California State Board of Equalization,
Legislative Division

LEGISLATIVE BULLETIN

State Capitol Building (from the East) c.1945
Photo courtesy of California State Archives

SALES TAX LEGISLATION
2003

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Assembly Bill 7X (Oropeza) Chapter 13

Budget Trailer Bill – Sales and Property Tax Swap

Effective August 2, 2003, but operative July 1, 2004. Among its provisions, amends Sections 7202 and 7203 of, and adds Sections 6051.5, 6051.6, 6201.5, 6201.6, 7101.3, and 7203.1 to, the Revenue and Taxation Code.

BILL SUMMARY

This is a budget trailer bill implementing various provisions that are part of the 2003-04 budget package. Among its provisions, this measure: (1) increases the state portion of the sales and use tax rate by 0.5 percent, from 6 percent to 6.5 percent; (2) decreases the local sales and use tax rate imposed by a city from 1 percent to 0.5 percent; and (3) decreases the local sales and use tax rate imposed by a county from 1.25 percent to 0.75 percent. The revenues will be dedicated to the repayment of the deficit funding bond.

Sponsor: Assembly Budget Committee

LAW PRIOR TO AMENDMENT

Under current law, the statewide sales and use tax rate is 7.25 percent. Of the 7.25 percent base rate, 6 percent is the state sales and use tax portion and 1.25 percent is the local sales and use tax portion. The components of the state sales and use tax rate of 6 percent are as follows:

- 4.75 percent state sales and use tax is allocated to the state's General Fund, which is dedicated for state general purposes (Sections 6051 and 6201 of the Revenue and Taxation Code);
- 0.25 percent is an additional state sales and use tax allocated to the state's General Fund which is also dedicated for state general purposes (Sections 6051.3 and 6201.3 of the Revenue and Taxation Code);
- 0.5 percent state tax is allocated to the Local Revenue Fund which is dedicated to local governments for program realignment (Sections 6051.2 and 6201.2 of the Revenue and Taxation Code);
- 0.5 percent state tax is allocated to the Local Public Safety Fund which is dedicated to local governments to fund public safety services (Section 35 of Article XIII of the California Constitution).

Under the Bradley-Burns Uniform Local Sales and Use Tax Law (commencing with Section 7200 of the Revenue and Taxation Code), counties and cities are authorized to impose a local sales and use tax. The rate of tax is fixed at 1.25 percent. Counties are authorized to impose a local sales and use tax rate of up to 1.25

percent. Cities are authorized to impose a local sales and use tax rate of up to 1 percent that is credited against the county rate so that the combined local sales and use tax rate under the Bradley-Burns Law does not exceed 1.25 percent.

Of the 1.25 percent, cities and counties use the 1 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.

AMENDMENT

This bill enacts the California Fiscal Recovery Financing Act, creates the California Fiscal Recovery Financing Authority, and allows the authority to, among other things, issue bonds for the funding of the accumulated budget deficit. This bill also creates the Fiscal Recovery Fund in the State Treasury and requires that all revenues received from the 1/2 percent state sales and use tax rate imposed by this bill be deposited into this fund. The revenues deposited in this fund are dedicated to repayment of the deficit bonds.

This bill adds Sections 6051.5, 6201.5, and 7101.3 to the Sales and Use Tax Law to impose an additional 1/2 percent state sales and use tax. All revenues derived from this tax will be deposited into the Fiscal Recovery Fund in the State Treasury.

This bill also adds Sections 6051.6 and 6201.6 to the Sales and Use Tax Law to provide an exemption from the additional 1/2 percent state sales and use tax for sales and purchases of tangible personal property (i.e., parts, supplies, and equipment) to aircraft common carriers. This exemption does not apply to sales or purchases of fuel and petroleum products.

This bill amends Sections 7202 and 7203 of the Bradley-Burns Uniform Local Sales and Use Tax Law to reduce the partial local sales and use tax exemption on sales and purchases of property (i.e., parts, supplies, and equipment) to aircraft common carriers from 80 percent to 67 percent. This exemption does not apply to sales or purchases of fuel and petroleum products.

This bill adds Section 7203.1 to the Bradley-Burns Uniform Local Sales and Use Tax Law to do the following:

1) During the revenue exchange period, the authority of a county or a city to impose a tax rate as specified in an ordinance adopted pursuant to Sections 7202 and 7203 of the Bradley-Burns Law is suspended, and the tax rate to be applied instead is 3/4 percent for a county and 1/2 percent for a city.

2) "Revenue exchange period" means the period on or after July 1, 2004 and continues until the Board receives notification from the Director of Finance pursuant to Section 99006 of the Government Code.

3) Provides that any change in the local sales and use tax rate during the revenue exchange period is not subject to the voter approval requirements under Article XIII C of the California Constitution.

The provisions of this bill are operative on July 1, 2004 and will continue until the Director of Finance notifies the Board of the earliest of the following events:

1. All outstanding bonds and ancillary obligations authorized under this bill have been paid or retired;
2. Payment of the principal of and interest on all such bonds has been irrevocably provided for, as specified; or
3. The Fiscal Recovery Fund, created by this bill, holds sufficient funds to pay the principal of, and interest to final maturity on, all outstanding bonds, as specified.

Finally, this bill has an uncodified section providing that any tax exchange or revenue sharing agreements, entered into prior to the operative date of this bill, between local agencies or between local agencies and nonlocal agencies shall be deemed to be temporarily modified to account for the reduction in sales and use tax revenues as a result of this bill and would be replaced as may otherwise be provided by law.

COMMENTS

1. **Purpose.** To address, in part, the projected budget shortfall.
2. **Impact of rate change on the Board.** Tax rate changes historically have had a significant effect on the Board. However, this impact is minimized when the rate change takes place on the first day of a calendar quarter and when the Board has sufficient lead time prior to the rate change. Since the proposed tax rate increase would become effective on July 1, 2004, the Board would have sufficient lead time to properly inform the public and prepare revised publications and tax returns.
3. **Cities and counties would not be required to adopt new ordinances.** Section 7203.1, subdivision (a) provides that, during the revenue exchange period only, the authority of a county or a city to impose a tax rate as specified in an ordinance adopted pursuant to Sections 7202 and 7203 [Bradley-Burns Local Tax Law] is suspended, and the tax rate to be applied instead would be 0.75 percent for a county and 0.5 percent for a city. Subdivision (c) of Section 7203.1 provides that, subdivision (a) of Section 7203.1, is a self-executing provision that operates without regard to any decision or act by a local government.

   Section 7203.1 contains self-executing provisions that operate without regard to any existing tax ordinances which impose a different rate other than the new rates provided for in the bill. Therefore, because the provisions of Section 7203.1 are self-executing, Board staff would not require cities and counties to adopt new ordinances and would continue to administer the Bradley-Burns local sales and use tax at the rates specified in the new Section 7203.1.
4. **Even though the local sales and use tax rate would be reduced, the Board's administrative costs would remain the same.** Existing law requires the Board to charge local jurisdictions for the services it provides in administering the local entity's tax ordinance. The amount to be charged is determined by the Board with the concurrence of the Department of Finance based on the local entity's

total computed cost, including direct, shared, and central agency costs. These costs are deducted from the quarterly allocation of taxes collected by the Board.

This bill reduces the local sales and use tax rate imposed by a city to 0.5 percent, and by a county to 0.75 percent. However, even though the local tax rate is reduced, the work in administering the local entity's tax would remain the same. As a result, the ratio of administrative costs to local tax revenues would essentially double.

5. **Partial tax exemptions would apply to the new 1/2 percent state sales and use tax.** There are several partial sales and use tax exemptions: farm equipment and machinery, timber harvesting equipment and machinery, diesel fuel used in farming activities and food processing, racehorse breeding stock, manufacturing equipment, teleproduction and post production activities, and the rural investment tax exemption. These partial tax exemption statutes contain provisions that exclude the exemptions from any taxes levied pursuant to Bradley-Burns Uniform Local Sales and Use Tax Law and Transactions and Use Tax Law. These partial tax exemptions also do not apply to taxes levied pursuant to Section 6051.2 and 6201.2 of the Revenue and Taxation Code (also known as the Local Revenue Fund tax), and pursuant to Section 35 of Article XIII of the California Constitution (also known as the Local Public Safety Fund tax).

   Thus, the partial tax exemption statutes apply only to the state general fund portion of the sales and use tax rate. The state general fund portion was 5 percent; however, with the enactment of this bill, the new state general fund portion is increased by 0.5 percent to 5.5 percent. With respect to Bradley-Burns local taxes, district taxes, and the two 0.5 percent statewide local taxes (Local Revenue Fund and Local Public Safety Fund), there is no partial tax exemption that applies to these taxes. Thus, the partial tax exemptions would be subject to the 0.75 percent Bradley-Burns tax, district taxes, and the two 0.5 percent statewide (local) taxes. For partial tax exemptions, the total tax base (not including district taxes) would be 1.75 percent (0.75% + 0.5% + 0.5% = 1.75%).

6. New state sales and use tax rate of 0.5 percent will not be included in the calculation of the sales tax prepayment rate on motor vehicle fuel, diesel fuel, and aircraft jet fuel. Suppliers and wholesalers of motor vehicle fuel (gasoline), diesel fuel, and aircraft jet fuel are required to collect a prepayment of a portion of the sales tax when they remove fuel at the terminal rack, enter the fuel into California, or sell the fuels at any point after removal from the terminal rack. The Board determines the sales tax prepayment rates on these fuels. The rate of prepayment is based upon 80 percent of the combined state and local sales tax rate on the average selling price of the fuel as specified in industry publications.

   Effective April 1, 2003, the prepayment rates for fuels (per gallon) are as follows: motor vehicle fuel at a rate of $0.09 per gallon, diesel fuel at a rate of $0.07 per gallon, and aircraft jet fuel at a rate of $0.045 per gallon. These rates are scheduled to remain in effect through March 31, 2004. If the price of these fuels increases or decreases and results in prepayments that consistently exceed or are significantly lower than the fuel retailer's sales tax liability, the Board may adjust these rates. The Board is required, by November 1 of each year, to establish the prepayment tax rate for these fuels.

Section 6480.1 of the Revenue and Taxation Code requires the Board to establish the sales tax prepayment rates. The specific language in the statutes provides that "the required prepayment shall be established by the board based upon 80 percent of the combined state and local sales tax rate established by Sections 6051, 6051.2, 6051.3, and 7202 of the Revenue and Taxation Code and Section 35 of Article XIII of the California Constitution on the average selling price as determined by the State Energy Resources Conservation and Development Commission in its latest publication of the Quarterly Oil Report."

Because Section 6480.1 includes the code sections of each state and local tax component, the new 0.50 percent tax needs to be added to the statute. Without this amendment to the statute, the prepayment rate will be based on a total tax rate of 6.75 percent, instead of the current tax rate of 7.25 percent. The effect is that retailers will pay a lower prepayment amount and then pay a higher amount when they file their sales and use tax returns.

For these reasons, Section 6480.1 should be amended to add Section 6051.5 which imposes the new 0.50 percent state sales tax.

7. **This bill reduces the local sales and use tax rate for cities to 0.5 percent and for counties to 0.75 percent.** The new Section 7203.1 provides that, operative July 1, 2004, the authority of a city or a county to impose a tax rate as specified in an ordinance adopted pursuant to Bradley-Burns law is temporarily suspended, and the new tax rates to be applied instead are 0.5 percent for cities and 0.75 percent for counties.

   Under current law (operative date of this bill is July 1, 2004) cities are authorized to impose a local tax rate of "1 percent or less," defaulting the balance of the 1 percent rate to the county in which the city is located. Many cities adopted ordinances imposing a local tax rate of less than one percent. Angels Camp (0.88 percent), Clovis (0.90 percent), Hayward (0.95 percent), and Santa Rosa (0.975 percent) are some of the cities that receive less than the 1 percent. The reason that a city elected to impose less than 1 percent, was to use the balance of the 1 percent to pay the county for services. However, under the language of Section 7203.1, cities are to impose a rate of 0.5 percent allowing no portion of it to go to the county. Thus, under the provisions of this bill, cities cannot impose less than a 0.5 percent defaulting any balance of the 0.5 percent to the county to pay for services.

8. **Related Legislation.** Assembly Bill 1766 (Ch. 162, Committee on Budget) is a companion bill to this bill, and among its provisions, does the following: (1) reduces the amount of property tax revenue allocated to a county's Educational Revenue Augmentation Fund by an amount attributable to the 1/2 percent reduction in the local sales and use tax rate, and instead, require this amount to be deposited into the Sales and Use Tax Compensation Fund that will be established by this bill in each county; (2) requires the county auditor to allocate moneys from the Sales and Use Tax Compensation Fund to cities and counties

to reimburse them for local sales and use tax revenue losses attributable to the 1/2 percent reduction in the local sales and use tax rate; and (3) requires the Board, on or before August 15th of each fiscal year, to report to the Director of Finance the taxable sales in a county for the prior fiscal year.

Assembly Bill 189 (Cogdill) Chapter 721

Meals and Food Products Sold by Nonprofit Veterans Organizations

Tax levy;. Effective October 9, 2003, but operative April 1, 2004. Adds Section 6363.8 to the Revenue and Taxation Code.

BILL SUMMARY

This bill provides a sales and use tax exemption for sales of meals and food products furnished or served by any nonprofit veteran's organization for purposes of fundraising, as specified.

Sponsor: Assembly Member Cogdill

LAW PRIOR TO AMENDMENT

Under existing law, the sales tax or the use tax applies to the sale or use of tangible personal property in this state, unless specifically exempted by law. Existing law provides no statutory exemptions from the sales or use tax merely because the seller or the purchaser is engaged in charitable activities, is a nonprofit organization, or enjoys certain privileges under property tax statutes or income tax statutes. However, existing law provides specific exemptions or different tax treatment to certain nonprofit or religious organizations under specified circumstances. For example, under Section 6363.5 of the Sales and Use Tax Law, sales of meals and food products furnished or served by any religious organization at a social or other gathering for fundraising purposes are exempt from sales and use tax.

Current law contains a few exemptions specifically related to veterans and prisoners of war. For example, Section 6359.3 provides that any nonprofit veteran's organization is a consumer with respect to United States flags which it sells where the profits are used solely for furtherance of the purposes of the organization. As a consumer, the organization is only required to pay tax on its purchase price of the flags and their subsequent sales of the flags are exempt from tax. Section 6360 provides similar tax treatment to charitable organizations making sales of bracelets commemorating American prisoners of war. These organizations are also regarded as consumers of those bracelets, and tax only applies to the organization's purchase price of those bracelets. In addition, Section 6360.1 provides a sales and use tax exemption for the sale and purchase of "Buddy Poppies" or similar symbolic lapel pins that memorialize United States military veterans, as specified.

AMENDMENT

This bill adds Section 6363.8 to the Revenue and Taxation Code to create a sales and use tax exemption for the sale and use of meals and food products for human consumption that are furnished or served by any nonprofit veteran's organization at a social or other gathering conducted by the nonprofit veteran's organization or under its auspices. To qualify for the exemption, the furnishing or serving meals and food products must be for the purpose of obtaining revenue for the functions and activities of the organization and must actually be used in carrying on those functions and activities.

COMMENTS

1. **Purpose.** This bill's purpose is to exempt the sales of meals and food products by nonprofit veteran’s organizations. The author’s office notes that some of these entities are not aware of their tax reporting obligations and have been billed for sales tax liabilities by the Board on their sales of meals served at fundraising events.
2. **These entities would continue to be liable for tax on any charges for alcoholic beverages or carbonated beverages.** It should be noted that any charges for alcoholic beverages and carbonated beverages served by these organizations at the fundraising events or any other event would continue to be subject to sales tax.
3. **Provisions would not be problematic to administer.** Enactment of this measure would not materially affect the Board’s administration of the Sales and Use Tax Law.

Assembly Bill 205 (Goldberg) Chapter 421

Domestic Partners and Responsibilities Act

Effective January 1, 2004, but operative January 1, 2005. Amends Sections 297, 298, and 298.5 of, adds Sections 297.5, 299.2, and 299.3 to, repeals Section 299.5 of, and repeals and adds Section 299 of, the Family Code, amends Section 14771 of the Government Code, and amends Section 3 of Chapter 447 of the Statutes of 2002.

BILL SUMMARY

This bill enacts the California Domestic Partners and Responsibilities Act of 2003 to provide registered domestic partners with (1) the same rights, protections, and benefits, and (2) the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, except those conferred by the California Constitution or a statute that was adopted by initiative, as are granted to and imposed upon spouses.

Sponsor: Assembly Member Jackie Goldberg

LAW PRIOR TO AMENDMENT

Under the existing Sales and Use Tax Law, there are two provisions that apply to spouses that this bill would specifically impact, as follows:

Sales of vehicles, vessels and aircraft to family members. Section 6285 of the Revenue and Taxation Code provides that, among other things, the sale of a vehicle, vessel or aircraft from one spouse to the other spouse is exempt from sales and use tax, unless the selling spouse is engaged in the business of selling that type of property.

Relief of liability for an innocent spouse. Section 6456 of the Revenue and Taxation Code provides that under specified conditions, if a spouse establishes that he or she did not know of, and had no reason to know of, an understatement of a sales or use tax liability attributable to his or her spouse, and taking into account all facts and circumstances, it would be inequitable to hold that spouse liable for that tax liability, that spouse may be relieved of the liability attributable to the other spouse, without regard to community property laws.

Public-Use Forms

Subdivision (a) of Section 14771 of the Government Code gives the State Forms Management Program, which is in the Department of General Services, an oversight role with respect to public-use forms and form design. However, due to the need for tax forms to be available to the public on a timely basis, all tax forms, including returns, schedules, notices, and instructions prepared by the Board of Equalization and the Franchise Tax Board, are exempt from this oversight pursuant to subdivision (b) of Section 14771.

AMENDMENTS

- This bill adds Section 297.5 of the Family Code to provide that:

  1. **Registered domestic partners** have the same rights, protections, and benefits, and are subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon **spouses.**

  2. **Former registered domestic partners** shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon **former spouses**.

  3. A **surviving registered domestic partner**, following the death of the other partner, shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon a **widow or a widower**.

  4. The rights and obligations of **registered domestic partners with respect to a child of either of them** shall be the **same as those of spouses**. The rights and obligations of former or surviving registered domestic partners with respect to a child of either of them shall be the same as those of former or surviving spouses.

  5. Subdivision (h) of Section 297.5 provides that this act **does not preclude any state or local agency from exercising its regulatory authority to implement statutes** providing rights to, or imposing responsibilities upon, domestic partners.

6. Subdivision (i) of Section 297.5 provides that this section **does not amend or modify any provision of the California Constitution or any provision of any statute that was adopted by initiative.**

- This bill also adds paragraph (14) to subdivision (a) of Section 14771 of the Government Code, to require the director of General Services, through the forms management center, to provide notice to state agencies, forms management representatives, and departmental forms coordinators, that in the usual course of reviewing and revising **all public-use forms that refer to or use the terms spouse, husband, wife, father, mother, marriage, or marital status, that appropriate references to domestic partner, parent, or domestic partnership are to be included.**

COMMENTS

1. **Purpose.** The purpose of this bill is to "significantly expand the rights and responsibilities currently provided to registered domestic partners and their families to include nearly all the legal rights, benefits, responsibilities, duties, and obligations under state law currently available only to married couples. Those legal protections and responsibilities guide couples through nearly every complex legal situation faced by families such as death, divorce, custody disputes, illness, childbirth, and adoption." According to the author, "There is simply no good reason to deny those additional rights and duties to registered, committed domestic partners and their children. Granting these rights and responsibilities will further the State's interest in promoting stable and lasting family relationships, and will protect family members from the economic and social consequences of abandonment, separation, the death of loved ones, and other life crises. It will also protect couples, the children they are raising, third parties, and the State from numerous harms and costs."

2. **With respect to sales and use taxes, there are two statutes (not adopted by initiatives) that provide a benefit to spouses**. These include the exemption for vehicles, vessels and aircraft when purchased by a spouse, and provisions that grant relief of liability for the tax attributable to one spouse when the other spouse had no knowledge of, and had no reason to have knowledge of, that understatement of tax. This bill would extend these benefits to domestic partners. Follow-up legislation is suggested to amend the Revenue and Taxation Code to directly provide appropriate references to registered domestic partners to aid and inform tax administrators and the public of the applicability of these provisions to registered domestic partners.

3. **Updating Board public-use forms and other documents.** Although the Board's tax forms are specifically exempted from the provisions of Government Code Section 14771(a), the Board could review and consider appropriate references to domestic partners when updating any tax forms or other documents to which AB 205 would apply.

4. **Proposed Family Code Section 297.5 does not amend or modify any provision of the California Constitution or any provision of any statute that was adopted by initiative.**

5. **This bill would not preclude a state agency from exercising its authority to adopt regulations to implement statutes that provide rights to, or impose responsibilities upon, domestic partners.**

<u>Assembly Bill 427 (Longville) Chapter 129</u>

Transactions and Use Taxes – Time Limit

Effective January 1, 2004. Amends Sections 180201 and 180204 of the Public Utilities Code.

BILL SUMMARY

This measure deletes the 20-year limit on the duration of a transactions and use tax as specified under Section 180201 of the Public Utilities Code, and provides that the tax shall remain in effect for the period of time designated in the tax ordinance.

Sponsor: Assembly Member John Longville

LAW PRIOR TO AMENDMENT

Under **Article XIII A, Section 4, of the California Constitution**, cities, counties, and special districts, by a two-thirds vote of the voters of such districts, may impose special taxes, except ad valorem taxes on real property or a transactions tax or sales tax on the sale of real property within such districts.

Under **Article XIII C, Section 1, subdivision (a), of the California Constitution**, "General tax" means any tax imposed for general governmental purposes. Under Section 1, subdivision (d) of Article XIII C, a "special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

Under Article XIII C, Section 2, subdivision (b), of the California Constitution, a local government may impose a general tax by a majority of the voters. Under Section 2, subdivision (d) of Article XIII C, a local government may impose a special tax by two-thirds of the voters.

Senate Bill 142 (Chapter 786, Statutes of 1987, Deddeh) added Division 19 (commencing with Section 180000) of the Public Utilities Code. This division is known as the Local Transportation Authority and Improvement Act (LTAIA). The LTAIA authorizes a county board of supervisors to create an authority within the county or designate a transportation planning agency pursuant to Section 29532 of the Government Code, and to impose a transactions and use tax with a majority approval of the voters. However, a subsequent California Supreme Court decision [*Santa Clara County Local Transportation Authority v. Guardino,* (1995)] held that a transportation sales tax measure is a special tax that requires approval by a two-thirds vote pursuant to Proposition 62 of 1986.

The LTAIA also provides that a transactions and use tax shall remain in effect for not longer than 20 years, or any lesser period of time as specified in the tax ordinance.

The revenues from these taxes may be allocated by the authority for the construction, maintenance, improvement, and operation of local streets, roads, and highways, and the construction, improvement, and operation of public transit systems. The authority shall contract with the Board of Equalization to perform all functions incidental to the administration and operation of the ordinance.

Under the **Transactions and Use Tax Law** (Parts 1.6 and 1.7, Division 2, Revenue and Taxation Code) counties are authorized to impose a transactions and use tax at a rate of 0.25 percent, or a multiple thereof, if the ordinance imposing such a tax is approved by the voters. The transactions and use taxes are additional sales and use taxes imposed on the sale or use of tangible personal property. The maximum allowable combined rate of transactions and use taxes levied in any county may not exceed 1 ½ percent, with the exception of the City and County of San Francisco and the County of San Mateo, whose combined rates may not exceed 1 ¾ and 2 percent, respectively.

Section 7285 of the Transactions and Use Tax Law additionally authorizes counties to levy a transactions and use tax at a rate of 0.25 percent, or multiple thereof, for general purposes with the approval of a majority of the voters. Section 7285.5 permits the board of supervisors of any county to levy a transactions and use tax at a rate of 0.25 percent, or multiple thereof, for specific purposes with the approval of two-thirds of the voters.

Counties are required to contract with the Board to perform all functions in the administration and operations of the ordinances imposing the transactions and use taxes.

AMENDMENT

This bill amends Section 180201 of the Public Utilities Code to delete the 20-year limit on the duration of a transactions and use tax, and provides that the tax shall remain in effect for the period of time specified in the tax ordinance that is approved by a majority of the voters or by any otherwise applicable voter approval requirement. This bill also amends Section 180204 of the Public Utilities Code to provide that a transactions and use tax ordinance, as specified, shall be operative on the first day of the first calendar quarter commencing more than 110 days (rather than 120 days) after the adoption of the ordinance.

IN GENERAL

As stated previously, the LTAIA authorizes counties to create an authority to levy a transactions and use tax for transportation purposes for a period not to exceed 20 years. Counties are also authorized, under the Revenue and Taxation Code, to impose a transactions and use tax for general governmental purposes and specific purposes.

Currently, there are 17 counties that impose transactions and use taxes for transportation purposes (see Table on page 6). Twelve counties have a 20-year limit on the duration of the tax, and one county has a 15-year limit. Seven counties (Alameda, Contra Costa, Los Angeles, San Francisco, San Mateo, Santa Clara, and

Santa Cruz) have transportation authorities that impose a tax with no sunset date. These taxes are to remain in effect until repealed. In November 2002, voters of Riverside approved an extension of the existing Riverside County Transportation Commission transactions and use tax from June 30, 2009, to June 30, 2039.

COMMENTS

1. **Purpose.** To allow counties more flexibility to impose a transactions and use tax for any period of time that the voters will support.

2. **Key amendments. The June 24, 2003 amendments** addressed concerns raised in the previous Board staff analysis regarding voter approval requirements. Section 180201 of the Public Utilities Code currently provides that a transactions and use tax for transportation purposes may be imposed by a majority voter approval. Board staff recommended that this section be amended to add language that would provide a voter approval requirement in accordance with existing law. **The May 13, 2003 amendments** to this bill would reduce the operative date time frame following the adoption of a transactions and use tax ordinance from 120 days to 110 days, and therefore provide that a transactions and use tax ordinance would be operative on the first day of the first calendar quarter commencing more than 110 days (rather than 120 days) after the adoption of the ordinance.

3. **The Board staff does not foresee any administrative problems with this measure.** Existing law requires that counties contract with the Board to perform all functions incidental to the administration and operation of the tax ordinance. If a tax is imposed for a specific period of time, the date that the tax will expire is contained in the tax ordinance. Whether the tax is imposed for a period of 20 years or 30 years does not create any administrative difficulty to the Board.

4. **Related Legislation.** ACA 7 (Dutra) would constitutionally authorize a local transportation or regional transportation agency, subject to 55 percent of the voters of the jurisdiction, to impose a transactions and use tax for a period of 20 to 30 years, as specified, at a rate of 0.50 percent to be used exclusively for transportation purposes. This bill was placed on the Assembly inactive file.

   SCA 2 (Torlakson) would constitutionally authorize counties, cities and counties, local transportation authorities, and regional transportation agencies, with the approval of the majority of the voters in the jurisdiction, to impose a transactions and use tax to be used exclusively for funding transportation projects and services and related smart growth planning. This bill was on the Senate Floor at the end of 2003.

Assembly Bill 986 (J. Horton) Chapter 569

Study to Consolidate Tax Agencies' Functions

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Effective January 1, 2004. Adds Section 38 to the Revenue and Taxation Code.

BILL SUMMARY

This bill requires the Legislative Analyst (LAO) to submit a report to the Legislature on the consolidation of the remittance processing and cashiering functions, and the mail processing operations, of the Board of Equalization (BOE), Franchise Tax Board (FTB), and the Employment Development Department (EDD), based on specified criteria.

Sponsor: Assembly Member Jerome Horton

LAW PRIOR TO AMENDMENT

Under existing law, the BOE, which consists of 5 voting members (4 members elected to represent the 4 districts throughout California, and the Controller) administers the sales and use tax, cigarette and tobacco products tax, alcoholic beverage tax, and various other taxes and fees. The BOE also sets values of property for state-assessees and monitors the property tax assessment practices of county assessors.

The FTB administers the state personal income taxes and corporations income taxes.

The EDD is responsible for the audit and collection of employment taxes and maintains employment records for more than 19 million California workers.

AMENDMENT

This bill adds Section 38 to the Revenue and Taxation Code to require the LAO to submit a report to the Legislature regarding the possible consolidation of the remittance processing and cashiering functions, and the mail processing operations, of the FTB, BOE, and EDD.

The bill requires the three agencies to provide all data and information that the LAO identifies as necessary for completing the report and also require the agencies to assist in the preparation of the report. The information provided would include, but not be limited to, an evaluation of the short- and long-term fiscal and budgetary advantages and disadvantages from the proposed consolidation of the specific functions. All information is required to be submitted to the LAO by July 1, 2004.

The purpose of the report is to determine, to the extent possible and based on available information and reasonable assumptions, if there are any benefits to the consolidation of the management and control of these operations, based on all of the following criteria:

- The elimination of duplicative functions and fragmented responsibilities.
- Increase operational efficiencies due to the use of improved technologies and economies of scale.
- Additional interest earnings for the state.

For purposes of this bill, “remittance processing and cashiering” means receiving, batching, balancing, and depositing remittances.

The LAO is required to provide its report and any recommendations and considerations with regard to the possible consolidation of the specified functions to the Legislature by November 1, 2004.

BACKGROUND

Assembly Bill 3181 (Leonard) of 1986 would have required that beginning July 1, 1988, the cashiering operations of the BOE and EDD be done by the FTB. The bill also would have required that a task force, consisting of BOE, EDD, FTB, the Department of Finance, and the State Treasurer be established to prepare an implementation plan. If the task force determined that the proposed consolidation was not cost-effective, then the consolidation would not have taken place. AB 3181 did not pass out of the Senate Revenue and Taxation Committee. AB 3181 attempted to implement a suggestion from the Little Hoover Commission, which based its recommendation on a study conducted by the accounting firm Peat, Marwick, and Mitchell.

IN GENERAL

The BOE collects 25 different taxes and fees, including sales and use tax that provides nearly forty (40) percent of the State’s revenue. As such, the BOE is dedicated to leadership in the field of tax administration, taxpayer services, and taxpayer information. Each year the BOE manually processes monthly, quarterly, fiscal yearly, and calendar yearly tax payments and return forms from approximately one million registered businesses. The BOE mails out return forms along with a return envelope to registered taxpayers for all the tax programs administered. Peak periods occur the month following each of the four calendar quarters. The second and fourth quarters produce the largest volume since these periods include monthly, quarterly and yearly (fiscal and calendar) filers. Monthly peak periods also occur due to the filing of prepayment forms by quarterly prepayment reporting basis taxpayers. These taxpayers are required to make two prepayments during the first two months of the quarter followed by a quarterly return and payment.

COMMENTS

1. **Purpose.** The bill's purpose is to require a study of consolidating specified operations of the BOE, FTB, and EDD in the furtherance of good government and the elimination of wasteful or duplicative processes. The author intends an independent third party to study the efficiencies that could be achieved by combining resources of the three taxing agencies in order to provide elected officials with the data they need to make an informed decision about the issue of consolidation.

2. **July 21, 2003 amendments.** The amendments add the requirement that the three agencies provide the information requested by the LAO by July 1, 2004. The amendments also change the due date of the LAO's report to the Legislature from July 1 to November 1, 2004.

3. **July 15, 2003 amendments.** The amendments delete the phrase "under the State Board of Equalization" as one of the bases for the consolidation study. The amendments were accepted as author amendments at the July 9, 2003 Senate Revenue and Taxation Committee hearing in response to the committee analysis which questioned the need to restrict the study to the consolidation of cashiering, remittance and mail processing functions within the BOE.

4. **The bill require a study of the combination of processes that are common to all three taxing agencies.** The study requires the LAO to look at the tasks leading up to the point at which the tax return information must be reviewed and verified by tax experts at each of the three different agencies. The return review process requires employees to apply laws, rules, and policies that are unique to each of the different taxing agencies. The consolidation approach contained in this bill looks for common grounds to achieve efficiencies on processes that are not unique to any of the agencies.

5. **The following are some of the issues that would need to be addressed in a study.**
   - Should the agencies combine facilities or run separate facilities?
   - How would the processes work if some information is scanned at one agency while it is key entered in another?
   - How would the different data centers communicate with each other when the BOE uses the Teale Data Center, EDD primarily uses the Health and Human Services Data Center, and FTB maintains it own data center?
   - What are the underlying confidentiality issues with agencies sharing information?
   - Which fund gets priority when a taxpayer sends insufficient payment for all three tax programs?
   - Are there any issues with electronic fund transfer payments?

6. **Related Legislation.** Assembly Bill 1503 (Levine) contains legislative intent to conduct a study on the most economically feasible and effective method of collecting taxes and other revenues owed to the state. This bill was not heard in any committee in 2003.

Assembly Bill 1043 (Liu) Chapter 87

Managed Audit Program

Effective January 1, 2004. Adds and repeals Article 2.5 (commencing with Section 7076) of Chapter 8 of Part 1 of Division 2 of the Revenue and Taxation Code.

BILL SUMMARY

This bill grants the Board the authority to utilize a Managed Audit Program in which a taxpayer could perform an audit of their own books and records, with limited guidance from the Board, in order to determine any tax deficiencies. In return for performing the managed audit, the taxpayer will be liable for only one-half of the interest usually imposed under current law.

Sponsor: Board of Equalization

LAW PRIOR TO AMENDMENT

Under existing law, the Board is authorized to examine the books, papers, records, and equipment of any person selling tangible personal property and any person liable for the use tax. The authority is granted in order to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

Under various sections of the law, the payment of interest is required for failure to pay a sales or use tax liability within the time periods established by law. Generally, the only relief granted from the payment of interest is if a person's failure to pay the tax was due to an unreasonable error or delay by a Board employee, an error by the Department of Motor Vehicles in calculating the amount of use tax due, or due to a disaster.

Until January 1, 2003, the Board had the authority for a Managed Audit Program (MAP). Taxpayers who participated in the MAP were only assessed interest on audit deficiencies at one-half the normal interest rate. Since no further legislation was introduced to extend the sunset date of the MAP, as of January 1, 2003, the Board was no longer able to utilize the MAP.

AMENDMENT

This bill adds Article 2.5 (commencing with Section 7076) to the Revenue and Taxation Code to grant the Board the authority to utilize a MAP. At the discretion of the Board, and consistent with the efficient use of audit resources, taxpayers who meet the following criteria would be considered candidates for a managed audit:

- Persons whose business involves few or no statutory exemptions;
- Persons whose business involves a single or small number of clearly defined taxability issues;
- Persons who agree to participate in the MAP; and
- Persons who have the resources to comply with the managed audit instructions provided by the Board.

Those taxpayers the Board selects and who agree to participate in a managed audit would be required to examine books, records, and equipment to determine unreported tax for the audit period, and make all computations and records available to Board staff for review and verification. Specifically, a managed audit agreement includes:

- the audit period;
- the types of transactions covered;
- the specific procedures the person is to follow in determining liability;
- the records to be reviewed by the person;
- the manner in which the types of transactions are to be scheduled for review;
- the time period for completion of the managed audit;
- the time period for the payment of the liability and interest; and
- such other criteria as the Board may require for completion of the managed audit.

As an incentive to participate in a managed audit, upon completion of the work and verification by the Board, Section 7076.4 provides that any tax liability discovered is subject to only one-half the rate of interest that would otherwise be due.

This bill also requires the Board, on or before January 1, 2008, to report to the Legislature regarding the MAP as of June 30, 2007. The report is required to contain all of the following:

- The amount of taxes, penalties, and interest payments collected from taxpayers that participated in the MAP.
- The amount of interest that was forgiven as a result of the MAP.
- The amount of taxes, penalties, and interest payments that was collected as a result of redirecting the Board's audit resources away from taxpayer's participating in the MAP toward audits of other taxpayers with outstanding sales and use tax liabilities.

- Board recommendations for improving the success of the managed audit program.

This bill also contains a sunset provision that repeals the Board's authority to utilize a MAP as of January 1, 2009.

The revised MAP differs from the previous MAP as follows:

- Does not exclude taxpayers on a prepayment reporting basis from participating in the MAP; and
- Does not include the provision that specifies that Section 6596 (the statute that provides relief of tax, interest, and penalty in cases where the taxpayer relied on erroneous advice from the Board) shall not apply to any managed audit conducted.

COMMENTS

1. **Purpose.** The purpose of this bill is to reinstate the MAP that sunset as of January 1, 2003.
2. **Summary of April 1 amendments.** The amendments added the January 1, 2009 sunset date and also added provisions requiring the Board to report to the Legislature on or before January 1, 2008 regarding various aspects of the MAP.
3. **Advantages of the MAP.** The advantages of the MAP for the Board and for taxpayers can include:
   - Resolution of questions about taxability during the audit process, thus reducing the number of audits requiring resolution through the administrative appeals process.
   - More efficient allocation of audit resources to audits and other revenue-generating activities.
   - Reduction in litigation of protested audits.
   - Decreased disruption of a taxpayer's regular business activities since an auditor is likely to spend fewer hours at the taxpayer's place of business.
   - Promotion of an ongoing cooperative relationship between the taxpayer and the Board.
   - Increased understanding on the part of the taxpayer about the application of sales and use tax to his or her business.
4. **Interest reduction for taxpayers.** As an added incentive to participate in the program, interest on a tax liability disclosed as a result of an approved MAP audit was computed at one-half the normal statutory interest rate for the total unreported tax liability. This is the case even if the entire audit is not performed under a MAP audit and even if the portion performed by the auditor results in a tax liability. In addition, MAP audits that resulted in a credit or refund computed interest using the standard running balance method. That is, if the audit has both

debit and credit periods, the one-half interest rate would apply for debit periods and the full statutory credit interest rate applied for credit periods.

5. **Success of the MAP.** Although participation in the previous MAP had been limited, completed MAP audits have met the goals of the program. Information gathered by the Board indicates that limited participation has resulted primarily from the restrictions contained in prior law with respect to taxpayer eligibility to participate in the program, as well as taxpayer reticence to participate in the program. Deleting the provision which prohibits the Board from granting relief of liability in cases where taxpayers who have participated in the MAP rely on erroneous advice from the Board and fail to pay amounts due would provide consistency with the relief provisions extended to those taxpayers who have been audited by the Board's under its normal audit selection process. Additionally, deleting the provision that prevents prepayment accounts from participating in the MAP could open up the program to numerous taxpayers who may be willing to participate but were barred from doing so under the previous provisions.

<u>Assembly Bill 1741 (Assembly Revenue and Taxation Committee) Chapter 697</u>

Use Tax Voluntary Reporting

Effective January 1, 2004. Among its provisions, adds and repeals Section 6487.06 of the Revenue and Taxation Code.

BILL SUMMARY

This bill, among other things, does the following:

- Until January 1, 2006, limits the period in which the Board may assess unpaid use taxes for qualified California purchasers that voluntarily self-report their use tax obligations to 3 years.
- Requires the Board to prepare a report to the Legislature on the benefits of this provision, as specified.

Sponsor: Board of Equalization

LAW PRIOR TO AMENDMENT

Under existing law, Chapter 3 (commencing with Section 6201) of Part 1 of Division 2 of the Revenue and Taxation Code, a use tax is imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer. The use tax is imposed on the purchaser, and unless that purchaser pays the use tax to a retailer registered to collect the California use tax, the purchaser is liable for the tax, unless the use of that property is specifically exempted or excluded from tax. The use tax is the same rate as the sales tax and is required to be remitted to the Board on or before the last day of the month following the quarterly period in which the purchase was made.

Under the law, in cases where a purchaser fails to file a return and report their use tax obligations, the Board may assess past due tax obligations for a period as far back as eight years.

AMENDMENT

This bill adds Section 6487.06 to the Sales and Use Tax Law to limit, until January 1, 2006, the statute of limitations for the collection of unreported use tax for qualified purchasers to three years. The bill also provides relief of any penalties imposed upon qualified purchasers if the Board determines that the failure to timely report or remit the tax was due to reasonable cause.

The bill defines “qualifying purchaser” to mean a person that voluntarily filed an Individual Use Tax Return for tangible personal property that is purchased from a retailer outside this state for use in this state and that meets all of the following conditions:

- Registered with the Board.
- Filed an Individual Use Tax Return with the Board.
- The purchaser is not engaged in business in this state as a retailer, as defined in Section 6015.
- The purchaser has not been contacted by the Board regarding failure to report the use tax.
- The Board has made a determination that the purchaser's failure to file an Individual Use Tax Return or to otherwise report, or pay the use tax was due to reasonable cause.

The bill requires the Board to submit a report to the Legislature before January 1, 2005 that includes the following:

- The number of qualifying purchasers who received the benefits afforded by this bill and the amount of use tax revenue received.
- Recommendations for modifying, eliminating, or continuing the operation of, any or all of the provisions of these provisions.

COMMENTS

1. **Purpose.** The purpose of this bill is to encourage voluntary compliance with the use tax laws by reducing the existing period within which the Board may issue a notice of determination against taxpayers from eight years to three. The bill is intended to encourage individuals as well as businesses who currently do not hold seller's permits (e.g., food processors or service industry businesses) to report their use tax with the incentive of a three-year statute of limitations. The statute of limitations for issuing determinations for vehicle, vessel and aircraft purchases will remain at the current eight years.
2. **Bill is patterned after similar statute for out-of-state retailers.** The shortened statute of limitations proposed in this measure is patterned after Section 6487.05 which was added to the Sales and Use Tax Law in 1994, effective January 1, 1995. Section 6487.05 also shortens the statute of limitations for unregistered out-of-state retailers who have nexus in California that voluntarily register with the Board. As long as the out-of-state retailer had not been previously registered with the Board or contacted by the Board regarding his or her use tax obligations, the statute of limitations for past tax obligations is also three years.

3. **Bill is expected to increase use tax revenues.** The largest area of noncompliance under the Sales and Use Tax Law is the use tax. This bill is expected to increase use tax collections, since those purchasers that have been discouraged to remit use tax because of the 8-year statute of limitations, would now be encouraged to remit.

Assembly Bill 1766 (Assembly Budget Committee) Chapter 162

Bradley-Burns Local Sales and Use Taxes

Effective August 2, 2003, but operative July 1, 2004. Adds Section 97.68 to the Revenue and Taxation Code.

BILL SUMMARY

This is a budget trailer bill implementing various provisions that are part of the 2003-04 budget package. Among other things, this measure does the following: (1) reduces the amount of property tax revenue allocated to a county's Educational Revenue Augmentation Fund by an amount attributable to the 0.50 percent reduction in the local sales and use tax rate, and instead, require this amount to be deposited into the Sales and Use Tax Compensation Fund that will be established by this bill in each county; (2) requires the county auditor to allocate moneys from the Sales and Use Tax Compensation Fund to cities and counties to reimburse them for local sales and use tax revenue losses attributable to the 0.50 percent reduction in the local sales and use tax rate; and (3) requires the Board, on or before August 15th of each fiscal year, to report to the Director of Finance the taxable sales in a county for the prior fiscal year.

With the exception of the requirement for the Board to report local taxable sales data to the Director of Finance by a certain date, all other provisions in this measure are outside the scope of the Board.

Sponsor: Assembly Budget Committee

LAW PRIOR TO AMENDMENT

Under current law, the statewide sales and use tax rate is 7.25 percent. Of the 7.25 percent base rate, 6 percent is the state sales and use tax portion and 1.25 percent is the local sales and use tax portion. The components of the state sales and use tax rate of 6 percent are as follows:

- 5 percent state tax allocated to the state's General Fund (Section 6051, 6051.3, 6201 and 6201.3).
- 1/2 percent state tax allocated to the Local Revenue Fund which is dedicated to local governments for program realignment (Section 6051.2 and 6201.2).
- 1/2 percent state tax allocated to the Local Public Safety Fund which is dedicated to local governments to fund public safety services (Section 35 of Article XIII of the California Constitution).

Under the Bradley-Burns Uniform Local Sales and Use Tax Law (commencing with Section 7200 of the Revenue and Taxation Code), counties and cities are authorized to impose a local sales and use tax at a fixed rate of 1.25 percent. Counties are authorized to impose a local sales and use tax rate of up to 1.25 percent. Cities are authorized to impose a local sales and use tax rate of up to 1 percent that is credited against the county rate so that the combined local sales and use tax rate does not exceed 1.25 percent. Of the 1.25 percent, cities and counties use the 1 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.

COMMENTS

1. **Purpose.** This bill is intended to further implement the provisions of AB 7x, which enacts the California Fiscal Recovery Financing Act to: (1) increase the state portion of the sales and use tax rate by 0.5 percent, from 6 percent to 6.5 percent; (2) decrease the local sales and use tax rate imposed by a city from 1 percent to 0.5 percent; and (3) decrease the local sales and use tax rate imposed by a county from 1.25 percent to 0.75 percent. The revenues are dedicated to the repayment of the deficit funding bond. The provisions of AB 7x become operative on July 1, 2004.

2. **The Board is required to report to the Director of Finance on August 15th of each fiscal year the prior fiscal year taxable sales of a county.** This bill reduces the amount of property tax revenues allocated to a county's Educational Revenue Augmentation Fund by the "countywide adjustment amount." The "countywide adjustment amount" is defined as the combined total revenue loss, as a result of the 0.5 percent reduction in the local sales and use tax rate, of the county and each city in the county that is annually estimated by the Director of Finance. The amount estimated by the Director of Finance will be based on the taxable sales in a county in the prior fiscal year as determined by the Board. The Board is required to provide this information to the Director of Finance on or before August 15th of each fiscal year.

   This bill also provides that the Director of Finance, on or before September 1st of each fiscal year, will provide each county auditor with the portion of the "countywide adjustment amount" that is attributable to the county and to each city within the county. This bill also contains a clean-up provision that allows the Director of Finance, after the end of each fiscal year, to adjust the countywide adjustment amount (which is based on estimated figures) for the prior fiscal year, once the actual taxable sales figure is known.

   Notwithstanding the clean-up provision, the requirement for the Board to provide county taxable sales data for the prior fiscal year by August 15th is a problem. The problem is that the Board does not have county taxable sales data for the prior fiscal year by August 15th. The Board does have a part of the prior fiscal year data and has an entire fiscal year data for the fiscal year that precedes the prior fiscal year (e.g., by August 15, 2004, the Board has data for the fiscal year 2002-03).

Therefore, Board staff is currently working with the Department of Finance to amend the statute so that it reflects exactly what information the Board can provide by August 15th. Department of Finance anticipates amending the statute either this year or no later than February 2004.

It should be noted that the estimates made by the Department of Finance and the clean-up provisions in this bill are based on taxable sales, while the total local sales and use tax revenue of the cities and counties is based on all transactions subject to Bradley-Burns local sales and use tax. These transactions are compiled from information reported on taxpayers' sales and use tax returns, in addition to information compiled from audits, claims for refund, reallocation adjustments, late payments, and adjustments made by the Board's Local Revenue and Allocation Section. Therefore, in order to ensure that the cities and counties are properly reimbursed for the local sales and use tax revenue losses attributable to the 0.50 percent local sales and use tax rate reduction, all of the local tax revenues need to be accounted for, not just taxable sales. Board staff is working with the Department of Finance to amend the statutes to reflect exactly the information that needs to be provided to the county auditors.

3. **Switching to payments in January and May of each fiscal year instead of the current monthly payments could cause cash flow problems for cities and counties.** This bill requires the county auditor to allocate property tax revenues from the Sales and Use Tax Compensation Fund (SUTCF) to cities and counties in two equal payments in January and May of each fiscal year. The Board currently transmits local sales and use tax revenues to cities and counties on a monthly basis. Therefore, the local sales and use tax revenues that cities and counties had received on a monthly basis, will now be transmitted twice a year in the months of January and May. This could result in a cash flow problem for cities and counties.

Senate Bill 157 (Bowen) Chapter 702

Streamlined Sales Tax Project

Effective January 1, 2004. Adds Chapter 1.5 (commencing with Section 6025) to Part 1 of Division 2 of the Revenue and Taxation Code.

BILL SUMMARY

This bill enacts the “Streamlined Sales Tax Project” to, among other things, create in state government a Board of Governance, as specified, to represent California in meetings related to the Streamlined Sales and Use Tax Agreement.

Sponsor: Senator Debra Bowen

LAW PRIOR TO AMENDMENT

Under existing law, California imposes use tax on the use of property purchased from a retailer for use in California, unless the use is specifically exempt from tax by statute. The use tax is imposed on the purchaser. However, if the retailer is engaged in business in California, then the retailer is required to collect the applicable use tax from the purchaser and remit it to the state. The tax that a retailer engaged in business in this state is required to collect from its purchasers constitutes a debt owed by the retailer to the state. The purchaser’s liability for the use tax, however, is not extinguished until the tax has been paid to the state or has been paid to a retailer engaged in business in this state who gives the purchaser a receipt showing that the tax has been paid.

Retailers that have no physical presence (or "nexus") in California cannot be required to register with the Board or collect the California sales or use tax. Thus, "remote sales" (sales through mail order, telephone, or the Internet) to Californians from an out-of-state retailers with no nexus in the state are not subject to sales or use tax collection by the retailer.

Under the law, states are prevented from requiring out-of-state sellers that do not have a physical presence in the state to collect the sales or use tax, due to a series of U.S. Supreme Court decisions regarding remote sales. Through its rulings on these cases, the Court has determined that allowing states to require use tax collection by out-of-state sellers would violate the Commerce Clause of the U.S. Constitution, which reserves for Congress the ability to regulate interstate commerce. However, Congress can adopt legislation allowing states to collect the tax on remote sales. Thus far, Congress has chosen not to do so.

AMENDMENT

This bill, among other things, enacts the "Streamlined Sales Tax Project" to create in state government a Board of Governance to represent California in meetings related to the Streamlined Sales and Use Tax Agreement. The Board of Governance will consist of seven members: two members from both the Senate and the Assembly, as specified, one member of both the Franchise Tax Board and this Board, and a member of the Department of Finance.

The bill requires that the Board of Governance report quarterly to the Assembly and Senate Revenue and Taxation Committees on its progress in negotiating the agreement and recommend to the committees the state statutes required to be added, amended, or otherwise modified for purposes of substantially complying with the agreement.

BACKGROUND

In an effort to simplify various states' sales and use tax systems, 40 states (and the District of Columbia) that levy a sales and use tax have participated in the Streamlined Sales Tax Project (SSTP).

The SSTP adopted the Streamlined Sales and Use Tax Agreement in November 2002, which creates a blueprint for a simplified tax collection system and attempts to remove the burden and cost of tax collection from sellers. The agreement addresses issues associated with tax collections, definitions of the tax base, uniformity of tax bases, electronic registration of sellers, simplification of tax rates, simplification of returns and remittances, uniform sourcing rules, as well as other issues. California has not actively participated in this effort. In order to participate, California must support the mission of the project and requires one of the following:

1) enactment of legislation authorizing California's participation
2) passage of a legislative resolution expressing the intent of California to participate
3) issuance of an executive order, letter of intent or similar written document by the Governor expressing the intent of California to participate
4) execution of a memorandum of understanding or similar written document by the Governor and legislative leaders expressing the intent of California to participate, or
5) issuance of a resolution, executive order, or similar written document by a body of elected officials charged under a State Constitution with the administration of the tax laws expressing the intent to participate.

A measure that would have required that California participate in the Project was considered in the 2000 Legislative Session. SB 1949 (Costa, et al.) would have directed the Governor or his representative to participate in the Streamlined Sales Tax Project. In his veto message, the Governor stated:

> "I am vetoing this bill because California officials already participate in forums where issues of sales and use tax simplification and uniformity are discussed. Examples of these forums include the Multistate Tax Commission, The National

Governor's Association, and the Advisory Commission on Electronic Commerce. Therefore, this bill does not appear necessary."

IN GENERAL

According to the August 2003 Executive Summary of the Streamlined Sales Tax Project, the Project is conducting its work through a steering committee with co-chairs, four work groups, and a number of sub-groups. Project participants are generally state revenue department administrators but there are also representatives of state legislatures and local governments. Businesses including national retailers, trade associations, manufacturers, direct marketers, telecommunications companies, leasing companies, technology companies, printers, accounting firms, and others have actively participated in the Project by offering expertise and input, reviewing proposals, suggesting language, and testifying at public hearings. Thirty-eight states and the District of Columbia are voting participants in the Project, and two states are non-voting participants in the work of the Project because they do not have the formal commitment of the state executive or legislative branches, but are still participating (such as California). A total of forty-five states and the District of Columbia impose a sales and use tax.

The Agreement includes the following key features:

- <u>Uniform definitions within tax laws.</u> Legislatures still choose what is taxable or exempt in their state. However, participating states will agree to use the common definitions for key items in the tax base and will not deviate from these definitions. As states move from their current definitions to the Project's definitions, a certain amount of impact on state revenues is inevitable. However, it is the intent of the Project to provide states with the ability to closely mirror their existing tax bases through common definitions.
- <u>Rate simplification.</u> States will be allowed one state rate and a second state rate in limited circumstances (food and drugs). Each local jurisdiction will be allowed one local rate. A state or local government may not choose to tax telecommunications services, for example, at one rate and all other items of tangible personal property or taxable services at another rate. State and local governments will accept responsibility for notice of rate and boundary changes at restricted times.
- <u>State level tax administration of all state and local sales and use taxes.</u> Businesses will no longer file tax returns with each local government within which it conducts business in a state. Each state will provide a central point of administration for all state and local sales and use taxes and the distribution of the local taxes to the local governments. A state and its local governments will use common tax bases.
- <u>Uniform sourcing rules.</u> The states will have uniform and simple rules for how they will source transactions to state and local governments. The uniform rules will be destination/delivery based and uniform for tangible personal property, digital property, and services.

- Simplified exemption administration for use- and entity-based exemptions. Sellers are relieved of the "good faith" requirements that exist in current law and will not be liable for uncollected tax. Purchasers will be responsible for paying the tax, interest and penalties for claiming incorrect exemptions. States will have a uniform exemption certificate in paper and electronic form.
- Uniform audit procedures. Sellers who participate in one of the certified Streamlined Sales Tax System technology models will either not be audited or will have limited scope audits, depending on the technology model used. The states may conduct joint audits of large multi-state businesses.
- State funding of the system. To reduce the financial burdens on sellers, states will assume responsibility for funding some of the technology models. The states are also participating in a joint business – government study of the costs of collection on sellers. The Project proposes that states change their sales and use tax laws to conform with the simplifications as proposed by the Project. Thus, the simplifications would apply to all sellers. Sellers who do not have a physical presence or "nexus" are not required to collect sales and use taxes unless Congress chooses to require collection from all sellers for all types of commerce. Sellers without a physical presence can volunteer to collect under the proposed simplifications. Registration by sellers to voluntarily collect sales and use taxes will not infer that the business must pay business activity taxes, such as the corporate franchise or income tax.

The Streamlined Sales Tax System will provide sellers the opportunity to use one of three technology models. A seller may use Model 1 where a Certified Service Provider, compensated by the states, will perform all of the seller's sales tax functions. A seller may use Model 2, a Certified Automated System, to perform only the tax calculation function. A larger seller with nationwide sales that has developed its own proprietary sales tax software may use Model 3 and have its own system certified by the states collectively. However, some sellers may choose to continue to use their current systems and still enjoy the benefits of the Project's simplifications.

The Streamlined Sales Tax Project envisions two components to the legislation necessary to accomplish the Project's goals. First, states would adopt enabling legislation referred to as the Uniform Sales and Use Tax Administration Act ("Act"). The Act allows the state to enter into an agreement with one or more states to simplify and modernize sales and use tax administration in order to reduce the burden of tax compliance for all sellers and all types of commerce. The Act does not require any amendments to a state's sales and use tax law.

Secondly, states would amend or modify their sales and use tax laws to achieve the simplifications and uniformity required by the participating states working together. The Project refers to this legislation as the Streamlined Sales and Use Tax Agreement ("Agreement"). Some states will require only minor changes to current law to implement the requirements of the Agreement. Other states with more complicated sales tax laws may require significant changes to current law to be in accord with the Agreement.

A certificate of compliance will document each state's compliance with the provisions of the Agreement and cite applicable statutes, rules or regulations, or other authorities supporting such compliance. Public notice and comment will be provided before a state becomes part of the interstate Agreement. A state is in compliance with the Agreement if the effect of the state's laws, rules or regulations, and policies is substantially compliant with each of the requirements of the Agreement. If a state is found to be out of compliance with the Agreement, it will not be accepted into the interstate Agreement or will be sanctioned or expelled by the other participating states. In a voluntary system, sellers who are voluntarily collecting sales taxes for participating states may decide to no longer collect for the expelled state. Also, that state may not have a vote on changes in the Agreement.

A governing board will be comprised of representatives of each member state of the Agreement. Each member state is entitled to one vote on the governing board. The governing board is responsible for interpretations of the Agreement, amendments to the Agreement, and issue resolution. A State and Local Government Advisory Council and a Business and Taxpayer Advisory Council from the private sector will advise the governing board.

The Agreement specifies that it will become effective when at least ten states with twenty percent of the total population of all states imposing a state sales tax have enacted the conforming legislation and are found to be in compliance with the requirements of the Agreement. Currently, 17 states with just over 20 percent of the total population, had enacted such conforming legislation. Therefore, the Agreement is now effective.

The project website is www.streamlinedsalestax.org.

COMMENTS

1. **Purpose.** This bill is intended to enable California to have a voice in the development of the Streamlined Sales and Use Tax Agreement.

2. **What impact does enactment of this measure have on California law?** Enactment of this measure does not affect California's Sales and Use Tax Law. Instead, it simply authorizes participation in the Project. California will then be represented as one vote with the other participating states in further development of the Agreement. To the extent that many components of the agreement have already been adopted by the existing participating states, it is unclear what input California would have now, if any, to those components. However, since the Project is still in the midst of developing additional uniform definitions and provisions that could materially impact California's Sales and Use Tax administration, California's participation in the project will give the State a voice in the development process. Participation in the project will not change any law or tax reporting/collection responsibilities of remote sellers. What this bill does is

simply enable California to actively participate in the Project and future development of the Streamlined Sales and Use Tax Agreement. Further legislation would be required to amend California's Sales and Use Tax Law to conform to the provisions of the Agreement.

3. **What would the Agreement, itself, do for remote sellers?** In general, participating states in the SSTP anticipate that the interstate agreement will lead to voluntary participation by businesses and the subsequent petitioning of Congress to allow states to require out-of-state collection of their sales or use taxes. It is important to note, however, that the simplification effort would not in itself result in states being able to require that out-of-state sellers without nexus begin collecting the sales or use tax. Rather, the interstate agreement represents an effort on behalf of the participating states to demonstrate to Congress that the simplified sales tax system does not impose unfair costs on out-of-state businesses and thus would not interfere with interstate commerce. Federal legislation would still be needed that would allow states to require out-of-state sellers without a physical presence in the taxing state to collect the use tax.

4. **The Members of the Board of Equalization voted to have California be an "observer state."** A discussion concerning the level of participation that the Board of Equalization should have in the Project was considered by the Board at its March 26, 2003 meeting. The Board voted to participate as an "observer state." As an observer state, the Board now participates in the Project meetings and provides information to interested parties with reports and analyses to better understand the impact of the Project on California. However, as an observer state, California does not have a vote in development of provisions of the Agreement. This bill authorizes California to become a "participating state" which includes the same privileges as an "observer state", but, in addition, it enables California to actually cast a vote on the development of the provisions of the Agreement.

5. Will a 7-person Board of Governance be problematic? The bill specifies that the Board of Governance that would be representing California as one vote in decisions concerning the SSTP shall consist of 7 Members. However, the SSTA provides that each member state may appoint "up to four" representatives. This may be problematic.

<u>Senate Bill 314 (Murray) Chapter 785</u>

Transactions and Use Tax - County of Los Angeles

Effective January 1, 2004. Adds Section 130350.5 to the Public Utilities Code.

BILL SUMMARY

This bill authorizes the Los Angeles County Metropolitan Transportation Authority, with the approval of the voters in Los Angeles County, as required by law, to levy a transactions and use tax at a rate of 0.50 percent for 6 1/2 years or less for the funding of specified transportation-related capital projects and programs.

Sponsor: Los Angeles County Metropolitan Transportation Authority

LAW PRIOR TO AMENDMENT

The **Transactions and Use Tax Law** (Parts 1.6 and 1.7, Division 2, Revenue and Taxation Code) authorizes counties to impose a transactions and use tax at a rate of 0.25 percent, or multiple thereof, if the ordinance imposing that tax is approved by the voters. Under all sections of the Transactions and Use Tax Law, the maximum allowable combined rate of transactions and use taxes levied in any county may not exceed 1.50 percent, with the exception of the City and County of San Francisco and the County of San Mateo, whose combined rates may not exceed 1.75 and 2 percent, respectively.

Section 7285 of the Transactions and Use Tax Law additionally allows counties to levy a transactions and use tax at a rate of 0.25 percent, or multiple thereof, for general purposes with the approval of a majority of the voters. Section 7285.5 permits the board of supervisors of any county to levy a transactions and use tax at a rate of 0.25 percent, or multiple thereof, for specific purposes with the approval of two-thirds of the voters.

Counties are required to contract with the Board to perform all functions in the administration and operations of the ordinances imposing the transactions and use taxes.

Senate Bill 147 (Chapter 786, Statutes of 1987, Deddeh) added Division 19 (commencing with Section 180000) to the Public Utilities Code. This division is known as the Local Transportation Authority and Improvement Act (LTAIA). The LTAIA authorizes a county board of supervisors to create an authority within the county or designate a transportation planning agency pursuant to Section 29532 of the Government Code, and to impose a transactions and use tax with a majority approval of the voters. However, subsequent court decisions held that a transportation sales tax measure is a special tax that requires approval by a two-thirds vote. Additionally, Proposition 218 (passed by the voters on November 5, 1996) requires, among other things, that (1) any tax imposed for specific purposes must be approved by two-thirds of the voters; and (2) any tax imposed for a specific purpose is a "special tax," even if the funds are placed into a general fund.

The LTAIA also provides that a transactions and use tax shall remain in effect for not longer than 20 years, or any lesser period of time as specified in the tax ordinance. The revenues from these taxes may be allocated by the authority for the construction, maintenance, improvement, and operation of local streets, roads, and highways, and the construction, improvement, and operation of public transit systems. The authority shall contract with the Board of Equalization to perform all functions incidental to the administration and operation of the ordinance.

AMENDMENT

This bill adds Section 130350.5 to the Public Utilities Code to authorize the Los Angeles County Metropolitan Transportation Authority (MTA) to impose a transactions and use tax at a rate of 0.50 percent, with a majority voter approval of the entire membership of the authority and approval by the voters of the incorporated and unincorporated areas of Los Angeles County, as required by law. The tax would be imposed for a period of 6 1/2 years or less.

This bill requires that the tax revenues be used exclusively for the purposes of "Capital Projects" and "Capital Programs," as specified.

- "Capital Projects" include the following: Exposition Boulevard Light Rail Transit Project from downtown Los Angeles to Santa Monica; Crenshaw Metro Rapidway from Wilshire Boulevard to Los Angeles International Airport along Crenshaw Boulevard; San Fernando Valley North-South Rapidways; Metro Gold Line Light Rail Transit Extension (Pasadena to Claremont); Metro Center Connector; Metro Red Line Extension to Fairfax Avenue; State Highway Route 5 Carmenita Road Interchange Improvement; State Highway Route 5 Capacity Enhancement (State Highway Route 134 to State Highway Route 170, including access improvement for Empire Avenue); State Highway Route 5 Capacity Enhancement (State Highway Route 605 to the Orange County line, including improvements to the Valley View Interchange); State Highway Route 5/State Highway Route 14 Capacity Enhancement; and Capital Project Contingency Fund.
- "Capital Programs" include the following: Alameda Corridor East Grade Separations; MTA and Municipal Regional Clean Fuel Bus Capital (Facilities and Rolling Stock); Countywide Soundwall Construction (MTA Regional List and Monterey Park/State Highway Route 60); Metrolink Capital Improvements; Eastside Light Rail Access; local return for major street resurfacing, rehabilitation, and reconstruction; and Capital Program administration.

This bill requires, prior to submitting the ordinance to the voters, the MTA to adopt an expenditure plan for the tax revenues. The expenditure plan will describe the specified projects and programs, the estimated cost for each project and program, funds other than the tax revenues that the MTA anticipates will be expended on the projects and programs, and the schedule during which the MTA anticipates funds will be available for each project and program.

This bill requires the MTA to establish and administer the Capital Project Development Fund and requires that the revenues derived from this tax be deposited into this fund.

The tax will be levied pursuant to Chapter 2 (commencing with Section 7261) to Chapter 4 (commencing with Section 7275) of the Transactions and Use Tax Law (Part 1.6 of Division 2 of the Revenue and Taxation Code). This bill provides that the tax will not be subject to the combined rate limitation under Section 7251.1 (Chapter 1 of Part 1.6) of the Revenue and Taxation Code.

This bill also provides that the MTA may not: (1) incur bonded indebtedness for funding of the projects as specified in the provisions of this bill; and (2) use revenues derived from bonded indebtedness to fund the projects specified in this bill.

IN GENERAL

Currently, Los Angeles County has three transactions and use taxes being levied within its borders. The Los Angeles County Metropolitan Transportation Authority (created in February 1993 as a result of the merger between Southern California Rapid Transit District and Los Angeles County Transportation Commission) imposes two transactions and use taxes at a rate of 0.50 percent each (1/2 percent) for a total county-wide transactions and use tax rate of 1 percent. The combined state and local tax rate throughout Los Angeles County, with the exception of the City of Avalon, is 8.25 percent. The City of Avalon in Los Angeles County imposes a 0.50 percent (1/2 percent) transactions and use tax, for a total combined state and local tax rate within the City of Avalon of 8.75 percent. Because the City of Avalon imposes a 0.50 percent (1/2 percent) tax and the Los Angeles County Metropolitan Transportation Authority imposes a countywide 1 percent tax, Los Angeles County has reached the maximum allowable rate of 1.5 percent and, therefore, is prohibited from imposing any additional countywide transactions and use taxes.

Senate Bill 566 (Scott) of 2003 proposes to increase the combined maximum transactions and use tax rate in Los Angeles County from 1.5 percent to 2 percent.

COMMENTS

1. **Purpose.** To enable Los Angeles County Metropolitan Transportation Authority to fund specific transportation projects, both highway and transit oriented.
2. **Key amendments.** The **September 5 amendments** changed the amounts to be spent on the following Capital Projects: Exposition Boulevard Light Rail Transit Project from downtown Los Angeles to Santa Monica, Crenshaw Metro Rapidway from Wilshire Boulevard to Los Angeles International Airport along Crenshaw Boulevard, and Metro Gold Line Light Rail Transit Extension (Pasadena to Irwindale). The **September 2 amendments:** (1) increased the time period of the transactions and use tax from 5 years to 6 1/2 years or less; (2) established the Capital Project Development Fund and required that the

revenues derived from the tax be deposited into this fund; and (3) clarified that the revenues will be used to fund specified transportation-related capital projects and programs. The **June 2 amendments** addressed technical concerns raised in the previous Board staff analysis. Specifically, that analysis recommended that the language "except as inconsistent with this section" be deleted from the bill, and as an alternative, language could be added to exclude certain provisions of the Transactions and Use Tax Law that would not be applicable to this tax. The June 2 amendments added clarifying language to provide that the tax ordinance shall comply with Chapter 2 through Chapter 4 of Part 1.6, Division 2 of the Revenue and Taxation Code. Based on the June 2 amendments, the Board staff does not foresee any administrative problems with this bill.

The **March 27 amendments** amended sections in the Public Utilities Code, Revenue and Taxation Code, Street and Highways Code, and the Vehicle Code, related to transportation. The **April 30 amendments** authorized the Los Angeles County Metropolitan Transportation Authority to impose a transactions and use tax at a rate of 0.50 percent for 5 years or less, for the funding of specified transportation-related projects. The amendments also provided that the tax would be subject to approval of the voters in Los Angeles County, as required by law. The **May 13 amendments** prohibit the Los Angeles County Metropolitan Transportation Authority from either incurring bonded indebtedness for the funding of the projects specified in the bill or expending revenues derived from bonded indebtedness to fund the projects specified in the bill.

3. **This bill contains an exclusion from the rate limitation in Section 7251.1 of the Transactions and Use Tax Law.** As previously stated, Los Angeles County is currently prohibited from imposing an additional county-wide transactions and use tax (City of Avalon tax pushes Los Angeles County to the 1.5 percent cap). However, this bill contains a provision which excludes this tax from the 1.5 percent cap.

<u>Senate Bill 566 (Scott) Chapter 709</u>

Transactions and Use Tax

Maximum Allowable Rate

Authorization for Cities to Impose

Effective January 1, 2004. Amends Sections 7251.1, 7285, and 7285.5 of, adds Chapter 2.3 (commencing with Section 7285.9) to Part 1.7 of Division 2 of, and repeals Sections 7251.3 and 7251.4 of the Revenue and Taxation Code.

BILL SUMMARY

This bill: (1) increases the combined rate of all transactions and use taxes imposed in any county from 1.5 percent to 2 percent; (2) authorizes cities to impose a transactions and use tax for general purposes at a rate of 0.25 percent or a multiple thereof, with the approval of a majority of the voters; and (3) authorizes cities to impose a transactions and use tax for special purposes at a rate of 0.25 percent or a multiple thereof, with the approval of two-thirds of the voters.

Sponsor: Senator Jack Scott

LAW PRIOR TO AMENDMENT

The **Bradley-Burns Uniform Local Sales and Use Tax Law** (Part 1.5, Division 2 of the Revenue and Taxation Code) authorizes counties to impose a local sales and use tax. The tax rate is fixed at 1.25 percent of the sales price of tangible personal property sold at retail in the county, or purchased outside the county for use in the county. All counties and cities within California have adopted ordinances under the terms of the Bradley-Burns Law and levy the 1.25 percent local tax.

Under the Bradley-Burns Law, the 0.25 percent tax rate is earmarked for county transportation purposes, and 1 percent may be used for city and county general purposes. Cities are also authorized to impose a local sales and use tax rate of up to 1 percent, which is credited against the county rate so that the combined local tax rate under the Bradley-Burns Law does not exceed 1.25 percent.

Under the **Transactions and Use Tax Law** (Parts 1.6 and 1.7, Division 2 of the Revenue and Taxation Code), counties are authorized to impose a transactions and use tax at a rate of 0.25 percent, or multiple thereof, if the ordinance imposing that tax is approved by the voters.

Under the Transactions and Use Tax Law, the **current maximum allowable combined rate of transactions and use taxes levied in any county may not exceed 1.50 percent**, with the exception of the City and County of San Francisco and the County of San Mateo, whose combined rates may not exceed 1.75 and 2 percent, respectively.

Section 7285 of the Transactions and Use Tax Law allows counties to levy a transactions and use tax at a rate of 0.25 percent, or multiple thereof, for general purposes with the approval of a majority of the voters. Section 7285.5 permits the board of supervisors of any county to levy a transactions and use tax at a rate of 0.25 percent, or multiple thereof, for specific purposes with the approval of two-thirds of the voters.

As previously stated, Sections 7285 and 7285.5 authorize counties to levy transactions and use taxes under specified conditions. There is no such authority for <u>cities</u> to impose these taxes. Any city desiring to impose a transactions and use tax must seek special enabling legislation from the California legislature.

The following cities, through specific legislation, have received authorization to impose a transactions and use tax: Avalon, Calexico, Clearlake, Clovis, Davis, Fort Bragg, Fresno (and its sphere of influence), Lakeport, Madera, North Lake Tahoe (within boundaries established in legislation), Placerville, Point Arena, Redding, Salinas, Sebastopol , Town of Truckee, Ukiah, Visalia, West Sacramento, Willits, Woodland, and the Town of Yucca Valley. However, only the cities of Avalon, Calexico, Clearlake, Clovis, Placerville, Sebastopol, the Town of Truckee, West Sacramento, and Woodland are imposing a tax. The City of Fresno and its sphere of influence had imposed a tax for the period 7/1/93 through 3/21/96, however, this tax ceased to be operative, as it was declared unconstitutional [*Howard Jarvis Taxpayers' Association* v. *Fresno Metropolitan Projects Authority* (1995)].

The Board performs all functions in the administration and operations of the tax ordinances under the Transactions and Use Tax Law. All local jurisdictions imposing these taxes are required to contract with the Board for administration of such taxes.

AMENDMENTS

This bill amends Section 7251.1 of the Transactions and Use Tax Law to provide that the combined rate of transactions and use taxes imposed in any county may not exceed 2 percent.

This bill adds Chapter 2.3 (commencing with Section 7285.9) to Part 1.7 of Division 2 of the Transactions and Use Tax Law to provide the following:

- Authorize a city to levy, increase, or extend a transactions and use 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 governing body and a majority vote of the qualified voters of the city.
- Authorize a city to levy, increase, or extend a transactions and use tax for special 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 governing body and a two-thirds vote of the qualified voters of the city.

- Provide that any transactions and use taxes imposed under this part must conform to Part 1.6 of the Transactions and Use Tax Law (commencing with Section 7251).
- Provide that the authority of a city to impose a transactions and use tax under this part is in addition to any authority under Chapters 2.6 through 2.99 of the Transactions and Use Tax Law.
- Provide that any transactions and use taxes imposed under this part is subject to the combined rate limitation in Section 7251.1 of the Transactions and Use Tax Law.

This bill repeals Sections 7251.3 and 7251.4 of the Transactions and Use Tax Law that authorize the City and County of San Francisco (§7251.3) and the County of San Mateo (§ 7251.4) to impose a maximum combined transactions and use tax rate of 1.75 percent and 2 percent, respectively.

Finally, this bill makes conforming changes to Sections 7285 and 7285.5 of the Transactions and Use Tax Law.

BACKGROUND

Several bills were passed during the 2002 legislative year that authorized cities to impose transactions and use taxes.

AB 7 (Ch. 330, Stats. 2002) authorizes the City of Davis to impose a transactions and use tax rate at a rate of 1/4 or 1/2 percent, subject to two-thirds or majority voter approval, depending on how the revenues will be spent.

AB 902 (Ch. 331, Stats. 2002) authorizes the cities of Clearlake, Fort Bragg, Point Arena, Ukiah, and Willits, subject to two-thirds voter approval, to levy a transactions and use tax at a rate of 1/4 percent, or multiple thereof, not to exceed to 1 percent, for funding of the cities' road systems.

AB 2061(Ch. 338, Stats. 2002) authorizes the City of Salinas, subject to two-thirds voter approval, to levy a transactions and use tax rate of 1/4 percent, for expenditure on identifiable capital facilities, furnishings, and equipment.

AB 2758 (Ch. 346, Stats. 2002) authorizes the City of Visalia, subject to two-thirds voter approval, to levy a transactions and use tax at a rate of 1/4 percent, for the improvement of public safety, fire, and law enforcement services.

SB 1889, (Ch. 119, Stats. 2002) authorizes the City of Redding, subject to majority voter approval, to levy a transactions and use tax at a rate of 1/4 percent, for general governmental purposes.

Currently, there are 22 cities that, through special legislation, have gained authorization to impose transactions and use taxes. However, only 9 cities (Avalon, Calexico, Clearlake, Clovis, Placerville, Sebastopol, the Town of Truckee, West Sacramento, and Woodland) have received voter approval and are actually imposing a tax.

COMMENTS

1. **Purpose.** This bill has been introduced in an effort to allow counties and cities to raise additional revenues to support local programs and services.

2. **Key amendments.** The **September 9, 2003 amendments**: (1) adopted Board staff suggested recommendation to increase the maximum combined rate of all transactions and use taxes imposed in any county from 1.5 percent to 2 percent; and (2) added language to authorize cities to impose a transactions and use tax for general or special purposes. The **June 16, 2003 amendments** added intent language providing that the increase to the maximum combined rate limitation in Los Angeles County from 1.5 percent to 2 percent be used to fund public safety projects and trauma centers. The **May 6, 2003 amendments** addressed technical concerns raised in the previous Board staff analysis. These amendments: (1) deleted the reference "in a district, as defined in Section 7252" from Section 7251.1; (2) moved the provisions that increased the maximum combined rate in Los Angeles County from the newly created Section 7251.5 to the existing Section 7251; and (3) deleted provisions that provided an alternative to Sections 7285 and 7285.5, whereby a countywide transactions and use tax could be levied pursuant to a county initiative for general purposes or special purposes, as long as certain requirements were met.

3. **A maximum combined transactions and use tax rate of 2 percent for all counties would provide uniformity.** The previous version of this bill increased the combined transactions and use tax rate for Los Angeles County only. In a previous analysis, Board staff recommended that, since several counties are close to the 1.5 percent cap and cities are seeking legislation to impose additional transactions and use taxes which will limit the tax rate imposed by the county, why not increase the cap to 2 percent for all counties.

   Currently, there are 24 counties (Alameda, Contra Costa, Fresno, Imperial, Inyo, Los Angeles, Madera, Mariposa, Napa, Nevada, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, and Stanislaus) for which one or more transactions and use taxes are being imposed countywide. Also, there are 3 counties (El Dorado, Lake, and Yolo) for which no countywide transactions and use tax is being imposed, but where a city in the county is imposing a transactions and use tax. A transactions and use tax imposed by a city limits the transactions and use tax imposed by the county.

   As previously stated, there are 22 cities that have gained authorization to impose transactions and use taxes; but, only 9 have received voter approval and are actually imposing a tax.

   Therefore, since several counties have more than one transactions and use taxes and cities are attempting to gain authorization to impose transactions and use taxes, extending the cap to 2 percent for all counties will provide uniformity. This will eliminate each county seeking legislation to increase the rate limitation in their county.

4. **Cities will no longer need special legislation to impose transactions and use taxes.** This bill extends the authority that exists for counties to impose transactions and use taxes for general or special purposes to cities. Cities will no longer need to seek special enabling legislation from the California Legislature to impose transactions and use taxes. As previously stated, 22 cities have, through special legislation, gained authorization to impose transactions and use taxes. This year, three bills (SB 402, AB 160, and AB 1412) were introduced to authorize cities to impose transactions and use taxes (see comment 6). AB 1412 would have authorized a total of 50 cities to impose transactions and use taxes.

   This bill provides cities with the same authority as counties and eliminate all of this special "city" legislation.

5. **The Board's administrative costs, in some instances, might exceed the cap, and result in the General Fund subsidizing the cap.** The Board's total administrative costs are driven by the workload involved in processing returns and are relatively fixed. As originally enacted, Revenue and Taxation Code Section 7273 set specific rates by which the Board would be reimbursed for its costs. Beginning with the 1993-1994 Budget Year, the section was amended to require the Board to recover its full administrative costs. The section was subsequently amended again to require, beginning with the 1998-1999 Budget Year, the Board to cap administrative costs based on the lesser of the ratio during the first full year the tax is in effect, or a predetermined amount based on the tax rate and applied to the revenues generated in the taxing jurisdiction. The maximum administrative costs for a district imposing a transactions and use tax of 0.25 percent (1/4 percent) is capped at 3 percent of the revenue generated, while the maximum for a tax of 0.50 percent (1/2 percent) or greater is capped at 1.5 percent.

   The Board's 2002-03 estimated assessment of administrative costs to special taxing jurisdictions range from a low of $11,000 (City of Avalon Municipal Hospital and Clinic) to a high of $6.5 million (Los Angeles County Transportation Commission). There are several special taxing jurisdictions where the administrative costs exceed the cap. As previously stated, because the Board is limited in the amount it may charge special taxing jurisdictions, any difference that results from administration costs exceeding the amount the Board may charge would be paid by the General Fund.

   For 2002-03, it is estimated that the General Fund will absorb approximately $1.1 million as a result of the cap limitations on administrative costs. Of this amount, there are 14 special taxing jurisdictions (STJ's) for which administrative costs exceed the cap. Of the 14 STJ's, only four are city STJ's. And of these four cities, approximately $19,382 accounts for the $1.1 million General Fund subsidy. It should be noted that, even though the amount of $19,382 is small in relation to the total General Fund subsidy of $1.1 million, with more cities getting voter approval to impose transactions and use taxes, this amount absorbed by the General Fund could increase.

<u>Senate Bill 760 (Scott) Chapter 597</u>

Sale and Leaseback of Public Passenger Transportation Vehicles

Tax levy; effective September 29, 2003, but operative January 1, 2004. Amends and repeals Section 6368.8 of, and adds Section 6368.9 to, the Revenue and Taxation Code.

BILL SUMMARY

This bill extends the sunset date of January 1, 2004 until January 1, 2009 for the existing sales and use tax exemption for the sale and leaseback of public passenger transportation vehicles when sold or leased by a transit authority, special district, or governmental entity. This bill also provides, in the event that the current exemption is repealed, a sales and use tax exemption for the sale of a public passenger transportation vehicle to a qualified person at the end of a lease, provided the purchaser qualified for the exemption at the time the lease was entered into.

Sponsor: California Transit Association
Metropolitan Transportation Authority

LAW PRIOR TO AMENDMENT

Under the existing sales and use tax law, sales or use tax applies to the sale or use of all tangible personal property, unless specifically exempted. Generally, a sale includes any lease of tangible personal property for a consideration. However, leases of mobile transportation equipment are specifically excluded from the definition of a "sale." Mobile transportation equipment (MTE) includes equipment such as railroad cars, buses, trucks, tractors, aircraft and ships. The lessor of MTE is regarded as the consumer of the property and tax applies to the retail sale to the lessor, unless the lessor makes a timely election to report tax on the fair rental value.

Current law also provides for a sales and use tax exemption for the sale and leaseback of public passenger transportation vehicles. Section 6368.8 of the Sales and Use Tax Law provides an exemption from the sales and use tax for the sale in this state of, or the storage, use, or other consumption in this state of qualified equipment sold or leased by a qualified person and leased or subleased back to that qualified person. To qualify for the exemption, the qualified equipment must be sold or leased by a qualified person, the qualified person must have paid sales tax reimbursement or use tax with respect to the acquisition of the qualified equipment, and the qualified equipment must be sold or leased back to the qualified person. This section also provides that the exemption applies to subsequent purchases of qualified equipment by a qualified person at the end of the term of a lease or sublease of qualified equipment. Section 6368.8 contains a sunset date of January 1, 2004.

AMENDMENT

This bill extends the January 1, 2004 sunset provision until January 1, 2009 in Section 6368.8 of the Revenue and Taxation Code to provide a sales and use tax exemption for the sale and leaseback of public passenger transportation vehicles when sold or leased by a transit authority, special district, or governmental entity.

This bill also requires the Legislative Analyst, in consultation with the Board of Equalization and the Franchise Tax Board, to conduct a study on the impact of the exemption in this bill and to report the findings to the Legislature by January 1, 2008. Specifically, this study is required to include the following:

- The number of persons utilizing the exemption.
- The fiscal impact of the exemption, including the total exemption amount and any depreciation claimed for qualified equipment.
- The impact, if any, of federal law on the utilization of the exemption.
- The impact of the exemption on California's public transit sector.
- A recommendation as to whether the exemption should be continued and any recommendations on modifications to the existing exemption provisions.
- The impact, if any, on the California personal income and corporation taxes, based on information provided by persons utilizing the exemption.

This bill also requires a qualified person, within five business days after the execution of a transaction exempted under the provisions of this bill, to provide the following information to the Franchise Tax Board, the Legislative Analyst, the Department of Transportation, the Senate Revenue and Taxation Committee, and the Assembly Revenue and Taxation Committee:

- Copies of the consent letter obtained by the qualified person from the Federal Transit Administration (FTA) within the United States Department of Transportation, authorizing the transaction under FTA circular 7020.1.
- Copies of the appropriate Internal Revenue Service Form 8264.
- A report describing how the qualified person is using the benefits derived from the sale and leaseback transaction.

This bill also requires the Franchise Tax Board to review the information provided above by qualified persons every other year, and to assess the revenue loss to the state, if there is any. The Franchise Tax Board is required to report this information to the Legislative Analyst, the Senate Revenue and Taxation Committee and the Assembly Revenue and Taxation Committee.

This bill also adds Section 6368.9 to provide that if Section 6368.8 is repealed, a sales and use tax exemption will apply to the subsequent purchases of qualified equipment by a qualified person at the end of the term of a lease or sublease of qualified equipment, provided the following conditions were met:

- As of the date the lease or sublease was entered into, the qualified person and qualified equipment were otherwise eligible for the exemption provided by Section 6368.8.
- The lease or sublease was entered into before the repeal date of Section 6368.8.

COMMENTS

1. **Purpose.** The purpose of this bill is to extend the current sales and use tax exemption that allows public transit districts to enter into financially beneficial sale-leaseback agreements without penalty of paying the sales and use tax twice.
2. **Key amendments. June 30** amendments provide that the provisions in this bill would become operative on January 1, 2004. **June 26** amendments provide that the provisions in this bill would become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date, but not later than January 1, 2004. **April 30** amendments to this bill extend the existing sunset date of January 1, 2004 until January 1, 2009 rather than eliminate the sunset date. Additional amendments require qualified persons to provide specified information related to the transactions exempted by this bill, the Franchise Tax Board to assess revenue losses related to the provisions in this bill every other year, and would require the Legislative Analyst Office, in consultation with the Board of Equalization and the Franchise Tax Board, to conduct a study on the impact of the exemption in this bill and to report the findings to the Legislature by January 1, 2008. **April 8** amendments added Section 6368.9 which provide that if Section 6368.8 is repealed, a sales and use tax exemption would apply to the subsequent purchases of qualified equipment by a qualified person at the end of the term of a lease or sublease of qualified equipment. Current law (Section 6368.8) would provide an exemption for the subsequent purchase of qualified equipment by a qualified person at the end of the term of a lease, but that provision is scheduled to sunset as of January 1, 2004. This amendment will serve to protect the qualified person that has already entered into a long term sale/leaseback transaction from an unexpected sales and use tax burden at the end of the lease term in the event that attempts to extend the sunset date in current law are unsuccessful.
3. **Report to the Legislature required.** The provisions of this bill require the Legislative Analyst, in consultation with the Board of Equalization and the Franchise Tax Board, to report to the Legislature by January 1, 2008 on the impact of the exemption in this bill. Based on the items required to be addressed in the report to the Legislature, it appears the Board will be responsible for determining the number of persons utilizing the exemption afforded in this bill.

4. **Suggested technical amendments.** Section 6368.8 currently defines the terms "qualified equipment" and "qualified person." This bill adds Section 6368.9, which makes reference to these definitions in Section 6368.8. However, Section 6368.9 only becomes operative if Section 6368.8 were repealed. If Section 6368.8 were to be repealed, it would no longer appear in the law guide, so the reference in Section 6368.9 to the definitions in Section 6368.8 would be of little use. It is recommended that Section 6368.9 be amended to include the definitions within that section rather than making a reference to Section 6368.8.

   On page 4, line 29, this bill provides, "The board shall report its assessment to the Legislative Analyst…" As written, "board" would refer to the Board of Equalization. However, based on the sentence beginning on line 24, it appears the reporting should be done by the Franchise Tax Board rather than the Board of Equalization. It is recommended that "board" on line 29 be amended to read "Franchise Tax Board."

5. **The provisions of this bill will not be problematic to administer.** Since the Board is already administering the current exemption, extending the sunset date and allowing the exemption to continue will not be problematic for the Board.

Senate Bill 808 (Karnette) Chapter 712

Bunker Fuel Exemption

Tax levy; effective October 9, 2003, but operative April 1, 2004. Amends and repeals Section 6385 of the Revenue and Taxation Code.

BILL SUMMARY

This bill reinstates the sales and use tax exemption for fuel and petroleum products (bunker fuel) sold to water common carriers.

Sponsor: Pacific Merchant Shipping Association
International Long Shore Workers Union

LAW PRIOR TO AMENDMENT

Under current law, sales of fuel and petroleum products to water common carriers are subject to tax.

AMENDMENT

This bill repeals and replaces Section 6385 of the Sales and Use Tax Law to include a sales and use tax exemption for sales of fuel and petroleum products (bunker fuel) sold to water common carriers for immediate shipment outside this state for consumption in conduct of its business as a common carrier after the first out-of-state destination. The exemption requires a water common carrier to only pay tax on the fuel needed to get from California to its first out-of-state destination. This bill also requires the Legislative Analyst Office to submit a report on December 31, 2005 to the Governor and the Legislature that evaluates the economic impact of the sales tax exemption for bunker fuel. The exemption sunsets as of January 1, 2014, and as of that date, reinstates the existing Section 6385 without the sales and use tax exemption for bunker fuel.

COMMENTS

1. **Purpose.** The purpose of this bill is to reinstate the sales and use tax exemption for bunker fuel that was repealed as of January 1, 2003.
2. **Summary of amendments.** Previous versions of this bill contained provisions unrelated to any of the tax and fee programs administered by the Board. **September 8** amendments deleted all the previous provisions of the bill and inserted the provisions to reinstate the sales and use tax exemption for sales of bunker fuel. **September 11** amendments added the provision requiring the Legislative Analyst's Office to submit a report to the Governor and the Legislature at the end of 2005.

3. **Sales tax law for air and rail common carriers.** Section 6357.5 of the Sales and Use Tax Law contains an exemption for fuel sold to an air common carrier for immediate consumption or shipment in the conduct of its business on an international flight. Fuel purchased for domestic flights is not included in the exemption.

   Fuel sold to rail common carriers remains subject to the sales tax.

4. **Report to the Legislature.** This bill requires the Legislative Analyst's Office to submit a report on December 31, 2005 to the Governor and the Legislature that evaluates the economic impact of the sales tax exemption for bunker fuel. Although the proposed exemption would not expire until the January 1, 2014, the Legislature is requesting the report at the end of 2005 so they may evaluate the economic impact of the exemption, and pursue legislation to repeal the exemption prior to 2014 if necessary.

5. **The Board does not foresee any administrative problems with this measure.** Reinstating the sales and use tax exemption for sales of fuel and petroleum products to water common carriers as proposed by this measure could be easily administered by the Board.

Senate Bill 1009 (Alpert) Chapter 718

Use Tax Reporting

Effective January 1, 2004. Adds Section 10295.1 to the Public Contract Code, and amends Sections 6487 and 7101 of, and adds Sections 6452.1, 6487.3, and 18510 to, the Revenue and Taxation Code.

BILL SUMMARY

This bill does the following:

- For purchases made on or after January 1, 2003, and through December 31, 2009, authorizes a person to report qualified use tax on their California income tax return.
- Prohibits the State from purchasing goods from vendors that are not registered with the Board, except as specified.

Sponsor: Senator Deirdre Alpert

Use Tax Reporting

Revenue and Taxation Code Sections 6452.1, 6487, 6487.3, and 7101

LAW PRIOR TO AMENDMENT

Under existing law, Chapter 3 (commencing with Section 6201) of Part 1 of Division 2 of the Revenue and Taxation Code, a use tax is imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer. The use tax is imposed on the purchaser, and unless that purchaser pays the use tax to a retailer registered to collect the California use tax, the purchaser is liable for the tax, unless the use of that property is specifically exempted or excluded from tax. The use tax is the same rate as the sales tax and is required to be remitted to the Board of Equalization (Board) on or before the last day of the month following the quarterly period in which the purchase was made.

Under the law, in cases where a purchaser fails to file a return and report their use tax obligations, the Board may assess past due tax obligations for a period as far back as eight years.

The Board is the state agency responsible for administering the provisions of the use tax. The Franchise Tax Board (FTB) is responsible for administering the personal income tax and the corporate franchise tax. For many years, the FTB has included in the personal income tax booklet instructions for paying California use tax. In an effort to make reporting use tax more convenient for the public, and to further educate California residents of their possible use tax reporting requirements, the Board made arrangements with the FTB to insert a California Individual Use Tax Return into the center of the 2002 personal income tax booklets that were mailed to taxpayers and made available in public areas.

AMENDMENT

This bill amends Section 6487 and 7101 of, and adds Sections 6452.1 and 6487.3 to, the Sales and Use Tax Law to provide that every person that purchases tangible personal property which is subject to the qualified use tax may elect to report qualified use tax on an acceptable tax return.

This bill defines the term "acceptable tax return" to mean a timely filed original return that is filed pursuant to Article 1 (commencing with Section 18501), Article 2 (commencing with Section 18601), Section 18633, Section 18633.5 of Chapter 2 of Part 10.2, or Article 3 (commencing with Section 23771) of Chapter 4 of Part 11. The referenced sections pertain to income tax returns filed by individuals, fiduciaries, banks, corporations, partnerships, limited liability companies, and exempt organizations.

This bill defines the term "qualified use tax" to mean the use tax imposed under the Sales and Use Tax Law, the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)), or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), that has not been paid to a retailer holding a seller's permit or certificate of registration-use tax. "Qualified use tax" does not include any of the following:

- Use tax that applies to a mobilehome or a commercial coach that is required to be registered annually pursuant to the Health and Safety Code.
- Use tax that applies to a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code (off-highway vehicles).
- Use tax that would apply to a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code.
- Use tax imposed on a vehicle, vessel or aircraft.
- Use tax imposed on a lessee of tangible personal property.

This bill provides that the provisions in this bill do not apply to any person who is otherwise required to hold a seller's permit or to register with the Board pursuant to existing sales and use tax laws.

This bill provides that in the case of a married individual filing a separate California personal income tax return, an election may be made to report either one-half of the qualified use tax or the entire qualified use tax on his or her separate California personal income tax return. If an individual elects to report one-half of the qualified use tax, that election will not be binding with respect to the remaining one-half of the qualified use tax owed by that individual and that individual's spouse.

This bill requires that if a person elects to report qualified use tax on an acceptable tax return, that person shall comply with all of the following:

- The qualified use tax shall be reported on and remitted with an acceptable tax return.
- The qualified use tax shall be reported on and remitted with an acceptable tax return that is required to be filed for the taxable year in which the liability for the qualified use tax was incurred.

This bill provides the following provisions for the purpose of administering the qualified use tax:

- Penalties and interest apply in accordance with existing sales and use tax laws.
- Any claims for refund for qualified use tax shall be made in accordance with existing sales and use tax laws regarding overpayments and refunds.
- Qualified use tax is considered to be timely reported and remitted provided the qualified use tax is timely reported on and remitted with an acceptable tax return.
- The Board is not precluded from making any determinations for understatements of qualified use tax in accordance with existing sales and use tax laws.
- The statute of limitations with respect to qualified use tax reported shall be three years after the last day for which an acceptable tax return is due or filed, whichever occurs later.
- In the event of gross understatement of qualified use tax, the statute of limitations shall be six years after the last day for which an acceptable tax return is due or filed, whichever occurs later.
- The FTB shall revise the returns in a form and manner approved by the Board for the purpose of allowing a person to report and pay qualified use tax. The Board is allowed 10 working days to approve the returns submitted by the FTB.
- The FTB is required to transfer the qualified use tax received pursuant to the provisions in this bill to the Board within 60 days from the date the qualified use tax is received by the FTB. The FTB is also required to transfer any information the Board deems necessary for the proper administration of the use tax.
- If a person elects to report qualified use tax on an acceptable tax return, any payments and credits shown on an acceptable tax return, together with any other credits associated with that person's account, are to be applied in the following order:
  1. State income tax.
  2. Penalties and interest, if any, on the state income tax.
  3. Qualified use tax.

The provisions in this bill apply to purchases of tangible personal property made on or after January 1, 2003, and on or before December 31, 2009.

COMMENTS

1. **Purpose.** The purpose of this bill is to increase use tax compliance.

2. **Key amendments. June 18** amendments modified the definition of qualified use tax, would require the FTB to transfer any information to the Board that the Board deems necessary for the proper administration of the provisions in this bill, would allow the Board 10 working days to approve the returns submitted by the FTB for the purpose of collecting qualified use tax, and provided that the provisions of this bill would apply to purchases made on or after January 1, 2003. **June 3** amendments modified the definition of qualified use tax, removed the provision requiring the Board to reimburse the FTB for costs incurred to implement and administer the provisions of this bill, and made other technical amendments suggested by the Board. **May 12** amendments excluded existing permit holders from reporting qualified use tax on an income tax return, expanded the provisions to allow corporations, partnerships, and limited liability companies to report qualified use tax, removed the $400 use tax threshold, provided that interest and penalty provisions on qualified use tax shall be in accordance with existing sales and use tax laws, provided that qualified use tax is deemed to be filed timely provided it is reported on and remitted with a timely filed income tax return, and provided that the Board shall reimburse the FTB for costs incurred to implement and administer the provisions of this bill. **April 22** amendments removed provisions related to state employee compensation and inserted provisions authorizing an individual to report qualified use tax on their California personal income tax return.

3. **Purchase dates.** The provisions in this bill will apply to purchases of tangible personal property made on or after January 1, 2003. Personal income tax returns for this period would most likely not be filed until after January 1, 2004.

4. **Tax administration.** This bill requires the FTB to remit the qualified use tax received to the Board within 60 days from the date the tax is received. The FTB will also be required to transfer any information the Board deems necessary for the proper administration of the use tax. In order to properly administer the local tax and district tax laws, the Board would need to obtain the name and address for each taxpayer so the Board may properly allocate local and district taxes. Name, address, and social security number information would also be necessary for situations when the qualified use tax is reported but not remitted and the Board must collect on the delinquent amount.

5. **Gross understatement of qualified use tax.** This bill provides that if an individual reports an amount that is deemed to be a gross understatement of qualified use tax on his or her personal income tax return, the statute of limitations will be extended from three years to six years. This bill defines the term "gross understatement of qualified use tax" to mean a deficiency that is in excess of 25 percent of the amount of qualified use tax reported on the personal income tax return.

6. **Get the word out.** Collecting qualified use tax would rely to a great extent on voluntary compliance. For the provisions of this bill to be most successful, the

public must be made aware of the qualified use tax. Working with the tax professional community and the tax preparation software industry could result in more individuals being made aware of use tax liabilities.

7. **Related legislation.** Assembly Bill 1741 (Chapter 697, Assembly Revenue and Taxation Committee) limits the period in which the Board may assess unpaid use taxes for qualified California purchasers that voluntarily self-report their use tax obligations to 3 years. This Board-sponsored bill is an effort to encourage voluntary compliance with the use tax laws by reducing the existing period within which the Board may issue a notice of determination against taxpayers from eight years to three. The purpose of this measure is to encourage individuals as well as businesses who currently do not hold seller's permits (e.g., food processors or service industry businesses) to report their use tax with the incentive of a three-year statute of limitations.

State Contracts

Public Contracts Code Section 10295.1

LAW PRIOR TO AMENDMENT

Under existing law, Section 6203 of the Sales and Use Tax Law describes various activities which constitute “engaging in business in this state” for purposes of determining whether an out-of-state retailer has sufficient business presence (also known as “nexus”) in California to warrant a use tax collection responsibility on sales made to California consumers. If a retailer has sufficient business presence within the terms of Section 6203, that retailer is required to register with the Board pursuant to Section 6226 and collect the applicable use tax on all sales to California consumers – including state agencies.

AMENDMENT

This bill adds Section 10295.1 to the Public Contract Code to prohibit a state department or agency from contracting for the purchase of tangible personal property with any vendor or contractor, or with any affiliate of a vendor or contractor, that does not have a valid seller's permit or has not registered with the Board to collect use tax. The bill:

- Defines "affiliate of the vendor or contractor" as any person or entity that is controlled by, or is under common control of, a vendor or contractor through stock ownership or any other affiliation.
- Requires each vendor, contractor, or affiliate of a vendor or contractor that is offered a contract to do business with a state department or agency to submit to that department or agency a copy of that entity's seller's permit or certificate of registration.
- Provides an exception from the aforementioned requirements if the executive director or his or her designee of that state department or agency makes a

written finding that the contract is necessary to meet a compelling state interest. The bill defines "compelling state interest" to include, but not be limited to, ensuring the provision of essential services, ensuring the public health, safety, and welfare, and responding to an emergency.

COMMENTS

1. **Purpose.** The bill is intended to prevent state departments and agencies from contracting with vendors who lack a seller's permit or who have not registered with the Board. It is intended to send the signal that the state does not wish to do business with entities that do not collect sales and use tax on behalf of the state.

2. **The bill does not affect the definition of "retailer engaged in business in this state" as contained in the Revenue and Taxation Code.** The bill is intended to impose a direct condition on the State itself, and not on its vendors by virtue of the amendments to the Public Contract Code rather than the Revenue and Taxation Code. As such, it appears the bill does *not* create a new form of "nexus" for retailers who make sales to the state. Instead, it simply restricts the State's ability to purchase goods from unregistered sellers. Moreover, subdivision (c) refers to an exemption for a state agency, not the vendor. Consequently, in cases where a state agency that exempts itself under (c), and purchases goods from an unregistered vendor who doesn't otherwise have to register with the Board, it appears that the vendor will not be deemed engaged in business in California under the provisions of Section 6203 of the Revenue and Taxation Code.

3. **Related legislation.** The provisions that amend the Public Contract Code were added to this measure on September 9, 2003. Prior to these amendments, Senator Alpert had a separate measure, SB 103, which would have expanded Section 6203 of the Revenue and Taxation Code to include within the definition of "engaged in business in this state" certain out-of-state retailers that, among other characteristics, have related "dot com" companies located outside the state making sales to California consumers. SB 103 was gutted and amended on September 8 to clarify the deductions that are not allowed to certain regulated investment companies (a Franchise Tax Board-administered measure).

Senate Bill 1060 (Senate Revenue and Taxation Committee)

Tax Payment Extension Due to Delayed State Budget

Settlement Record Retention Period

Repeal of Stanislaus County Transaction and Use Tax Statute

Effective January 1, 2004. Among its provisions, amends Sections 6459 and 7093.5 of, and repeals Section 7262.7 of, the Revenue and Taxation Code

BILL SUMMARY

This bill contains **Board of Equalization-sponsored** provisions for the sales and use tax which do the following:

- Extend the due date for reporting and remitting use tax until April 15th of each year so that taxpayers reporting use tax due to prompts on the income tax return will be deemed to have filed timely. These provisions failed to become operative due to the successful passage of SB 1009 (Chapter 718).
- Allow for the tax payment extensions due to a delayed budget to be effective until the last day of the month following the month in which the budget is adopted. (§ 6459)
- Add a record retention period for the public record created for each tax settlement in excess of five hundred dollars. (§ 7093.5)

In addition, this bill also contains a provision **sponsored by the County of Stanislaus** that repeals the redundant statute authorizing that county to impose a transactions and use tax at a rate of 0.125 percent for funding of countywide library programs and services.

Sponsor: Board of Equalization *(Sections 6459 and 7093.5)*
County of Stanislaus *(Section 7262.7)*

Tax payment Extension Due to Delayed State Budget
Revenue and Taxation Code Section 6459

LAW PRIOR TO AMENDMENT

Current law requires taxpayers to file sales and use tax returns on or before the last day of the month following the end of the reporting period. Failure to file the return timely and pay the taxes due would result in the imposition of penalties and interest.

Due to the delay in approving the state budget in 1992, the Board-sponsored Assembly Bill 101 (Stats. 1993, Ch. 324) to amend Section 6459 of the Revenue and Taxation Code to allow the Board to extend the time period in which a taxpayer must file a sales and use tax return when the taxpayer is an unpaid creditor of the state and a state budget has not been adopted in a timely manner. As amended, Section 6459 provides that the return is due at the end of the same month in which the budget is adopted or one month from the due date of the return or payment, whichever comes later. Any taxpayer granted an extension is still required to pay interest on the amount of tax due to the state that exceeds the amount due from the state for the period from when the tax would have been due until the date paid to the state. Prior to passage of this bill, many taxpayers were unfairly burdened by the fact that they owed the state an amount of tax, while at the same time they were owed money by the state that they were unable to collect due to delays in enacting the state budget.

AMENDMENT

This bill amends Section 6459 to provide that the return is due at the end of the *following* month in which the budget is adopted or one month from the due date of the return or payment, whichever comes later, provided the taxpayer is a creditor of the state.

COMMENT

Purpose. Current law may not grant the taxpayer the necessary relief that the statute was intended to provide. The following scenarios illustrate the reason for the suggested change.

Scenario #1: Budget adopted August 30th

Period	Due Date	Last Day for Extension	Days from Budget to Extension Deadline
July Prepayment	August 24	September 24	24
July Return	August 31	September 30	30

Scenario #2: Budget adopted September 25th

Period	Due Date	Last Day for Extension	Days from Budget to Extension Deadline
July Prepayment	August 24	September 30	5
July Return	August 31	September 30	5

In Scenario #1, it is likely that the state will have paid its debts by the time the extension expires and the taxpayer is required to remit taxes due to the state, thus not imposing any financial hardship on the taxpayer. In Scenario #2, it is highly unlikely that the state will pay its debts to the taxpayer before the extension expires. This situation essentially defeats the purpose of the extension which is to allow the taxpayer to postpone payment of their tax liability until they are paid for overdue debts of the state.

The provisions in this bill would address the situation illustrated in Scenario #2. Under the provisions of this bill, the taxpayer in Scenario #2 should receive payment from the state prior to the due date of their tax liability since the extension would be good until October 31, rather than September 30.

Record Retention Period for Settlements in Excess of $500

Revenue and Taxation Code Section 7093.5

LAW PRIOR TO AMENDMENT

Under existing law, the executive director or chief counsel of the Board, with the approval of the Attorney General, may recommend the settlement of a civil tax matter which is subject to appeal, protest, or refund claim, if a settlement is consistent with a reasonable evaluation of the costs and risks associated with litigation of the matter. Settlement proposals may be considered for civil tax or fee matters in dispute under the following tax and fee programs: Sales and Use Tax Law, Use Fuel Tax Law, Cigarette and Tobacco Products Tax Law, Alcoholic Beverage Tax Law, Energy Resources Surcharge Law, Emergency Telephone Users Surcharge Law, Hazardous Substances Tax Law (Childhood Lead Poisoning Prevention Fee and Occupational Lead Poisoning Prevention Fee), Integrated Waste Management Fee Law, Oil Spill Response, Prevention Fee and Administration Fee Law, Underground Storage Tank Maintenance Fee Law, Fee Collection Procedures Law, and Diesel Fuel Tax Law.

Whenever a reduction of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved in settlement of a tax liability pursuant to any of the above-referenced laws, a public record is created with respect to that settlement and placed on file in the office of the Executive Director of the Board. This public record is a one-page document, titled "Public Record Statement," and contains the following information:

- The name or names of the taxpayers who are parties to the settlement;
- The total amount in dispute;
- The amount agreed to pursuant to the settlement;
- A summary of the reasons why the settlement is in the best interests of the State of California; and,
- If applicable, the Attorney General's conclusion regarding the reasonableness of the settlement.

AMENDMENT

This bill adds a one-year record retention period to the settlement program.

COMMENT

Since public access to the Executive Director's office is restricted, an additional copy of the public record statement is retained in the reception area of the Board's headquarters building. No provision is made in the law authorizing the destruction of these records after a reasonable period of time. Consequently, public records regarding settlements which date back to 1993 are currently being retained by the Board. These records will continue to accumulate indefinitely until a retention period is added into the law. The purpose of the change is to add a one-year record retention period for the settlements records that is similar to the requirement described in the next paragraph.

Effective January 1, 2003, Revenue and Taxation Sections 7093.6, 9278 and 50156.18 were added allowing the Board to enter into offers in compromise (Assembly Bill 1458, Chapter 152, Stats. 2002). The offers in compromise provisions have a similar public record requirement as the settlement statutes, but they contain a record retention period that provides that these records will be placed on file "for at least one year." Thereafter, the records may be destroyed in a manner consistent with the Board's record retention schedule after the one year period has expired.

Repeal of County of Stanislaus Transactions and Use Tax Statute
Revenue and Taxation Code Section 7262.7

LAW PRIOR TO AMENDMENT

Section 7285 of the Transactions and Use Tax Law allows counties to levy a transactions and use tax at a rate of 0.25 percent, or multiple thereof, for general purposes with the approval of a majority of the voters. Section 7285.5 permits the board of supervisors of any county to levy a transactions and use tax at a rate of 0.25 percent, or multiple thereof, for specific purposes with the approval of two-thirds of the voters.

Section 7286.59 of the Transactions and Use Tax Law authorizes counties to impose a transactions and use tax, subject to two-thirds voter approval, at a rate of 0.125 percent or 0.25 percent for a period not to exceed 16 years. The revenues derived from the tax are used exclusively to fund public library construction, acquisition, programs, and operations within the county.

Section 7262.7 authorizes the County of Stanislaus to impose a transactions and use tax at a rate of 0.125 percent for a period not to exceed five years. The revenues derived from the tax are used exclusively to fund countywide library programs and services.

AMENDMENT

This bill repeals the statute that authorizes the County of Stanislaus to impose a transactions and use tax at a rate of 0.125 percent for a period not to exceed five years for the funding of countywide library programs and services.

COMMENT

1. **Purpose.** An analysis prepared by the Senate Revenue and Taxation Committee disclosed that the board of supervisors of Stanislaus County are seeking to repeal Section 7262.7 so that Stanislaus County "may be treated equally to all other counties as it relates to the imposition of transactions and use taxes for library purposes."

2. **Does Section 7262.7 need to be repealed?** Section 7262.7 is a special statute that relates only to the County of Stanislaus, while Section 7286.59 is a general statute that applies to any county. By repealing Section 7262.7, the question regarding which statute applies is eliminated. Stanislaus County would be authorized under Section 7286.59 to be able to impose a transactions and use tax at a rate of 0.25 percent (instead of a rate of only an 0.125 percent) for a period not to exceed 16 years (instead of 5 years). Therefore, the repeal of this section not only eliminates any doubt as to which statute applies, but it allows Stanislaus County to choose between two rates (0.125 or 0.25 percent) and to impose the tax for a longer period of time (up to 16 years).

   As previously stated, Stanislaus County currently imposes a transactions and use tax at a rate of 0.125 percent for the exclusive funding of countywide library programs and services. This tax is due to expire on June 30, 2005. If Section 7262.7 is repealed, this tax will remain in effect until voters approve a new tax under the provisions of Section 7286.59.

<u>Senate Bill 1062 (Senate Revenue and Taxation Committee) Chapter 471</u>

City and County Permit Information

Effective January 1, 2004. Among its provisions, amends Sections 6066.3 and 6066.4 of the Revenue and Taxation Code

BILL SUMMARY

This bill extends indefinitely the provisions in law that authorize cities and counties to collect information from persons desiring to engage in business for the sale of tangible personal property in their jurisdictions and to transmit that information to the Board.

Sponsor: League of California Cities

LAW PRIOR TO AMENDMENT

Under existing law, California's sales tax is paid by retailers engaged in business in the state and applies to all retail transactions involving sales of tangible personal property, except those specifically exempted by law. The use tax generally applies to the storage, use or other consumption in this state of goods purchased from retailers in transactions not subject to the sales tax. The statewide rate for both the sales and use tax is currently 7.25 percent, which is the combined state and local rates, excluding special district rates.

Under the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5, commencing with Section 7200, of Division 2 of the Revenue and Taxation Code), the Board collects and distributes local sales and use tax revenue to all California cities as well as counties. The 1.25 percent local sales and use tax, a component of the 7.25 percent combined statewide rate, is allocated to counties for sales made within unincorporated areas. Incorporated cities generally receive one percent of the local tax for sales made within their boundaries. The remaining .25 percent is allocated to the appropriate counties to fund transportation projects.

Under the law, every person desiring to engage in or conduct business within this state and making sales or leases of tangible personal property that is ordinarily subject to tax is required to file with the Board an application for a "seller's permit" for each place of business. A person who engages in business as a seller in this state without such a permit or permits, and each officer of any corporation which so engages in business, is guilty of a misdemeanor, punishable by a fine or imprisonment, or both.

BACKGROUND

Section 6066.3 of the Revenue and Taxation Code, as added by AB 990 (Ch. 908, Stats. 1999) authorizes cities and counties, until January 1, 2004, to obtain seller's permit application information from retailers desiring to engage in business in their jurisdictions and to submit that information to the Board. This section requires the Board to accept that information as a preliminary application for a seller's permit, and to accept that information also as notice to the Board for purposes of redistributing improperly allocated local tax under Section 7209.

This section further requires the Board within 30 days of receiving the local jurisdiction information to issue a determination regarding the issuance of a seller's permit if that determination can be made based on the information provided, or within 120 days in cases where additional information is required.

Section 6066.4 authorizes until January 1, 2004, cities and counties to require taxpayers who desire to engage in business in that jurisdiction for the purpose of selling tangible goods to provide their seller's permit number, if any.

IN GENERAL

Persons desiring to engage in business in California are required to obtain a California seller's permit for each place of business when they intend to sell or lease tangible personal property that is ordinarily subject to sales or use tax. To obtain a seller's permit, an application must be filed with the Board. There is no fee charged for a seller's permit, and applications can be processed entirely through the mail.

COMMENTS

1. **Purpose.** According to the author's office, these provisions are intended to continue enabling local jurisdictions to assist the Board in identifying unregistered sellers operating or desiring to operate in their jurisdictions. By ensuring that all sellers of tangible personal property are properly registered, unreported taxable sales diminish, thereby protecting the local, as well as the state, tax bases.

2. **These provisions benefit both the State and local communities.** An analysis of the results of implementation of AB 990 disclosed that through June 30, 2002, additional state and local sales and use tax revenues of $227,868 were generated from persons not previously registered with the Board at a cost of $26,481.

   In addition, as a result of information provided by the Board to the local jurisdictions, the registration records of numerous accounts were corrected, resulting in the reallocation of local tax to the proper jurisdiction. For fiscal year ending June 30, 2002, approximately $2,646,858 was reallocated. The costs associated with this program are fully paid for by the local jurisdictions.

Senate Bill 1064 (Burton) Chapter 606

Manufacturers' Income Tax Credit Refunds

Effective January 1, 2004. Amends Section 6902.2 of the Revenue and Taxation Code.

BILL SUMMARY

This bill clarifies the circumstances under which a person may claim a refund with the Board of Equalization (Board), with respect to the manufacturers' income tax credit (MIC) allowed under the Personal Income Tax and the Corporation Tax laws administered by the Franchise Tax Board (FTB).

Sponsor: Senate President pro Tempore John Burton

LAW PRIOR TO AMENDMENT

Under Section 17053.49 of the Personal Income Tax Law and Section 23649 of the Corporation Tax Law, a 6 percent nonrefundable income tax credit on the cost of equipment is available to manufacturers (MIC). Under these laws, the income tax credit has a carryover feature so that any part of the credit that exceeds the tax liability in the taxable or income tax year for which the credit is claimed may be carried over in future years until the credit is exhausted. Under these provisions, if a taxpayer has no income tax liability during the year to offset the credit, no credit is allowable, regardless of the dollar amount of qualifying property purchased.

Under Section 6902.2 of the Sales and Use Tax Law, those qualified taxpayers eligible for an income tax credit described above, may, in lieu of claiming that income tax credit with the FTB, file a claim for refund with the Board for the tax credit that would have otherwise been allowed under the franchise and income tax laws. The claim for refund may be made for no more than, or no earlier than, the credit that could otherwise be claimed under the franchise and income tax laws.

AMENDMENT

This bill amends Section 6902.2 of the Sales and Use Tax Law to clarify that, a claim for refund filed in lieu of claiming the manufacturers' income tax credit on returns filed with the FTB, may *not* be for an amount in excess of the amount of the credit that could have been used to reduce the "net tax," or "tax," as defined, and that any credit carried over under the franchise and income tax laws may not be refunded until the credit carried over could be applied to reduce the "net tax" or "tax" as defined, and as applicable.

BACKGROUND

At its June 25, 2003 hearing, the Members of the Board considered two claims for refund filed pursuant to the provisions of Section 6902.2. The claimants generated a significant dollar amount of income tax credits related to both the manufacturers' income tax credit and other credits related to research and development (R & D). The claimants satisfied their franchise tax liability by using R&D credits, and paid only the alternative minimum tax of $800.

The claimants then filed a claim for refund under the provisions of Section 6902.2 for the manufacturers' income tax credits that could have been used to offset their income tax had the claimant not credited the income tax with the R & D credits. In a 2-1 vote, the Board approved the refunds at its August 6, 2003 meeting.

COMMENTS

1. **Purpose.** This bill is intended to clarify that under no circumstances may the Board approve a claim for refund filed under Section 6902.2 that exceeds the actual tax liability due to the FTB after the allowance of all applicable credits and other offsets.

2. **Provisions would make pending claims eligible for refund.** The bill specifies that this clarification in law is declaratory of existing law, but is effective for any claims for refund filed on or after August 7, 2003. Essentially this language authorizes the Board, in its discretion, to approve refunds to those taxpayers who have already filed claims for refund on the same grounds. There are currently 28 such claims for refund, totaling $82.2 million.

TABLE OF SECTIONS AFFECTED

SECTIONS		BILL AND CHAPTER NUMBER		SUBJECT
Revenue & Taxation Code				
§38	Add	AB 986	Ch. 569	Tax agencies consolidation study
§97.68	Add	AB 1766	Ch. 162	Property Tax/Bradley-Burns tax offset
Chapter 1.5 (commencing with §6025) to Part 1 of Division 2	Add	SB 157	Ch. 702	Streamlined Sales Tax Project
§6051.5	Add	AB 7X	Ch. 13	Imposition and rate of sales tax
§6051.6	Add	AB 7X	Ch. 13	Imposition and rate of sales tax
§6066.3	Amend	SB 1062	Ch. 471	City and county permit information
§6066.4	Amend	SB 1062	Ch. 471	City and county permit information
§6201.5	Add	AB 7X	Ch. 13	Imposition and rate of use tax
§6201.6	Add	AB 7X	Ch. 13	Imposition and rate of use tax
§6363.8	Add	AB 189	Ch. 721	Meal and food products sold by nonprofit veterans organizations exemption
§6368.8	Amend Repeal	SB 760	Ch. 597	Sale and leaseback of public passenger transportation vehicles -sunset date extension
§6368.9	Add	SB 760	Ch. 597	Sale and leaseback of public passenger transportation vehicles exemption
§6385	Add Repeal	SB 808	Ch. 712	Bunker fuel exemption
§6452.1	Add	SB 1009	Ch. 718	Use tax reporting on income tax returns

TABLE OF SECTIONS AFFECTED(CONTINUED)

SECTIONS		BILL AND CHAPTER NUMBER		SUBJECT
Revenue & Taxation Code				
§6459	Amend	SB 1060	Ch. 605	Tax payment extensions due to delayed budget
§6487	Amend	SB 1009	Ch. 718	Use tax reporting on income tax returns
§6487.3	Add	SB 1009	Ch. 718	Use tax reporting on income tax returns
§6487.6	Add Repeal	AB 1741	Ch. 697	Use tax voluntary reporting
§6902.2	Amend	SB 1064	Ch. 606	Manufacturers' income tax credit refunds
Article 2.5 (commencing with §7076) of Ch. 8 of Part 1 of Division 2	Add	AB 1043	Ch. 87	Managed Audit Program
§7093.5	Amend	SB 1060	Ch. 605	Record retention period for settlements in excess of $500
§7101	Amend	SB 1009	Ch. 718	Use tax reporting on income tax returns
§7101.3	Add	AB 7X	Ch. 13	Fiscal Recovery Fund
§7202	Amend	AB 7X	Ch. 13	Required provisions of county sales tax
§7203	Amend	AB 7X	Ch. 13	Required provisions of county use tax
§7203.1	Add	AB 7X	Ch. 13	Suspension of provisions
§7251.1	Amend	SB 566	Ch. 709	Increase maximum allowable rate - transactions and use tax
§7251.3	Repeal	SB 566	Ch. 709	Repeal of County of San Mateo transactions and use tax statute

TABLE OF SECTIONS AFFECTED(CONTINUED)

SECTIONS		BILL AND CHAPTER NUMBER		SUBJECT
Revenue & Taxation Code				
§7251.4	Repeal	SB 566	Ch. 709	Repeal of City and County of San Francisco transactions and use tax statute
§7262.7	Repeal	SB 1060	Ch. 605	Repeal of County of Stanislaus transactions and use tax statute
§7285	Amend	SB 566	Ch. 709	Counties authority to levy tax
§7285.5	Amend	SB 566	Ch. 709	Counties authority to levy tax for specific purposes
Ch. 2.3 (commencing with §7285.9) of Part 1.7	Add	SB 566	Ch. 709	Transactions and use tax for cities
Family Code				
§297	Amend	AB 205	Ch. 421	Domestic Partners and Responsibilities Act
§297.5	Add	AB 205	Ch. 421	Domestic Partners and Responsibilities Act
§298	Amend	AB 205	Ch. 421	Domestic Partners and Responsibilities Act
§298.5	Amend	AB 205	Ch. 421	Domestic Partners and Responsibilities Act
§299	Add Repeal	AB 205	Ch. 421	Domestic Partners and Responsibilities Act
§299.2	Add	AB 205	Ch. 421	Domestic Partners and Responsibilities Act
§299.3	Add	AB 205	Ch. 421	Domestic Partners and Responsibilities Act

TABLE OF SECTIONS AFFECTED(CONTINUED)

SECTIONS		BILL AND CHAPTER NUMBER		SUBJECT
Family Code				
§299.5	Repeal	AB 205	Ch. 421	Domestic Partners and Responsibilities Act
Government Code				
§14771	Amend	AB 205	Ch. 421	Domestic Partners and Responsibilities Act
Public Contracts Code				
§10295.1	Add	SB 1009	Ch. 718	State purchases from unregistered vendors
Public Utilities Code				
§130350.5	Add	SB 314	Ch. 785	Transportation transactions and use tax County of Los Angeles
§180201	Amend	AB 427	Ch. 129	Transactions and use tax - Local Transportation Authority and Improvement Act
§180204	Amend	AB 427	Ch. 129	Transactions and use tax - Local Transportation Authority and Improvement Act
Uncodified Sections				
§3 (Ch. 477, Stats. 2002)	Amend	AB 205	Ch. 421	Domestic Partners and Responsibilities Act