



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

DRAFT

Date:	01/25/13	Bill No:	Senate Constitutional Amendment 11
Tax Program:	Transactions and Use	Author:	Hancock
Sponsor:	Author	Code Sections:	Section 4, Article XIII A; Section 2, Article XIII C
Related Bills:	ACA 3 (Campos) SCA 4 (Liu) SCA 7 (Wolk) SCA 8 (Corbett) SCA 9 (Corbett)	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.

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). In addition, the Public Utilities Code (PUC) authorizes counties to establish transportation authorities and impose transactions and use taxes for transportation purposes. Transactions and use tax ordinances imposed under the PUC must conform to the Transactions and Use Tax Law. 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

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impose a local sales and use tax (local taxes). The law requires that the rate of tax be fixed at 1 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. Of the 1 percent, cities and counties use 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. 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. Currently, all cities and counties in California impose these local taxes at the uniform rate of 1 percent.

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, commencing with Section 7280) authorize 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 percent, or multiples of 0.125 percent, 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 percent, or multiples of 0.125 percent, if the ordinance imposing the tax is approved by the required percentage of voters in the city.

The following table provides the sections of law 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
County Transportation Authority ¹	Transportation tax (expenditure plan required)	2/3 vote of Transportation Authority and 2/3 vote of county voters	PUC Divisions 10-25

Under these laws, the combined rate of these district taxes imposed in any local jurisdiction cannot exceed 2 percent (with one exception in Los Angeles County²).

¹ Some jurisdictions encompass multiple counties, such as Bay Area Rapid Transit District (encompasses all of three counties) and Sonoma Marin Area Rail Transportation Authority (encompasses all of two counties).

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

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Cities, counties, and special purpose entities 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 would amend Section 2 of Article XIII C of, the California Constitution to allow a local government, with the approval of 55 percent of its voters, to impose, extend or increase a special tax.

This bill would also make conforming changes to Section 4 of Article XIII A and Section 3 of Article XIII D to lower the vote requirement for a local government to impose a special tax.

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 percent 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 percent 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 percent 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 percent 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 percent 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 percent 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.
2005-06	ACA 7 Nation	Would have constitutionally authorized a city, county, or special district, subject to 55 percent voter approval, to impose a special tax. Held in Assembly Appropriations.

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2005-06	ACA 16 Gordon	Would have constitutionally authorized a city, county, or special district, subject to 55 percent voter approval, to impose a special tax for funding sheriff, police, or fire protection services. Died on the Assembly inactive file.
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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 special tax measures to provide funding for critical programs and services.
- 2. 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 percent to 1 percent. The combined state, local, and district tax rates range from 7.625 to 9.50 percent, 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.

- 3. The 2 percent cap.** Existing law allows cities and counties to impose district taxes as long as the combined rate in the county does not exceed 2 percent. The city district taxes count against the maximum 2 percent 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 percent for local special taxes 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 will likely approach or reach the 2 percent cap. Thus, legislation may be introduced to increase the 2 percent limitation.

- 4. Cities and counties continue to seek voter approval of district 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.

With respect to counties, eight of the 11 measures were special tax measures and three were general tax measures. 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)

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County	Purpose	Results	% Vote Received (% Required)
Los Angeles	Transportation	Fail	66.11 (66.67)
Marin	Open Space	Pass	74.37 (66.67)
Napa	Transportation	Pass	74.77 (66.67)
Plumas	General	Fail	35.94 (50.00)
San Mateo	General	Pass	65.39 (50.00)
Santa Clara	General	Pass	56.61 (50.00)
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.

5. **Current voter threshold.** The RTC currently requires a two-thirds vote of the voters to impose a district tax for special purposes. Thus, the RTC also may require amendment to reduce the voter threshold to 55 percent for a local jurisdiction to impose, increase, or extend a district tax for special purposes.
6. **Related legislation.** SCA 4 (Liu) and SCA 8 (Corbett) authorize local governments, with the approval of 55 percent of the voters, to impose, extend, or increase a special tax, which would include a district tax, to fund transportation projects. SCA 7 (Wolk) and SCA 9 (Corbett) lower the vote threshold to 55 percent for local taxes related to public libraries and economic development projects, respectively. ACA 3 (Campos) would lower the vote threshold to 55 percent for local taxes related to public safety services.

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 special tax 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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