



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

Date:	04/29/13	Bill No:	Assembly Bill 892
Tax Program:	Property	Author:	Daly
Sponsor:	California Taxpayers' Association	Code Sections:	GC 15616
Related Bills:		Effective Date:	01/01/14

BILL SUMMARY

This bill requires the Board of Equalization (BOE) to report annually to the Governor specified information about locally imposed “parcel” taxes.

ANALYSIS

CURRENT LAW

Existing law¹ allows local agencies to impose a special tax with two-thirds voter approval.² Following a public hearing, the local agency’s legislative body may enact an ordinance or resolution and place it on the ballot. The ordinance or resolution details the tax type and the tax rate.³ While a local agency may levy a special tax levy against a parcel of property, the phrase “parcel tax” is not defined in statute. Thus, for purposes of this analysis, a “parcel tax” means a special tax imposed on any parcel of property or upon any person as an incident of property ownership.

The Local Agency Special Tax and Bond Accountability Act (Act)⁴ requires the local agency’s chief fiscal officer to file an annual report with the agency’s governing body detailing the amount of special tax revenue the agency has collected and expended.⁵ The Act also requires other accountability measures including: (1) A statement indicating the specific purpose of the special tax; (2) A requirement that the local agency apply the tax proceeds only to those specific purposes; and (3) The creation of a special account in which to deposit the proceeds.⁶

The State Controller’s Office (SCO) compiles and publishes information about local agencies’ finances, including their revenue sources, based on financial information submitted by counties, cities, and special districts. The SCO [reports and posts this information online](#) as required by law.⁷

The BOE does not collect or have direct access to information regarding locally-imposed special taxes levied on any parcel of property or upon any person as an incident of property ownership.

¹ California Constitution Article XIII A Sec. 4, and Article 3.5 (commencing with Government Code (GC) Section 50075). The GC provides for various types of special taxes including taxes for: schools (GC Section 50079); public libraries (GC Section 53717 et seq); fire and police protection (GC Section 53978); hospitals (GC Section 53730.01); recreation and park districts (Public Resources Code Section 5784.39); and community facilities districts (Mello Roos)(GC Section 53321).

² California Constitution Article XIII A, Sec. 4., Article XIII C, Sec. 2.

³ GC Section 50077

⁴ Ch. 535, Stats. 2000 (SB 165)

⁵ GC Section 50075.3

⁶ GC Section 50075.1

⁷ GC Section 12463

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.

PROPOSED LAW

This bill requires the BOE to report annually to the Governor the following information about every locally imposed “parcel” tax:

- The type and rate.
- The number of parcels assessed.
- The number of parcels exempted.
- The sunset date, if any.
- The revenue collected.

The BOE must collect, analyze, and publish this data using existing funds or resources.

BACKGROUND

The California Constitution specifies that only two types of taxes may be imposed upon a parcel of property: (1) an ad valorem (based on property value) property tax imposed pursuant to Article XIII and Article XIII A; and (2) a special tax that has received two-thirds voter approval pursuant to Section 4 of Article XIII A. Furthermore, Article XIII A limits the ad valorem tax rate to 1%. Accordingly, the local agency must adopt a parcel tax as a special tax that is not based on the property’s value (ad valorem).

Section 3 of Article XIII D, provides that no **tax**, assessment, fee, or charge shall be assessed by any agency **upon any parcel of property or upon any person as an incident of property ownership except:**

- (1) The **ad valorem property tax** imposed pursuant to Article XIII and Article XIII A.
- (2) Any **special tax** receiving a two-thirds vote pursuant to Section 4 of Article XIII A.
- (3) Assessments as provided by Article XIII D.
- (4) Fees or charges for property related services as provided by Article XIII D.

COMMENTS

1. **Sponsor and purpose.** The California Taxpayers’ Association (CalTax) is sponsoring this bill because they believe that parcel taxes lack sufficient transparency. In March of 2013, CalTax prepared a policy brief: [THE OTHER PROPERTY TAX](#) *An Overview of Parcels Taxes in California* detailing the organization’s concerns with local governments that impose parcel taxes.
2. **Parcel tax statewide data sources.** The sponsor states that no statewide data exists concerning parcel taxes. Further, they argue there is no statewide oversight over local agencies that submit these taxes to their voters for approval.

The BOE reviews assessment (valuation) procedures at the county. The SCO reviews county property tax collection and property tax allocation procedures. On November 29, 2012, the Legislative Analyst Office (LAO) issued a report entitled, [Understanding California's Property Taxes](#). Related to parcel taxes, the LAO notes:

"Recent election reports and financial data suggest that parcel taxes represent a significant and growing source of revenue for some local governments. Specifically, between 2001 and 2012, local voters approved about 180 parcel tax measures to fund cities, counties, and special districts, and about 135 measures to fund K-12 districts. The most recent K-12 financial data (2009-2010) indicate that schools received about \$350 million from this source. We were not able to locate information on the

statewide amount of parcel tax revenue collected by cities, counties, and special districts."

3. **This bill requires the BOE to provide statewide information limited in scope to locally imposed parcel taxes.** As the LAO indicates, no such statewide database exists. The detailed financial statement each local agency prepares and provides to the SCO for publication appears to include parcel tax revenues under the item "other taxes."
4. **This bill lacks any authority for the BOE to require local agencies to report the information necessary to fulfill the bill's obligations.** Hence, the state would expend more resources to independently determine and report details about local agencies special taxes. Although, agencies reporting to the SCO are required to report to the SCO "in the time, form, and manner prescribed by the Controller" this bill does not impose a similar obligation on agencies from whom the BOE must obtain information. Without such a requirement, local agencies will be less likely to report the data. These local agencies should be similarly required to report necessary information to the BOE. As noted in Comment # 7, only a local agency that imposes a special tax on assessment parcels invoiced on the annual property tax bill should report information to the BOE.
5. **Necessary Information.** The bill should require local agencies to submit a copy of the voter-approved ordinance or resolution. That document provides information about the tax type, the tax rate, the method of collection, and the sunset date. Additionally, local agencies should annually report to the BOE:
 - The number of assessor parcels subject to the tax.
 - The number of assessor parcels exempt from the tax.
 - The amount of revenue received from the tax.

An online search of local agency contracts suggests that local agencies that contract with the county to collect the tax via the county's annual property tax bill provide some of this information to the county auditor-controller. The county requires the information in order to submit the tax on the county tax rolls. For example, the county requires a list of assessor parcel numbers and the amount of each tax required to be collected. It appears that some local agencies use a third-party consultant or contractor to prepare this information.

6. **Monitoring 3,800 local governments.** Approximately 3,800 local governments could impose a parcel tax. Some parcel taxes could be approved by voters in a municipal local election without widespread publicity, such as a local election held off-cycle from a general or special election. For this reason, reporting requirements are necessary to help ensure the information's accuracy.
7. **Clarifying definitions are needed.** This bill should define "parcel tax" to provide clarity to the BOE on the scope of the data collection. While the term "parcel tax" is commonly used, the tax code does not appear to define it explicitly. Also, the terms "assessor parcel number" and "assessor parcel" are commonly used, but not defined. Since a parcel tax must be adopted as a special tax we suggest an amendment to define "parcel tax" for purposes of this bill as follows:

"Parcel tax" means a tax levied by a local agency upon any parcel of property identified using the assessor's parcel number system or upon any person as an

incident of property ownership pursuant to Section 4 of Article XIII A of the California Constitution that is collected via the annual property tax bill.

Additionally, we suggest amendments using the language provided in Comment #6 to describe the data collection more precisely. We note that a special tax imposed on a parcel need not be collected via the annual property tax bill. A local agency may use other collection methods, such as directly billing the property owner or contracting with a third party collector.

8. **The property tax bill includes numerous charges, assessments, and fees.** Taxpayers could view these items as “parcel taxes” since they are imposed/levied on their parcel. Therefore, to eliminate any confusion, the bill should expressly state that the BOE is not required to compile and report all other assessments, fees, or charges imposed on parcels. Additionally, the bill should expressly exclude Mello Roos special taxes for community facility districts, which are also imposed on parcels. Both the Cal Tax Policy brief and the LAO report do not categorize Mello Roos taxes as a “parcel tax.” Landowners usually vote to approve Mello Roos taxes prior to property development. The taxes imposed on future buyers finance the public facilities and services for development. The law requires sellers to provide a notice of special tax to the buyer to disclose the Mello Roos tax (Civil Code Section 1102.6).
9. **“Tax type” needs clarifying.** The phrase tax type could be interpreted to mean the purpose of the special tax, such as for schools, police, hospitals etc. CalTax’s policy brief reveals that the term “type” intends to refer to how the tax is calculated. Examples provided include: flat rate, structure’s age, street frontage, parcel use, room count, and square footage. The enacting tax ordinance or resolution contains details on how to calculate the tax. As previously noted, a tax based on property value (ad valorem) violates Article XIII A.
10. **Local agencies use the annual property tax bill as a cost effective mechanism to collect monies.** Many counties require a local agency to enter into a written agreement to collect the agency’s special tax, special assessment, and/or property-related fee on the property tax bill. The agreement often requires the local agency to timely respond to taxpayer inquiries and provides a phone number for taxpayers’ questions. In some counties, the tax bill lists the phone number next to the charge. Other counties provide an informational insert with the tax bill or reference the county’s website contact information. Government Code Section 50077, among others,⁸ allows the county to charge local agencies for applying special taxes, special assessments to the tax roll for collection with the property tax bill.
11. **The public has other information sources regarding parcel taxes specific to their property.** The sponsor states property tax bills do not uniformly identify a “parcel tax” as such. And that property owner’s do not understand the purpose and use of parcel tax funds. We note that voters must approve the tax based on the information contained in the ordinance or resolution presented to them. Additionally, as noted previously, the county publicizes contact information for each charge listed, often on the tax bill, so that owners can contact the levying local agency with any questions directly. Counties provide this information to minimize the workload and resultant costs that would otherwise incur to redirect inquiring property owners.

⁸ GC Sections 29142, 27013, and 29304

- 12. **The report should be added to the existing Local Agency Special Tax and Bond Accountability Act and posted online.** We note that these transparency provisions are better placed within the structure of the existing Accountability Act. Given the anticipated data quantity, posting the report on the BOE’s website, rather than giving the Governor a written report, reduces agency costs and provides the public with instant access at no charge. With the exception of the Governor, BOE publishes its annual reports electronically on its website rather than in written form.
- 13. **This bill requires the BOE to undertake these task using existing funds or resources.** However, the workload this bill imposes is not absorbable using existing resources.

COST ESTIMATE

This bill currently specifies that the BOE must collect, analyze, and publish this data with existing funds or resources; however the workload impact of this bill will not be absorbable. The BOE anticipates substantial costs, between \$250,000 and \$1 million to gather the data from the various local entities that are not currently required to report this information to the BOE. A detailed cost estimate is pending.

REVENUE ESTIMATE

This measure does not impact state or local revenues.

Analysis prepared by:	Rose Marie Kinnee	(916) 445-6777	05/14/13
Contact:	Michele Pielsticker	(916) 322-2376	
ls			0892ab042913rmk.docx