

Date of Hearing: August 13, 2013

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND
INTERNET MEDIA

Ian C. Calderon, Chair

SB 789 (Liu) – As Amended: June 24, 2013

SENATE VOTE: 39-0

SUBJECT: Special interest license plates: California Arts Council Plate

SUMMARY: This bill would allow the California Arts Council (CAC) to use specified revenues from the sale of the arts special interest license plate for administrative expenses.

EXISTING LAW:

- 1) Establishes the CAC as a state agency. Its mission is to advance California through the arts and creativity by encouraging artistic awareness, participation, and expression. (Government Code Section 8751.)
- 2) Authorizes vehicle owners to obtain from the Department of Motor Vehicles (DMV), license plates that include a full-plate graphic design approved by DMV in consultation with CAC, depicting a significant feature or quality of the State of California. Requires the payment of additional fees for the issuance, renewal, and transfer of those plates. Requires funds raised by those fees to be used by CAC, upon appropriation by the Legislature, for arts education and local arts programming. (Vehicle Code Section 5074.)
- 3) Prohibits CAC from using additional revenue for its administrative costs accruing from an increase in the fees for the CAC's special interest license plates. Requires CAC to use the revenue derived from these fee increases exclusively for arts education and local arts programming. [Vehicle Code Section 5074(c).]
- 4) Limits to 25% the amount of the revenues from the special interest license plate fund that an organization may expend on administrative costs, marketing, or other promotional activities associated with encouraging application for, or renewal of, the special license plates. (Vehicle Code Section 5159.)

FISCAL EFFECT: According to the Senate Appropriations Committee, "No new state costs to the Graphic Design License Plate Fund. This bill would clarify that license plate revenues derived from a fee increase in 2004 may be used as part of CAC 's overall administrative costs. This would provide parity for CAC 's license plate with other special interest license plate programs."

COMMENTS:

1) Stated Need for Legislation:

The author introduced this bill at the request of CAC to address issues raised in a Department of Finance (Finance) review of CAC's use of its Arts Plate revenue. Finance asserts in its review that CAC may expend no more than 25% of all revenue on general administrative costs. Historically DMV, Transportation Committee staff, and others have read that 25% restriction to be on administrative costs associated with the license plate program itself. CAC reports that it spends less than five percent of its plate revenues on these costs.

SB 1213 (Scott), Chapter 393, Statutes of 2004, which increased additional fees for the Arts Plate, clearly prohibits CAC from using the revenues its fee increases generated for any administrative purposes. Finance is claiming that CAC may spend only 25% of the pre-SB 1213 Arts Plates revenues on its administrative expenses and that CAC actually spends more like 60% (see Comment below for Legislative history of CAC Arts Plate). CAC is pursuing this bill in order to access up to 25% of all revenues derived from the Arts Plate to pay administrative expenses of the agency. By expanding the revenues against which Finance calculates the 25%, CAC would address Finance's concern about its spending Arts Plate revenues on administrative expenses.

According to CAC, "SB 789 brings the use of funds and reporting of the Arts Plate in parity with other specialty plates, by amending Vehicle Code Section 5074, striking, 'the council shall not use that revenue for its administrative costs'."

2) Background:

a) California Arts Funding and Program Levels:

The CAC was created in 1975 under then Governor Jerry Brown to increase access to the arts for all Californians. The CAC budget had grown from its first full year of funding in fiscal year 1976-77 at \$1,917,000 to \$32,224,000 in fiscal year 2001-02, when 1,590 grants were awarded to non-profit arts organizations. In 2003, appropriations to the CAC were cut by 97%, and GF appropriation from the Legislature has remained essentially flat at \$1,000,000 over the past decade. Since 2003, California has ranked last or next to last among the states in terms of per capita investment in the arts.

Current funding levels for CAC in the fiscal year 2011-12 were just over \$5,000,000 broken down by source as follows:

• General Fund	\$1,027,202.70
• Graphic Design License Plate Account	\$2,794,355.96
• National Endowment for the Arts (NEA)	\$1,158,493.86
• Reimbursements	\$ 26,500.00
• Special Deposit: Donations	<u>\$ 125,710.00</u>
• Total	\$5,132,262.52

According to their annual report for 2011, the CAC, "Provided \$3.4 million in grants and initiatives to the non-profit arts sector, putting artists in schools and underserved communities, providing support for local arts councils in 50 counties and two major cities, providing support for statewide arts service and multicultural networks, organized Poetry Out Loud recitation contest for over 40,000 students statewide, providing arts programs for kids and communities in every county in the state, and supporting over 2,795 California jobs.

b) Specialized License Plates - The Major Source for CAC Funding:

Pursuant to AB 3632 (Polanco), Chapter 1282, Statutes of 1992, CAC 's special interest license plate program was created along with others such as the Yosemite Foundation plate, the Kids plate, the Veterans Services plate, and the State Heritage Network plate. Initially, fees for the issuance of the original plate were set at \$20, while annual renewal fees were \$10. These fees were later increased to \$30 for issuance and \$15 for renewal. The fee revenues are deposited into the Graphic Design License Plate Account for support of arts education and local arts programs administered by CAC. Furthermore, the special interest license program law allows a sponsoring state agency to use no more than 25% of license plate fee revenues on administrative costs, marketing, or other activities associated with ensuring application for, or renewal of, its special interest license plates.

Subsequently, SB 1213 increased the original fees for the Arts Plate from \$30 to \$50 for issuance and from \$15 to \$40 for renewal, but specifically prohibited CAC from using the revenues derived from the increase for administrative costs. Of the \$3 million the arts special interest plates generates today, about \$2 million results from the SB 1213 fee increases.

This bill repeals SB 1213's prohibition on CAC 's use of the revenues for administrative purposes , thus allowing CAC to use the portion of its license plate revenues attributable to SB 1213's fee increases to cover its administrative costs. This provides parity for CAC 's license plate program with other special interest license plate programs that cap administrative costs at 25%.

3) Department of Finances' Narrow Reading of Arts Council Plate Administration Language:

As mentioned above, CAC receives about \$5.2 million annually in funding with about \$1.1 million coming from the state's General Fund, \$1.1 million from federal funds, and \$3 million from the Arts Plate.

Last year after concerns arose in press stories about the use of revenues derived from special interest license plates, the Governor's Office directed Finance to review all ten special interest license plates programs. In August 6, 2012, Finance issued its review of the Arts Plate fund (officially known as the Graphic Design License Plate Account). Finance found in that review that "the Council has ensured (SB 1213 fee increase) revenues are used exclusively for arts education and programming." It also found that CAC exceeded the 25% cap on administrative expenses from the fees for the Arts Plate that existed before SB 1213, attributing over 60% of charges as administrative.

According to the Senate Transportation Committee analysis of this bill, "In no place does the special interest license plate statute restrict the expenditure of the funds on other administrative costs. It is unclear, therefore, why the Department of Finance is asserting that

there is a 25% cap on using the revenues to support general administration of an agency. In the case of the Arts Plate, its specific authorizing statute says that the revenues from the Arts Plate shall be used for 'arts education and local arts programming'."

4) Prior Related Legislation:

AB 84 (Leslie), Chapter 454, Statutes of 2006, established the current specialized license plate program to provide a forum for government speech that promotes California's state policies.

SB 1213 (Scott), Chapter 393, Statutes of 2004, increased the additional fees from \$30 to \$50 for issuance of an arts plate and from \$15 to \$40 for renewal.

AB 3632 (Polanco), Chapter 1282, Statutes of 1993 directed CAC to participate in what was then the state's special interest license plate program, which that bill also created. Specific to the Arts Plate, AB 3632 set the additional fees for that plate at \$20 for issuance and \$10 for renewal.

REGISTERED SUPPORT / OPPOSITION:

Support

California Arts Council (Sponsor)
Arts Orange County

Opposition

None on file

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