



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

Date Amended:	03/05/03	Bill No:	AB 160
Tax:	Transactions and Use	Author:	Salinas
Board Position:		Related Bills:	ACA 7 (Dutra) ACA 9 (Levine) SCA 2 (Torlakson)

BILL SUMMARY

This bill would authorize the City of Soledad, subject to majority approval by the city council and two-thirds voter approval, to levy a transactions and use tax at a rate of 1/4 or 1/2 percent, for funding of identifiable capital facilities, furnishings, and equipment.

Summary of Amendments

The prior version of this bill provided for a tax rate of "not to exceed 0.50 percent." This version of the bill now provides for a rate of 0.25 or 0.50 percent.

ANALYSIS

Current Law

The **Bradley-Burns Uniform Local Sales and Use Tax Law** (commencing with Section 7200 of the Revenue and Taxation Code) authorizes counties to impose a local sales and use tax. The tax rate is fixed at 1¼ percent of the sales price of tangible personal property sold at retail in the county, or purchased outside the county for use in the county. All counties within California have adopted ordinances under the terms of the Bradley-Burns Law and levy the 1¼ percent local tax.

Under the Bradley-Burns Law, the ¼ percent tax rate is earmarked for county transportation purposes, and 1 percent may be used for city and county general purposes. Cities are also authorized to impose a local sales and use tax rate of up to 1 percent, which is credited against the county rate so that the combined local tax rate under the Bradley-Burns Law does not exceed 1¼ percent.

Under the **Transactions and Use Tax Law** (commencing with Section 7251 of the Revenue and Taxation Code), counties are additionally authorized to impose a transactions and use tax rate of ¼ percent, or multiple thereof, if the ordinance imposing that tax is approved by the voters. Under all sections of the Transactions and Use Tax Law, the maximum allowable combined rate of transactions and use taxes levied in any county may not exceed 1½ percent, with the exception of the City and County of San Francisco and the County of San Mateo, whose combined rates may not exceed 1¾ and 2 percent, respectively.

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Section 7285 of the Transactions and Use Tax Law additionally allows counties to levy a transactions and use tax rate of $\frac{1}{4}$ percent, or multiple thereof, for general purposes with the approval of a majority of the voters. Section 7285.5 permits the board of supervisors of any county to levy a transactions and use tax rate of $\frac{1}{4}$ percent, or multiple thereof, for specific purposes with the approval of two-thirds of the voters.

Section 7288.1 also allows counties to establish a Local Public Finance Authority to adopt an ordinance to impose a transactions and use tax rate of $\frac{1}{4}$ percent, or multiple thereof, for purposes of funding drug abuse prevention, crime prevention, health care services, and public education upon two-thirds voter approval. Finally, Section 7286.59 allows counties to levy a transactions and use tax rate of $\frac{1}{8}$ or $\frac{1}{4}$ percent for purposes of funding public libraries, upon two-thirds voter approval.

As stated above, Sections 7285, 7285.5, 7286.59, and 7288.1, authorize counties to levy transactions and use taxes under specified conditions. There is no such authority for cities to impose these taxes. Any city desiring to impose a transactions and use tax must seek special enabling legislation from the California legislature.

The following cities, through specific legislation, have received authorization to impose a transactions and use tax: Avalon, Calexico, Clearlake, Clovis, Davis, Fort Bragg, Fresno (and its sphere of influence), Lakeport, Madera, North Lake Tahoe (within boundaries established in legislation), Placerville, Point Arena, Redding, Salinas, Sebastopol, Town of Truckee, Ukiah, Visalia, West Sacramento, Willits, Woodland, and the Town of Yucca Valley (the cities of Avalon, Calexico, Clearlake, Clovis, Placerville, Sebastopol, the Town of Truckee, West Sacramento, and Woodland are currently imposing a tax). The City of Fresno and its sphere of influence had imposed a tax for the period 7/1/93 through 3/21/96, however, this tax ceased to be operative, as it was declared unconstitutional in *Howard Jarvis Taxpayers' Association v. Fresno Metropolitan Projects Authority* (1995) 40 Cal.App.4th 1359, mod.(1996) 41 Cal.App.4th 1523a.

The City of Soledad is located in Monterey County, which imposes no additional countywide transactions and use taxes. Accordingly, the current state and local tax rate throughout all of Monterey County is 7.25 percent.

The Board performs all functions in the administration and operations of the ordinances imposing the Bradley-Burns Uniform Local Sales and Use Tax and the Transactions and Use Taxes and all local jurisdictions imposing these local taxes are required to contract with the Board for administration of these taxes.

Proposed Law

This bill would add Chapter 2.96 (commencing with Section 7286.57) to Part 1.7 of Division 2 of the Revenue and Taxation Code to authorize the City of Soledad to impose a transactions and use tax at a rate of $\frac{1}{4}$ or $\frac{1}{2}$ percent, upon majority approval of the city council and subsequent two-thirds voter approval. The net revenues derived from the proposed tax would be exclusively expended for identifiable capital facilities, furnishings, and equipment. The tax would be levied pursuant to existing law regarding transactions and use taxes (Part 1.6, commencing with Section 7251). This bill also

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includes findings and declarations that a special law is necessary because of the uniquely difficult fiscal pressures being experienced by the City of Soledad in providing capital facilities for the city.

Background

Several bills were passed during the 2002 legislative year that authorized cities to impose transactions and use taxes.

AB 7 (Ch. 330, Stats. 2002) authorizes the City of Davis to impose a transactions and use tax rate at a rate of 1/4 or 1/2 percent, subject to two-thirds or majority voter approval, depending on how the revenues will be spent.

AB 902 (Ch. 331, Stats. 2002) authorizes the cities of Clearlake, Fort Bragg, Point Arena, Ukiah, and Willits, subject to two-thirds voter approval, to levy a transactions and use tax at a rate of 1/4 percent, or multiple thereof, not to exceed to 1 percent, for funding of the cities' road systems.

AB 2061(Ch. 338, Stats. 2002) authorizes the City of Salinas, subject to two-thirds voter approval, to levy a transactions and use tax rate of 1/4 percent, for expenditure on identifiable capital facilities, furnishings, and equipment.

AB 2758 (Ch. 346, Stats. 2002) authorizes the City of Visalia, subject to two-thirds voter approval, to levy a transactions and use tax at a rate of 1/4 percent, for the improvement of public safety, fire, and law enforcement services.

SB 1889, (Ch. 119, Stats. 2002) authorizes the City of Redding, subject to majority voter approval, to levy a transactions and use tax at a rate of 1/4 percent, for general governmental purposes.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the City of Soledad to enable the city to raise additional revenues for capital facilities, furnishings, and equipment.
2. **Summary of March 5 amendments.** The prior version of this bill provided for a tax rate of "not to exceed 0.50 percent." In the analysis of the prior version of the bill, the Board suggested that the transactions and use tax rate be restricted to multiples of 1/8 percent for ease of administration and consistency with other special district taxes. The amended version of this bill now provides for a rate of 0.25 or 0.50 percent.

Additionally, this bill changed the Revenue and Taxation Code chapter and section numbers, consistent with existing transactions and use tax statutes for cities.

3. **The tax rate imposed by a city limits the total transactions and use tax rate imposed within the county.** As stated previously, the Transactions and Use Tax Law places a cap on the total transactions and use tax rate that may be levied within a county. The maximum allowable rate is 1 1/2 percent, except in the City and County of San Francisco and the County of San Mateo, which through special legislation, may not exceed 1 3/4 and 2 percent, respectively. Therefore, any transactions and use tax imposed in a city counts against the 1 1/2 percent cap, thus limiting the transactions and use tax rate that may be imposed in a county.

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4. **It may not be cost effective for some cities to impose a transactions and use tax.** The Board's total administrative costs are driven by the workload involved in processing returns, and are relatively fixed. The cost of administering these taxes is not directly related to the revenue generated by the tax. However, the ratio of such costs to the amount of revenue generated by a tax varies widely. Therefore, if the tax rate or volume is very low, the ratio will be high.

Revenue and Taxation Code Section 7273, as amended by Chapter 890, Statutes of 1998 (AB 836, Sweeney, et al.) and again by Chapter 865, Statutes of 1999 (SB 1302, Rev & Tax Committee) requires the Board to cap administrative costs based on the lesser of the ratio during the first full year the tax is in effect, or a predetermined amount based on the tax rate and applied to the revenues generated in the taxing jurisdiction. The maximum administrative costs for a district imposing a transaction and use tax rate of one-quarter of 1 percent is capped at 3 percent of the revenue generated, and for a district imposing a transactions and use tax rate of one-half of 1 percent is capped at 1.5 percent of the revenue generated. Based on the projected revenues (see Revenue Estimate on page 6), if the City of Soledad were to impose this tax, it is expected that the administrative costs would exceed the cap.

There are several local taxing jurisdictions, where the administrative costs exceed the cap. The Board's estimated 2001-02 administrative costs assessments to special taxing jurisdictions range between \$4,000 (City of Avalon Municipal Hospital and Clinic) and \$6.7 million (Los Angeles County Transportation Commission). Because the Board is limited in the amount it may charge special taxing jurisdictions, any shortfall that results from actual administrative costs exceeding the amount the Board may charge would impact the General Fund. For 2001-02, it is estimated that the State General Fund will absorb approximately \$1.5 million as a result of the cap limitations on administrative cost recovery. However, this estimate could change when the actual revenues are known.

5. **City-imposed transactions and use taxes create difficulties for retailers.** In 1955, the Bradley-Burns Uniform Local Sales and Use Tax Law was enacted in an effort to put an end to the problems associated with differences in the amount of sales tax levied among the various jurisdictions. The varying rates between cities prior to the enactment of this uniform law created a very difficult situation for retailers, confused consumers, and created fiscal problems for the cities and counties.

The Transactions and Use Tax Law is now becoming as complicated as the local tax laws were before the enactment of the Bradley-Burns Law, and retailers and consumers are again experiencing the confusion caused by varying tax rates in varying jurisdictions. For retailers, varying tax rates make tax collection, reporting, and accounting more complicated. When a local jurisdiction adds or deletes a tax, the retailer has to reprogram its computer and reprint its forms to reflect the change. Additionally, differences in tax rates affect retailers competitively. For instance, many retailers have advertised "no city sales tax if you buy in this area."

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Currently, there are 22 cities that are authorized to impose a transactions and use tax. Of these 22 cities, 9 have received the required voter approval and levy a transactions and use tax within their area.

6. **Related Legislation.** Three bills introduced in 2003 would place on the ballot a constitutional amendment to change the voter approval requirement for special taxes. ACA 7 (Dutra) would constitutionally authorize counties, cities and counties, and regional transportation agencies, with the approval of 55 percent of the voters in the jurisdiction, to impose a transactions and use tax for a period of 20 to 30 years, as specified, at a rate of 0.50 percent to be used exclusively for transportation purposes. ACA 9 (Levine) would constitutionally authorize a city, county, or special district to impose, extend, or increase a general tax with a two-thirds approval of the voters, and with respect to a special tax, with a majority approval of the voters.

SCA 2 (Torlakson) would constitutionally authorize cities, counties, cities and counties, and regional transportation agencies, with the approval of a majority of the voters in the jurisdiction, to impose a transactions and use tax to be used exclusively for funding transportation projects and services and related smart growth planning. The Board voted to support this bill.

COST ESTIMATE

This bill does not increase administrative costs to the Board because it only authorizes the City of Soledad to impose a tax. However, if the city passed an ordinance, it would be required to contract with the Board to perform functions related to the ordinance, and reimburse the Board for its preparation costs to administer the ordinance as well as the ongoing costs for the Board's services in actually administering the ordinance.

Based on the Board's experience with similar special-purpose taxes, it is estimated that the one-time preparatory costs could range between \$15,000 and \$40,000. This one-time preparatory costs is not subject to the cap restriction under Revenue and Taxation Code Section 7273. However, the ongoing administrative costs are subject to the cap. For the City of Soledad, the estimated ongoing assessed administrative costs could not exceed \$2,574 for the 1/4 percent rate ($\$85,800^1 \times 3\%$), and \$2,573 for the 1/2 percent rate ($\$171,500 \times 1.5\%$) {see Comment 4 on page 4}. As noted in Comment 4, if the City of Soledad were to impose this tax, it is expected that the administrative costs would exceed the cap and, therefore, increase the costs absorbed by the General Fund.

¹ See Revenue Estimate

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REVENUE ESTIMATE

Taxable sales in the City of Soledad during the 2001 calendar year were \$34.3 million. A transactions and use tax in the City of Soledad would raise the following amounts annually:

Rate	Revenue
1/4 %	\$ 85,800
1/2 %	\$ 171,500

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Attachment 1
California Sales, Transactions and Use Tax Rates by County
Effective 01/01/02

01 Alameda	
State	6.00
Local	1.25
ACTA#	0.50
ACTI#	0.50
BART	0.50
	<hr/>
	8.25

02 Alpine	
State	6.00
Local	1.25
	<hr/>
	7.25

03 Amador	
State	6.00
Local	1.25
	<hr/>
	7.25

04 Butte	
State	6.00
Local	1.25
	<hr/>
	7.25

05 Calaveras	
State	6.00
Local	1.25
	<hr/>
	7.25

06 Colusa	
State	6.00
Local	1.25
	<hr/>
	7.25

07 Contra Costa	
State	6.00
Local	1.25
CCTA	0.50
BART	0.50
	<hr/>
	8.25

08 Del Norte	
State	6.00
Local	1.25
	<hr/>
	7.25

09 El Dorado	
State	6.00
Local	1.25
PLPS*	0.25
	<hr/>
	7.50

10 Fresno	
State	6.00
Local	1.25
FCTA	0.50
FCPL	0.125
CCPS*	0.30
	<hr/>
	8.175

11 Glenn	
State	6.00
Local	1.25
	<hr/>
	7.25

12 Humboldt	
State	6.00
Local	1.25
	<hr/>
	7.25

13 Imperial	
State	6.00
Local	1.25
IMTA	0.50
CXHD*	0.50
	<hr/>
	8.25

14 Inyo	
State	6.00
Local	1.25
INRC	0.50
	<hr/>
	7.75

15 Kern	
State	6.00
Local	1.25
	<hr/>
	7.25

16 Kings	
State	6.00
Local	1.25
	<hr/>
	7.25

17 Lake	
State	6.00
Local	1.25
CLPS*	0.50
	<hr/>
	7.75

18 Lassen	
State	6.00
Local	1.25
	<hr/>
	7.25

19 Los Angeles	
State	6.00
Local	1.25
LATC	0.50
LACT	0.50
AMHC*	0.50
	<hr/>
	8.75

20 Madera	
State	6.00
Local	1.25
MCTA	0.50
	<hr/>
	7.75

21 Marin	
State	6.00
Local	1.25
	<hr/>
	7.25

22 Mariposa	
State	6.00
Local	1.25
MCHA	0.50
	<hr/>
	7.75

23 Mendocino	
State	6.00
Local	1.25
	<hr/>
	7.25

24 Merced	
State	6.00
Local	1.25
	<hr/>
	7.25

25 Modoc	
State	6.00
Local	1.25
	<hr/>
	7.25

26 Mono	
State	6.00
Local	1.25
	<hr/>
	7.25

27 Monterey	
State	6.00
Local	1.25
	<hr/>
	7.25

28 Napa	
State	6.00
Local	1.25
NCFP	0.50
	<hr/>
	7.75

29 Nevada	
State	6.00
Local	1.25
NVPL	0.125
TRSR*	0.50
	<hr/>
	7.875

30 Orange	
State	6.00
Local	1.25
OCTA	0.50
	<hr/>
	7.75

31 Placer	
State	6.00
Local	1.25
	<hr/>
	7.25

32 Plumas	
State	6.00
Local	1.25
	<hr/>
	7.25

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California Sales, Transactions and Use Tax Rates by County
Effective 01/01/02

33 Riverside	
State	6.00
Local	1.25
RCTC	0.50
	<u>7.75</u>

34 Sacramento	
State	6.00
Local	1.25
STAT	0.50
	<u>7.75</u>

35 San Benito	
State	6.00
Local	1.25
	<u>7.25</u>

36 San Bernardino	
State	6.00
Local	1.25
SBER	0.50
	<u>7.75</u>

37 San Diego	
State	6.00
Local	1.25
SDTC	0.50
	<u>7.75</u>

38 San Francisco	
State	6.00
Local	1.25
SFTA	0.50
SFPF	0.25
BART	0.50
	<u>8.50</u>

39 San Joaquin	
State	6.00
Local	1.25
SJTA	0.50
	<u>7.75</u>

40 San Luis Obispo	
State	6.00
Local	1.25
	<u>7.25</u>

41 San Mateo	
State	6.00
Local	1.25
SMTA	0.50
SMCT	0.50
	<u>8.25</u>

42 Santa Barbara	
State	6.00
Local	1.25
SBAB	0.50
	<u>7.75</u>

43 Santa Clara	
State	6.00
Local	1.25
SCCT	0.50
SCGF	0.50
	<u>8.25</u>

44 Santa Cruz	
State	6.00
Local	1.25
SCMT	0.50
SZPL	0.25
	<u>8.00</u>

45 Shasta	
State	6.00
Local	1.25
	<u>7.25</u>

46 Sierra	
State	6.00
Local	1.25
	<u>7.25</u>

47 Siskiyou	
State	6.00
Local	1.25
	<u>7.25</u>

48 Solano	
State	6.00
Local	1.25
SLPL	0.125
	<u>7.375</u>

49 Sonoma	
State	6.00
Local	1.25
SCOS	0.25
	<u>7.50</u>

50 Stanislaus	
State	6.00
Local	1.25
STCL	0.125
	<u>7.375</u>

51 Sutter	
State	6.00
Local	1.25
	<u>7.25</u>

52 Tehama	
State	6.00
Local	1.25
	<u>7.25</u>

53 Trinity	
State	6.00
Local	1.25
	<u>7.25</u>

54 Tulare	
State	6.00
Local	1.25
	<u>7.25</u>

55 Tuolumne	
State	6.00
Local	1.25
	<u>7.25</u>

56 Ventura	
State	6.00
Local	1.25
	<u>7.25</u>

57 Yolo	
State	6.00
Local	1.25
WOGT*	0.50
	<u>7.75</u>

58 Yuba	
State	6.00
Local	1.25
	<u>7.25</u>

*ACTA expired 3/31/02 and ACTI became operative 4/1/02. The tax rate remained unchanged at 8.25%.
The tax in this district is not imposed throughout the county; it is a citywide tax. The county total includes the citywide district tax.