STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Draft

Date Amended:	**03/12/07**	Bill No:	**SB 16**
Tax:	**Local Sales and Use**	Author:	**Florez**
Related Bills:			

BILL SUMMARY

This bill would authorize cities or counties, as specified, to establish by ordinance a sales tax revenue (STAR) bond district, and issue bonds for the financing of projects within such districts. This bill would require a specified city or county to enter into a tax distribution agreement among the city or county, the bond trustee, and the Treasurer for which the Treasurer would distribute certain portions of local sales and use tax revenues and local transient occupancy tax revenues for repayment of the principal and interest on the bonds.

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 and cities 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.

Under the Bradley-Burns Uniform Local Sales and Use Tax Law (Bradley-Burns Law), counties are authorized to impose a local sales and use tax at a rate of up to 1 percent. Cities are also authorized to impose a local sales and use tax at a rate of up to 0.75 percent that is credited against the county rate so that the combined local sales and use tax rate under the Bradley-Burns Law does not exceed 1 percent. 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 be 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.

In addition to the state and Bradley-Burns local taxes described above, the law authorizes various rates under the **Transactions and Use Tax Law** (commencing with Section 7251). The Transactions and Use Tax Law authorizes cities and counties to impose transactions and use taxes (hereafter referred to as district taxes) for general

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and specific purposes. Cities and counties can impose the taxes directly or establish a special purpose entity. As of April 1, 2007, there are 87 cities and counties imposing a district tax for general or specific purposes. Of the 87 district taxes, 36 are county-imposed taxes and 51 are city-imposed taxes.

The combined rate of all district taxes imposed within a county cannot exceed 2 percent. 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.

The Board performs functions in the administration and operations of the ordinances imposing the Bradley-Burns Law and the Transactions and Use Tax Law.

Information regarding Bradley-Burns local tax and district tax revenues. Under current Bradley-Burns Law, the Board is required to collect and maintain local tax data by city, county, or city and county. Under current Transactions and Use Tax Law, the Board is required to collect and maintain local tax data by special taxing district. The Board, in its annual report, publishes the following statistical data: (1) State Sales and Use Tax Statistics by County; (2) Revenues Distributed to Cities and Counties From Local Sales and Use Taxes; (3) Revenues Distributed to Counties From County Transportation Tax; and (4) Revenues Distributed to Special Districts From Transactions and Use Tax.

The Board publishes both a quarterly and annual booklet titled "Taxable Sales in California (Sales & Use Tax)." The booklets are a quarterly or annual report on retail sales activity in California. These reports provide taxable sales data by: (1) Statewide Taxable Sales, By Type of Business; (2) Taxable Sales, By County; (3) Taxable Sales in the 36 Largest Counties, By Type of Business; (4) Taxable Sales in the 22 Smallest Counties, By Type of Business; (5) Taxable Sales in the 272 Largest Cities, By Type of Business; and (6) Taxable Sales in All Cities Except the 272 Largest. Both the quarterly and annual reports are available on the Board's website at www.boe.ca.gov.

PROPOSED LAW

This bill would add Article 14 (commencing with Section 53596) to Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code to, among other things, authorize specified cities and counties to establish a STAR bond district, and to issue bonds repaid with both local sales and use tax and transient occupancy tax revenues. The bonds would be issued upon approval by the Treasurer and for the purposes of financing projects, as specified, within the STAR bond district. This bill would do the following:

- Authorize the governing body of a city or county whose average per capita income is within the lowest 5 percent of the statewide average to establish by ordinance a STAR bond district with geographic boundaries within the jurisdiction of the city or county.
- Require the city or county to enter into a tax distribution agreement with the bond trustee, and the Treasurer, and to require the Treasurer to distribute local tax revenues collected by the Board from taxpayers doing business within the STAR bond district, and revenues from the city or county's local transient occupancy tax, in the percentages or amounts determined by the governing body of the city or county.
- Provide that local tax revenues consist of: 1) sales and use tax revenues derived by a city or county under the Bradley-Burns Law, with respect to retail sales made within the STAR bond district; and 2) revenues, if any, from the city or county's local

transient occupancy tax imposed pursuant Section 7280 of the Revenue and Taxation Code, within the district.

- Require the Treasurer to credit that portion of the local tax revenues determined by the governing body of the city or county to a special fund created by this bill, until there is an amount sufficient to retire all of the principal and interest on all STAR bonds for that district.
- Provide Legislative intent that the purpose of enacting this act is to provide a program for alternative financing for economically depressed cities or counties to issue bonds repaid by revenues received by the city or county from any local sales and use tax or transient occupancy tax collected from taxpayers doing business within a STAR bond district established pursuant to this act.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the author to provide a financing program that allows economically depressed cities or counties to issue bonds for the purpose of financing and developing a new model community within their jurisdiction. The bonds would be repaid by revenues received by the city or county from transient occupancy taxes and local sales and use tax revenues which are collected from taxpayers doing business within the STAR bond district.

   According to the author's office, the model community would be a planned balanced community consisting of residential "smart" homes in neighborhoods with nature trails, a vibrant town center with a Main Street concept, extensive open space, plazas and walkways, public facilities, lakes and water features, regional and local parks, retail, office/business parks, industrial, and entertainment destination areas. The model community would have a significant job base to create employment self-sufficiency. The community would also feature unique destination attractions such as a motor speedway, themed resort hotels, museums, and exciting retail attractions.

2. **The Board would not know the amount of Bradley-Burns local tax revenues attributable to a STAR bond district.** The Board collects and maintains local sales and use tax revenues for all 478 cities and 58 counties in California. The Board has local tax revenue data on all cities and counties. However, the Board does not have data on a specified geographic area within a city or county. Moreover, there is no simple method for determining revenues within such an area. The Board collects local tax revenues using a tax area code. In order for the Board to provide local tax revenues attributable to a STAR bond district, the Board would have to treat the district as a new jurisdiction, similar to a newly incorporated city, and create a tax area code for that district.

3. **The Board would have to treat the district like a new jurisdiction.** As previously stated, the Board maintains two types of data by city and county: distributions of local sales and use tax revenues and taxable sales. This information is collected and maintained using a tax area code system. All registered permit holders are assigned a twelve (12) digit tax area code number that identifies the city and county in which the account is located, as well as any special districts or redevelopment areas.

To implement the provisions of this bill would require that each STAR bond district be treated as a new jurisdiction, similar to a newly incorporated city, including creating a special tax area code for each STAR bond district. Once the tax area code is established, the Board would have to identify all accounts within that district.

The Board requires all newly incorporated cities to furnish maps and listings of street addresses. Using the street listings provided by the cities or counties, Board staff would have to compare each business address from the Board's records to the city's or county's street listing to identify those accounts within the city or county.

Once the accounts have been identified, each account must be changed on the Board's registration system. This would require changing the tax area code, entering comments regarding the nature of the changes made, and other minor modifications. When changes have been made to the registration system, a listing of all accounts that were changed, as well as copies of maps and street listings, are forwarded to the appropriate district offices for distribution to personnel responsible for registration of new accounts.

Other tasks associated with establishing the new tax area for the STAR bond districts include: preparing written guidelines for audit and compliance staff; designing and printing a special mailer to be mailed with the tax returns to all affected accounts, and revising various forms and publications.

4. **The bill should contain a provision for the Board's preparation and ongoing administrative costs.** The Board would have one-time programming costs to modify its computer system to identify and track revenues attributable to the STAR bond districts. These one-time programming costs are the same regardless if one city or county or several cities or counties adopt ordinances to establish a STAR bond district. In addition, as each governing body of a city or county adopts an ordinance to establish a STAR bond district, the Board would also incur preparatory costs. The Board's preparatory costs are associated with the workload to identify and recode sales tax accounts, modify the local tax returns and instructions, develop written guidelines for audit and compliance staff, train audit and compliance staff, design and print a special notice, notify affected retailers, and additional minor programming. The Board also would incur ongoing administrative costs related to registering new accounts, preparing reports, and other tasks related to collecting and maintaining the local tax revenue data.

5. **The Board would need at least one quarter lead time to complete tasks necessary to provide local tax revenues for a STAR bond district.** As cities and counties adopt ordinances to establish a STAR bond district, the Board would need to complete the various tasks for tracking data on the STAR bond district, as previously detailed. The Board would need at least one quarter lead time from the date that the governing body elects to issue bonds to set up a STAR bond district.

   Currently, the effective date to administer local sales and use tax ordinances for a newly-incorporated city is the first day of a calendar quarter following approval of the contract by the Department of General Services. This time frame allows the Board sufficient time to set up the new city. In addition, it is easier for both Board staff and retailers to begin making a separate breakdown for revenues attributable to a STAR bond district on the first day of a calendar quarter. Board staff will work with the author's office to draft amendments to address these issues.

6. **Who are the eligible cities and counties under the provisions of this bill?** An eligible city or county would be one whose average per capita income is within the lowest 5 percent of the statewide average. Using 2000 census information from the U.S. Census Bureau website, the following table lists the 10 counties with the lowest per capita income in the state. The three highlighted counties (Glenn, Tulare, and Imperial) represent those counties whose average per capita income fell within the lowest 5 percent of the statewide average:

County	Per Capital Income in 1999
Fresno County	$ 15,495
Lassen County	$ 14,749
Colusa County	$ 14,730
Madera County	$ 14,682
Del Norte County	$ 14,573
Merced County	$ 14,257
Yuba County	$ 14,124
Glenn County	**$ 14,069**
Tulare County	**$ 14,006**
Imperial County	**$ 13,239**

The following table shows the cities whose average per capita income fell within the lowest 5 percent of the statewide average:

City	Per Capita Income in 1999
City of Calexico	$ 9,981
City of Bell	$ 9,905
City of Industry	$ 9,877
City of Live Oak	$ 9,571
City of Lynwood	$ 9,542
City of McFarland	$ 9,524
City of Huron	$ 9,425
City of Huntington Park	$ 9,340
City of Firebaugh	$ 9,290
City of Livingston	$ 9,231
City of Greenfield	$ 9,226
City of Westmorland	$ 8,941
City of Maywood	$ 8,926
City of Woodlake	$ 8,842
City of Cudahy	$ 8,688

City of Farmersville	$ 8,624
City of Bell Gardens	$ 8,415
City of Lindsay	$ 8,230
City of Coachella	$ 7,416
City of Arvin	$ 7,408
City of Orange Cove	$ 7,126
City of Parlier	$ 7,078
City of Mendota	$ 6,967
City of San Joaquin	$ 6,607

In addition, the term "income" may need to be defined. On the U.S. Census Bureau website, there are several definitions listed for income. The income data used in the U.S. Census Bureau reports are based on the amount of money people or households actually received during a calendar year. This income term is known as "money income" and includes the following: earnings, unemployment compensation, workers' compensation, Social Security, Supplemental Security Income, public assistance, veterans' payments, survivor benefits, pension or retirement income, interest, dividends, rents, royalties, income from estates and trusts, educational assistance, alimony, child support, cash assistance from outside the household, and other miscellaneous sources. It is income before deductions for taxes or other expenses and does not include lump-sum payments or capital gains.

7. **The term local tax revenues needs clarifying.** This bill provides that local tax revenues consist of sales and use tax revenues derived by a city or county under Bradley-Burns Law, *in each case with respect to retail sales within the STAR bond district*. Would local tax revenues include only those tax revenues resulting from retail sales made within the STAR bond district, or should the revenues include local use tax as well? This needs to be clarified. The Board collects and maintains data of all taxable transactions that occur within a jurisdiction which include all sales and purchases subject to the sales or use tax. It would be very difficult for the Board to segregate tax revenues resulting from retail sales only. And, it would seem that, for purposes of repaying the bonds, the local entity would want data of all local sales and use tax revenues attributable to the STAR bond district.

   Board staff would like to work with the author's office to address this issue.

8. **Other states.** In 2003, Kansas enacted legislation which created a state financing program known as the Sales Tax and Revenue (STAR) bond program. Their law allows cities to issue bonds that are to be repaid by revenues received by the city from any transient guest or local sales and use taxes which are collected from taxpayers doing business within that portion of the city's special bond project area. The STAR bond financing must be used for the following projects: 1) a project with at least a $50,000,000 capital investment and $50,000,000 in projected gross annual sales revenues; 2) a major commercial entertainment and tourism area as determined by the State Secretary of Commerce; 3) auto race track facilities, multi-sport athletic complexes, river walk canal facilities, historic theaters, bioscience development projects with the approval of the Kansas Bioscience Authority, or a

major motor sports complex in Shawnee County; and 4) a project located outside of a metropolitan statistical area which has been found by the Secretary of Commerce to be an in an eligible area under Tax Increment Financing law and of regional or statewide importance.

COST ESTIMATE

This bill does not in itself increase administrative and preparatory costs to the Board because it only authorizes a city or county, as specified, to establish by ordinance a STAR bond district, and to issue bonds repaid by local tax revenues. The bill provides that local tax revenues consist of sales and use tax revenues derived by a city or county under the Bradley-Burns tax law, in each case with respect to retail sales within the STAR bond district, and the revenues, if any, from the city or county's local transient occupancy tax.

If the Board is called upon to provide Bradley-Burns local sales and use tax revenues attributable to a STAR bond district, the Board will incur one-time programming costs to make modifications to the Board's computer system to identify and track the revenues attributable to a STAR bond district. The Board will also incur preparatory costs when a city or county adopts an ordinance to establish a STAR bond district and elects to issue bonds. The preparatory costs are associated with the workload to identify and recode sales tax accounts, modify the local tax returns and instructions, develop written guidelines for audit and compliance staff, train audit and compliance staff, design and print of a special notice, notify affected retailers, and additional minor programming. The Board also would have ongoing administrative costs related to registering new accounts, preparing reports, and other tasks related to collecting and maintaining the local tax revenue data. A detailed cost estimate is pending.

REVENUE ESTIMATE

This bill would not impact the state's revenues.

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