

Add Sections 7285.6 and 7285.93 to the Additional Local Taxes Law to authorize a citywide or countywide district tax ordinance to be approved by voters without the governing body's approval.

Source: Legislative and Research Section

Existing Law

Under existing law, various sections in the Additional Local Taxes Law in the Revenue and Taxation Code authorize cities and counties to levy district taxes upon voter approval. In order to enact a district tax, these sections of law require approval of both the governing body of the city or county (i.e., the city council or the county board of supervisors) *and* approval by a vote of the qualified voters of the city or county voting in an election on the issue. Under these provisions, a district tax ordinance cannot be approved by the voters unless the city's or county's governing body also approves the ordinance.

This Proposal

This proposal would provide an alternative method by which district taxes may be approved by the voters. It would effectively eliminate the requirement that the city's or county's governing body approve the ordinance in situations where the voters on their own approve the tax through the initiative process. This proposal was prompted by a proposed district tax for the City of Richmond where the citizens placed on the November 2005 ballot an initiative to enact a one-half percent district tax ordinance by direct vote of the people. Although the initiative did not pass, a question arose as to whether the Board would administer and enforce a city transactions and use tax enacted directly through the initiative process without approval of the city council passing an ordinance. Since the Revenue and Taxation Code provides specifically that the governing body must approve the ordinance, a tax approved by the vote of the people would be in conflict with the law. The Board therefore could possibly not enforce the tax or administer the funds.

This proposal is particularly important, since we are seeing more locally-imposed taxes on the ballots throughout the state (SB 566, Ch. 709, Stats. 2003, increased the cap on total allowable countywide transactions and use tax rates to 2 percent and authorized cities to levy transactions and use taxes, subject to voter approval). For example, at the November 2004 election, local governments throughout the state placed a total of 53 district tax measures on the ballot. In 2005, an additional 15 measures were on the ballot, and in 2006, 46 measures to levy a district tax were before the voters at the June and November elections.

While none of the enacted district taxes were approved solely by the vote of the people, it is important that the law provide for such situations in the event such a

situation were to occur in the future – especially considering the increasing number of ballot measures. This proposal would therefore provide as an alternative to the existing statutory authorizations to levy a tax, procedures that authorize the imposition of a district tax by a voter-approved initiative.

Section 7285.6 is added to the Revenue and Taxation Code to read:

7285.6. (a) By initiative, the voters of a county may levy, increase, or extend a transactions and use tax at a rate of 0.25 percent or a multiple thereof, for general or specific purposes, if all of the following requirements are met:

(1) The initiative is authorized by statute or charter.

(2) The ordinance enacted by the initiative conforms to the Transactions and Use Tax Law, Part 1.6 (commencing with Section 7251).

(3) The ordinance does not exceed the rate limitations specified in Sections 7251.1 and 7285.3.

(4) If the tax is for special purposes, the initiative is approved by a two-thirds vote of the qualified voters of the county voting in an election on the issue, and includes an expenditure plan describing the specific projects for which the revenues from the tax may be expended.

(b) The procedure described in this section may be used instead of the procedures specified in Sections 7285 and 7285.5.

(c) The county shall contract with the board to perform all functions incident to the administration and operation of the ordinance.

Section 7285.93 is added to the Revenue and Taxation Code to read:

7285.93. (a) By initiative, the voters of a city may levy, increase, or extend a transactions and use tax at a rate of 0.25 percent or a multiple thereof, for general or specific purposes, if all of the following requirements are met:

(1) The initiative is authorized by statute or charter.

(2) The ordinance enacted by the initiative conforms to the Transactions and Use Tax Law, Part 1.6 (commencing with Section 7251).

(3) The ordinance does not exceed the rate limitations specified in Sections 7251.1 and 7285.92.

(4) If the tax is for specific purposes, the initiative is approved by a two-thirds vote of the qualified voters of the city voting in an election on the issue, and includes an expenditure plan describing the specific projects for which the revenues from the tax may be expended.

(b) The procedure described in this section may be used instead of the procedures specified in Sections 7285.9 and 7285.91.

(c) The city shall contract with the board to perform all functions incident to the administration and operation of the ordinance.