



*California State Board of Equalization,  
Legislative and Research Division*

# LEGISLATIVE BULLETIN

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State Capitol Building (from the East) c.1945  
Photo courtesy of California State Archives

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## SALES TAX LEGISLATION 2007

**SALES TAX LEGISLATION**  
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**Assembly Bill 538 (Emmerson) Chapter 317**

***Exemption: Nonprofit Organizations: New Children's Clothing***

*Tax levy; effective October 8, 2007, but operative January 1, 2008. Amends, adds, and repeals Section 6375.5 of the Revenue and Taxation Code.*

**BILL SUMMARY**

This bill provides a sales and use tax exemption until January 1, 2014 for sales and purchases of new children's clothing sold to a nonprofit organization qualifying for exempt status under Section 23701f of the Revenue and Taxation Code for its distribution without charge to any individuals under the age of 18.

**Sponsor: Assembly Member Bill Emmerson**

**LAW PRIOR TO AMENDMENT**

Under existing law, the sales tax applies to the sale of tangible personal property in this state, unless specifically exempted. The Sales and Use Tax Law provides no general statutory exemption from the sales or use tax merely because the seller or the purchaser is engaged in charitable activities, is a nonprofit organization, or enjoys certain privileges under property tax statutes or income tax statutes. However, current law is sprinkled with several separate provisions designed to assist various kinds of nonprofit groups engaged in charitable activities. For example, currently under Section 6375.5 of the Revenue and Taxation Code, a sales and use tax exemption applies to sales and purchases of new children's clothing that are sold to a nonprofit organization that has exempt status under Section 23701d of the Revenue and Taxation Code for its distribution without charge to *elementary* school children.

Current law also provides an exemption for sales by charitable organizations qualifying for the "welfare exemption" under Section 214 of the Revenue and Taxation Code, provided the organization is engaged in the relief of poverty and distress, and the sales are made principally as a matter of assistance to purchasers in distressed financial condition. Also, the property sold must have been made, prepared, and assembled or manufactured by the organization.

Another exemption from use tax exists when any seller (whether a retailer or a wholesaler) donates property to any organization in this state described in Section 170(b)(1)(A) of the Internal Revenue Code (those entities for which a deduction is allowed for contributions to charitable organizations).

**AMENDMENT**

This bill amends Section 6375.5 of the Sales and Use Tax Law to expand the current sales and use tax exemption applicable to sales and purchases of new children's clothing until January 1, 2014, to do the following:

- Apply to the distribution to all individuals under the age of 18, rather than just elementary school children,

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- Include nonprofit organizations that have exempt status under Section 23701f of the Revenue and Taxation Code, rather than just those qualifying for exempt status under 23701d, and
- Eliminate the requirement that the nonprofit organization be engaged in the relief of poverty and distress.

The bill, operative January 1, 2014, reinstates the exemption back to its original form.

As a tax levy, the bill is effective October 8, 2007, but operative on January 1, 2008.

### BACKGROUND

Section 6375.5 was added to the Sales and Use Tax Law in 1982 by AB 2619 (Ch. 708, Stats. 1982). At that time, the bill was sponsored by a volunteer association that operated a “Clothes Corner,” the purpose of which was to distribute a minimum wardrobe to elementary school children who otherwise would be unable to attend school. The legislation sought to exempt purchases of children’s clothing by organizations of this type, to enable them to purchase more clothing with a given level of funds. This statute has not been amended since it was added into law.

### COMMENTS

1. **Purpose.** The purpose of this bill is to extend the current exemption for sales of new children’s clothing to other nonprofit organizations that provide similar services, but that qualify for exempt status under Section 23701f of the Revenue and Taxation Code, rather than Section 23701d as the current statute requires.
2. **Key amendments.** The **August 23, 2007** amendments incorporated an operative date of January 1, 2008 for the proposed exemption, and clarified that the exemption applies to distributions without charge to any individuals under the age of 18. The **April 19, 2007** amendments incorporated a sunset date of January 1, 2014 for the proposed exemption, and reinstated the original exemption operative January 1, 2014. Also, the amendments made reference to the state income tax provisions for purposes of identifying the qualifying organizations rather than using the compatible federal income tax references.
3. **Would sales of all new clothing qualify?** The bill provides an exemption for the sale of new *children’s* clothing. However, some children – especially teens – may actually wear adult sizes. Should the bill be amended to make it clear that sales of all new clothing distributed within the parameters of the exemption be included?
4. **A specific situation is being addressed.** According to the author’s office, the bill was intended to apply to “ChildSpree” events held by Mervyn’s Department Stores, and similarly constructed events. The Mervyn’s events provide private \$100 shopping sprees to local children in need. Selected by a nonprofit organization or school partner, and accompanied by a volunteer chaperone, participating children are able to shop for new clothes and shoes. The children also receive a discount on all purchases made during the event. According to Mervyn’s website, since its 1992 inception, \$18.6 million has been donated to Mervyn’s ChildSpree and over 186,000 children have benefited from the program nationwide. The nonprofit organizations and schools in local communities

coordinate the event and select the children. The organizations raise the money for each child, and Mervyn's matches a portion of the raised funds. Two gift cards are generated: one for the funds raised by the nonprofit organization, and one containing the funds that Mervyn's donates. The volunteer from the organization chaperones the child, and the gift cards are used to make the purchases of the items the child selects.

Some of the organizations that have participated in these events include the Salvation Army, United Way, the Jaycees, Kiwanis Club, local rotary clubs, Active 20/30 Club, Operation School Bell, various other charitable organizations, and local government social services agencies. Current law would allow the exemption for some of these organizations participating in these events, since they are 23701d organizations, but others, such as the Jaycees and Kiwanis Club, would not, since they are 23701f organizations.

5. **What are 23701d and 23701f organizations?** Section 23701d is one of California's state income tax provisions in the Revenue and Taxation Code granting an exemption from the state income tax to certain nonprofit organizations. The organizations described in these statutes are generally organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals. There are about 115,000 such organizations in California.

Section 23701f organizations are also nonprofit, and include civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes. These organizations differ from 23701d organizations in that they are permitted to lobby for legislation and endorse political parties and candidates. There are over 9,000 such organizations in California. Prominent 23701f organizations include AARP, Kiwanis, the Jaycees and National Rifle Association.

6. **Enactment of this bill would not materially affect the Board's administration of this exemption.** In addition, retailers making sales to qualifying organizations on an ongoing basis would no longer be required to make a distinction between a qualifying 23701d organization and a non-qualifying 23701f organization.

**Assembly Bill 1748 (Committee on Revenue and Taxation) Chapter 342**

***Purchases from Foreign Countries  
Appeals Rights for Prepayment Penalty  
Technical Wording Changes  
Clarify that the Board will Enforce Local Ordinances  
“Districts” Definition Simplified  
Limitation on Redistributions of District Taxes  
Repeal of Outdated Sections  
Repeal of Redundant Provisions***

*Effective January 1, 2008. Among its provisions, amends Sections 6405, 6478, 7204.3, 7211, 7252, 7273, adds Sections 7269 to, repeals Sections 7204.02, 7204.5, 7208, 7251.2, 7252.5, 7252.6, 7252.7, 7252.8, 7252.9, 7252.10, 7252.11, 7252.12, 7252.13, 7252.15, 7252.16, 7252.21, 7252.22, 7252.30, and 7271.05 of, and repeals Chapter 2.67 (commencing with Section 7286.28) of, Chapter 2.8 (commencing with Section 7286.40) of, Chapter 2.90 (commencing with Section 7286.47) of, Chapter 2.95 (commencing with Section 7286.56) of, and Chapter 2.96 (commencing with Section 7286.65) of, Part 1.7 of Division 2 of, the Revenue and Taxation Code.*

**BILL SUMMARY**

This bill contains Board of Equalization-sponsored provisions which, among other things, do the following:

- Amend Section 6405 to increase the use tax exemption for the amount of tangible personal property purchased in a foreign country and personally hand carried into this state within any 30-day period from \$400 to \$800 to conform to changes in the federal duty-free exemption.
- Amend Section 6478 of the Sales and Use Tax Law to provide appeals rights to taxpayers who have been assessed a 10 percent penalty for failure to make a prepayment in accordance with the law and that failure is due to negligence or intentional disregard for the law.
- Amend Section 7204.3 of the Bradley-Burns Uniform Local Sales and Use Tax Law to correct an erroneous term and amend Section 7273 of the Transactions and Use Tax Law to add wording consistent with other subdivisions contained in Section 7273. (Technical)
- Amend Section 7211 of the Bradley-Burns Uniform Sales and Use Tax Law to clarify that the Board shall continue to enforce the Bradley-Burns ordinance of any city or city and county that levies a tax administered by the Board under the Transactions and Use Tax Law. (Technical)
- Amend Section 7252 and delete Sections 7252.5 through 7252.30 of the Transactions and Use Tax Law to simplify the definition of “districts.”
- Add Section 7269 to the Transactions and Use Tax Law to provide for a limitation on redistributions of transactions and use taxes.

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- Repeal Sections 7204.02, 7204.5, and 7208 of the Bradley-Burns Uniform Local Sales and Use Tax Law and Sections 7251.2 and 7271.05 of the Transactions and Use Tax Law as these sections were enacted to serve a specific purpose and that purpose has been accomplished. (Technical)
- Repeal Sections 7286.28, 7286.40, 7286.47, 7286.56, and 7286.65 of the Transactions and Use Tax Law to eliminate special statutes that are redundant due to subsequent legislation that authorized cities to levy transactions and use taxes for general and special purposes. (Technical)

**Sponsor: Board of Equalization**

**Purchases from Foreign Countries**  
*Revenue and Taxation Code Section 6405*

**LAW PRIOR TO AMENDMENT**

Under existing law, use tax is imposed on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer. The obligation to pay the use tax is on the consumer. As a result of the 1984 Tax Penalty Amnesty Bill (Ch. 1490, Stats. 1984), the Board created the U. S. Customs Program for the purpose of collecting unpaid use tax from consumers. The Board is granted authorization from the U. S. Customs Service to access passenger declarations filed at various ports of entry throughout California. This information is used to generate use tax returns.

Section 6405 of the Revenue and Taxation Code, as added by Senate Bill 2455 (Ch. 1533, Stats. 1990), provides that the storage, use, or other consumption of the first \$400 of tangible personal property purchased in a foreign country by an individual from a retailer and personally hand carried into this state from the foreign country during any 30-day period is exempt from the use tax. This exemption was added into law to conform to the U.S. traveler's standard duty-free exemption. However, as of November 4, 2002, the U.S. traveler's standard duty-free exemption was increased from \$400 to \$800.

**AMENDMENT**

This provision amends Section 6405 of California's use tax provisions to increase the use tax exemption provided in Section 6405 from \$400 to \$800.

**COMMENT**

**Purpose.** This amendment places California's use tax exemption on foreign purchases in conformity with the U.S. traveler's standard duty-free exemption.

**Appeals Rights for Prepayment Penalty**  
*Revenue and Taxation Code Section 6478*

**LAW PRIOR TO AMENDMENT**

Under the Sales and Use Tax Law and the Motor Vehicle Fuel Tax Law, certain taxpayers whose monthly tax liabilities meet or exceed certain thresholds are required to make monthly prepayments of the tax liability. Under these laws, if a taxpayer fails to timely make the prepayment, or fails to make the full prepayment required, a six percent penalty applies to the amount not timely remitted. However, under Section 6478 of the Sales and Use Tax Law and Section 7659.7 of the Motor Vehicle Fuel Tax Law, that penalty may be increased to 10 percent if a person's failure to make a prepayment in accordance with the law is due to negligence or intentional disregard of the law. This 10 percent penalty is assessed in cases where a taxpayer has repeatedly been late in making his or her prepayments or repeatedly failed to make the full prepayment, and has received a warning from the Board that a 10 percent negligence penalty would apply if the taxpayer continues to fail to make prepayments in accordance with the law. Unlike other penalties imposed in the law for late payments, the law does not provide a mechanism to provide relief of this negligence penalty when the Board finds that the person's failure to make a prepayment in accordance with the law is due to reasonable cause. Instead, the taxpayer must pay the penalty and file a claim for refund. If the claim for refund is denied, the taxpayer may then pursue his or her appeals rights.

**AMENDMENT**

This measure amends the law so that the negligence penalty imposed under Section 6478 is assessed as a deficiency determination and permits the taxpayer to file a petition for redetermination.

**COMMENT**

**Purpose.** The amendment provides taxpayers with an opportunity to dispute the application of the discretionary negligence penalty through the filing of a petition for redetermination without having to pay the penalty and request a refund.

**Technical Wording Changes**  
*Revenue and Taxation Code Sections 7204.3 and 7273*

**LAW PRIOR TO AMENDMENT**

Assembly Bill 1809 (Ch. 49, Assembly Budget Committee, signed by Governor Schwarzenegger on June 30, 2006), a budget trailer bill, made a number of revenue and taxation related changes necessary to implement the Budget Act of 2006. Among those changes, AB 1809 amended Section 7204.3 of the Bradley-Burns Uniform Local Sales and Use Tax Law and Section 7273 of the Transactions and Use Tax Law to adopt a new simplified costing methodology to allocate the Board's administrative costs for state and local sales and use taxes among the state, local entities, and special taxing districts. The simplified costing methodology was developed by Board staff and recommended by the Legislative Analyst's Office (LAO).

Sections 7204.3 and 7273 were amended to require the Board, beginning fiscal year 2006-07, and each fiscal year thereafter, to charge each local entity and special taxing district an amount for the Board's services in administering the local sales and use tax ordinance of that jurisdiction based on the methodology described in Alternative 4C of the November 2004 report by the State Board of Equalization entitled "Response to the Supplemental Report of the 2004 Budget Act."

The amendments to these sections contained certain drafting errors. With respect to Section 7204.3, subdivision (a)(2) of this section incorrectly uses the term "district," rather than "local entity." Section 7204.3 requires the Board to charge each city, city and county, county, or redevelopment agency for the services it provides in administering the local entity's tax ordinance. This statute covers a local entity (i.e., city, city and county, county, or redevelopment agency) but does not cover a district. The term "district" refers to special tax districts under the Transactions and Use Tax Law, not local entities under Bradley-Burns Uniform Local Sales and Use Tax Law.

With respect to Section 7273, subdivision (a)(1) was amended to add the wording "each district." For consistency, it is suggested that this same wording be added to subdivision (a) (2) of Section 7273.

**AMENDMENT**

This measure corrects an inadvertent drafting error in Section 7204.3 to replace the term "district" with "local entity," consistent with other terms contained in both Section 7204.3 and all other sections under Bradley-Burns Uniform Local Sales and Use Tax Law. This measure also adds "each district" to subdivision (a)(2) of Section 7273, consistent with subdivision (a)(1) of that section.

**COMMENT**

**Purpose.** These amendments simply correct certain drafting errors that occurred with the enactment of a budget trailer bill enacted in July, 2006.

**Clarify that the Board will Enforce Local Ordinances**  
*Revenue and Taxation Code Section 7211*

**LAW PRIOR TO AMENDMENT**

Under the existing Bradley-Burns Uniform Local Sales and Use Tax Law, Section 7203.5 provides that the Board shall not administer and shall terminate its contract to administer any sales or use tax ordinance of a city, county, or city and county, if that city, county, or city and county imposes a sales or use tax in addition to the sales and use taxes imposed under an ordinance conforming to specified provisions of the Bradley-Burns law. Section 7211 of the Bradley-Burns law, however, makes an exception to Section 7203.5's restriction, by authorizing the Board to continue to administer the sales and use tax ordinance of any county which adopts a transactions and use tax ordinance pursuant to a specified provision in the Government Code. The exception provided in Section 7211 was added to the law when counties were given authorization in 1985 to levy district taxes for general purposes.

Under the law, aside from the local tax levied under the Bradley-Burns law (which is uniformly imposed by all cities and counties within the state) the Transactions and Use Tax Law authorizes local agencies to impose transactions and use taxes – often referred to as “district” taxes. These “district” taxes are authorized by statutes in various codes, but the Board administers all such taxes pursuant to Part 1.6 of the Revenue and Taxation Code (Sections 7251-7279.6).

When counties were given general authority to levy transactions and use taxes in 1985, the Legislature did not amend the Bradley-Burns Uniform Local Sales and Use Tax Law to make it clear that the Board may continue to administer district taxes that are imposed by counties through other provisions of law. In addition, when the Legislature began authorizing cities to levy their own district taxes, the Legislature did not amend the Bradley-Burns law to also clarify that the Board may continue to administer these city-imposed district taxes. Although the Board has interpreted Section 7211 as if it referred to cities as well as counties that levy a district tax outside the specific Government Code provision, by its own terms, Section 7211 does not extend to such district taxes. In reality, the safe harbor provided by Section 7211 applies only to one transit district tax which the Legislature authorized Sonoma County to levy (which was authorized under the specific Government Code provision referred to in Section 7211).

**AMENDMENT**

This measure amends Section 7211 of the Bradley-Burns Uniform Local Sales and Use Tax Law to clarify that the Board may continue to administer the sales and use tax ordinance of any city or county that imposes a district tax pursuant to the Transactions and Use Tax Law.

**COMMENT**

**Purpose.** These amendments are intended to clarify the law with respect to the Board's ability to administer the local tax ordinances of California's cities and counties.

**“Districts” Definition Simplified**

*Revenue and Taxation Code Sections 7252, and 7252.5 through 7252.30*

**LAW PRIOR TO AMENDMENT**

Under existing law, the Transactions and Use Tax Law authorizes local agencies to impose transactions and use taxes – often referred to as “district” taxes. These “district” taxes are authorized by statutes in various codes, but the Board administers all such taxes pursuant to Part 1.6 of the Revenue and Taxation Code (Sections 7251-7279.6). Under this part, the term, “district” is defined in 16 separate sections. These definitions were added at the time the Legislature authorized a new local agency to levy a transactions and use tax.

In 1985, when counties were given the authority to levy district taxes, Section 7252.9 was added to the Transactions and Use Tax Law to define a county levying a district tax as a "district." When cities began to be added to the district tax system in 1990, no such provision was made for them.

**AMENDMENT**

This measure (1) includes cities within the term “district,” and (2) eliminates the proliferation of definitions of the term “district” in the Transactions and Use Tax Law by providing one definition that considers all entities levying district taxes as “districts.” A “district” is defined by this bill as any city, county, or city and county or other governmental entity authorized to impose a tax administered by the Board pursuant to Part 1.6 of the Revenue and Taxation Code.

**COMMENT**

**Purpose.** These amendments are intended to simplify the tax code by clarifying that cities are considered “districts,” and by deleting unnecessary and outdated definitions in the law for the term, “districts.”

**Limitation on Redistributions of District Taxes**

*Revenue and Taxation Code Section 7269*

**LAW PRIOR TO AMENDMENT**

Under the existing Bradley-Burns Uniform Local Sales and Use Tax Law, counties are authorized to impose a local sales and use tax at a rate of one percent on the sales price of tangible personal property sold at retail in the county. Cities are also authorized to impose a local sales and use tax rate of up to 0.75 percent, which is credited against the county rate so that the combined local tax rate under the Bradley-Burns Law does not exceed one percent. Under the Bradley-Burns Law, 0.25 percent of the one percent tax rate is earmarked for county transportation purposes, and 0.75 percent may be used for city and county general purposes. Cities and counties are required to contract with the Board to perform all functions in the administration and operation of their ordinances imposing the tax. All taxes collected by the Board under contract with cities and counties are transmitted to the cities and counties based on the location in which the sale is made (generally the place of business of the retailer).

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Under the law, Section 7209 provides that when the Board determines that the Bradley-Burns Uniform local sales and use tax revenue has been misallocated to a county or city, the Board may redistribute that revenue, but shall not redistribute amounts originally distributed earlier than two quarterly periods prior to the quarterly period in which the Board made that determination.

Section 7209 was added to the law in 1959, as the Legislature realized that when the first local tax redistributions were proposed at that time, redistributing tax throughout the full length of the three-year applicable statute of limitations would cause severe financial hardship to jurisdictions to which local tax revenues had been improperly distributed. As a result, the Legislature enacted Section 7209 to limit the number of tax periods for which a redistribution could be made to the quarterly period for which the Board obtains knowledge of the improper distribution, and the two previous quarters.

Under the law, aside from the local tax levied under the Bradley-Burns law (which is uniformly imposed by all cities and counties within the state) the Transactions and Use Tax Law authorizes local agencies to impose transactions and use taxes – often referred to as “district” taxes. These “district” taxes are authorized by statutes in various codes, but the Board administers all such taxes pursuant to Part 1.6 of the Revenue and Taxation Code (Sections 7251-7279.6).

Under current law, no equivalent to Section 7209 exists for district taxes. While district tax redistributions do not take place with the frequency that they do with respect to the Bradley-Burns local taxes, the financial hardship to the district to which the revenue was improperly distributed can be great.

### **AMENDMENT**

This measure provides the same relief to districts that has been available to local tax jurisdictions since 1959. It limits the number of tax periods for which a redistribution may be made to the quarterly period for which the Board obtains knowledge of an improper distribution, and the two previous quarters.

### **COMMENT**

**Purpose.** Due to the anticipated proliferation of city-wide district taxes, the Board anticipates an increase in errors in district tax reporting with a concomitant need to redistribute district taxes. Consequently, this amendment places a limit on redistributions of district tax similar to that which now exists in local taxes.

**Repeal of Outdated Sections***Revenue and Taxation Code Sections 7204.02, 7204.5, 7208, 7251.2, and 7271.05***LAW PRIOR TO AMENDMENT**

Sections 7204.02, 7204.5, and 7208 of the Bradley-Burns Uniform Local Sales and Use Tax Law (hereinafter referred to as Bradley-Burns law) and Sections 7251.2 and 7271.05 of the Transactions and Use Tax Law (hereinafter referred to as District tax law) were enacted to address specific issues. Those issues have been addressed and the statutes are no longer needed and should be repealed.

The following provides a summary of these sections:

**Section 7204.02**, added by Senate Bill 30 (Ch. 37, Stats. 1990 First Extraordinary Session), provides that, beginning July 1, 1992, and for each year through and until July 1, 1997, the Board shall reduce local sales tax revenues transmitted to affected cities, counties, and cities and counties by an amount to recover 1/5 of the amount transmitted to these local entities pursuant to Section 7204.01, plus interest. Section 7204.01, also added by SB 30, provided the procedures whereby the local entities could make a request to the Controller to receive an amount attributable to any reductions in local sales tax revenues as a result of the October 17, 1989 earthquake (known as The Loma Prieta Earthquake). Section 7204.01 was repealed effective January 1, 1992.

Since the requirements under Section 7204.02 have been accomplished, it appears that the statute is no longer needed, and, therefore should be repealed.

**Section 7204.5**, added by SB 1102 (Ch. 620, Stats. 1997), provided certain offset provisions for the County of Napa and any cities located in Napa County. It allowed Napa County and cities to take up to three years to repay the Board for refunds of the local tax on oak barrels purchased for making wine. The provisions required the Board to notify the city or county of amounts subject to offset and, upon request of a city or county, to remit to the city or county that offset portion of the refund deducted from tax revenue transmittals by the Board which exceeded \$50,000 in a calendar quarter. The Board, thereafter, would deduct a pro rata share of that offset portion from future transmittals of tax revenues, over a period not to exceed three years, until the entire amount of the offset portion had been repaid.

In 1996, information submitted to the Board supported the fact that oak wine barrels were purchased primarily for the purpose of incorporating oak into the wine to be sold, and not purchased as containers for aging wine. Effective April 3, 1996, sales and use tax Regulation 1525 was amended to recognize that oak wine barrels purchased for such purposes were purchased for resale based on existing law. The amendment to Regulation 1525 had retroactive treatment and applied to overpayments of tax on sales or purchases of oak wine barrels within the statute of limitation period (i.e. three years from the due date of the return for the period for which the overpayment was made).

As a result of this regulatory change, any overpayments of local sales taxes to be refunded to taxpayers had to be deducted from future transmittals of local taxes

to local entities. The refund of local taxes posed a financial hardship for certain local entities, such as Napa County. SB 1102, effective January 1, 1998, sought to ease the financial hardship on the County of Napa and the cities located within Napa County by providing a three-year period for Napa and any cities to repay the local taxes. Since the repayment has been completed, Section 7204.5 is no longer needed.

**Section 7208**, added by SB 636 (Ch. 1785, Stats. 1959) and took effect September 18, 1959, provides that in the case of tangible personal property purchased from a retailer whose place of business was located in a county which, following purchase, imposes a tax pursuant to Bradley-Burns law operative on or after July 1, 1959, but not later than July 1, 1960, a notice of determination of tax shall be issued within four months of the end of the quarterly period during which the storage, use, or other consumption of the property became taxable.

Section 7208 provided a special statute of limitation period on the issuance of a notice of determination of local use tax where all of the following conditions existed:

1. The purchaser purchases the property from a retailer whose place of business was in a county which at the date of the purchase was not imposing a Bradley-Burns tax.
2. The purchaser used the property in a county which imposed a Bradley-Burns tax.
3. After the date of the purchase, the county in which the retailer's place of business was located began imposing a Bradley-Burns tax.
4. The newly imposed Bradley-Burns tax went into effect for the first time between July 1, 1959, through and until July 1, 1960.

Bradley-Burns law was enacted in 1955. By 1961, all 58 counties had elected to opt into the Bradley-Burns system. Section 7208 was enacted in 1959 and took effect September 18, 1959. At that time, eight counties (Alpine, Amador, Fresno, Plumas, San Mateo, Santa Barbara, Siskiyou, and Tehema) did not have a Bradley-Burns tax in effect. However, three counties (Amador, Fresno, and Tehema) had adopted a Bradley-Burns tax which became operative on October 1, 1959.

As previously stated, all counties adopted the Bradley-Burns tax by 1961. Therefore, the provisions of Section 7208 are no longer applicable and the statute should be deleted.

**Section 7251.2** was enacted in 1990 (Assembly Bill 3736, Ch. 1490, Stats. 1990) to specify that if two local district tax measures submitted to the voters of Los Angeles County at the November 6, 1990 general election were approved, that the rate of each tax would be limited to 0.25 percent. Both of these measures were to impose a district tax at a rate of 0.50 percent each. However, if both measures would have passed, Los Angeles County would have exceeded the combined district rate limitation of 1 percent (rate limitation in effect in 1990). The enactment of Section 7251.2 resolved this issue by specifying that if both

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measures pass, then each ordinance would impose only a 0.25 percent tax rate, instead of a 0.50 percent.

Known as the “Los Angeles County Transportation Commission 1990 Fast-Track Anti-Gridlock Transit Improvement Proposition” and the “Local Communities Safety Act – Los Angeles County Regional Justice Facilities Financing Agency,” the Los Angeles Transportation Commission tax passed and became operative on April 1, 1991, and the Los Angeles County Regional Justice Facilities Financing Agency failed.

Since Section 7251.2 applies only to the two district tax measures that were submitted to the voters of Los Angeles County at the November 6, 1990 general election, it seems that the statute is no longer needed, and, therefore should be repealed.

**Section 7271.05**, added by SB 30 (Ch. 37, Stats. 1990 First Extraordinary Session), provides that, beginning July 1, 1992, and for each year through and until July 1, 1997, the Board shall reduce district taxes transmitted to the Santa Cruz Metropolitan Transit District by an amount to recover 1/5 of the amount transmitted to the district pursuant to Section 7271.03, plus interest. Section 7271.03, also added by SB 30, provided the procedures whereby the district could make a request to the Controller to receive an amount representing reductions in district tax revenues directly attributable to the October 17, 1989 earthquake (known as The Loma Prieta Earthquake). Section 7271.03 was repealed effective January 1, 1992. Since the requirements of Section 7271.05 have been accomplished, it appears that the statute is no longer needed, and, therefore should be repealed.

### AMENDMENT

This measure repeals Sections 7204.02, 7204.5, and 7208 of the Bradley-Burns law and Sections 7251.2 and 7271.05 of the District tax law that have become obsolete.

### COMMENT

**Purpose.** The repeal of these sections is intended to clean up the tax code. These statutes were enacted to serve a specific purpose and that purpose has been accomplished. As such, these statutes are no longer used and, therefore, should be repealed.

**Repeal of Redundant Provisions**

*Revenue and Taxation Code Sections 7286.28,  
7286.40, 7286.47, 7286.56, and 7286.65*

**LAW PRIOR TO AMENDMENT**

Senate Bill 566 (Ch. 709, Stats. 2003), effective January 1, 2004, authorizes cities to levy transactions and use taxes for general or special purposes, subject to voter approval. Prior to the enactment of SB 566, cities needed specific legislative approval in order to place a sales tax ordinance before the voters of that city. SB 566 provided cities with the same authority that exists for counties and eliminated the need for all of the special “city” legislation.

SB 566 added both Sections 7285.9 and 7285.91 to the Transactions and Use Tax Law. Section 7285.9 authorizes a city to levy a transactions and use tax at a rate of 0.25 percent, or multiple thereof, for general purposes, if the ordinance imposing that tax is approved by a majority of the local electorate. Section 7285.91 authorizes a city to levy a transactions and use tax at a rate of 0.25 percent, or multiple thereof, for special purposes, if the ordinance imposing that tax is approved by a two-thirds vote of the local electorate.

Under existing law, Section 7286.47 authorizes the City of Redding to levy a transactions and use tax at a rate of 0.25 percent for general purposes, subject to a majority voter approval. Since City of Redding can levy a general purpose tax at a rate of 0.25 percent under the general statute (Section 7285.9), this special statute is no longer needed. Similarly, Sections 7286.28 (City of Salinas), 7286.40 (City of Lakeport), 7286.56 (Town of Yucca Valley), and 7286.65 (City of Madera) authorize specified cities to impose a special tax at a rate of 0.25 percent, or multiples of 0.25 percent, subject to two-thirds voter approval. These cities can levy a special purpose tax at a rate of 0.25 percent, or multiples of 0.25 percent, under the general statute (Section 7285.91).

**AMENDMENT**

This measure repeals Sections 7286.28, 7286.40, 7286.47, 7286.56, and 7286.65 of the Transactions and Use Tax Law to eliminate special statutes that are now redundant due to subsequent legislation that authorized any city to levy a transactions and use tax for general or special purposes, subject to the required voter approval.

**COMMENT**

**Purpose.** Because cities can levy a transactions and use tax under Sections 7285.9 (general purpose) or 7285.91 (special purpose), these special enabling statutes are no longer necessary, and, therefore, these amendments repeal these redundant provisions.

**Senate Bill 87 (Committee on Budget and Fiscal Review) Chapter 180**  
***Business Property Statement – Use Tax***

*Urgency measure, effective August 24, 2007, but operative January 1, 2008. Among its provisions, amends Section 452 of the Revenue and Taxation Code.*

**BILL SUMMARY**

This Budget trailer bill makes changes necessary to implement the Budget Act of 2007. This bill, among other things unrelated to the Board, requires annual business property statements filed with county assessors for property tax purposes to include information about the use tax, as specified.

**Sponsor: Committee on Budget and Fiscal Review**

**LAW PRIOR TO AMENDMENT**

**Use Tax.** Under the existing Use Tax Law, Chapter 3 (commencing with Section 6201) of Part 1 of Division 2 of the Revenue and Taxation Code, a use tax is imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer. The use tax is imposed on the purchaser, and unless that purchaser pays the use tax to a retailer registered to collect the California use tax, the purchaser is liable for the tax, unless the use of that property is specifically exempted or excluded from tax. The use tax is the same rate as the sales tax and is required to be remitted to the Board on or before the last day of the month following the quarterly period in which the purchase was made, or to the Franchise Tax Board (FTB) via the income tax return. A use tax liability is primarily a result of a California consumer or business making a purchase of an item for their own use from an out-of-state retailer that is not registered with the Board to collect the use tax.

**Business Personal Property Tax.** Under existing property tax laws, an ad valorem tax is imposed every year on all assessable personal property used in a trade or business at its current fair market value. In making this annual assessment, taxpayers typically report the cost of their property holdings to the local county assessor on the “business property statement” as provided for in Section 441. The business property statement shows all taxable property, both real and personal, owned, claimed, possessed, controlled, or managed by the person filing the property statement. When the aggregate cost of the taxable personal property is \$100,000 or more, the person is required to file a business property statement, signed under penalty of perjury, each year with the assessor.

Section 452 requires the Board to prescribe the content and detail of the business property statement used by assessors. Section 452 specifies that the property statement shall not include any question that is not germane to the assessment function and Section 451 requires the assessor to hold secret the information furnished in the statement.

### AMENDMENT

This bill amends Section 452 to require the Board to include in the business property statement it prescribes for the use of local county assessors:

- A brief statement about the obligation to pay use tax on taxable purchases if sales tax was not applicable.
- Information about how to pay use tax, which could be limited to the Board's phone number and web address where additional information and use tax returns could be accessed.
- A statement advising the taxpayer that information provided on the business property tax statement may be shared with the Board.

This bill also specifies that the Board is to implement these requirements in a manner that does not increase local costs.

### BACKGROUND

The collection of use tax relies heavily on the voluntary compliance of purchasers of tangible personal property. However, due to the general misconception that purchases from outside this state are "tax free" and that audit resources are insufficient to pursue all purchasers, the voluntary compliance rate has been very low. Untaxed purchases from out of state retailers is the largest area of non-compliance the Board's audit staff encounters.

The Board is the state agency responsible for administering the provisions of the use tax. However, in an effort to increase voluntary compliance by purchasers not registered with the Board, legislation enacted in 2003, SB 1009, (Alpert, Ch. 718) requires the FTB to add a line to the state's income tax forms allowing taxpayers to self-report their use tax liabilities to the FTB.

In 2005, two bills were introduced in the Legislature, AB 911 (Chu) and AB 1618 (Klehs), to require business property statements filed with county assessors for property tax purposes to include information regarding the use tax on acquisitions of property identified on the statements. Neither bill was ultimately enacted with this provision.

Although line-item vetoed by the Governor, this year's proposed Budget Bill for 2007-08, SB 77 (Ducheny), would have provided \$400,000 for the Board to (1) contract with up to three selected county assessors offices on a pilot basis to include with their business property statements an additional message from the Board explaining the obligation to pay use tax on nonexempt purchases if sales tax was not paid and to provide, in electronic form, data to the Board from the business property statements on recent equipment purchases by businesses, and (2) for the Board to conduct discovery audits for the primary purpose of determining whether the problem of nonpayment of use tax by businesses is significant and to determine, if feasible, areas with the greatest noncompliance (for example, by type of business, size, or geographic area). The Board would have been authorized to seek the assistance of the selected county assessors in selecting and identifying businesses for potential discovery audits.

**COMMENTS**

1. **Purpose.** The purpose of this provision is to use the annual business property tax statement as an outreach tool in an effort to increase use tax education and compliance.
2. **Budget Bill appropriation related to the business property statements and the use tax was vetoed by Governor.** The Budget Bill passed by the Legislature would have provided \$400,000 to the Board (Item 0860-001-0001) to contract with up to three local county assessors in a pilot project to provide electronic information from business property statements filed with those assessors that identify businesses with recent equipment purchases and for the Board to conduct discovery audits with a use tax emphasis. However, the item was lined-item vetoed by the Governor.
3. **Enactment of this bill would “get the word out.”** Collecting use tax relies heavily on voluntary compliance. This bill will assist in informing and advising those taxpayers most likely to be incurring a greater portion of use tax liabilities (i.e., those with tangible personal property holdings in excess of \$100,000 that are used in a trade or business) of their use tax responsibilities under the law. It will also enable the Board and county assessors to share the information obtained from the business property statements to facilitate administration of the tax laws.
4. **Business Property Statements.** Proponents of closing the use tax gap have noted that local county assessors receive annual property tax statements from businesses related to their personal property holdings that could be used as a data mining source. However, in its present form, the business property statement is not a useful discovery tool. Taxpayers report their personal property holdings by year of acquisition in lump sum amounts that are broken down by a few broad category types. In addition, there are issues with the confidentiality of these property statements as well as their use for other tax purposes, which this bill would expressly address.
5. **Administrative efficiencies in using an existing taxpayer base.** Proponents note that the annual contact that assessors already have with businesses that own tangible personal property at the local level could be a cost effective means to educate and obtain voluntary use tax remittance from businesses as well as provide use tax leads for the Board to pursue.
6. **State and local government partnership and cooperation to facilitate administration of the tax laws and possible enhanced revenues.** The Board is the state agency responsible for administering the provisions of the use tax. However, local governments would receive a share of previously uncollected use tax as well as an increase in property tax revenues that may result due to the educational outreach that will occur with the business property statement.

**Senate Bill 144 (Committee on Local Government) Chapter 343**  
***Transactions and Use Tax Law – Clean up***

*Effective January 1, 2008. Among its provisions, repeals Sections 7262.5 and 7262.6 of the Revenue and Taxation Code.*

**BILL SUMMARY**

This bill makes numerous, non-controversial changes to the California Codes related to local governments. Among its provisions, this bill does the following:

- Repeals Section 7262.5 of the Transactions and Use Tax Law to eliminate a special statute that is redundant due to subsequent legislation that authorized counties to levy transactions and use taxes for special purposes. (Technical)
- Repeals Section 7262.6 of the Transactions and Use Tax Law to eliminate a statute that is no longer valid due to a ruling issued by the Fifth District Court of Appeal which upheld the finding of the Superior Court of Fresno County that the Fresno Metropolitan Projects Authority was a nongovernmental, private entity barred by the California Constitution from levying any tax. (Technical)

**Sponsor: Committee on Local Government**

**LAW PRIOR TO AMENDMENT**

**Repeal of Redundant Provision.** Senate Bill 576 (Ch. 1323, Stats. 1987) added Section 7262.5 to the Transactions and Use Tax Law to authorize the County of Mendocino, subject to a two-thirds voter approval, to levy a transactions and use tax at a rate of 0.50 or 1 percent for a period of not more than five years. The revenues collected from the tax were to be used exclusively for the purpose of funding county library programs and operations.

Subsequently, in 1989, Assembly Bill 999 (Ch. 277, Stats. 1989), effective August 7, 1989, added Section 7285.5 to the Transactions and Use Tax Law to authorize the board of supervisors of small counties (those with a population of 350,000 or less as of January 1, 1987) to establish an authority for specific purposes. In 1990, Assembly Bill 3670 (Ch. 1707, Stats. 1990), amended Section 7285.5 to delete the population limitation and permit any county to establish an authority for specific purposes. The authority, subject to a majority voter approval, could levy a transactions and use tax at a rate of 0.25 or 0.50 percent for the purposes for which the authority was established. In 2001, a Board-sponsored bill, Assembly Bill 1123 (Ch. 251, Stats. 2001), amended Section 7285.5 to allow counties to levy a special purpose tax directly, without first establishing an authority for specific purposes. This bill also clarified that counties may 1) levy a special purpose transactions and use tax if the tax is approved by two-thirds of the voters; and 2) levy a transactions and use tax in multiples of 0.25 percent.

Under Section 7285.5, Mendocino County can levy a transactions and use tax, subject to two-thirds voter approval, in multiples of 0.25 percent for specific purposes, including library purposes. Since Mendocino County can levy a tax under this authority, the special statute (Section 7262.5) is redundant and no longer needed.

**Repeal of Invalid Section.** Under existing law, Section 7262.6, authorized the Fresno Metropolitan Projects Authority (Authority) to levy a transactions and use tax at a rate of 0.10 percent for a period not to exceed 20 years, subject to voter approval. The revenues collected from the tax are to be used by the Board of Directors of the Authority to assist scientific, cultural, and multicultural facilities and programs within the Authority.

On March 2, 1993, in a special election held in the Fresno metropolitan area, voters approved a 0.10 percent transactions and use tax. The tax was entitled the Fresno Metropolitan Projects Authority tax, and was also known as the “Arts to Zoo” tax. The tax became operative on July 1, 1993.

On December 11, 1995, the Fifth District Court of Appeal issued its ruling in the case, *Howard Jarvis Taxpayers’ Association v. Fresno Metropolitan Projects Authority* (1995) 40 Cal.App.4<sup>th</sup> 1359, mod. (1996) 41 Cal.App.4<sup>th</sup> 1523a. It held that a transactions and use tax authorized and administered by a nongovernmental private body, the Fresno Metropolitan Projects Authority (Authority), violated Article XI, section 11, subdivision (a) of the California Constitution. This subdivision prohibits the Legislature from delegating to a private person or private body the power to levy taxes or to perform municipal functions. The court, in finding that the Authority was a private rather than a public body, relied on the fact that eleven of the Authority’s thirteen authorized members were chosen by private entities that had no accountability to the electorate.

Under Rule 24(a), California Rules of Court, the Board was authorized to stop administering and enforcing the tax on March 21, 1996.

Since the Court of Appeal held the tax levied by the Authority to be unconstitutional, Section 7262.6 is no longer valid.

#### **AMENDMENT**

Among other things, this bill:

- Repeals Section 7262.5 of the Transactions and Use Tax Law to eliminate this special statute that is redundant due to subsequent legislation that authorized any county to levy a transactions and use tax for special purposes, including library programs, at a rate of 0.25 percent or multiples of 0.25 percent, subject to two-thirds voter approval.
- Repeals Section 7262.6 of the Transactions and Use Tax Law to eliminate a statute that is no longer valid due to a ruling issued by the Fifth District Court of Appeal which upheld the finding of the Superior Court of Fresno County that the Fresno Metropolitan Projects Authority was a nongovernmental, private entity barred by the California Constitution from levying any tax.

**COMMENTS**

1. **Purpose.** This bill is the Senate Local Government Committee's annual omnibus bill for making non-controversial, technical changes to the California Codes affecting local governments. Staff of the Senate Local Government Committee identified these two Revenue and Taxation Code statutes (7262.5 and 7262.6) as either redundant or invalid. The repeal of these sections is intended to cleanup the tax code.
2. **Staff of the Senate Local Government Committee contacted local officials from both Mendocino and Fresno Counties.** The officials from these counties agreed that the respective statutes are no longer needed or valid and gave their approval to repeal them.
3. **Related Legislation.** AB 1748 (Assembly Revenue and Taxation Committee, Ch. 342, Stats. 2007), contains Board-sponsored provisions which, among other things, provide technical cleanup to various statutes under the Transactions and Use Tax Law.

**Senate Bill 264 (Alquist) Chapter 430**

***Transactions and Use Tax – Santa Clara County***

*Effective January 1, 2008. Amends Sections 100250 and 100251 of the Public Utilities Code, and adds Section 7262.3 to the Revenue and Taxation Code.*

**BILL SUMMARY**

This bill authorizes the Santa Clara Valley Transportation Authority, with two-thirds approval of the voters of the County of Santa Clara, to impose a transactions and use tax at a rate of 0.125 percent, for transit facilities and services.

**Sponsor: Santa Clara Valley Transportation Authority**

**LAW PRIOR TO AMENDMENT**

The Board administers local sales and use taxes under the Bradley-Burns Uniform Local Sales and Use Tax Law and under the Transactions and Use Tax Law, which are divisions of the Revenue and Taxation Code.

The **Bradley-Burns Uniform Local Sales and Use Tax Law** (commencing with Section 7200 of the Revenue and Taxation Code), authorizes cities and counties to impose a local sales and use tax. The rate of tax is fixed at 1.25 percent of the sales price of tangible personal property sold at retail in the local jurisdiction, or purchased outside the jurisdiction for use within the jurisdiction. However, beginning July 1, 2004, and continuing through the “revenue exchange period” (also known as the “Triple Flip”), Section 7203.1 temporarily suspends the authority of a county or a city to impose a tax under Sections 7202 and 7203, and instead provides that the applicable rate is the following: 1) in the case of a county, 1 percent; and 2) in the case of a city, 0.75 percent or less. “Revenue exchange period” means the period on or after July 1, 2004, and continuing until the Department of Finance notifies the Board, pursuant to Section 99006 of the Government Code, that the \$15 billion Economic Recovery Bonds have been repaid or that there is sufficient revenues to satisfy the state’s bond obligations.

Of the 1 percent, cities and counties use the 0.75 percent to support general operations. The remaining 0.25 percent is designated by statute for county transportation purposes and may be used only for road maintenance or the operation of transit systems. The counties receive the 0.25 percent tax for transportation purposes regardless of whether the sale occurs in a city or in the unincorporated area of a county.

The **Transactions and Use Tax Law** (commencing with Section 7251 of the Revenue and Taxation Code) authorizes cities and counties to impose transactions and use taxes (hereinafter referred to as district taxes) under specified conditions. **Section 7285** authorizes a county to impose a district tax for general purposes at a rate of 0.25 percent, or multiple thereof, if the ordinance proposing the tax is approved by a two-thirds vote of the board of supervisors and a majority vote of the qualified voters of the county. **Section 7285.5** authorizes a county to impose a district tax for special purposes at a rate of 0.25 percent, or multiple thereof, if the ordinance proposing the tax is approved by a two-thirds vote of the board of

supervisors and a two-thirds vote of the qualified voters of the county.

**Section 7286.59** authorizes a county to impose a district tax for library purposes at a rate of 0.125 or 0.25 percent for a period not to exceed 16 years, if the ordinance proposing the tax is approved by the board of supervisors and a two-thirds vote of the qualified voters of the county. Currently, there are four counties that impose a district tax at a rate of 0.125 percent for library purposes: Fresno County, Nevada County, Solano County, and Stanislaus County.

The combined rate of all district taxes imposed in any county cannot exceed 2 percent.

Cities and counties are required to contract with the Board to perform all functions in the administration and operations of the ordinances imposing the Bradley-Burns local taxes and the district taxes.

### AMENDMENT

This bill adds Section 7262.3 to the Transactions and Use Tax Law to authorize the Santa Clara Valley Transportation Authority to adopt an ordinance imposing a district tax at a rate of 0.125 percent, provided that all provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code and Article 9 (commencing with Section 100250) of Chapter 5 of Part 12 of the Public Utilities Code are complied with by the Authority.

This bill also amends Section 100250 of the Public Utilities Code to provide that a district tax ordinance adopted by the board of directors of the Santa Clara Valley Transportation Authority must be approved by a two-thirds vote, *instead of a majority vote*, of the qualified voters of the County of Santa Clara.

### IN GENERAL

Cities and counties may impose a district tax for general or specific purposes. These taxes can be imposed either directly by the city or county or through a special purpose entity established by the city or county. Counties can also establish a transportation authority to impose district taxes under the Public Utilities Code.

As of April 1, 2007, there are 87 local jurisdictions (city, county, and special purpose entity) imposing a district tax for general or specific purposes. Of the 87 jurisdictions, 36 are county-imposed taxes and 51 are city-imposed taxes. Of the 36 county-imposed taxes, 24 are imposed for transportation purposes (and 23 of these taxes are imposed under the authority of the Public Utilities Code). Of the 36 county-imposed taxes, four are imposed for library purposes at a rate of 0.125 percent (Fresno County, Nevada County, Solano County and Stanislaus County).

As stated previously, the combined rate of all district taxes imposed in any county shall not exceed 2 percent. Generally, tax rates are imposed at a rate of 0.25 percent or 0.25 percent increments up to the 2 percent limit. Currently, the district tax rates vary from 0.10 percent to 1 percent. The combined state, local, and district tax rates range from 7.375 percent to 8.75 percent.

## COMMENTS

1. **Purpose.** The Santa Clara Valley Transportation Authority sponsored this bill in an effort to seek additional funding for transit facilities and services. According to the author, "SB 264 would provide an option for the Santa Clara Valley Transportation Authority to possibly seek voter approval of a dedicated sales tax for transportation purposes at a rate of 1/8 percent (0.125 percent), subject to a 2/3 vote of the electorate. Current law limits Santa Clara VTA to potential sales tax increases only in increments of 1/4 percent (0.25 percent). Additional flexibility is needed for increases of smaller increments, which may be a more prudent measure at times and under certain circumstances."
2. **Key Amendments.** The **August 28, 2007** amendments clarified that the transactions and use tax ordinance must be approved by a two-thirds vote of the county electorate. The **June 20, 2007** amendments made a technical correction to Section 7262.3 of the Transactions and Use Tax Law by adding *percent* after *at a rate of 0.125*. The **May 15, 2007** amendments reduced the operative date time frame following the adoption of a transactions and use tax ordinance from 180 days to 110 days, and therefore provide that a transactions and use tax ordinance would not be operative prior to the first day of the first calendar quarter commencing more than 110 days (rather than 180 days) after the adoption of the ordinance by the voters. This amendment made Section 100251 of the Public Utilities Code (PUC) consistent with Section 7265 of the Transactions and Use Tax Law, which provides for a delay of 110 days. The **March 20, 2007 amendments** deleted provisions related to: 1) authorizing the Santa Clara Valley Transportation Authority to levy a tax at multiples of 0.125 percent; and 2) requiring that the tax be imposed for a specified period of time.
3. **Counties are authorized to impose district taxes at a rate of 0.25 percent, or multiples of 0.25 percent.** With the exception of Section 7286.59 that authorizes counties to impose a tax at a rate of 0.125 or 0.25 percent for library purposes, **there is no authority for a county to impose a district tax at a rate of 0.125 percent.** Therefore, in order for Santa Clara Valley Transportation Authority to impose a tax, upon approval of the voters, at a rate of 0.125 percent special legislation is needed.
4. **Current district taxes levied within the County of Santa Clara.** Currently, Santa Clara County has two district taxes being levied within its borders. The tax rates are 0.50 percent each for a total countywide tax rate of 1 percent. Thus, of the 2 percent countywide cap, Santa Clara County has a total of 1 percent left. The total state and local tax rate in all areas of Santa Clara County is 8.25 percent.

Senate Bill 49 (Chapter 180, Stats. 1969, Alquist) established the Santa Clara County Transit District pursuant to Division 10, Part 12 (commencing with Section 100000) of the PUC for the purposes of addressing the public transit problems of Santa Clara County. Subsequently, in 1999, the Santa Clara County Transit District was renamed the Santa Clara Valley Transportation Authority. The two 0.50 percent district taxes levied within the borders of Santa Clara County are levied by the Santa Clara Valley Transportation Authority under Article 9 (commencing with Section 100250) of Chapter 5 of Part 12 of the PUC.

STATE BOARD OF EQUALIZATION

5. **1/8 (0.125) percent can be complicated for retailers.** There are four counties that currently levy a tax at a rate of 1/8 (0.125) percent. Our experience in administering these taxes is that some retailers can have difficulty reprogramming cash registers and accounting programs, since a 1/8 (0.125) percent rate results in a factor with five digits after the decimal point. In Santa Clara County, an additional 1/8 (0.125) percent rate would result in a total tax rate of 8.375 percent, for a factor of 0.08375, which might pose difficulty for some retailers.

STATE BOARD OF EQUALIZATION

**TABLE OF SECTIONS AFFECTED**

SECTIONS		BILL AND CHAPTER NUMBER		SUBJECT
Revenue & Taxation Code				
§452	Amend	SB 87	Ch. 180	Business property statement – use tax
§6375.5	Amend Add Repeal	AB 538	Ch. 317	Exemption: Nonprofit Organizations: New children’s clothing
§6405	Amend	AB 1748	Ch.342	Purchases from foreign countries
§6478	Amend	AB 1748	Ch. 342	Appeals rights for prepayment penalty
§7204.02	Repeal	AB 1748	Ch. 342	Repeal of outdated section
§7204.3	Amend	AB 1748	Ch. 342	Technical wording changes
§7204.5	Repeal	AB 1748	Ch. 342	Repeal of outdated section
§7208	Repeal	AB 1748	Ch. 342	Repeal of outdated section
§7211	Amend	AB 1748	Ch. 342	Clarify that the Board will enforce local ordinances
§7251.2	Repeal	AB 1748	Ch. 342	Repeal of outdated section
§7252	Amend	AB 1748	Ch. 342	“Districts” definition simplified
§7252.5	Repeal	AB 1748	Ch. 342	“Districts” definition simplified
§7252.6	Repeal	AB 1748	Ch. 342	“Districts” definition simplified
§7252.7	Repeal	AB 1748	Ch. 342	“Districts” definition simplified
§7252.8	Repeal	AB 1748	Ch. 342	“Districts” definition simplified
§7252.9	Repeal	AB 1748	Ch. 342	“Districts” definition simplified
§7252.10	Repeal	AB 1748	Ch. 342	“Districts” definition simplified
§7252.11	Repeal	AB 1748	Ch. 342	“Districts” definition simplified
§7252.12	Repeal	AB 1748	Ch. 342	“Districts” definition simplified
§7252.13	Repeal	AB 1748	Ch. 342	“Districts” definition simplified
§7252.15	Repeal	AB 1748	Ch. 342	“Districts” definition simplified
§7252.16	Repeal	AB 1748	Ch. 342	“Districts” definition simplified
§7252.21	Repeal	AB 1748	Ch. 342	“Districts” definition simplified
§7252.22	Repeal	AB 1748	Ch. 342	“Districts” definition simplified

STATE BOARD OF EQUALIZATION

**TABLE OF SECTIONS AFFECTED continued**

SECTIONS		BILL AND CHAPTER NUMBER		SUBJECT
Revenue & Taxation Code				
§7252.30	Repeal	AB 1748	Ch. 342	“Districts” definition simplified
§7262.3	Add	SB 264	Ch. 430	Transactions and use tax – Santa Clara County
§7262.5	Repeal	SB 144	Ch. 343	Transactions and Use Tax Law – clean up
§7262.6	Repeal	SB 144	Ch. 343	Transactions and Use Tax Law – clean up
§7269	Add	AB 1748	Ch. 342	Limitation on redistributions of district taxes
§7271.05	Repeal	AB 1748	Ch. 342	Repeal of outdated section
§7273	Amend	AB 1748	Ch. 342	Technical wording changes
Chapter 2.67 (§7286.28)	Repeal	AB 1748	Ch. 342	Repeal of redundant provision
Chapter 2.8 (§7286.40)	Repeal	AB 1748	Ch. 342	Repeal of redundant provision
Chapter 2.9 (§7286.47)	Repeal	AB 1748	Ch. 342	Repeal of redundant provision
Chapter 2.95 (§7286.56)	Repeal	AB 1748	Ch. 342	Repeal of redundant provision
Chapter 2.96 (§7286.65)	Repeal	AB 1748	Ch. 342	Repeal of redundant provision
Public Utilities Code				
§100250	Amend	SB 264	Ch. 430	Authority for Santa Clara Valley Transportation Authority to levy tax
§100251	Amend	SB 264	Ch. 430	Operative date of ordinance