



**Date:** March 8, 2010

**To:** State Legislation Committee Members

**From:** Patrick H. West, City Manager

**Subject:** Gas Tax Swap Legislation

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**Overview of the Gas Tax / Prop 42 Swap**

On Thursday, March 4, 2010, the Senate and Assembly passed ABx8\_6 and ABx8\_9, which contain the provisions for the Transportation Funding Swap Proposal (Swap). Proposition 42 will no longer exist when these bills go into effect, as the legislation eliminates the sales tax on gasoline (Proposition 42) and replaces it with an increase in the current gas excise tax funds instead. Both bills currently await action by the Governor, who is expected to sign them.

**Proposition 42**

Proposition 42 constitutionally requires a portion of gasoline sales tax revenue be transferred to local governments for highways, local streets and roads, and transit. Last week's events in effect remove the Proposition 42 funding source, but replace the funds with a new excise tax. Long Beach receives approximately \$5 million per year in Proposition 42 funds.

**Gas Tax**

In the past, the State imposed a motor vehicle fuel tax of 18.0 cents per gallon. These funds have been used by local governments for local street construction and transportation operations. Under the Swap, the Gas Tax will increase by 17.3 cents per gallon, to be equivalent to the amount of revenue Proposition 42 generated. In future years, the amount of the Gas Tax will be indexed to reflect the amount that Proposition 42 would have generated. Long Beach receives approximately \$8 million per year in Gas Tax.

**Impacts to Long Beach**

Under the legislation, local governments should receive at least the same amount of funds they currently receive, but out of the Gas Tax funds only. For Long Beach, this amount will be approximately \$13 million. The bill includes increases in the percentages of Gas Tax that will be dedicated to local government, but the exact amount of any potential additional funding is not known at this time.

**Concerns about Constitutional Protection**

The overarching concern with this approach is that Proposition 42 funds had strong constitutional protections regarding State borrowing of transportation funds, while Gas Tax has much weaker protection. Through the swap, Long Beach will be left with a larger pot of transportation funds that has fewer protections. The Legislature can borrow Gas Tax on both short-term and long-term basis.

For long-term borrowing, the State must repay the loan within three years; however, there is no provision that the State must repay the loan before they borrow again, and there is no limit on the number of times the State may borrow these funds, as there was under Proposition 42.

Long Beach and cities throughout the State are very concerned that this Swap could lead to easier borrowing by the State in the future. Attached is a letter from the Big 10 Mayors that outlined some of the objections to the Swap components as this issue was debated over the past several weeks.

If you have any questions, please see the attached fact sheet outlining the major components of this legislation or contact Tom Modica, Manager of Government Affairs, at 8-5091.

CC: Mayor and Members of the City Council  
Suzanne Frick, Assistant City Manager  
Reginald Harrison, Deputy City Manager  
Lori Ann Farrell, Director of Financial Management  
Mike Conway, Public Works Director  
Tom Modica, Manager of Government Affairs  
Jyl Marden, City Council Liaison  
Mike Arnold and Associates

Attachment

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February 19, 2010

The Honorable Arnold Schwarzenegger  
Governor, State of California  
State Capitol  
Sacramento, California 95814

The Honorable Darrell Steinberg  
Senate President Pro Tem  
State Capitol, Room 205  
Sacramento, CA 95814

The Honorable Dennis Hollingsworth  
Senate Minority Leader  
State Capitol, Room 305  
Sacramento, CA 95814

The Honorable Karen Bass  
Speaker of the Assembly  
State Capitol, Room 219  
Sacramento, CA 95814

The Honorable Martin Garrick  
Assembly Minority Leader  
State Capitol, Room 3104  
Sacramento, CA 95814

Dear Governor, Senate and Assembly Leaders:

On behalf of the largest cities in California, we write to reaffirm our concern about any state efforts that would erode funding for vital community services by taking, borrowing or deferring local revenues, such as local gas tax, property tax, or transportation funds. Many of our cities are facing unprecedented fiscal challenges, and have had no other choice but to eliminate positions and reduce critical services on which residents depend. Current budget proposals under consideration would only exacerbate an exceedingly difficult fiscal climate and force cities to make the impossible choice between essential public services.

Presently, we are strongly opposed to efforts that might be taken by the legislature to defer Highway Users Tax Account (HUTA) dollars from their statutorily specified purposes. These actions would *yet again* defer critical payments to local governments the accumulation of which contributes to the deterioration of local streets and roads presenting safety hazards to our constituents. We urge you not to target HUTA to close the budget gap in 2010.

We are also concerned that the proposed "gas tax swap" proposals being offered by the Governor and Legislature would reduce an essential funding source for local transit without supplanting the total loss in revenue. These funds support vital programs and services that benefit all Californians, and we must be sure that our tax dollars make their way back to taxpayers through the services they rely on local government to provide. Due to the difficult fiscal challenges we face as mayors, we are not encouraged by the proposal to grant local government the authority to levy a fee on gasoline per voter approval. Residents are already facing increased fees in many areas of the state, and we are not eager to pass this taxation on to voters at the polls. This is not an appropriate substitute to the loss of transit funding.

In addition, we feel that any "gas tax swap" should include contingency language that would restore the sales tax if the excise tax is invalidated.

Before you make final decisions on permanently restructuring gas taxation or other local revenues to balance your budget, we respectfully request to be an active partner in negotiations so that we can ensure the protection of our residents and cities.

Sincerely,



ASHLEY SWEARENGIN  
Mayor – Fresno



ANTONIO R. VILLARAIGOSA  
Mayor – Los Angeles



RON DELLUMS  
Mayor – Oakland



CHUCK REED  
Mayor – San Jose




MIGUEL PULIDO  
Mayor – Santa Ana



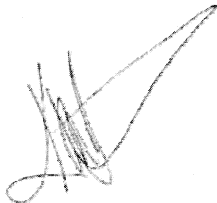
JERRY SANDERS  
Mayor – San Diego



GAVIN NEWSOM  
Mayor – San Francisco



CURT PRINGLE  
Mayor – Anaheim



KEVIN JOHNSON  
Mayor – Sacramento



BOB FOSTER  
Mayor – Long Beach

# **GAS TAX SWAP LEGISLATION:**

## **LEAGUE OF CALIFORNIA CITIES SUMMARY**

**MARCH 2010**

### **Major Components**

The Transportation Funding Swap Proposal (Swap) that was passed Thursday, March 4, 2010, contains the following major components:

1. Repeals the sales tax on gasoline.
2. Increases the excise tax on gasoline by 17.3 cents and adds an annual index that will make sure the new excise tax keeps pace with revenues expected from the sales tax on gas in the future.
3. Increases the sales tax on diesel by 1.75 percent and allocate 75 percent to local transit agencies and 25 percent to state transit programs. The excise tax on diesel will be reduced from 18 cents to 13.6 cents for revenue neutrality purposes.

### **How the Swap Works**

Gasoline Tax - The sales tax on gasoline is currently 6 percent but will go back down to 5 percent in FY 2011-12. At \$3 per gallon, the 6 percent sales tax on gasoline equates to about 18 cents per gallon. The proposal would repeal the sales tax on gas, and increases the excise tax by 17.3 cents per gallon beginning July 1, 2010. Beginning in FY 2011-12, the Board of Equalization will be required to adjust the tax so that it is consistent with the estimated revenues from the repealed 5 percent sales tax on gas. The proposal to eliminate the sales tax on gas would not impact local sales tax implemented pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law.

Taxes on Diesel - The sales tax on diesel currently provides \$313 million to transit programs equally divided between local transit agencies and state transit programs. The proposal increases the sales tax on diesel by 1.75 percent and allocates 75 percent to local transit agencies and 25 percent to state transit programs. To keep the package revenue neutral, the excise tax on diesel will be reduced from 18 cents to 13.6 cents. Transit associations have indicated they are supportive of these provisions, as it will give them more funding than they are actually receiving now.

Appropriation from Public Transit Account - The package also appropriates \$400 million in FY 2009-10 from the Public Transportation Account, and provides some additional flexibility to transit agencies. This will provide transit some funding up front to avoid service and personnel cuts this year.

### **Revenue Allocation Timeline**

In FY 2010-11, the revenues will be allocated as follows:

1. Transportation debt service
2. \$54 million monthly set aside for future appropriation by the Legislature
3. Split: 50% Statewide Transportation Improvement Program (STIP), 50% evenly split between cities and counties using current Highway User Tax (HUTA) formulas.

Beginning in FY 2011-12, the revenues will be allocated as follows:

1. Transportation debt service
2. Split: 44% STIP; 12% State Highway Operation and Protection Program (SHOPP); and 44% between cities and counties using current HUTA formulas.