

Date of Hearing: May 3, 2017

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1613 (Mullin) – As Amended April 19, 2017

SUBJECT: San Mateo County Transit District: retail transactions and use tax.

SUMMARY: Authorizes the San Mateo County Transit District (SamTrans), subject to voter approval, to exceed the 2% transactions and use tax (TUT) limit at a rate of no more than 0.5%. Specifically, **this bill:**

- 1) Authorizes SamTrans to impose a retail TUT, subject to voter approval, that would, in combination with all other TUTs in San Mateo County, exceed the 2% limit on TUTs established in existing law, if the following requirements are met:
 - a) The tax is set at a rate of no more than 0.5%;
 - b) The SamTrans Board of Directors (Board) adopts the ordinance approving the tax before January 1, 2021; and,
 - c) The TUT conforms to the Transactions and Use Tax law, as specified.
- 2) Prohibits the Board from utilizing the authority in 1) above, if San Mateo County uses their existing authority to impose a TUT that exceeds the 2% countywide limit in current law by 0.5% for transportation programs.
- 3) Prohibits San Mateo County from utilizing their existing authority to impose a TUT for transportation programs that exceeds the 2% countywide limit on TUTs, if SamTrans uses the authority in 1), above.
- 4) Clarifies that the ordinance adopted by the Board proposing a TUT must be consistent with California Constitution Article XIII C.

EXISTING LAW:

- 1) Prohibits, in any county, the combined rate of all TUTs imposed in accordance with Transactions and Use Tax Law from exceeding 2%.
- 2) Authorizes San Mateo County, until January 1, 2026, and in accordance with the requirements of the Bay Area County Traffic and Transportation Fund Act, to impose a TUT for countywide transportation purposes at 0.5% that exceeds the 2% limit established in existing law, subject to voter approval.
- 3) Authorizes the Board of the SamTrans to impose a TUT, subject to voter approval.
- 4) Requires, pursuant to Article XIII C of the California Constitution, that no local government may impose, extend, or increase any special tax, unless and until that tax is submitted to the electorate and approved by a two-thirds vote.

FISCAL EFFECT: None

COMMENTS:

- 1) **TUTs.** TUTs are taxes that are applied to the retail sales of tangible personal property, such as when clothing or other goods are purchased in a store, as well as to the use or storage of such property when sales tax is not paid. If these taxes are to be used for unrestricted, general purposes, they must be approved by the voters by a majority vote. Special taxes, which are restricted for a specified use, such as transportation projects, must be approved by a two-thirds vote.

Under current law, cities, counties, and specified special districts and transportation authorities may not impose transactions and use taxes that, when combined with other taxes, exceed a total of 2%. However, the Legislature has provided multiple exemptions to cities, counties, special districts, and county transportation authorities, to exceed the 2% cap.

According to California City Finance, since 1995, voters have considered 64 countywide transportation sales tax measures. Only 28 of those measures passed with the necessary two-thirds vote. Currently, 24 counties have TUTs for transportation.

- 2) **Bill Summary.** This bill authorizes SamTrans to impose a retail TUT, subject to voter approval, that exceeds the 2% countywide combined rate cap. Under this bill, the governing board of SamTrans must first adopt an ordinance of the proposed tax at a rate of no more than 0.5% before January 1, 2021. It must also receive the appropriate voter approval, pursuant to the California Constitution, which requires a two-thirds vote for special taxes.

While this bill does not specifically restrict San Mateo County's ability to place a TUT measure on the ballot for transportation purposes, the 0.5% cap could only be used by SamTrans or San Mateo County, but not both. Under current law, no more taxes may be imposed once the total 0.5% cap is reached. Effectively, this means that once the 2.5% threshold is reached, no entity may impose more taxes, regardless of which entity put the TUT proposal on the ballot. This bill is sponsored by SamTrans.

- 3) **Author's Statement.** According to the author, "This bill would give a transportation agency in the County of San Mateo the option to place a sales tax measure before the voters during an upcoming election that could provide additional revenues for the county's transportation priorities. San Mateo County is currently subject to the 2 percent cap and successfully sought legislation to exceed it in 2015. This bill would not increase the taxing authority beyond what was enacted in 2015, but rather provide another option for the county in determining the agency responsible for drafting and implementing the expenditure plan for a future transportation sales tax. The District, because of its role in administering the county's prior sales tax measure (Measure A), but also because of the multi-modal nature of the agencies it administers, may be better suited for this role."
- 4) **Transportation in San Mateo County.** SamTrans is a special district that implements multimodal transportation services, such as bus, paratransit, and commuter rail and shuttle lines, throughout San Mateo County. SamTrans began operating the first bus lines in 1976. The district is funded through a variety of funding sources, including federal, state, and local taxes. According to their 2015-2019 Strategic Plan, "SamTrans has structural deficits driven by the uncertainty of funding from federal, state, and local sources, particularly State Transportation Development Act funds that make up 23 percent of SamTrans revenue and a local half-cent sales tax that makes up another 45 percent. Because SamTrans can't directly

influence these, SamTrans has control over only a small part of its revenue stream, specifically farebox revenue [such as bus fares], which makes up about 11 percent of its revenue.”

SamTrans also manages the San Mateo County Transportation Authority’s (SMCTA) funding of highway, bicycle, arterial, and other mobility programs in the county. SCMTA is an independent agency that was created in 1988 when San Mateo County voters approved a 20 year half-cent sales tax to fund transportation projects and programs in the County. This sales tax expired in 2008, and was extended until 2033. SCMTA continues to manage and administer sales tax revenues that are generated through other measures. SCMTA is governed by a seven-member board, with one member appointed by SamTrans.

- 5) **Funding in San Mateo County.** Currently, San Mateo County has three countywide TUTs at a total of 1.5%. However, because the cap takes both countywide and citywide taxes into account, even if a county has not reached the 2% cap, an additional city tax could mean that the cap has been reached. Because of this interaction between city-imposed and county-imposed TUTs, the concern that counties will run into the 2% cap still applies today.

With three countywide taxes and several citywide TUTs, San Mateo County has reached the 2% limit. SB 705 (Hill), Chapter 579, Statutes of 2015, authorized San Mateo County to exceed the 2% cap to impose a TUT for transportation purposes by 0.5%, subject to voter approval and in accordance with the requirements of the Bay Area County Traffic and Transportation Funding Act. The authority granted by SB 705 to exceed the 2% cap has not been utilized.

- 6) **Previous Legislation.** The Legislature has previously granted exemptions to the 2% cap for TUTs to support countywide transportation programs.

- a) AB 2321 (Feuer), Chapter 302, Statutes of 2008, authorized the Los Angeles Metropolitan Transportation Authority (MTA) to impose, subject to voter approval, a 0.5% sales tax for 30 years. SB 767 (De León), Chapter 580, Statutes of 2015, authorized MTA to impose an additional 0.5% tax for transportation purposes.
- b) AB 1086 (Wieckowski), Chapter 327, Statutes of 2011, authorized a one-time exemption for Alameda County from the 2% cap. AB 210 (Wieckowski), Chapter 194, Statutes of 2013, extended the authority granted to Alameda County to adopt an ordinance imposing a TUT from January 1, 2014, to December 31, 2020, and authorized Contra Costa County to adopt an ordinance imposing a TUT in the same manner as Alameda County. AB 1665 (Bonilla), Chapter 45, Statutes of 2016, removed the authority from the Counties of Alameda and Contra Costa to impose a TUT for countywide transportation programs at a rate of no more than 0.5%, and instead, granted that authority to the Contra Costa Transportation Authority.
- c) AB 464 (Mullin) in 2015 would have increased the maximum combined rate of all taxes imposed by any county from 2% to 3%. AB 464 was vetoed by the Governor.

- 7) **Arguments in Support.** SamTrans, the Peninsula Corridor Joint Powers Board, and SMCTA write in support: “Historically, San Mateo County voters have shown a willingness to approve local sales taxes to fund new and existing transportation services, invest in critically needed infrastructure and support other vital local services. This legislation will provide the

capacity to allow for local decision makers to weigh their options in addressing our transportation needs.”

- 8) **Arguments in Opposition.** The Howard Jarvis Taxpayers Association, in opposition, writes, “Even if appropriate voter approval is achieved locally, AB 1613 still represents poor public policy for numerous reasons. [...] With both wages and consumer confidence increasing, this is the wrong message to be sending to California taxpayers.”

REGISTERED SUPPORT / OPPOSITION:

Support

San Mateo County Transit District [SPONSOR]
Peninsula Corridor Joint Powers Board (Caltrain)
San Mateo County Transportation Authority

Opposition

Howard Jarvis Taxpayers Association

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