

Date of Hearing: May 3, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1385 (Garcia) – As Amended March 23, 2023

SUBJECT: Riverside County Transportation Commission: transaction and use tax.

SUMMARY: Authorizes the Riverside County Transportation Commission (RCTC) to impose a maximum transportation and use tax (TUT) of 1.5%. Specifically, **this bill:**

- 1) Allows RCTC, subject to the approval of the voters, to impose a maximum tax rate of 1.5%, instead of 1%.
- 2) Makes other technical changes.
- 3) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable because of the need to provide a local funding option to meet the transportation needs of the County of Riverside.

EXISTING LAW:

- 1) Authorizes RCTC to levy a retail TUT, as specified. Provides that the ordinance shall become effective if adopted by a two-thirds vote of RCTC and subsequently approved by two-thirds of the electors voting on the measure at a special election called for the purpose by the board of supervisors or at any regular election. RCTC shall specify in the ordinance that no more than 1% of the annual net amount of revenues raised by the tax may be used to fund the salaries and benefits of the staff of RCTC in administering the programs funded from that tax. [Public Utilities Code (PUC) § 240301]
- 2) Requires RCTC, in the ordinance, to state the nature of the tax to be imposed, the tax rate or the maximum tax rate, the purposes for which the revenue derived from the tax will be used, and to set a term during which the tax will be imposed. The purposes for which the tax revenues may be used include, but are not limited to, the construction, capital acquisition, maintenance, and operation of streets, roads, highways, including state highways, and public transit systems. The ordinance shall contain an expenditure plan, as specified. (PUC § 240302)
- 3) Authorizes RCTC, subject to the approval of the voters, to impose a maximum TUT rate of 1%, as specified. RCTC shall not levy a tax or multiple taxes at a rate other than 1%, or three-quarters, one-half, or one-quarter of 1%, unless specifically authorized by statute. Provides that the tax rate shall not be considered for the purposes of the combined rate limit established in existing law. (PUC § 240306)

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 CDFTA. 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 - 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.

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. In 1988, Riverside County voters approved Measure A, a 0.5% district tax for transportation purposes, which became operative on July 1, 1989, and was scheduled to sunset 20 years later. In 2002, Riverside County voters approved an extension of Measure A until 2039.

- 3) **Bill Summary and Author's Statement.** This bill raises the maximum TUT that RCTC may impose, from 1% to 1.5%. RCTC is the sponsor of this bill.

According to the author, "Riverside County is California's fastest-growing and most diverse county. As the population and economy grow so does the need for other transportation measures. This bill would give the Riverside County Transportation Commission options should Riverside County's voters choose to implement a new sales tax measure to fund future transportation needs."

- 4) **Riverside County.** Riverside County has 17 TUTs levied within its borders: one countywide tax levied by the RCTC at 0.50%, and 16 citywide taxes. Since Palm Springs imposes the highest city rate in the county at 1.50%, the combined rate of taxes imposed by Riverside County is 2.00%. However, since the 0.50% tax levied by RCTC is not subject to the 2.00% combined rate limitation, an additional 0.50% is available for either the county, or any city within the county, to impose a general or specific purpose district tax without exceeding the 2.00% combined rate limitation.
- 5) **Policy Consideration.** 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 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 higher than 10.00% within Riverside County. While any increase would have to be approved by the voters, the Committee may wish to consider whether AB 1385 allows for rates that are too high.

- 6) **Previous Legislation.** AB 1637 (Eaves), Chapter 270, Statutes of 1987, enacted the Riverside County Transportation Sales Tax Act and authorized RCTC to impose a district tax for transportation purposes at a maximum rate of 0.5%.

AB 1189 (Garcia), Chapter 642, Statutes of 2017, increased the maximum TUT rate, from 0.5% to 1%, which RCTC may impose, subject to voter approval. This bill also specified that the TUT shall not be considered for purposes of the combined 2% cap established by existing law.

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 Bay Area Rapid Transit District 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.

- 7) **Related Legislation.** AB 1256 (Wood) authorizes Humboldt County to impose a TUT that exceeds the 2% statutory limitation. This bill passed this Committee on April 19 with a 5-2 vote.
- 8) **Arguments in Support.** According to RCTC, “As the administrator of Measure A, the Commission kept its promises to Riverside County voters for nearly 35 years by using the residents' tax dollars efficiently and effectively to build the projects voters said they wanted. Measure A generated thousands of jobs and provided more than \$4.1 billion in local sales tax funding for transportation projects across Riverside County that support its nearly 2.5 million residents, with public transit; commuter and motorist assistance; state highways; local streets and roads; and habitat conservation for 146 protected or endangered species.

“While California’s overall population decreased during the last few years, Riverside County is the fastest-growing county in the state and the fifth fastest-growing county in the nation. The California Department of Finance projects that by 2048, Riverside County will have 3 million people, up 20 percent from 2022. People are moving here because of housing affordability, economic opportunity, and open space.

“The increase in the county's population necessitates evaluating how to fund much-needed improvements to our transportation infrastructure. Unfortunately, there is a significant backlog of critically needed transportation projects in Riverside County that existing fund sources cannot meet. AB 1385 provides options should Riverside County's voters choose to implement a new sales tax measure to fund future transportation needs. AB 1385 does not

raise taxes. The bill increases RCTC's sales tax authority from one cent to one and a half cents per dollar and does not alter Measure A's half-cent sales tax rate. Any changes to Measure A requires approval from Riverside County's voters."

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

REGISTERED SUPPORT / OPPOSITION:

Support

RCTC [SPONSOR]

American Council of Engineering Companies

Associated General Contractors of California

Coachella Valley Association of Governments

California Alliance for Jobs

California Asphalt Pavement Association

California Construction and Industrial Materials Association

California State Council of Laborers

District Council of Iron Workers of the State of California and Vicinity

Engineering and Utility Contractors Association DBA United Contractors

International Union of Operating Engineers

Rebuild Social Partnership

Riverside County Supervisor, Fourth District, V. Manuel Perez

Self-Help Counties Coalition

Southern California Contractors Association

Transportation California

Western Regional Association for Pavement Preservation

Opposition

None on file

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