

Council/Agency Meeting Held: _____	_____ City Clerk's Signature
Deferred/Continued to: _____	
<input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	
Council Meeting Date: 1/7/08	Department ID Number: AD 08-01

**CITY OF HUNTINGTON BEACH
REQUEST FOR COUNCIL ACTION**

SUBMITTED TO: Honorable Mayor and City Council Members

SUBMITTED BY: Jill Hardy, Council Member, Chair on behalf of Intergovernmental Relations Committee Members Councilman Don Hansen and Councilman Keith Bohr

PREPARED BY: Patricia Dapkus, Department Analyst, Senior *PD*

SUBJECT: APPROVE A CITY COUNCIL POSITION ON LEGISLATION PENDING BEFORE THE FEDERAL, STATE, OR REGIONAL GOVERNMENTS AS RECOMMENDED BY THE CITY COUNCIL INTERGOVERNMENTAL RELATIONS COMMITTEE (IRC)

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)
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Statement of Issue: Approve a City Council position as recommended by the City Council Intergovernmental Relations Committee (IRC) on legislation pending before a federal, state, or regional government, thereby authorizing the Mayor to communicate the city's position to the elected members of the federal or state legislature, or regional body.

Funding Source: N/A

Recommended Action: Motion to:

- SUPPORT** Prop. 91 on the February 5th Ballot

Alternative Action(s):

Do not take action on the above bill or take an alternative position.

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REQUEST FOR COUNCIL ACTION

MEETING DATE: 1/7/08

DEPARTMENT ID NUMBER: AD 08-01

Analysis:

The state imposes various taxes and fees on motor vehicle fuels and the operation of motor vehicles to support transportation programs. In 2007-08, revenues from these sources are projected to total about \$9 billion. The primary source of these revenues comes from sales taxes on gasoline and diesel fuel. These funds are to be dedicated to the following:

- **Public Transportation Account (PTA).** A portion of the revenue from the gasoline and diesel sales tax is deposited into the PTA for public transit (bus and rail) and transportation planning purposes. The State Constitution allows funds in the PTA to be loaned to the General Fund for short-term cash flow purposes. The loan must be repaid within 30 days after a state budget is adopted for the following fiscal year. Under specified conditions, PTA funds may also be loaned to the General Fund for longer periods, up to three fiscal years.
- **Transportation Investment Fund (TIF).** A portion of the state gasoline sales tax revenue not deposited into the PTA is transferred to TIF to be used for highways, streets and roads, and transit systems. The State Constitution allows the transfer of these monies to be suspended, thus leaving the money in the General Fund, when the state faces fiscal difficulties. However, only two suspensions may occur in ten consecutive years, and suspensions must be repaid in full, with interest, within three years. The transfer was suspended partially in 2003-04 and fully in 2004-05. The State Constitution requires that these suspended amounts be repaid by June 30, 2016, at a specified minimum rate of repayment each year. After a repayment is made in 2007-08, \$670 million will remain to be repaid from the General Fund.

Proposition 91 would amend the State Constitution by eliminating the state's authority to suspend the transfer of gasoline sales tax revenues to TIF for transportation uses. In other words, these revenues could not be used for nontransportation purposes, but would have to be used for transportation purposes. In addition, the measure requires that amounts suspended in 2003-04 and 2004-05 be repaid by June 30, 2017, at a specified minimum annual rate of repayment.

The measure also deletes the authority to loan Article XIX funds to the General Fund for multiple years. These funds could still be loaned to the General Fund for short-term cash flow purposes within a fiscal year, but would have to be repaid within 30 days of the adoption of a budget for the following fiscal year.

The measure authorizes the loaning of TIF funds to the General Fund for short-term cash flow purposes within a fiscal year, to be repaid within 30 days of the adoption of a budget for the following fiscal year. Similarly, the measure may be interpreted to allow local transportation (LTF) monies to be loaned to the General Fund for short-term cash flow purposes within a fiscal year. The measure requires that any short-term loans from the above transportation funds not impede the transportation purposes for which the revenues were generated.

In addition, the measure deletes existing constitutional restrictions that limit loans of PTA funds to the General Fund. It is unclear whether the restriction that loans are only for short-term cash flow purposes, as discussed above, would apply to loans of PTA funds to the General Fund.

Environmental Status: NA

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REQUEST FOR COUNCIL ACTION

MEETING DATE: 1/7/08

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Strategic Goal:

F-1 Create long-term financial strategies for funding the backlog of capital projects and maintenance requirements, and ensuring sufficient reserves to withstand major revenue fluctuations in order to ensure continuation of city services during economic downturns.

Attachment(s):

City Clerk's Page Number	No.	Description
4	1.	Proposition 91 as proposed for the February 05, 2008 ballot
10	2.	The Legislative Analyst's Office Analysis of Proposition 91

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ATTACHMENT #1

MEMORANDUM
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SA2005RF0123

November 9, 2005

VIA PERSONAL DELIVERY

The Honorable Bill Lockyer
Attorney General
1300 I Street
Sacramento, CA 95814

Attn: Tricia Knight, Initiative Coordinator

RECEIVED
NOV 09 2005
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary- Initiative Constitutional Amendment

Dear Mr. Lockyer:

Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared for the attached initiative constitutional amendment. Enclosed is a check for \$200.00. My residence address is attached.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814, (916) 446-6752, Attention: Richard D. Martland.

Thank you for your assistance.

Sincerely,

James Earp, Proponent

Enclosure: Proposed Initiative

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SECTION 1. TITLE.

This act shall be known, and may be cited as, The Transportation Funding Protection Act of 2006.

SECTION 2. FINDINGS AND DECLARATIONS

The people find and declare as follows:

- (a) California's roads and highways are deteriorating at a rapid pace.
- (b) The cause of this deterioration is the annual diversion by the Legislature of state gasoline and diesel taxes for purposes other than transportation.
- (c) The purpose of this Act is to halt the diversions, preserve these revenues for the transportation purposes to which they are dedicated, and require repayment of transportation funds previously diverted for non-transportation purposes.
- (d) If a catastrophic natural disaster or other grave emergency causes serious damage to California's transportation system, sufficient funds will be immediately available to repair the damage and rebuild the transportation system.

SECTION 3. Section 6 of Article XIX is amended to read:

~~SECTION 6. The tax revenues designated under this article may be loaned to the General Fund only if one of the following conditions is imposed:~~

~~—(a) That any amount loaned is to be repaid in full to the fund from which it was borrowed during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.~~

~~—(b) That any amount loaned is to be repaid in full to the fund from which it was borrowed within three fiscal years from the date on which the loan was made and one of the following has occurred:~~

~~—(1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.~~

~~—(2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, adjusted for the change in the cost of living and the change in population, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year.~~

~~(e) Nothing in this section prohibits the Legislature from authorizing The Legislature may, by statute, authorize loans to local transportation agencies, cities, counties, or cities and counties, from funds that are subject to this article, for the purposes authorized under this article. Any loan authorized as described by this subdivision section shall be repaid, with interest at the rate paid on money in the Pooled Money Investment Account, or any successor to that account, during the period of time that the money is loaned, to the fund from which it was borrowed, not later than four years after the date on which the loan was made.~~

SECTION 4. Section 1 of Article XIX A is repealed.

~~SECTION 1. The funds in the Public Transportation Account in the State Transportation Fund, or any successor to that account, may be loaned to the General Fund only if one of the following conditions is imposed:~~

~~—(a) That any amount loaned is to be repaid in full to the account during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.~~

~~—(b) That any amount loaned is to be repaid in full to the account within three fiscal years from the date on which the loan was made and one of the following has occurred:~~

~~—(1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.~~

~~—(2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year.~~

SECTION 5. Section 1 of Article XIX B is amended to read:

SECTION 1. (a) For the 2003-04 fiscal year and each fiscal year thereafter, all moneys that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, and that are deposited in the General Fund of the State pursuant to that law, shall be transferred to the Transportation Investment Fund, which is hereby created in the State Treasury.

(b) (1) For the 2003-04 to 2007-08 fiscal years, inclusive, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on the

~~operative date of this article~~ March 6, 2002.

(2) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated solely for the following purposes:

(A) Public transit and mass transportation.

(B) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program, or any successor to that program.

(C) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.

(D) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.

(c) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, as follows:

(A) Twenty percent of the moneys for the purposes set forth in subparagraph (A) of paragraph (2) of subdivision (b).

(B) Forty percent of the moneys for the purposes set forth in subparagraph (B) of paragraph (2) of subdivision (b).

(C) Twenty percent of the moneys for the purposes set forth in subparagraph (C) of paragraph (2) of subdivision (b).

(D) Twenty percent of the moneys for the purpose set forth in subparagraph (D) of paragraph (2) of subdivision (b).

(d) The transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may be suspended, in whole or in part, for a any fiscal year preceding the 2007-08 fiscal year if both of the following conditions are met:

(1) The Governor has issued a proclamation that declares that the transfer of revenues pursuant to subdivision (a) will result in a significant negative fiscal impact on the range of functions of government funded by the General Fund of the State.

(2) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues pursuant to subdivision (a), provided that the bill does not contain any other unrelated provision.

(e) (1) The total amount, as of July 1, 2007, of revenues that were not transferred from the General Fund of the State to the Transportation Investment Fund because of a suspension pursuant to subdivision (d) shall be repaid to the Transportation Fund no later than June 30, 2017. Until this total amount has been repaid, the amount of that repayment to be made in each fiscal year shall not be less than 1/10 of the total amount due.

(2) The Legislature may provide by statute for the issuance of bonds by the State or local agencies, as applicable, that are secured by the payments required by paragraph (1). Proceeds of the sale of the bonds shall be applied for purposes consistent with this article, and for costs associated with the issuance and sale of bonds.

(e) (f) The Legislature may enact a statute that modifies the percentage shares set forth in subdivision (c) by a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the moneys described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).

SECTION 6. Article XIX C is added to the constitution to read:

SECTION 1. Tax revenues designated in Articles XIX and XIX B, and funds designated in Article XIX A may be loaned to the General Fund to meet the short term cash flow needs of the state only if the loan is to be repaid in full to the fund or account from which it was borrowed during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year. In no event shall any loan authorized herein impede in any manner the transportation purpose for which the revenues are generated and exist.

SECTION 7. Conflicting Ballot Measures

In the event that this measure and another measure or measures relating to the disposition of transportation revenues shall appear on the same statewide election ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measures shall be null and void.

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ATTACHMENT #2

Proposition 91
Transportation Funding.
Initiative Constitutional Amendment and Statute.

BACKGROUND

California funds its transportation systems primarily with a mix of state and local funds.

State Transportation Funds

The state imposes various taxes and fees on motor vehicle fuels and the operation of motor vehicles (discussed below) to support transportation programs. In 2007-08, revenues from these sources are projected to total about \$9 billion.

Article XIX Revenues—Fuel Taxes and Motor Vehicle Fees. The state imposes an excise tax of 18 cents per gallon on gasoline and diesel fuel used in motor vehicles that are driven on public streets and highways. It also charges truck weight fees, driver license fees, and vehicle registration fees. Article XIX of the State Constitution restricts the use of these revenues to specified transportation purposes—primarily highways, streets and roads, and traffic enforcement. (These revenues are often referred to as Article XIX revenues.) The Constitution, however, allows these revenues to be loaned to the General Fund if the amount is repaid in full within the same fiscal year (that is, essentially for short-term cash flow purposes), except that the repayment may be delayed up to 30 days after adoption of a state budget for the following fiscal year. Under specified conditions, these revenues may also be loaned to the General Fund for up to three fiscal years.

Sales Tax on Gasoline and Diesel. The state imposes a 6.25 percent sales tax on gasoline and diesel fuel.

- *Public Transportation Account (PTA).* A portion of the revenue from the gasoline and diesel sales tax is deposited into the PTA for public transit (bus and rail) and transportation planning purposes. The State Constitution allows funds in the PTA to be loaned to the General Fund for short-term cash flow purposes. The loan must be repaid within 30 days after a state budget is adopted for the following fiscal year. Under specified conditions, PTA funds may also be loaned to the General Fund for longer periods, up to three fiscal years.
- *Transportation Investment Fund (TIF).* A portion of the state gasoline sales tax revenue not deposited into the PTA is transferred to TIF to be used for highways, streets and roads, and transit systems. The State Constitution allows the transfer of these monies to be suspended, thus leaving the money

in the General Fund, when the state faces fiscal difficulties. However, only two suspensions may occur in ten consecutive years, and suspensions must be repaid in full, with interest, within three years. The transfer was suspended partially in 2003-04 and fully in 2004-05. The State Constitution requires that these suspended amounts be repaid by June 30, 2016, at a specified minimum rate of repayment each year. After a repayment is made in 2007-08, \$670 million will remain to be repaid from the General Fund.

Local Transportation Funds

Local governments provide substantial funding for transportation from local sales tax revenues. Each county has a "local transportation fund" (LTF) with revenues generated from a statewide one-quarter percent local sales tax collected in that county. Under the State Constitution, revenues in LTFs can be used only for specified transportation purposes—primarily public transit. In 2007-08, sales tax revenues to LTFs are projected to total about \$1.4 billion.

In addition to the statewide one-quarter percent local sales tax for transportation, counties have the option of levying an additional local sales tax, upon approval by two-thirds of the voters, for county transportation uses. Currently, 19 counties impose a local optional sales tax for transportation.

PROPOSAL

This measure amends the State Constitution in the following ways.

Suspension of Transfers to TIF. The measure eliminates the state's authority to suspend the transfer of gasoline sales tax revenues to TIF for transportation uses. In other words, these revenues could not be used for nontransportation purposes, but would have to be used for transportation purposes. In addition, the measure requires that amounts suspended in 2003-04 and 2004-05 be repaid by June 30, 2017, at a specified minimum annual rate of repayment.

Loaning of Transportation Funds. The measure deletes the authority to loan Article XIX funds to the General Fund for multiple years. These funds could still be loaned to the General Fund for short-term cash flow purposes within a fiscal year, and must be repaid within 30 days of the adoption of a budget for the following fiscal year.

The measure authorizes the loaning of TIF funds to the General Fund for short-term cash flow purposes within a fiscal year, to be repaid within 30 days of the adoption of a budget for the following fiscal year. Similarly, the measure may be interpreted to allow LTF monies to be loaned to the General Fund for short-term cash flow purposes within a fiscal year. The measure requires that any short-term loans from the above transportation funds not impede the transportation purposes for which the revenues were generated.

In addition, the measure deletes existing constitutional restrictions that limit loans of PTA funds to the General Fund. It is unclear whether the restriction that loans are only for short-term cash flow purposes, as discussed above, would apply to loans of PTA funds to the General Fund.

Fiscal Effects

By deleting the state's authority to suspend the transfer of gasoline sales tax revenue to TIF and limiting the state's ability to borrow these funds as well as Article XIX revenues for nontransportation uses, the measure would make state funding from these sources for highways and streets and roads—the main uses of these monies—more stable and predictable from year to year. At the same time, the measure may be interpreted to allow PTA funds to be loaned to the General Fund with no express time limitation for repayment. This may make the availability of these funds for public transit less stable.

Similarly, if the measure is interpreted to allow the loaning of LTFs to the state General Fund for short-term cash flow purposes, the availability of local transportation funding could become less stable.

To the extent the repayment of an outstanding TIF loan is stretched out by a year, to June 30, 2017, as allowed by this measure, there could be some additional interest costs to the General Fund.

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