

## The “Spillover” from the Sales Tax on Gasoline updated 9 Jan 2008

Since 1971, the law has directed that revenues from the growth in sales tax on gasoline, to the extent they exceed the growth in other sales tax revenues, are to be transferred to the Public Transportation Account for public transit capital and operations. These funds, commonly known as the “spillover,” do not flow to Proposition 42 and neither the Traffic Congestion Relief Program nor Proposition 42 has any impact on the spillover.

In recent years, the Legislature has diverted over \$1.3 billion of these spillover funds to the general fund and other purposes, including over \$600 million in FY07-08. The FY07-08 Budget Agreement (SB79 of 2007) calls for half of spillover revenues in subsequent years to be diverted to general fund relief.

### Origins of the Spillover: The Transportation Development Act of 1971

The Transportation Development Act of 1971 created a statewide funding program for local public transportation services and facilities. One feature of this Act involved the lowering of the state’s sales tax rate by  $\frac{1}{4}$  percent and the extension of the sales tax to gasoline, which had not been previously subject to the sales tax. This action was intended to be revenue neutral, but the Act provided that any excess revenues to the state from this change would be transferred to the Public Transportation Account.<sup>1</sup>

The Board of Equalization and the Department of Finance are charged each year with determining the spillover: the difference between a) a 5% state sales tax applied to all taxable goods *except* gasoline, and b) a  $4\frac{3}{4}$ % state sales tax applied to all taxable goods *including* gasoline. Essentially, the spillover is generated when gasoline prices increase at a faster rate than all other taxable items. Hence we are presently seeing unprecedented amounts of revenue in the spillover.

Neither the Traffic Congestion Relief Program of 2000, nor Proposition 42 alter the spillover. Proposition 42 captures the sales tax on gasoline not subject to the spillover that had previously gone to the state general fund. Proposition 42 revenues grow in tandem with the overall growth in total taxable sales. Proposition 42 does not interfere with the spillover.

From its inception until 1985-86, the spillover provided revenues to the public transportation account. But there was no spillover during most of the subsequent 17 years. In FY2003-04 through FY2005-06, nearly \$700 million was redirected from the spillover to the state general fund and to the Bay Area Toll Account (BATA, the Bay Bridge seismic retrofit program).

### Recent State Budgets Alter the Spillover Allocation

The FY2006-07 Budget Agreement, allocated:

- \$200 million of the spillover to partially repay a Proposition 42 suspension.
- \$125 million to the BATA
- \$20 million to farm worker transportation grants.
- \$13 million for high speed rail

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<sup>1</sup> Or it's predecessors Transportation Planning and Research Account from 1976-1982, and the Transportation Planning and Development Account from 1982-1997.

- remaining revenues of about \$310 million, 80% to State Transit Assistance (STA) and 20% to other mass transit programs.

Taking into account other revenues including those from the diesel sales tax, Proposition 42 sales tax on gasoline, the FY2006-07 Budget provided State Transit Assistance with over \$624 million, up from about \$237 million in FY2005-06.

The FY07-08 Budget Agreement (SB79 of 2007) calls for half of spillover revenues in subsequent years to be diverted to general fund relief but leaves 2/3 of the remaining amounts in the Public Transportation Account for local transit assistance. Previously, local transit received half of these PTA spillover funds. Based on LAO projections of out year spillover amounts, here are the projected allocations:

<b><u>Allocation of the Spillover</u></b>				
<b><u>Assembly Budget (SB79)</u></b>				
	<u>FY07-08</u>	<u>FY08-09</u>	<u>FY09-10</u>	<u>FY10-11</u>
Mass Transit Fund (Gen Fund Relief) ..	622.0	467.3	483.1	523.2
Public Transportation Acct				
Transit Assistance to Locals .....	200.0	311.5	322.0	348.8
State Transit Programs .....	4.0	155.8	161.0	174.4
TOTAL Spillover	<u>826.0</u>	<u>934.6</u>	<u>966.1</u>	<u>1,046.4</u>

Funds diverted to the Mass Transit Fund are used to fund various transportation related expenditures including debt service that would otherwise be shouldered by the general fund. Specific provisions of the Transportation Development Act of 1971 (contained in Revenue and Taxation Code Section 7102) provide that the allocation of the spillover may be altered with a 2/3 vote of each house.

### **The Public Transportation Account**

In addition to spillover revenues that result when gasoline prices are especially high, the Public Transportation Account receives other funds including revenues from the sales tax on the 9 cent per gallon gas tax imposed under Proposition 111 (about \$70 million per year), the sales tax on diesel fuel (about \$360 million per year), Proposition 42 (about \$180 million per year). Under current statutory formulas, more than half of the funds in the Public Transportation Account go to State Transit Assistance to local agencies.

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