

Assembly Constitutional Amendment

No. 5

Introduced by Assembly Member Voepel

February 19, 2021

Assembly Constitutional Amendment No. 5—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 2 and 3 of Article XIX thereof, by amending Section 1 of Article XIX A thereof, and by amending Section 1 of Article XIX D thereof, relating to transportation.

LEGISLATIVE COUNSEL’S DIGEST

ACA 5, as introduced, Voepel. Motor vehicles: fuel taxes, sales and use taxes, and fees: expenditure restrictions.

(1) The California Constitution restricts the expenditure of revenues from taxes imposed by the state on fuels used in motor vehicles upon public streets and highways to street and highway and certain mass transit purposes. These restrictions do not apply to revenues from taxes or fees imposed under the Sales and Use Tax Law or the Vehicle License Fee Law.

This measure would explicitly restrict the expenditure of all interest earned and other increment derived from the investment of those tax revenues and any proceeds from the lease or sale of real property acquired using those tax revenues only for the purposes described above. The measure would require the transfer and restrict the expenditure of revenues from taxes imposed by the state on motor fuels that are attributable to (A) distributions of motor vehicle fuel used or usable in propelling vessels, (B) agricultural off-highway use of motor vehicle fuel subject to certain refunds, and (C) distributions of motor vehicle fuel used in the operation of motor vehicles off highway and for which

certain refunds have not been claimed, in accordance with certain statutes as those statutes read on January 1, 2021.

(2) The California Constitution restricts the expenditure of revenues from fees and taxes imposed by the state upon vehicles or their use or operation to state administration and enforcement of laws regulating the use, operation, or registration of vehicles used upon the public streets and highways, as well as to street and highway and certain mass transit purposes. These restrictions do not apply to revenues from taxes or fees imposed under the Sales and Use Tax Law or the Vehicle License Fee Law.

This measure would explicitly restrict the expenditure of all interest earned and other increment derived from the investment of those revenues and any revenues from fees or taxes collected by the Department of Motor Vehicles for documents, records, information, or any miscellaneous services to the public only for the purposes described above. The measure would prohibit any of these revenues from being used for the payment of principal and interest on state transportation general obligation bonds that were authorized by the voters on or before November 3, 2020, and 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. The measure would prohibit the Legislature from borrowing any of these revenues, except as specified.

(3) The California Constitution requires the deposit of a specified portion of the sales and use tax on motor vehicle fuel in the Public Transportation Account in the State Transportation Fund, and restricts the expenditure of those revenues to certain transportation planning and mass transportation purposes.

This measure would explicitly require the deposit of, and impose the above-described restriction on, all interest earned and other increment derived from the investment of those revenues, as provided.

(4) The California Constitution restricts the expenditure of revenues derived from an annual transportation improvement fee imposed as specified for certain transportation purposes.

This measure would explicitly restrict the expenditure of all interest earned and other increment derived from the investment of those revenues only for the purposes described above.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2021–22 Regular
3 Session commencing on the seventh day of December 2020,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California, that the
6 Constitution of the State be amended as follows:

7 First—That Section 2 of Article XIX thereof is amended to read:

8 SEC. 2. (a) Revenues from taxes imposed by the State on
9 motor vehicle fuels for use in motor vehicles upon public streets
10 and highways, *including all interest earned and other increment*
11 *derived from the investment of those tax revenues and any proceeds*
12 *from the lease or sale of real property acquired using those tax*
13 *revenues,* over and above the costs of collection and any refunds
14 authorized by law, shall be deposited into the Highway Users Tax
15 Account (Section 2100 of the Streets and Highways Code) or its
16 successor, which is hereby declared to be a trust fund, and shall
17 be allocated monthly in accordance with Section 4, and shall be
18 used solely for the following purposes:

19 (a)

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

26 (b)

27 (2) The research, planning, construction, and improvement of
28 exclusive public mass transit guideways (and their related fixed
29 facilities), including the mitigation of their environmental effects,
30 the payment for property taken or damaged for such purposes, the
31 administrative costs necessarily incurred in the foregoing purposes,
32 and the maintenance of the structures and the immediate
33 right-of-way for the public mass transit guideways, but excluding
34 the maintenance and operating costs for mass transit power systems
35 and mass transit passenger facilities, vehicles, equipment, and
36 services.

37 (b) *Revenues from taxes imposed by the State on motor vehicle*
38 *fuels that are attributable to taxes imposed on distributions of*
39 *motor vehicle fuel used or usable in propelling vessels, including*
40 *all interest earned and other increment derived from the investment*

1 of those tax revenues, over and above the costs of collection and
2 any refunds authorized by law, shall be transferred to the Harbors
3 and Watercraft Revolving Fund in accordance with, and solely
4 for the purposes described in, subdivision (a) of Section 8352.4 of
5 the Revenue and Taxation Code, as that subdivision read on
6 January 1, 2021. Revenues attributable to those taxes, and
7 otherwise to be deposited in the Harbors and Watercraft Revolving
8 Fund, shall only be used for purposes described in paragraph (2)
9 of subdivision (b) of Section 8352.4 of the Revenue and Taxation
10 Code, as that paragraph read on January 1, 2021, and shall not
11 be transferred for any other purpose.

12 (c) Revenues from taxes imposed by the State on motor vehicle
13 fuels that are attributable to agricultural off-highway use of motor
14 vehicle fuel and are subject to refund pursuant to Section 8101 of
15 the Revenue and Taxation Code, as that section read on January
16 1, 2021, less gross refunds allowed by the Controller to persons
17 entitled to refunds for agricultural off-highway use pursuant to
18 Section 8101 of the Revenue and Taxation Code, including all
19 interest earned and other increment derived from the investment
20 of those tax revenues, over and above the costs of collection and
21 any refunds authorized by law, shall be transferred to the
22 Department of Food and Agriculture Fund in accordance with,
23 and solely for the purposes described in, subdivision (a) of Section
24 8352.5 of the Revenue and Taxation Code as that subdivision read
25 on January 1, 2021. Revenues attributable to those taxes, and
26 otherwise to be deposited in the Department of Food and
27 Agriculture Fund, shall only be used for purposes described in
28 subdivision (a) of Section 8352.5 of the Revenue and Taxation
29 Code as that subdivision read on January 1, 2021, and shall not
30 be transferred for any other purpose.

31 (d) Revenues from taxes imposed by the State on motor vehicle
32 fuels that are attributable to taxes imposed upon distributions of
33 motor vehicle fuel used in the operation of motor vehicles off
34 highway and for which a refund has not been claimed, including
35 all interest earned and other increment derived from the investment
36 of those tax revenues, over and above the costs of collection and
37 any refunds authorized by law, shall be transferred to the
38 Off-Highway Vehicle Trust Fund in accordance with, and solely
39 for the purposes described in, paragraph (1) of subdivision (a) of
40 Section 8352.6 of the Revenue and Taxation Code, as that

1 *paragraph read on January 1, 2021. Revenues attributable to those*
2 *taxes, and otherwise to be deposited in the Off-Highway Vehicle*
3 *Trust Fund, shall only be used for purposes described in paragraph*
4 *(1) of subdivision (a) of Section 8352.6 of the Revenue and*
5 *Taxation Code, as that paragraph read on January 1, 2021, and*
6 *shall not be transferred for any other purpose, except as provided*
7 *in subparagraph (B) of paragraph (2) of subdivision (a) of Section*
8 *8352.6 of the Revenue and Taxation Code, as that subparagraph*
9 *read on January 1, 2021.*

10 Second—That Section 3 of Article XIX thereof is amended to
11 read:

12 SEC. 3. (a) Revenues from fees and taxes imposed by the
13 State upon vehicles or their use or operation, *including all interest*
14 *earned and other increment derived from the investment of those*
15 *revenues, or collected by the Department of Motor Vehicles for*
16 *documents, records, information, or any miscellaneous services*
17 *to the public, over and above the costs of collection and any refunds*
18 *authorized by law, shall be used for the following purposes:*

19 (a)

20 (1) The state administration and enforcement of laws regulating
21 the use, operation, or registration of vehicles used upon the public
22 streets and highways of this State, including the enforcement of
23 traffic and vehicle laws by state agencies and the mitigation of the
24 environmental effects of motor vehicle operation due to air and
25 sound emissions.

26 (b)

27 (2) The purposes specified in Section 2 of this article.

28 (b) *The revenues described in subdivision (a) shall not be used*
29 *for the payment of principal and interest on state transportation*
30 *general obligation bonds that were authorized by the voters on or*
31 *before November 3, 2020, nor shall those revenues be used for*
32 *payment of principal and interest on state transportation general*
33 *obligation bond acts approved by the voters after that date, unless*
34 *the bond act expressly authorizes that use.*

35 (c) *Except as provided in Sections 16310 and 16381 of the*
36 *Government Code, as those sections read on January 1, 2021, the*
37 *Legislature shall not borrow the revenues described in subdivision*
38 *(a), and shall not use these revenues for purposes, or in ways,*
39 *other than as authorized in subdivision (a) or (b).*

1 Third—That Section 1 of Article XIX A thereof is amended to
2 read:

3 SECTION 1. (a) The Legislature shall not borrow ~~revenues~~
4 *revenues, including all interest earned and other increment derived*
5 *from the investment of those revenues*, from the Public
6 Transportation Account, or any successor account, and shall not
7 use these revenues for purposes, or in ways, other than those
8 specifically permitted by this article.

9 (b) The Public Transportation Account in the State
10 Transportation Fund, or any successor account, is a trust fund. The
11 Legislature may not change the status of the Public Transportation
12 Account as a trust fund. Funds in the Public Transportation
13 Account may not be loaned or otherwise transferred to the General
14 Fund or any other fund or account in the State Treasury.

15 (c) All revenues specified in paragraphs (1) through (3),
16 inclusive, of subdivision (a) of Section 7102 of the Revenue and
17 Taxation Code, as that section read on June 1, 2001, *including all*
18 *interest earned and other increment derived from the investment*
19 *of those revenues*, shall be deposited no less than quarterly into
20 the Public Transportation Account (Section 99310 of the Public
21 Utilities Code), or its successor. The Legislature may not take any
22 action which temporarily or permanently diverts or appropriates
23 ~~these~~ *those* revenues for purposes other than those described in
24 subdivision (d), or delays, defers, suspends, or otherwise interrupts
25 the quarterly deposit of these funds into the Public Transportation
26 Account.

27 (d) Funds in the Public Transportation Account may only be
28 used for transportation planning and mass transportation purposes.
29 The revenues described in subdivision (c) are hereby continuously
30 appropriated to the Controller without regard to fiscal years for
31 allocation as follows:

32 (1) Fifty percent pursuant to subdivisions (a) through (f),
33 inclusive, of Section 99315 of the Public Utilities Code, as that
34 section read on July 30, 2009.

35 (2) Twenty-five percent pursuant to subdivision (b) of Section
36 99312 of the Public Utilities Code, as that section read on July 30,
37 2009.

38 (3) Twenty-five percent pursuant to subdivision (c) of Section
39 99312 of the Public Utilities Code, as that section read on July 30,
40 2009.

1 (e) For purposes of paragraph (1) of subdivision (d),
2 “transportation planning” means only the purposes described in
3 subdivisions (c) through (f), inclusive, of Section 99315 of the
4 Public Utilities Code, as that section read on July 30, 2009.

5 (f) For purposes of this article, “mass transportation,” “public
6 transit,” and “mass transit” have the same meaning as “public
7 transportation.” “Public transportation” means:

8 (1) (A) Surface transportation service provided to the general
9 public, complementary paratransit service provided to persons
10 with disabilities as required by 42 U.S.C. 12143, or similar
11 transportation provided to people with disabilities or the elderly;
12 (B) operated by bus, rail, ferry, or other conveyance on a fixed
13 route, demand response, or otherwise regularly available basis;
14 (C) generally for which a fare is charged; and (D) provided by any
15 transit district, included transit district, municipal operator, included
16 municipal operator, eligible municipal operator, or transit
17 development board, as those terms were defined in Article 1 of
18 Chapter 4 of Part 11 of Division 10 of the Public Utilities Code
19 on January 1, 2009, a joint powers authority formed to provide
20 mass transportation services, an agency described in subdivision
21 (f) of Section 15975 of the Government Code, as that section read
22 on January 1, 2009, any recipient of funds under Sections 99260,
23 99260.7, 99275, or subdivision (c) of Section 99400 of the Public
24 Utilities Code, as those sections read on January 1, 2009, or a
25 consolidated agency as defined in Section 132353.1 of the Public
26 Utilities Code, as that section read on January 1, 2009.

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

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

33 (g) All revenues specified in Sections 6051.8 and 6201.8 of the
34 Revenue and Taxation Code, as those sections read on January 1,
35 2018, *including all interest earned and other increment derived*
36 *from the investment of those revenues*, shall be deposited no less
37 than quarterly into the Public Transportation Account, or its
38 successor. Except as provided in Sections 16310 and 16381 of the
39 Government Code, as those sections read on January 1, 2018, the
40 Legislature may not take any action that temporarily or

1 permanently diverts or appropriates these revenues for purposes
2 other than those described in subdivision (d), or delays, defers,
3 suspends, or otherwise interrupts the quarterly deposit of these
4 revenues into the Public Transportation Account.

5 Fourth—That Section 1 of Article XIX D thereof is amended
6 to read:

7 SECTION 1. (a) Notwithstanding Section 8 of Article XIX,
8 revenues ~~derived~~ from vehicle fees imposed under the Vehicle
9 License Fee Law pursuant to Chapter 6 (commencing with Section
10 11050) of Part 5 of Division 2 of the Revenue and Taxation Code,
11 or its successor, *including all interest earned and other increment*
12 *derived from the investment of these revenues*, over and above the
13 costs of collection and any refunds authorized by law, shall be
14 used solely for transportation purposes, as defined by Section
15 11050 of the Revenue and Taxation Code, as that section read
16 upon enactment of the Road Repair and Accountability Act of
17 2017.

18 (b) The revenues described in subdivision (a) shall not be used
19 for the payment of principal and interest on state transportation
20 general obligation bonds that were authorized by the voters on or
21 before November 8, 2016, nor shall those revenues be used for
22 payment of principal and interest on state transportation general
23 obligation bond acts approved by the voters after that date, unless
24 the bond act expressly authorizes that use.

25 (c) Except as provided in Sections 16310 and 16381 of the
26 Government Code, as those sections read on January 1, 2018, the
27 Legislature shall not borrow the revenues described in subdivision
28 (a), and shall not use these revenues for purposes, or in ways, other
29 than as authorized in subdivisions (a) or (b).