

Date of Hearing: May 1, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1413 (Gloria) – As Introduced February 22, 2019

SUBJECT: Transportation: local transportation authorities: transactions and use taxes.

SUMMARY: Authorizes specified local transportation authorities, which have 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 local transportation authority that has existing transactions and use tax authority to levy a transactions and use tax in a portion of its jurisdiction, with voter approval.
- 2) Requires the local transportation authority to determine the portion of the jurisdiction in which the tax would apply prior to the electors voting on the measure.
- 3) Specifies that if the tax only applies to a portion of the jurisdiction, both of the following shall apply:
 - a) The incorporated area of each city within the area shall be either wholly included or wholly excluded from that portion; and,
 - b) The governing board shall not enter into a construction contract over one million dollars that would be part or wholly financed through the tax with any entity, unless the entity provides to the agency an enforceable commitment that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or a contract that falls within an apprenticeship occupation in the building and construction trades, as specified. Provides that this paragraph shall not apply if any of the following requirements are met:
 - i) The governing board has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project;
 - ii) The governing board has contracted to use a skilled and trained workforce and the entity has agreed to be bound by that project labor agreement;
 - iii) The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the governing board before January 1, 2019; and,
 - iv) The entity has entered into a project labor agreement that will bind the entity and all of its subcontractors at every tier performing the project or the entity has contracted to use a skilled and trained workforce.
- 4) Requires the tax revenues to be spent within or for the benefit of the portion of the jurisdiction to which the tax applies.

- 5) Requires any tax revenues to supplement, and not supplant, other transportation revenues available to the portion of the jurisdiction to which the tax applies.
- 6) Authorizes the San Diego Association of Governments (SANDAG), San Diego Metropolitan Transit System (MTS) and the North County Transit District (NCTD), which have existing transactions and use tax authority, to levy a transactions and use tax in a portion of its jurisdiction, with voter approval, subject to 2) through 5), above.
- 7) Makes a number of technical and clarifying changes.

FISCAL EFFECT: None

COMMENTS:

- 1) **Background.** 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.

State law has been amended multiple times to authorize cities, counties, special districts and local transportation authorities, including SANDAG, MTS, and NCTD, to impose a transactions and use tax. 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. As of April 1, 2018, 269 local agencies impose their own transactions and use taxes: four of 58 county-imposed taxes are general purpose taxes and 54 are special purpose taxes, with 35 dedicated for transportation purposes. Of the 211 city-imposed taxes, 174 are general purpose and 37 are special purpose.

- 2) **Bill Summary.** This bill authorizes specified local transportation agencies which have 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, the local transportation agency must identify the portion of its jurisdiction in which the tax would apply prior to its adoption of a tax ordinance. Additionally, this bill requires that revenues must only be used in the area or for the benefit of the portion of the county where the tax applies. Any transactions and use tax revenues must supplement, and not supplant, other transportation revenues available to that area. This bill is sponsored by the author.
- 3) **Author's Statement.** According to the author, "AB 1413 allows subregions within a local transportation authority's jurisdiction to find ways to address the specific transportation infrastructure needs of their communities. By enabling subregions to choose whether they want to tax themselves, voters will be assured that their taxes will go back into their community – improving roads, transit, highways, or other transportation infrastructure as they see fit."

- 4) **Prior Legislation.** AB 431 (Mullin) of 2013 would have authorized a transportation planning agency that is designated as a Metropolitan Planning Organization 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. AB 431 was 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.

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

- 5) **Policy Consideration.** This bill requires, if a transactions and use tax only applies to a portion of an agency's jurisdiction, the incorporated area of each city within the county to be wholly included or excluded from that portion where the tax applies. This bill allows the unincorporated area of an agency's jurisdiction to be divided and the tax to be imposed in a portion of the county. The Committee may wish to consider that while transportation needs do not necessarily align with jurisdictional boundaries, whether this bill may create potential equity issues within the county.
- 6) **Arguments in Support.** Placer County states, "For Placer County, transportation is a key to our quality of life, environmental priorities and economic vitality, yet funding to provide for these needs at the local community level is difficult to obtain. What funding that is available from State and Federal sources often requires significant local match, which is frequently made available through a local transportation sales tax. Obtaining the required 2/3 majority support for a local transportation sales tax is made even more difficult in a county as diverse as Placer County.

"There are examples of such previous legislative efforts to provide discrete portions within a county for a local entity to seek sales tax authority including in Placer County. Specifically, in 1994, legislation was passed to designate the area of Placer County east of the summit of the Sierras as a separate transportation sales tax district under the authority of the North Lake Tahoe Transportation Authority. The North Lake Tahoe Transportation Authority was reaffirmed by the Legislature in 2018 through AB 2920 (Thurmond).

“AB 1413 would allow the Placer County Transportation agency to build on the districting approach by designating sales tax districts where needs are greatest and can be served with a regionally viable sales tax. Such 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 measure does not propose to change any voting requirements for special sales tax elections.”

- 7) **Arguments in Opposition.** The Howard Jarvis Taxpayers Association argues that, “This bill is very similar to AB 1324 (2017) which HJTA also opposed. Local government agencies and municipalities shouldn’t be able to pick and choose among their tax base to make it easier to increase regressive sales taxes. From a business compliance standpoint, authorizing smaller sales tax regions makes compliance challenging for retailers and creates tax disparities that may be different not just from city to city, but street to street. Consumer behavior will undoubtedly be negatively affected by this picking of winners and losers in the private economy.”

REGISTERED SUPPORT / OPPOSITION:

Support

American Federation of State, County, and Municipal Employees, AFL-CIO (AFSCME)
California Association of Councils of Governments
City of Lincoln
City of Roseville
Contra Costa Transportation Authority
Environmental Health Coalition
Lincoln Area Chamber of Commerce
Placer County
Placer County Transportation Planning Agency
Rocklin Area Chamber of Commerce
Roseville Area Chamber of Commerce
San Diego 350
Solano Transportation Authority
Yolo County

Opposition

Howard Jarvis Taxpayers Association

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