

Date of Hearing: April 17, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 3259 (Wilson) – As Amended March 21, 2024

SUBJECT: Transactions and use taxes: County of Solano.

SUMMARY: Authorizes Solano County or any city within Solano County to impose a transaction and use tax (TUT) for general purposes that exceeds the 2% statutory limitation. Specifically, **this bill:**

- 1) Allows the County of Solano or any city therein to impose a TUT for general purposes at a rate of no more than .5% that would, in combination with all taxes imposed, exceed the 2% cap established by law if all of the following requirements are met:
 - a) The County of Solano Board of Supervisors, or the city council of any city therein, adopts an ordinance proposing the TUT by the applicable voting approval requirement.
 - b) The ordinance proposing the TUT is submitted to the electorate and is approved by the voters voting on the ordinance by the applicable voting requirement in accordance with the California Constitution.
 - c) The TUT conforms to the TUT Law.
- 2) Specifies that if, as of January 1, 2029, an ordinance proposing a TUT has not been approved, the provisions of this bill shall be repealed as of that same date.
- 3) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable because of the unique fiscal pressures relating to TUTs imposed within Solano County.

FISCAL EFFECT: None.

COMMENTS:

- 1) **Sales and Use Taxes.** State law imposes the sales tax on every retailer “engaged in business in this state” that sells tangible personal property, and requires them to register with the California Department of Tax and Fee Administration (CDTFA), as well as collect the appropriate tax at purchase and remit the amount to CDTFA. Sales tax applies whenever a retail sale occurs, which is generally any sale other than one for resale in the regular course of business. The current rate is 7.25% as shown in the table below.

Rate	Jurisdiction	Purpose/Authority
3.9375%	State (General Fund)	State general purposes
1.0625%	Local Revenue Fund (2011 Realignment)	Local governments to fund local public safety services

Rate	Jurisdiction	Purpose/Authority
0.50%	State (1991 Realignment)	Local governments to fund health and welfare programs
0.50%	State (Proposition 172 - 1993)	Local governments to fund public safety services
1.25%	Local (City/County) 1.00% City and County 0.25% County	City and county general operations Dedicated to county transportation purposes
7.25%	Total Statewide Rate	

Unless the purchaser pays the sales tax to the retailer, he or she is liable for the use tax, which the law imposes on any person consuming tangible personal property in the state. The use tax is the same rate as the sales tax, and also like the sales tax, must be remitted on or before the last day of the month following the quarterly period in which the person made the purchase.

- 2) **Transactions and Use Taxes.** The California Constitution states that taxes levied by local governments are either general taxes, subject to majority approval of its voters, or special taxes, subject to 2/3 vote (Article XIII C). Proposition 13 (1978) required a 2/3 vote of each house of the Legislature for state tax increases, and 2/3 vote for local special taxes. Proposition 62 (1986) prohibited local agencies from imposing general taxes without majority approval of local voters, and a 2/3 vote for special taxes. Proposition 218 (1996) extended those vote thresholds to charter cities, and limited local agencies' powers to levy new assessments, fees, and taxes. Local agencies generally propose to increase taxes by adopting an ordinance or a resolution at a public hearing.

State law allows cities, counties, and specified special districts to increase the sales and use tax applicable in their jurisdiction, also known as district taxes or TUTs. Prior to 2003, cities lacked the ability to place TUTs 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 TUT cap because of the possibility that certain counties were going to run out of room under their caps, if cities within those counties approved TUTs.

Generally, the combined TUT tax rate imposed within a local jurisdiction cannot exceed 2%. To determine whether a county has reached this rate limitation, all countywide taxes and the highest combined rate imposed by a city within the county are counted towards the county's rate limit. For example, if a county imposes three 0.5% countywide taxes and two cities within the county each impose a 0.5% tax, the combined rate in those two cities would be 2%. In such a circumstance, the two cities could not impose another TUT, and the county could not impose another countywide TUT, absent special authority to exceed the rate limitation.

AB 464 (Mullin) would have increased the maximum combined rate of all TUTs that may be levied by authorized entities within a county from 2% to 3%. This bill was vetoed by Governor Brown stating, “This bill would raise, on a blanket basis, the limit on local transactions and use tax for all counties and cities from two percent to three percent. 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.”

As of April 1, 2024, local jurisdictions (city, county, and special purpose authorities) impose a combined 413 TUTs for general or special purposes. Generally, TUTs are levied throughout the entire area of a single county, the entire unincorporated area within a single county, or a single incorporated city, except for those imposed by the BART District (Alameda, Contra Costa, and San Francisco counties) and the Sonoma-Marín Rail Transit District (Sonoma and Marin counties). Of the 413 district taxes, 67 are imposed countywide, four are imposed in unincorporated county areas, and 342 are imposed citywide.

- 3) **Solano County TUTs.** Solano County has eight TUTs levied within its borders: One countywide tax (for public library purpose) and seven city-wide taxes. Currently, the countywide TUT of .125% is subject to the 2.00% combined rate limitation. Thus, for purposes of the limitation, the total countywide tax rate for Solano County is 0.125%. Since the highest city tax in the county is 1.875% (Vallejo), Solano County has reached the 2.00% combined rate limitation. The City of Vallejo imposes two TUTs and is the only city in Solano County that has reached the 2.00% rate limitation. It also imposes the highest TUT rate in Solano County at 9.25%. Therefore, subject to voter approval, enactment of this bill could increase the total tax rate in the City of Vallejo from 9.25% up to 10.25%.
- 4) **Bill Summary and Author’s Statement.** This bill allows Solano County or any city within Solano County to impose a TUT for general purposes at a rate of no more than .5% that would, in combination with all taxes imposed, exceed the 2% cap established by law, if specified conditions are met. This bill provides that if an ordinance proposing the TUT authorized by this bill is not approved, the provisions in this bill shall be repealed on January 1, 2029. The author is the sponsor of this bill.

According to the author, “Assembly Bill 3259 will empower voters in Solano County to have control of their local government’s future. They will have the opportunity to vote on local sales tax measures that will fund road repairs, transportation infrastructure and the ability to provide robust public services which improve the quality of life of our residents.”

- 5) **Policy Consideration.** The Committee may wish to consider the following:
 - a) **Too high?** California’s sales tax rate is currently at 7.25%, which is high compared to other states, especially when incorporating locally imposed TUTs. Some tax experts argue that sales and use taxes are regressive, meaning that the tax incidence falls more heavily on low-income individuals than high-income individuals because those of lesser means generally spend a greater percentage of their income on taxable sales, instead of intangible products or services which are not taxed. With this bill, the sales tax rate could grow as high as 10.25% in the City of Vallejo. While any increase would have to be approved by the voters, the Committee may wish to consider whether AB 3259 allows for rates that are too high.

- b) **Who Needs a Raise?** According to California Department of Tax and Fee Administration data, only the City of Vallejo has reached the 2% cap. While this means that Solano County has also reached the countywide cap, the Committee may wish to consider whether the other cities in Solano County should first use their existing authority before being given additional authority to raise TUTs above the cap.
- c) **Is Clarification Needed?** The bill would authorize Solano County or any cities within the county to impose a tax of no more than .5% that would, in combination with all TUTs imposed, exceed the 2% combined rate limitation. However, the authorization is unclear. Does this bill authorize *both* Solano County and any city within the county, to each impose a .5% rate that would exceed the rate limitation? Or, is the authorization for either Solano County *or* the cities within the county? If the bill authorizes both the county and any city within the county each to impose a district tax that exceeds the rate limitation and voters approve the taxes, then current tax rates in each city within Solano County may increase by up to 1%. The Committee may wish to consider if additional clarity is needed.
- d) **Sunset.** This bill specifies that, “If, as of January 1, 2029, an ordinance proposing a transactions and use tax has not been approved as required by Section 7294.1, this chapter shall be repealed as of that same date.” Similar recent bills have applied to only a single city, county, or transit agency. This bill applies to Solano County *and* any city within the County. As currently drafted, this provision could mean that the increased cap could remain in effect in perpetuity, even if only one ordinance is approved in one jurisdiction. The Committee may wish to consider if the sunset date of January 1, 2029, should apply to each city or county authority.
- 6) **Committee Amendments.** In order to address some of the above policy considerations, the Committee may wish to consider amending the bill as follows:

7294.1. **(a)** Notwithstanding any other law, the County of Solano ~~or any city therein~~ may impose a transactions and use tax for general purposes at a rate of no more than 0.5 percent that would, in combination with all taxes imposed in accordance with Part 1.6 (commencing with Section 7251), exceed the limit established in Section 7251.1 if all of the following requirements are met:

~~(a)~~

(1) The County of Solano Board of ~~Supervisors, or the city council of any city therein,~~ **Supervisors** adopts an ordinance proposing the transactions and use tax by the applicable voting approval requirement.

~~(b)~~

(2) The ordinance proposing the transactions and use tax is submitted to the electorate and is approved by the voters voting on the ordinance by the applicable voting approval requirement in accordance with the California Constitution.

~~(c)~~

(3) The transactions and use tax conforms to the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), other than Section 7251.1.

(b) Notwithstanding Section 7251.1, a transactions and use tax rate imposed pursuant to subdivision (a) shall not be considered for purposes of the combined rate limitation established by Section 7251.1.

(c) If an ordinance proposing a transactions and use tax is not approved pursuant to

subdivision (a) before January 1, 2029, this section shall remain in effect only until January 1, 2029, and as of that date is repealed.

7294.2. (a) Notwithstanding any other law, any city within the County of Solano may impose a transactions and use tax for general purposes at a rate of no more than 0.5 percent that would, in combination with all taxes imposed in accordance with Part 1.6 (commencing with Section 7251), exceed the limit established in Section 7251.1 if all of the following requirements are met:

(1) The city council of any city within the County of Solano adopts an ordinance proposing the transactions and use tax by the applicable voting approval requirement.

(2) The ordinance proposing the transactions and use tax is submitted to the electorate and is approved by the voters voting on the ordinance by the applicable voting approval requirement in accordance with the California Constitution.

(3) The transactions and use tax conforms to the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), other than Section 7251.1.

(b) Notwithstanding Section 7251.1, a transactions and use tax rate imposed pursuant to subdivision (a) shall not be considered for purposes of the combined rate limitation established by Section 7251.1

(c) This section shall not apply to any city within the County of Solano that has not approved, on or before January 1, 2029, an ordinance proposing a transactions and use tax pursuant to subdivision (a).

- 7) **Recent Legislation.** AB 618 (Stone) of 2019 would have permitted the Cities of Emeryville (Alameda County) and Scotts Valley (Santa Cruz County) to impose a tax of up to 0.25% that exceeds the 2% cap. AB 618 was vetoed with a message that stated, “The Cities of Emeryville and Scotts Valley have not yet reached the statewide cap of 2 percent, making it unclear why additional tax authority is needed.”

AB 723 (Quirk), Chapter 747, Statutes of 2019, provided that neither the tax imposed by BART nor the tax imposed by the Alameda County Transportation Commission counts against the 2% cap, and made a similar change in Santa Cruz County.

SB 1349 (Glazer), Chapter 369, Statutes of 2020, permitted Contra Costa County, and cities within Contra Costa County, additional legal flexibility to impose local TUTs.

AB 2453 (Bennett), Chapter 286, Statutes of 2022, authorized the Ventura County Transportation Commission to impose a TUT of no more than 0.5% that does not count against the cap in Ventura County.

AB 1256 (Wood), Chapter 572, Statutes of 2023, authorized Humboldt County to impose a TUT of up to 1% that exceeds the 2% statutory limitation.

AB 1385 (Garcia), Chapter 578, Statutes of 2023, raised the maximum TUT that RCTC may impose, from 1% to 1.5%.

AB 1679 (Santiago), Chapter 731, Statutes of 2023, authorizes Los Angeles County to impose a TUT of up to .5% that exceeds the 2% statutory limitation, as specified.

SB 335 (Cortese), Chapter 391, Statutes of 2023, allows the Santa Clara County Board of Supervisors to propose a district tax of up to .625% in Santa Clara County that exceeds the 2% cap and shifted the authority to impose a TUT for countywide transportation purposes in Ventura County that exceeds the 2% cap from the Ventura County Transportation Commission to the County.

SB 862 (Laird), Chapter 296, Statutes of 2023, authorized the board of directors of the Santa Cruz Metropolitan Transit District to impose a retail TUT of up to .5% after January 1, 2024, that is excluded from the 2% combined rate limit, if certain conditions are met.

- 8) **Related Legislation.** AB 2431 (Mathis) authorizes a city, county, or city and county to impose a TUT at an unspecified rate that exceeds the 2% statutory limitation if certain conditions are met. This bill is currently in the Assembly Local Government Committee.
- 9) **Arguments in Support.** None on file.
- 10) **Arguments in Opposition.** According to the California Taxpayers Association, “California has the highest state-level sales and use tax rate in the country, and several cities in California, including Benicia, Fairfield, Vacaville, Vallejo, Dixon, Suisun City, and Rio Vista, have even higher rates. The sales and use tax is a regressive tax that has the greatest impact on low-income residents because it makes it more expensive for these taxpayers to purchase everyday necessities. Inflation has increased the cost of everyday goods, which in turn increases the sales tax that is imposed as a percentage of the retail price. Adding even more to the cost of living with a sales tax increase would harm Californians, and will disproportionately impact the state’s most vulnerable residents.
- “...Businesses engaged in manufacturing and research-and-development activities face a significant sales and use tax burden in California. Under existing law, when a business purchases manufacturing or R&D equipment, the purchase is subject to a one-time local sales tax of 1.25 percent plus any additional voter-approved transactions and use taxes. Taxing business inputs increases overall production costs for everyday goods produced in California. Authorizing Solano County to exceed the 2 percent transactions and use tax cap would increase the cost of doing business for critical industries in the area.
- “Unlike the federal government, which receives an exemption for all state and local sales taxes, purchases made by municipal and state agencies are subject to state and local sales taxes. Increasing the local sales tax would increase costs for purchases made by cities and counties, public school districts, and universities operating in the county.”
- 11) **Double-Referral.** This bill is double-referred to the Assembly Committee on Revenue and Taxation.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

California Taxpayers Association

Analysis Prepared by: Jimmy MacDonald / L. GOV. / (916) 319-3958