



A Tradition of Stewardship
A Commitment to Service

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Minh C. Tran
County Executive Officer

MEMORANDUM

To: Board of Supervisors	From: Nelson Cortez, County Executive Office
Date: May 16, 2022	Re: BOS Agenda for May 17, 2022 Legislative Item 14A

Item 14A

Staff would like to provide additional information to the Staff Report, including a chart of State shifts in ERAF, and recommend the Board oppose the State's Proposal (attached) and direct staff to work with the County's State Advocates and Representatives to protect local property tax revenues to the maximum extent possible. After reviewing the newly proposed language, because the proposal would not only reduce future revenues for Napa County, its cities, and town but also remove the ability to challenge the proposal in court, staff believes the best path forward is to oppose it at this time. Lastly, staff has learned that other impacted counties, including San Mateo, are likely to oppose.

Attachments:

- State Proposal (as proposed to be amended)
- State Shifts to ERAF Graphic

Cc: Minh C. Tran, County Executive Officer
Tom Zeleny, County Counsel

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An act to amend Section 97.70 of the Revenue and Taxation Code,
relating to taxation, and making an appropriation therefor.

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

SECTION 1. Section 97.70 of the Revenue and Taxation Code is amended to read:

97.70. Notwithstanding any other law, for the 2004–05 fiscal year and for each fiscal year thereafter, all of the following apply:

(a) (1) (A) The auditor shall reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to a county's Educational Revenue Augmentation Fund by the countywide vehicle license fee adjustment amount.

(B) If, for the fiscal year, after complying with Section 97.68 there is not enough ad valorem property tax revenue that is otherwise required to be allocated to a county Educational Revenue Augmentation Fund for the auditor to complete the allocation reduction required by subparagraph (A), the auditor shall additionally reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts and community college districts in the county for that fiscal year by an amount equal to the difference between the countywide vehicle license fee adjustment amount and the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund for that fiscal year. This reduction for each school district and community college district in the county shall be the percentage share of the total reduction that is equal to the proportion that the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the school district or community college district bears to the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts and community college districts in a county. For purposes of this subparagraph, "school districts" and "community college districts" do not include any districts that are excess tax school entities, as defined in Section 95.

(C) (i) If, for the fiscal year, the sum of (I) the ad valorem property tax revenue otherwise required to be allocated to the county's Educational Revenue Augmentation Fund for the auditor to complete the allocation reduction required by subparagraph (A), and (II) the ad valorem property tax revenue that is otherwise required to be allocated within the county to all community college districts and to all educational agencies that are not excess tax school entities as defined in subdivision (n) of Section 95, is less than the countywide vehicle license fee adjustment amount, then the auditor shall calculate the amount of insufficient vehicle license fee revenues by subtracting (I) and (II) from the countywide vehicle license fee adjustment amount. The auditor of a county with insufficient vehicle license fee revenues shall file with the Controller, in that form as the Controller directs, a claim for the amount of insufficient vehicle license fee revenues no earlier than the July 1 and no later than the November 30 of the fiscal year in which such insufficient vehicle license fee revenues is expected to occur. The claim shall also include revisions to insufficient vehicle license fee revenue calculations, if any, for the three prior fiscal years. A copy of any claims submitted to the Controller pursuant to this clause shall also be provided by the auditor to the Department of Finance.

(ii) When determining if a city, county, or city and county has insufficient vehicle license fee revenues, the auditor shall apply the provisions of subdivision (e) and paragraph (1) of subdivision (g).



(iii) Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated from the General Fund, without regard to fiscal year, the amounts sufficient to pay any claims for insufficient vehicle license fee revenues that are approved by the Controller. The Controller shall pay the auditor the approved amount of insufficient vehicle license fee revenues claimed pursuant to this section in the fiscal year after the claim is submitted. The Controller shall remit to the auditor 50 percent of the approved amount on or before December 31, and shall remit the other 50 percent to the auditor on or before April 30. Upon receipt of payment, the auditor shall apportion these funds to the county Vehicle License Fee Property Tax Compensation Fund for distribution to each city, county, or city and county.

(iv) The Controller may perform reviews or audits of insufficient vehicle license fee revenues claims and may include the claims in audits performed pursuant to Section 12468 of the Government Code. The Controller shall order a city, county, or city and county to return, and the city, county, or city and county shall return, to the State Treasury any amount it receives from the auditor that is in excess of the amount to which it is entitled pursuant to this section.

(v) This subparagraph is operative for insufficient vehicle license fee revenues amounts expected to occur for the 2022–23 fiscal year and for each fiscal year thereafter.

(vi) If the provisions of subdivision (e) that cap the future growth of excess, additional, or remaining funds to a city, county, or a city and county beginning July 1, 2022, are invalidated by a court of competent jurisdiction, the continuous appropriation in this subparagraph shall terminate immediately.

(2) The countywide vehicle license fee adjustment amount shall be allocated to the Vehicle License Fee Property Tax Compensation Fund that shall be established in the treasury of each county.

(b) (1) The auditor shall allocate moneys in the Vehicle License Fee Property Tax Compensation Fund according to the following:

(A) Each city in the county shall receive its vehicle license fee adjustment amount.

(B) Each county and city and county shall receive its vehicle license fee adjustment amount.

(2) The auditor shall allocate one-half of the amount specified in paragraph (1) on or before January 31 of each fiscal year, and the other one-half on or before May 31 of each fiscal year.

(c) For purposes of this section, all of the following apply:

(1) “Vehicle license fee adjustment amount” for a particular city, county, or a city and county means, subject to an adjustment under paragraph (2) and Section 97.71, all of the following:

(A) For the 2004–05 fiscal year, an amount equal to the difference between the following two amounts:

(i) The estimated total amount of revenue that would have been deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund, including any amounts that would have been certified to the Controller by the auditor of the County of Ventura under subdivision (j) of Section 98.02, as that section read on January 1, 2004, for distribution under the law as it read on January 1, 2004, to the county, city and county, or city for the 2004–05 fiscal year if the fee otherwise due under the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of



Division 2) was 2 percent of the market value of a vehicle, as specified in Sections 10752 and 10752.1 as those sections read on January 1, 2004.

(ii) The estimated total amount of revenue that is required to be distributed from the Motor Vehicle License Fee Account in the Transportation Tax Fund to the county, city and county, and each city in the county for the 2004–05 fiscal year under Section 11005, as that section read on the operative date of the act that amended this clause.

(B) (i) Subject to an adjustment under clause (ii), for the 2005–06 fiscal year, the sum of the following two amounts:

(I) The difference between the following two amounts:

(ia) The actual total amount of revenue that would have been deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund, including any amounts that would have been certified to the Controller by the auditor of the County of Ventura under subdivision (j) of Section 98.02, as that section read on January 1, 2004, for distribution under the law as it read on January 1, 2004, to the county, city and county, or city for the 2004–05 fiscal year if the fee otherwise due under the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2) was 2 percent of the market value of a vehicle, as specified in Sections 10752 and 10752.1 as those sections read on January 1, 2004.

(ib) The actual total amount of revenue that was distributed from the Motor Vehicle License Fee Account in the Transportation Tax Fund to the county, city and county, and each city in the county for the 2004–05 fiscal year under Section 11005, as that section read on the operative date of the act that amended this subsubclause.

(II) The product of the following two amounts:

(ia) The amount described in subclause (I).

(ib) The percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years. For the first fiscal year for which a change in a city's jurisdictional boundaries first applies, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated solely on the basis of the city's previous jurisdictional boundaries, without regard to the change in that city's jurisdictional boundaries. For each following fiscal year, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated on the basis of the city's current jurisdictional boundaries.

(ii) The amount described in clause (i) shall be adjusted as follows:

(I) If the amount described in subclause (I) of clause (i) for a particular city, county, or city and county is greater than the amount described in subparagraph (A) for that city, county, or city and county, the amount described in clause (i) shall be increased by an amount equal to this difference.

(II) If the amount described in subclause (I) of clause (i) for a particular city, county, or city and county is less than the amount described in subparagraph (A) for that city, county, or city and county, the amount described in clause (i) shall be decreased by an amount equal to this difference.

(C) For the 2006–07 fiscal year and for each fiscal year thereafter, the sum of the following two amounts:



(i) The vehicle license fee adjustment amount for the prior fiscal year, if Section 97.71 and clause (ii) of subparagraph (B) did not apply for that fiscal year, for that city, county, and city and county.

(ii) The product of the following two amounts:

(I) The amount described in clause (i).

(II) The percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years. For the first fiscal year for which a change in a city's jurisdictional boundaries first applies, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated solely on the basis of the city's previous jurisdictional boundaries, without regard to the change in that city's jurisdictional boundaries. For each following fiscal year, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated on the basis of the city's current jurisdictional boundaries.

(2) Notwithstanding paragraph (1), "vehicle license fee adjustment amount," for a city incorporating after January 1, 2004, and on or before January 1, 2012, means the following:

(A) For the 2017–18 fiscal year, the quotient derived from the following fraction:

(i) The numerator is the product of the following two amounts:

(I) The sum of the most recent vehicle license fee adjustment amounts determined for all cities in the county.

(II) The population of the incorporating city.

(ii) The denominator is the sum of the populations of all cities in the county.

(B) For the 2018–19 fiscal year, and for each fiscal year thereafter, the sum of the following two amounts:

(i) The vehicle license fee adjustment amount for the prior fiscal year.

(ii) The product of the following two amounts:

(I) The amount described in clause (i).

(II) The percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years.

(3) For the 2013–14 fiscal year, the vehicle license fee adjustment amount that is determined under subparagraph (C) of paragraph (1) for the County of Orange shall be increased by fifty-three million dollars (\$53,000,000). For the 2014–15 fiscal year and each fiscal year thereafter, the calculation of the vehicle license fee adjustment amount for the County of Orange under subparagraph (C) of paragraph (1) shall be based on a prior fiscal year amount that reflects the full amount of this one-time increase of fifty-three million dollars (\$53,000,000).

(4) "Countywide vehicle license fee adjustment amount" means, for any fiscal year, the total sum of the amounts described in paragraphs (1), (2), and (3) for a county or city and county, and each city in the county.

(5) On or before June 30 of each fiscal year, the auditor shall report to the Controller, in an electronic format provided by the Controller, the vehicle license fee adjustment amount for the county and each city in the county for that fiscal year. The Controller shall make the information available to the public in a readily accessible



compiled electronic file via the Controller's internet website on or before September 1 of each year.

(d) For the 2005–06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, shall not reflect, for a preceding fiscal year, any portion of any allocation required by this section.

(e) (1) Notwithstanding any other law, for the 2022–23 fiscal year and each fiscal year thereafter, funds allocated to a city, county, or a city and county pursuant to subclause (III) of clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 or 97.3 shall be counted by the auditor towards satisfying the city's, county's, or city and county's vehicle license fee adjustment amount.

(2) In enacting this subdivision, it is the intent of the Legislature to ensure, beginning July 1, 2022, that there be neither an increase nor a decrease in the annual allocations of excess, additional, or remaining funds that would otherwise have been allocated to a city, county, or a city and county pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Sections 97.2 and 97.3 or Article 4 (commencing with Section 98) had this subdivision not been enacted.

(e)

(f) For purposes of Section 15 of Article XI of the California Constitution, the allocations from a Vehicle License Fee Property Tax Compensation Fund constitute successor taxes that are otherwise required to be allocated to counties and cities, and as successor taxes, the obligation to make those transfers as required by this section shall not be extinguished nor disregarded in any manner that adversely affects the security of, or the ability of, a county or city to pay the principal and interest on any debts or obligations that were funded or secured by that city's or county's allocated share of motor vehicle license fee revenues.

(f)

(g) This section shall not be construed to do any of the following:

(1) ~~(A) Reduce any allocations of excess, additional, or remaining funds that would otherwise have been allocated to county superintendents of schools, cities, counties, and cities and counties schools pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Sections 97.2 and 97.3 or Article 4 (commencing with Section 98) had this section not been enacted. The allocations required by this section shall be adjusted to comply with this paragraph.~~

(B) Reduce the allocations of excess, additional, or remaining funds that would otherwise have been allocated to a city, county, or a city and county prior to July 1, 2022, pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Sections 97.2 and 97.3 or Article 4 (commencing with Section 98) had this section not been enacted. The allocations required by this section shall be adjusted to comply with this paragraph.

(2) Require an increased ad valorem property tax revenue allocation or increased tax increment allocation to a community redevelopment agency.

(3) Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is otherwise determined or allocated in a county.

(4) Reduce ad valorem property tax revenue allocations required under Article 4 (commencing with Section 98).

(g)



(h) Tax exchange or revenue sharing agreements, entered into prior to the operative date of this section, between local agencies or between local agencies and nonlocal agencies are deemed to be modified to account for the reduced vehicle license fee revenues resulting from the act that added this section. These agreements are modified in that these reduced revenues are, in kind and in lieu thereof, replaced with ad valorem property tax revenue from a Vehicle License Fee Property Tax Compensation Fund or an Educational Revenue Augmentation Fund.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Property tax: Educational Revenue Augmentation Fund: insufficient vehicle license fee revenue.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally provides that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined.

Existing property tax law also requires that, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. Existing law requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund in that county for allocation to school districts, community college districts, and the county office of education. Under existing law, if the auditor determines that there are still additional funds to be allocated after those allocations are made, the auditor is required to further allocate those excess funds, including to the county, cities, and special districts ("local excess ERAF fund allocations"), as described.

Beginning with the 2004–05 fiscal year and for each fiscal year thereafter, existing law requires that each city, county, and city and county receive additional property tax revenues in the form of a vehicle license fee adjustment amount, as defined, from a Vehicle License Fee Property Tax Compensation Fund that exists in each county treasury. Existing law requires that these additional allocations be funded from ad valorem property tax revenues otherwise required to be allocated to educational entities. Existing law provides that these provisions shall not be construed to reduce any allocations of excess, additional, or remaining funds that would otherwise have been allocated to county superintendents of schools, cities, counties, and cities and counties, as described, had these provisions not been enacted.

This bill would, for the 2022–23 fiscal year and each fiscal year thereafter, require the county auditor to calculate the amount of insufficient vehicle license fee revenues, which is the amount by which the sum of (1) the ad valorem property tax revenue that is otherwise required to be allocated to a county's Educational Revenue Augmentation Fund for the auditor to complete specified allocation reductions and (2) the ad valorem property tax revenue that is otherwise required to be allocated within the county to community college districts and to educational agencies, as specified, is less than the countywide vehicle license fee adjustment amount. The bill would require the auditor of a county with insufficient vehicle license fee revenues to file a claim, as described, with the Controller for the amount of the insufficient vehicle license fee revenues no



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earlier than the July 1 and no later than the November 30 of the fiscal year for which the insufficiency is expected to occur. The bill would make an appropriation by continuously appropriating from the General Fund the amounts sufficient to pay any claims for insufficient vehicle license fee revenues that are approved by the Controller. The bill would set forth procedures for paying these amounts. The bill would make these provisions operative for insufficient vehicle license fee revenue amounts expected to occur for the 2022–23 fiscal year and for each fiscal year thereafter.

This bill would also require, for the 2022–23 fiscal year and each fiscal year thereafter, local excess ERAF fund allocations to be counted by the auditor toward satisfying the city's, county's, or city and county's vehicle license fee adjustment amount. The bill would terminate the continuous appropriation described above if the requirement, as described, is invalidated by a court of competent jurisdiction.

By imposing additional duties on local officials, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.



Napa County (wide)

Local Property Taxes



ERAF Shift from Countywide Property Tax:



Excess ERAF used to pay VLF to County/Cities/Town:



Local Governments lose.

Local property taxes are reduced by County's share to schools to pay State's obligation for school funding. Local property taxes are reduced by County paying State's obligation to the County/Cities/Town for VLF.



Napa County Schools

State's School Funding Formula

ERAF Shift to Fund State School obligation:



State Funding (if needed):



Schools are made whole 100% to the level of State Funding.

In Napa County, the State does not pay anything to the Schools as local funding pays 100%.



State

State's Fund for Education

Result of ERAF Shift from County to Schools:



Result of VLF obligation paid from Excess ERAF:



The State wins.

State does not have to pay their obligation to the Schools or their obligation of VLF, and instead use local funding to do so.

