Draft

STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	**05/15/07**	Bill No:	**SB 264**
Tax:	**Transactions and Use**	Author:	**Alquist**
Related Bills:			

BILL SUMMARY

This bill would authorize 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, for transit facilities and services.

SUMMARY OF AMENDMENTS

Since the previous analysis, the bill was amended to provide that the transactions and use tax ordinance would not be operative on other than the first day of a calendar quarter or prior to the first day of the first calendar quarter commencing more than 110 days after the adoption of the ordinance, rather than 180 days.

ANALYSIS

CURRENT LAW

The State Board of Equalization (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 by 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-

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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.

PROPOSED LAW

This bill would add 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 would also amend 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. **Sponsor and purpose.** This bill is sponsored by the Santa Clara Valley Transportation Authority in an effort to provide additional funding for transit facilities and services.

2. **The May 15, 2007** amendments reduce 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.

5. **1/8 (0.125) percent can be complicated for retailers.** There are four counties that currently levy a tax at a rate of a 1/8 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.

COST ESTIMATE

This bill does not increase administrative costs to the Board because it only authorizes the Santa Clara Valley Transportation Authority to impose a tax. However, if the voters of Santa Clara County approve the ordinance imposing the tax, the Santa Clara Valley Transportation Authority would be required to contract with the Board for its preparation costs, as well as the ongoing costs for the Board's services in actually administering the ordinance.

Based on the Board's experience with similar county-imposed taxes, the one-time preparatory costs typically can range from $20,000 to $50,000. Preparatory costs are the actual costs to update publications and returns, perform programming for data processing, develop instructions for both Board staff and taxpayers, and notify taxpayers, and other necessary costs which include costs from other state agencies (e.g., California Department of Motor Vehicles costs to train staff and program computers). In addition, various factors can have an impact on the Board's preparatory costs. For example, the Board mails a special notice to taxpayers in the affected county, including adjacent areas. If a county borders jurisdictions with a large number of seller's permits, the Board's mailing costs could be substantially higher.

In addition, because of certain fixed costs, the preparatory costs can vary depending on the number of new district taxes being implemented at the same time. For example, the cost of updating a publication and return to add four new taxes is similar to the cost to add one new tax. Moreover, those costs would be shared amongst four new districts versus one district. Thus, depending on the number of district taxes being implemented at the same time, the preparatory costs can vary.

With respect to the ongoing administrative costs, Assembly Bill 1809 (Committee on Budget, Chapter 49, Stats. 2006), beginning July 1, 2006, required that the Board use a new, simpler methodology to determine costs for administering the state and local sales and use taxes. AB 1809 also removed the cap on the amount the Board could charge special tax jurisdictions for administering their district taxes.

Currently, Santa Clara County has two district taxes being imposed each at a rate of 0.50 percent. For these taxes, the Board's estimated assessment of administrative costs for the fiscal year 2006-07, using the new methodology, is $1,387,000 for the one Santa Clara Valley Transportation Authority and $1,391,400 for the other. The proposed tax would be imposed at a rate of 0.125 percent. Even though the proposed rate of 0.125 percent is less than 0.50 percent, the Board anticipates that the costs to administer the 0.125 tax would be approximately the same as the cost to administer the 0.50 percent tax. The reason is that the workload associated with administering the proposed 0.125 percent rate is essentially the same as administering the 0.50 percent rate.

REVENUE ESTIMATE

Taxable sales in the County of Santa Clara during the fiscal year 2005-06 were $31.6 billion. Therefore, a district tax in the County of Santa Clara would raise the following amount annually.

Rate	Revenue
0.125 %	$ 39.5 million

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