

Date of Hearing: April 6, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

AB 1665 (Bonilla) – As Introduced January 14, 2016

SUBJECT: Transactions and use taxes: County of Alameda, County of Contra Costa, and Contra Costa Transportation Authority.

SUMMARY: Extends the sunset date on the authority of Alameda County and Contra Costa County to impose an additional transactions and use tax, subject to voter approval, and grants Contra Costa County's existing authority to the Contra Costa Transportation Authority. Specifically, **this bill:**

- 1) Extends the sunset date from December 31, 2020, to December 31, 2024, on the existing authority granted to Alameda County to adopt an ordinance to impose a transactions and use tax, subject to voter approval, that exceeds the combined statutory rate of 2%.
- 2) Removes the existing authority granted to Contra Costa County, and instead, authorizes the Contra Costa Transportation Authority (CCTA) to adopt an ordinance, in the same manner as Alameda County, to impose a transactions and use tax, subject to voter approval, that exceeds the combined statutory rate of 2% until December 31, 2024.
- 3) Makes technical and conforming changes.
- 4) Finds and declares that a special law is necessary because of the unique fiscal pressures experienced in Alameda County and CCTA in providing essential transportation programs.

EXISTING LAW:

- 1) Authorizes cities and counties to impose a local sales and use tax.
- 2) Authorizes cities and counties to impose transactions and use taxes.
- 3) Prohibits, in any county, the combined rate of all taxes imposed in accordance with Transactions and Use Tax Law from exceeding 2%.
- 4) Authorizes Alameda County and Contra Costa County to adopt an ordinance imposing a transactions and use tax not to exceed 0.5% for the support of countywide transportation programs at a rate that would, in combination with all other transaction and use taxes, exceed the 2% limit established in existing law, if all the following conditions are met:
 - a) The local government entity adopts an ordinance proposing the transactions and use tax by any applicable voting requirements;
 - b) The ordinance proposing the transactions and use tax is submitted to the electorate and is approved by two-thirds of the voters voting on the ordinance; and,
 - c) The transactions and use tax conforms to the Transaction and Use Tax Law.

- 5) Provides that the authority for Alameda County and Contra Costa County to adopt an ordinance to impose a transactions and use tax that exceeds the combined statutory rate of 2% shall only remain in effect until December 31, 2020.

FISCAL EFFECT: None

COMMENTS:

- 1) **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. These types of taxes may be levied as general taxes (majority vote required), which are unrestricted, or special taxes (two-thirds vote required), which are restricted for a specified use.

The Transactions and Use Tax law authorizes the adoption of local add-on rates to the combined state and local sales tax rate. The law has been amended multiple times to authorize specific cities, counties, special districts and county transportation authorities to impose a transactions and use tax, if voters approve the tax. Currently, twenty counties have transactions and use taxes for public transportation or transit.

Prior to 2003, cities lacked the ability to place transactions and use taxes 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 transactions and use tax cap because of the possibility that certain counties were going to run out of room under their caps, if cities within those counties approved transactions and use taxes.

Because of the interaction between city-imposed and county-imposed transactions and use taxes, the concern that counties will run into the 2% cap still applies today. Currently, the Counties of Alameda, Contra Costa, Los Angeles, and San Mateo have reached the 2% limit, and the Counties of Marin, San Diego, and Sonoma are near the 2% limit. The Legislature has granted several exemptions to the 2% cap, including to several counties to allow an additional countywide transactions and use tax for transportation purposes.

- 2) **Bill Summary.** In 2011, the Legislature provided a one-time exemption for Alameda County from the 2% transactions and use tax combined rate cap [AB 1086 (Wieckowski), Chapter 327, Statutes of 2011]. After a ballot measure in Alameda County fell narrowly short of the necessary two-thirds vote, the Legislature extended the authority for Alameda County to adopt an ordinance imposing a transactions and use tax from January 1, 2014, to December 31, 2020, and authorized Contra Costa County to adopt an ordinance imposing a transactions and use tax in the same manner as Alameda County [AB 210 (Wieckowski), Chapter 194, Statutes of 2013].

This bill replaces Contra Costa County with CCTA as the entity authorized to impose a countywide transactions and use tax, subject to voter approval, beyond the 2% cap. Additionally, this bill provides an extension to the sunset date on the authority granted to

Alameda County and CCTA from December 31, 2020, to December 31, 2024. This bill does not impact the required two-thirds vote needed for transactions and use taxes for the support of countywide transportation programs. This bill is sponsored by CCTA.

- 3) **Contra Costa Transportation Authority (CCTA).** CCTA was formed by the voters in 1988 to manage the funds generated by transactions and use taxes for transportation purposes and to lead Contra Costa County's transportation planning efforts. That same year Contra Costa County voters passed Measure C which imposed a 0.5% countywide transactions and use tax for CCTA to extend Bay Area Rapid Transit (BART), make freeway improvements, improve bus service, enhance bicycle facilities, and provide more transportation options for senior citizens and people with disabilities. In November 2004, voters approved Measure J with a 71% vote to extend the half-cent transactions and use tax from 2009 to 2034.
- 4) **Author's Statement.** According to the author, "CCTA is considering bringing forth a transportation tax measure to the Contra Costa County voters. However, as it currently stands, CCTA cannot place a tax measure before the voters without the support of the county. The county must adopt an ordinance to present a tax to the voters and then work with the Board of Equalization to delegate responsibilities from the county to CCTA. To that end, AB 1665 proposes to transfer the authority from the county to CCTA. The rationale is that CCTA oversees this county's countywide transportation program and will have the responsibility to administer the tax proceeds, thus they should have independent authority to place a ballot measure before the voters.

"As a regional leader in transportation, CCTA, not the county, is the Congestion Management Agency, [that] oversees long-range planning efforts, and delivers the Transportation Expenditure Plan for the existing ½ cent sales tax. Since they are the public agency tasked with managing the county's transportation sales tax program, CCTA is in the best position to adopt an ordinance proposing a transportation program tax and achieving the maximum voter approval necessary for its passage. Most importantly, CCTA keenly understands the community's transportation needs, working in the field and receiving community feedback.

"CCTA has a greater pulse on the necessity of local transportation funding and has a proven track record of planning and delivering critical transportation infrastructure projects and programs. They have developed major projects on state highways working with CalTrans; provided critical funding to local cities, the county and transit districts; met the goals of the countywide transportation plan to create a balanced, safe and efficient transportation network; and plays a significant role in reducing congestion, improving air quality, and increasing mobility options for residents. In effect, CCTA has the trust of the voters and the expertise to deliver the vision of local communities.

"In light of the severe state funding shortfall for transportation, it is imperative that local governments, agencies and their constituents have the ability to generate additional funding to plan and bring forth critical transportation projects. AB 1665 will streamline this process, making local governments more efficient so voters can weigh-in on the transportation issues of the county. Simply put, this bill will allow CCTA to continue the great work they have been known to accomplish, while meeting the precise needs of Contra Costa County and its residents."

- 5) **Prior Legislation.** SB 314 (Murray), Chapter 785, Statutes of 2003, originally enacted provisions that authorized the Los Angeles County Metropolitan Transportation Authority (MTA) to impose a 0.5% transactions and use tax, not subject to the 2% cap for no more than six and one-half years, for specific transportation projects and programs. The authority to put a tax measure on the ballot was never used. AB 2321 (Feuer), Chapter 302, Statutes of 2008, modified those provisions to allow MTA to impose a transactions and use tax for 30 years. SB 767 (De León), Chapter 580, Statutes of 2015, authorized MTA to impose an additional countywide transactions and use tax.

AB 1324 (Skinner), Chapter 795, Statutes of 2014, allowed the City of El Cerrito (in Contra Costa County) to adopt an ordinance to impose a transactions and use tax not to exceed 0.5% for general purposes that would, in combination with other taxes, exceed the statutory limit of 2%. Most recently, AB 464 (Mullin and Gordon) of 2015 would have increased the countywide transactions and use tax combined cap from 2% to 3%, but was vetoed by the Governor.

- 6) **Arguments in Support.** CCTA argues that this bill "provides an opportunity for Contra Costa voters to support transportation investments consistent with an adopted Transportation Expenditure Plan that could help our community advance our competitive edge, improve mobility, and meet the State's ambitious environmental goals."
- 7) **Arguments in Opposition.** The Howard Jarvis Taxpayers Association argues even if appropriate voter approval is achieved locally this bill still represents poor public policy because it increases a deeply regressive sales tax. Additionally, opposition argues that California already has the highest state sales tax in the nation.
- 8) **Double-Referral.** This bill is double-referred to the Revenue and Taxation Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Contra Costa Transportation Authority [SPONSOR]
Contra Costa County Board of Supervisors

Opposition

California Taxpayers Association
Howard Jarvis Taxpayers Association

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