

SENATE THIRD READING

SB 359 (Niello)

As Amended June 26, 2025

Majority vote

SUMMARY

Modifies the definition of "exempt bus operator" for purposes of the Diesel Fuel Tax Law and Use Fuel Tax Law to include counties, as specified.

Major Provisions

- 1) Adds a county that owns and operates a local transit system to the list of local government entities considered to be an "exempt bus operator" for purposes of the Diesel Fuel Tax Law and Use Fuel Tax Law.
- 2) Takes immediate effect as a tax levy, however, the changes made by this bill would become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date, if enacted.
- 3) Updates a reference from the State Board of Equalization (BOE) to the California Department of Tax and Fee Administration (CDTFA) to reflect the transfer of the board's duties, powers, and responsibilities to the department.

COMMENTS

- 1) *Diesel and alternative fuel taxes:* California imposes a number of excise taxes on motor vehicle fuels, including on diesel and specified alternative fuels – such as LNG and CNG – when they are used to propel vehicles down public roads and highways. The current diesel fuel tax rate is \$0.454 per gallon and the current use fuel tax rate is \$0.180 per gallon
- 2) *Exempt bus operations:* Enacted in 1968, the Mills-Hayes Act created the exempt bus operation exemption under the Use Fuel Tax Law.¹ This legislation exempted the following bus operations from fuel taxes:
 - 4) A transit district, transit authority, or local city transit system;
 - 5) A private company transporting people under contract or agreement with a public agency authorized to provide public transportation services, but only for diesel fuel consumed when operating under the agreement or contract;
 - 6) A passenger stage corporation licensed by the PUC to operate exclusively in urban or suburban areas or between cities in close proximity for transportation of people for hire, compensation, or profit. The exemption does not apply to one-way routes that exceed 50 miles;
 - 7) A common carrier of passengers operating within the limits of a single city over a regular route, 98% of whose operations are exclusively within the limits of a single city, who does not qualify as a passenger stage corporation due to the 98% operation limitation;
 - 8) A school district, community college district, or county superintendent of schools owning, leasing, or operating buses for the purpose of transporting pupils to and from school and for other school or college activities involving pupils, including field trips and athletic contests; and,

¹ Up until July 1, 1995, the excise tax on diesel fuel was imposed under the Use Fuel Tax Law.

- 9) A private entity providing transportation services under contract or agreement for the purposes of transporting pupils to and from school and for other school or college activities involving pupils, including field trips and athletic contests, but only for diesel fuel consumed while operating under that contract or agreement.
- i) To qualify for this exemption, an exempt bus operator must register for an exempt bus operator license with the CDTFA, file the Exempt Bus Operator Diesel Fuel Tax Return (*CDTFA-501-DB*), and pay a tax of one cent for each gallon of diesel fuel used in an exempt bus operation. Additionally, the exempt bus operator must provide their vendor with a Certificate of Exempt Bus Operation (*CDTFA-231-DB*) when purchasing diesel fuel for an exempt purpose.
 - b) *Are county-run transit systems exempt?* In a memorandum dated September 5, 2006, the BOE, which administered motor vehicle fuel taxes prior to the creation of the CDTFA in 2017, directly addressed whether a county-run transit system qualified as an exempt bus operator.² The BOE memorandum cites a letter from Senator James R. Mills to Governor Ronald Reagan urging the Governor to sign the bill, where he describes the purpose of the legislation as assisting transit systems in metropolitan areas of California and providing property tax relief "to those property owners whose local property tax dollars had been tapped to subsidize metropolitan transit." Accordingly, BOE staff concluded that the Legislature intended to reduce the amount of fuel taxes paid by specified bus operators, stating:
 - (1) While the attitudes toward public transportation may have changed since 1968, and, while the tax on diesel fuel and the exemption for exempt bus operations have been moved from the Use Fuel Tax Law to the Diesel Fuel Tax Law, the language of the exemption has remained substantially the same... Taxpayer does not qualify as an exempt bus operation under section 60039, subdivision (a)(1), because it is a county, not a transit district, transit authority, or a city.
 - ii) It should be noted that the Mills-Hayes Act explicitly allowed the exemption for private companies transporting people under contract or agreement with a public agency, which could be a county government. Proponents of this bill may see this as evidence that the intent of the Legislature in passing the Mills-Hayes Act did in fact consider county-wide transportation systems as worthy of an exemption.

According to the Author

The author has provided the following statement in support of this bill:

SB 359 establishes clear guidelines for the California Department of Tax and Fee Administration (CDTFA), confirming that the existing tax exemptions for fuels—like diesel and compressed natural gas (CNG)—used by public transit operators also apply to counties that operate their own transit services directly. Several counties in California run their own transit systems through county departments such as public works or community development. These are not independent transit authorities, but they perform the same public service. Due to a lack of clarity in current law, these counties are required to pay taxes on transit fuel that other public transit operators are exempt from. However, CDTFA has never collected this tax from any county public transit, until

² Johnstone, *Exempt Bus Operation Opinion Request*, State Board of Equalization Legal Department (September 5, 2006). <https://www.cdtfa.ca.gov/lawguides/annotations/local-public-transit-system-operated-by-county.pdf>.

recently when Placer County was ordered to pay this seemingly new tax. This is an inconsistency that results in unfair treatment of some county public transits. These counties have never budgeted for this tax because historically, they haven't had to pay it. For small, rural counties in particular, an unexpected cost can significantly affect local transit budgets and services.

SB 359 amends Sections 60039 and 8655 of the Revenue and Taxation Code to explicitly include county-run transit systems in the fuel tax exemption—aligning the law with its intent and ensuring all public transit services are treated equitably. This adjustment in the code will not result in a loss of revenue for the state because this tax has never been collected by the state. This is about fairness, clarity, and protecting essential transit services in our counties.

Arguments in Support

Writing in support of this bill, the Placer County Board of Supervisors notes, in part:

Current law does not consider that several counties operate their own transit system that are not separate authorities or agencies, but operated by a county department such as public works. Recently, the State has indicated that because the word "County" is not included in the language of the exemption, these counties that operate their own transit systems do not qualify for the exemption, although they are a public transit operator providing public transit services. This means that counties that operate their transit system are required to pay a tax that other public transit operators are not subject to while providing the same public services.

By adding the word "County" to Revenue and Taxation Code 60039 and 8655, SB 359 will ensure that county transit districts are treated fairly and are added to the list of entities that do not pay sales and use tax on fuels (diesel and CNG). This is extremely important as the State is experiencing a transit operations funding crisis, and the pandemic's impact on changing commute patterns and the loss of fare revenue remain huge challenges. Therefore, SB 359 will help Placer County operate its transit system that continues delivering safe, frequent, and reliable transit service to the communities it serves.

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Committee on Appropriations:

- 1) Total annual revenue loss of approximately \$572,000 (special funds), with a \$462,000 loss in diesel fuel tax revenues, \$93,000 loss in use fuel tax revenues from buses using compressed natural gas (CNG), and \$17,000 loss in use fuel tax revenues from buses using liquefied petroleum gas (LPG).
- 2) Absorbable costs to the Department of Tax and Fee Administration (CDTFA) to license additional counties as exempt bus operations, update published information, and answer inquiries.

VOTES**SENATE FLOOR: 38-0-2**

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Limón, Reyes

ASM REVENUE AND TAXATION: 7-0-0

YES: Gipson, Ta, Bains, Carrillo, DeMaio, McKinnor, Quirk-Silva

ASM APPROPRIATIONS: 15-0-0

YES: Wicks, Sanchez, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Ahrens, Pacheco, Pellerin, Solache, Ta, Tangipa

UPDATED

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