

[Assembly Bill 366](#) (Bonta)

Date: 06/14/16

Program: Transactions and Use

Sponsor: City of Alameda

Revenue and Taxation Code (RTC) Sections 7292.5 and 7292.6

Effective: January 1, 2017

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Summary: Authorizes the City of Alameda to impose a general-purpose transactions and use tax (district tax) that, in combination with all district taxes imposed, may exceed the existing 2% rate limitation by no more than 0.5%.

Purpose: To provide additional funding for police, fire, and other city services.

Fiscal Impact Summary: Approximately \$4.1 million annually.

Existing Law: The State Board of Equalization (BOE) administers locally-imposed sales and use taxes under the Bradley-Burns Uniform Local Sales and Use Tax Law and under the Transactions and Use Tax Law. By law, cities and counties contract with the BOE to administer the ordinances imposing the local and district taxes.

The **Bradley-Burns Uniform Local Sales and Use Tax Law**¹ authorizes counties to impose a local sales and use tax. This tax rate is fixed at 1.25% of the sales price of tangible personal property sold at retail in the county, or purchased for use within the county. Under current law, cities are authorized to impose a local sales and use tax rate of up to 1%. The city sales and use tax rate is credited against the county rate so that the combined rate does not exceed 1.25%.

Of the 1.25%, cities and counties use 1% to support general operations. The remaining 0.25% is designated by statute for county-wide transportation purposes and restricted to road maintenance or the operation of transit systems. The counties receive the 0.25% tax for transportation purposes regardless of whether the sale occurs in a city or in the unincorporated area of a county. All cities and counties currently impose Bradley-Burns local taxes at a total uniform rate of 1.25%.

The **Transactions and Use Tax Law**² and the part of the RTC that imposes **Additional Local Taxes**³ authorize cities and counties (and special purpose entities) to impose district taxes under specified conditions. Counties may impose a district tax for general purposes or special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the county. Cities also may impose a district tax for general purposes or special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the city. The combined district tax rate imposed within any local jurisdiction cannot exceed 2%⁴ (with the exception of the City of El Cerrito and the counties of Alameda, Contra Costa, Los Angeles, Monterey, and San Mateo⁵).

Section 7291 authorizes Alameda County and Contra Costa County to impose a district tax for countywide transportation programs at a capped rate of 0.5% which in combination with other district taxes, would exceed the 2% limitation established in existing law if it satisfies all of the following conditions:

¹ Part 1.5 of Division 2 of the RTC, commencing with Section 7200.

² Part 1.6 of Division 2 of the RTC, commencing with Section 7251.

³ Part 1.7 of Division 2 of the RTC, commencing with Section 7280.

⁴ RTC Section 7251.1.

⁵ Exceptions authorized through AB 1324 (Ch. 795, Stats. 2014), AB 210 (Ch. 194, Stats. 2013, Wieckowski) for Alameda County and Contra Costa County, SB 314 (Ch. 785, Stats. 2003, Murray) and SB 767 (Ch. 580, Stats. 2015, De León) for the Los Angeles Metropolitan Transportation Authority, and SB 705 (Ch. 579, Stats. 2015, Hill) for San Mateo County and the Transportation Agency for Monterey County.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

- 1) Alameda County and Contra Costa County adopt an ordinance proposing the district tax by any applicable voting requirements;
- 2) the proposed ordinance is submitted to the electorate and is approved by two-thirds of the voters voting on the ordinance; and
- 3) the district tax conforms to the Transactions and Use Tax Law.

Currently, the City of El Cerrito is the only city in California authorized to impose a tax not subject to the 2% rate limitation. Section 7293 authorizes the City of El Cerrito to impose a general-purpose district tax at a rate of no more than 0.5%, that in combination with all district taxes imposed, would exceed the 2% limitation established in existing law (and that would, in fact, not count towards the 2% limit at all) if it satisfies all of the following conditions:

- 1) City of El Cerrito adopt an ordinance proposing the district tax by any applicable voting approval requirement.
- 2) the proposed ordinance is submitted to the electorate and is approved by the majority of the voters voting on the ordinance; and
- 3) the district tax conforms to the Transactions and Use Tax Law.

By law, cities and counties (and special purpose entities) contract with the BOE to administer the ordinances imposing the district taxes.

Proposed Law: This bill authorizes the City of Alameda to impose a general-purpose district tax that, in combination with all district taxes imposed, would not exceed the 2% limitation established in Section 7251.1 by more than 0.5%, if all of the following requirements are met:

- The city adopts an ordinance proposing a district tax by any applicable voting approval requirement.
- The city ordinance proposing the district tax is submitted to the electorate of the adopting city, as applicable, and is approved by the voters voting on the ordinance in accordance with Article XIII C of the California Constitution. The election on the ordinance proposing the district tax may occur after January 1, 2017.
- The district tax conforms to the Transactions and Use Tax Law, Part 1.6, other than Section 7251.1. The bill also specifies that the tax rate authorized by this bill shall not be included in the calculation of the 2% rate limitation established in Section 7251.1.

If enacted, the bill takes effect on January 1, 2017. If the proposed district tax ordinance is not approved by the electorate by January 1, 2025, the bill's provisions will be repealed as of that same date.

District Taxes Currently Administered by the BOE: As of April 1, 2016, there are 205 local jurisdictions (city, county, and special purpose authority)⁶ impose a district tax for general or special purposes. Of the 205 district taxes, 48 are county-imposed and 157 are city-imposed taxes. Of the 48 county-wide taxes, four are general purpose taxes and 44 are special purpose taxes (30 for transportation purposes). Of the 157 city-imposed taxes, 127 are general purpose taxes and 30 are special purpose taxes.

Currently, the individual district tax rates vary from 0.1%⁷ to 1%. Some cities and counties have more than one district tax in effect, while others have none. Accordingly, combined state, local and district tax rates generally range from 7.5% to 9.5%, with the exception of the cities of Albany, Hayward, San Leandro, and Union City in Alameda County, the City of El Cerrito in Contra Costa County, and the cities of La Mirada, Pico Rivera, and South Gate in Los Angeles County which are subject to the specific exemptions discussed above and each have a tax rate of 10%. A listing of the district taxes, rates, and

⁶ Currently, all district taxes levied exclusively within the borders of either a county or an incorporated city (with the exception of the Bay Area Rapid Transit District, which is comprised of Alameda, Contra Costa, and San Francisco counties and the Sonoma-Marín Rail Transit District). For purposes of calculating the 205 jurisdictions, the Bay Area Rapid Transit District and the Sonoma-Marín Rail Transit District are counted as one jurisdiction, even though each jurisdiction is comprised of three counties and two counties, respectively.

⁷ Through specific authority, SB 1187 (Ch. 285, Stats. 2001, Costa) authorized Fresno County to impose a 0.1% district tax for zoological purposes.

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effective dates is available on the BOE's website: www.boe.ca.gov/sutax/pdf/districtratelist.pdf.

Legislative History: Over the years, six bills have been approved by the Legislature granting specific authority to local governments to impose a district tax that exceeds the general 2% rate limitation:

- SB 314 (Ch. 685, Stats. 2003, Murray) authorized the MTA to impose a 0.5% district tax for the funding of specified transportation-related capital projects and programs. However, MTA never placed an ordinance before the voters to levy this authorized tax within the 6.5 year time frame.⁸
- AB 1086 (Ch. 327, Stats. 2011, Wieckowski) authorized the County of Alameda to impose a district tax for the support of countywide transportation programs at a rate of up to 0.5%. The bill required that the ordinance proposing the tax be submitted to the electorate on the November 6, 2012 General Election ballot and be approved by the voters. Alameda County voters declined to approve the proposed district tax (Measure B1) on the November 6, 2012 ballot, falling 0.14% short of the 66.6% super-majority needed to pass.
- AB 210 (Ch. 194, Stats. 2013, Wieckowski) extends the authority of Alameda County and authorizes Contra Costa County to impose a countywide transportation program district tax at a rate of up to 0.5%.
- AB 1324 (Chapter 795, Stats. 2014, Skinner) authorizes the City of El Cerrito to impose a general-purpose district tax at a rate of up to 0.5%.
- SB 767 (Chapter 580, Stats. 2015, De León) authorizes the Los Angeles County Metropolitan Transportation Authority (MTA) to impose an additional 0.5% district tax for funding transportation-related projects and programs. The tax would be imposed for an unspecified period to be determined by the MTA, and may exceed the existing 2% rate limitation.
- SB 705 (Chapter 579, Stats. 2015, Hill) authorizes both San Mateo County and the Transportation Agency for Monterey County to impose a countywide transportation program district tax until January 1, 2026. The tax may exceed the existing 2% rate limitation.

Commentary:

1. **Current district taxes levied within Alameda County.** Alameda County has eight district taxes imposed within its borders—four county-wide taxes (three transportation taxes) and four city-wide taxes. The Alameda County Transportation Improvement Authority had specific authority to impose a 0.5% tax, operative April 1, 2015 through March 31, 2045, even though it caused the combined rate in the four cities that already imposed a tax to exceed 2%:

Alameda County – District Name and Tax Area	Rate	Effective Date	Expiration Date
Alameda County Essential Health Care Services Transactions and Use Tax (county-wide)	0.50%	07-01-04	06-30-34
Alameda County Transportation Commission 2002 (county-wide)	0.50%	04-01-02	03-31-22 ⁹
Alameda County Transportation Improvement Authority (county-wide)	0.50%	04-01-15	03-31-45
Bay Area Rapid Transit District (county-wide)	0.50%	04-01-70	None
City of Albany Transactions and Use Tax (city-wide)	0.50%	04-01-13	03-31-21
City of Hayward Temporary Transactions and Use Tax (city-wide)	0.50%	10-01-14	12-31-34
City of San Leandro 2015 Transactions and Use Tax (city-wide)	0.50%	04-01-15	03-31-45
City of Union City Transactions and Use Tax (city-wide)	0.50%	04-01-11	03-31-25

⁸ AB 2321 (Chapter 302, Statutes 2008, Feuer) amended PUC Section 130350.5 to authorize, among other things, the 0.5% tax for a period not to exceed 30 years.

⁹ Effective April 1, 2022, the Alameda County Transportation Commission 2002 tax will end and the Alameda County Transportation Improvement Authority 0.5% tax will increase from 0.5% to 1% until 03/31/45.

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Cities and counties may impose district taxes as long as the combined rate does not exceed 2% within the county. Because Alameda County imposes four 0.5% district taxes, the county is at the 2% limit. Consequently, any city in Alameda County, including the City of Alameda, cannot enact a new district tax without specific authority because the combined rate of district taxes imposed in every city in Alameda County is already at the 2% limit.

2. **The City of El Cerrito in Contra Costa County successfully sought an exception to the 2% limitation.** The City of El Cerrito is authorized to impose a general-purpose tax at a rate not to exceed 0.5%.
3. **The counties of Alameda, Contra Costa, Los Angeles, Monterey, and San Mateo successfully sought an exception to the 2% limitation.** The authorization for each of these counties is for county-wide transportation purposes.
4. **Related legislation.** [AB 1665](#) (Chapter 45, Stats. 2016, Bonilla) shifts Contra Costa County's existing authority to impose a county-wide transportation district tax to the Contra Costa Transportation Authority.

Costs: This bill does not increase the BOE's administrative costs because it only extends the City of Alameda to impose a general-purpose district tax that would necessitate a city ordinance and voter approval. However, if the city's voters approve an ordinance imposing the tax, they would be required to contract with the BOE for its ongoing costs to administer the ordinance.

Revenue Impact: For fiscal year (FY) 2013-14, the City of Alameda's taxable sales totaled \$725 million. We assume that the city's taxable sales follow a pattern similar to the Department of Finance's (DOF) forecast of overall statewide taxable sales in conjunction with its preparation of the FY 2016-17 Governor's Budget May Revision, DOF's current revenue forecast projects that taxable sales will increase by 14.3% from FY 2013-14 to FY 2016-17.

Revenue Summary. Assuming the voters approve the tax authorized by the proposed law, a 0.5% tax increase generates \$4.1 million ($\$725 \text{ million} + 14.3\% = \$829 \text{ million} \times 0.5\%$) additional revenue for the City of Alameda.

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.