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**EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE
MARCH 20, 2008**

SUBJECT: STATE LEGISLATION

ACTION: ADOPT STAFF RECOMMENDED POSITIONS

RECOMMENDATION

- A. SB 344 (Machado)** – Would provide State and local entities with the ability to repurchase some or all of their outstanding bonds without extinguishing their debt; - **SUPPORT**

- B. AB 2009 (Hernandez and Huff)** – Would create an exemption from the imposition of utility user tax for compressed natural gas used to fuel public transit vehicles; - **SUPPORT**

- C. AB 2195 (Brownley)** – Would transfer the regulation of public transit guidelines grade crossing approval process from the Public Utilities Commission (PUC) to the Department of Transportation (Caltrans). - **SUPPORT - WORK WITH AUTHOR**

ATTACHMENTS

Attachments	A-1	Legislative Analysis of SB 344
	A-2	SB 344 Bill language
	B-1	Legislative Analysis of AB 2009
	B-2	AB 2009 Bill language
	C-1	Legislative Analysis of AB 2195
	C-2	AB 2195 Bill language

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BILL: SB 344

AUTHOR: SENATOR MIKE MACHADO
(D – LINDEN)

SUBJECT: PUBLIC FINANCE

STATUS: ASSEMBLY

ACTION: SUPPORT

RECOMMENDATION

Adopt a “SUPPORT” position on SB 344 (Machado), which would provide State and local entities with the ability to temporarily repurchase some or all of their outstanding bonds without extinguishing their debt.

ISSUE

Interest rates for certain types of variable rate bonds have been temporarily driven up for reasons related to the sub-prime mortgage crisis. With other short-term rates remaining quite low, issuers would like to temporarily invest in their own bonds using their idle short-term cash. Under current State law, such an investment would result in an extinguishment of the debt obligation. This legislation would permit investments by the issuer without imposing extinguishment of the bonds.

PROVISIONS

Existing law authorizes state and local governments to issue bonds and enter into other types of public financing arrangements for specified purposes.

Specifically, SB 344 would:

- Provide that the acquisition of bonds by or on behalf of a state or local government that issued the bonds does not cancel, extinguish, or otherwise affect the bonds;
- The issued bonds shall be treated as outstanding bonds for all purposes, except to the extent otherwise determined by the issuer or as provided in the constituent instruments defining the rights of the holders of the bonds.

IMPACT ANALYSIS

SB 344 was introduced by Senator Mike Machado to clarify existing law that would address recent developments in the securities market due to the sub-prime mortgage crisis. The bill

would clarify existing law by providing state and local entities with the authority to temporarily repurchase their outstanding bonds without causing the bonds to be extinguished. Existing law does not provide guidance as to whether such a repurchase triggers automatic extinguishment of the bonds. The bill would also ensure that contractual terms between issuers and bond holders established in bond acts or bond-issuing documents are not overridden.

Specifically, the bill would allow us to buy and temporarily hold a portion of our outstanding bonds. The ability to temporarily hold our own bonds would provide an offset to the currently high short-term interest rates, ranging from 5% to 8%, that we are now paying on our auction rate securities and other variable rate bonds. Buying our own bonds using lower yielding short-term cash, currently yielding 3%, could potentially reduce our net interest expense by as much as several million dollars, depending how high rates remain and for how long. To implement this strategy there are additional matters that need to be resolved related to both the Internal Revenue Service and the U.S. Securities and Exchanges Commission regulations, and industry organizations are pursuing those clarifications. The high interest rates are specific to these types of variable rate securities. They result from the sub-prime mortgage crisis and are not an indication of credit concerns with our bonds.

Senator Machado has placed the measure on an urgency track, moving the bill through the legislative process in an expeditious manner and will take effect immediately once approved by the legislature and the Governor.

State Treasurer Bill Lockyer is the sponsor of the bill. Staff recommends a support position.

Support:

Sacramento Municipal Utility District
Eastern Municipal Water District

Oppose:

None received

ATTACHMENT A-2

BILL NUMBER: SB 344 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MARCH 6, 2008
AMENDED IN ASSEMBLY MARCH 3, 2008
AMENDED IN SENATE JUNE 4, 2007
AMENDED IN SENATE MAY 1, 2007
AMENDED IN SENATE APRIL 9, 2007

INTRODUCED BY Senator Machado

FEBRUARY 20, 2007

An act to add Section 5925 to the Government Code, relating to public finance , and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 344, as amended, Machado. State and local governments: public finance.

Existing law authorizes state and local governments to issue bonds and enter into other types of public financing arrangements for specified purposes. Existing law also authorizes, in a prescribed manner, any state or local government, in connection with, or incidental to, the sale and issuance of bonds, or acquisition, or carrying of any investment or program of investment, to enter any contracts that the state or local government determines to be necessary and appropriate to place the investment in whole or in part, on the interest rate, currency, cashflow, or other basis desired by the state or local government.

This bill would provide that the acquisition of bonds by or on behalf of a state or local government that issued the bonds does not cancel, extinguish, or otherwise affect the bonds, and that the issued bonds shall be treated as outstanding bonds for all purposes, except to the extent otherwise determined by the issuer or as provided in the constituent instruments defining the rights of the holders of the bonds.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~ 2/3 . Appropriation:
no. Fiscal committee: yes. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 5925 is added to the Government Code, to read:
5925. The purchase or other acquisition of bonds by or on behalf of the state or local government that issued the bonds does not cancel, extinguish, or otherwise affect the bonds and the bonds shall be treated as outstanding bonds for all purposes except to the extent otherwise determined by the issuer or otherwise provided in the constituent instruments defining the rights of the holders of the bonds.

SEC. 2. *This act is an urgency statute necessary*

for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To support variable rate bonds and other instruments of debt issued by state and local governmental entities in the current financial markets, it is necessary that this bill go into immediate effect.

BILL: AB 2009

AUTHOR: ASSEMBLY MEMBER ED HERNANDEZ
(D – BALDWIN PARK)

ASSEMBLY MEMBER BOB HUFF
(R – DIAMOND BAR)

SUBJECT: UTILITIES USER TAX EXEMPTION

STATUS: ASSEMBLY REVENUE AND TAXATION COMMITTEE

ACTION: SUPPORT

RECOMMENDATION

Adopt a “SUPPORT” position on AB 2009 (Hernandez and Huff), which would create an exemption from the imposition of utility user tax on Compressed Natural Gas (CNG) used to fuel public transit vehicles.

ISSUE

Foothill Transit has been required to pay a utility user tax by the City of Irwindale for the use of CNG in fueling its vehicles. This tax results in increased operating costs for the agency.

PROVISIONS

Current law allows for the imposition of a utility users tax by local jurisdictions.

Specifically, AB 2009 would:

- Exempt public transit agencies from the imposition of a utility users tax by local jurisdictions for the consumption of compressed natural gas in the fueling of public transit vehicles.

IMPACT ANALYSIS

The City of Irwindale has been imposing a utility users tax on Foothill Transit for the use of CNG in the fueling of transit buses. The imposition of this tax creates an undue burden on Foothill Transit and results in costs of approximately \$250,000 per year. Given that the use of CNG in public transit contributes to the improvement of air quality in the region, the imposition of a tax would inhibit public transit agencies from utilizing CNG. Exempting public agencies from the utility user tax will facilitate the use of CNG in public transit and should be supported.

Foothill Transit is the sponsor of AB 2009. There is no registered support or opposition of the bill at this time.

Staff recommends a support position on AB 2009.

BILL NUMBER: AB 2009 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Members Hernandez and Huff

FEBRUARY 15, 2008

An act to add Section 7284.5 to the Revenue and Taxation Code,
relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2009, as introduced, Hernandez. Utility user taxes: exemption.

Existing law authorizes the board of supervisors of any county to levy a utility user tax on the consumption of electricity, gas, water, sewer, telephone, telegraph, and cable television services in the unincorporated area of the county.

This bill would exempt from any utility user tax imposed by any local agency, as defined, the consumption of natural gas by a local agency or public transit operator, as defined, for transportation purposes if that natural gas is dispensed by a gas compressor that is separately metered and is dedicated to serve the local agency or public transit operator. This bill would make legislative findings and declarations regarding the statewide purposes of the bill.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7284.5 is added to the Revenue and Taxation Code, to read:

7284.5. (a) The consumption of natural gas by a local agency or public transit operator for transportation purposes is exempt from any utility user tax that is imposed by any local jurisdiction, if that natural gas is dispensed by a gas compressor that is separately metered and is dedicated to serve the local agency or public transit operator.

(b) For purposes of this section, "local jurisdiction" means any city, county, city and county, including any chartered city, county, or city and county, district, or public or municipal corporation.

(c) For purposes of this section "public transit operator" means a local or regional transit agency or a joint powers agency operating bus transportation service as defined pursuant to Article 1 (commencing with Section 99200) of Chapter 4 of Part 11 of Division 10 of the Public Utilities Code.

SEC. 2. The Legislature finds and declares that exempting the consumption of natural gas by a local agency and public transit operator from local utility user taxes will ensure statewide uniformity and fairness in the overall cost of providing virtual public transportation services to transit dependent citizens in

California. Therefore, exempting the consumption of natural gas by local agencies and public transit operators from utility user taxes is a matter of statewide concern.

BILL: AB 2195

AUTHOR: ASSEMBLY MEMBER JULIA BROWNLEY
(D – SANTA MONICA)

SUBJECT: GRADE CROSSINGS

STATUS: INTRODUCED

ACTION: SUPPORT - WORK WITH AUTHOR

RECOMMENDATION

Adopt a “SUPPORT - WORK WITH AUTHOR” position on AB 2195 (Brownley), which would transfer the grade crossing approval process from the Public Utilities Commission (PUC) to the Department of Transportation (Caltrans).

ISSUE

Currently, the PUC has jurisdiction over public transit guideways including approval of grade crossings. This includes the authority to require that a particular crossing be grade separated. Transit agencies have been concerned that the PUC is not necessarily the most appropriate agency to have oversight. The bill would transfer this authority to Caltrans.

PROVISIONS

Existing law provides that all public transit guideways, including grade separations, is subject to the regulation of the PUC.

Specifically, AB 2195 would:

- After 2010, transfer the regulation of public transit guideways and grade crossings to Caltrans;
- Require Caltrans to develop regulations for the development of public transit guideways.

IMPACT ANALYSIS

AB 2195 would transfer jurisdiction of public transit guideways from the PUC to Caltrans. Currently, the PUC has jurisdiction over public transit guideways including approval of grade crossings. This includes the authority to require that a particular crossing be grade separated. Transit agencies have been concerned that the PUC is not necessarily the most appropriate agency to have oversight. For example, the PUC approval process is similar to a court proceeding which involves the filing of a number of legal documents and extensive reviews of project design. Additionally, the complex system of filing legal documents and

hearings allows for a broad variety of appeal or protest possibilities which create obstacles to approving projects.

While it is appropriate that a public transit project be subject to open review, protests and appeals by parties with concerns, the PUC process is so convoluted that it creates excessive opportunities for appeal and provides a venue for opponents to delay projects. It should also be noted that all transit projects subject to the PUC process are also subject to the California Environmental Quality Act, which provides ample opportunity for public involvement and a review of all safety and engineering concerns.

AB 2195 is similar to a measure introduced by then Assembly Member Oropeza in 2005. AB 2195 is expected to evolve as the year progresses. Current discussions with Assembly Member Brownley's office have centered on the possibility of streamlining the PUC process rather than transferring the authority in whole to Caltrans. AB 2195 is intended to create a more streamlined process of the approval of public transit projects whether through the PUC or Caltrans. Staff therefore recommends that the Board adopt a support – work with author position on AB 2195. As with all legislation, staff will report back to the board as the measure progresses.

There is no registered support or opposition to the bill at this time.

Staff recommends that the Board adopt a support - work with author position on AB 2195.

ATTACHMENT C-2

BILL NUMBER: AB 2195 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Brownley

FEBRUARY 20, 2008

An act to amend Section 99152 of, to add Section 99152.1 to, and to repeal Section 778 of, the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2195, as introduced, Brownley. Rail transit.

Existing law provides that any public transit guideway planned, acquired, or constructed after January 1, 1979, is subject to the regulations of the Public Utilities Commission relative to safety appliances and procedures.

This bill would transfer that responsibility to the Department of Transportation on January 1, 2010.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 778 of the Public Utilities Code is repealed.

~~778. The commission shall adopt rules and regulations, which shall become effective on July 1, 1977, relating to safety appliances and procedures for rail transit services operated at grade and in vehicular traffic. The rules and regulations shall include, but not be limited to, provisions on grade crossing protection devices, headways, and maximum operating speeds with respect to the speed and volume of vehicular traffic within which the transit service is operated.~~

~~The commission shall submit the proposed rules and regulations to the Legislature not later than April 1, 1977.~~

SEC. 2. Section 99152 of the Public Utilities Code is amended to read:

99152. Any public transit guideway planned, acquired, or constructed, on or after January 1, 1979, is subject to regulations of the Public Utilities Commission relating to safety appliances and procedures. *However, on and after January 1, 2010, the department shall succeed to the responsibilities of the commission in that regard.*

The commission, until January 1, 2010, and the department, on and after that date, shall inspect all work done on those guideways and may make further additions or changes necessary for the purpose of safety to employees and the general public.

The commission, until January 1, 2010, and the department, on and after that date, shall develop an oversight program employing safety planning criteria, guidelines, safety standards, and safety procedures to be met by operators in the design, construction, and operation of those guideways. Existing

industry standards shall be used where applicable.

The commission , until January 1, 2010, and the department, on and after that date, shall enforce the provisions of this section.

SEC. 3. Section 99152.1 is added to the Public Utilities Code, to read:

99152.1. The department shall adopt rules and regulations, which shall become effective January 1, 2010, relating to safety appliances and procedures for rail public transit services operated at grade and in vehicular traffic. The rules and regulations shall include, but not be limited to, provisions on grade crossing protection devices, headways, and maximum operating speeds with respect to the speed and volume of vehicular traffic within which the transit service is operated.