

[Assembly Bill 89](#) (Allen)

Date: 03/26/15

Program: Sales and Use Tax

Sponsor: Author

Revenue and Taxation Code Section 6361.3

Effective upon enactment, but operative January 1, 2016

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Summary: Provides a 3.9375% sales and use tax exemption for items purchased by a K-12 public school or a K-12 public school district for use by that school or district, until January 1, 2021.

Purpose: To reduce financial burdens on public schools and help them provide better materials and resources to students.

Fiscal Impact Summary: Annual General Fund revenue loss of \$76 million.

Existing Law: Except where the law provides a specific exemption or exclusion, California's Sales and Use Tax Law¹ imposes the sales tax on all retailers for the privilege of selling tangible personal property at retail in this state or the use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer.

In general, public and private schools and school districts are required to pay sales and use tax on their purchases of tangible personal property to the same extent as any other individual or business in this state. In fact, local government agencies as well as the State of California are generally required to pay sales and use tax on their purchases of tangible personal property. Sales to the federal government, however, are generally exempt from sales and use tax.

California's sales and use tax rates. Since January 1, 2013, a statewide 7.5% sales and use tax rate applies to tangible personal property sales and purchases. The following table shows California's various sales and use tax rate components (the table excludes voter-approved city and county district taxes, which range from 0.1% to 2.5%):

Rate	Jurisdiction	Purpose/Authority
3.9375%	State (General Fund)	State general purposes (RTC Sections 6051, 6051.3, 6201, 6201.3)
0.25%	State (Fiscal Recovery Fund)	Repayment of the Economic Recovery Bonds (RTC Sections 6051.5 and 6201.5, operative 7/1/04)
0.50%	State (Local Public Safety Fund)	Local governments to fund public safety services (Section 35, Article XIII, State Constitution)
0.25%	State (Education Protection Account)	Until 01/01/17, schools and community college funding (Section 36, Article XIII, State Constitution)
0.50%	State (Local Revenue Fund)	Local governments to fund health and welfare programs (RTC Sections 6051.2 and 6201.2)
1.0625%	Local Revenue Fund 2011	Realignment of local public safety services (RTC Sections 6051.15 and 6201.15)
1.00%	Local (City/County) 0.75% City and County 0.25% County	(RTC Section 7203.1, operative 7/1/04) General city and county operations County transportation purposes
7.50%	Total Statewide Rate	

¹ Part 1 of Division 2 of the Revenue and Taxation Code (RTC) (commencing with Section 6001).

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 BOE's formal position.

Proposed Law: This bill adds RTC Section 6361.3 to provide a 3.9375% sales and use tax exemption for items purchased by a K-12 public school or school district for use by the school or district.

Items purchased by a K-12 public school or school district would be subject to sales and use tax at the following rates: 0.25% State Education Protection Account, 0.25% State Fiscal Recovery Fund, 0.5% Local Revenue Fund, 0.5% Local Public Safety Fund, 1.0625% Local Revenue Fund 2011, and any tax levied pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the Transactions and Use Tax Law.

As a tax levy, the bill takes effect immediately, but becomes operative on January 1, 2016 until January 1, 2021.

Legislative History: Several school and school district exemption bills were considered during the 2001-02 and 1999-00 Legislative Sessions, but failed passage:

- AB 1077 (Mountjoy, 2002) contained provisions identical to this bill.
- AB 2636 (Leonard, 2002) would have provided a state sales and use tax exemption for the sale of and the use of instructional materials purchased by any public school, public school district, or county office of education, including any charter school, serving kindergarten and grades 1 to 12.
- SB 546 (McClintock, 2001) would have provided a sales and use tax exemption for the sale of and the use of textbooks purchased by a K-12 public school or school district, or an accredited private school, or sold to a student of an accredited private school or institution of higher education.
- SB 1064 (Polanco, 2002) would have provided a sales and use tax exemption for the sale of and the use of tangible personal property purchased for educational purposes by any K-12 public school or school district.
- AB 2165 (McClintock, 2000) contained provisions identical to SB 546 (McClintock, 2001).
- AB 2345 (Ducheny, 2000) would have provided a state sales and use tax exemption for the sale of and the use of textbooks and specified test materials purchased by a K-12 public school or school district. In addition, exempted teacher-required books for K-12 public school students.
- AB 2602 (Battin, 2000) would have provided a sales and use tax exemption for any purchase of tangible personal property by a public or private school or community college district, provided the aggregate value of the purchase was \$1,000 or greater.
- SB 1701 (Johnson, 2000) would have provided a state sales and use tax exemption for the sale of and the use of any textbook purchased by a public school or a K-12 public school student.

Commentary:

1. **Effect of the bill.** This bill creates a state (General Fund only) exemption for the sale of and the use of items purchased by K-12 public school or school district such as books, pens, pencils, paper, art supplies, computers, software, desks, chairs, light bulbs, paper towels, vehicles, etc. There is no purchase price dollar threshold.
2. **Partial exemptions complicate administration.** Currently, most sales and use tax exemptions are applied to the total applicable sales and use tax. However, a few partial exemptions exist in which only the state tax portion of the sales and use tax rate is exempted, such as the farm equipment and teleproduction equipment exemptions. These partial exemptions are difficult for both retailers and the BOE, and complicate return preparation and processing. Moreover, errors attributable to these partial exemptions occur frequently. This results in additional return processing workload for the BOE.

Administrative Costs: BOE will incur administrative costs to notify affected retailers, modify tax returns, audit claimed exemptions, and answer inquiries from retailers, schools, and school districts. A cost estimate is pending.

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Revenue Impact:

Background, Methodology, and Assumptions. According to *Ed-Data*, a website designed to provide California educators and policy makers with comprehensive K-12 education data, California K-12 expenditures related to textbooks, materials, supplies, and equipment amounted to an estimated \$1.747 billion in Fiscal Year (FY) 2012-13. Using the *U.S. Department of Education* forecast, BOE staff estimates expenditures to be \$1.876 billion in FY 2015-16 and \$1.925 billion in FY 2016-17.

Based on the above expenditures, staff estimates that sales and use tax revenue loss in FY 2015-16 will be \$74 million ($3.9375\% \times \$1.876 \text{ billion} = \74 million). Assuming this bill will be effective January 1, 2016, the estimated sales and use tax revenue loss in the first six months of 2016 will be \$37 million ($\$74 \text{ million} / 2 = \37 million). Estimated sales and use tax revenue loss in FY 2016-17 will be \$76 million ($3.9375\% \times 1.925 \text{ billion} = \76 million).

Summary. The proposed General Fund rate sales and use tax exemption on items purchased by a K-12 public school or a K-12 public school district for use by that school or district would result in estimated revenue loss of:

- FY 2015-16 (first 6 months of 2016) - \$37 million
- FY 2016-17 - \$76 million

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.