

[Assembly Bill 2678](#) (Gray)

Date: Introduced

Program: Sales and Use Tax

Sponsor: Author

Revenue and Taxation Code Sections 6453.1 and 7101.4

Effective: January 1, 2017

Michele Pielsticker (Chief) 916.322.2376

Debra Waltz (Analyst) 916.324.1890

Mark Durham (Revenue) 916.445.0840

**Summary:** Requires taxable sales and purchases within a state designated fair area, as defined, to be segregated on the sales and use tax return and also mandates that 30% of the state’s General Fund (3.9375%) sales and use tax revenues derived from those segregated sales and purchases be deposited into the Fair and Exposition Fund.

**Purpose:** To provide a stable source of funding for state fairs and offer much needed help for specific fair-related purposes and projects.

**Fiscal Impact Summary:** Annual state General Fund sales and use tax loss of \$29 million.

**Existing Law:** California’s Sales and Use Tax Law<sup>1</sup> 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, unless the law provides a specific exemption or exclusion from the sales or 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 table shows California’s various sales and use tax rate components, including the 1.25% Bradley-Burns Local Tax (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 (Education Protection Account)	Until 01/01/17, schools and community college funding (Section 36, Article XIII, State Constitution)
0.50%	State (Local Public Safety Fund)	Local governments to fund public safety services (Section 35, 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)
1.25%	Local (City/County) 1.00% City and County 0.25% County	(RTC Section 7203.1, operative 7/1/04) General city and county operations County transportation purposes
<b>7.50%</b>	<b>Total Statewide Rate</b>	

**Proposed Law:** This bill requires the BOE to develop and prescribe a separate sales and use tax form to segregate the sales and purchases of tangible personal property when the place of sale or use is on or within a state designated fair or any real property of a state designated fair that is leased to another party. A “state designated fair” means a fair defined in Business and Professions Code Sections 19418, 19418.1, 19418.2, and 19418.3.

<sup>1</sup> 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.

The segregated reporting requirements would not apply to taxes imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law<sup>2</sup> or the Transactions and Use Tax Law.<sup>3</sup>

In addition, this bill requires that 30% of the state's General Fund (3.9375%) revenues, less refunds and BOE's administrative costs, derived from those segregated sales and use tax revenues be deposited into the Fair and Exposition Fund and continuously appropriated for fair-related purposes. The requirements to transfer funds would NOT apply to the 0.25% State Education Protection Account, 0.5% Local Public Safety Fund, 0.5% Local Revenue 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. These requirements would also not apply to transfers made pursuant to RTC Sections 6051.8 and 6201.8 (1.75% diesel fuel sales tax rate increase), Section 7101.3 (0.25% state sales tax revenues deposited into the Fiscal Recovery Fund), or Section 7102 (sales tax revenue from the sale of diesel fuel transferred to the Public Transportation Account).

The bill takes effect on January 1, 2017.

## Commentary:

- 1. Identifying the state designated fairs is not complicated.** The California Department of Food and Agriculture, Division of Fairs & Exposition website identifies 78 fairs in California: the California Exposition and State Fair, 52 district agricultural association fairs, 23 county fairs, and 2 citrus fruit fairs. The site provides a [list of each of these fairs](#) including their locations and dates.

**BPC Sections 19418** references the California Exposition and State Fair in the City of Sacramento.

**BPC Section 19418.1 (district agricultural associations fairs)** includes District 1 (City of Oakland), District 1-A (City of San Francisco), District 2 (City of Stockton), District 3, (City of Chico), District 4 (City of Petaluma), District 5 (City of San Francisco), District 7 (City of Monterey), District 9 (City of Eureka), District 10 (City of Yreka), District 10-A (City of Tule lake), District 12 (City of Ukiah), District 13 (City of Yuba City), District 14 (City of Watsonville), District 15 (City of Bakersfield), District 16 (City of Paso Robles), District 17 (City of Grass Valley), District 18 (City of Bishop), District 19 (City of Santa Barbara), District 20 (City of Auburn), District 21 (City of Fresno), District 21-A (City of Madera), District 22 (City of Del Mar), District 23 (City of Antioch), District 24 (City of Tulare), District 24-A (City of Hanford), District 25 (City of Napa), District 26 (City of Plymouth), District 27 (City of Anderson), District 28 (City of Victorville), District 29 (City of Sonora), District 30 (City of Red Bluff), District 31 (City of Ventura), District 32 (City of Costa Mesa), District 33 (City of Hollister), District 34 (City of Cedarville), District 35 (City of Merced), District 35-A (City of Mariposa), District 36 (City of Dixon), District 37 (City of Santa Maria), District 38 (City of Turlock), District 39 (Town of Angels Camp), District 40 (City of Woodland), District 41 (City of Crescent City), District 42 (City of Orland), District 44 (City of Colusa), District 45 (City of Imperial), District 46 (City of Perris), District 48 (City of Industry), District 49 (City of Lakeport), District 50 (City of Lancaster), District 51 (City of San Fernando Valley), District 52 (City of Sacramento), District 53 (City of Ridgecrest), and District 54 (City of Blythe).

**BPC Section 19418.2 (county fairs)** means the Alameda County Fair, Butte County Fair, El Dorado County Fair, Humboldt County Fair, Lassen County Fair, Los Angeles County Fair, Marin County Fair, Mendocino County Fair, Merced County Fair, Monterey County Fair, Napa County Fair, Placer County Fair, Plumas County Fair, Riverside County Fair, San Benito County Fair, San Francisco County Fair, San Joaquin County Fair, San Mateo County Fair, Santa Clara County Fair, Shasta County Fair, Solano County Fair, Sonoma County Fair, and Trinity County Fair

**BPC Section 19418.3 (citrus fruit fairs)** includes the Cloverdale Citrus Fair, held in the City of Cloverdale, and the National Orange Show, held in the City of San Bernardino.

<sup>2</sup> Part 1.5 of Division 2 of the RTC (commencing with Section 7200).

<sup>3</sup> Part 1.6 of Division 2 of the RTC (commencing with Section 7251).

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- 2. Interim events are held on state designated fairgrounds.** In addition to the various annual fairs, other events held on the designated fairgrounds include motorized racing, craft fairs, doll shows, gun shows, home and garden shows, harvest festivals, farmers' markets, cultural festivals and concerts, motor home, RV, and boat shows, and more. Events may also include corporate events, private dinner parties, and wedding receptions.

According to the author's office, this bill's segregated reporting requirements are intended to apply to all events and activities that are held on the state designated fairgrounds.

Taxpayers making sales at events held on state designated fairgrounds would need to segregate these sales when filing their sales and use tax returns. Taxpayers who hold a seller's permit for a permanent place of business and who make sales both at events at state designated fairs and events held at other locations, would need to segregate those sales made at state designated fairs. BOE staff would need to know what events and activities occur at state designated fairs to instruct taxpayers to properly report their sales and purchases at these locations.

- 3. California Exposition and State Fair (Cal Expo) host private venues.** While Cal Expo hosts the annual California State Fair, it is also home to Bonney Field, a large sports and entertainment venue that includes food and beverage concessions and merchandise sales. Additionally, Raging Waters is a water park located within Cal Expo's grounds with dining and snack areas. However, it is not clear whether sales transactions made at Bonney Field or Raging Waters would be subject to the proposed segregation reporting requirements. Would these restaurants and snack areas be required to segregate their food and beverage sales?

BOE staff can work with the author's office to better identify the events and activities that would be subject to the segregated reporting requirements in this bill.

- 4. Suggested administrative amendment.** The bill requires BOE to develop a form to segregate sales and purchases of property sold or used at a state designated fair. However, the existing sales and use tax return could be modified to add one more line to separately report these transactions. In determining how to implement the bill, BOE staff would like the option of either modifying the existing sales and use tax return or developing a supplemental form to capture the information. The following suggested amendments would still require that the return segregate sales made at a state designated fair, but it would give BOE flexibility to determine the most efficient method to implement the new reporting requirement.

(a) For purposes of this part only, the return shall segregate the gross receipts of the seller and the sales price of the property ~~on a form prescribed by the board~~ when the place of sale in this state or use in this state for purposes of this part is on or within the real property of a state designated fair or any real property of a state designated fair that is leased to another party.

(b) For purposes of this section, "state designated fair" means a state designated fair as defined in Sections 19418, 19418.1, 19418.2, and 19418.3 of the Business and Professions Code.

~~(c) The board shall develop a form for purposes of this section.~~

- 5. The first transfer of funds would occur on or around six months following the effective date of the bill.** With a January 1, 2017 effective date, the due date of the first quarterly returns and payments would be April 30. Once the returns are filed and payments made, the average processing time necessary to review the return, input the data into the system, and identify the funds is around 60 days. Thereafter, transfers would occur quarterly.

**Administrative Costs:** BOE will incur administrative costs to notify affected retailers, modify tax return, prepare special form, prepare a special publication, and answer inquiries from taxpayers and the general public. A cost estimate is pending.

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**Revenue Impact:**

**Background, Methodology, and Assumptions. California State Fairs and Expositions.** The most current data available is the 2009 statewide data on the economic impact of state fairs and expositions from the California Department of Food and Agriculture (CDFA). This data shows that the 2009 estimated direct state (at a rate of 3.9375%) sales tax totaled \$43.2 million. Staff used that data and then grew it at a factor of 31%, based on the BOE's Taxable Sales data from 2009 to 2014, which totals \$56.7 million ( $(\$43.2 \text{ million} \times 31\%) + \$43.2 \text{ million}$ ).

Next, staff used the Department of Finance's Forecasted Taxable Sales Growth for 2015 (5.6%), 2016 (4.2%), and 2017 (5.7%). This results in a 2017 estimated total sales and use tax for Fairs and Expositions of \$66 million.

Staff then calculated that 30% of the estimated \$66 million is approximately \$20 million ( $\$66 \text{ million} \times 30\%$ ).

**Revenue Summary.** The estimated 2017 total state (3.9375%) sales tax for California Fairs and Expositions is approximately \$66 million. Thirty percent (30%) of that amount would be deposited into the Fair and Exposition Fund, which totals \$20 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.