



STATE BOARD OF EQUALIZATION

STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	05/14/02	Bill No:	AB 2400
Tax:	Transactions and Use	Author:	Salinas
Board Position:		Related Bills:	AB 7 (Thomson) AB 2061 (Salinas) AB 2758 (Briggs) SB 1889 (Johannessen)

BILL SUMMARY

This bill would authorize Monterey County to establish a local public finance authority for the purpose of financing the implementation of the general plan in Monterey County and impose a transactions and use tax at a rate not to exceed 1 percent, upon voter approval.

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 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.

Section 7285 of the Transactions and Use Tax Law additionally allows counties to levy a transactions and use tax at a rate of ¼ 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 at ¼ percent, or multiple

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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 at a 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 of $\frac{1}{8}$ or $\frac{1}{4}$ percent for purposes of funding public libraries, upon two-thirds voter approval.

Currently, Monterey County does not impose a transactions and use tax. Accordingly, the combined state and local tax rate within Monterey County is 7.25 percent.

In General

Many special districts in California impose transactions and use taxes that are administered by the Board. 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 county-wide transactions and use tax rate of $\frac{1}{8}$ percent. San Francisco City and County has the highest combined county-wide transactions and use tax rate of $1\frac{1}{4}$ percent. The City of Avalon in the County of Los Angeles currently imposes the highest combined transactions and use tax rate of $1\frac{1}{2}$ percent. The various combined state and local tax rates and transactions and use tax rates by county are shown on the attached schedule.

There were several bills during last year's legislative session that authorized cities and counties to impose transactions and use taxes. AB 863 (Ch. 263, Stats. 2001) authorizes the City of West Sacramento to impose a transactions and use tax rate of $\frac{1}{4}$ or $\frac{1}{2}$ percent, upon two-thirds or majority voter approval, as determined by the ordinance proposing the tax and establishing how the revenues shall be expended. SB 685 (Ch. 474, Stats. 2001) authorizes the Fresno County Transportation Authority, subject to two-thirds voter approval, to levy a transactions and use tax at a rate of $\frac{1}{2}$ percent for an additional 30 years to finance regional transportation improvements. SB 1186 (Ch. 292, Stats. 2001) modifies the vote requirement for the existing City of Sebastopol transactions and use tax authority from a two-thirds to a majority approval by voters. The revenues generated by the tax shall be expended for general revenue purposes. SB 1187 (Ch. 285, Stats. 2001) authorizes Fresno County to establish a special purpose authority for the support of zoos, zoological facilities, and related zoological purposes in Fresno County and may impose a transactions and use tax of 0.10 percent, subject to two-thirds voter approval, to fund those purposes. The Board took a neutral position on each of these bills.

Proposed Law

This bill would add Chapter 2.61 (commencing with Section 7286.22) to Part 1.7 of Division 2 of the Revenue and Taxation Code to authorize the County of Monterey to establish a local public finance authority for the purpose of financing the implementation of the general plan in Monterey County and impose a transactions and use tax at a rate not to exceed 1 percent. This bill specifies that the tax would be levied pursuant to

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existing law regarding transactions and use taxes (Part 1.6, commencing with Section 7251), if all of the following conditions are met:

- An ordinance proposing the tax is approved by a two-thirds vote of all of the membership of the board of directors of the authority;
- An ordinance proposing the tax is approved by that percentage required by law, by the qualified voters of the county voting on the measure;
- An ordinance, subject to voter approval, shall specify how the revenues from the tax will be allocated among local agencies in Monterey County and expended for the implementation of Monterey County's general plan.

This bill also specifies that the transactions and use tax imposed pursuant to this chapter may not become operative before January 1, 2004.

This bill also includes findings and declarations that a special law is necessary because of the uniquely difficult fiscal pressures being experienced by the County of Monterey in providing essential public services related to implementing Monterey County's general plan.

Background

Voters in Monterey County had passed a measure to impose a transactions and use tax at a rate of ½ percent. The Monterey County Public Repair and Improvement Authority Tax was in effect from April 1, 1990 through September 30, 1992. Subsequently, this tax was challenged by the Monterey Peninsula Taxpayers Association. In the decision, *Monterey Peninsula Taxpayers Association v. County of Monterey* (1992) 8 Cal.App.4th 1520 this tax was found to be unconstitutional. The California Supreme Court ruled that a tax adopted under Revenue and Taxation Code Section 7285.5 was in violation of Proposition 13. Revenue and Taxation Code Section 7285.5 (subsequently amended) authorized a county to establish an authority for specific purposes that could levy a transactions and use tax, subject to two-thirds vote of the authority and a majority voter approval. The court found that a tax adopted under this section, without a two-thirds vote of the electorate, violated Proposition 13 which allowed impositions of special taxes by special districts only if the tax was approved by at least two-thirds of the voters. Therefore, Section 7285.5 was amended (AB 1123, Ch.251, 2001) to add language requiring two-thirds voter approval of a special purpose tax.

Additionally, the decision, *Rider v. County of San Diego* (1991) 1 Cal.4th 1., and subsequent voter approval of Proposition 218 in 1996, clarified that a tax levied by a special-purpose agency is a special tax, requiring two-thirds voter approval.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the County of Monterey to enable the county to raise additional revenue for providing essential public services related to implementing the county's general plan.

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2. **Summary of May 14, 2002 amendments.** As recommended in the previous analysis, the May 14, 2002 version of the bill deleted the references to resolution. Also, as recommended in the previous analysis, the amendments deleted the word “not” (under Section 7286.22, subdivision (c)(2)) before the phrase “more than 90 days.”

Additionally, the amendments require that the board of supervisors of Monterey County adopt an ordinance by a two-thirds vote (previous version of the bill required majority vote) to establish the County of Monterey Local Public Finance Authority and to authorize such authority to impose the tax, as specified.

Finally, the amendments require that an ordinance be approved by two-thirds vote of the membership of the board of directors of the authority, if at least four (previous version of the bill required 3) of the members voting in favor of the ordinance are members as specified under subdivision (a)(2)(A).

3. **Suggested technical amendment - language referencing voter approval requirement is vague.** This bill provides that the County of Monterey may establish a local public finance authority for the purpose of financing the implementation of the general plan in Monterey County. This bill further provides that the ordinance, subject to voter approval, shall specify how the revenues from the tax are to be allocated among local agencies in Monterey County for the implementation of that county’s general plan. Therefore, the provisions in this bill establish an authority to levy a transactions and use tax for special purposes. A special purpose tax requires a two-thirds voter approval. However, voter approval requirement in this bill is vague. Under subdivision (b)(3), it states that “the ordinance proposing the tax is approved by that percentage as required by law” It is recommended that this bill add language clarifying that the voter requirement is a two-thirds approval of the voters.

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, fifteen cities have gained such authorization. The

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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. **The Board is restricted in the amount it may charge special taxing jurisdictions.** Revenue and Taxation Code Section 7273 requires the Board to cap administrative costs. Because of this requirement, the Board is limited in the amount it may charge special taxing jurisdictions. Thus, any shortfall that could result from actual costs exceeding the amount the Board could charge, would have an impact on the General Fund. For 2001-2002, it is estimated that the State General Fund will absorb \$1.5 million as a result of the cap limitations on administrative cost recovery. However, if the County of Monterey were to impose this tax, it is not expected that the administrative costs would exceed the cap.
7. **Related Legislation.** Four other bills have been introduced in 2002 that propose a transactions and use tax for specific cities. Assembly Bill 7 (Thomson) would authorize the City of Davis, Assembly Bill 2061 (Salinas) would authorize the City of Salinas, Assembly Bill 2758 (Briggs) would authorize the City of Visalia, and Senate Bill 1889 (Johannessen) would authorize the City of Redding, each subject to voter approval, to levy a transactions and use tax. The Board voted to be neutral on all four bills.

COST ESTIMATE

This bill does not increase administrative costs to the Board because it only authorizes the County of Monterey to impose a tax. However, if the county 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. Under Section 7273 of the Revenue and Taxation Code, the estimated ongoing assessed administrative costs could not exceed \$759,000 for the one percent rate (\$50.6 million X 1.5). As noted in Comment 6, if the County of Monterey were to impose this tax, it is not expected that the administrative costs would exceed the cap.

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REVENUE ESTIMATE

Taxable sales in the County of Monterey during the 2000-01 fiscal year were \$5,058.4 million. A transactions and use tax rate not to exceed 1 percent (using multiples of 1/4 percent), in the County of Monterey would raise the following amounts annually:

<u>Rate</u>	<u>Revenue</u>
1/4 %	\$ 12.6 million
1/2 %	\$ 25.3 million
3/4 %	\$ 37.9 million
1 %	\$ 50.6 million

Analysis prepared by:	Debra A. Waltz	916-324-1890	05/15/02
Revenue estimate by:	Dave Hayes	916-445-0840	
Contact:	Margaret S. Shedd	916-322-2376	

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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/>
	8.25

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/>
	7.375

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.