



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

Draft

Date Amended:	06/07/07	Bill No:	SB 144
Tax:	Transactions and Use	Author:	Senate Local Government Committee
Related Bills:	AB 1748 (Assembly Revenue and Taxation Committee)		

This analysis will only address the bill's provisions that impact the Board.

BILL SUMMARY

This bill would make numerous, non-controversial changes to the California Codes related to local governments. Among its provisions, this bill would:

- Repeal Section 7262.5 of the Transactions and Use Tax Law to eliminate a special statute that is redundant due to subsequent legislation that authorized counties to levy transactions and use taxes for special purposes. (Technical)
- Repeal Section 7262.6 of the Transactions and Use Tax Law to eliminate a statute that is no longer valid due to a ruling issued by the Fifth District Court of Appeal which upheld the finding of the Superior Court of Fresno County that the Fresno Metropolitan Projects Authority was a nongovernmental, private entity barred by the California Constitution from levying any tax. (Technical)

ANALYSIS

CURRENT LAW

Repeal of Redundant Provision

Revenue and Taxation Code Section 7262.5

Senate Bill 576 (Ch. 1323, Stats. 1987) added Section 7262.5 to the Transactions and Use Tax Law to authorize the County of Mendocino, subject to a two-thirds voter approval, to levy a transactions and use tax at a rate of 0.50 or 1 percent for a period of not more than five years. The revenues collected from the tax were to be used exclusively for the purpose of funding county library programs and operations.

Subsequently, in 1989, Assembly Bill 999 (Ch. 277, Stats. 1989), effective August 7, 1989, added Section 7285.5 to the Transactions and Use Tax Law to authorize the board of supervisors of small counties (those with a population of 350,000 or less as of January 1, 1987) to establish an authority for specific purposes. In 1990, Assembly Bill 3670 (Ch. 1707, Stats. 1990), amended Section 7285.5 to delete the population limitation and permit any county to establish an authority for specific purposes. The authority, subject to a majority voter approval, could levy a transactions and use tax at a rate of 0.25 or 0.50 percent for the purposes for which the authority was established. In 2001, a Board-sponsored bill, Assembly Bill 1123 (Ch. 251, Stats. 2001), amended Section 7285.5 to allow counties to levy a special purpose tax directly, without first establishing an authority for specific purposes. This bill also clarified that counties may 1) levy a special purpose transactions and use tax if the tax is approved by two-thirds of the voters; and 2) levy a transactions and use tax in multiples of 0.25 percent.

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Under Section 7285.5, Mendocino County can levy a transactions and use tax, subject to two-thirds voter approval, in multiples of 0.25 percent for specific purposes, including library purposes. Since Mendocino County can levy a tax under this authority, the special statute (Section 7262.5) is redundant and no longer needed.

Repeal of Invalid Section

Revenue and Taxation Code Section 7262.6

Under existing law, Section 7262.6, authorized the Fresno Metropolitan Projects Authority (Authority) to levy a transactions and use tax at a rate of 0.10 percent for a period not to exceed 20 years, subject to voter approval. The revenues collected from the tax are to be used by the Board of Directors of the Authority to assist scientific, cultural, and multicultural facilities and programs within the Authority.

On March 2, 1993, in a special election held in the Fresno metropolitan area, voters approved a 0.10 percent transactions and use tax. The tax was entitled the Fresno Metropolitan Projects Authority tax, and was also known as the “Arts to Zoo” tax. The tax became operative on July 1, 1993.

On December 11, 1995, the Fifth District Court of Appeal issued its ruling in the case, *Howard Jarvis Taxpayers’ Association v. Fresno Metropolitan Projects Authority* (1995) 40 Cal.App.4th 1359, mod. (1996) 41 Cal.App.4th 1523a. It held that a transactions and use tax authorized and administered by a nongovernmental private body, the Fresno Metropolitan Projects Authority (Authority), violated Article XI, section 11, subdivision (a) of the California Constitution. This subdivision prohibits the Legislature from delegating to a private person or private body the power to levy taxes or to perform municipal functions. The court, in finding that the Authority was a private rather than a public body, relied on the fact that eleven of the Authority’s thirteen authorized members were chosen by private entities that had no accountability to the electorate.

Under Rule 24(a), California Rules of Court, the Board was authorized to stop administering and enforcing the tax on March 21, 1996.

Since the Court of Appeal held the tax levied by the Authority to be unconstitutional, Section 7262.6 is no longer valid.

PROPOSED LAW

Among other things, this bill would:

- Repeal Section 7262.5 of the Transactions and Use Tax Law to eliminate this special statute that is redundant due to subsequent legislation that authorized any county to levy a transactions and use tax for special purposes, including library programs, at a rate of 0.25 percent or multiples of 0.25 percent, subject to two-thirds voter approval.
- Repeal Section 7262.6 of the Transactions and Use Tax Law to eliminate a statute that is no longer valid due to a ruling issued by the Fifth District Court of Appeal which upheld the finding of the Superior Court of Fresno County that the Fresno Metropolitan Projects Authority was a nongovernmental, private entity barred by the California Constitution from levying any tax.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the Senate Local Government Committee, and is their annual omnibus bill for making non-controversial, technical changes to the California Codes affecting local governments. Staff of the Senate Local Government Committee identified these two Revenue and Taxation Code statutes (7262.5 and 7262.6) as either redundant or invalid. The repeal of these sections is intended to cleanup the tax code.
2. **Staff of the Senate Local Government Committee contacted local officials from both Mendocino and Fresno Counties.** The officials from these counties agreed that the respective statutes are no longer needed or valid and gave their approval to repeal them.
3. **Related Legislation.** AB 1748 (Assembly Revenue and Taxation Committee) contains Board-sponsored provisions which, among other things, provides technical cleanup to various statutes under the Transactions and Use Tax Law.

COST ESTIMATE

This bill has no impact on the Board's costs.

REVENUE ESTIMATE

With respect to the provisions that relate to the Board, this bill would have no impact on the state's revenues.

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