



Metro

Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

213.922.2000 Tel
metro.net

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BOARD MEETING
August 26, 2004

SUBJECT: STATE LEGISLATION

ACTION: APPROVE STAFF RECOMMENDATION ON STATE LEGISLATION

RECOMMENDATION

Adopt the following position:

ACA 24 (Dutra/Oropeza) – PROPOSITION 42 FUNDS – Which would remove the suspension clause and apply loan provisions – **SUPPORT.**

ISSUE

Over the last three years, State Budget decisions have resulted in the suspension of Proposition 42 and the loss of \$3 billion in transportation funds through those suspensions. This has led the Legislature to propose measures to strengthen Proposition 42 and limit the ability to use transportation funds to balance the State Budget. ACA 24 has been proposed by Assembly Members John Dutra and Jenny Oropeza to strengthen Proposition 42. The measure would eliminate the suspension clause and apply loan provisions similar to those applicable to the State Highway Account. Recent discussions have centered on adding a provision that would limit the amount of loans that may be made in a ten-year period. These measures will help to protect Proposition 42 funds and ensure that they are spent on the purposes for which they were originally approved.

ATTACHMENT

A. ACA 24

Prepared by: Michael Turner
Manager, State Affairs

Maria A. Guerra

Maria A. Guerra
Chief of Staff

Roger Snoble

Roger Snoble
Chief Executive Officer

BILL: ACA 24

AUTHOR: ASSEMBLY MEMBER JOHN DUTRA
(D- FREEMONT)

ASSEMBLYMEMBER JENNY OROPEZA
(D-LONG BEACH)

SUBJECT: PROPOSITION 42

STATUS: PENDING ASSEMBLY FLOOR

ACTION: SUPPORT

Recommendation

Staff recommends that the MTA Board of Directors adopt a support position on ACA 24.

Provisions

Current law requires the sales tax on gasoline sales to be transferred from the State General Fund to the Traffic Congestion Relief Program (TCRP). This transfer is protected by Article XIX B of the California Constitution. This same article allows for suspension of the allocations if the Governor issues a proclamation that the allocation will result in a significant negative fiscal impact on the General Fund, and the Legislature approves the suspension by a two-thirds (2/3) vote.

ACA 24 would:

- Delete the provision allowing suspension of Proposition 42
- Allow these funds to be loaned to the General Fund with the requirement that they be repaid within one year in full or within three years with interest.

Impact Analysis

In 2001 the Governor signed AB 2928 enacting the Traffic Congestion Relief Program. Under this program, funds generated from the sales tax applied to gasoline sales are required to be transferred from the State General Fund to the TCRP. This statute further required that those funds be allocated to a specific list of projects first, with the balance to be allocated according to the following formula: 40% to the State Transportation Improvement Program, 40% to cities and counties for street and road repair, and 20% to the Public Transportation Account.

In March of 2003, Proposition 42 incorporated this program into the State Constitution, as Article XIX B. Prop 42 was approved by 69% of the voters. Proposition 42 also allowed for the suspension process requiring a proclamation by the Governor and a two-thirds vote by

the Legislature. Since the enactment of Prop 42, the allocations have been suspended each year and the Governor has proposed suspension of the allocations for 2004 in order to address the State General Fund deficit. It is anticipated that the state will continue to experience General Fund deficits in future years and these deficits will continue to pressure the Governor and Legislature to seek to use transportation resources to balance the state budget.

In response to these pressures, transportation stakeholders have sought measures to make it more difficult for the Governor and Legislature to utilize transportation funds to balance the General Fund. These proposals include applying loan provisions to Proposition 42 funds similar to those applied to the State Highway Account and increasing the vote threshold to suspend Proposition 42. Currently state Highway Account funds may only be loaned to the General Fund on the condition that they be repaid within one year in full or within three years with interest. These provisions have helped to protect SHA funds; however, a number of SHA loans are still outstanding.

ACA 24 will apply the SHA loan provisions to Proposition 42 and most importantly will remove the suspension clause in Proposition 42. Recent discussions regarding ACA 24 have suggested that Proposition 42 loans be limited to twice in a ten-year period similar to the proposal relating to funds for cities and counties. Although these discussions have taken place, that language has not been introduced into ACA 24. Staff recommends that the Board support the limitation over ten years as it will provide even more protection to Proposition 42 funds.

The MTA Board has taken support positions on measures to protect Proposition 42 through its initial position on the State Budget and in supporting ACA 21 which would have required a 4/5's vote of the Legislature to suspend Proposition 42. ACA 24 is currently pending action on the Assembly floor.

Staff recommends that the MTA Board of Directors adopt a support position on ACA 24, including a limitation that the loans may only be made twice in a ten-year period.