



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

Date Amended:	07/23/09	Bill No:	<u>SBx4 12</u>
Tax:	Sales and Use	Author:	Ducheny
Related Bills:	AB 3x 46 (Evans)		

This analysis will only address the bill's provisions which impact the State Board of Equalization (Board).

BILL SUMMARY

Among its provisions, this 2009/10 Budget revision trailer bill would exclude revenues attributable to the temporary 1 percent state sales and use tax rate increase from the cost-allocation methodology used by the Board to allocate its administrative costs.

ANALYSIS

CURRENT LAW

The Board collects sales and use taxes that provide revenue for state government and essential funding for cities, counties, and special districts. The current statewide base sales and use tax rate is 8.25 percent. The following table provides the components of the state and local sales and use tax rate:

Rate	Jurisdiction	Purpose/Authority
5.00%	State (General Fund)	Dedicated for state general purposes (Sections 6051, 6051.3, 6201, and 6201.3 of the Revenue and Taxation Code (RTC))
¹ 1.00%	State (General Fund)	Dedicated for state general purposes (Sections 6051.7 and 6201.7 of the RTC, operative 4/1/09)
0.25%	State (Fiscal Recovery Fund)	Dedicated to the repayment of the Economic Recovery Bonds (Sections 6051.5 and 6201.5 of the RTC, operative 7/1/04)
0.50%	State (Local Revenue Fund)	Dedicated to local governments to fund health and welfare programs (Sections 6051.2 and 6201.2 of the RTC)
0.50%	State (Local Public Safety Fund)	Dedicated to local governments to fund public safety services (Section 35 of Article XIII of the California Constitution)
1.00%	Local (City/County) 0.75% City and County 0.25% County	Dedicated to city and county general operations; Dedicated to county transportation purposes (Section 7203.1 of the RTC, operative 7/1/04)
8.25%	Total Statewide Base Rate	

¹ Effective April 1, 2009, AB X3 3 (Chapter 18 of the Third Extraordinary Session, signed by Governor Schwarzenegger on February 20, 2009) temporarily increases the state sales and use tax rate by 1 percent. The 1 percent tax rate increase will expire on July 1, 2011.

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 Board's formal position.

Cost-Allocation Model. The Board charges the State, local governments, and local jurisdictions a fee for administering the state and local sales and use taxes on their behalf. Section 7204.3 of the Bradley-Burns Uniform Local Sales and Use Tax Law requires the Board to charge a city, city and county, county, or redevelopment agency (hereinafter referred to as Bradley-Burns entities), an amount for the Board's services in administering the local sales and use tax ordinance. Section 7273 of the Transactions and Use Tax Law requires the Board to charge an amount for its administration of the local transactions and use tax ordinance of each special taxing jurisdiction (STJ).

Under these statutes, the Board also is required to use a model for allocating its costs that is based on the methodology described in Alternative 4C of the November 2004 report by the Board entitled "Response to the Supplemental Report of the 2004 Budget Act." AB 1809 (Chapter 49, Stats. 2006, Committee on Budget) amended Sections 7204.3 and 7273 to require the Board to allocate its administrative costs among the State, Bradley-Burns entities, and STJs based on this methodology.

The new methodology (referred to as the "modified revenue" model) utilizes the four sales and use tax program elements as reflected in the approved Governor's Budget. Those elements are Audit, Collections, Registration and Returns. Although the cost of the Returns element is allocated between the state and local entities based on a workload approach, the other three elements are allocated based on revenue associated with those elements.

Because the methodology uses a revenue approach, when the state sales and use tax rate increased, with no change to the Board's budget, this resulted in a larger General Fund revenue share, which caused the General Fund to pay a higher amount of the existing cost of the sales and use tax program.

PROPOSED LAW

This bill amends Sections 7204.3 and 7273 to, beginning with the 2008-09 fiscal year through the 2014-15 fiscal year, inclusive, provide that amounts determined in accordance with the cost-allocation methodology described in Alternative 4C of the November 2004 report by the Board entitled "Response to the Supplemental Report of the 2004 Budget Act" shall not include any revenues collected pursuant to Sections 6051.7 and 6201.7.

COMMENTS

- 1. Purpose.** As part of the 2009 Budget Act, the Legislative Analyst's Office recommended the enactment of legislation to provide an exception to the existing statutory cost-allocation model used by the Board to allocate its sales and use tax administrative costs. The exception prevents a shift of \$6.4 million of previous existing administrative costs from Bradley-Burns entities and STJs to the General Fund that without statutory change would occur due to the larger revenue share that the General Fund temporarily receives (Effective April 1, 2009, the state General Fund portion of sales and use tax rate increased by 1 percent).
- 2. Impact of the bill's provisions.** AB 3 (Chapter 18 of the Third Extraordinary Session) temporarily increases the General Fund portion of the state sales and use tax by 1 percent. Even though the state rate was increased, the Board did not receive additional administrative cost reimbursements. Therefore, since the current cost-allocation model allocates most of the Board's administrative costs using a revenue approach, this legislation is needed to maintain current funding levels.

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 Board's formal position.

Without this legislation, the Board's funding by the General Fund would need to be augmented by \$6.4 million, with an offsetting \$6.4 million decrease in the Board's local reimbursement level (Bradley-Burns entities and STJs).

3. Related legislation. This bill is identical to AB 3x 46 (Evans).

COST ESTIMATE

As previously stated, current law specifies the methodology for the Board to charge an administrative fee to Bradley-Burns entities and STJs for collecting the sales and use tax. This bill provides an exception to the existing statutory cost-allocation methodology used by the Board to allocate the total cost of the sales and use tax program among the State, Bradley-Burns entities, and STJs. Even though this bill does not reduce or increase the Board's administrative costs, this statutory exception prevents a shift of \$6.4 million of previous existing base administrative costs from Bradley-Burns entities and STJs to the General Fund that otherwise would occur due to the larger revenue share that General Fund temporarily receives.

REVENUE ESTIMATE

This bill will have no impact on the state or local revenues.

Analysis prepared by:	Debra Waltz	916-324-1890	07/24/09
Contact:	Margaret S. Shedd	916-322-2376	

Is

0012x4- 1dw.doc

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 Board's formal position.