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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

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**Bill No:** AB 1410                      **Hearing Date:** July 11, 2017  
**Author:** Wood  
**Version:** June 29, 2017  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** MK

**Subject:** *Motor Vehicle Violation Penalty Assessments*

### HISTORY

**Source:** Association of Air Medical Services

**Prior Legislation:** AB 583 (Wood) 2017 held in Assembly Appropriations  
AB 326 (Beall) Chapter 797, Stats. 2015  
AB 2173 (Beall) Chapter 547, Stats. 2010  
SB 82 (Budget) Chapter 176, Stats. 2007  
AB 3000 (Budget) Chapter 1124, Stats. 2002

**Support:** Memorial Hospitals Association; Upland Fire Department

**Opposition:** None known

**Assembly Floor Vote:** Not applicable

ANALYSIS REFLECTS AUTHOR'S AMENDMENTS TO BE OFFERED IN COMMITTEE

### PURPOSE

*The purpose of this bill is to require the controller to transfer 25% of the state surcharge penalty assessment to the Emergency Medical Air Transportation Act Fund to replace the money that was collected by the \$4 charge on every Vehicle Code violation through the Emergency Medical Air Transportation penalty assessment which will sunset on January 1, 2018.*

*Existing law* provides for an additional "state penalty" of \$10 for every \$10 or fraction thereof, upon every fine, penalty or forfeiture imposed and collected by the courts for criminal offenses including all offenses, except parking offenses, involving the Vehicle Code. Of the money collected, 70 percent is transmitted to the state and 30 percent remains with the county. The state portion of the money collected from the penalty is distributed in specified percentages among: the Fish and Game Preservation Fund (0.33 percent); the Restitution Fund (32.02 percent); the Peace Officers Training Fund (23.99 percent); the Driver Training Penalty Assessment Fund (25.70 percent); the Corrections Training Fund (7.88 percent); the Local Public Prosecutors and Public Defenders Fund (0.78 percent, not to exceed \$850,000 per year); the Victim-Witness Assistance Fund (8.64 percent); and the

Traumatic Brain Injury Fund (0.66 percent). (Penal Code § 1464.)

*Existing law* provides for an additional county penalty assessment of \$7 for every \$10 or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code except parking offenses. The money collected shall be placed in any of the following funds if established by a County Board of Supervisors: Courthouse Construction Fund; a Criminal Justice Facilities Construction Fund; Automated Fingerprint Identification Fund; Emergency Medical Services Fund; DNA Identification Fund. (Government Code § 76000 *et seq.*)

*Existing law* established the "State Court Facilities Construction Fund" and added a state court construction penalty assessment in an amount up to \$5 for every \$10 or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses. The variation in the amount is dependant on the amount collected by the county for deposit into the local Courthouse Construction Fund established pursuant to Government Code Section 76100. As a result, the penalty assessment ranges from \$0.00 for every \$10 in two counties to the full \$5 for every \$10 in nine counties. This provision took effect on January 1, 2003. (Government Code § 70372.)

*Existing law*, established by Prop 69, Nov. 2004, levies a \$1 penalty assessment on every \$10 in fines and forfeitures resulting from criminal and traffic offenses and dedicates these revenues to state and local governments for DNA databank implementation purposes - the state will receive 70% of these funds in the first two years, 50% in the third year and 25% annually thereafter. The remainder will go to local governments. (Government Code § 76104.6)

*Existing law* provides that in addition to the amount in Government Code Section 76104.6, there shall be an additional state-only penalty of \$4 for every \$10 on every fine penalty or forfeiture imposed by the courts for all criminal offenses, including all offences involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. (Government Code 76104.7)

*Existing law* creates an additional penalty assessment of \$2 on every \$10 to support emergency medical services. (Government Code § 76000.5)

*Existing law* provides for a flat fee of \$40 on every conviction for a criminal offense to ensure adequate funding for court security. (Penal Code § 1465.8.)

*Existing law* imposes a \$35 court facilities assessment on every conviction for a criminal offense including a traffic offense, excluding parking offenses, and on any local ordinance adopted pursuant to the Vehicle Code. (Government Code § 70373)

*Existing law* provides that if a court conducts night or weekend sessions then it may impose \$1 to every fine, forfeiture and traffic violator school fee imposed. (Vehicle Code § 42006)

*Existing law* provides that a court that uses a traffic assistance program may charge a traffic violator fee for any traffic infraction. (Vehicle Code § 11205.2)

*Existing law* provides that if a person is convicted of a misdemeanor they shall pay \$150 in restitution in addition to any fines, forfeitures etc. (Penal Code §1202.4)

*Existing law* provides that if a person is convicted of any violation of the Fish and Game Code they shall pay an additional penalty of \$15 that shall be deposited in the Fish and Game Preservation Fund. (Fish and Game Code § 12021)

*Existing law* provides for an additional \$4 on every Vehicle Code violation or local ordinance for the Emergency Medical Air Transportation Act Fund. This provision sunsets January 1, 2018. (Government Code § 76000.10)

*Existing law*, as a part of the 2002-03 Budget Act, the Legislature imposed what was to be a temporary state surcharge of 20 percent on every base fine collected by the court. All money collected shall be deposited in the General Fund. This section was made permanent in the 2007 Budget. (Penal Code § 1465.7.)

*Existing law* creates the Emergency Medical Air Transportation Act Fund to, along with any federal matching funds, increase the Medi-Cal reimbursement for emergency medical air transportation services in an amount not to exceed normal and customary charges charged by the providers. (Government Code § 76000.10)

*This bill*, as proposed to be amended, provides that the controller shall transfer 25% of the state surcharge from the General Fund to the Emergency Medical Air Transportation Act Fund.

*This bill*, as proposed to be amended will provided that the transfer of funds shall occur beginning January 1, 2018 and ending December 31, 2020.

*This bill* requires the state controller to do an audit of programs funded by the current penalty assessments including the financial status of the program and a summary of the services provided by the program.

## COMMENTS

### 1. Need for This Bill

According to the author:

The Medi-Cal reimbursement rates for emergency air ambulance services have not been adjusted in more than 20 years. The EMATA program was designed to help fill the gap between the cost of providing the service, and the decades old reimbursement rates. The EMATA program is funded by placing a \$4 penalty on moving violations, which expires on December 31, 2017. Without renewing or replacing the EMATA funding, the total reimbursements for air ambulance will be reduced by approximately \$16 Million per year (\$8 million from the Fund, and \$8 million from federal matching funds).

## 2. Penalty Assessments

Existing law creates a number of penalty assessments that are imposed on any criminal finds including Vehicle Code violations. Until budget year 2002-2003 there was approximately 170% penalty assessments added to every fine but many have been added since that time. Currently, the penalty assessments currently amount to proximately 310% added to a fine plus an additional \$75. The amount can vary slightly county to county and whether the violation was a Vehicle Code violation or another criminal penalty. Among these assessments is \$4 on every Vehicle Code violation or local ordinance that is deposited into the Emergency Medical Air Transportation Fund which helps increase the Medi-Cal reimbursement rate for medical air transportation. This assessment sunsets on January 1, 2018.

Instead of renewing the \$4 penalty assessments, which AB 583(Wood) attempted to do but was held in Assembly appropriations, this bill would instead take a portion of the “state surcharge” which imposes 20% on the base fine of every criminal fine including Vehicle Code violations. This bill, as proposed to be amended, would direct 25% of that 20% to the Emergency Medical Air Transportation Fund from January 1, 2018 until December 31, 2020. The state surcharge was originally imposed with the budget in 2002 with a sunset date of January 1, 2008. The sunset was eliminated in the budget in 2007.

Are penalty assessments in general a stable way to fund anything?

## 3. Audit

This bill provides that the Controller shall audit the apportionment and allocation of funds received by a state or local entity from a penalty assessment imposed pursuant to specified provisions for a criminal offense involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. The audit shall include:

- The financial status of any program that is funded, in whole or in part, by the penalty assessment and a three-year history of the funds received.
- A summary of the services provides by a program that is funded in whole or in party by the penalty assessment.

The controller shall report to the public safety committee of each house of the Legislature on or before December 1, 2018.

Will the controller be able to separate out the assessments imposed on Vehicle Code violations from assessments imposed from other criminal violations? Should the audit contain all assessments?

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