



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

DRAFT

Date Amended:	06/09/05	Bill No:	AB 970
Tax:	Transactions and Use	Author:	Yee, et al
Related Bills:			

BILL SUMMARY

This bill would authorize the County of San Mateo, with the approval of the voters in the county, to levy a transactions and use tax at a rate of 0.125 or 0.25 percent for park and recreation purposes.

Summary of Amendments

The previous version of the bill did not fall under the purview of the Board.

ANALYSIS

Current Law

The **Transactions and Use Tax Law** (commencing with Section 7251 of the Revenue and Taxation Code) authorizes counties to impose transactions and use taxes under specified conditions. **Section 7285** of the Transactions and Use Tax Law authorizes a county to impose a transactions and use 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-thirds vote of the board of supervisors and a majority vote of the qualified voters of the county. **Section 7285.5** of the Transactions and Use Tax Law authorizes a county to impose a transactions and use 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 of the Transactions and Use Tax Law authorizes a county to impose a transactions and use 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.

Section 7285.8 of the Transactions and Use Tax authorizes the County of San Mateo to establish an authority for the support of public elementary and secondary education. Under Section 7285.8, the authority may impose a transactions and use tax at a rate of 0.50 percent, if the ordinance proposing the tax is approved by two-thirds vote of the governing board of the authority, and is subject to any other applicable voter approval.

The maximum allowable combined rate of transactions and use taxes levied in any county may not exceed 2 percent.

Counties are required to contract with the Board to perform all functions in the administration and operations of the ordinances imposing the transactions and use taxes.

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 2.995 (commencing with Section 7286.90) to Part 1.7 of Division 2 of the Revenue and Taxation Code to authorize the County of San Mateo to impose a transactions and use tax at a rate of 0.125 or 0.25 percent, if the ordinance imposing the tax is approved by a two-thirds vote of all members of the board of supervisors and is subsequently approved by a two-thirds vote of the voters of the county. This bill requires that the ordinance include an expenditure plan describing the purposes for the tax revenues.

This bill requires that the tax be imposed for a specified period of time. However, there is no time period specified in the bill.

This bill provides that a tax imposed under this section is in lieu of, and not in addition to, a tax imposed for park and recreation purposes under Section 7285.5.

This bill requires that the tax revenues be used exclusively for park and recreation acquisition, improvements, maintenance, programs, and operations within the incorporated and unincorporated areas of the county.

Background

Currently, San Mateo County has two transactions and use taxes being levied within its borders. The tax rates are 0.50 percent each for a total countywide transactions and use tax rate of 1 percent. The total state and local tax rate in all areas of San Mateo County is 8.25 percent.

The following provides a background of San Mateo County's two transactions and use taxes. Assembly Bill 2901 (Chapter 502, Stats. 1974) established the San Mateo County Transit District (District) pursuant to Division 10, Part 15 (commencing with Section 103000) of the Public Utilities Code for the purposes of addressing the public transit problems in the county. In July 1981, the board of directors of the District approved an ordinance to impose a transactions and use tax at a rate of 0.50 percent pursuant to Section 103350 of the Public Utilities Code. The tax revenues would be used exclusively for public transit operations and maintenance, including buses, paratransit, rail, and shuttles. The District entered into a contract with the Board to administer the transactions and use tax ordinance. The operative date of the ordinance was July 1, 1982.

In 1988, the voters of San Mateo County approved a ballot measure known as "Measure A," which created the San Mateo County Transportation Authority (Authority) and authorized the imposition of a 0.50 percent transactions and use tax pursuant to Division 12.5 (commencing with Section 131000) of the Public Utilities Code. The tax would be imposed for a period not to exceed 20 years, ending December 31, 2008. The tax revenues would be used for highway and transit improvements as described in the transportation expenditure plan in the ordinance.

At the November 2, 2004 General Election, voters of San Mateo County approved the extension of the 0.50 percent transactions and use tax pursuant to Division 12.5 of the Public Utilities Code for an additional 25 years, operative January 1, 2009 and ending December 31, 2034.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the County of San Mateo in an effort to provide additional funding for parks and recreation.
2. The **June 9 amendments** authorize the County of San Mateo, with the approval of two-thirds of the voters in San Mateo County, to levy a transactions and use tax at a rate of 0.125 or 0.25 percent for park and recreation purposes. The previous version of the bill required the Department of General Services, upon request by a school district, to provide copies of a report on seismic safety of public school buildings that pertains to a specific school in the district.
3. **Counties are authorized to impose transactions and use taxes at a rate of 0.25 percent, or multiples of 0.25 percent.** Under the Transactions and Use Tax Law, counties are authorized to impose transactions and use taxes for general or special purposes at a rate of 0.25 percent, or multiples of a 0.25 percent, subject to voter approval. 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 transactions and use tax at a rate of 0.125 percent.** Therefore, in order for San Mateo County to impose a tax, upon approval of the voters, at a rate of 0.125 percent special legislation is needed.
4. **Two percent cap.** Under current law, the combined rate of all transactions and use taxes imposed in any county cannot exceed 2 percent. Currently, San Mateo County imposes two transactions and use taxes at rates of 0.50 percent each for a combined transactions and use tax rate of 1 percent. Thus, of the 2 percent countywide cap, San Mateo County has a total of 1 percent left.
5. **This bill provides that a transactions and use tax imposed under the provisions of this bill is in lieu of, and not in addition to, a tax imposed for park and recreation purposes under Section 7285.5.** Section 7285.5 authorizes counties to impose a transactions and use tax at a rate of 0.25 percent, or multiples thereof, for specific purposes. Currently, San Mateo County does not impose a transactions and use tax under Section 7285.5. The two transactions and use taxes imposed in San Mateo County are imposed under the Public Utilities Code.

This bill would prohibit San Mateo County from imposing a tax for park and recreation purposes under Section 7285.5, and from also imposing a tax under Section 7286.90. In other words, the county can impose only one tax for the purposes described under Section 7286.90.

COST ESTIMATE

This bill does not increase administrative costs to the Board because it only authorizes the County of San Mateo to impose a tax. However, if the voters of San Mateo County approve the county initiative imposing the tax, the county 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 special-purpose taxes, it is estimated that the one-time preparatory costs could range between \$15,000 and \$40,000.

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With respect to the ongoing administrative costs, Assembly Bill 836 (Sweeney, Chapter 890, Statutes 1998) required the Board to cap administrative costs based on the lesser of the ratio during the first full year the tax is in effect, or an amount based on the tax rate and applied to the tax revenues generated in the special taxing jurisdiction (STJ). The following table illustrates the maximum administrative costs the Board can charge an individual STJ:

STJ Tax Rate	Allowable Fee
0.50% or greater	1.50% of the tax revenue
0.25% to 0.49%	3.00% of the tax revenue
Less than 0.25%	5.00% of the tax revenue

If the County of San Mateo were to impose a tax at a rate of 0.125 percent, the maximum amount that the Board could charge would be \$710,000 (5% X \$14.2 million (see Revenue Estimate)). If the tax was imposed at a rate of 0.25 percent, the maximum amount that the Board could charge would be \$852,000 (3% X \$28.4 million (see Revenue Estimate)).

Currently, San Mateo County has two transactions and use taxes being imposed each at a rate of 0.50 percent (1/2 percent). For these taxes, the Board's estimated assessment of administrative costs for the fiscal year 2004-05 were \$601,000 for the San Mateo County Transit District and \$603,000 for the San Mateo County Transportation Authority. Based on this information, the Board does not anticipate that the administrative costs would exceed the cap.

REVENUE ESTIMATE

Taxable sales in the County of San Mateo during the 2003 calendar year were \$11.4 billion. A transactions and use tax in the County of San Mateo would raise the following amounts annually.

<u>Rate</u>	<u>Revenue</u>
0.125 %	\$ 14.2 million
0.25 %	\$ 28.4 million

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