



MEMORANDUM

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To: Board of Directors
California State Association of Counties

From: Paul McIntosh
Executive Director

Re: **Special Board of Director's Conference Call: Budget Actions to "Take" the Local Share of Gas Taxes: Potential Solutions**

The Budget Conference Committee (BCC) acted on Thursday, June 11 to "take" two years of nearly the entire local portion of the gas tax or Highway User Tax Account (HUTA) funding for general fund relief. This is equivalent to about \$1.7 billion, with this loss shared equally between cities and counties. A legal opinion (copy attached) has been issued challenging the Constitutionality of "taking" the local share of the gas tax, but the Governor and Legislature have not responded to this challenge.

In addition to the HUTA loss, we understand that the Department of Finance (DOF) intends to borrow the first two quarters of the local portion of Prop 42 for cash flow purposes for an additional loss in FY 2009-10 of \$288 million—shared equally by cities and counties.

In addition to the legal opinion, attached for your reference is a chart that outlines the above losses by county and a chart that outlines the job losses by county as a result of the permanent loss of HUTA.

Based upon existing policy, CSAC has supported a 5-cent increase in the gas tax as an alternative to the HUTA loss. The BCC did not discuss this alternative in making their decision to take the funds for two years.

During the February budget negotiations there was agreement between the Governor and all caucuses to increase the gas tax or HUTA by 12-cents with a significant amount initially directed towards debt service on the transportation bonds. The remaining amount was dedicated to the State system only. This was a major and alarming departure from past increases in the gas tax where a portion has always been dedicated towards the local system, which represents 82 percent of the State's maintained miles. This proposal was eliminated from the budget package at the very last moment in order to secure the last remaining Senate vote.

The gas tax is considered a "user fee" with a strong nexus towards investment for transportation purposes related to automobile use. There is a concerted effort to revisit an increase in the gas tax in current budget negotiations. There is significant concern that the proposal from the Legislature will again only include a State share, with no local apportionment. This would be very problematic and contrary to existing CSAC policy, which states:

“Existing funding levels must be maintained with historical shares of current funding sources ensured for counties (e.g. state and federal gas tax increases, etc.).

Although significant transportation revenues are raised at the local level through the imposition of sales taxes, additional state and federal revenue sources are needed such as additional gas and sales taxes, congestion pricing, public-private partnerships, and user or transaction fees to provide a diverse financing strategy. Further, additional revenue raising authority at the local and regional level is needed as well as other strategies as determined by individual jurisdictions and regions.”

Should a gas tax increase proposal be considered, counties are not expected to share in a portion of that increase without CSAC support. This would be detrimental to current efforts to seek an increase in funding to address an identified \$71 billion shortfall over the next decade just to preserve the existing local system.

On Monday, June 15, the CSAC Budget Task Force discussed the BCC action and concluded that the impacts and threat of the HUTA diversion may exceed that of the Proposition 1A borrowing. For these reasons, the Task Force agreed with staff that a CSAC Board of Director’s meeting was necessary to discuss options to mitigate this loss and subsequent impacts. The recommendations discussed are outlined below.

Recommendations: CSAC opposes the HUTA takeaway and ongoing suspension. CSAC supports a fee or user tax as replacement revenue to service debt (5-cents) related to transportation bonds to mitigate the HUTA loss. Further, should such a proposal exceed the transportation debt service needs (12-15cents), CSAC supports these additional fees or taxes in a manner that ensures equal distribution between the State and local governments.