

ASSEMBLY BILL

No. 16

**Introduced by Assembly Member Dixon
(Coauthors: Assembly Members Essayli, Mathis, Joe Patterson,
and Ta)**

December 5, 2022

An act to amend Section 7360 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 16, as introduced, Dixon. Motor Vehicle Fuel Tax Law: adjustment suspension.

(1) The Motor Vehicle Fuel Tax Law, administered by the California Department of Tax and Fee Administration, imposes a tax upon each gallon of motor vehicle fuel removed from a refinery or terminal rack in this state, entered into this state, or sold in this state, at a specified rate per gallon. Existing law requires the department to adjust the tax on July 1 each year by a percentage amount equal to the increase in the California Consumer Price Index, as calculated by the Department of Finance.

Article XIX of the California Constitution restricts the expenditure of revenues from the Motor Vehicle Fuel Tax, Diesel Fuel Tax Law, and other 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.

This bill would authorize the Governor to suspend an adjustment to the motor vehicle fuel tax, as described above, scheduled on or after July 1, 2024, upon making a determination that increasing the rate would impose an undue burden on low-income and middle-class families. The

bill would require the Governor to notify the Legislature of an intent to suspend the rate adjustment on or before January 10 of that year, and would require the Department of Finance to submit to the Legislature a proposal by January 10 that would maintain the same level of funding for transportation purposes as would have been generated had the scheduled adjustment not been suspended.

(2) The California Constitution provides for the establishment of the State Board of Equalization, which, before July 1, 2017, had primary responsibility for most of the state’s duties, powers, and responsibilities regarding the administration of taxes and fees. Existing law, on July 1, 2017, transferred to the California Department of Tax and Fee Administration various duties, powers, and responsibilities of the State Board of Equalization, including administration of the Motor Vehicle Fuel Tax Law and the Diesel Fuel Tax Law, as specified.

This bill would also change references in these provisions of law from the “State Board of Equalization” to the “California Department of Tax and Fee Administration” or “department”, as applicable, to reflect the transfer of the board’s duties, powers, and responsibilities to the department.

(3) This bill would take effect immediately as a tax levy.

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

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

1 SECTION 1. Section 7360 of the Revenue and Taxation Code
 2 is amended to read:
 3 7360. (a) (1) A tax of eighteen cents (\$0.18) is hereby imposed
 4 upon each gallon of fuel subject to the tax in Sections 7362, 7363,
 5 and 7364.
 6 (2) If the federal fuel tax is reduced below the rate of nine cents
 7 (\$0.09) per gallon and federal financial allocations to this state for
 8 highway and exclusive public mass transit guideway purposes are
 9 reduced or eliminated correspondingly, the tax rate imposed by
 10 paragraph (1), on and after the date of the reduction, shall be
 11 recalculated by an amount so that the combined state rate under
 12 paragraph (1) and the federal tax rate per gallon equal twenty-seven
 13 cents (\$0.27).

1 (3) If any person or entity is exempt or partially exempt from
2 the federal fuel tax at the time of a reduction, the person or entity
3 shall continue to be so exempt under this section.

4 (b) (1) On and after July 1, 2010, in addition to the tax imposed
5 by subdivision (a), a tax is hereby imposed upon each gallon of
6 motor vehicle fuel, other than aviation gasoline, subject to the tax
7 in Sections 7362, 7363, and 7364 in an amount equal to seventeen
8 and three-tenths cents (\$0.173) per gallon.

9 (2) For the 2011–12 fiscal year and each fiscal year thereafter,
10 the ~~board~~ *department* shall, on or before March 1 of the fiscal year
11 immediately preceding the applicable fiscal year, adjust the rate
12 in paragraph (1) in that manner as to generate an amount of revenue
13 that will equal the amount of revenue loss attributable to the
14 exemption provided by Section 6357.7, based on estimates made
15 by the ~~board~~, *department*, and that rate shall be effective during
16 the state’s next fiscal year.

17 (3) In order to maintain revenue neutrality for each year,
18 beginning with the rate adjustment on or before March 1, 2012,
19 the adjustment under paragraph (2) shall also take into account the
20 extent to which the actual amount of revenues derived pursuant to
21 this subdivision and, as applicable, Section 7361.1, the revenue
22 loss attributable to the exemption provided by Section 6357.7
23 resulted in a net revenue gain or loss for the fiscal year ending
24 prior to the rate adjustment date on or before March 1.

25 (4) The intent of paragraphs (2) and (3) is to ensure that the act
26 adding this subdivision and Section 6357.7 does not produce a net
27 revenue gain in state taxes.

28 (5) Commencing July 1, 2019, the adjustments in paragraphs
29 (2) and (3) shall cease, and the rate imposed by this subdivision
30 shall be the rate in paragraph (1).

31 (c) On and after November 1, 2017, in addition to the taxes
32 imposed by subdivisions (a) and (b), a tax is hereby imposed upon
33 each gallon of motor vehicle fuel, other than aviation gasoline,
34 subject to the tax in Sections 7362, 7363, and 7364, in an amount
35 equal to twelve cents (\$0.12) per gallon.

36 (d) (1) On July 1, 2020, and every July 1 thereafter, the ~~board~~
37 *department* shall adjust the taxes imposed by subdivisions (a), (b),
38 and (c), with the adjustment to apply to both to the base tax rates
39 specified in those provisions and to any previous adjustment in
40 rates made pursuant to this subdivision, by increasing the taxes by

1 a percentage amount equal to the increase in the California
 2 Consumer Price Index, as calculated by the Department of Finance
 3 with the resulting taxes rounded to the nearest one-tenth of one
 4 cent (\$0.01). The first adjustment pursuant to this subdivision shall
 5 be a percentage amount equal to the increase in the California
 6 Consumer Price Index from November 1, 2017, to November 1,
 7 2019. Subsequent annual adjustments shall cover subsequent 12
 8 month periods. The incremental change shall be added to the
 9 associated rate for that year.

10 *(2) For rate adjustments scheduled on or after July 1, 2024, the*
 11 *Governor may suspend the adjustment in paragraph (1) upon*
 12 *making a determination that the adjustment would impose an undue*
 13 *burden on low-income and middle-class families. For any*
 14 *suspension pursuant to this paragraph, the following requirements*
 15 *shall be met:*

16 *(i) The Governor shall, by January 10 of that year, notify the*
 17 *Legislature of an intent to suspend the scheduled adjustment.*

18 *(ii) The Department of Finance shall, by January 10 of that*
 19 *year, submit to the Legislature a proposal that would maintain the*
 20 *same level of funding for transportation purposes as would be*
 21 *generated if the scheduled adjustment is not suspended.*

22 *(iii) The Governor shall make the determination to suspend the*
 23 *adjustment by proclamation no sooner than 30 days following the*
 24 *notification in clause (i).*

25 (e) Any increases to the taxes imposed under subdivisions (a),
 26 (b), and (c) that are enacted by legislation subsequent to July 1,
 27 2017, shall be deemed to be changes to the base tax rates for
 28 purposes of the California Consumer Price Index calculation and
 29 adjustment performed pursuant to subdivision (d).

30 SEC. 2. This act provides for a tax levy within the meaning of
 31 Article IV of the California Constitution and shall go into
 32 immediate effect.