

Date of Hearing: January 10, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1324 (Gloria) – As Amended March 20, 2017

SUBJECT: Metropolitan planning organizations: transactions and use taxes.

SUMMARY: Authorizes a metropolitan planning organization or regional transportation planning agency that has existing transactions and use tax authority to levy a transactions and use tax in any portion of its jurisdiction, with voter approval. Specifically, **this bill:**

- 1) Authorizes a metropolitan planning organization (MPO) or regional transportation planning agency (RTPA) that is authorized by existing law to levy, expand, increase, or extend a transactions and use tax to levy, expand, increase, or extend the tax in *any portion* of the jurisdiction in which the MPO or RTPA is authorized to levy, expand, increase, or extend the tax, if approved by the required percentage of the voters of that portion of the jurisdiction who vote on the issue.
- 2) Requires the revenues derived from the levy, expansion, increase, or extension of the tax in a portion of the jurisdiction of an MPO or RTPA to only be used within the area for which the tax (levy, expansion, increase or extension) was approved by the voters.

FISCAL EFFECT: None

COMMENTS:

- 1) **MPOs and RTPAs in California.** Existing federal law requires any urbanized area with a population greater than 50,000 to establish an MPO that, among other things, is responsible for ensuring that regional transportation planning is cohesive across local jurisdictions. Existing state law requires the 18 MPOs and 26 RTPAs to prepare and adopt long-range regional transportation plans which identify the region's vision and goals and how to implement a coordinated and balanced regional transportation system. Generally, regional planning is conducted by MPOs in urbanized areas and RTPAs in rural areas. According to the California Association of Councils of Governments (CALCOG), only one MPO is established by California law, Metropolitan Transportation Commission (MTC), which includes the nine counties in the San Francisco Bay Area. The other 16 MPOs were established by local decisions creating either a state-required county transportation commission to serve as an RTPA under state law, or a previously existing Council of Governments (COG) established for review of federal grant applications by local governments. MPOs generally follow county boundaries, with the exception of the Tahoe Regional Planning Agency, a bi-state agency created by Congress and compact between California and Nevada.
- 2) **Taxing Authority.** Existing law does not explicitly provide all MPOs or RTPAs with the authority to levy transactions and use taxes. An exception, the San Diego Association of Governments (SANDAG), is explicitly authorized to impose a transactions and use tax. Other MPOs and RTPA have been designated by the county as the local transportation authority. A local transportation authority may be a statutorily created RTPA (like the Placer County Transportation Planning Agency), a COG, a local transportation commission, or a

multicounty designated planning agency. Current law authorizes a local transportation authority to impose a transactions and use tax ordinance in the incorporated and unincorporated territory of a county in accordance with existing law which governs transactions and use taxes. The local transportation authority must adopt the tax ordinance by a two-thirds vote, request the county to call a special election, and adopt an expenditure plan, as specified. Current law requires the expenditure plan to be prepared for the expenditure of the transactions and use tax revenues, and federal, state, and local funds expected to be available for transportation improvements for the period during which the tax is imposed.

- 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. State law has been amended multiple times to authorize specific cities, counties, special districts and local transportation authorities, including SANDAG, to impose a transactions and use tax, if voters approve the tax.

According to the State Board of Equalization, as of April 1, 2017, 257 local agencies impose their own transactions and use taxes: six of 54 county-imposed taxes are general purpose taxes and 48 are special purpose taxes with 35 dedicated for transportation purposes.

- 4) **Bill Summary.** This bill authorizes an MPO or RTPA that has existing transaction and use tax authority to levy a transactions and use tax in *any portion* of its jurisdiction, with two-thirds voter approval. Under this bill, revenues must only be used in the area where voters approved the tax. This bill is author-sponsored.
- 5) **Author's Statement.** According to the author, "AB 1324 allows MPOs or RTPAs, who already have tax proposal authorization, to place before the voters a transactions and use tax for only a portion of their geographic jurisdiction. In 2016, we saw a number of proposed transactions and use taxes in California that did not receive the required two-thirds vote of the people. However, there were geographic regions that overwhelmingly supported such measures. AB 1324 allows regions within an MPO's area to band together to approve proposed tax levies, while excluding those regions which are neither interested in the additional tax nor the services that would result from the tax levy. AB 1324 provides more flexibility to local jurisdictions and voters to fund improvements."
- 6) **Prior Legislation.** AB 805 (Gonzalez Fletcher), Chapter 658, Statutes of 2017, made changes to the governance structure for SANDAG, Metropolitan Transportation System (MTS), and North County Transit District (NCTD), and authorized MTS and NCTD to impose a transactions and use tax. Additionally, AB 805 required the MTS and NCTD Boards to contract with the California Department of Tax and Fee Administration (CDTFA) to administer a transactions and use tax, and provide CDTFA with a complete alphabetical list of all streets within the affected unincorporated area under the jurisdiction of the Board within 45 days from the date the ordinance is approved by the voters.

AB 431 (Mullin) of 2013 would have authorized a transportation planning agency that is designated as an MPO to impose a transaction and use tax within all or a portion of its jurisdiction for the purpose of achieving the goals of the sustainable communities strategy, at

a rate of no more than 0.5 %, subject to specified conditions. The contents of AB 431 (Mullin) were subsequently amended into a different subject matter.

AB 2119 (Stone), Chapter 148, Statutes of 2014, authorized a county board of supervisors to levy, increase, or extend a transactions and use tax, for general or specific purposes, within the unincorporated area of the county. The Committee is not aware of any county that has utilized this authority.

7) **Policy Considerations.** The Committee may wish to encourage the author to address several issues moving forward:

- a) **Defining the Universe.** The Committee may wish to consider the lack of explicit authority under existing law granting an MPO or RTPA to levy a transactions and use tax, and encourage the author to utilize a different approach in order to define which MPOs and RTPAs this bill applies to. For example:
 - i) The narrowest approach would be to explicitly name a few MPOs or RTPAs that have the explicit statutory authority or have already been designated by the county as the local transportation authority; or,
 - ii) A broader, but more concise alternative to current language, would remove the current MPO and RTPA language and instead make it explicit that if a county designates a transportation planning agency to serve as the local transportation authority, that this bill authorizes that MPO or RTPA, serving as the local transportation authority, to levy a transactions and use tax in a portion of its jurisdiction.

The Committee may wish to consider if these alternatives may provide MPOs and RTPAs with more solid legal footing to utilize the authority granted by this bill. Additionally, the Committee may wish to consider how and if this bill should apply to multi-county MPOs or RTPAs.

- b) **Defining Boundaries.** The Committee may wish to consider that this bill does not place any parameters around a portion of a jurisdiction in which an MPO or RTPA can levy a tax. This portion of a jurisdiction does not have to follow city or county boundaries. The Committee may wish to consider that while transportation needs do not necessarily align with jurisdictional boundaries, whether this policy may create potential equity issues. At a minimum, the Committee may wish to encourage the author to ensure that incorporated cities are not divided.

Additionally, the Committee may wish to encourage the author to require the boundaries of the jurisdiction in which a proposed transactions and use tax may be imposed to be clearly identified on the ballot measure.

- 8) **Arguments in Support.** The Placer County Transportation Planning Agency states, "Obtaining the required two-thirds majority support for a local transportation sales tax is made even more difficult in a county as diverse as Placer, as the needs in the suburban areas of South Placer are very different from those in the more rural foothills and those at the North Shore of Lake Tahoe. AB 1324 would allow Placer County to build on the districting approach by designating sales tax districts for the suburban areas of South Placer and the

rural areas of Auburn and the Sierra Foothills. These districts would allow for targeted expenditure plans that speak to the critical transportation needs of those areas, with assurance that the funds generated would be spent in that same district."

The California Transportation Commission states, "AB 1324 enables counties that have been unsuccessful in achieving the required two-thirds voter approval for transportation funding measure to bifurcate their jurisdictions, increasing the likelihood of passing transportation funding measures in areas where voters may support them."

- 9) **Arguments in Opposition.** The Howard Jarvis Taxpayers Association (HJTA) states, "HJTA is troubled by this bill because it would allow county/regional agencies to essentially 'cherry-pick' its electorate to get a sales tax approved. AB 1324 also includes a disingenuous promise that the funds will only be used to support the portion of the electorate that voted for the tax. While this may be true in theory, it doesn't square with reality. The fact is, everyone in the county uses the same roads and should have the same responsibility in caring for them."

The California Taxpayers Association states, "Authorizing smaller sales tax jurisdictions complicates compliance for retailers in the districts, and creates winners and losers in the marketplace, since consumer behavior will be affected by taxes. In addition, smaller tax jurisdictions create competitive disadvantages between retailers that may be separated by only a couple of streets."

REGISTERED SUPPORT / OPPOSITION:

Support

California Transportation Commission
City of Encinitas
Placer County Transportation Planning Agency

Opposition

California Taxpayers Association
Howard Jarvis Taxpayers Association

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