

Guidelines Relating to Gas Tax Expenditures For Cities and Counties



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These *Guidelines Relating to Gas Tax Expenditures* were developed to assist cities and counties in making determinations as to eligibility, responsibilities, accounting requirements, and records, and as a source of technical assistance. These guidelines are not intended to replace statutory or legal authority, but to enhance and hopefully explain the somewhat general descriptions found in *California Constitution* Article XIX and the *Streets and Highways Code*.

EXPENDITURE AUTHORITY	120
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Expenditure authority is governed by *California Constitution* Article XIX and *Streets and Highways Code* Section 2101, both of which are reproduced in the appendices of these guidelines. They describe the allowable uses of gas tax funds for public streets and highways, public mass transit guideways, and their related public facilities.

STATE CONTROLLER'S RESPONSIBILITIES	130
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The constitutional responsibilities of the State Controller are outlined in the constitution and various statutes, the most general of which is *Government Code* Section 12410, which requires the Controller to superintend the fiscal concerns of the State. In addition, *Streets and Highways Code* Section 2153 imposes a mandatory duty on the Controller to ensure that the annual street and road reports are adequate and accurate.

To help ensure that annual reports are accurate and highway users taxes are expended in compliance with the law, the State Controller's Office, Division of Audits, conducts fiscal and compliance audits of the cities' Street Improvement Funds and the counties' Road Funds. The Controller's audit function consists of an examination of expenditures after the fact. If the expenditure is for a legal purpose, valid, and supported by sufficient competent evidential matter, no exception will be deemed necessary. Conversely, if the expenditure was outside the intent of the law, an exception will be taken. The Controller may not substitute judgment for that of the local agency, providing the expenditure is for a legal purpose.

LOCAL JURISDICTIONAL RESPONSIBILITIES	140
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Cities and counties are not required to subject their proposed expenditures to prior administrative and engineering reviews. The highway users taxes are apportioned and allocated directly to cities and counties and it is within their administrative discretion to determine local priorities, providing the expenditure is permitted by the constitution and authorized by law. However, all expenditures are subject to audit by the Controller and, if warranted, the judiciary system.

REPORTING REQUIREMENTS 200**REPORTING REQUIREMENTS 210**

On or before the first day of October of each year, the governing body of each county and city shall cause to be made and filed with the Controller a complete report of the expenditures for street or road purposes during the preceding fiscal year ending on the 30th day of June. However, the City of El Segundo, the City of Huntington Beach, the City of Inglewood, the City of Long Beach, or the City of South Lake Tahoe may send, on a one-time basis, a written notice to the Controller that it has selected a fiscal year ending on a date other than June 30, and, in that case, the fiscal year selected by the city shall be its fiscal year for reports under this section. (Appendix B, S&H Code §2151)

CONTENTS OF REPORTS 220

The reports filed by cities and counties shall show the amount expended for construction by contract, maintenance by contract, construction by day labor, and maintenance by day labor. For construction and maintenance by day labor, the amount shall include the cost of material, labor, equipment, and overhead for work performed.

The reports shall also include a detailed statement of all money available from all sources during the fiscal year covered by the report. This includes money made available by the federal government, the State, the county or city, and any other governmental agency, and money available from bond issues, special assessments, or from any other source for expenditure for street or road purposes.

The expenditures included in the report shall be broken down into expenditure categories, such as expenditures for rights-of-way or other property, new construction, reconstruction, widening, resurfacing, maintenance, repair, and acquisition and maintenance of equipment. The report shall also include a detailed statement of all expenditures for snow removal. (Appendix B, S&H Code §2152)

ANNUAL TABULATION AND COMPILATION 230

Annually, these reports from cities and counties are compiled and tabulated by the State Controller's Office. Copies of the compilation and tabulation are distributed to the Governor, the Lieutenant Governor, members of the State Legislature, the Department of Transportation, the Auditor General, cities and counties, and to any legislative committee charged with the investigation of streets, roads, highways, or bridges in the State. (Appendix B, S&H Code §2154)

DELINQUENT REPORTS 240

No state money will be allocated to any city or county that is delinquent in filing this report. (Appendix B, S&H Code §2155)

GAS TAX FUND APPORTIONMENTS**300****REVENUES****310**

Revenues from the gas tax deposited into the Highway Users Tax Account in the Transportation Tax Fund are apportioned by the State Controller to cities and counties. These apportionments are provided for in *Streets and Highways Code* Sections 2103 to 2122. The table below outlines the recipients, apportionment basis, and restricted use of the gas tax money.

TABLE 1
Apportionment Basis and Usage of Funds Apportioned Per the Streets and Highways Code

<u>Code Section</u>	<u>Apportioned To</u>		<u>Apportionment Based On</u>	<u>Restricted Use</u>
	<u>City</u>	<u>County</u>		
S&H §2103			Weight fee revenues	Any street or road purpose
S&H §2105			Per gallon tax per H&S §7351 and R&T §8651	Any street or road purpose
S&H §2106			Vehicle registration assessed valuation population	Any street or road purpose
S&H §2107			Population	Any street or road purpose
S&H §2107 Snow Removal			Amount equal to one-half of expenditures in excess of \$5,000	Snow removal
S&H §2107.5			Population	Engineering cost and administrative expense*
S&H §2104(a)			Specified amount of \$1,667 per month	Undistributed engineering cost and administrative expense
S&H §2104(b)			80% of actual cost in excess of \$5,000 or apportioned share of \$7,000,000, whichever is less (per §2110 and §2152)	Snow removal or snow grooming or both
S&H §2104(c)			Specified percentage per §2110.5 payable only to certain counties	Heavy rainfall and storm damage
S&H §2104(d)(e)(f)			Vehicle registration maintained mileage	Any road purpose
S&H §2182			Vehicle registration maintained mileage	Maintenance or reconstruction
S&H §2182			Population	Maintenance or reconstruction
R&T §7104			Population	Maintenance or reconstruction
R&T §7104			Vehicle registration maintained mileage	Maintenance or reconstruction

* Cities with populations of less than 10,000 inhabitants may expend H&S Code Section 2107.5 money for acquisition of rights-of-way and for construction of their street system.

PREREQUISITES TO RECEIVE GAS TAX APPORTIONMENTS**320**

A city or county will not receive any gas tax apportionment when it has failed to establish any street or road fund as required by law; failed to deposit money received from the Highway Users Tax Fund in a separate bank account when required by law; failed, neglected, or refused to file any report required by law; or failed, neglected, or refused to restore any such moneys not expended in conformance with any law or constitutional provision. When a city or county has provided satisfactory proof to the State Controller of the establishment of such street or road fund, the depositing of money in a separate bank account, the filing of the report, or the restoration of the improperly expended moneys, the city or county will then receive the gas tax apportionments. (Appendix B, S&H Code §2119)

DEFINITIONS RELATED TO STREETS & ROADS**400****GENERAL****410**

The following information was derived from the *Local Assistance Program Guidelines* and the *Local Assistance Procedures Manual* developed by the California Department of Transportation (Caltrans), and the applicable sections in the *Streets and Highways* (S&H) Code, California Attorney General Opinions, and State Controller's Office (SCO) legal opinions, as well as frequently asked questions and various audit findings.

The subsequent definitions presented are useful for the proper accounting of street and road costs. Some consolidations have been made and certain wording modified; however, the definitions are essentially those presented in the aforementioned documents.

<u>Term</u>	<u>Definition</u>
City	Includes "city and county" and "incorporated town." (S&H Code §15)
County highway or roads	Any highway that is (a) laid out or constructed as such by the county, (b) laid out or constructed by others and dedicated or abandoned to or acquired by the county, (c) made a county highway in any action for the partition of real property, or (d) made a county highway pursuant to law. (S&H Code §25)
County	Includes "city and county." (S&H Code §14)
Exclusive public mass transit guideways	A channel, slot, or track in which a common carrier vehicle is fitted or linked so that its line of motion is controlled.
Governing body	City council for cities and board of supervisors for counties.
Highway	Includes bridges, culverts, curbs, drains, and all works incidental to highway construction, improvement, and maintenance. (S&H Code §23)
Non-motorized transportation facility	A facility designed primarily for the use of pedestrians, bicyclists, or equestrians. (S&H Code §887)
Sidewalks	That portion of a highway, other than the roadway, set apart by curbs, barriers, markings, or other delineation for pedestrian travel. (Vehicle Code §555)
Street	All or any portion of territory within a city set apart and designated for the use of the public as a thoroughfare for travel, and includes the sidewalks, the center, and the side plots thereof. (S&H Code §22010)
Right of way	Land acquired for use as a street or highway, either as an easement or by grant deed conveying title in fee.
City street	No public or private street or road shall become a city street or road until the governing body, by resolution, has accepted the street or road into the city street system (see Appendix B, Section 1806, of the S&H Code). The width of all city streets except state highways, bridges, alleys, and trails, shall be at least 40 feet. The governing body of any city may, by a resolution passed by a four-fifths vote of its membership, determine that the public convenience and necessity demand the acquisition, construction, and maintenance of a street of less than 40 feet. (Appendix B, S&H Code §1805)
County road	No public or private road shall become a county highway until the board of supervisors by appropriate action caused the road to be accepted into the county road system. (Appendix B, S&H Code §941) The width of all county highways, other than bridges, alleys, lanes, and trails, shall be at least 40 feet, except the board of supervisors of any county may, by a resolution passed by a unanimous vote of its members, determine that the public convenience and necessity demand the maintenance of a highway of less than 40 feet. (Appendix B, S&H Code §906)

CONSTRUCTION**420**

Construction can be defined as the building or rebuilding of streets, roads, bridges, ferries, and acquisition of rights-of-way or their component parts to a degree that improved traffic service is provided and geometric or structural improvements are effected. It also includes allocated administration and engineering necessarily incurred and directly related to the above.

The following information is provided to help define the categories of expenditures as well as provide examples for general guidance.

Construction work includes four categories:

New Construction—A construction that substantially deviates from the existing alignment and provides for an entirely new street or roadbed for the greater parts of its length.

Reconstruction—A construction involving realignment or the use of standards well above those of the existing element, whereby the type or the geometric and structural features are significantly changed.

Preventative Maintenance—Includes, but is not limited to, roadway activities such as joint and shoulder rehabilitation, heater re-mix, seal coats, corrective grinding of PCC pavement, and restoration of drainage systems.

3R Work—All other work which does not fall into the above defined categories for new construction, reconstruction, or preventative maintenance and typically involves the improvement of highway pavement surfaces through resurfacing, restoration, or rehabilitation. It is generally regarded as heavy, non-routine maintenance designed to achieve a ten-year service life. Specifically, 3R Work is defined as the following:

- Resurfacing generally consists of placing additional asphalt concrete over a structurally sound highway, street, or bridge that needs treatment to extend its useful service life.
- Restoration means returning a road, street, structure, or collateral facility to the condition existing after original construction.
- Rehabilitation implies providing some betterments, such as upgrading guardrail or widening shoulders.

The following examples of construction expenditures are grouped by types of work:

<u>Expenditures</u>	<u>Types of Work</u>
Additions	<ul style="list-style-type: none"> • The addition of a frontage street or road • Addition of auxiliary lanes such as speed change, storage, or climbing lanes
Barriers	<ul style="list-style-type: none"> • Earthwork protective structures within or adjacent to the right-of-way area • Extensions and new installation of walls • Replacement of retaining walls to a higher standard • Extension of new installation of guardrails, fence lines, raised medians, or barriers for traffic safety
Bikeways	<ul style="list-style-type: none"> • Construction of bikeways when they are an integral part of the streets and highways system • Construction of bicycle or pedestrian underpasses or overhead crossings for the general public use

<u>Expenditures</u>	<u>Types of Work</u>
Bridges	<ul style="list-style-type: none"> • Reconstruction of an existing bridge or installation of a new bridge • Widening of a bridge • Replacement of bridge rails and floors to a higher standard
Curbs, etc.	<ul style="list-style-type: none"> • Installation or extension of curbs, gutters, sidewalks, or underdrains
Drainage	<ul style="list-style-type: none"> • A complete reconstruction or an addition to a culvert • Extending old culverts and drains and replacing headwalls
Landscaping	<ul style="list-style-type: none"> • Installation or additional landscape treatment such as sod, shrubs, trees, irrigation, etc., along the street or road right-of-way
Layout	<ul style="list-style-type: none"> • Change of alignment, profile, and cross-section • Reconstruction of an intersection and its approximate approaches to a substantially higher type involving a change in its character and layout including changes from a plain intersection to a major channelized intersection or to a grade separation and ramps
Lighting	<ul style="list-style-type: none"> • Installation or expansion of street or road lighting system
Relocation	<ul style="list-style-type: none"> • The removal of old street and roadbeds and structures, and detour costs when connected with a construction project • Replacement in kind, when legally required, of structures that are required to be relocated for street and road purposes
Signs and signals	<ul style="list-style-type: none"> • The installation of <u>original</u> traffic signs and markers • Replacement of all major signs or traffic control devices on a street or road • The installation of a new sign or the replacement of an old sign with one of superior design such as increased size, illumination, or overhead installations • Installation or improvement of traffic signal controls at intersections and protective devices at railroad grade crossings • Purchase and installation of traffic signal control equipment including traffic actuated equipment, radio or other remote control devices and related computers, and that portion of preemption equipment not mounted on motor vehicles
Striping	<ul style="list-style-type: none"> • Painting or rearrangement of pavement striping and markings, or repainting to a higher standard
Surface work	<ul style="list-style-type: none"> • Original surfacing of shoulders • Improvement of a surface to a higher type • Placing sufficient new material on soil surface or gravel street or road to substantially improve the quality or the original surface • Bituminous material of 1" or more placed on bituminous or concrete material—a lesser thickness may be considered construction provided the engineer certifies that the resulting pavement is structurally adequate to serve anticipated traffic • Remix existing bituminous surfacing with added materials to provide a total thickness of 1" or more—a lesser thickness may be considered construction provided the engineer shall certify that the resulting pavement is structurally adequate to serve anticipated traffic • Stabilization of street or road base by adding material such as cement, lime, or asphalt
Widening	<ul style="list-style-type: none"> • Widening of existing street or roadbed or pavement, with or without resurfacing • Resurfacing, stabilizing, or widening of shoulders including necessary connections to side streets or road approaches

MAINTENANCE**430**

Maintenance can be defined as the preservation and upkeep of a street or road constructed condition, and the operation of a street or road facility and its integral services to provide safe, convenient, and economical highway transportation.

Physical Maintenance—The preservation and upkeep of a highway, including all of its elements, in as nearly as practicable its original condition or its subsequently improved condition.

Traffic Services—The operation of a highway facility, and services incidental thereto, to provide safe, convenient, and economic travel.

- Scarifying, reshaping, and restoring material losses
- Applying dust palliatives
- Patching, repairing, surface treating, and joint filling on bituminous or concrete surfaces
- Jacking concrete pavements
- Repairing traveled way and shoulders
- Adding bituminous material of less than 1" to bituminous material including seal coats
- Remixing existing bituminous surfacing with added materials to provide a total thickness of less than 1"
- Patching operations including base restoration
- Resealing street or road shoulders and side street and road approaches
- Reseeding and resodding shoulders and approaches
- Reshaping drainage channels and side slopes
- Restoring erosion controls
- Cleaning culverts and drains
- Removing slides and restoring facilities damaged by slides (additional new facilities shall be construction)
- Mowing, tree trimming, and watering within the street right-of-way
- Replacing topsoil, sod, shrubs, trees, irrigation facilities, etc., on street and roadside
- Repairing curb, gutter, rip-rap, underdrain, culverts, and drains
- Cleaning, painting, and repairing bridges and structures
- Performing all snow control operations such as erection of snow fences and the actual removal of snow and ice from the traveled way
- Repainting pavements, stripings, and markings
- Repainting and repairing signs, guard rails, traffic signals, lighting standards, etc.
- Adding small numbers of conventional traffic control devices including signs
- Servicing street or road lighting and traffic control devices
- Furnishing power for street or road lighting and traffic control devices

OVERHEAD**440**

Overhead is those elements of cost necessary in the production of an article or performance of a service which are of such a nature that the amount applicable to the functions is not readily discernible. Usually they relate to those objects of expenditure which do not become an integral part of the finished product or service.

Components of overhead are shown below and are comprised of costs that cannot be identified or charged to a project, unless an arbitrary allocation basis is used.

Payroll	General accounting/finance
Personnel	Departmental accounts/finance
Procurement	Facilities
Advertising	Data processing
Legal costs	Top management
General government	Bids

Overhead will only be allowed via an approved cost allocation plan or an equitable and auditable distribution of overhead to all departments.

INELIGIBLE EXPENDITURES**450**

In the course of performing many types of projects, the term “construction” is utilized. However, the term does not make the costs eligible for funding under the Highway Users Tax Program. To be eligible, the work must be for a street or road purpose.

The following is a list of the types of expenditures not eligible for financing from gas tax moneys:

- Cost of rearranging non-street or road facilities, including utility relocation, when not a legal road or street obligation
- New (first installation of) utilities, including water mains, sanitary sewers, and other non-street facilities
- Cost of leasing property or right-of-way, except when required for construction work purposes on a temporary basis
- Cost of constructing or improving a street or area for parking purposes, except for the width normally required for parking adjacent to the traveled way and within the right-of-way
- Decorative lighting
- Park features such as benches, playground equipment, and restrooms
- Work outside the right of way which is not a specific right-of-way obligation
- Equestrian under- and overpasses or other similar structures for any other special interest group unless as a part of a right of way obligation
- Construction, installation, or maintenance of cattle guards
- Acquisition of buses or other mass transit vehicles or maintenance and operating costs for mass transit power systems or passenger facilities (passenger facilities include but are not limited to bus benches, shelters, and bus stop signs, or equipment and services)
- Maintenance or construction on alleys that have not been formally designated as part of the jurisdiction’s street and road system
- Improvements and maintenance to park and ride designated lots
- Driveways outside of the street and road right-of-way
- Debt service payments for non-voter-approved bonds (or Certificate of Participation (COPs))

SPECIFIC DETERMINATIONS**500****QUESTIONS RELATED TO GAS TAX EXPENDITURES****510**

The following information is to provide guidance on some specific questions that may arise during the course of a jurisdiction's annual street and road program. The list is not all-inclusive, but does cover a comprehensive area of activities.

<u>Subject</u>	<u>Determination</u>
May highway users taxes fund a freeway emergency telephone system?	This has been construed as a highway purpose, potentially increasing traffic capacity through better accident reporting.
May a city or county purchase land for "greenbelt" purposes with Highway Users Taxes?	Surplus street or road land may be used for a park, providing it mitigates the environmental impact of a street construction project. However, legislative action is necessary to authorize the use of highway users taxes to purchase land for "greenbelt" purposes.
May a city or county expend interest earned on highway users taxes for non-street or road purposes?	Interest follows the principal and may not be spent for a non-street or road purpose.
May a city or county temporarily transfer or lend money in its Special Gas Tax Street Improvement Fund or Road Fund to other funds in its treasury, if the borrowed amounts are repaid in the same fiscal year?	Article XIX of the Constitution, confining highway users taxes to direct use for street and road purposes, prohibits such temporary transfers or loans.
May highway users taxes fund the cost of lighting for bus stop shelters?	No, a bus stop shelter is not a facility for non-motorized traffic and such shelters appear related to the motorized mass transit system.
May a city or county expend highway users taxes for rubberized railroad grade crossing material or repair grade crossing?	Yes, the purchase or repair would constitute a streets and roads purpose and be eligible for highway users taxes funding.
May a city or county expend highway users taxes for maintenance on a state highway?	Yes, if there is an agreement allowing the city or county authority to maintain a state highway. Otherwise, the State has sole authority to maintain it.
May a city or county purchase equipment with highway users taxes?	Street or road related equipment is eligible for highway users taxes funding, provided the following criteria are met: <ul style="list-style-type: none"> • The city or county keep accurate records on acquisition cost, use, maintenance, and disposition; • The city or county reimburses the Special Gas Tax Street Improvement Fund or Road Fund for equipment utilized for a non-street purpose using either Caltrans equipment rates or internally developed rental rates with adequate supporting documentation; • The city or county provides a representation letter substantiating street use, non-street use; and • Proceeds from disposition are redeposited in the Special Gas Tax Street Improvement Fund or Road Fund.
May the highway users taxes program be charged for expenses incurred in attending or participating in Institute of Transportation and Traffic Engineering-sponsored programs conducted for street or road purposes?	The aforementioned programs are eligible for funding with highway users taxes.

What is the acceptable methodology for charging the Special Gas Tax Street Improvement Fund or Road Fund for its proportionate share of governmental overhead?

Overhead must be substantiated by a cost allocation plan, or an equitable and auditable distribution of these costs to all departments.

What is the proper treatment of right-of-way acquisition and disposal?

- Any city or county having purchased salable excess right-of-way with highway users taxes must report any unsold portions to the Controller, including the reasons for holding it and the anticipated date of disposal.
- If a city or county rededicates a park or other city-owned property for a street right-of-way, no charge may be made to the Special Gas Tax Street Improvement Fund or Road Fund for the value of this property.
- Any local jurisdiction may expend highway users taxes for relocation expenses necessitated by right-of-way acquisitions in accordance with the applicable *Government Codes* on relocation assistance.

May a city charge percentage engineering in lieu of actual costs?

Percentage engineering is allowable. The constraints are outlined as follows:

Contract Work—

<u>Preliminary Engineering</u>	<u>Construction Costs (in thousands)</u>	<u>Construction Engineering</u>
22%	\$0–\$49	22%
17%	\$50–\$74	20%
15%	\$75–\$99	18%
13%	\$100–\$149	16%
10%	\$150–\$249	15%
8%	\$250–\$499	14%
8%	\$500–\$999	14%
8%	\$1,000–\$2,000	14%

(These percentages will be computed on the eligible portion of the contract price.)

Day Labor—5% for preliminary engineering and 6% for construction engineering and inspection. (These percentages will be computed on eligible portions of material, equipment, rental and labor (including fringe benefits).)

Right of Way Engineering—2% (This percentage is on the total eligible right-of-way costs. If percentage engineering is used, the agency must carefully watch the following points: (1) no agency may claim percentage engineering in excess of its total street purpose engineering shown on the agency’s records; (2) percentage charges may be made to the Special Gas Tax Street Improvement Fund during the same fiscal year in which the actual engineering work occurred (in some cases, this may require an estimate to be made in one year with an adjustment to actual in a subsequent year); and (3) if actual costs are known, it must be used in all cases.)

May a jurisdiction charge the Special Gas Tax Street Improvement Fund and Road Fund for construction of facilities that are necessary to drain streets and roads?

For this purpose those portions of the drainage system listed below may be financed entirely with such moneys:

- Cross culverts regardless of angle of crossing
- Storm drains, culverts, or drainage channels that are required to be constructed or reconstructed by improvements of the roadway
- Longitudinal storm drains or other longitudinal culverts, including manholes
- Cross or longitudinal gutters at intersections
- Catch basins and related pipes (The term “catch basin” shall include outlet structures or curb openings. Eligible “catch basin” must be located within the road or street system rights of way, or as close to the curb return joining the road or street system as practicable considering the location of obstructions and/or hydraulic considerations.)

Are highway users taxes available to be utilized for payment of the cost of any project to the extent that such cost is not reimbursable from federal funds (matching)?

Highway users taxes are eligible to fund matching contributions to railroad grade separation projects, and county and federal matching programs

SPECIAL ACCOUNTING REQUIREMENTS**600****SPECIAL ACCOUNTING REQUIREMENTS FOR CITIES****610**

The following serves as a guide in installation of accounting and financial systems, to ensure that the systems as conceived will continue through changes in personnel, to answer procedural inquiries, to aid in the audit process, and to aid in systems evaluation.

The *Streets and Highways Code* states, in part, “. . . no apportionment of money from the Highway Users Tax Account as provided in Section 2106 and 2107 shall be made to a city unless the city has set-up by ordinance a ‘Special Gas Tax Street Improvement Fund’.” This fund is a special revenue fund utilized to account for proceeds of specific revenue sources that are legally restricted to expenditures for special purposes.

Specific Criteria:

- Basis of Accounting—Modified accrual
- Primary Means of Spending Control—Annual budget appropriation limitations
- Usual Financing Sources—Legally or contractually identified revenues
- Measurement Focus—Spending and the quality and/or quantity of the products or services provided

Specific Requirements:

The following requirements are to provide guidance on the specific accounting treatment as it relates to the “Special Gas Tax Street Improvement Fund.”

- All apportionments shall be deposited directly into the Special Gas Tax Street Improvement Fund.
- Interest received by a city from the investment of money in its Special Gas Tax Street Improvement Fund shall be deposited in the fund and shall be used for street purposes.
- If other revenues are commingled in the Special Gas Tax Street Improvement Fund, it is the jurisdiction’s responsibility to provide accurate and adequate documentation to support revenue and expenditure allocation as well as segregated balances.
- Any expenditures being funded by “expenditure reimbursement” transfers of gas tax cash to other funds must be identified. Generally accepted accounting principles require that expenditures of the fund being reimbursed are credited to avoid an overstatement of expenditures. The credit would specifically identify the nature of expenditures being funded by gas tax.
- The modified accrual method of accounting is required by generally accepted accounting principles for the special revenue funds.

Interest Requirements (S&H Code §2113):

Any interest earned on investment of highway users taxes must be deposited in the Special Gas Tax Street Improvement Fund. Any city not electing to invest its highway users taxes, but at the same time investing most of its other available funds, should deposit the highway users taxes in a separate checking account to clearly indicate that no such moneys were invested.

If highway users taxes are invested, they must receive their equitable pro-ration of interest earned on the total funds invested. Several methods are available to determine an equitable distribution of interest earned. Whatever method is employed, it will be analyzed during audit to determine reasonableness and confirm distribution to the Special Gas Tax Street Improvement Fund. The SCO recommends a distribution based on average month-end cash balances.

Reimbursements:

Reimbursements from whatever source, of highway users taxes previously expended for street and road construction or right of way purposes, must be deposited in the Special Gas Tax Street Improvement Fund. This includes, but is not limited to:

- Federal aid urban projects
- Cooperative agreements
- Right-of-way dispositions
- Federal and safety projects

SPECIAL ACCOUNTING REQUIREMENTS FOR COUNTIES

620

Gas tax moneys paid to the county shall be deposited into the county's Road Fund. The counties may deposit other money into this fund. All money deposited into this fund shall be expended by the county exclusively for county roads for the purposes specified in Section 2101 of the *Streets and Highways Code*. (Appendix B, S&H Code §2150)

Specific Requirements:

The following requirements are to provide guidance on the specific accounting treatment as it relates to the County Road Fund.

- Section 30200 of the *Government Code* requires the State Controller to prescribe uniform accounting procedures for counties. (Appendix C, GC §30200)
- The SCO's *Accounting Standards and Procedures for Counties* manual, Chapter 9, Appendix A, prescribes the accounting for the Road Fund.
- All apportionments received from the Highway Users Tax Fund shall be deposited into the county's Road Fund.
- The road commissioner of each county shall prepare a tentative road budget covering all proposed county road expenditures. This budget shall be submitted to the board of supervisors in accordance with Chapter 1 (commencing with Section 29000) of Division 3 of Title 3 of the *Government Code* and in the form and manner prescribed by the SCO and at the same time as other county departments submit their recommended budgets. (Appendix B, S&H Code §2007)
- Interest received by the county from the investment of money of its Road Fund shall be deposited in its Road Fund and shall be used for road purposes.
- All other moneys deposited into the Road Fund shall be used for road purposes.

Other County Requirements:

Each county board of supervisors shall appoint a single road commissioner for all road districts in the county. Every person who is appointed road commissioner after December 31, 1965, shall be a registered civil engineer. There are exceptions to this requirement. The City and County of San Francisco may appoint a road commissioner who is not a registered civil engineer. (Appendix B, S&H Code §2006)

The board of supervisors of any county may abolish the office of road commissioner if the board transfers all duties of the road commissioner to the county director of transportation. The director of transportation need not have any special permit, registration, or license. Any civil engineering functions required shall be performed by a registered civil engineer acting under the authority of the director of transportation. (Appendix B, S&H Code §2006.1)

The Board of Supervisors of Orange County may abolish the office of road commissioner if the board of supervisors transfers all duties of the road commissioner to an environmental management agency. The director of such environmental management agency shall not be required to have any special permit, registration, or license. Any civil engineering functions required to be performed by the road commissioner shall be performed by a registered civil engineer acting under the authority of the director of the agency. (Appendix B, S&H Code §2006.5)

Allocations or payments will not be made to any county from the Highway Users Tax Account until the county has complied with the requirements of *Streets and Highways Code* Section 2006. If a vacancy occurs, the county has 180 days to appoint a new road commissioner. The 180-day time limit is contingent on the condition that there be a qualified acting road commissioner functioning during the interim period appointed by the board of supervisors. (Appendix B, S&H Code §2006)

In May of each year, each county shall submit to Caltrans any additions or exclusions from its mileage of maintained county highways, specifying the termini and mileage of each route added or excluded from its county maintained roads. (Appendix B, S&H Code §2121)

RECORDS**630****Source Documentation:**

On construction or purchase of right-of-way, all expenditures charged to the Special Gas Tax Street Improvement Fund or Road Fund must be supported by a warrant or other source document clearly showing that the payment for the expenditure was made and that the source document (invoice, requisition, time sheet, equipment rental charge, engineering plans, specifications and other pertinent data, etc.) clearly identifies the project and other pertinent data to establish a readily discernible audit trail.

INFORMAL DETERMINATION**700****GENERAL INFORMATION****710**

The law does not provide for prior review of projects or proposed expenditures. The SCO's audit function relates only to a review of expenditures after the fact. However, the State Controller will provide an informal determination as to whether a particular expenditure is within the guidelines. This does not constitute a final determination, but would point out whether or not a question of legality or authorized purpose exists. The initial determination still rests with the jurisdiction.

To obtain general information, contact the State Controller's Office, Division of Audits, Gas Tax Program, at (916) 324-7226. If an informal determination is desired, submit a written request to the State Controller at the following address:

Betty T. Yee
Controller of the State of California
Division of Audits
Gas Tax Program
Post Office Box 942850
Sacramento, California 94250-5874

APPENDIX A

The following code sections provide guidance on some questions that may arise related to the cities' or counties' street or road programs. These code sections are not intended to be all-inclusive, but do cover a comprehensive area of activities. Each city or county should refer to the Legislative Counsel for up-to-date legislative information on California law.

**Article XIX of the
California Constitution
Motor Vehicle Revenues****§1. Fuel taxes**

Revenues from taxes imposed by the state on motor vehicle fuels for use in motor vehicles upon public streets and highways, over and above the cost of collection and any refunds authorized by law, shall be used for the following purpose:

- (a) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, and the administrative costs necessarily incurred in the foregoing purposes.
- (b) The research, planning, construction, and improvement of exclusive public mass transit guideways (and their related fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, the administrative costs necessarily incurred in the foregoing purposes, and the maintenance of the structures and the immediate right-of-way for the public mass transit guideways, but excluding the maintenance and operating costs for mass transit power systems and mass transit passenger facilities, vehicles, equipment and services.

§2. Vehicular fees

Revenues from fees and taxes imposed by the State upon vehicles or their use or operation, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

- (a) The state administration and enforcement of laws regulating the use, operation, or registration of vehicles used upon the public streets and highways of this State, including the enforcement of traffic and vehicle laws by state agencies and the mitigation of the environmental effects of motor vehicle operation due to air and sound emissions.
- (b) The purposes specified in Section 1 of this article.

§3. Revenue allocation

The Legislature shall provide for all allocation of the revenues to be used for the purposes specified in Section 1 of this article in a manner which ensures the continuance of existing statutory allocation formulas for cities, counties, and areas of the State, until it determines that another basis for an equitable, geographical, and jurisdictional distribution exists; provided that, until such determination is made, any use of such revenues for purposes specified in subdivision (b) of Section 1 of this article by or in a city, county, or area of the State shall be included within the existing statutory allocations to, or for expenditure in, that city, county, or area. Any future statutory revisions shall provide for the allocation of these revenues, together with other similar revenues, in a manner which gives equal consideration to the transportation needs of all areas of the State and all segments of the population consistent with the orderly achievement of the adopted local, regional, and statewide goals for ground transportation in local general plans, regional transportation plans, and the California Transportation Plan.

§4. Mass transit expenditures

Revenues allocated pursuant to Section 3 may not be expended for the purposes specified in subdivision (b) of Section 1, except for research and planning, until such use is approved by a majority of the votes cast on the proposition authorizing such use of such revenues in an election held throughout the county or counties, or a specified area of a county or counties, within which the revenues are to be expended. The Legislature may authorize the revenues approved for allocation or expenditure under this section to be pledged or used for the payment of principal and interest on voter-approved bonds issued for the purposes specified in subdivision (b) of Section 1.

§5. Highway bond payments

The Legislature may authorize up to 25 percent of the revenues available for expenditure by any city or county, or by the State, for the purposes specified in subdivision (a) of Section 1 of this article to be pledged or used for the payment of principal and interest on voter-approved bonds issued for such purposes.

APPENDIX B

The following code sections provide guidance on some questions that may arise related to the cities' or counties' street or road programs. These code sections are not intended to be all-inclusive, but do cover a comprehensive area of activities. Each city or county should refer to the Legislative Counsel for up-to-date legislative information on California law.

Selected Streets and Highways Code Sections**§906. Width of county highways; Exception**

The width of all county highways, other than bridges, alleys, lanes, and trails, shall be at least 40 feet, except as provided by Sections 906.5 and 969 and except that the board of supervisors of any county may, by a resolution passed by a unanimous vote of its members, determine that the public convenience and necessity demand the maintenance of a highway of less than 40 feet and may after such determination proceed with the maintenance of any such highway.

This section shall not increase or diminish the width of any county highway established, dedicated, and maintained as such prior to January 1, 1945.

§906.5. Installation of grates not hazardous to bicycle riders

On construction under a contract advertised for bids after July 1, 1973, the board of supervisors shall install on the surface of county highways upon which the operation of bicycles is permitted only those types of grates which are not hazardous to bicycle riders.

§906.6. Maintenance of highway less than 40 feet in width

Notwithstanding Section 906, a county may maintain a highway of less than 40 feet in width if all the cost of maintenance thereof is paid for by a maintenance district created pursuant to Chapter 26 (commencing with Section 5820) of Part 3 of Division 1.

§941. Establishment, recordation, construction, maintenance of highways; When public or private road to become county highway; Liability for failure to maintain road

(a) Boards of supervisors shall, by proper order, cause those highways which are necessary to public convenience to be established, recorded, constructed, and maintained in the manner provided in this division.

(b) No public or private road shall become a county highway until and unless the board of supervisors, or its designee, by appropriate action, has caused the road to be accepted into the county road system. No county shall be held liable for failure to maintain any road unless and until it has been accepted into the county road system by action of the board of supervisors or its designee.

(c) The acceptance of any road or the acceptance of any road subject to improvements pursuant to Section 66477.1 of the Government Code does not constitute the acceptance of the road into the county road system in the absence of the adoption of a resolution by the board of supervisors accepting the road into the county road system.

(d) In lieu of the procedures set forth in subdivisions (b) or (c), boards of supervisors may, by ordinance, designate a county officer to accept, on behalf of the board, roads or portions thereof, into the county road system and to record conveyances to the county of real property interests for road uses and purposes. The designee shall, prior to recording any conveyance under this section, affix a certificate to the instrument stating the acceptance into the county road system and designating the name or number, or both, of the county road. The designee shall report all acceptances and recordings to the board at the end of the fiscal year, or at more frequent intervals as determined by the board.

§969. Roads between towns and villages; Acquisition and reconstruction; Resolution determining; Expense

Whenever a road is of general utility and of public convenience and constitutes the only or principal means of communication between one town or village and another town or village in the same county, the board of supervisors may determine, by a two-thirds vote of its membership, that the public convenience and necessity demand the acquisition and reconstruction of such road. Thereafter, by a resolution passed by a two-thirds vote of its membership, the board may determine to, and after such determination may proceed to, acquire and reconstruct such road although it is not of the width required by Section 906. The board shall charge the expense of such acquisition and reconstruction to the county general fund, the road fund of the county, or the district fund of each district benefited, or to any two or more of such funds in such proportions as the board considers just and equitable.

§969.5. Improvement, etc., of private roads; Rental of equipment

Such boards may, after they have determined by a resolution adopted by a four-fifths vote of their membership that general county interest demands the improvement or repair of a privately owned road, improve or repair such road in consideration of the grant or lease of a right of way to the county for its own use or the use of the State, any political subdivision or other appropriate public agency for the public purposes specified in the resolution.

Such improvements or repairs shall be made and paid for in like manner as improvements or repairs of county highways.

By the same authorization the board may rent to the owner of land over which such a road has been open to the public for more than five years the machinery and equipment necessary to repair such road and the approaches thereto and any protecting embankments there may be, charging therefor by way of rental the cost of labor and other necessary expenses in addition to a reasonable allowance for depreciation of machinery.

Proceedings under this section shall not cause the road to become a county highway.

§985. Cattle guards, construction and maintenance

The board of supervisors may construct, install and maintain cattle guards on or adjacent to the county highways. The cost of constructing, installing, and maintaining such cattle guards may be paid from the general county fund.

The board supervisors may, under such restriction, plans and specifications as it may deem proper, permit any property owner to construct, install or maintain at his own expense, cattle guards on or adjacent to any county highway. The construction and maintenance of such cattle guards shall be under the direction and supervision of the board of supervisors, and they may require such bond as they deem proper as a condition of the granting of permission to erect such cattle guard.

§1622. “Road Fund”

All amounts paid to each county, out of money derived from the Highway Users Tax Fund shall be deposited in a “road fund” which each board of supervisors shall establish for that purpose.

Interest received by a county from the investment of money in its road fund shall be deposited in the fund and shall be used for road purposes.

§1623. Expenditures in cities; Fixing basis of allotment

The board of supervisors of any county may expend any portion of the amounts thus received by that county in the construction, maintenance, improvement or repair of streets, bridges, and culverts within those cities in the county the governing bodies of which by ordinance or resolution authorize such work of acquisition of any real property or interest therein, or right-of-way, construction, maintenance, improvement or repair. For this purpose each board of supervisors shall provide by ordinance the basis

and conditions upon which allocations will be made from its road fund for expenditure upon streets, bridges, and culverts in cities within the county.

§1624. Expenditures outside county limits; Authorizing resolution or ordinance

The board of supervisors of any county may, as provided in Section 1625, expend any portion of the amounts paid to that county, and deposited in the road fund, for the acquisition of right-of-way and the construction of any public highway outside of its county limits, whenever such construction is authorized by ordinance or resolution of the board of supervisors of the county in which the highway is to be constructed or for the acquisition of rights-of-way for, or the construction, improvement or maintenance of, any State highway pursuant to a contract made as provided in Section 130.

§1625. Procedures for making expenditures outside county limits

Where such authorization is given, the board of supervisors of the county desiring the construction may:

- (a) Expend, through its own officers or agencies, the amounts authorized by section 1624.
- (b) By resolution transfer such amounts to the account of the commission or to the account of the Secretary of Agriculture of the United States, and may by such resolution specify and determine the location and type of construction of such highway. The amount thus transferred shall, if accepted by the Commission or the Secretary of Agriculture, be expended exclusively for the purpose specified and determined in the resolution.

§1680. County aid to cities; Purposes of aid; Resolution determining

The board of supervisors of any county may, by a resolution adopted by a four-fifths vote of its members, determine that any of the following activities are of general county interest and that county aid shall be extended therefor:

- (a) The laying out, opening, construction, improvement, maintenance, repair, or altering of all or any part of any street within a city or extending along or across the boundary of a city.
- (b) The establishing, modifying or changing the grade of any such street.
- (c) The separation of the grades of any two or more such streets which intersect.
- (d) The separation of the grade of any such street from the grade of any steam, electric or street railroad crossing such street.
- (e) The construction of the necessary pavements, curbs, culverts, bridges, tunnels, subways, viaducts, drainage facilities or structures incident to or a part of such street.
- (f) The acquisition of any real property or interest therein, rights of way or other property necessary for any of the purposes mentioned in this section.

§1805. Width of city streets, private highways and by-roads

The width of all city streets, except state highways, bridges, alleys, and trails, shall be at least 40 feet, except that the governing body of any city may, by a resolution passed by a four-fifths vote of its membership, determine that the public convenience and necessity demand the acquisition, construction and maintenance of a street of less than 40 feet and, after such determination, proceed with the acquisition, construction or maintenance of any such street. The width of all private highways and by-roads, except bridges, shall be at least 20 feet. This section does not require that the width of city streets established or use as such prior to September 15, 1935, be increased or diminished.

§1806. Acceptance of street or road by city

- (a) No city shall be held liable for failure to maintain any road until it has been accepted in the city street system in accordance with subdivision (b) or (c).
- (b) Except as provided by Section 989, or by Section 57329 or 57385 of the Government Code, no public or private street or road shall become a city street or road until the governing body, by resolution, has caused the street or road to be accepted into the city street system.
- (c) In lieu of the procedure set forth in subdivision (b), the governing body of a city may, by ordinance, designate a city officer to accept, on behalf of the governing body, streets and roads or portions thereof, into the city street system and to record conveyances to the city of real property interests for street and road uses and purposes. The designee shall, prior to recording any conveyance under this section, affix a certificate to the instrument stating the acceptance into the city street system and designating the name or number, or both, of the city street or road.

§2006. Road commissioner; Appointment; Qualifications; Public hearing on qualifications; Notice of hearing; Publication

- (a) The board of supervisors of each county shall appoint a single road commissioner for all road districts in the county. Every person who is appointed road commissioner after December 31, 1965, shall be a registered civil engineer. However, the City and County of San Francisco may appoint a person road commissioner who is not a registered civil engineer. Any person appointed road commissioner on or before December 31, 1965, need not be a registered civil engineer if he or she is approved by the board of supervisors as qualified and competent to handle the road and highway work of the county. Any person who is a road commissioner in any county on December 31, 1965, need not be a registered civil engineer to be appointed road commissioner of another county after December 31, 1965. After October 1, 1952, no person shall be appointed road commissioner until the board of supervisors holds a public hearing on the qualifications of the candidate or candidates for the position of road commissioner. At least 14 days but not more than 30 days prior to the hearing, notice of the hearing shall be posted at the county courthouse and published at least once in a newspaper of general circulation in the county. Nothing in this section precludes one person from serving two or more counties. An elective county official shall not be appointed road commissioner after October 1, 1952, unless the official is holding the position of road commissioner on that date. The road commissioner is, at all times, under the direction and supervision of the board of supervisors but may be dismissed, after a hearing, only upon a majority vote of the board. This subdivision does not apply in chartered counties whose charter requires the county surveyor to perform the duties of, or exercise the powers conferred by law on, the road commissioner.
- (b) Each county shall furnish evidence to the Controller that it has complied with this section.
- (c) Neither the Controller nor any other state officer shall make any allocations or payments to any county from the Highway Users Tax Account in the Transportation Tax Fund until the county has complied with the requirements of this section; except that, if a vacancy occurs in the office of road commissioner of a county, the allocations or payments to the county shall not be suspended pursuant to this section unless the county has not appointed a new road commissioner in accordance with this section within 180 days from the date the vacancy first occurred.
- (d) The 180-day time limit is contingent on the condition that there be a qualified acting road commissioner functioning during the interim period under direct appointment by the board of supervisors.

§2006.1. Abolition of office of road commissioner and transfer of duties

Notwithstanding Section 2006 or Section 2006.5, the board of supervisors of any county may abolish the office of road commissioner if the board transfers all duties of the road commissioner to the county director of transportation. The director of transportation shall not be required to have any special permit, registration, or license. Any civil engineering functions which are required to be performed by the road commissioner shall be performed by a registered civil engineer acting under the authority of the director of transportation.

§2006.5. Abolition of office of road commissioner in Orange County

Notwithstanding any other provision of law, the Board of Supervisors of Orange County may abolish the office of road commissioner if the board of supervisors transfers all duties of the road commissioner to an environmental management agency. The director of such environmental management agency shall not be required to have any special permit, registration, or license. Any civil engineering functions which are required to be performed by the road commissioner shall be performed by a registered civil engineer acting under the authority of the director of such agency.

The Legislature hereby finds and declares that this section, applicable only to Orange County, is necessary because of the unique and special problems of county road management in Orange County due to the extent of municipal incorporation found in the county.

§2007. Duty to prepare road budget; submission to supervisors; Hearings; Changes and revisions; Purposes for which funds expendable; Cancellation or transfer of appropriations

The road commissioner shall each year prepare a tentative road budget covering all proposed expenditures for the ensuing fiscal year for county road purposes. The road commissioner shall submit the budget to the board of supervisors in accordance with Chapter 1 (commencing with Section 29000) of Division 3 of Title 3 of the Government Code and in the form and manner prescribed by the Controller and at the same time as other county departments submit their recommended budgets.

The board of supervisors shall hold public hearings on the proposed road budget at the same time as the general county budget is considered and after like notice. In adopting the budget, the board may make such changes and revisions as it considers will subserve the public interest.

After adoption of the budget by the board of supervisors, the road commissioner shall not obligate or expend funds appropriated for county road purposes other than as set forth in the budget as adopted. However, the board of supervisors may, by appropriate action at any regular or special meeting, authorize the cancellation or transfer, in whole or in part, of any appropriation or appropriations set forth in the budget and reappropriate funds thus canceled for road purposes not set forth in the budget or to expenditure classifications insufficiently provided for where this action will best serve the interests of the people. Funds transferred pursuant to this section, or as authorized by the board of supervisors, shall immediately be made available for expenditure by the road commissioner for road purposes.

§2010. Inspection of roads by supervisors; Additional mileage; Use of privately owned automobile

In order that the provisions of this chapter may be effectively carried out, the members of the board of supervisors of their respective counties shall make reasonable inspection from time to time of the roads within their counties maintained from funds supplied by this chapter. The additional mileage entailed by this section, not to exceed six hundred dollars (\$600) in any one year, shall be a proper charge against and shall be paid from the one thousand six hundred sixty-seven dollars (\$1,667) monthly apportionment to the county under subdivision (a) of Section 2104.

Such mileage shall be deemed to be in addition to any other mileage allowed by law or county charter, and each supervisor who uses a privately owned automobile in the discharge of duties imposed upon him in connection with the county road system shall receive for the performance of such duties in addition to the compensation and any other allowances paid him as supervisor, but not in duplication of any other mileage allowed by law or county charter, twenty-five dollars (\$25) per month for the first 250 miles traveled, without filing a report of the specific inspection tours requiring such mileage. For mileage traveled in excess of 250 miles, each supervisor shall be paid ten cents (\$.10) for each mile traveled up to 250 miles, or twenty-five dollars (\$25) for a total not to exceed 500 miles or fifty dollars (\$50). The supervisor claiming such additional mileage shall file a report of the inspection tour or tours requiring such travel.

§2101. Moneys in Highway Users Tax Account appropriated; Purposes

All moneys in the Highway Users Tax Account in the Transportation Tax Fund and hereafter received in the account are appropriated for all of the following:

- (a) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, and the administrative costs necessarily incurred in the foregoing purposes.
- (b) The research and planning for exclusive public mass transit guideways (and their related fixed facilities), the payment for property taken or damaged for such purposes, and the administrative costs necessarily incurred in the foregoing purposes.
- (c) The construction and improvement of exclusive public mass transit guideways (and their related fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, the administrative costs necessarily incurred in the foregoing purposes, and the maintenance of the structures and the immediate right-of-way for the public mass transit guideways, but excluding the maintenance and operating costs for mass transit power systems and mass transit passenger facilities, vehicles, equipment, and services, in any area where the voters thereof have approved a proposition pursuant to Section 4 of Article XIX of the California Constitution.
- (d) The payment of principal and interest on voter-approved bonds issued for the purposes specified in subdivision (c).

§2103. Apportionment of money in fund

At least 90 percent of the balance deposited to the credit of the Highway Users Tax Account in the Transportation Tax Fund by the 28th day of each month shall be apportioned by the State Controller by the second working day thereafter, except for June, in which case the apportionment shall be made the same day. These apportionments shall be made as provided for in Sections 2103 to 2122, inclusive. If information is not available to make the apportionment as required, the apportionment shall be made on the basis of the information of the previous month. Amounts not apportioned shall be included in the apportionment of the subsequent month.

§2104. Apportionment among counties of money derived under Motor Vehicle Fuel License Tax Law

A sum equal to the net revenue derived from a per gallon tax of 2.035 cents (\$0.02035) under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2), 1.80 cents (\$0.0180) under the Use Fuel Tax Law (Part 3 (commencing with Section 8601) of Division 2), and 1.80 cents (\$0.0180) under the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001) of Division 2) of the Revenue and Taxation Code, shall be apportioned among the counties, as follows:

- (a) Each county shall be paid one thousand six hundred sixty-seven dollars (\$1,667) during each calendar month, which amount shall be expended exclusively for engineering costs and administrative expenses with respect to county roads.
- (b) A sum equal to the total of all reimbursable snow removal or snow grooming, or both, costs filed pursuant to subdivision (d) of Section 2152, or seven million dollars (\$7,000,000), whichever is less, shall be apportioned in 12 approximately equal monthly apportionments for snow removal or snow grooming, or both, on county roads, as provided in Section 2110.
- (c) A sum equal to five hundred thousand dollars (\$5,000,000) shall be apportioned in 12 approximately equal monthly apportionments, as provided in Section 2110.5.
- (d) Seventy-five percent of the funds payable under this section shall be apportioned among the counties monthly in the respective proportions that the number of fee-paid and exempt vehicles which are registered in each county bears to the total number of fee-paid and exempt vehicles registered in the state.

For purposes of apportionment under this subdivision, the Department of Motor Vehicles shall, as soon as possible after the last day of each calendar month, furnish to the Controller a verified statement showing the number of fee-paid and exempt vehicles which are registered in each county and in the state as of the last day of each calendar month as reflected by the records of the Department of Motor Vehicles.

(e) Of the remaining money payable, there shall be paid to each eligible county a amount that is computed monthly as follows: The number of miles of maintained county roads in each county shall be multiplied by sixty dollars (\$60); from the resultant amount, there shall be deducted the amount received by each county under subdivision (d) and the remainder, if any, shall be paid to each county.

(f) The remaining money payable, after the foregoing apportionments, shall be apportioned among the counties in the same proportion as the money referred to in subdivision (d).

§2105. Additional apportionment to counties and cities

In addition to the apportionments prescribed by Sections 2104, 2106, and 2107, from the revenues derived from a per gallon tax imposed pursuant to Section 7351 of the Revenue and Taxation Code, and per gallon tax imposed pursuant to Section 8651 of the Revenue and Taxation Code, and a per gallon tax imposed pursuant to Sections 60050 and 60115 of the Revenue and Taxation Code, the following apportionments shall be made:

(a) A sum equal to the net revenue from a tax of 11.5 percent of any per gallon tax in excess of nine cents (\$0.09) per gallon under Section 7351 of the Revenue and Taxation Code, . . . 11.5 percent of any per gallon tax in excess of nine cents (\$0.09) per gallon under Section 8651 of the Revenue and Taxation Code, and 11.5 percent of any per gallon tax in excess of nine cents (\$0.09) per gallon under Sections 60050 and 60115 of the Revenue and Taxation Code, shall be apportioned among the counties, including a city and county. The amount of apportionment to each county, including a city and county, during a fiscal year shall be calculated as follows:

(1) One million dollars (\$1,000,000) for apportionment to all counties, including a city and county, in proportion to each county's receipts during the prior fiscal year under Sections 2104 and 2106.

(2) One million dollars (\$1,000,000) for apportionment to all counties, including a city and county, as follows:

(A) Seventy-five percent in the proportion that the number of fee-paid and exempt vehicles which are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(B) Twenty-five percent in the proportion that the number of miles of maintained county roads in the county bears to the miles of maintained county roads in the state.

(3) For each county, determine its factor which is the higher amount calculated pursuant to paragraph (1) or (2) divided by the sum of the higher amounts for all of the counties.

(4) The amount to be apportioned to each county is equal to its factor multiplied the amount available for apportionment.

(b) A sum equal to the net revenue from a tax of 11.5 percent of any per gallon tax in excess of nine cents (\$0.09) per gallon under Section 7351 of the Revenue and Taxation Code, 11.5 percent of any per gallon tax in excess of nine cents (\$0.09) per gallon under Section 8651 of the Revenue and Taxation Code, and 11.5 percent of any per gallon tax in excess of nine cents (\$0.09) per gallon under Sections 60050 and 60115 of the Revenue and Taxation Code, shall be apportioned to cities, including a city and county, in the proportion that the total population of the city bears to the total population of all the cities in the state.

§2106. Apportionment of motor vehicle fuel license tax proceeds to counties and cities

A sum equal to the net revenue derived from one and four one-hundredths cent (\$0.0104) per gallon tax under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code) shall be apportioned monthly from the Highway Users Tax Account in the Transportation Tax Fund among the counties and cities as follows:

(a) Four hundred dollars (\$400) per month shall be apportioned to each city and city and county and eight hundred dollars (\$800) per month shall be apportioned to each county and city and county

(b)(1) Commencing on July 31, 2001, and on the last day of each month after that date, to and including June 30, 2006, the sum of six hundred thousand dollars (\$600,000) per month shall be transferred to the Bicycle Transportation Account in the State Transportation Fund.

(2) After June 30, 2006, the sum of four hundred sixteen thousand six hundred sixty-seven dollars (\$416,667) shall be transferred on the last day of each month after that date to the Bicycle Transportation Account in the State Transportation Fund.

(c) The balance shall be apportioned, as follows:

(1) A base sum shall be computed for each county by using the same proportions of fee-paid and exempt vehicles as are established for purposes of apportionment of funds under subdivision (d) of Section 2104.

(2) For each county, the percentage of the total assessed valuation of tangible property subject to local tax levies within the county which is represented by the assessed valuation of tangible property outside the incorporated cities of the county shall be applied to its base sum, and the resulting amount shall be apportioned to the county. The assessed valuation of taxable tangible property, for purposes of this computation, shall be that most recently used for countywide tax levies as reported to the Controller by the State Board of Equalization. If an incorporation or annexation is legally completed following the base sum computation, the new city's assessed valuation shall be deducted from the county's assessed valuation, the estimate of which may be provided by the State Board of Equalization.

(3) The difference between the base sum for each county and the amount apportioned to the county shall be apportioned to the cities of that county in the proportion that the population of each city bears to the total population of all the cities in the county. Populations used for determining apportionment of money under Section 2107 are to be used for purposes of this section.

§2106.5. Agreement of county and included incorporated cities on allocation of funds; Disposition of apportionments

(a) Each county and any of its incorporated cities may enter into an agreement regarding the base sum established by paragraph (1) of subdivision (c) of Section 2106, providing for expenditure of the amounts apportioned to the county and apportioned for expenditure within the cities participating in the agreement upon roads and streets within the county and the cities participating in the agreement.

(b) Any of the incorporated cities within a county may enter into an agreement among themselves regarding the amount apportioned to them pursuant to paragraph (3) of subdivision (c) of Section 2106 for expenditure upon city streets within the cities participating in the agreement.

(c) Any such agreement shall be filed with the State Controller. After verification of the agreement by the State Controller, the State Controller shall make disposition of the apportionments to the parties participating in the agreement in accordance with terms of the agreement.

§2107. Apportionment to cities, and cities and counties on basis of population

A sum equal to the net revenues derived from a per gallon tax of 1.315 cents (\$0.01315) under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2) 2.59 cents (\$0.0259) under the Use Fuel Tax Law (Part 3 (commencing with Section 8601) of Division 2), and 1.80 cents (\$0.0180) under the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001) of Division 2) of the Revenue and Taxation Code, shall be apportioned monthly to the cities and cities and counties of this state from the Highway Users Tax Account in the Transportation Tax Fund as provided in this section.

From that sum, the Controller shall allocate annually to each city that has filed a report containing the information prescribed by subdivision (c) of Section 2152, and that had expenditures in excess of five thousand dollars (\$5,000) during the preceding fiscal year for snow removal, an amount equal to one-half of the amount of its expenditures for snow removal in excess of five thousand dollars (\$5,000) during that fiscal year.

The balance of that sum from the Highway Users Tax Account shall be allocated to each city, including city and county, in the proportion that the total population of the city bears to the total population of all the cities in this state.

For the purpose of this section, except as otherwise provided in this paragraph, the population in each city is the population determined for that city in the manner specified in Sections 11005 and 11005.3 of the Revenue and Taxation Code. Commencing with the ninth fiscal year of a city described in subdivision (a) of Section 1105.3 of the Revenue and Taxation Code, and the sixth fiscal year of a city described in subdivision (b) of the that same section, the population in each city is the population determined for that city in the manner specified in Section 11005 of the Revenue and Taxation Code.

§2107.3. Apportionment of funds; Incorporation, annexation or exclusion of territory, increase in population or disincorporation

The incorporation of a new city, or any annexation or exclusion of territory to or from an existing city, shall be considered for the purpose of apportionment of funds pursuant to Section 2107. The revenue shall be apportioned among the cities monthly as revenues are received in the Highway Users Tax Fund. Any newly incorporated city or any increase in population due to annexation shall be included in the monthly apportionment following such incorporation or annexation.

In the event of the disincorporation of a city, or in the event the incorporation of a city is adjudged invalid, any funds apportioned pursuant to Section 2107 to such city, but which are unexpended, shall revert to the Highway Users Tax Fund and shall be reapportioned to all other cities and counties pursuant to Section 2107.

The Controller shall not be required to reapportion funds previously apportioned for expenditure in the different cities of the state by reason of any subsequent incorporation, invalidation of incorporation, annexation or exclusion of territory.

§2107.4. Use of funds for debt payment

Not more than one-quarter of the funds allocated to a city or county from the Highway Users Tax Account in the Transportation Tax Fund for the construction of streets therein may be used to make principal and interest payments on bonds issued for such construction, if the issuance of such bonds is authorized by a proposition approved by a majority of the votes cast thereon. The term of any such bonds shall not exceed 25 years.

§2107.5. Allocations; Engineering costs and administrative expenses in respect to city streets

In addition to the amounts apportioned to cities from the Highway Users Tax Fund under Sections, 2106 and 2107, the following amounts shall be allocated annually during the month of July of each fiscal year for expenditure exclusively for engineering costs and administrative expenses in respect to city streets:

- (a) For each city with a population of over 500,000 inhabitants..... \$20,000
- (b) For each city with a population of 100,000 to 500,000 inhabitants..... 10,000
- (c) For each city with a population of 50,000 to 99,999 inhabitants..... 7,500
- (d) For each city with a population of 25,000 to 49,999 inhabitants..... 6,000
- (e) For each city with a population of 20,000 to 24,999 inhabitants..... 5,000
- (f) For each city with a population of 15,000 to 19,999 inhabitants..... 4,000
- (g) For each city with a population of 10,000 to 14,999 inhabitants..... 3,000
- (h) For each city with a population of 5,000 to 9,999 inhabitants..... 2,000
- (i) For each city with a population of less than 5,000 inhabitants..... 1,000

For the purpose of this section the population in each city shall be determined in accordance with Sections 2107, 2107.1 and 2107.2 at the time of allocation. Any city incorporated after the first day of July of any year shall receive the full annual allocation prescribed in this section, such allocation to be made during the month succeeding the filing or certification of the incorporation by the Secretary of State.

Any city under subdivision (h) or (i) above may expend the moneys allocated to it hereunder for acquisition of rights-of-way for and construction of its street system.

§2110. Apportionment of moneys payable to counties under Section 2104(b)

(a) The moneys payable to the counties under subdivision (b) of Section 2104 shall be apportioned monthly among the several counties as follows:

(1) A sum equal to the total of all reimbursable snow removal costs filed pursuant to subdivision (d) of Section 2152, or five million five hundred thousand dollars (\$5,500,000), whichever is less, shall be apportioned in 12 approximately equal monthly apportionments for snow removal or snow grooming, or both, on county roads as follows:

(2) If the total is less than five million five hundred thousand dollars (\$5,500,000), the full amount of reimbursable snow removal or snow grooming, or both, costs shall be apportioned to the several counties in an amount equal to that computed pursuant to the report filed by each county pursuant to subdivision (d) of Section 2152.

(3) If the total is five million five hundred thousand dollars (\$5,500,000) or more for the fiscal year, the Controller shall compute percentages for the apportionment of five million five hundred thousand dollars (\$5,500,000) to the several counties in the state for snow removal or snow grooming, or both, on county roads, including the purchase of snow removal equipment therefor, and shall apportion the amount to the counties in the computed percentages. The percentage each county is to be apportioned during the fiscal year shall be derived by adding its reimbursable snow removal or snow grooming, or both, expenditures for the three preceding fiscal years as to which the Controller has received snow removal or snow grooming, or both, expenditure reports pursuant to Section 2152, and dividing the sum by the total amount of reimbursable snow removal or snow grooming, or both, expenditures by all counties in the state during those fiscal years.

(b) On or before the first day of March of each year, the Controller shall notify each county of the amount apportioned to it pursuant to this section for expenditure for snow removal or snow grooming, or both, on county roads during the following fiscal year.

§2110.5. Apportionment of money payable to counties under Section 2104(c)

The money payable to the counties under subdivision (c) of Section 2104 shall be apportioned monthly for heavy rainfall and storm damage on county roads to the following counties in the named percentages:

Alameda	2.629	Plumas .....	.897
Amador.....	.135	Riverside.....	1.185
Butte .....	.161	San Benito	1.070
Colusa.....	.339	San Bernardino	2.609
Contra Costa.....	10.575	San Francisco.....	1.016
Del Norte .....	.251	San Diego	2.760
Fresno .....	.639	San Luis Obispo	5.782
Humboldt.....	4.935	Santa Barbara.....	7.661
Los Angeles.....	9.913	Santa Cruz	12.162
Marin	3.781	Sierra .....	.333
Mendocino.....	2.084	Siskiyou .....	.814
Monterey	3.701	Sonoma.....	10.238
Napa	1.950	Trinity.....	2.137
Nevada.....	.718	Ventura	8.543
Orange.....	.051	Yuba .....	.846
Placer.....	.085		

§2113. Apportionment; Expenditure; State employees not liable

No apportionment of money from the Highway Users Tax Fund as provided in Section 2106 or 2107 shall be made to a city unless the city has set up by ordinance a “special gas tax street improvement fund.”

All apportionments of such moneys shall be deposited in the “special gas tax street improvement fund.”

In making any expenditure a city shall follow the law governing it in regard to the doing of the particular type of work in cases which are not exclusively municipal affairs.

No state officer or employee shall be liable for anything done, or omitted to be done, by any city in the performance of any work.

Interest received by a city from the investment of money in its special gas tax street improvement fund shall be deposited in the fund and shall be used for street purposes.

§2118. Deposit requirement for money received from Tax Fund

When the State Controller determines it to be necessary, he/she may require a county or city to deposit money received from the Highway Users Tax Fund in a separate bank account.

§2119. Prerequisites to drawing or issuance of warrants in favor of county or city

The State Controller shall not draw his/her warrant upon the Highway Users Tax Fund in favor of any county or city which has failed to establish any road or street fund as required by law, which has failed to deposit money received from the Highway Users Tax Fund in a separate bank account when required under Section 2118, which has failed, neglected or refused to file any report required by law, showing the amount of money received by such county or city from the Highway Users Tax Fund and the disposition thereof, or which has failed, neglected, or refused to restore any such moneys not expended in conformance with any law or constitutional provision. On satisfactory proof by such county or city to the State Controller of the establishment of such road or street fund, the deposition of money in a separate bank account, the filing of such report, or the restoration of the improperly expended moneys, such warrant shall be issued.

A county or city shall have reasonable time, after notification from the State Controller, to comply with the provisions of this section.

§2121. Additions or exclusions from mileage of added or excluded routes; Affect of appeal on apportionment; Relinquishment of highway to county

(a) In May of each year each county shall submit to the department any additions or exclusions from its mileage of maintained county highways, specifying the termini and mileage of each route added or excluded from its county maintained roads. The department shall either approve or disapprove each such inclusion or exclusion and in the event of a disapproval the county shall have the right to appeal as provided in Section 74. The department shall as required by the Controller certify to him or her county mileage figures. No appeal shall affect any apportionment made by the Controller pending the determination of appeal. If, on appeal, additional mileage is allowed the county, the department shall immediately certify the corrected figure to the Controller, and the same shall be used for subsequent apportionments.

(b) On relinquishing any state highway or portion thereof to a county, the department shall immediately certify to the Controller the mileage so relinquished and the same shall immediately be added to the county’s maintained mileage of county roads for purposes of subsequent apportionments.

§2150. Payments into county special road improvement fund; Expenditures from Tax Fund; Purposes; Disposition of amounts paid in county road funds

All amounts paid to each county, out of the Highway Users Tax Fund shall be deposited in its road fund. The board may deposit in said fund any other money available for roads. All money received by a county from the Highway Users Tax Fund and all money deposited by a county in its road fund shall be

expended by the county exclusively for county roads for the purposes specified in Section 2101 or for other public street and highway purposes as provided by law.

The amounts paid to a county for snow removal on county roads and for heavy rainfall and storm damage on county roads, pursuant to Section 2110, shall be kept in separate accounts in its road fund and shall be used solely for the purpose for which apportioned.

§2151. Annual report of expenditures; Person responsible for making and signing report; Certification

On or before the first day of October of each year, the governing body of each county and city shall cause to be made and filed with the Controller a complete report of the expenditures for street or road purposes during the preceding fiscal year ending on the 30th day of June. However, the City of El Segundo, the City of Huntington Beach, the City of Inglewood, the City of Long Beach, or the City of South Lake Tahoe may send, on a one-time basis, a written notice to the Controller that it has selected a fiscal year ending on a date other than June 30, and, in that case, the fiscal year selected by the city shall be its fiscal year for reports under this section. (Appendix B, S&H Code §2151)

The Controller shall prescribe the form and contents of the report. The report shall show the amount expended for construction by contract, maintenance by contract, construction by day labor, and maintenance by day labor. For construction and maintenance by day labor, the amount shall include the cost of material, labor, equipment, and overhead for work performed thereunder.

The board of supervisors of each county shall by appropriate action, at any regular or special meeting, designate either the county road commissioner or the county auditor as the person responsible for making and signing the report required by this section. When the road commissioner is designated to make and sign the report, the county auditor shall certify the report before it is filed with the Controller. When the county auditor is designated to make and sign the report, the road commissioner shall certify the report before it is filed with the Controller. Reports made by each city shall be certified by the city's fiscal officer.

§2152. Contents of report

The report shall contain the following:

(a) A detailed statement of all money available from all sources during the fiscal year covered by the report, including money made available by the United States, the state, the county or city, any other governmental agency, and money available from bond issues, special assessments, or from any other source whatever for expenditure for street or road purposes

(b) A detailed statement of all expenditures during the fiscal year covered by the report for street or road purposes, including obligations incurred but not yet paid. The statement shall be broken down into expenditure categories, including, but not limited to, expenditures for right-of-way or other property, new construction, reconstruction, widening, resurfacing, maintenance, repair, and acquisition and maintenance of equipment.

The State Controller, with the advice of the department, may prescribe any other expenditure categories and may require any detail that may be deemed necessary by him or her fully to disclose the nature and extent of all financial transactions by the county or city relating to streets or roads.

(c) A detailed statement of all expenditures during the fiscal year covered by the report for snow removal or snow grooming, or both, including expenditures of money apportioned pursuant to Section 2107 or 2110. The statement shall include equipment costs in connection with snow removal or snow grooming, or both, on an hourly rental basis or on any other annual basis that the State Controller may require.

(d) In addition, the county shall compute its reimbursable snow removal costs. The reimbursable snow removal or snow grooming, or both, costs shall be in an amount equal to 80 percent of the expenditures described in subdivision (c) that are in excess of five thousand dollars (\$5,000).

(e) For purposes of this section, “snow grooming” is a method whereby snow is packed down into a hard surface in order to facilitate transportation by snowmobiles or other vehicles modified or accustomed to traveling on packed snow or ice, or both.

§2153. State Controller to insure adequacy and accuracy of reports

The State Controller shall take such steps as he/she may deem necessary to insure that such reports are adequate and accurate.

§2154. Tabulation and compilation of reports; Distribution

The * * * Controller shall annually tabulate and compile all such reports received by him or her and shall distribute copies of * * * that tabulation and compilation to the Governor, the Lieutenant Governor, the Members of the Legislature, the department, the * * * State Auditor, the Joint Legislative Audit Committee, the cities, and the counties and to any legislative committee charged with the investigation of streets, roads highways, or bridges in this state.

§2155. State money not be allocated to city or county delinquent in filing report

No state money shall be allocated to or made available for expenditure by any county or city at any time when such county or city is delinquent in filing the report provided for in Section 2151.

APPENDIX C

The following code sections provide guidance on some questions that may arise related to the cities' or counties' street or road programs. These code sections are not intended to be all-inclusive, but do cover a comprehensive area of activities. Each city or county should refer to the Legislative Counsel for up-to-date legislative information on California law.

Selected Government Code Sections

§12410. Fiscal matters; claims and disbursements; Audits

The Controller shall superintend the fiscal concerns of the state. The Controller shall audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality, and for sufficient provisions of law for payment. Whenever, in his opinion, the audit provided for by Chapter 4 (commencing with Section 925), Part 3, Division 3.6 of Title 1 of this code is not adequate, the Controller may make such field or other audit of any claim or disbursement of state money as may be appropriate to such determination.

§30200. Prescription and adoption of uniform accounting procedures for counties under this division; Authority of State Controller

Under this division, the Controller shall prescribe for counties uniform accounting procedures conforming to generally accepted accounting principles. The procedures shall be adopted under the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 and shall be published in the California Administrative Code either in their entirety or by reference. The Controller shall prescribe such procedures after consultation with and approval by the Committee on County Accounting Procedures. Approval of such procedures shall be by a majority vote of the members of the committee. The vote may be conducted by mail at the discretion of the chairperson of the committee, provided however, that should one or more members of the committee request a meeting for the purpose of voting the chairperson shall call a meeting of the committee as provided in Section 30201.

§30201. Committee on County Accounting Procedures; Members; Appointment; Compensation and expenses; Designation of chairman; Notice of meeting

The Committee on County Accounting Procedures shall consist of 10 members appointed by the State Controller, to serve at the pleasure of the Controller. Five of the members shall be county auditors, three shall be county administrative officers, and two shall be members of a county board of supervisors. The members of the committee shall serve without compensation but shall be reimbursed for their necessary traveling and other expenses incurred in attending meetings of the committee. Such expenses shall be paid by the county of which the member is an officer. The State Controller shall designate a member of the committee to serve as chairman. The committee shall meet at the call of the chairman and each member shall be given written notice of any meeting at least 10 days prior to the date of the meeting.