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STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

Date:	**Enrolled**	Bill No:	**Assembly Bill 1324**
Tax Program:	**Transactions and Use**	Author:	**Skinner**
Sponsor:	**City of El Cerrito**	Code Sections:	**RTC 7293 & 7294**
Related Bills:	**AB 2119 (Stone)**	Effective Date:	**01/01/15**

BILL SUMMARY

This bill authorizes the City of El Cerrito to impose a general-purpose transactions and use tax (district tax) that, in combination with all district taxes imposed, may exceed the existing 2% rate limitation.

ANALYSIS

CURRENT LAW

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. By law, cities and counties contract with the BOE to administer the ordinances imposing the local and district taxes.

The **Bradley-Burns Uniform Local Sales and Use Tax Law**[1] authorizes cities and counties to impose local sales and use tax. This tax rate is fixed at 1% 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 this 1%, cities and counties use 0.75% to support general operations. The remaining 0.25% is designated by statute for county transportation purposes, but restricted to road maintenance or the operation of transit systems. The 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. In California, all cities and counties impose Bradley-Burns local taxes at the uniform rate of 1%.

The **Transactions and Use Tax Law**[2] and the statutes imposing additional local taxes[3] authorize cities and counties to impose transactions and use (district) taxes under specified conditions. Counties may impose district taxes 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 district taxes 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 district tax rate imposed within any local jurisdiction cannot exceed 2%[4] (with the exception of the counties of Alameda, Contra Costa, and Los Angeles[5]).

[1] Part 1.5 of Division 2 of the Revenue and Taxation Code (RTC), commencing with Section 7200.
[2] Part 1.6 of Division 2 of the RTC, commencing with Section 7251.
[3] Part 1.7 of Division 2 of the RTC, commencing with Section 7280.
[4] RTC Section 7251.1.
[5] 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.

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 addition, Section 7291,[6] extends Alameda County's authority, and grants Contra Costa County the authority, to impose a district tax for countywide transportation programs at a capped rate of 0.50%, which, in combination with other district taxes, would exceed the 2% limitation established in existing law, if all of the following conditions are met:

(1) the county adopts an ordinance proposing the district tax by any applicable voting requirements;

(2) the proposed ordinance is submitted to the electorate and is approved by two-thirds of the voters voting on the ordinance; and,

(3) the district tax conforms to the Transactions and Use Tax Law.

If the ordinance is not approved by the electorate by December 31, 2020, Section 7291 will be repealed as of that same date.

PROPOSED LAW

This bill authorizes the City of El Cerrito to impose a general-purpose district tax at a rate of no more than 0.5%, that, in combination with all district taxes imposed, would exceed the 2% limitation established in Section 7251.1, if all of the following requirements are met:

- The city adopts an ordinance proposing a district tax by any applicable voting approval requirement.
- The city ordinance proposing the district tax is submitted to the electorate of the adopting city, as applicable, and is approved by the voters voting on the ordinance in accordance with Article XIII C of the California Constitution. The election on the ordinance proposing the district tax may occur on or after November 4, 2014.
- The district tax conforms to the Transactions and Use Tax Law, Part 1.6, other than Section 7251.1. The bill also specifies that the tax rate authorized by this bill shall not be included in the calculation of the 2% rate limitation established in Section 7251.1.
- The district tax is imposed on or after January 1, 2015.
- Notwithstanding the above-mentioned requirement, the ordinance proposing the district tax shall become operative as provided in RTC Section 7265, which provides that a district tax ordinance shall be operative on the first day of the first calendar quarter commencing more than 110 days after the adoption of the ordinance.

If enacted, the bill takes effect on January 1, 2015. If the proposed district tax ordinance is not approved by the electorate by January 1, 2022, the bill's provisions will be repealed as of that same date.

DISTRICT TAXES CURRENTLY ADMINISTERED BY THE BOE

As of April 1, 2014, there are 178 local jurisdictions (city, county, and special purpose entity) imposing a district tax for general or specific purposes. Of the 178 jurisdictions,[7] 44 are county-imposed taxes and 134 are city-imposed taxes.

[6] AB 210 (Ch. 194, Stats. 2013, Wieckowski)

[7] Currently, all district taxes are levied exclusively within the borders of either a county or an incorporated city (with the exception of the Bay Area Rapid Transit District, which is comprised of Alameda, Contra Costa, and San Francisco counties, and the Sonoma-Marin Rail Transit District). For purposes of calculating the 178 jurisdictions, the Bay Area Rapid Transit District and the Sonoma-Marin Rail Transit District are counted as one jurisdiction, even though each jurisdiction is comprised of three counties and two counties, respectively.

District taxes increase the tax rate within a city or county because the district tax rate is added to the combined state and local (Bradley-Burns local tax) tax rate of 7.5%. As stated above, subject to certain exceptions the maximum combined rate of all district taxes imposed in any county cannot exceed 2%. The city district taxes count against the 2% maximum. Accordingly, if a city imposes a 0.5% district tax, the county in which it is located can impose district taxes not to exceed a combined rate of 1.5%.

Currently, the district tax rates vary from 0.10%[8] to 1%. The combined state, local and district tax rates range from 7.5 to 10%, ranging from jurisdictions with no district taxes to the cities of La Mirada, Pico Rivera, and South Gate located in Los Angeles County which are subject to the specific exception discussed above. 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.

COMMENTS

1. **Sponsor and Purpose.** The City of El Cerrito is sponsoring this bill in an effort to provide additional funding for essential services such as police, fire, and other city services. The City of El Cerrito levies two district taxes each at a rate of 0.5% for general purpose and for street improvements, respectively. There are also two countywide district taxes levied within Contra Costa County, each at a rate of 0.5%. Thus, the total combined rate in the City of El Cerrito in Contra Costa County is 2%.

2. **Amendments.** The **August 7, 2014 amendments** removed the language which would have also authorized Contra Costa County to exceed the 2% rate limitation. **The June 30, 2014 amendments** corrected a cross reference to Section 7294 to reflect the changes made to Section 7293. Specifically, the cross-reference to subdivision (b) was changed to subdivision (a)(2). **The June 11, 2014 amendments** specified that the tax rate authorized by this bill shall not be considered for purposes of calculating the 2% rate limitation in current law.

3. **The counties of Alameda, Contra Costa, and Los Angeles successfully sought an exception to the 2% limitation.** The City of El Cerrito is the first city to request such authorization.

4. **Related legislation.** AB 2119 (Ch. 148, Stats. 2014, Stone) authorizes an unincorporated area of a county to levy, increase, or extend a transactions and use tax within its boundaries if approved by the required number of voters voting within those boundaries.

COST ESTIMATE

This bill does not increase administrative costs to the BOE because it only authorizes the City of El Cerrito to impose a tax. However, if the city's voters approve the tax, the city would be required to contract with the BOE and pay for its preparation costs, as well as ongoing costs of BOE's services to administer the ordinance.

Based on the BOE's experience with similar city-imposed, the one-time preparatory costs typically range from $12,000 to $138,000. Preparatory costs are the actual costs to update publications and returns, perform programming for data processing, develop instructions for both BOE staff and taxpayers, and notify taxpayers. Preparatory costs also include necessary costs from other state agencies (e.g., California Department of Motor Vehicles costs to train staff and program computers). Various factors may impact

[8] Through specific authority, SB 1187 (Ch. 285, Stats. 2001, Costa) authorizes Fresno County to impose a 0.10% district tax for zoological purposes.

the BOE's preparatory costs. For example, the BOE mails a special notice to taxpayers in the affected city, including adjacent areas. If a city borders jurisdictions that have a large number of seller's permits, the BOE's mailing costs could be substantially higher.

In addition, because of certain fixed costs, the preparatory costs can vary depending on the number of new district taxes implemented at the same time. For example, the cost of updating a publication and return to add four new taxes in four separate districts is similar to the cost to add one new tax in one district. However, because the four new districts could share the costs, the per district cost would be less than if only one district added a new tax. Thus, the preparatory costs can vary depending on the number of district taxes being implemented at the same time.

Currently, the City of El Cerrito has two district taxes imposed at a rate of 0.5% in each district. For fiscal year (FY) 2012-13, the BOE's estimated administrative costs are: $16,478 for the City of El Cerrito Street Improvements and $16,377 for the City of El Cerrito Transactions and Use Tax.

REVENUE ESTIMATE

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

For FY 2011-12, the City of El Cerrito's taxable sales totaled $269 million. We assume that the city's taxable sales follow a pattern similar to the Department of Finance's (DOF) forecast of overall statewide taxable sales. DOF's current revenue forecast assumes that taxable sales increased by 6% in 2012-13. The DOF further projects that taxable sales will increase by 5% in 2013-14, by 7% in 2014-15, and by 6% in 2015-16.

Based on DOF's forecast, we estimate the City of El Cerrito's taxable sales to be $304 million for FY 2014-15, and $322 million for FY 2015-16.

REVENUE SUMMARY

Assuming the voters approve the tax authorized by the proposed law, this bill would generate the following additional revenue for the City of El Cerrito:

- For ¼ FY 2014-15, assuming an April 1, 2015 operative date, a 0.5% tax increase generates $380,000 ($76 million X 0.5%).
- For FY 2015-16, a 0.5% tax increase generates $1.6 million ($322 million X 0.5%).

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

Analysis prepared by:	Debra Waltz	916-324-1890	09/05/14
Revenue estimate by:	Lisa Buchanan	916-445-0840	
Contact:	Michele Pielsticker	916-322-2376	

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