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**BOARD MEETING
February 24, 2005**

SUBJECT: STATE LEGISLATION

ACTION: APPROVE STAFF RECOMMENDATION ON STATE LEGISLATION

RECOMMENDATION

Adopt the following position:

ACA 11 (Oropeza) A bill proposing to remove the suspension clause from Proposition 42 funds and instead allow for these funds to be loaned to the General Fund under specified conditions.--**SUPPORT**

ATTACHMENT

A Legislative Analysis

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BILL: ACA 11

AUTHOR: ASSEMBLY MEMBER JENNY OROPEZA
(D-LONG BEACH)

SUBJECT: PROPOSITION 42

STATUS: PENDING COMMITTEE ASSIGNMENT

ACTION: SUPPORT

RECOMMENDATION

Staff recommends that the Board of Directors adopt a support position on ACA 11.

PROVISIONS

Current law, Proposition 42, requires the sales tax on gasoline sales to be transferred from the State General Fund to the Transportation Investment Fund (TIF) and subsequently to a variety of transportation uses. These allocations may be suspended 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 vote.

ACA 11 would remove the ability to suspend allocation of Proposition 42 funds and instead allow that the funds may be loaned to the General Fund under specified conditions. Specifically ACA 11 would:

- Require that the loans be repaid either within the same fiscal year in which the loan was made or within three years.
- Require a loan repaid in three years must be repaid with interest and that a loan repaid within one year does not need to include interest.
- Require that only 2 such loans from Proposition 42 funds may be made in any ten-year period.
- Change the required findings to make such a loan by requiring that the Governor must declare a state of emergency that will have a negative impact on the General Fund and determine that the aggregate amount of General Fund revenues for the budget year are lower than the previous year.
- Require that the interest rate for loans from Proposition 42, the State Highway Account (SHA) and the Public Transportation Account (PTA) be based on the interest rate of the Pooled Money Investment Account.

IMPACT ANALYSIS

In 2001 the Governor signed AB 2928 enacting the Traffic Congestion Relief Program (TCRP). 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.

This program was incorporated into the State Constitution, as Article XIX B, by Proposition 42 in March of 2002. Proposition 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 Proposition 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. Previous budget agreements have approved loans of Proposition 42 funds. However, the constitution allows for the full suspension of these funds. Under this framework there is requirement that Proposition 42 funds may only be loaned to the General Fund.

Last year the State came to an agreement with local governments that allows for the state to use local fund sources to balance the State Budget under conditions similar to those in ACA 11. A number of other measures have been introduced to protect Proposition 42 funds. Speaker Nunez has introduced a measure stating the Legislature's intent to implement protections for Proposition 42 funds and Senator Torlakson has introduced SCA 7, which is similar to ACA 11 but has fewer details at this drafting. Additionally, Assembly Members Plescia and Harmon have introduced ACA 4, which would remove the suspension clause in its entirety.

As the Legislative session moves forward, it is anticipated that Proposition 42 protections will be one of the key issues debated as the state addresses the transportation-funding crisis. While ACA 4 would completely remove the State's ability to use Proposition 42 funds, it is important to note that even traditional State Highway Account funds may be loaned to the General Fund with repayment required over a three-year period.

Staff recommends that the Board of Directors adopt a support position on ACA 11.