STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced	**04/01/04**	Bill No:	**SCA 22**
Tax:	**Sales and Use** **Bradley-Burns Local**	Author:	**Johnson and Torlakson**
Board Position:		Related Bills:	**SB 1774 (Johnson, et al)** **SCA 21 (Torlakson, et al)** **AB 3105 (Campbell, et al)** **ACA 30 (Steinberg, et al)**

BILL SUMMARY

This Constitutional Amendment would enact the Local Government Property Tax Protection Act of 2004 to, among other things: (1) establish in each county a School Assistance Fund for Education (SAFE) to receive revenues from specified state sales and use tax rates and specified vehicle license fees; (2) require all moneys in a county SAFE be allocated to cities, counties, and school entities in accordance with provisions proposed under an as-yet specified bill; and (3) prohibit the Legislature from establishing exemptions to the taxes imposed under Bradley-Burns Law unless the Legislature appropriates an equal amount to cities and counties to reimburse them for any revenue losses.

Although this bill affects property tax and sales and use tax, this analysis will only discuss the sales and use tax provisions, as the property tax provisions are not within the scope of administration by the Board.

ANALYSIS

Current Law

The Sales and Use Taxes Law (commencing with Section 6001 of the Revenue and Taxation Code), provides that a sales tax is imposed on retailers for the privilege of selling tangible personal property at retail. The use tax is imposed upon the storage, use, or other consumption of tangible personal property purchased from a retailer. Either the sales tax or the use tax applies with respect to all sales or purchases of tangible personal property, unless specifically exempted or excluded from the tax.

Currently, the statewide sales and use tax rate is 7.25 percent. Of the 7.25 percent base rate, 6 percent is the state portion and 1.25 percent is the local portion. However, beginning July 1, 2004, the state tax rate will increase by 0.25 percent, from 6 to 6.25 percent, and the local tax rate will decrease by 0.25 percent, from 1.25 to 1 percent. The revenues from the 0.25 percent state tax rate increase are to be deposited into the Fiscal Recovery Fund and dedicated to the repayment of the deficit bonds.

The components of the state sales and use tax rate of 6 percent are as follows:

- 4.75 percent is allocated to the state's General Fund which is dedicated for state general purposes (Sections 6051 and 6201 of the Revenue and Taxation Code);

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- 0.25 percent is allocated to the state's General Fund which is dedicated for state general purposes (Sections 6051.3 and 6201.3 of the Revenue and Taxation Code);
- 0.50 percent is allocated to the Local Revenue Fund which is dedicated to local governments to fund health and welfare programs (Sections 6051.2 and 6201.2 of the Revenue and Taxation Code);
- 0.50 percent is allocated to the Local Public Safety Fund which is dedicated to local governments to fund public safety services (Section 35 of Article XIII of the California Constitution).

The Bradley-Burns Uniform Local Sales and Use Tax Law (commencing with Section 7200 of the Revenue and Taxation Code), authorizes a county to impose a local sales and use tax at a rate of 1.25 percent, and similarly authorizes a city to impose a local sales and use tax rate of 1 percent that is credited against the county rate. Beginning on July 1, 2004, existing law reduces by 0.25 percent the rate that may be imposed by a county, from 1.25 to 1 percent, and by a city, from 1 to 0.75 percent. Existing law also provides that this reduction in the local tax rate will be increased by 0.25 percent when the Department of Finance (DOF) has made a specified notification to the Board, pursuant to Section 99006 of the Government Code, that the $15 billion bond has been repaid.

Proposed Law

This bill would add Section 16 to Article XI of the California Constitution and establish SAFE in the treasury of each county to receive those revenues as specified in Section 30024 of the Government Code and Sections 6051.7, 6051.9, 6201.7, 6201.9, and 11007 of the Revenue and Taxation Code. The county auditor would allocate money in the county SAFE in the manner specified by statutes added by an as-yet specified bill of the 2003-04 Legislative Session. An act of the Legislature or the Governor could not reduce the amount of money that is required to be deposited in each county SAFE unless that act continuously appropriates an amount equal to the amount of money not deposited as a result of that act.

This bill would amend Section 24 of Article XIII of the California Constitution to provide that the Legislature, with respect to the Bradley-Burns Uniform Local Sales and Use Tax Law, as that law read on July 1, 2005, may <u>not</u> do the following:

1) Restrict the authority of a city or county to impose a rate under that law;
2) Change the method of distributing revenue derived under that law;
3) Establish an exemption to the taxes imposed under that law without appropriating money to a city or county to reimburse that city or county for any revenue loss resulting from that exemption; and
4) With respect to revenue derived from any local tax, including but not limited to, a business license tax, a transient occupancy tax, and a utility user tax, that is imposed by a local agency, appropriate, reallocate, redistribute, reduce, suspend, or delay the receipt by the local agency of the revenue derived from that tax.

This bill shall be submitted to the voters only if an unspecified bill of the 2003-04 Legislative Session is chaptered. According to the author's office, however, that other bill is SB 1774 (Johnson and Torlakson).

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This bill would become effective only if approved by a majority of the voters in a statewide election.

Background

"The fiscalization of land use" refers to the concept of examining land use decisions in the context of their revenue and expenditure consequences. Because Proposition 13 reduced the revenues that would be received from property taxes from any particular development (industrial, commercial, or residential), local jurisdictions began to pay even more attention to the fiscal outcomes of land use decisions, and those uses that generated revenues in addition to property taxes have been elevated in importance.

The decision by local governments to utilize land for retail sales in order to generate sales tax revenues is one example of the fiscalization of land use. Local governments have engaged in numerous activities to encourage retail activity in their jurisdiction, such as zoning excessively for retail, providing sales tax rebates to retailers who locate in their jurisdiction, waiving developer fees, and expediting the permit process.

This bill is intended to address, among other issues, the fierce competition that local entities are now facing in getting as much local (1.0%) sales and use tax revenue as they can.

In General

Numerous bills have been introduced in recent years related to local tax revenue restructuring:

Assembly Bill 1221 (Steinberg and Campbell, 2003-04), among its provisions, would have: (1) decreased the local sales and use tax rate imposed by a city from 1 percent to 0.50 percent; (2) decreased the local sales and use tax rate imposed by a county from 1.25 percent to 0.75 percent; (3) as of July 1 of the base fiscal year, as defined, increased the amount of property tax revenue allocated to a county by that county's or city's reimbursement amount, as defined, and correspondingly decrease the amount of property tax revenue allocated to a county's Educational Revenue Augmentation Fund by the countywide adjustment amount, as defined; and (4) allowed cities and counties to adjust their base fiscal year reimbursement amounts, as specified.

Assembly Constitutional Amendment 17 (Daucher, 2003-04), would have, among other things, authorized a city or a county to irrevocably elect to increase its property tax revenue by an amount equal to its local sales and use tax revenue attributable to a rate of 0.50 percent, and would have required that the county's ERAF be reduced by the same amount. The cities' and counties' local sales and use tax revenues attributable to a rate of 0.50 percent would be used to backfill the counties' ERAF.

Assembly Bill 680 (Steinberg, 2001-02), would have changed the allocation method of the 1 percent local sales tax in El Dorado, Placer, Sacramento, Sutter, Yolo, and Yuba counties.

Assembly Bill 2878 (Wiggins, 2001-02), would have modified the property tax allocation to a city or county, provide that a city may not impose a sales and use tax rate in excess of 0.85 percent except under specified circumstances, and prohibit the state from transferring money from the General Fund to cities and counties to fund vehicle license fee offsets.

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Senate Bill 1982 (Alpert, 1999-2000), would have made legislative findings and declarations with respect to the fiscal difficulties of local governments, and declare the intent of the Legislature to address local government issues involving, among other things, property tax allocations, state-mandated local programs, and the consideration of all local government revenue sources in reforming the fiscal relationship between state and local governments.

Senate Bill 2000 (Polanco, 1999-2000), would have declared the intent of the Legislature with respect to local government delivering vital services, recommending land use policies, modifying the distribution of future local sales and use taxes, and improving the efficiency and effectiveness of government programs.

Senate Constitutional Amendment 18 (Alpert, 1999-2000), would have made findings and declarations with respect to the role of local governments in implementing programs and providing public services, the importance of the fiscal soundness of local governments, and the equitable distribution of local tax revenues.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the authors in an effort to protect and stabilize local revenue sources and improve the mandated reimbursement process.
2. **Related legislation. SB 1774 (Johnson and Torlakson)** among its provisions, would: (1) increase the state sales and use tax rate by 0.25 percent; (2) provide that the revenues from the 0.25 percent increase in the state sales and use tax rate shall be deposited into the School Assistance Fund for Education (SAFE)-Sales and Use Tax Revenue Account that the bill creates; (3) decrease the local sales and use tax rate imposed by a city or a county by a 0.25 percent; and (4) provide that the property tax revenue allocated to each city and county shall be revenue protected, as specified. **SCA 21 (Torlakson and Johnson)** would, among other things, enact the Local Taxpayers and Public Safety Protection Act to require statewide voter approval for any legislative measure that would, as specified, affect the revenue streams to local governments.

   AB 3105 (Campbell and Steinberg) is identical to SB 1774. **ACA 30 (Steinberg and Campbell)** is identical to this bill.

COST ESTIMATE

This bill does not result in costs to the Board.

REVENUE ESTIMATE

This bill would not affect state revenues.

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