

Date of Hearing: September 8, 2015

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT  
Brian Maienschein, Chair  
SB 705 (Hill) – As Amended September 3, 2015

**SENATE VOTE:** Vote not relevant

**SUBJECT:** Transactions and use taxes: County of San Mateo: Transportation Agency for Monterey County.

**SUMMARY:** Allows San Mateo and Monterey County to impose a transactions and use tax at a specified amount for the support of countywide transportation programs that would, in combination with other taxes, exceed the statutory limit of 2%. Specifically, **this bill:**

- 1) Allows San Mateo County, in accordance with the requirements of the Bay Area County Traffic and Transportation Fund Act, to impose a transactions and use tax for the support of countywide transportation programs at a rate of no more than 0.5% that would, in combination with all other transactions and use taxes, exceed the 2% limit established in existing law.
- 2) Provides, if the ordinance in San Mateo County proposing the transactions and use tax is not approved, that the provisions of the bill shall be repealed as of January 1, 2026.
- 3) Allows Monterey County to impose a transactions and use tax for the support of countywide transportation programs at a rate of no more than 0.375% that would, in combination with all other transactions and use taxes, exceed the 2% limit established in existing law, if all of the following conditions are met:
  - a) The Transportation Agency for Monterey County adopts an ordinance proposing the transactions and use tax by an applicable voting approval requirement;
  - b) The ordinance proposing the transactions and use tax is submitted to the electorate and is approved by the voters voting on the ordinance in accordance with California Constitution Article XIII C; and,
  - c) The transactions and use tax conforms to the Transactions and Use Tax Law, as specified.
- 4) Provides, if the ordinance in Monterey County proposing the transactions and use tax is not approved, that the provisions of the bill shall be repealed as of January 1, 2026.
- 5) Finds and declares that a special law is necessary and that a general law cannot be made applicable because of the unique fiscal pressures experienced by the San Mateo County Transportation Authority and by the Transportation Agency for Monterey County in providing essential transportation programs.

**FISCAL EFFECT:** None.

**COMMENTS:**

- 1) **Bill Summary.** This bill provides an exemption to San Mateo and Monterey Counties from the 2% transactions and use tax combined rate cap that is currently in statute. This bill authorizes San Mateo County to impose of a transactions and use tax to support countywide transportation programs at a rate of no more than 0.5% in accordance with the requirements of the Bay Area County Traffic and Transportation Funding Act. Additionally this bill authorizes Monterey County to impose a transactions and use tax to support countywide transportation programs at a rate of no more than 0.375%, and with the appropriate voter approval pursuant to the California Constitution. If the ordinance proposing the transactions and use tax is not approved by voters by January 1, 2026, the provisions of the bill would be repealed as of that same date.
- 2) **Author's Statement.** According to the author, this bill "will provide for much needed capacity to allow the local transportation agencies within the respective counties to consider placing a measure before voters to consider, in order to alleviate traffic congestion and infrastructure needs."
- 3) **Transactions and Use Taxes.** Existing law authorizes cities and counties to impose transactions and use taxes in 0.125% increments in addition to the state's 7.5% sales tax, provided that the combined rate in the county does not exceed 2%. Transactions and use taxes are taxes imposed on the total retail price of any tangible personal property and the use or storage of such property when sales tax is not paid. These types of taxes may be levied as general taxes (majority-vote required), which are unrestricted, or special taxes (two-thirds vote required), which are restricted for a specified use. The Transactions and Use Tax law authorizes the adoption of local add-on rates to the combined state and local sales tax rate. The law has been amended multiple times to authorize specific cities, counties, special districts and county transportation authorities to impose a transactions and use tax, if voters approve the tax.

Prior to 2003, cities lacked the ability to place transactions and use taxes before their voters without first obtaining approval by the Legislature to bring an ordinance before the city council, and, if approved at the council level, to the voters. This was remedied by SB 566 (Scott), Chapter 709, Statutes of 2003. SB 566 also contained provisions to increase a county's transactions and use tax cap because of the possibility that certain counties were going to run out of room under their caps, if cities within those counties approved transactions and use taxes.

Because of the interaction between city-imposed and county-imposed transactions and use taxes, the concern that counties will run into the 2% cap still applies today. Currently, the Counties of Alameda, Contra Costa, Los Angeles, and San Mateo have reached the 2% limit, and the Counties of Marin, San Diego, and Sonoma are near the 2% limit.

According to the Board of Equalization, as of April 1, 2015, there are 202 local jurisdictions (city, county, and special purpose entity) imposing a transactions and use tax for general or specific purposes. Of the 202 jurisdictions, 48 are county-imposed taxes and 154 are city-imposed taxes. Of the 48 county-imposed taxes, 44 are imposed for special purposes. Of the 154 city-imposed taxes, 124 are general purpose taxes and 30 are special purpose taxes.

- 4) **Exemptions to the 2% Cap.** The Legislature has previously granted exemptions to the 2% statutory cap for transactions and use taxes to support countywide transportation programs for Los Angeles, Alameda, and Contra Costa counties.

AB 1086 (Wieckowski), Chapter 327, Statutes of 2011, allowed a one-time exemption for Alameda County from the 2% transactions and use tax combined rate cap. AB 210 (Wieckowski), Chapter 194, Statutes of 2013, extended the authority for Alameda County to adopt an ordinance imposing a transactions and use tax from January 1, 2014, to December 31, 2020, and allowed Contra Costa County to adopt an ordinance imposing a transactions and use tax in the same manner as Alameda County.

SB 314 (Murray), Chapter 785, Statutes of 2003, originally enacted provisions that authorized the Los Angeles County Metropolitan Transportation Authority (MTA) to impose a 0.5% transactions and use tax, not subject to the 2% cap for no more than six and one-half years, for specific transportation projects and programs. The authority to put a tax measure on the ballot was never used. AB 2321 (Feuer), Chapter 302, Statutes of 2008, modified those provisions to allow MTA to impose a transactions and use tax for 30 years. SB 767 (De León), pending in the Senate Appropriations Committee, and AB 338 (Hernández), pending in the Transportation Committee, would both authorize MTA to impose an additional countywide 0.5% transactions and use tax.

Additionally, AB 1324 (Skinner), Chapter 795, Statutes of 2014, allowed the City of El Cerrito to adopt an ordinance to impose a transactions and use tax not to exceed 0.5% for general purposes that would, in combination with other taxes, exceed the statutory limit of 2%.

AB 464 (Mullin) of 2015, would have increased the countywide transactions and use tax combined rate cap from 2% to 3% statewide. AB 464 was vetoed by the Governor. In his veto message, the Governor remarked, "Although I have approved raising the limit for individual counties, I am reluctant to approve this measure in view of all the taxes being discussed and proposed for the 2016 ballot."

- 5) **Arguments in Support.** Supporters argue that this bill will provide the capacity to allow for local decision makers to weigh their options in addressing transportation needs locally.
- 6) **Arguments in Opposition.** Opposition argues that this bill continues to authorize a deeply regressive sales tax and that the length of time the bill provides to allow voters to approve the tax is unwarranted.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California State Association of Counties  
Cities of Carmel-by-the-Sea, Del Rey Oaks, Gonzales, Greenfield, King City, Marina, Monterey,  
Pacific Grove, Salinas, Sand City, Seaside, Soledad  
City/County Association of Governments of San Mateo County  
Friends of CalTrain  
Monterey County Board of Supervisors  
Monterey-Salinas Transit District  
San Mateo County Economic Development Association  
Santa Cruz County Regional Transportation Commission

**Opposition**

Howard Jarvis Taxpayers Association

**Analysis Prepared by:** Misa Lennox / L. GOV. / (916) 319-3958