

AMENDED IN SENATE JULY 23, 2009

CALIFORNIA LEGISLATURE—2009—10 FOURTH EXTRAORDINARY SESSION

**ASSEMBLY BILL**

**No. 30**

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**Introduced by ~~Assembly Member Evans~~ Committee on Budget**

July 2, 2009

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~~An act relating to the Budget Act of 2009.~~ *An act to amend Sections 16965 and 27361 of the Government Code, and to amend Sections 2102, 2103, 2104.1, 2106.3, 2106.4, 2107.1, 2107.2, 2107.3, 2107.6, 2109, 2111, 2112, 2113, 2114, and 2115 of the Streets and Highways Code, relating to transportation.*

LEGISLATIVE COUNSEL'S DIGEST

AB 30, as amended, ~~Evans~~ *Committee on Budget. Budget Act of 2009.* *Transportation finance: Highway Users Tax Account.*

*(1) The Motor Vehicle Fuel Tax Law imposes a tax of \$0.18 per gallon on motor vehicle fuel, commonly referred to as gasoline. The Diesel Fuel Tax Law imposes a tax of \$0.18 per gallon on diesel fuel. These revenues, after certain deductions for nonhighway fuel uses, are deposited in the Highway Users Tax Account. Approximately  $\frac{1}{3}$  of the revenues in the account are apportioned by various formulas to cities and counties, and most of the remaining revenues are deposited in the State Highway Account after specified transfers to the Bicycle Transportation Account and the State Parks and Recreation Fund. Under Article XIX of the California Constitution, the portion of fuel tax revenues that is derived from use in motor vehicles upon public streets and highways is restricted for expenditure on street and highway and certain mass transit guideway purposes, and up to 25% of these and other vehicle-related revenues that are available for street and*

highway purposes may be pledged or used for the payment of principal and interest on voter-approved bonds issued for those purposes.

This bill would modify the apportionment of fuel tax revenues designated for street and highway and guideway purposes for the 2009–10 and 2010–11 fiscal years. For those years, the bill would provide for 65% of revenues to be deposited in the State Highway Account and 25% to be deposited in the Transportation Debt Service Fund. Of the remaining 10% of revenue, additional fuel tax revenues would be transferred to the Transportation Debt Service Fund in an amount equivalent to 25% of vehicle weight fee revenues for the 2009–10 fiscal year only, certain amounts would be made available to the Bicycle Transportation Account and the State Parks and Recreation Fund, and the remaining revenues would be apportioned to cities and counties by certain formulas.

This bill would authorize the Director of Finance to provide a hardship exemption from reduced apportionments for 2009–10 fiscal year to a county or city under certain conditions. The bill would also provide an exemption for specified smaller cities for that fiscal year. The bill would make other related changes.

This bill would also authorize the Director of Finance to reimburse the General Fund, from revenues transferred to the Transportation Debt Service Fund from the Highway Users Tax Account, any amount necessary to offset the cost of debt service payments made from the General Fund during any fiscal year for transportation-related general obligation bond expenditures consistent with specified provisions of Article XIX of the California Constitution. The bill would also provide for transfer from the Mass Transportation Fund to the Transportation Debt Service Fund of any amount of the “spillover” gasoline sales tax funds received during the 2009–10 to 2012–13 fiscal years necessary to offset the cost of debt service payments made from the General Fund during any fiscal year for transportation-related general obligation bond expenditures.

(2) Existing law authorizes the county recorder to charge certain fees for recording and indexing every instrument, paper, or notice required or permitted by law to be recorded. Existing law requires \$1 for recording the first page and \$1 for each additional page to be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in the county’s system of recorded documents.

*This bill, for the 2009–10 and 2010–11 fiscal years, would authorize a county to loan the records modernization funds to the county road fund in an amount not to exceed the amount of any revenues from the Highway Users Tax Account diverted from the county in the applicable fiscal year.*

*(3) This bill would make various findings and declarations relative to transportation funding.*

*(4) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on July 1, 2009.*

*This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on July 1, 2009, pursuant to the California Constitution.*

*This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2009.*

~~*The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on July 1, 2009.*~~

~~*This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on July 1, 2009, pursuant to the California Constitution.*~~

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

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

- 1     *SECTION 1. The Legislature finds and declares all of the*
- 2     *following:*
- 3     *(a) State transportation funds subject to Article XIX of the*
- 4     *California Constitution (hereafter Article XIX) are comprised of*
- 5     *gasoline excise tax, diesel excise tax and truck weight fees.*
- 6     *(b) For the 2009–10 and 2010–11 fiscal years the continuance*
- 7     *of all existing statutory allocation formulas need not be followed*
- 8     *as there is being implemented another equitable, geographical,*
- 9     *and jurisdictional distribution.*

1     (c) *In enacting this act, full and equal consideration has been*  
2 *given to the transportation needs of all areas of the state and all*  
3 *segments of the population consistent with the orderly achievement*  
4 *of the adopted local, regional, and statewide goals for ground*  
5 *transportation in local general plans, regional transportation*  
6 *plans, and the California Transportation Plan.*

7     (d) *The allocations and distributions of revenues described in*  
8 *this act and related state laws do give equal consideration to the*  
9 *transportation needs of all areas of the state and all segments of*  
10 *the population consistent with the orderly achievement of the*  
11 *adopted local, regional, and statewide goals for ground*  
12 *transportation in local general plans, regional transportation*  
13 *plans, and the California Transportation Plan.*

14     (e) *Due to concern for the equitable distribution of funds, there*  
15 *may be need, based on extreme hardship to a particular local*  
16 *government, to not alter the existing apportionment received by*  
17 *that local government. To ensure that this equity concern is*  
18 *addressed, the Director of Finance is provided the authority to*  
19 *reduce or eliminate a reduction of the existing apportionment to*  
20 *such a needy city or county. Such continuation of the existing*  
21 *allocations to an entity suffering such extreme hardship may assist*  
22 *in the orderly achievement of the adopted local goals for ground*  
23 *transportation in local general plans.*

24     (f) *Apportionment of funds to, and the appropriation of funds*  
25 *from, the State Highway Account in the State Transportation Fund*  
26 *are determined to be part of the overall basis for an equitable,*  
27 *geographical, and jurisdictional distribution of Article XIX funds.*  
28 *Such funds are used for the following:*

29     (1) *Transportation planning, including review of regional plans*  
30 *and preparation of the California Transportation Plan.*

31     (2) *Maintenance and operation of state highway facilities*  
32 *throughout the state based on demonstrated needs as determined*  
33 *by Caltrans management.*

34     (3) *The State Highway Operations and Protection Program that*  
35 *funds projects that improve the safety and operation of state*  
36 *highways throughout the state, and rehabilitate highway pavement*  
37 *and structures. Funds are allocated by the California*  
38 *Transportation Commission (CTC) based on needs identified by*  
39 *Caltrans.*

1     (4) *The State Transportation Improvement Program, in which*  
2 *75 percent of funds are programmed for regional transportation*  
3 *priorities by county or regional transportation agencies and 25*  
4 *percent are programmed by Caltrans for interregional priorities.*  
5 *All projects are required to be included in regional transportation*  
6 *plans and the regional and interregional programs are approved*  
7 *by the CTC.*

8     (g) *Apportionment of funds to, and the appropriation of funds*  
9 *from, the State Highway Account are equitable as all segments of*  
10 *the population and the state are aided by a functioning state*  
11 *highway system. These appropriations are geographical as the*  
12 *money is distributed throughout the entire state. Further, these*  
13 *funds are used for state, regional, interregional, and county entities*  
14 *and thus provide for appropriate jurisdictional distribution. The*  
15 *use of these funds aids in the orderly achievement of the adopted*  
16 *local, regional, and statewide goals for ground transportation in*  
17 *local general plans, regional transportation plans, and the*  
18 *California Transportation Plan by specifically funding portions*  
19 *of those goals.*

20     (h) *Apportionment of funds to, and the appropriation of funds*  
21 *from, the Transportation Debt Service Fund are determined to be*  
22 *part of the overall basis for an equitable, geographical, and*  
23 *jurisdictional distribution of Article XIX funds. The proceeds of*  
24 *the bonds themselves adequately provide equal consideration to*  
25 *the needs of the entire state and all segments of its population*  
26 *consistent with the goals for local, regional, and state ground*  
27 *transportation. Funds, subject to Article XIX, will be used to repay*  
28 *bonds whose particular proceeds were proper uses of revenues.*  
29 *These bonds all contribute to meeting the ground transportation*  
30 *goals of local, regional, and state transportation plans. For*  
31 *example, Proposition 1 B bonds (the Highway Safety, Traffic*  
32 *Reduction, Air Quality, and Port Security Bond Act of 2006*  
33 *(Chapter 12.49 (commencing with Section 8879.20) of Division 1*  
34 *of Title 2 of the Government Code)) provide \$2 billion for*  
35 *improvement to local roads, \$1 billion for grants for locally funded*  
36 *transportation projects, \$125 million to provide grants to*  
37 *seismically retrofit local bridges and overpasses, and \$4.5 billion*  
38 *to reduce congestion on state highways and major access routes.*

39     (i) *Apportionment of funds to, and the appropriation of funds*  
40 *from, the Bicycle Transportation Account are determined to be*

1 *part of the overall basis for an equitable, geographical, and*  
2 *jurisdictional distribution of Article XIX funds. The purpose of*  
3 *this fund is to aid cities and counties in obtaining funds from*  
4 *federal sources for the construction and acquisition of*  
5 *rights-of-way for bicycle lanes. This apportionment provides*  
6 *allocations to cities and counties for bikeways and related facilities.*  
7 *Therefore the allocation aids local and regional goals for ground*  
8 *transportation found in local general plans and regional*  
9 *transportation plans. Additionally, providing these funds is*  
10 *included in the basis for a proper distribution based on equitable,*  
11 *geographical, and jurisdictional distribution.*

12 (j) *Apportionment of funds to, and the appropriation of funds*  
13 *from, the State Parks and Recreation Fund pursuant to Section*  
14 *2107.7 of the Streets and Highways Code is determined to be part*  
15 *of the overall basis for an equitable, geographical, and*  
16 *jurisdictional distribution of Article XIX funds. These funds support*  
17 *the maintenance, repair, construction, and improvement of*  
18 *highways in units of the state park system. This apportionment*  
19 *provides funds for all portions of the state so that the parks can*  
20 *be enjoyed by all Californians and is therefore equitable and*  
21 *geographical. Equal consideration is provided, since all segments*  
22 *of the population may enjoy the state park units. Further, having*  
23 *well maintained highways in and around the state park system*  
24 *supports local, regional, and statewide goals in all levels of*  
25 *transportation planning.*

26 SEC. 2. *Section 16965 of the Government Code is amended to*  
27 *read:*

28 16965. (a) *The Transportation Debt Service Fund is hereby*  
29 *created in the State Treasury. Moneys in the fund shall, among*  
30 *other things, as provided in this section, be dedicated to payment*  
31 *of debt service on bonds including bonds issued pursuant to the*  
32 *Clean Air and Transportation Improvement Act of 1990 (Part 11.5*  
33 *(commencing with Section 99600) of Division 10 of the Public*  
34 *Utilities Code), the Passenger Rail and Clean Air Bond Act of*  
35 *1990 (Chapter 17 (commencing with Section 2701) of Division 3*  
36 *of the Streets and Highways Code), and the Seismic Retrofit Bond*  
37 *Act of 1996 (Chapter 12.48 (commencing with Section 8879) of*  
38 *Division 1 of Title 2), the Highway Safety, Traffic Reduction, Air*  
39 *Quality, and Port Security Bond Act of 2006 (Chapter 12.49*  
40 *(commencing with Section 8879.20) of Division 1 of Title 2), and*

1 *the Safe, Reliable High-Speed Passenger Train Bond Act for the*  
2 *21st Century (Chapter 20 (commencing with Section 2704) of*  
3 *Division 3 of the Streets and Highways Code.* If the moneys in the  
4 fund are insufficient to pay the balance of the debt consistent with  
5 existing obligations, the General Fund will be used to pay the  
6 balance of any debt service.

7 (b) (1) From moneys transferred to the fund pursuant to  
8 subdivision (b) of Section 7103 of the Revenue and Taxation Code,  
9 the Director of Finance is hereby authorized to reimburse the  
10 General Fund for up to three hundred thirty-nine million two  
11 hundred eighty-nine thousand three hundred forty-five dollars  
12 (\$339,289,345) for the purpose of offsetting the cost of debt service  
13 payments made from the General Fund during the 2007–08 fiscal  
14 year for public transportation-related general obligation bond  
15 expenditures in the following amounts:

16 (A) Clean Air and Transportation Improvement Act of 1990,  
17 one hundred twenty-three million nine hundred seventy-three  
18 thousand four hundred ninety-three dollars (\$123,973,493).

19 (B) Passenger Rail and Clean Air Bond Act of 1990, seventy  
20 million nine hundred eighty-three thousand three hundred  
21 sixty-three dollars (\$70,983,363).

22 (C) Seismic Retrofit Bond Act of 1996, one hundred forty-four  
23 million three hundred thirty-two thousand four hundred eighty-nine  
24 dollars (\$144,332,489).

25 (2) From moneys transferred to the fund pursuant to subdivision  
26 (b) of Section 7103 of the Revenue and Taxation Code, the Director  
27 of Finance is hereby authorized to reimburse the General Fund in  
28 the 2007–08 fiscal year for two hundred million dollars  
29 (\$200,000,000) for the purpose of offsetting the cost of debt service  
30 payments made in prior fiscal years from the General Fund for  
31 public transportation-related general obligation bond expenditures.

32 (c) From moneys transferred to the fund pursuant to ~~subdivision~~  
33 *subdivisions (c) and (d)* of Section 7103 of the Revenue and  
34 Taxation Code, the Director of Finance is hereby authorized to  
35 reimburse the General Fund any amount necessary to offset the  
36 cost of debt service payments made from the General Fund during  
37 any fiscal year for transportation-related general obligation bond  
38 expenditures.

39 (d) From moneys transferred to the fund pursuant to an annual  
40 Budget Act or other statute from the State Highway Account in

1 the State Transportation Fund; *or the Highway Users Tax Account*  
2 *in the Transportation Tax Fund*, the Director of Finance is hereby  
3 authorized to reimburse the General Fund any amount necessary  
4 to offset the cost of debt service payments made from the General  
5 Fund during any fiscal year for transportation-related general  
6 obligation bond expenditures consistent with Article XIX of the  
7 California Constitution.

8 *SEC. 3. Section 27361 of the Government Code is amended to*  
9 *read:*

10 27361. (a) The fee for recording and indexing every  
11 instrument, paper, or notice required or permitted by law to be  
12 recorded is four dollars (\$4) for recording the first page and three  
13 dollars (\$3) for each additional page, except the recorder may  
14 charge additional fees as follows:

15 (1) If the printing on printed forms is spaced more than nine  
16 lines per vertical inch or more than 22 characters and spaces per  
17 inch measured horizontally for not less than three inches in one  
18 sentence, the recorder shall charge one dollar (\$1) extra for each  
19 page or sheet on which printing appears, except, however, the extra  
20 charge shall not apply to printed words which are directive or  
21 explanatory in nature for completion of the form or on vital  
22 statistics forms. Fees collected under this paragraph are not subject  
23 to subdivision (b) or (c).

24 (2) If a page or sheet does not conform with the dimensions  
25 described in subdivision (a) of Section 27361.5, the recorder shall  
26 charge three dollars (\$3) extra per page or sheet of the document.  
27 The funds generated by the extra charge authorized under this  
28 paragraph shall be available solely to support, maintain, improve,  
29 and provide for the full operation for modernized creation,  
30 retention, and retrieval of information in each county's system of  
31 recorded documents. Fees collected under this paragraph are not  
32 subject to subdivision (b) or (c).

33 (b) One dollar (\$1) of each three dollar (\$3) fee for each  
34 additional page shall be deposited in the county general fund.

35 (c) Notwithstanding Section 68085, one dollar (\$1) for recording  
36 the first page and one dollar (\$1) for each additional page shall be  
37 available solely to support, maintain, improve, and provide for the  
38 full operation for modernized creation, retention, and retrieval of  
39 information in each county's system of recorded documents. *For*  
40 *the 2009–10 and 2010–11 fiscal years, any available funds*

1 *attributable to the fee described in this subdivision may be loaned*  
2 *to the county road fund, in an amount not to exceed the amount of*  
3 *any fuel excise tax revenues diverted from the county in that fiscal*  
4 *year pursuant to statutory changes to the allocation of revenues*  
5 *from the Highway Users Tax Account enacted in 2009.*

6 (d) (1) In addition to all other fees authorized by this section,  
7 a county recorder may charge a fee of one dollar (\$1) for recording  
8 the first page of every instrument, paper, or notice required or  
9 permitted by law to be recorded, as authorized by each county's  
10 board of supervisors. The funds generated by this fee shall be used  
11 only by the county recorder collecting the fee for the purpose of  
12 implementing a social security number truncation program pursuant  
13 to Article 3.5 (commencing with Section 27300).

14 (2) A county recorder shall not charge the fee described in  
15 paragraph (1) after December 31, 2017, unless the county recorder  
16 has received reauthorization by the county's board of supervisors.  
17 A county recorder shall not seek reauthorization of the fee by the  
18 board before June 1, 2017, or after December 31, 2017. In  
19 determining the additional period of authorization, the board shall  
20 consider the review described in paragraph (4).

21 (3) Notwithstanding paragraph (2), a county recorder who,  
22 pursuant to subdivision (c) of Section 27304, secures a revenue  
23 anticipation loan, or other outside source of funding, for the  
24 implementation of a social security number truncation program,  
25 may be authorized to charge the fee described in paragraph (1) for  
26 a period not to exceed the term of repayment of the loan or other  
27 outside source of funding.

28 (4) A county board of supervisors that authorizes the fee  
29 described in this subdivision shall require the county auditor to  
30 conduct two reviews to verify that the funds generated by this fee  
31 are used only for the purpose of the program, as described in Article  
32 3.5 (commencing with Section 27300) and for conducting these  
33 reviews. The reviews shall state the progress of the county recorder  
34 in truncating recorded documents pursuant to subdivision (a) of  
35 Section 27301, and shall estimate any ongoing costs to the county  
36 recorder of complying with subdivisions (a) and (b) of Section  
37 27301. The board shall require that the first review be completed  
38 not before June 1, 2012, or after December 31, 2013, and that the  
39 second review be completed not before June 1, 2017, or after  
40 December 31, 2017. The reviews shall adhere to generally accepted

1 accounting standards, and the review results shall be made available  
2 to the public.

3 *SEC. 4. Section 2102 of the Streets and Highways Code is*  
4 *amended to read:*

5 2102. Net revenue derived from a tax means the amount of  
6 revenue derived from a tax that is deposited into the Highway  
7 Users Tax Account in the Transportation Tax Fund, *less*  
8 *expenditures made from that account by the Controller for the*  
9 *purposes of administering the account.*

10 *SEC. 5. Section 2103 of the Streets and Highways Code is*  
11 *amended to read:*

12 2103. (a) At least 90 percent of the balance deposited to the  
13 credit of the Highway Users Tax Account in the Transportation  
14 Tax Fund by the 28th day of each month shall be apportioned by  
15 the State Controller by the second working day thereafter, except  
16 for June, in which case the apportionment shall be made the same  
17 day. These apportionments shall be made as provided for in  
18 Sections 2104 to 2122, inclusive. If information is not available  
19 to make the apportionment as required, the apportionment shall  
20 be made on the basis of the information of the previous month.  
21 Amounts not apportioned shall be included in the apportionment  
22 of the subsequent month.

23 (b) *Notwithstanding anything in subdivision (a) or this chapter*  
24 *to the contrary, for the 2009–10 and 2010–11 fiscal years, the net*  
25 *revenue in the Highway Users Tax Account in the Transportation*  
26 *Tax Fund shall be apportioned by the Controller as follows:*

27 (1) *Sixty-five percent of net revenues shall be transferred to the*  
28 *State Highway Account in the State Transportation Fund for*  
29 *expenditure in accordance with Section 163.*

30 (2) *Twenty-five percent of net revenues shall be transferred to*  
31 *the Transportation Debt Service Fund for the purpose of payment*  
32 *of principal and interest on voter-approved bonds, consistent with*  
33 *Section 5 of Article XIX of the California Constitution, subject to*  
34 *appropriation by the Legislature.*

35 (3) *For the 2009–10 fiscal year only, an amount equal to 25*  
36 *percent of the revenues received by the Department of Motor*  
37 *Vehicles from vehicle weight fees and deposited in the State*  
38 *Highway Account shall be transferred from net revenue in the*  
39 *Highway Users Tax Account to the Transportation Debt Service*  
40 *Fund for the purpose of payment of principal and interest on*

1 voter-approved bonds, consistent with Section 5 of Article XIX of  
2 the California Constitution, subject to appropriation by the  
3 Legislature.

4 (4) The sum of six hundred thousand dollars (\$600,000) per  
5 month shall be transferred to the Bicycle Transportation Account  
6 in the State Transportation Fund.

7 (5) The sum appropriated by the Legislature in the annual  
8 Budget Act pursuant to Section 2107.7 shall be transferred to the  
9 State Parks and Recreation Fund.

10 (6) The money remaining after the transfers in paragraphs (1)  
11 to (5), inclusive, shall be apportioned, as follows:

12 (A) Fifty and eight-tenths percent of the funds available shall  
13 be apportioned among the counties, as follows:

14 (i) Seventy-five percent of the funds payable under this  
15 subparagraph shall be apportioned among the counties monthly  
16 in the respective proportions that the number of fee-paid and  
17 exempt vehicles that are registered in each county bears to the  
18 total number of fee-paid and exempt vehicles registered in the  
19 state. In that regard, the Department of Motor Vehicles shall, as  
20 soon as possible after the last day of each calendar month, furnish  
21 to the Controller a verified statement showing the number of  
22 fee-paid and exempt vehicles that are registered in each county  
23 and in the state as of the last day of the calendar month as reflected  
24 by the records of the Department of Motor Vehicles.

25 (ii) Twenty-five percent of the funds payable under this  
26 subparagraph shall be apportioned among the counties monthly  
27 in the respective proportions that the number of miles of maintained  
28 county roads in each county bears to the total number of miles of  
29 maintained county roads in the state.

30 (B) Forty-nine and two-tenths percent of the funds available  
31 shall be apportioned among the cities, including a city and county,  
32 in the respective proportions that the total population of the city  
33 bears to the total population of all of the cities in the state.

34 (c) All other provisions of this chapter, to the extent not  
35 inconsistent with subdivision (b), shall continue to apply for the  
36 2009–10 and 2010–11 fiscal years.

37 (d) (1) Notwithstanding subdivision (b), the Director of Finance  
38 may, on the basis of extreme hardship, reduce or eliminate any  
39 amount of the reduction of apportionments to a county or city  
40 provided for in that subdivision for the 2009–10 fiscal year.

1 *Application for an exemption shall be made by December 15, 2009,*  
2 *in writing, in the manner prescribed by the Department of Finance,*  
3 *explaining the necessity therefor and providing information*  
4 *describing how the local agency meets the criteria in paragraph*  
5 *(2). The Director of Finance shall notify the Controller with regard*  
6 *to any granted exemption, and the Controller shall then be*  
7 *authorized to make an additional apportionment to the city or*  
8 *county consistent with that decision. Those additional apportioned*  
9 *revenues shall augment the apportionment the county or city*  
10 *receives pursuant to paragraph (6) of subdivision (b). An amount*  
11 *equal to the total additional apportionments authorized pursuant*  
12 *to this subdivision shall then be deducted from the amount to be*  
13 *transferred pursuant to paragraph (2) of subdivision (b), with*  
14 *those revenues to be used to make the additional apportionments.*

15 *(2) In addition to considering the condition of the General Fund*  
16 *of the state and its current ability to support budgeted services,*  
17 *the Director of Finance shall consider all of the following factors*  
18 *in making a determination of extreme hardship:*

19 *(A) Whether the requesting local agency is the subject of a*  
20 *current bankruptcy proceeding, or whether the full reduction*  
21 *amount otherwise required by subdivision (b) would likely cause*  
22 *the local agency to enter bankruptcy proceedings.*

23 *(B) If the requesting local agency does not have financial*  
24 *reserves in excess of the amount of the reduction and the reduction*  
25 *would impair the ability of the local agency to provide a basic*  
26 *level of core public services funded by these revenues.*

27 *(C) The extent to which the local agency has made reductions*  
28 *in its expenditures similar in nature and magnitude to those made*  
29 *in the state budget and has experienced local tax revenues that*  
30 *are significantly lower than the prior fiscal year.*

31 *(e) Notwithstanding subdivision (b), a city that has received*  
32 *only the minimum four hundred thousand dollar (\$400,000)*  
33 *allocation of Proposition 1B funds pursuant to subparagraph (B)*  
34 *of paragraph (1) of subdivision (l) of Section 8879.23 of the*  
35 *Government Code shall, for the 2009–10 fiscal year, be*  
36 *apportioned an amount equal to the full amount of revenues that*  
37 *it would have received under this chapter if this section had not*  
38 *been amended in the 2009–10 Fourth Extraordinary Session. The*  
39 *additional revenues apportioned to a city pursuant to this*  
40 *subdivision shall augment the apportionment the city receives*

1 *pursuant to paragraph (6) of subdivision (b). An amount equal to*  
2 *the total additional apportionments authorized pursuant to this*  
3 *subdivision shall then be deducted from the amount to be*  
4 *transferred pursuant to paragraph (2) of subdivision (b), with*  
5 *those revenues to be used to make the additional apportionments.*

6 *SEC. 6. Section 2104.1 of the Streets and Highways Code is*  
7 *amended to read:*

8 2104.1. The Controller shall deduct annually, from the amount  
9 apportioned pursuant to Section 2104 *or subparagraph (A) of*  
10 *paragraph (6) of subdivision (b) of Section 2103, as applicable,*  
11 the amount identified as applicable to counties in the report  
12 submitted in the preceding fiscal year pursuant to Section 191, and  
13 shall transfer the amount to the State Highway Account.

14 *SEC. 7. Section 2106.3 of the Streets and Highways Code is*  
15 *amended to read:*

16 2106.3. If Los Angeles County elects to allocate any portion  
17 of the revenues it receives pursuant to ~~Section 2104 or 2106~~ *this*  
18 *chapter* to the cities within the county under any program in which  
19 those revenues are allocated to at least 70 percent of the cities, it  
20 shall make allocations to each city within the county based on the  
21 two following equally weighted factors:

22 (1) The population of the city to the total population of all the  
23 cities in the county.

24 (2) The city street mileage to the total street mileage of all the  
25 cities in the county, as determined from the county master plan.

26 *SEC. 8. Section 2106.4 of the Streets and Highways Code is*  
27 *amended to read:*

28 2106.4. From funds apportioned to the County of Los Angeles  
29 pursuant to ~~Sections 2104, 2105, and 2106~~ *this chapter*, or from  
30 other transportation funds available to the county, or from any  
31 combination of those funds, as determined by the county, the  
32 county shall, beginning in the 1996–97 fiscal year, commence the  
33 annual transfer to the Los Angeles County Metropolitan  
34 Transportation Authority of funds in an amount calculated to  
35 amortize, in equal annual installments over a 5-year period, the  
36 amount by which fiscal realignment revenues deposited in the  
37 county general fund exceed fifty million dollars (\$50,000,000).  
38 The highest priority for the use of the remaining funds apportioned  
39 to the county pursuant to this chapter shall be for safety and for

1 maintenance of county facilities in urban areas with the highest  
2 backlog of maintenance and rehabilitation needs.

3 *SEC. 9. Section 2107.1 of the Streets and Highways Code is*  
4 *amended to read:*

5 2107.1. Any city or city and county may apply to the United  
6 States Bureau of Census to determine its population. Upon receipt  
7 from the bureau of its determination of population, the city or city  
8 and county may, at its option, file a certified copy of the  
9 determination with the Controller.

10 All apportionments *and payments to a city or city and county*  
11 *made under Section 2107 this chapter and all payments under*  
12 *Section 11005 of the Revenue and Taxation Code for any*  
13 *apportionment made* beginning with the month following the filing  
14 of the determination shall be based upon the population so  
15 determined until such time as a subsequent determination is made  
16 by the bureau and a certified copy is filed by the city or city and  
17 county with the Controller or a certified copy of a subsequent  
18 estimate or census result validated by the Department of Finance  
19 is filed with the Controller as provided in Section 2107.2. For the  
20 purposes of this section, a written or telegraphic certification from  
21 the Director of the Census to the Controller of the determination  
22 of population may be accepted by the Controller in lieu of the  
23 filing by the city or city and county of the certified copy of the  
24 determination.

25 The cost of any determination by the United States Bureau of  
26 Census or by the Department of Finance is a proper charge against  
27 the city or city and county applying therefor and shall be paid by  
28 it to the bureau or to the department.

29 This section does not apply to counties.

30 *SEC. 10. Section 2107.2 of the Streets and Highways Code is*  
31 *amended to read:*

32 2107.2. Any city or city and county may apply to the population  
33 research unit of the Department of Finance to estimate its  
34 population or the population of any inhabited territory annexed to  
35 the city subsequent to the last federal or state census validated by  
36 the population research unit of the Department of Finance. The  
37 department may make the estimate if in the opinion of the  
38 department there is available adequate information upon which to  
39 base the estimate. The department may develop or contract for the  
40 development of additional information if, in the opinion of the

department, additional information may make an estimate feasible. Not less than 25 days nor more than 30 days after the completion of the estimate, the Department of Finance shall file a certified copy thereof with the Controller if the estimate is greater than the current certified population.

All apportionments *and payments to a city or city and county* under ~~Section 2107 this chapter~~ and ~~all payments~~ under Section 11005 of the Revenue and Taxation Code ~~for any apportionment~~ made beginning with the month following the filing of the estimate shall be based upon the population so estimated until a subsequent estimate is made by the department and a certified copy is filed with the Controller or a subsequent determination is made by the United States Bureau of the Census and a certified copy is filed by the city or city and county with the Controller as provided in Section 2107.1.

The Department of Finance may assess a reasonable charge, not to exceed the actual cost thereof, for the preparation of population estimates pursuant to this section, which is a proper charge against the city or city and county applying therefor. The amount received shall be deposited in the State Treasury as a reimbursement to be credited to the appropriation from which the expenditure is made.

No more than one estimate of its total population shall be filed each fiscal year for each city or city and county.

As of May 1, 1988, any population estimate prepared by the Department of Finance pursuant to Section 2227 of the Revenue and Taxation Code may be used for all purposes of this section unless a written request not to certify is received by the department from the city or city and county within 25 days of completion of the estimate.

*SEC. 11. Section 2107.3 of the Streets and Highways Code is amended to read:*

2107.3. The incorporation of a new city, or any annexation or exclusion of territory to or from an existing city, shall be considered for the purpose of apportionment of funds *to cities and cities and counties* pursuant to ~~Section 2107 this chapter~~. The revenue shall be apportioned among the cities *and cities and counties* monthly as revenues are received in the Highway Users Tax ~~Fund Account~~. Any newly incorporated city or any increase in population due to annexation shall be included in the monthly apportionment following such incorporation or annexation.

1 In the event of the disincorporation of a city, or in the event the  
2 incorporation of a city is adjudged invalid, any funds apportioned  
3 pursuant to ~~Section 2107 this chapter~~ to such that city, but which  
4 that are unexpended, shall revert to the Highway Users Tax Fund  
5 Account and shall be reapportioned to all other cities and cities  
6 and counties pursuant to ~~Section 2107 this chapter~~.

7 The Controller shall not be required to reapportion funds  
8 previously apportioned for expenditure in the different cities of  
9 the state by reason of any subsequent incorporation, invalidation  
10 of incorporation, annexation or exclusion of territory.

11 *SEC. 12. Section 2107.6 of the Streets and Highways Code is*  
12 *amended to read:*

13 2107.6. The Controller shall deduct annually, from the amount  
14 apportioned pursuant to Section 2107 or subparagraph (B) of  
15 paragraph (5) of subdivision (b) of Section 2103, as applicable,  
16 the amount identified as applicable to cities in the report submitted  
17 in the preceding fiscal year pursuant to Section 191, and shall  
18 transfer the amount to the State Highway Account.

19 *SEC. 13. Section 2109 of the Streets and Highways Code is*  
20 *amended to read:*

21 2109. State highways shall be maintained, constructed, and  
22 improved out of the moneys received in the State Highway Account  
23 under ~~Section 2108 this chapter~~. Notwithstanding Section 81, the  
24 department is not required to maintain any route, or portion of a  
25 route, added after January 1, 1947, until it has been laid out and  
26 constructed as a state highway.

27 *SEC. 14. Section 2111 of the Streets and Highways Code is*  
28 *amended to read:*

29 2111. Apportionments from the Highway Users Tax Fund  
30 Account under this chapter shall not be made to any incorporated  
31 city the streets of which are not public streets or which has not  
32 held an election of municipal officers within a period of 10 years  
33 preceding the date of such apportionment. Apportionments  
34 heretofore accumulated for expenditure within any such city shall  
35 be reapportioned to all other cities and cities and counties in the  
36 manner provided by ~~Sections 2106 and 2107, respectively this~~  
37 *chapter*.

38 *SEC. 15. Section 2112 of the Streets and Highways Code is*  
39 *amended to read:*

2112. No money apportioned from the Highway Users Tax Fund as provided in Section 2106 or 2107 Account to cities or counties shall be used for the construction or improvement of any highway or street if the contract for such construction or improvement specifies the use of any patented or proprietary paving material, unless the contract has been awarded to the lowest responsible bidder therefor after alternate bids have been called for and opportunity afforded for bids to be submitted for nonpatented or nonproprietary paving material in competition with an equal thickness and like design of such patented or proprietary paving material. This section shall not be deemed nor construed to prohibit the use of any patented or proprietary paving material in the maintenance of any highway or street when such highway or street was constructed of such material and, in the opinion of the body, board or officer ordering such maintenance, it would be impractical to use a different paving material for such maintenance.

SEC. 16. Section 2113 of the Streets and Highways Code is amended to read:

2113. No apportionment of money from the Highway Users Tax Fund as provided in Section 2106 or 2107 Account shall be made to a city unless the city has set up by ordinance a “special gas tax street improvement fund.”

All apportionments of such moneys shall be deposited in the “special gas tax street improvement fund.”

In making any expenditure a city shall follow the law governing it in regard to the doing of the particular type of work in cases which are not exclusively municipal affairs.

No state officer or employee shall be liable for anything done, or omitted to be done, by any city in the performance of any work.

Interest received by a city from the investment of money in its special gas tax street improvement fund shall be deposited in the fund and shall be used for street purposes.

SEC. 17. Section 2114 of the Streets and Highways Code is amended to read:

2114. Contracts for any construction and improvement projects on city streets for which funds apportioned to cities from the Highway Users Tax Fund as provided in Section 2106 or 2107 Account may be expended during any fiscal year may be awarded on and after the first day of January preceding the beginning of the fiscal year.

1     *SEC. 18. Section 2115 of the Streets and Highways Code is*  
2     *amended to read:*

3     2115. To permit the accomplishment of major cooperative  
4     street or highway projects in their entirety, the legislative body of  
5     a county or city may authorize the Controller to accumulate moneys  
6     accruing to the county or city over a period of time from the  
7     Highway Users Tax Fund pursuant to Section 2106 or 2107  
8     Account.

9     ~~SECTION 1. It is the intent of the Legislature to enact statutory~~  
10    ~~changes relating to the Budget Act of 2009.~~

11    ~~SEC. 2.~~

12    *SEC. 19.* This act addresses the fiscal emergency declared by  
13    the Governor by proclamation on July 1, 2009, pursuant to  
14    subdivision (f) of Section 10 of Article IV of the California  
15    Constitution.

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