



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

DRAFT

Date Introduced	02/22/05	Bill No:	SB 1020
Tax:	Bradley-Burns	Author:	Migden
Related Bills:			

BILL SUMMARY

This bill would authorize a county or a city and county to impose an additional 0.25 percent local sales and use tax for local transportation purposes.

ANALYSIS

Current Law

Under **Article XIII A, Section 4, of the California Constitution**, cities, counties, and special districts, by a two-thirds vote of the voters of such districts, may impose special taxes, except ad valorem taxes on real property or a transactions tax or sales tax on the sale of real property within such districts.

Under **Article XIII C, Section 1, of the California Constitution**, “general tax” means any tax imposed for general governmental purposes. “Special tax” means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund. Under Section 2 of Article XIII C, a local government may impose a general tax by a majority of the voters, and impose a special tax by two-thirds of the voters. Also under Section 2 of Article XIII C, special purpose districts or agencies, including school districts, have no power to levy general taxes.

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 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.

Under the Bradley-Burns Law, counties are authorized to impose a local sales and use tax at a rate of 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, counties and cities 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.

Also, under Bradley-Burns Law, counties are required to comply with the provisions of Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code. Under Section 29530 of the Government Code, all revenues derived from that portion of the Bradley-Burns rate in excess of 0.75 percent are required to be

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deposited in a local transportation fund in the county treasury and dedicated for county transportation purposes.

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

Proposed Law

This bill would add Section 7203.25 to the Bradley-Burns Uniform Local Sales and Use Tax Law to, on or after January 1, 2006, authorize a county or a city and county, subject to the applicable voter-approval requirements, to impose an additional 0.25 percent local sales and use tax. The local sales and use tax imposed under this section is for the purposes specified under Section 29530 of the Government Code.

This bill would also amend Section 29530 of the Government Code to provide that the board of supervisors of a county or city and county that imposes a tax pursuant to Section 7203.25 of the Bradley-Burns Law, would contract with the Board to establish a local transportation fund in the county or city and county treasury, and would deposit in the fund all revenues derived from the tax imposed under Section 7203.25, less the Board's administrative costs in administering the local sales and use tax ordinance.

History

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 the different sales and use tax rates among the various communities in the state. Initially, it was optional for counties to participate in the Bradley-Burns tax program, and the local sales and use tax rate was fixed at 1 percent. The difference now is that the cities and counties cannot impose their own local sales tax program separate from Bradley-Burns.

The board of supervisors of seven counties (Inyo, Los Angeles, Mariposa, Mono, Orange, Sacramento, San Benito) adopted ordinances effective April 1, 1956. Subsequently, 50 other county boards adopted ordinances by June 1959, and the final county (Siskiyou) board, adopted their ordinance in December 1961. None of these ordinances had been approved by the voters of the respective jurisdiction.

In 1972, when sales tax was first levied on gasoline, counties began receiving 0.25 percent local tax revenue for transportation purposes.

In 1978, voters approved Proposition 13, which lowered property taxes and placed other restrictions on local government taxation. Specifically, Proposition 13 included a section stating that "Cities, Counties, and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district . . ." In 1986, voters approved a statutory measure known as Proposition 62, which prohibited a local government from imposing (1) a tax for specific purposes unless it is approved by two-thirds of the voters, and (2) a tax for general purposes unless it is approved by a majority of the voters.

In 1996, voters approved Proposition 218, which added Articles XIII C and XIII D to the California Constitution. Proposition 218 requires, among other things, that (1) any tax imposed for general governmental purposes must be approved by a majority of the

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voters (including taxes imposed by chartered cities); (2) any tax imposed for specific purposes must be approved by two-thirds of the voters; (3) any tax imposed for a specific purpose is a "special tax," even if the funds are placed into a general fund; and (4) special purpose districts or agencies, including school districts, shall have no power to levy general taxes.

Background

This bill is similar to Assembly Bill 1065 (Longville) introduced during the 2003-04 session. AB 1065 would have authorized a county to impose a local sales and use tax at a rate of either 1.25 or 1.50 percent. The bill failed passage in Senate Revenue and Taxation Committee.

COMMENTS

1. Sponsor and purpose. This bill is sponsored by the California Transit Association in an effort to increase revenues for county transit services. According to the sponsor, under the Transportation Development Act (Senate Bill 325, Chapter 1400, Stats. 1971) tax revenues collected by the Board in excess of 0.75 percent and pursuant to a contract entered into by the county board of supervisors pursuant to Government Code Section 29530, would be returned to each county that established a Local Transportation Fund. The tax revenues deposited in the local transportation fund were to be used exclusively to provide public transit service and to maintain streets and roads in rural counties.

According to the sponsor, these tax revenues have proven to be the backbone of transit funding in California and contribute to vital road maintenance and rehabilitation in rural areas. However, the 0.25 percent local tax portion dedicated for county transportation purposes has not been increased since its inception. Consequently, the value of the revenues derived from this 0.25 percent tax portion has eroded precipitously over time. According to the sponsor, this bill will provide counties another possible tool to address the long decline in the local transportation buying power.

Additionally, the Governor's proposed 2005-06 budget outlines a number of steps to close the budget gap. One of those steps includes completely suspending Proposition 42 and its transfer of revenues from the General Fund to transportation programs, costing transit and highway projects and services about \$1.3 billion in 2005-06. The Governor's budget also proposes to suspend all "spillover" transfers from the General Fund to the Public Transportation Account, costing transit programs another \$216 million.

2. The Bradley-Burns system is already in place for counties to receive the 0.25 transportation tax. Counties have been receiving the existing 0.25 percent for transportation revenue since 1972 through allocations made by the Board, based on tax remittances by retailers. This measure would increase that rate by another .25 percent.

3. More Counties and Cities are Seeking Voter Approval of Additional Local Taxes. Because of two significant components in the past two budget acts that decreased local tax dollars, cities and counties are pursuing other measures to

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increase their shortfalls. The most recent, the 2004-05 Budget Act, shifted \$1.3 billion of property taxes from cities, counties, and special districts to schools in 2004-05 and again in 2005-06. Additionally, the 2003-04 Budget Act, shifted the components of the state and local tax structure causing cash flow problems and interest revenue losses to local governments. Specifically, operative July 1, 2004, the "Triple Flip," among other things, increased the state portion of the sales and use tax rate by 0.25 percent but decreased the local sales and use tax rate by 0.25 percent. Cities and counties are to be reimbursed for their local tax revenue losses through property tax revenues. However, cities and counties, who received the local tax revenues on a monthly basis, under the Triple Flip, now will receive the property tax replacement revenues only twice a year — in January and May.

With property taxes shifted away from local governments, and the cash flow problems and interest revenue losses, local governments throughout the state placed a total of 53 transactions and use tax measures on the November 2, 2004 General Election ballot. Of these, 24 were county measures and 29 were city measures. Of the county measures, 6 were general purpose (and all failed) and 18 were special purpose. The results of the county special purpose taxes are: 10 passed and 14 failed. Of the 10 special tax measures that passed, 7 were for transportation.

4. **All counties would be required to adopt a new ordinance.** Current law imposes a local tax at a rate of 1 percent in a county. This bill would require every county or city and county that adopts the tax to adopt new ordinances reflecting the additional tax rate of 0.25 percent.
5. **Some counties may prefer increasing the sales and use tax under Bradley-Burns rather than pursuing a transaction and use tax increase for transportation purposes.** As previously stated, counties have been receiving the 0.25 percent for transportation revenue since 1972. Under Government Code Section 29530, counties are authorized to establish a local transportation fund for public transportation purposes. The revenues derived from the 0.25 percent county sales tax are deposited into the local fund and used exclusively for road maintenance or the operation of transit systems.

Under this system, counties use the funds in accordance with the Transportation Development Act (TDA). The TDA prescribes the specific allocation of the funds. Conversely, if the county were to pursue a transactions and use tax increase, subject to voter approval, the county would be subject to many administrative procedures, including but not limited to the following: (1) establish a transportation authority and determine the membership of the authority with the concurrence of a majority of the cities; (2) adopt rules and procedures to be used by the authority; (3) adopt an annual budget; (4) develop a county transportation expenditure plan; (5) provide for an annual review and propose amendments to the county transportation expenditure plan.

Under Bradley-Burns, all counties already have a local transportation fund in place. Counties know how the rules work under the TDA and understand the allocations and formulas. For these reasons, it is much more expeditious for counties to increase the sales and use tax rate under Bradley-Burns.

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- 6. Technical amendment - partial local sales and use tax exemption for aircraft common carriers needs to be reduced from 75 percent to 60 percent.** This bill increases the local sales and use tax rate imposed by a county to 1.25 percent. There is a partial exemption of 75 percent on sales and purchases of property (i.e. parts, supplies, and equipment) to aircraft operators if: (1) the aircraft is operated by a common carrier according to the laws of California, the United States, or a foreign government; (2) the property is used or consumed directly and exclusively in the use of the aircraft as a common carrier of persons or property; and (3) the property is used or consumed principally outside the county in which the sale was made. **This exemption does not apply to the sale or purchase of fuel and petroleum products.**

As stated above, the sales and purchases of property to aircraft common carriers is exempt from the 0.75 percent local tax. Under Bradley-Burns, counties are authorized to impose a local sales and use tax at a rate of 1 percent. The partial exemption of 75 percent is calculated based on the 0.75 percent of the 1 percent county local tax. Therefore, since this bill would increase the local sales and use tax rate to 1.25 percent, a corresponding reduction needs to be made to the exemption. The partial aircraft common carrier exemption needs to be reduced from 75 percent ($0.75 / 1$) to 60 percent ($0.75 / 1.25$). Without this reduction, the exemption will be overstated resulting in an understated amount of local sales and use tax paid to the counties. Board staff is willing to work with the author's office to draft these amendments.

COST ESTIMATE

Modifying the local sales and use tax rate a county may impose would require every county to adopt a new ordinance and a new contract with the Board. Programming and data entry would also be necessary to modify the Fund Distribution System to account for different rates allocated to the various counties. Retailers would have to be notified of the change in the local tax rate. Tax returns and various Board publications would have to be revised to reflect the new rate changes. A cost estimate is pending.

REVENUE ESTIMATE

Taxable sales in California for 2004-05 are estimated to be \$498.9 billion. A tax rate of 0.25 percent would raise \$1.2 billion.

If all counties elected to increase their tax rate by 0.25 percent, the annual revenue gain would be \$1.2 billion.

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STATE, LOCAL, AND TRANSACTIONS AND USE TAX RATES BY COUNTY^a
(Effective April 1, 2005)

Alameda 2% Cap			Del Norte 2% Cap			Kern 2% Cap		
State	6.25		State	6.25		State	6.25	
Local	1.00		Local	1.00		Local	1.00	
ACHC	0.50		Total	7.25	2.00	Total	7.25	2.00
ACTI	0.50		El Dorado 2% Cap			Kings 2% Cap		
BART	0.50		State	6.25		State	6.25	
Total	8.75	0.50	Local	1.00		Local	1.00	
Alpine 2% Cap			PLPS ^b	0.25		Total	7.25	2.00
State	6.25		SLTG ^b	0.50		Lake 2% Cap		
Local	1.00		Total	7.75	1.50	State	6.25	
Total	7.25	2.00	Fresno 2% Cap			Local	1.00	
Amador 2% Cap			State	6.25		CLPS ^b	0.50	
State	6.25		Local	1.00		LPGT ^b	0.50	
Local	1.00		FCTA	0.50		Total	7.75	1.50
Total	7.25	2.00	FCPL	0.125		Lassen 2% Cap		
Butte 2% Cap			FCZA	0.10		State	6.25	
State	6.25		CCPS ^b	0.30		Local	1.00	
Local	1.00		Total	8.275	0.975	Total	7.25	2.00
Total	7.25	2.00	Glenn 2% Cap			Los Angeles 2% Cap		
Calaveras 2% Cap			State	6.25		State	6.25	
State	6.25		Local	1.00		Local	1.00	
Local	1.00		Total	7.25	2.00	LATC	0.50	
Total	7.25	2.00	Humboldt 2% Cap			LACT	0.50	
Colusa 2% Cap			State	6.25		AMHC ^b	0.50	
State	6.25		Local	1.00		Total	8.75	0.50
Local	1.00		TDGF ^b	1.00		Madera 2% Cap		
Total	7.25	2.00	Total	8.25	1.00	State	6.25	
Contra Costa 2% Cap			Imperial 2% Cap			Local	1.00	
State	6.25		State	6.25		MCTA	0.50	
Local	1.00		Local	1.00		Total	7.75	1.50
CCTA	0.50		IMTA	0.50		Marin 2% Cap		
BART	0.50		CXHD ^b	0.50		State	6.25	
RMGT ^b	0.50		Total	8.25	1.00	Local	1.00	
Total	8.75	0.50	Inyo 2% Cap			TAMC	0.50	
			State	6.25		Total	7.75	1.50
			Local	1.00				
			INRC	0.50				
			Total	7.75	1.50			

^a The county total is the sum of all countywide district taxes and the highest citywide tax to arrive at the highest total tax rate in the county. The 2% cap represents the remaining total tax rate the county can impose. The combined rate of all district taxes imposed in any county cannot exceed 2%. Thus, any citywide district tax will limit the tax rate imposed by a county.

^b The following district taxes are imposed in cities and not throughout the entire county.

STATE, LOCAL, AND TRANSACTIONS AND USE TAX RATES BY COUNTY^a
(Effective April 1, 2005)

Mariposa 2% Cap			Nevada 2% Cap			San Bernardino 2% Cap		
State	6.25		State	6.25		State	6.25	
Local	1.00		Local	1.00		Local	1.00	
MCHC	0.50		NVPL	0.125		SBER	0.50	
Total	7.75	1.50	TRSR ^b	0.50		MTGR ^b	0.25	
Mendocino 2% Cap			Orange 2% Cap			San Diego 2% Cap		
State	6.25		State	6.25		State	6.25	
Local	1.00		Local	1.00		Local	1.00	
WCRS ^b	0.50		OCTA	0.50		SDTC	0.50	
PARS ^b	0.50		Total	7.75	1.50	ECPS ^b	0.50	
FBCS ^b	0.50		Placer 2% Cap			San Francisco 2% Cap		
Total	7.75	1.50	State	6.25		State	6.25	
Merced 2% Cap			Local	1.00		Local	1.00	
State	6.25		Total	7.25	2.00	SFTA	0.50	
Local	1.00		Plumas 2% Cap			SFPF	0.25	
LBPS ^b	0.50		State	6.25		BART	0.50	
Total	7.75	1.50	Local	1.00		Total	8.50	0.75
Modoc 2% Cap			Total	7.25	2.00	San Joaquin 2% Cap		
State	6.25		Riverside 2% Cap			State	6.25	
Local	1.00		State	6.25		Local	1.00	
Total	7.25	2.00	Local	1.00		SJTA	0.50	
Mono 2% Cap			RCTC	0.50		SPFG ^b	0.25	
State	6.25		Total	7.75	1.50	Total	8.00	1.25
Local	1.00		Sacramento 2% Cap			San Luis Obispo 2% Cap		
Total	7.25	2.00	State	6.25		State	6.25	
Monterey 2% Cap			Local	1.00		Local	1.00	
State	6.25		STAT	0.50		Total	7.25	2.00
Local	1.00		Total	7.75	1.50	San Mateo 2% Cap		
SAND ^b	0.50		San Benito 2% Cap			State	6.25	
Total	7.75	1.50	State	6.25		Local	1.00	
Napa 2% Cap			Local	1.00		SMCT	0.50	
State	6.25		SJBG ^b	0.75		SMTA	0.50	
Local	1.00		Total	8.00	1.25	Total	8.25	1.00
NCFP	0.50		San Bernardino 2% Cap			San Bernardino 2% Cap		
Total	7.75	1.50	State	6.25		State	6.25	
			Local	1.00		Local	1.00	
			SJBG ^b	0.75		SBER	0.50	
			Total	8.00	1.25	MTGR ^b	0.25	
						Total	8.00	1.25

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Santa Barbara 2% Cap			Siskiyou 2% Cap			Trinity 2% Cap		
State	6.25		State	6.25		State	6.25	
Local	1.00		Local	1.00		Local	1.00	
SBAB	0.50		Total	7.25	2.00	Total	7.25	2.00
Total	7.75	1.50						
Santa Clara 2% Cap			Solano 2% Cap			Tulare 2% Cap		
State	6.25		State	6.25		State	6.25	
Local	1.00		Local	1.00		Local	1.00	
SCCT	0.50		SLPL	0.125		VPST ^b	0.25	
SCGF	0.50		Total	7.375	1.875	FMGT ^b	0.50	
Total	8.25	1.00				Total	7.75	1.50
Santa Cruz 2% Cap			Sonoma 2% Cap			Tuolumne 2% Cap		
State	6.25		State	6.25		State	6.25	
Local	1.00		Local	1.00		Local	1.00	
SCMT	0.50		SCOS	0.25		SPFW ^b	0.50	
SZPL	0.25		SNTA	0.25		Total	7.75	1.50
^b SZGT	0.25		SEBG ^b	0.25				
^b CPGT	0.25		SRPS ^b	0.25				
Total	8.25	1.00	Total	8.00	1.25			
Shasta 2% Cap			Stanislaus 2% Cap			Ventura 2% Cap		
State	6.25		State	6.25		State	6.25	
Local	1.00		Local	1.00		Local	1.00	
Total	7.25	2.00	STCL	0.125		Total	7.25	2.00
Sierra 2% Cap			Sutter 2% Cap			Yolo 2% Cap		
State	6.25		State	6.25		State	6.25	
Local	1.00		Local	1.00		Local	1.00	
Total	7.25	2.00	Total	7.25	2.00	WOGT ^b	0.50	
Siskiyou 2% Cap			Tehama 2% Cap			Yuba 2% Cap		
State	6.25		State	6.25		State	6.25	
Local	1.00		Local	1.00		Local	1.00	
Total	7.25	2.00	Total	7.25	2.00	Total	7.25	2.00

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