

Date of Hearing: May 3, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1052 (McCarty) – As Introduced February 15, 2023

SUBJECT: Sacramento Regional Transit District: taxes.

SUMMARY: Makes changes to the taxing authority for the Sacramento Regional Transit District (SacRT). Specifically, **this bill:**

- 1) Specifies that SacRT may levy and collect a property tax in the entirety of, or a portion of, the incorporated and unincorporated territory.
- 2) Specifies that if the property tax only applies to a portion of an area of SacRT, both of the following shall apply to the imposition of the tax:
 - a) The incorporated area of each city and of contiguous cities within SacRT shall be either wholly included within that portion or wholly excluded from that portion. “Contiguous cities” means two or more cities with shared borders.
 - b) The entire unincorporated area of the district shall either be wholly included within that portion or wholly excluded from that portion.
- 3) Requires the proceeds of the property tax to be used to provide, within the areas taxed, for the operation, maintenance, or acquisition of any public improvement or utility for transportation purposes.
- 4) Provides that an election to impose a property tax shall only include the voters of those portions of the area of the district in which the property tax will be imposed.
- 5) Authorizes SacRT to impose a special tax pursuant to existing law governing the imposition of special taxes. The special taxes shall be applied uniformly to all taxpayers or all real property within the district, or any portion of the district, except that unimproved property may be taxed at a lower rate than improved property.
- 6) Provides that, if the special tax only applies to a portion of an area of the district, both of the following shall apply to the imposition of the tax:
 - a) The incorporated area of each city and of contiguous cities within SacRT shall be either wholly included within that portion or wholly excluded from that portion. “Contiguous cities” means two or more cities with shared borders.
 - b) The entire unincorporated area of SacRT shall either be wholly included within that portion or wholly excluded from that portion.
- 7) Specifies that the proceeds of the special tax shall be used to provide, within the area taxed, for the operation, maintenance, or acquisition of any public improvement or utility for transportation purposes.

- 8) Requires an election to impose a special tax described in 5) above, to only include the voters of those portions of the area of the district in which the special tax will be imposed.
- 9) Requires SacRT, in the ordinance to adopt a retail transactions and use tax (TUT), to state the nature of the tax imposed, the tax rate or the maximum tax rate, the purposes for which the revenue derived from the tax will be used, the portion of the area of SacRT to which the tax would apply, and may set a term during which the tax will be imposed. The purposes for which the tax revenues may be used shall be limited to public transit purposes serving the area of jurisdiction of SacRT, as determined by SacRT, as specified. These purposes include expenditures for planning, environmental review, engineering and design costs, and related right-of-way acquisition.
- 10) Provides, for 9) above, that “public transit purposes” includes the public transit responsibilities under the jurisdiction of SacRT as well as any repair, redesign, or ongoing maintenance of a right-of-way upon which transit is intended to travel, or any bikeway, bicycle path, sidewalk, trail, pedestrian access, or pedestrian accessway.
- 11) Specifies that the retail TUT may be imposed on the entirety of, or a portion of, the incorporated and unincorporated territory within the boundaries of SacRT.
- 12) Provides that the portion of the area of SacRT to which the TUT would apply shall be determined by SacRT before the electors vote on the measure.
- 13) Specifies that if the retail TUT only applies to a portion of an area of the district, all of the following shall apply to the imposition of the tax:
 - a) The incorporated area of each city and of contiguous cities within SacRT shall be either wholly included within that portion or wholly excluded from that portion. “Contiguous cities” means two or more cities with shared borders.
 - b) The entire unincorporated area of the district shall either be wholly included within that portion or wholly excluded from that portion.
 - c) The revenues derived from the TUT shall be spent within, or for the benefit of, the portion of the area of the district to which the tax applies, and shall be spent only on allowable transportation and transit infrastructure and services.
- 14) Provides that any revenues derived from the TUT shall supplement, and not supplant, other transportation revenues available to the portion of the area of SacRT to which the TUT applies.
- 15) Makes other technical and conforming changes.

FISCAL EFFECT: None.

COMMENTS:

- 1) **Bill Summary and Author’s Statement.** This bill revises and recasts provisions related to the imposition of property taxes and TUTs by SacRT, by explicitly stipulating that SacRT has the authority to impose a property tax or TUT in the entirety of, or a portion of, the incorporated and unincorporated territory, as specified. This bill would explicitly authorize

SacRT to impose a special tax pursuant to existing law. The special taxes must be applied uniformly to all taxpayers or all real property within SacRT, or any portion of SacRT, except unimproved property, which may be taxed at a lower rate than improved property. SacRT is the sponsor of this bill.

According to the author, “AB 1052 simply gives Sacramento Regional Transit Agency (SacRT) the flexibility to place measures on the ballot for a public vote using a specific portion of the region with SacRT services. The option of placing a measure on the ballot that asks only the affected portion of voters makes better sense.”

- 2) **Property Tax.** Article XIII of the California Constitution provides that all property is taxable at the same percentage of fair market value unless explicitly exempted by the Constitution or federal law. The Constitution limits the maximum amount of any ad valorem tax on real property at 1% of full cash value, plus any locally-authorized bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978 by two-thirds of the votes cast by the voters voting on the proposition (for non-school entities).
- 3) **Special Taxes.** The California Constitution states that taxes local governments levy are either general taxes, subject to majority voter approval, or special taxes, subject to 2/3 vote (Article XIII C), which local agencies use for specified purposes. Proposition 13 (1978) required a 2/3 vote of each house of the Legislature for state tax increases, and 2/3 vote of local voters for local special taxes. One of the most common forms of a special tax is a parcel tax. Parcel taxes are not ad valorem or assessed based on the value of a property; instead they are generally a flat rate assessed per parcel regardless of its size, or on a per square foot rate. Agencies can use revenues in almost any way that serves local needs, such as ongoing expenses, programs, or buildings. Counties collect parcel taxes with property taxes, and then remit funds to the agency imposing the tax. Property tax law generally guides parcel tax collection.
- 4) **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
0.50%	State (1991 Realignment)	Local governments to fund health and welfare programs
0.50%	State (Proposition 172 -	Local governments to fund public safety

Rate	Jurisdiction	Purpose/Authority
	1993)	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.

- 5) **Transactions and Use Taxes.** 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.

As of April 1, 2023, local jurisdictions impose a combined 411 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 Bay Area Rapid Transit (BART) District (Alameda, Contra Costa, and San Francisco counties) and the Sonoma-Marín Rail Transit District (Sonoma and Marin counties). Of the 411 TUTs, 67 are imposed countywide, four are imposed in unincorporated county areas, and 340 are imposed citywide. SacRT does not currently impose a TUT.

- 6) **AB 1413.** AB 1413 (Gloria), Chapter 758, Statutes of 2019, was similar to this bill and authorized local transportation authorities in Placer, Solano, and San Diego Counties to levy a TUT in a portion of its jurisdiction with voter approval. Specifically, AB 1413 did the following:

- a) Authorized the Placer County Transportation Planning Agency to impose a TUT applicable to the entirety, or a portion, of the County of Placer in conformity with TUT Law at a rate of no more than 1% if certain requirements are met, including a requirement that the ordinance proposing the TUT be submitted to, and approved by, the voters.
- b) Provided the same abovementioned TUT authority to the Solano Transportation Improvement Agency for certain portions of Solano County.
- c) Authorized the San Diego Regional Transportation Commission, San Diego Association of Governments, San Diego Metropolitan Transit System and the North County Transit District to levy a TUT in a portion of their jurisdictions, with voter approval, and required revenues derived from the TUT to be spent only on transportation and transit infrastructure and services.

A similar bill, AB 1324 (Gloria) of 2018 would have authorized a local transportation authority, which has existing TUT authority, to levy a TUT in any portion of its jurisdiction, with voter approval. This bill was held on the Assembly Floor.

- 7) **Sacramento Regional Transit District.** SacRT was established by SB 1477 (Rodda), Chapter 1374, Statutes of 1971. SacRT serves citizens in the County of Sacramento and the Cities of Sacramento, Citrus Heights, Elk Grove, Folsom, and Rancho Cordova, by operating over 80 bus routes and 43 miles of light rail across an approximately 400 square-mile service area, among other services.

SacRT is governed by an 11-member Board of Directors comprised of directors that are appointed by the different jurisdictions: three members by Sacramento County, four members by the City of Sacramento, and one member each from the cities of Citrus Heights, Elk Grove, Folsom, and Rancho Cordova.

- 8) **Policy Consideration.** The Committee may wish to consider the following:
 - a) **Pick and Choose.** Cities, counties, and special districts generally apply taxes evenly across their jurisdictions. This bill departs from this principle to allow SacRT to impose taxes on some residents, but not others. Two-thirds voter approval can be difficult to obtain in some areas, especially when including citizens in unincorporated areas who generally rely mostly on cars for transportation. However, transportation needs do not necessarily align evenly with jurisdictional boundaries. While the bill requires SacRT to spend resulting tax revenues within the area subject to the tax, the Committee may wish to consider if residents in untaxed areas may unfairly benefit from taxes collected in other areas.
 - b) **Local Taxing Limitations.** Local taxing authority is complex and often directed by the California Constitution. Multiple propositions over the last 45 years have dictated many of the limitations and requirements local agencies must follow when imposing taxes. Because of these constitutional requirements, statutory law often references these constitutional provisions to avoid conflict and potential confusion. The Committee may wish to consider if additional clarification is needed.

- 9) **Committee amendments.** In order to address the considerations above, the Committee may wish to amend the bill as follows:

102331. (a) In addition to revenues and receipts from other sources, the board may levy and collect a property tax in the entirety of, or a portion of, the incorporated and unincorporated territory. The board may impose different rates of taxation in areas within the district.

Authority exercised pursuant to this subdivision shall be subject to any applicable constitutional requirements.

(b) If the tax only applies to a portion of an area of the district, both of the following shall apply to the imposition of the tax:

(1) The incorporated area of each city and of contiguous cities within the district shall be either wholly included within that portion or wholly excluded from that portion. For purposes of this paragraph, “contiguous cities” means two or more cities with shared borders.

(2) The entire unincorporated area of the district shall either be wholly included within that portion or wholly excluded from that portion.

(c) The proceeds of the property tax shall be used to provide, within the areas taxed, for the **operation, maintenance, or acquisition of any public** improvement or **utility acquisition of any real property needed** for transportation purposes.

102336. (a) The district board may impose a special tax pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code, **subject to any applicable constitutional requirements.** The special taxes shall be applied uniformly to all taxpayers or all real property within the district, or any portion of the district, except that unimproved property may be taxed at a lower rate than improved property.

102350. (a) A retail transactions and use tax ordinance may be adopted by the board in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, provided two-thirds of the electors voting on the measure vote to authorize its enactment at a special election called for that purpose by the board, **subject to any applicable constitutional requirements.**

- 10) **Arguments in Support.** According to SacRT, “While we strongly believe that a robust, efficient, and cost-effective transit system benefits all people within the service area of that system, we also recognize that some projects do provide more benefits to a subset of the residents of the district. However, currently, if SacRT wants to place a measure on the local ballot to increase a sales or use tax, or property tax, that measure must cover our entire service territory.

“AB 1052 would clarify SacRT’s authority to place a sales, use, or property tax measure before voters in one or more specific cities within its district, or, conceivably, only within the unincorporated areas of its district, or a combination thereof. Any such measure must cover the entire city or cities, and all or none of the unincorporated area. It does not allow for a tax that would apply to only a part of a city, or a part of the unincorporated areas. Any such measure would still require a two-thirds vote for approval of the affected electorate.

“SacRT provides transit services to the majority of Sacramento County, offering, bus, light rail, micro transit, and ADA paratransit options to the Capital region of the fourth largest economy in the world. Two recent ballot measures to provide additional sales tax funding to SacRT failed, partially because they increased the sales tax on voters who did not feel they

would directly benefit from the transit projects the revenue was intended to support. This bill will give us the ability to ask only a subset of the voters within the SacRT's service area to increase their taxes to help pay for transit services in that specific area.”

11) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Sacramento Regional Transit District

Opposition

None on file

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