



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

Date:	05/21/13	Bill No:	<u>Senate Constitutional Amendment 9</u>
Tax Program:	Transactions and Use	Author:	Corbett
Sponsor:	Author	Code Sections:	Section 4, Article XIII A; Section 2, Article XIII C
Related Bills:	SCA 4 (Liu) SCA 7 (Wolk) SCA 8 (Corbett) SCA 11 (Hancock)	Effective Date:	Upon approval of voters at November 2014 General Election

BILL SUMMARY

This constitutional amendment reduces from 2/3 to 55%, the vote threshold required for local governments to impose, extend, or increase a special tax, including local transactions and use taxes, to fund community and economic development projects.

Summary of Amendments

Since the previous analysis, this bill was amended to, among other things, require the proposition to include a specific list of programs and purposes to be funded.

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 transaction 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 that is placed into a general fund.

Under **Article XIII C, Section 2, of the California Constitution**, a local government may impose a general tax by a majority vote of the voters and impose a special tax by a two-thirds vote of the voters. In addition, Section 2 provides that special purpose districts or agencies, including school districts, have no power to levy general taxes.

The State Board of Equalization (BOE) administers locally-imposed sales and use taxes under the Bradley-Burns Uniform Local Sales and Use Tax Law and under the Transactions and Use Tax Law, which are provided in separate parts of the Revenue and Taxation Code (RTC). The following explains the local sales and use taxes administered by the BOE.

The **Bradley-Burns Uniform Local Sales and Use Tax Law** (Part 1.5, commencing with Revenue and Taxation Code Section 7200), authorizes cities and counties to impose a local sales and use tax (local taxes). The law requires that the rate of tax be

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fixed at one% 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. Of the 1%, cities and counties use 0.75% to support general operations. The remaining 0.25% is designated by statute for county transportation purposes and may be used only for road maintenance or the operation of transit systems. Counties receive the 0.25% tax for transportation purposes regardless of whether the sale occurs in a city or in the unincorporated area of a county. Currently, all cities and counties in California impose these local taxes at the uniform rate of 1%.

The **Transactions and Use Tax Law** (Part 1.6, commencing with Revenue and Taxation Code Section 7251) and the Additional Local Taxes Law (Part 1.7, as related to BOE, commencing with Section 7280) authorizes cities and counties to impose transactions and use taxes (district taxes) under specified conditions. Counties are authorized to impose a district tax for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the county. Cities also are authorized to impose a district tax for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the city. Under these laws, the combined rate of these district taxes imposed in any local jurisdiction cannot exceed 2% (with one exception in Los Angeles County¹).

The following table provides the statutes authorizing the imposition of district taxes and the applicable voter approval requirement.

Local Jurisdiction	Purpose	Voter Approval Threshold	Code Section
County	General Purpose tax	2/3 vote of Board of Supervisors and majority of county voters	RTC 7285
County	Specific Purpose tax (expenditure plan required)	2/3 vote of Board of Supervisors and 2/3 vote of county voters	RTC 7285.5
City	General Purpose tax	2/3 vote of City Council and majority of city voters	RTC 7285.9
City	Specific Purpose tax (expenditure plan required)	2/3 vote of City Council and 2/3 vote of city voters	RTC 7285.91

Cities and counties are required to contract with the BOE to perform all functions in the administration and operation of the ordinances imposing the local and district taxes.

PROPOSED LAW

This bill amends Section 2 of Article XIII C of the California Constitution to allow a local government, with the approval of 55% of its voters, to impose, extend or increase a special tax to fund local community and economic development projects. Community and economic development projects include projects that improve, upgrade, or

¹ In 2003, SB 314 (Chapter 785, Murray) authorized the Los Angeles Metropolitan Transportation Authority to impose a 0.50% district tax for specific transportation projects, and excluded that 0.50% tax from the 2% combined rate limitation established by RTC 7251.1. In 2008, voters within Los Angeles County approved the additional 0.50% effective July 1, 2009, which raised the tax rate in the cities of South Gate and Pico Rivera to 10%. Effective April 1, 2013, the tax rate in the City of La Mirada (in Los Angeles County) also will be 10%.

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revitalize areas within the local government's jurisdiction that have become blighted because of deterioration, disuse, or unproductive economic conditions. The ballot proposition proposing the tax must include all of the following:

- A specific list of programs and purposes to be funded, with proceeds spent solely for those programs and purposes.
- An annual independent audit of the tax proceeds collected and expended and the specified purposes and programs funded.
- A citizens' oversight committee to review all expenditures of proceeds and financial audits and report its findings to the governing board and public.

This bill also makes conforming changes to Section 4 of Article XIII A to lower the vote requirement for a local government to impose a special tax to fund local community and economic development projects from two-thirds to 55% vote of the qualified voters.

To be effective, this constitutional amendment must be approved by a majority of California voters at the next statewide election.

PRIOR LEGISLATION

Numerous unsuccessful measures previously have been introduced to lower the voter approval threshold for a local entity to impose a special tax.

Session	Bill	Summary
2011-12	ACA 23 Perea	Would have constitutionally authorized a city, county, or special district, subject to 55% voter approval, to impose a special tax to provide funding for local transportation projects. Died on the Assembly inactive file.
2009-10	SCA 12 Kehoe	Would have constitutionally authorized a city, county, or special district, subject to 55% voter approval, to impose a special tax for funding specified fire protection and public safety purposes. Died on the Senate inactive file.
2009-10	ACA 9 Huffman	Would have constitutionally authorized a city, county, or special district, subject to 55% voter approval, to impose a special tax. Died on the Assembly inactive file.
2009-10	ACA 15 Arambula	Would have constitutionally authorized a city, county, or special district, subject to 55% voter approval, to impose a special tax to provide funding for local transportation projects. Died on the Assembly inactive file.
2007-08	SCA 18 Torlakson	Would have constitutionally authorized an education finance district, established pursuant to statute, with approval by a majority of the district's voters, to impose a special tax. Died in Senate Revenue and Taxation Committee.
2007-08	SCA 21 Kehoe	Would have constitutionally authorized a city, county, or special district, subject to 55% voter approval, to impose a special tax for funding fire protection services and certain sheriff and police equipment and services. Died in Senate Revenue and Taxation Committee.
2007-08	ACA 10 Feuer	Would have constitutionally authorized a city, county, or special district, subject to 55% voter approval, to impose a special tax for the purpose of paying the principal, interest, and redemption on bonded indebtedness incurred to fund specified transportation infrastructure. Never heard in a committee.

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Session	Bill	Summary
2005-06	ACA 7 Nation	Would have constitutionally authorized a city, county, or special district, subject to 55% voter approval, to impose a special tax. Held in Assembly Appropriations.
2005-06	ACA 16 Gordon	Would have constitutionally authorized a city, county, or special district, subject to 55% voter approval, to impose a special tax for funding sheriff, police, or fire protection services. Died on the Assembly inactive file.

COMMENTS

1. Sponsor and Purpose. This bill is sponsored by the author in an effort to lower the voter approval requirement to enhance local governments' ability to meet the voter approval requirements to pass local tax measures to fund economic development projects. According to the author's office, "In February 2012, California's 400 plus redevelopment agencies (RDAs) were dissolved. RDAs focus on deteriorated areas plagued by social, physical, environmental or economic conditions which act as a barrier to new investment by private enterprise. With the absence of RDAs, local governments need additional tools to spur economic development and address blighted areas."

2. The May 21, 2013 amendments add provisions to require the local proposition to include specific, detailed information, and add a coauthor.

3. District taxes currently administered by the BOE. Beginning April 1, 2013, 169 local jurisdictions (city, county, and special purpose entity) will impose a district tax for general and special purposes. Of the 169 jurisdictions, 43 have county-imposed taxes and 126 have city-imposed taxes. Three of the 43 county-imposed taxes are general purpose taxes and 40 are special purpose taxes. Ninety-four of the 126 city-imposed taxes are general purpose taxes and 32 are special purpose taxes.

Currently, the district tax rates vary from 0.10% to 1%. The combined state, local, and district tax rates range from 7.625 to 9.50%, with the exception of the cities of South Gate, Pico Rivera, and La Mirada (10%) in Los Angeles County. A listing of the district taxes, rates, and effective dates is available on the BOE's website: www.boe.ca.gov/sutax/pdf/districtratelist.pdf.

4. The 2% cap. Existing law allows cities and counties to impose district taxes as long as the combined rate in the county does not exceed 2%. The city district taxes count against the maximum 2% cap. Consequently, counties are limited in their ability to impose new taxes when cities enact new district taxes within their county.

Reducing the vote threshold to 55% for local special taxes for economic development projects likely will result in the passage of special tax measures that otherwise may have failed under the existing two-thirds vote requirement. As a result, more cities and counties likely will approach or reach the 2% cap. Thus, legislation may be introduced to increase the 2% limitation.

5. Cities and counties continue to seek voter approval of district special taxes. In 2012, cities and counties placed a total of 47 district tax measures on both the June 5 Presidential Primary Election and November 6 General Election ballots. Of the 47 district tax measures, 11 were county measures and 36 were city measures.

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With respect to counties, eight of the 11 measures were special tax measures. While none of the measures were related to economic development projects, which would have required a 2/3 vote, three of the eight special tax measures fell just short of the 66.67% threshold needed for passage. All of the special taxes measures would have passed under a 55% vote requirement.

County	Purpose	Results	% Vote Received (% Required)
Alameda	Transportation	Fail	66.53 (66.67)
Fresno	Library	Pass	72.99 (66.67)
Lake	Clear Lake Restoration	Fail	62.98 (66.67)
Los Angeles	Transportation	Fail	66.11 (66.67)
Marin	Open Space	Pass	74.37 (66.67)
Napa	Transportation	Pass	74.77 (66.67)
Solano	Library	Pass	80.10 (66.67)
Stanislaus	Library	Pass	81.93 (66.67)

With respect to cities, four of the 36 measures were special tax measures and 32 were general tax measures. None of the special tax measures were related to economic development projects.

6. **Current voter threshold.** The RTC currently requires a two-thirds vote of the voters to impose a district tax for special purposes, including taxes that fund local economic development projects. Thus, the RTC also may require amendment to reduce the voter threshold to 55% for a local jurisdiction to impose, increase, or extend a district tax to fund local economic development projects.
7. **Related legislation.** SCA 8 (Corbett) and SCA 4 (Liu) would authorize local governments, with the approval of 55% of the voters, to impose, extend, or increase a special tax, which would include a district tax, to fund transportation projects. SCA 7 (Wolk) proposes the same for public library funding. SCA 11 (Hancock) proposes lowering the vote threshold for any special purpose tax.

COST ESTIMATE

This bill would not result in additional costs to the BOE. Under the Transactions and Use Tax Law, cities and counties are required to contract with and reimburse the BOE for both preparation and administrative costs associated with the BOE's ongoing services in administering the ordinance. However, to the extent that more local economic development measures are approved by local voters, the BOE will need additional resources to administer the new taxes. The BOE will utilize the normal budget change proposal process to obtain the necessary funding when the number of newly approved measures requires additional staff to administer the workload.

REVENUE ESTIMATE

This bill would not affect state revenues.

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