



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

DRAFT

Date Introduced:	02/26/09	Bill No:	AB 978
Tax:	Transactions and Use (economic development)	Author:	Perez
Related Bills:	SB 138 (Liu)		

BILL SUMMARY

This bill would authorize counties, subject to two-thirds approval of the voters, to impose a transactions and use tax at a rate in 0.125 percent for funding of economic development projects.

ANALYSIS

CURRENT LAW

The State Board of Equalization (Board) administers local 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 divisions of the Revenue and Taxation Code.

The **Bradley-Burns Uniform Local Sales and Use Tax Law** (commencing with Revenue and Taxation Code Section 7200) authorizes cities and counties to impose a local sales and use tax. The rate of tax is fixed at 1.25 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. However, beginning July 1, 2004, and continuing through the “revenue exchange period” (also known as the “Triple Flip”), Section 7203.1 temporarily suspends the authority of a county or a city to impose a tax under Sections 7202 and 7203, and instead provides that the applicable rate is the following: (1) in the case of a county, 1 percent; and (2) in the case of a city, 0.75 percent or less. “Revenue exchange period” means the period on or after July 1, 2004, and continuing until the Department of Finance notifies the Board, pursuant to Government Code Section 99006, that the \$15 billion Economic Recovery Bonds have been repaid or that there is sufficient revenue to satisfy the state’s bond obligations.

Of the 1 percent, cities and counties use the 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. The 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. All local jurisdictions impose the Bradley-Burns 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 Tax Law (Part 1.7, commencing with Section 7285) authorizes cities and counties to impose transactions and use taxes (hereinafter referred to as district taxes) under specified conditions. Section 7285 authorizes a county to impose a district tax for general purposes at a rate of 0.25 percent, or multiple thereof, if the ordinance proposing the tax is approved by a two-thirds vote of the board of supervisors and a majority vote of the qualified voters of the county. Section 7285.5 authorizes a county to impose a district tax for special purposes at a rate of 0.25 percent, or multiple thereof, if the ordinance proposing the tax is

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approved by a two-thirds vote of the board of supervisors and a two-thirds vote of the qualified voters of the county.

For purposes of funding libraries, Section 7286.59 authorizes a county to impose a district tax at a rate of either 0.125 or 0.25 percent for a period not to exceed 16 years, if the ordinance proposing the tax is approved by the board of supervisors and a two-thirds vote of the qualified voters of the county. The revenues are to be used exclusively for funding public library construction, acquisition, programs, and operations within the county.

The combined rate of all district taxes imposed in any county cannot exceed 2 percent.

Cities and counties are required to contract with the Board to perform all functions in the administration and operations of the ordinances imposing the Bradley-Burns local taxes and the district taxes.

PROPOSED LAW

This bill would add Section 7286.61 to the Additional Local Tax Law to authorize counties, subject to two-thirds approval of the local electorate, to impose a transactions and use tax at a rate of 0.125 percent for a period not to exceed 16 years. This bill specifies that the revenues derived from the tax are to be used only for funding economic development projects, including, but not limited to, the construction and acquisition of facilities within the county. The tax ordinance must comply with Part 1.6 of the Transactions and Use Tax Law.

The bill would become effective on January 1, 2010.

IN GENERAL

Cities and counties may impose a district tax for general or specific purposes. These taxes can be imposed either directly by the city or county or through a special purpose entity established by the city or county. Counties can also establish a transportation authority to impose district taxes under the Public Utilities Code.

Beginning April 1, 2009, there will be 111 local jurisdictions (city, county, and special purpose entity) imposing a district tax for general or specific purposes. Of the 111 jurisdictions, 37 are county-imposed taxes and 74 are city-imposed taxes.

As stated previously, the combined rate of all district taxes imposed in any county shall not exceed 2 percent. District taxes increase the tax rate within a city or county by adding the district tax rate to the combined state and local (Bradley-Burns local tax) tax rate of 8.25 percent¹.

Generally, district tax rates are imposed at a rate of 0.25 percent or 0.25 percent increments up to the 2 percent limit. Currently, the district tax rates vary from 0.10 percent to 1 percent. The combined state, local, and district tax rates range from 8.375 percent to 10.25 percent.

¹ Effective April 1, 2009, AB X3 3 (Chapter 18 of the Third Extraordinary Session, signed by Governor Schwarzenegger on February 20, 2009) temporarily increases the state sales and use tax rate by 1 percent. The combined state and local (Bradley-Burns local tax) tax rate, effective April 1, 2009, will increase from 7.25 percent to 8.25 percent. The 1 percent tax rate increase will expire on either July 1, 2011, or July 1, 2012, depending upon whether California voters approve the proposed Budget Stabilization constitutional amendment in a statewide election to be held on May 19, 2009.

Listed below are the various combined state, local, and district tax rates and number of local jurisdictions imposing those rates:

<u>Rate</u>	<u>Counties</u>	<u>Cities</u>
8.25	31	0
8.375	3	0
8.50	0	2
8.75	14	24
8.875	0	3
8.975	1	1
9.00	3	7
9.25	4	19
9.275	0	0
9.475	0	2
9.50	1	5
9.725	0	1
9.75	1	8
10.25		2

Some cities and counties have more than one district tax in effect, while others have none. A listing of the district taxes, rates, and effective dates is available on the Board’s website: www.boe.ca.gov/sutax/pdf/districtratelist.pdf. Because the combined rate of all district taxes imposed within a county cannot exceed 2 percent, the current maximum combined state, local, and district tax rate is 10.25 percent.

COMMENTS

- Sponsor and purpose.** This bill is sponsored by the author and is intended to enable counties to impose a district tax at a rate of 0.125 percent to fund economic development projects.
- Though not unique, the 0.125 percent tax rate is rare.** Under the Transactions and Use Tax Law, counties are authorized to impose transactions and use taxes for general or special purposes at a rate of 0.25 percent, or multiples of 0.25 percent, subject to voter approval. With the exception of Section 7286.59 that authorizes counties to impose a tax at a rate of 0.125 or 0.25 percent for library purposes, counties impose transactions and use taxes at a rate of 0.25 percent, or multiples of 0.25 percent.

Currently, there are four counties that levy a library purposes tax at a rate of 0.125 percent (Fresno, Nevada, Solano, and Stanislaus).
- Related legislation.** SB 138 (Liu) would increase the amount of graffiti prevention tax a city or county may impose, subject to voter approval, from \$0.10 to \$0.50 per aerosol container or container of other marking substance, and from \$0.05 to \$0.25 per felt tip marker or other marking instrument.

COST ESTIMATE

This bill does not increase administrative costs to the Board because it only authorizes counties to impose a tax. However, if a county adopted an ordinance, they would be required to contract with and pay the Board for all the Board’s preparation and actual administration costs associated with the new tax. As a point of perspective, the Board’s

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estimated 2007-08 administrative costs assessed to the existing county special taxing jurisdictions range from \$18,000 (Inyo County) to \$2.6 million (Orange County), with the highest administrative costs of \$6.1 million assessed to Los Angeles County Transportation Commission. The estimated assessments were determined based on the current costing model.

REVENUE ESTIMATE

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

This bill would authorize counties, subject to two-thirds approval of the local electorate, to impose a transactions and use tax at a rate of 0.125 percent for the purpose of funding economic development projects.

For fiscal year 2007-08, the county transportation tax revenue amounted to \$1.43 billion at the statewide local tax rate of 0.25 percent. Conversely, the rate for this proposal is 0.125 percent, which is half the county transportation rate; thus, for the same period, the revenue from this proposal would have amounted \$715 million (\$1.43 billion / 2). Considering the economic downturn that started in January 2008, we estimate that for fiscal year 2009-10, taxable sales will decrease by 13 percent from fiscal year 2007-08 levels. Therefore, if all 58 counties enacted an ordinance imposing a 0.125 percent local sales and use tax the revenue would amount to \$622 million ((\$715 million x (1 – 13%)).

REVENUE SUMMARY

If all of the counties in the state imposed a transactions and use tax by 0.125 percent for funding of economic development projects, the annual gain in revenue would be \$622 million.

Analysis prepared by:	Debra A. Waltz	916-324-1890	04/14/09
Revenue estimate by:	Bill Benson	916-445-0840	
Contact:	Margaret S. Shedd	916-322-2376	
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