

ACCC URGENT LEGISLATIVE ALERT

Buying' the votes for a gas-tax hike: Is it illegal or just good politics?

Gov. Jerry Brown discusses the "arrangements" he made with California lawmakers to secure passage of a bill that raises the gas tax for road repairs on April 6, 2017

By Jim Miller, Christopher Cadelago and Taryn Luna

California drivers will begin paying 12 cents per gallon more in gas taxes later this year, the first of several tax and fee hikes contained in this week's road-funding bill that eventually will cost the average motorist about \$120 a year. It wasn't the sort of vote any politician likes to cast. So the measure's success on Thursday relied on a collection of eleventh-hour sweeteners offered by Gov. Jerry Brown and Democratic legislative leaders to reach the necessary two-thirds super-majority.

Now that the dust has settled, it's clear they doled out nearly \$1 billion in district-specific transportation projects, with a popular commuter train system linking the valley and Bay Area headed to new locales. It also appears architects could get legal indemnity in construction lawsuits, and four Riverside County cities could see a budget boost.

54-26 Assembly vote to approve Senate Bill 1. 27-11 State Senate vote to approve Senate Bill 1

Assembly Republican Leader Chad Mayes, R-Yucca Valley, said some supporters of the measure, Senate Bill 1, had been "bought off." "When was the last time any member of the Legislature got \$10 million, let alone \$427 million for one group of legislators, and \$500 million for another group of legislators?" asked Mayes after the Assembly sent the measure to Brown. "If the goal that we have in the Legislature is to represent all of California, then our goal shouldn't be, 'Hey, I'm gonna get my pet project for my district at the expense of someone else.'"

California's Constitution says this: "A person who seeks to influence the vote or action of a member of the Legislature in the member's legislative capacity by bribery, promise of reward, intimidation, or other dishonest means, or a member of the Legislature so influenced, is guilty of a felony."

The section rarely results in prosecutions at the Capitol. Prosecutors aren't likely to get involved unless a lawmaker benefits personally from voting for a bill, such as by receiving cash bribes or campaign contributions, experts in political law say.

"They're looking for the big score – a bribery case," said attorney Richard Pio Roda, who helps train local elected officials on ethics laws. "It's a matter of resources for them." Still, the line between illegal vote-trading and the legal give-and-take of the legislative process can be a fine one. Jessica Levinson, a Loyola Law School professor and president of the Los Angeles City Ethics Commission, said "vote-trading never happens, but vote-trading always happens."

"Politicians have to be able to compromise and to come to consensus. And I'm certain that part of that is, 'You help me and I'll help you,'" she said. "But you'll rarely have that e-mail where someone says 'I'll vote for this if you vote for that.'"

Jerry Brown defends local projects in road repair deal. Gov. Jerry Brown says the deals he cut to get the gas tax increase passed to repair California roads were "all good." Brown, who says he will sign the measure when lawmakers return from their spring recess, was unapologetic. Asked about the deal-cutting following the vote, Brown told reporters that all of the money was being spent on worthwhile projects.

"That train going through the Central Valley, does anyone want trains more than me? No!" said Brown, who is behind the multibillion dollar high-speed rail system now under construction. "To get projects, and parks in some of the poorest neighborhoods of California, hallelujah!"

"Sometimes these bills that take all these different arrangements and compromises help the very people that we came here to serve," Brown added. "And I am here to help all Californians ... What you see in this bill is good. It's all good."

Carl Guardino, president and CEO of the Silicon Valley Leadership Group, who heavily lobbied lawmakers to back SB 1, said the assurances reflected good policy, specifically mentioning the money to pay for the extension of the Altamont Corridor Express train to Ceres and Merced. The cities are in the district of state Sen. Anthony Cannella of Modesto, the

only Republican to support SB 1. “We’re talking about the extension of a train that runs at more than 100 percent of capacity, as an alternative to the pock-marked parking lot known as Interstate 580,” Guardino said.

Money for district projects and other incentives have been a longtime part of high-stakes legislative deal-making, when every vote counts and lawmakers’ often seek recognition of district or other needs. The results have been community centers, tax breaks, friendly political remaps and even changes to the state constitution. This week’s provisions stand out for the openness with which they occurred. Lawmakers spelled out the district-specific money in a separate bill, and recipients touted their gains in press releases.

“Cervantes Secures \$427 Million for Western Riverside County Roads and Infrastructure,” read the headline on a press release Assemblywoman Sabrina Cervantes sent out Friday. The money will go to several major interchange and grade separation projects in western Riverside County, a political swing area represented by Cervantes and Democratic state Sen. Richard Roth.

“I got the things that were important to me stated State Sen. Anthony Cannella, the only Republican to support the gas-tax increase For more than two years, Cannella has been the only Republican lawmaker open about his willingness to support higher gas taxes – as well as his requests for what he wanted for his district. His support became crucial in recent days when it became clear that Democratic Sen. Steve Glazer would refuse to back the road bill unless it included a ban on transit strikes.

Around the Capitol this week, some insiders privately joked that the Altamont train, known as ACE, should be renamed the “Anthony Cannella Express.” An unabashed Cannella said he’s termed out and doesn’t intend to run for other offices. He met late Wednesday at the governor’s mansion with Brown, Senate President Pro Tem Kevin de León and Assembly Speaker Anthony Rendon, D-Paramount.

“At the end of the day, they delivered,” Cannella said. “I can’t negotiate if I’m not willing to vote for it. I got the things that were important to me.” Four cities will also benefit. Until several years ago, the state’s newest cities, all in Riverside County, received an extra boost of revenue to help them get started. In 2011, though, lawmakers approved a budget package that sharply reduced that funding. Since then, Brown has vetoed several measures to restore it, saying it would result in long-term costs “the state’s budget cannot afford.”

Brown now has agreed to fix the situation, Roth and Cervantes said in a joint statement late Thursday after SB 1’s approval. “We are proud to have worked to secure a commitment from the Administration to properly fund Eastvale, Jurupa Valley, Menifee and Wildomar and finally deliver a measure of fairness and equity to Riverside County’s four newest cities,” they wrote.

Cannella also is in line to get Brown’s signature on Senate Bill 496, a bill that emerged early Thursday after undergoing wholesale changes and is tied to the transportation package. The measure would give legal indemnity to design professionals, such as architects, land surveyors and engineers. Cannella is a civil engineer. Opponents of that bill, including cities, counties, builders and others, have quickly mobilized to try to stop SB 496, calling it a “special-interest giveaway” to design professionals in a floor alert this week.

Assemblyman Devon Mathis, R-Visalia, said the deal-cutting “gets at the trust issue” with voters. “They are going to go cut deals in the dark so they can tax us more, and then go home and say ‘look what I did for you.’ You’re just cutting your neighbor’s throat,” he said. Rumors of other SB 1 vote-getting arrangements lingered in the Capitol this week.

Brown has yet to fill a vacancy on the Riverside County Board of Supervisors created by the Dec. 26 death of former lawmaker John J. Benoit from cancer. Among the rumored finalists for the appointment is former Assemblyman V. Manuel Perez, D-Coachella. As a lawmaker, Perez’ district director was Greg Cervantes, the father of Sabrina Cervantes. De León, Rendon and several other lawmakers, including Cervantes and Roth, have urged Brown to appoint Perez. She declined to talk after Thursday’s vote. Brown’s office said Friday that the governor is still reviewing candidates.

The ACCC worked hard to defeat this bill, but it is near impossible to defeat when the cards are stacked against you and the Governor offers billion dollar bribes to get the bill passed.

“It’s been said that politics is the second oldest profession. I have learned that it bears a striking resemblance to the first.”
Ronald Reagan