STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	**07/05/01**	Bill No:	**AB 863**
Tax:	**Transactions and Use**	Author:	**Thomson**
Board Position:	**Neutral**	Related Bills:	**AB 1123 (AR&T)** **SB 794 (Knight)**

BILL SUMMARY

This bill would authorize the City of West Sacramento, subject to two-thirds or majority voter approval, to levy a transactions and use tax at a rate of ¼ or ½ percent, as specified.

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 general purposes. Cities are authorized to impose a 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 existing 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 rate of transactions and use taxes levied by any district may not exceed 1½ percent, with the exception of San Francisco and San Mateo, whose combined rates may not exceed 1¾ and 2 percent, respectively.

Section 7285 of the Transactions and Use Tax Law additionally allows counties to levy a transactions and use tax rate of ¼ percent, or multiple thereof, for general purposes with the approval of a majority of the voters. Section 7285.5 permits a county to form a special purpose authority which may levy a transactions and use tax at the rate of either ¼ or ½ percent, with majority voter approval. 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 ¼ or ½ percent for purposes of funding drug abuse

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

prevention, crime prevention, health care services, and public education upon majority voter approval. (Board legal staff have taken the position that a special purpose authority may only impose a transactions and use tax if the authority meets the requirements of the section and obtains approval of two-thirds, rather than a majority vote, of the qualified electors in the district.) Finally, Section 7286.59 allows counties to levy a transactions and use tax rate of ⅛ or ¼ percent for purposes of funding public libraries, upon two-thirds voter approval.

In addition to county authorization to levy a tax, through specific legislation, some cities have received authorization to impose a transactions and use tax. The following cities are so authorized: Avalon, Calexico, Clearlake, Clovis, Fort Bragg, Fresno (and its sphere of influence), Lakeport, Madera, North Lake Tahoe (within boundaries established in legislation), Placerville, Sebastopol, Truckee, Woodland, and the town of Yucca Valley (the cities of Calexico, Clearlake, Placerville, Truckee, and Woodland are currently imposing a tax). Fresno 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 West Sacramento is located in Yolo County, which imposes no additional countywide transactions and use taxes. Under the Bradley-Burns Law, West Sacramento imposes a sales and use tax rate of 1.0 percent, which is credited against Yolo County's one percent rate. The city of Woodland, located in Yolo County, imposes a ½% transactions and use tax. Therefore, the current state and local tax rate throughout most of Yolo County is 7 percent. The combined state and local tax rate in Woodland is 7½ 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.

In General

Many special districts in California impose transactions and use taxes that are administered by the Board. In Sacramento County, for example, a transactions and use tax of ½ percent is levied by the Sacramento County Transportation Authority for purposes of funding transportation projects. The first special tax district of this sort was created in 1970 when voters approved the San Francisco Bay Area Rapid Transit District to pay for bonds and notes issued for construction of the BART system. The tax rate in these special taxing districts varies from district to district. Currently, the counties of Fresno, Nevada, Solano, and Stanislaus impose the lowest transactions and use tax rate of ⅛ percent. San Francisco City and County has the highest combined transactions and use tax rate of 1¼ percent. The remaining districts impose rates in between these ranges. The various combined state and local tax rates and taxing jurisdictions levying those rates (as of January 1, 2001) is shown on the attached schedule.

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

Proposed Law

This bill would add Chapter 2.98 (commencing with Section 7286.75) to Part 1.7 of Division 2 of the Revenue and Taxation Code to authorize the City of West Sacramento to impose a transactions and use tax rate of ¼ or ½ percent, upon two-thirds approval of the city council and subsequent two-thirds or majority voter approval, as determined by the ordinance proposing the tax and establishing how the revenues shall be expended. The tax would be levied pursuant to existing law regarding transactions and use taxes (Part 1.6, commencing with Section 7251). This bill also includes findings and declarations that a special law is necessary because of the uniquely difficult fiscal pressures being experienced by the City of West Sacramento in providing essential services and funding for city programs and operations.

Background

There have been several bills in prior years to authorize cities to impose transactions and use taxes. The Board is generally opposed to extending this authorization to cities, arguing that multiple rates covering multiple jurisdictions within a single county make record-keeping for retailers more complex, resulting in a larger margin of error. During the 1997-98 Legislative Session, the Board voted to oppose SB 355 (Monteith), which allows the city of Madera to levy a ¼ percent sales tax for public safety services; AB 1472 (Thomson), which allows the City of Woodland to impose a transactions and use tax rate of ¼ or ½ percent, upon voter approval, for general revenue purposes; SB 1424 (Maddy) which allows the City of Clovis to levy a 0.3 percent sales tax for police and fire facilities; and SB 781(Maddy) which allows the City of Placerville to levy a ⅛ or ¼ percent sales tax for police services. During the 1999-2000 Session, the Board was opposed to AB 1371 (Granlund), which allows the Town of Yucca Valley to levy a ¼ percent tax, or multiple thereof, for transportation and the town's parks. Assembly Bill 147 (Strom-Martin, et al.) allows the City of Sebastopol to levy a transactions and use tax at a rate of ⅛ percent for general revenue purposes. (That bill was amended late in the Session and the Board did not have an opportunity to take a position.) Those bills were all enacted: SB 355 (Chapter 409), AB 1472 (Chapter 712), SB 1424 (Chapter 158), SB 781 (Chapter 234), AB 1371 (Chapter 110), and AB 147 (Chapter 264).

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the City of West Sacramento in an effort to enable the city to raise additional general fund revenues.

2. **Summary of July 5 amendments.** The prior versions of this bill made reference to "an ordinance or resolution." The July 5 amendments incorporate Board suggested language to delete the phrase "or resolution." Under Revenue and Taxation Code Section 7285, a county may adopt a resolution of intent to levy a transactions and use tax, obtain voter approval of the resolution, but then neglect to subsequently enact an ordinance to levy the tax. Without an *ordinance* detailing the specifics of the proposal, the tax cannot go into effect. This omission may not be detected until the county submits the required documents to the Board to enable it to enter into a contract to administer the tax. As a result, the ordinance would have to be enacted at the last minute, sometimes risking a delay in implementing the tax. These concerns would also apply to a district imposing a tax.

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

3. **The May 9, 2001 amendments provide the option for West Sacramento to impose either a general or special-purpose tax.** These amendments delete the language that specifies that the tax revenues would be expended for general government purposes. Instead, this bill would provide for *either* majority or two-thirds voter approval, "as determined by the ordinance or resolution proposing the tax and establishing how the revenues derived from the tax shall be expended." As previously noted, a county imposing a special purpose transactions and use tax must obtain approval of two-thirds, rather than a majority vote, of the qualified electors in the district.

4. **Proliferation of locally-imposed taxes creates problems.** 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 communities of the state. 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. A retailer was faced with many situations that complicated tax collection, reporting, auditing, and accounting. Because of the differences in taxes between areas, a retailer was affected competitively. Many retailers advertised "no city sales tax if you buy in this area." This factor distorted what would otherwise have been logical economic advantages or disadvantages. With the enactment of the Bradley-Burns Law, costs to the retailer were reduced, and illogical competitive situations were corrected.

   The Transactions and Use Tax Law is 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 communities. Prior to 1991, all districts imposing a transactions and use tax had boundaries equal to their respective county lines. In 1991, legislation was enacted for the first time to allow a city to impose a transactions and use tax. That city was Calexico. Currently, fourteen cities have gained such authorization. The proliferation of tax rates dependent on the area in which the sale is made compounds compliance problems for retailers doing business in several districts and makes record-keeping more complex, resulting in a larger margin of error and increased Board administrative costs.

5. **Multiplicity of tax rates is gaining national attention.** The Streamlined Sales Tax Project is a nationwide effort to simplify sales and use taxes in all states. Congress is currently reviewing this and other sales tax simplification efforts. Some proposals would expand states' rights to impose a use tax collection duty in exchange for certain simplifications, including the imposition of a single statewide sales and use tax rate. Allowing more cities to impose transactions and use taxes moves California away from national efforts concerning sales and use tax simplicity.

6. **Legislature should consider revising the Transactions and Use Tax Law to parallel the Bradley-Burns Uniform Local Tax Law.** There are over 470 cities in California. As more cities gain authorization to levy their own local taxes, the administration of these taxes becomes exceedingly complicated. Considering the increasing number of measures approved by the Legislature authorizing cities to impose transactions and use taxes, strong consideration should be given to revising

the Transactions and Use Tax Law so that its provisions parallel the Bradley-Burns Law. In that way, all taxable sales attributable to a retailer located within that special taxing district would be subject to the district tax, regardless of where the property is delivered (unlike the state and Bradley-Burns tax, the transactions tax does not apply to gross receipts from the sale of property to be used outside the district when the property is shipped to a point outside the district). This would minimize the problems associated with districts that are not coterminous with county boundaries. However, retailers in varying communities with various tax rates could continue to be affected competitively.

7. **City transactions and use taxes may limit county flexibility.** 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 limit is 1½%, except in the City and County of San Francisco and the County of San Mateo, as noted previously. A city-wide transactions and use tax counts against the cap, thus limiting the fiscal options of the county.

8. **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 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. The maximum administrative costs for a district imposing a transaction and use tax rate of one-half of 1 percent is capped at 1.5 percent of the revenue generated. If the City of West Sacramento were to impose this tax, it is not expected that the administrative costs would exceed the cap.

   In some local taxing jurisdictions, administrative costs do exceed the cap. As a point of perspective, the Board's estimated 2000-01 administrative costs assessments to the existing special taxing jurisdictions range between $3,000 (City of Avalon Municipal Hospital and Clinic) and $7.1 million (Los Angeles Transportation Commission). Because the Board is limited in the amount it may charge special taxing jurisdictions, any shortfall that results from actual costs exceeding the amount the Board may charge would impact the General Fund. For 2000-01 the State General Fund is absorbing an estimated $1,000,000 as a result of the cap limitations on administrative cost recovery.

9. **Related Legislation.** Assembly Bill 1123 (AR&T), sponsored by the Board would, among other things, amend Sections 7285, 7285.5, and 7288.3 of the Transactions and Use Tax Law, to: (1) clarify that an ordinance, not a resolution, is necessary for the adoption of the tax; (2) clarify that Section 7285 authorizes counties to levy a transactions and use tax for general purposes; (3) delete the necessity of forming an authority to levy a district tax for special purposes; (4) require two-thirds voter approval of a special-purpose tax; and (5) clarify that transactions and use taxes may be levied in multiples of ¼ percent. Senate Bill 794 (Knight) would authorize the Baker Community Services district to impose a ½ percent tax rate for district services.

COST ESTIMATE

This bill does not increase administrative costs to the Board because it only authorizes the City of West Sacramento 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 a similar special-purpose tax in Yolo County for the City of Woodland, it is estimated that the one-time preparatory costs would be approximately $17,000, and the estimated ongoing administrative costs would range from $52,000 ($2 million x 2.6% or $4 million x 1.3%) to a maximum amount capped (see Comment 8) at $60,000 ($2 million x 3% or $4 million x 1.5%). As noted in Comment 8, if the City of West Sacramento were to impose this tax, it is not expected that the administrative costs would exceed the cap.

REVENUE ESTIMATE

Taxable sales in the City of West Sacramento during the 1999-2000 fiscal year were $800.8 million. A transactions and use tax in the City of West Sacramento would raise the following amounts annually:

Rate	Revenue
¼ %	$ 2.0 million
½%	$ 4.0 million

Analysis prepared by:	Bradley Miller	445-6662	07/17/01
Revenue estimate by:	Dave Hayes	445-0840	
Contact:	Margaret S. Shedd	322-2376	

G:\legislat\assmbill\0863-3bm

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

ATTACHMENT 1
California Sales and Use Tax Rates by County
Effective January 1, 2001

01	Alameda
State	5.75%
Local	1.25%
ACTA	0.50%
BART	0.50%
Total	8.00%

02	Alpine
State	5.75%
Local	1.25%
Total	7.00%

03	Amador
State	5.75%
Local	1.25%
Total	7.00%

04	Butte
State	5.75%
Local	1.25%
Total	7.00%

05	Calaveras
State	5.75%
Local	1.25%
Total	7.00%

06	Colusa
State	5.75%
Local	1.25%
Total	7.00%

07	Contra Costa
State	5.75%
Local	1.25%
CCTA	0.50%
BART	0.50%
Total	8.00%

08	Del Norte
State	5.75%
Local	1.25%
Total	7.00%

09	El Dorado
State	5.75%
Local	1.25%
PLPS*	0.25%
Total	7.25%

10	Fresno
State	5.75%
Local	1.25%
FCTA	0.50%
FCPL	0.125%
CCPS*	0.300%
Total	7.925%

11	Glenn
State	5.75%
Local	1.25%
Total	7.00%

12	Humboldt
State	5.75%
Local	1.25%
Total	7.00%

13	Imperial
State	5.75%
Local	1.25%
CXHD*	0.50%
IMTA	0.50%
Total	8.00%

14	Inyo
State	5.75%
Local	1.25%
INRC	0.50%
Total	7.50%

15	Kern
State	5.75%
Local	1.25%
Total	7.00%

16	Kings
State	5.75%
Local	1.25%
Total	7.00%

17	Lake
State	5.75%
Local	1.25%
CLPS*	0.50%
Total	7.50%

18	Lassen
State	5.75%
Local	1.25%
Total	7.00%

19	Los Angeles
State	5.75%
Local	1.25%
LATC	0.50%
LACT	0.50%
AMHC*	0.50%
Total	8.50%

20	Madera
State	5.75%
Local	1.25%
MCTA	0.50%
Total	7.50%

21	Marin
State	5.75%
Local	1.25%
Total	7.00%

22	Mariposa
State	5.75%
Local	1.25%
MCHA	0.50%
Total	7.50%

23	Mendocino
State	5.75%
Local	1.25%
Total	7.00%

24	Merced
State	5.75%
Local	1.25%
Total	7.00%

25	Modoc
State	5.75%
Local	1.25%
Total	7.00%

26	Mono
State	5.75%
Local	1.25%
Total	7.00%

27	Monterey
State	5.75%
Local	1.25%
Total	7.00%

28	Napa
State	5.75%
Local	1.25%
NCFP	0.50%
Total	7.50%

29	Nevada
State	5.75%
Local	1.25%
TRSR*	0.50%
NVPL	0.125%
Total	7.625%

30	Orange
State	5.75%
Local	1.25%
OCTA	0.50%
Total	7.50%

31	Placer
State	5.75%
Local	1.25%
Total	7.00%

32	Plumas
State	5.75%
Local	1.25%
Total	7.00%

33	Riverside
State	5.75%
Local	1.25%
RCTC	0.50%
Total	7.50%

34	Sacramento
State	5.75%
Local	1.25%
STAT	0.50%
Total	7.50%

35	San Benito
State	5.75%
Local	1.25%
Total	7.00%

36	San Bernardino
State	5.75%
Local	1.25%
SBER	0.50%
Total	7.50%

37	San Diego
State	5.75%
Local	1.25%
SDTC	0.50%
Total	7.50%

38	San Francisco
State	5.75%
Local	1.25%
SFPF	0.25%
SFTA	0.50%
BART	0.50%
Total	8.25%

39	San Joaquin
State	5.75%
Local	1.25%
SJTA	0.50%
Total	7.50%

40	San Luis Obispo
State	5.75%
Local	1.25%
Total	7.00%

41	San Mateo
State	5.75%
Local	1.25%
SMTA	0.50%
SMCT	0.50%
Total	8.00%

42	Santa Barbara
State	5.75%
Local	1.25%
SBAB	0.50%
Total	7.50%

43	Santa Clara
State	5.75%
Local	1.25%
SCCT	0.50%
SCGF	0.50%
Total	8.00%

44	Santa Cruz
State	5.75%
Local	1.25%
SCMT	0.50%
SZPL	0.25%
Total	7.75%

45	Shasta
State	5.75%
Local	1.25%
Total	7.00%

46	Sierra
State	5.75%
Local	1.25%
Total	7.00%

47	Siskiyou
State	5.75%
Local	1.25%
Total	7.00%

48	Solano
State	5.75%
Local	1.25%
SLPL	0.125%
Total	7.125%

49	Sonoma
State	5.75%
Local	1.25%
SCOS	0.25%
Total	7.25%

50	Stanislaus
State	5.75%
Local	1.25%
STCL	0.125%
Total	7.125%

51	Sutter
State	5.75%
Local	1.25%
Total	7.00%

52	Tehama
State	5.75%
Local	1.25%
Total	7.00%

53	Trinity
State	5.75%
Local	1.25%
Total	7.00%

54	Tulare
State	5.75%
Local	1.25%
Total	7.00%

55	Tuolumne
State	5.75%
Local	1.25%
Total	7.00%

56	Ventura
State	5.75%
Local	1.25%
Total	7.00%

57	Yolo
State	5.75%
Local	1.25%
WOGT*	0.50%
Total	7.50%

58	Yuba
State	5.75%
Local	1.25%
Total	7.00%

* The tax rate in these districts are not imposed throughout the entire county, and when combined with county-wide tax rates, these districts have a higher total tax rate. The total tax rate displayed for these counties includes the district-only rate.