements, and street and highway maintenance in a manner that is consistent with local general plans, regional transportation plans, and the California Transportation Plan;

(3) Ninety days have passed since the publication of the report by the California Transportation Commission.

(4) The statute enacted by the Legislature pursuant to this subdivision must be by a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the revenues described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).

(e) (1) An amount equivalent to the total amount of revenues that were not transferred from the General Fund of the State to the Transportation Investment Fund, as of July 1, 2007, because of a suspension of transfer of revenues pursuant to this section as it read on January 1, 2006, but excluding the amount to be paid to the Transportation Deferred Investment Fund pursuant to Section 63048.65 of the Government Code, shall be transferred from the General Fund to the Transportation Investment Fund no later than June 30, 2016. Until this total amount has been transferred, the amount of transfer payments to be made in each fiscal year shall not be less than one-tenth of the total amount required to be transferred by June 30, 2016. The transferred revenues shall be allocated solely for the purposes set forth in this section as if they had been received in the absence of a suspension of transfer of revenues.

(2) The Legislature may provide by statute for the issuance of bonds by the state or local agencies, as applicable, that are secured by the minimum transfer payments required by paragraph (1). Proceeds from the sale of those bonds shall be allocated solely for the purposes set forth in this section as if they were revenues subject to allocation pursuant to paragraph (2) of subdivision (b).

(f) This section constitutes the sole method of allocating, distributing, and using the revenues described in subdivision (a). The purposes described in paragraph (2) of subdivision (b) are the sole purposes for which the revenues described in subdivision (a) may be used. The Legislature may not enact a statute or take any other action which, permanently or temporarily, does any of the following:

(1) Transfers, diverts, or appropriates the revenues described in subdivision (a) for any other purposes than those described in paragraph (2) of subdivision (b);

(2) Authorizes the expenditures of the revenues described in subdivision (a) for any other purposes than those described in paragraph (2) of subdivision (b) or;

(3) Borrows or loans the revenues described in subdivision (a), regardless of whether these revenues remain in the Transportation Investment Fund or are transferred to another fund or account such as the Public Transportation Account, a trust fund in the State Transportation Fund.

(g) For purposes of this article, "mass transportation," "public transit" and "mass transit" have the same meanings as "public transportation." "Public transportation" means:

(1) (A) Surface transportation service provided to the general public, complementary paratransit service provided to persons with disabilities as required by 42 U.S.C. 12143, or similar transportation provided to people with disabilities or the elderly; (B) operated by bus, rail, ferry, or other conveyance on a fixed route, demand response, or otherwise regularly available basis; (C) generally for which a fare is charged; and (D) provided by any transit district, included transit district, municipal operator, included municipal operator, eligible municipal operator, or transit development board, as those terms were defined in Article 1 of Chapter 4 of Part 11 of Division 10 of the Public Utilities Code on January 1, 2009, a joint powers authority formed to provide mass transportation services, an agency described in subdivision (f) of Section 15975 of the Government Code, as that section read on January 1, 2009, any recipient of funds under Sections 99260, 99260.7, 99275, or subdivision (c) of Section 99400 of the Public Utilities Code, as those sections read on January 1, 2009, or a consolidated agency as defined in Section 132353.1 of the Public Utilities Code, as that section read on January 1, 2009.

(2) Surface transportation service provided by the Department of Transportation pursuant to subdivision (a) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(3) Public transit capital improvement projects, including those identified in subdivision (b) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(h) (1) If the Legislature reduces or repeals the taxes described in subdivision (a) and adopts an alternative source of revenue to replace the moneys derived from those taxes, the replacement revenue shall be deposited into the Transportation Investment Fund, dedicated to the purposes listed in paragraph (2) of subdivision (b), and allocated pursuant to subdivision (c). All other provisions of this article shall apply to any revenues adopted by the Legislature to replace the moneys derived from the taxes described in subdivision (a).

(2) Notwithstanding paragraph (1), this subdivision shall not apply to any road usage charge governed by Article XIX E.

Sixth— That Section 3 is added to Article XIX B thereof, to read:

SEC. 3. The State shall not impose both a road usage charge governed by Article XIX E and a tax pursuant to the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code) on the sale, storage, use, or other consumption in this State of motor vehicle fuels that are used in vehicles subject to the road usage charge.

Seventh— That Article XIX E is added thereto, to read:

Article XIX E Road Usage Charge

SECTION 1. (a) Any road usage charge shall be imposed at a uniform rate, and shall not vary based on any factor.

(b) As used in this article, "road usage charge" means any mileage-based levy, charge, or exaction of any kind imposed by the State or a local government for the use or operation of a motor vehicle upon public streets and highways.

SEC. 2. (a) (1) Revenues derived from a road usage charge, over and above the costs of collection and any refunds authorized by law, shall be used solely for transportation purposes.

(2) For purposes of this section, "transportation purposes" means both of the following:

(A) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for the foregoing purposes, and the administrative costs necessarily incurred in the foregoing purposes.

(B) The research, planning, construction, improvement, maintenance, and operation of public transportation systems (and their related equipment and fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for the foregoing purposes, and the administrative costs necessarily incurred in the foregoing purposes.

(b) The revenues described in subdivision (a) shall not be used for the payment of principal and interest on state transportation general obligation bonds that were authorized by the voters on or before November 10, 2026, nor shall those revenues be used for payment of principal and interest on state transportation general obligation bond acts approved by the voters after that date, unless the bond act expressly authorizes that use.

(c) Except as provided in Sections 16310 and 16381 of the Government Code, as those sections read on January 1, 2027, the Legislature shall not borrow the revenues described in subdivision (a), and shall not use these revenues for purposes, or in ways, other than as authorized in subdivision (a) or (b).

SEC. 3. The Legislature shall enact statutes as necessary to implement and enforce this article.