Senate Bill 767 (De Leon)
Date: 07/16/15
Program: Transactions and Use
Sponsor: Los Angeles County Metropolitan Transportation Authority
Public Utilities Code Section 130350.5, 130350.6, and 130350.7
Effective: January 1, 2016

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Summary: Authorizes the Los Angeles County Metropolitan Transportation Authority (MTA) to impose an additional 0.5% transactions and use tax (district tax) for funding transportation-related projects and programs. The tax would be imposed for an unspecified period to be determined by the MTA, and may exceed the existing 2% rate limitation.

Summary of Amendments: Since the previous analysis, the bill was amended to delete the authority to extend the existing 0.5% district tax for transportation, and instead authorize MTA to impose a new additional transportation district tax up to 0.5%, provided the combined rate will not exceed 1%.

Purpose: To provide additional funding for specific transportation projects.

Fiscal Impact Summary: Approximately $800 million annually.

Existing Law: The **Transactions and Use Tax Law**[1] and the **Additional Local Taxes Law**[2] authorize cities and counties (and special purpose entities) to impose district taxes under specified conditions. Counties may 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 may 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. The combined district tax rate imposed within any local jurisdiction cannot exceed 2%[3] (with the exception of the counties of Alameda, Contra Costa, and Los Angeles[4]).

By law, cities and counties (and special purpose entities) contract with the BOE to administer the ordinances imposing the district taxes.

Various statutes under the Public Utilities Code (PUC) provide for the establishment of a local transportation authority, and authorize that authority to impose a district tax, subject to the applicable voter approval requirement. District taxes imposed under the PUC must conform to the administrative provisions contained in the Transactions and Use Tax Law. The law also requires local transportation authorities to contract with the BOE to perform all functions related to the administration of the ordinance.

PUC Section 130350 authorizes the MTA[5] to impose a district tax for public transit purposes within the incorporated and unincorporated territory of the County of Los Angeles, provided that two-thirds of the electors voting on the measure vote to authorize its enactment. The district tax must conform to Part 1.6 of the Transactions and Use Tax Law, including the requirement that the combined tax does not exceed the 2% rate limitation. Currently, MTA imposes two separate 0.5% district taxes under Section 130350. As previously stated, these district taxes are NOT exempt from the 2% combined rate limitation

[1] Part 1.6 of Division 2 of the RTC, commencing with Section 7251.
[2] Part 1.7 of Division 2 of the RTC, commencing with Section 7280.
[3] RTC Section 7251.1.
[4] Exceptions authorized through AB 210 (Ch. 194, Stats. 2013, Wieckowski) for Alameda County and Contra Costa County and SB 314 (Ch. 785, Stats. 2003, Murray) for the Los Angeles Metropolitan Transportation Authority.
[5] The Los Angeles County Metropolitan Transportation Authority was created in February 1993 (AB 152 (Ch. 60, Stats. 1992) added PUC Section 130050.2 to create the MTA) as a result of the merger between the Los Angeles County Transportation Commission and the Southern California Rapid Transit. The MTA became the regional transportation planning agency for the County of Los Angeles.

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.

in current law.

However, a third MTA tax, imposed under PUC Section 130350.5,[6] is exempt from the 2% rate limitation. This 0.5% district tax is for the funding of specified transportation-related capital projects and programs. Los Angeles County voters approved this additional 0.5% in November 2008, and it became effective July 1, 2009.

Proposed Law: This bill deletes the authority previously granted to MTA to seek voter approval for the extension of the existing 0.5% district tax for transportation, and instead authorizes MTA to impose a new additional transportation district tax at a rate of 0.5%, provided the combined rate does not exceed 1%.

The ordinance imposing the tax must include all of the following:

1) Expenditure plan that lists the transportation projects and programs to be funded from the net tax revenues.
2) Provisions specifying that the district tax conforms to the Transactions and Use Tax Law, except for the combined rate limitation in RTC Section 7251.1.
3) Provision limiting the MTA's costs to administer the ordinance and the net tax revenues to 1.5% of the total tax revenues.
4) A requirement that the net tax revenues, as defined, would be used to fund transportation projects and programs that are identified in the expenditure plan.

The ordinance would become operative pursuant to PUC Section 130352, which provides that any district tax ordinance adopted shall become operative on the first day of the first calendar quarter commencing not less than 180 days after adoption.

The bill authorizes the MTA to incur bonded indebtedness payable from the net revenues of the tax pursuant to the bond issuance provisions of Chapter 5 of Division 12 of the PUC.

If enacted, the bill is effective January 1, 2016.

Background: Currently, Los Angeles County has fourteen district taxes being levied within its borders—three transportation county-wide taxes and eleven city-wide taxes. Only the MTA tax (bolded), operative July 1, 2009 through June 30, 2039, is NOT subject to the 2% statutory rate limitation:

District Name and Tax Area	Rate	Effective Date	Expiration Date
Los Angeles County Transportation Commission (county-wide)	0.50%	04-01-91	None
Los Angeles County Transportation Commission (county-wide)	0.50%	07-01-82	None
Los Angeles County Metro Transportation Authority (county-wide)	**0.50%**	**07-01-09**	**06-30-39**
City of Avalon Municipal Hospital and Clinic Tax (city-wide)	0.50%	10-01-00	None
City of Commerce Transactions and Use Tax (city-wide)	0.50%	04-01-13	None
City of Culver City Essential City Services Transactions and Use Tax (city-wide)	0.50%	04-01-13	03-31-23
City of El Monte Transactions and Use Tax (city-wide)	0.50%	04-01-09	03-31-19

[6] SB 314 (Ch. 785, Stats. 2003, Murray)

District Name and Tax Area	Rate	Effective Date	Expiration Date
City of Inglewood Vital City Services Transactions and Use Tax (city-wide)	0.50%	04-01-07	None
City of La Mirada Transactions and Use Tax (city-wide)	1.00%	04-01-13	03-31-18
City of Pico Rivera Transactions and Use Tax (city-wide)	1.00%	04-01-09	None
City of San Fernando Temporary Transactions and Use Tax (city-wide)	0.50%	10-01-13	09-30-20
City of Santa Monica Transactions and Use Tax (city-wide)	0.50%	04-01-11	None
City of South El Monte Vital City Services Protection Transactions and Use Tax (city-wide)	0.50%	04-01-11	None
City of South Gate Transactions and Use Tax (city-wide)	1.00%	10-01-08	None

As previously stated, cities and counties may impose district taxes as long as the combined rate does not exceed 2% within the county. Two of the three Los Angeles County 0.5% taxes are not exempt from the 2% rate limitation, while, the PUC Section 130350.5 tax is exempt. Thus, the total county-wide tax rate is 1%. The city district taxes cannot exceed the 2% limit. Because the cities of La Mirada, Pico Rivera, and South Gate each impose a tax of 1%, Los Angeles County has reached the 2% limit.

Legislative History: Over the years, four bills have been approved by the Legislature granting specific authority to local governments to impose a district tax that exceeds the general 2% rate limitation:

- SB 314 (Ch. 685, Stats. 2003, Murray) authorized the MTA to impose a 0.5% district tax for the funding of specified transportation-related capital projects and programs. However, MTA never placed an ordinance before the voters to levy this authorized tax within the 6.5 year time frame.[7]
- AB 1086 (Ch. 327, Stats. 2011, Wieckowski) authorized the County of Alameda to impose a district tax for the support of countywide transportation programs at a rate of up to 0.5%. AB 1086 required that the ordinance proposing the tax be submitted to the electorate on the November 6, 2012 General Election ballot and be approved by the voters. Alameda County voters declined to approve the proposed district tax (Measure B1) on the November 6, 2012 ballot; the measure fell 0.14% short of the 66.6% super-majority needed to pass.
- AB 210 (Ch. 194, Stats. 2013, Wieckowski) extends the authority of Alameda County and authorizes Contra Costa County to impose a countywide transportation program district tax at a rate of up to 0.5%.
- AB 1324 (Chapter 795, Stats. 2014, Skinner) authorizes the City of El Cerrito to impose a general-purpose district tax at a rate of up to 0.5%.

Commentary:

1. **The July 16, 2015 amendments** delete the authority previously granted to MTA to seek voter approval for the extension of the existing 0.5% district tax for transportation, and instead authorize MTA to impose a new additional transportation district tax at a rate of 0.5%, provided the combined rate does not exceed 1%. **The July 8, 2015 amendments** specified that the tax shall not exceed either: (1) a rate of 0.5% if a 0.5% tax authorized under existing law is already in effect, or (2) a rate of 1% if a tax authorized under existing law is not effect. **The June 1, 2015 amendments** (1)

[7] AB 2321 (Chapter 302, Statutes 2008, Feuer) amended PUC Section 130350.5 to authorize, among other things, the 0.5% tax for a period not to exceed 30 years.

required the MTA to post the expenditure plan on its website at least 30 days before submitting the measure to the voters, (2) required the expenditure plan to include the most recent costs estimates and the expected completion dates for each project, (3) required the MTA to develop a transparent process to determine the most recent cost estimates, and (4) added coauthors.

2. **If enacted, the MTA would have two tax authorizations exempt from the 2% rate limitation.** As previously stated, Los Angeles County cannot enact a new district tax because the cities of La Mirada's, Pico Rivera's, and South Gate's 1% tax, combined with the county's two district taxes already reaches the 2% limit.

3. **Suggested technical amendment.** The June 1, 2015 amendments to PUC Section 130350.7 re-lettered former subdivision (f) as subdivision (h). Consequently, the reference to "subdivision (f)" in subdivision (b)(2) should be "subdivision (h)." Accordingly, BOE staff recommends the following amendment:

   On page 11, line 24, replace "subdivision (f)" with "subdivision (h)."

4. **Related Legislation.** AB 338 (Hernandez), which is similar to SB 767, provides (1) the 0.5% tax must be imposed for a period not to exceed 30 years, and (2) a percentage of the net revenues must be allocated for bus and rail operations.

   Governor Brown recently vetoed AB 464 (Mullin and Gordon), which would have increased the combined rate of all transactions and use taxes imposed in any county from 2% to 3%. In his veto message, the Governor states:

   > Although I have approved raising the limit for individual counties, I am reluctant to approve this measure in view of all the taxes being discussed and proposed for the 2016 ballot.

Administrative Costs: This bill does not increase the BOE's administrative costs because it authorizes Los Angeles County to impose a tax that necessitates a county ordinance and voter approval. However, if Los Angeles County voters approve an ordinance imposing the tax, Los Angeles County would be required to contract with the BOE for its ongoing costs to administer the ordinance.

Currently, Los Angeles County has three district taxes each at a 0.5% rate. The BOE's FY 2014-15 administrative costs for these taxes are estimated to be $24,712,000: $8,248,000 (Los Angeles County Transportation Commission), $8,249,000 (Los Angeles County Transportation Commission), and $8,215,000 (Los Angeles County Metro Transportation Authority).

Revenue Impact: For the Fiscal Year 2013-14, each of the three Los Angeles County district transportation taxes averaged $725 million in revenue. According to the Department of Finance forecast, taxable sales are expected to increase statewide by approximately 4% in FY 2014-15, and by 6% in FY 2015-16. A new 0.5% district tax in Los Angeles County would raise approximately $800 million ($725 million x 110%) in the first full year of implementation.

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