

Date of Hearing: September 12, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 1679 (Santiago) – As Amended August 14, 2023

SUBJECT: Transactions and use taxes: County of Los Angeles: homelessness.

SUMMARY: Authorizes Los Angeles County (LA County) to impose a transactions and use tax (TUT) that exceeds the 2% statutory limitation, as specified. Specifically, **this bill:**

- 1) Allows LA County to impose a TUT at a rate of no more than .5% that would, in combination with all taxes imposed, exceed the 2% cap established by law, if all of the following requirements are met:
 - a) LA County adopts an ordinance proposing the TUT by any applicable voting approval requirement, including by citizen’s initiative.
 - b) The ordinance proposing the TUT is submitted to the electorate and is approved by the voters voting on the ordinance pursuant to the California Constitution.
 - c) The TUT conforms to the TUT Law.
 - d) All revenues from the tax shall be dedicated to services to people experiencing homelessness or at risk of homelessness, to homelessness prevention, or to providing affordable housing.
 - e) Upon approval by the electorate, the ordinance would repeal the TUT established by Measure H in LA County, approved by the voters on the March 7, 2017, ballot.
- 2) Specifies that a TUT rate imposed pursuant to 1) above, shall not be considered for the purposes of the combined rate limitation established by law.
- 3) Provides that if, as of December 31, 2028, an ordinance proposing a TUT has not been approved in LA County, this bill shall be repealed as of that same date.
- 4) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable because of the unique circumstances facing LA County with regard to homelessness and affordable housing.

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 CDTFA. 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.

- 3) **LA County TUTs.** LA County has more than 60 district taxes levied within its borders, including five countywide taxes (four for transportation purposes and one for a special purpose). Currently, three of the five LA County countywide district taxes remain subject to the 2% combined rate limitation. The other two, imposed by the LA County Metro Transportation Authority and LA County Traffic Improvement Plan, respectively, are exempt.

The LA County Board of Supervisors placed Measure H before voters at the March 2017 Special Election. Measure H imposed an additional 0.25% TUT to fund homeless services, which voters subsequently approved. The tax became effective on October 2, 2017, and generates approximately \$350 million annually, which has been used to provide permanent housing to 90,455 people and interim housing to 123,842 people, according to LA County. The County Board of Supervisors allocates Measure H funds and it is not currently exempt from the 2% rate limitation.

- 4) **Bill Summary and Author's Statement.** This bill allows LA County to impose a TUT dedicated to services to people experiencing homelessness or at risk of homelessness, to homelessness prevention, or to providing affordable housing at a rate of no more than .5% that would, in combination with all taxes imposed, exceed the 2% cap established by law, if specified conditions are met. This bill provides that, if an ordinance proposing the TUT authorized by this bill is not approved, the provisions in this bill shall be repealed on December 31, 2028. This bill is sponsored by the author.

According to the author, "Homelessness in Los Angeles County is an urgent emergency that requires sustained investments to address. According to the 2023 Greater Los Angeles Homeless Count, there are over 75,000 people experiencing homelessness on any given night in Los Angeles County. With the county's Measure H set to expire in 2027, AB 1679 gives the Los Angeles County Board of Supervisors and county residents the authority to approve a new revenue stream to fund prevention, services, and affordable housing for people experiencing homelessness and those at risk of experiencing homelessness for years to come."

- 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 as high as 10.75%. While any increase would have to be approved by the voters, the Committee may wish to consider whether AB 1679 allows for rates that are too high.

- 6) **Related Legislation.** AB 1256 (Wood) authorizes Humboldt County to impose a TUT that exceeds the 2% statutory limitation. AB 1256 was heard in this Committee on April 19 and passed with a 5-2 vote. SB 1256 is currently pending on the Senate Floor

AB 1385 (Garcia) authorizes the Riverside County Transportation Commission to impose a maximum TUT of 1.5%. AB 1385 was heard in this Committee on May 3 and passed with a vote of 5-2. AB 1385 is currently pending on the Senate Floor.

SB 335 (Cortese) authorizes Santa Clara County to impose a TUT that exceeds the 2% statutory limitation, and authorizes the County of Ventura to impose a specified TUT instead of the Ventura County Transportation Commission. SB 335 is currently pending in the Senate.

SB 862 (Laird) specifies that a TUT imposed by the Santa Cruz Metropolitan Transit District shall not be considered for the combined rate limit if certain conditions are met. SB 682 is currently pending on the Governor's Desk.

- 7) **Previous Legislation.** 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 (BART) 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.

- 8) **Concerns from Cities.** A number of individual cities either oppose this bill or have submitted concerns regarding any future measure for homelessness in LA County. The LA County Division of the League of California Cities has stated that, "A new countywide revenue stream for homelessness must have a 40% dedicated local return to assist cities currently spending General Fund revenues to provide homeless services and shelters. The Division supported Measure H in 2016 because the ordinance included language for local grants, yet those local grants have been minimal, sporadic and unreliable for long-term planning. Our local residents exceedingly generate more to Measure H than they receive. For

example, Culver City has generated over \$18 million in Measure H dollars since 2017 and has received roughly \$596,000 from 2017-2022. And the city continues to invest millions in General Fund dollars for programs and services. Similarly, the City of Whittier only received \$50,000 in Measure H Funds in 2018 to create its homeless action plan yet has spent over \$9 million in General Funds for a temporary and permanent navigation center and outreach.

“...Ideally, the Division could see a funding formula similar to Measure W, The Safe, Clean Water Program that has a 40% local return, 50% regional program, and 10% administrative program working for a new revenue measure directed at solving our homeless crisis.”

- 9) **Arguments in Support.** According to LA County, “AB 1679 provides the County of Los Angeles the authority to approve a new revenue stream up to one-half of one cent to fund prevention, services, and affordable housing for people experiencing homelessness and those at risk of experiencing homelessness for years to come. It is important to note that currently Measure H is a one-quarter of one cent tax and is set to expire in 2027. If a new sales tax were approved at one-half of one cent, it would result in a net increase of only one-quarter of one cent because the bill requires that the existing Measure H amount be repealed at the same time. In December 2016, the Los Angeles County Board of Supervisors declared a fiscal emergency regarding homelessness and subsequently placed Measure H, a 10-year, one-quarter of one cent county sales tax to fund homeless services and prevention, on the March 2017 ballot for Los Angeles County voters to consider. On March 7, 2017, over 69% of Los Angeles County voters approved the measure, creating the first revenue stream dedicated to addressing and preventing homelessness.

“Measure H began providing revenue in October 2017 and has raised over \$355 million annually since its adoption. Proceeds from the tax are used to fund outreach, case management services, housing subsidies, wraparound services for permanent supportive housing units and more. Revenue generated from Measure H is over and above what various County departments and agencies spend to provide programs and services to its most vulnerable residents. In January 2023, the Board proclaimed a local emergency regarding homelessness to accelerate the County’s efforts to help people move out of encampments and into housing and increase mental health and substance use disorder services. According to the recently released 2023 Greater Los Angeles Homeless Count, there are over 75,000 people experiencing homelessness on any given night in Los Angeles County.

“With Measure H set to expire in 2027, the County of Los Angeles, the City of Los Angeles, nonprofit organizations, business organizations, homelessness service providers, labor, and various advocacy organizations are discussing options to extend and possibly expand the stream of revenue for funding solutions to homelessness. To keep all sources of revenue options open, legislation in Sacramento is needed to exempt Los Angeles County from the local sales tax rate cap. State law currently limits the combined rate of taxes that may be imposed by local jurisdictions in a County at 2% (on top of the 7.25% state rate). However, exemptions have been granted in Los Angeles County allowing the maximum sales tax rate to be 10.25%, and currently, 47 of the 88 cities (53%) in the County are at the maximum sales tax rate of 10.25%.”

- 10) **Arguments in Opposition.** According to the California Taxpayers Association, “...In 1953, the Senate Committee on State and Local Taxation recommended that California adopt a uniform state and local sales tax with a rate cap. The committee reported that with a cap, the

local sales tax would have a ‘minimum adverse’ impact on taxpayers. The committee noted the following principles to consider when adopting sales tax changes: ‘[Local sales and use taxes] may and frequently do place unduly heavy compliance costs upon retailers’; and ‘Local business taxes levied under various ordinances and at different rates may produce artificial and unfair discrimination between retailers in the jurisdictions.’ The cap has served the state well and should not be circumvented.

“...California has the highest state-level sales and use tax rate in the country, and several cities in Los Angeles County have even higher rates. The sales and use tax is a regressive tax that has the greatest impact on low-income residents because it makes it more expensive for these taxpayers to purchase everyday necessities. Inflation has increased the cost of everyday goods, which in turn increases the sales tax that is imposed as a percentage of the retail price. Adding even more to the cost of living with a sales tax increase would harm Californians, and will disproportionately impact the state’s most vulnerable residents.

“...Businesses engaged in manufacturing, research-and-development, and television and film production face a significant sales and use tax burden in California. Under existing law, when a business purchases equipment that will be used for manufacturing, R&D, or filming activities (including equipment that is ancillary to producing television or films – such as special effects, animation, visual effects capture, subtitling, and video archiving, among other things), the purchase is subject to local transactions and use taxes. Taxing business inputs increases overall business operating costs in Los Angeles County and results in tax pyramiding. The Legislature has sought to minimize this type of tax pyramiding through state-level sales and use tax exemptions for these activities, but at the local level, these activities remain taxed. Authorizing Los Angeles County to exceed the 2 percent transactions and use tax cap would serve as a disincentive to perform manufacturing, R&D, and film production in Los Angeles County.

“...Unlike the federal government, which receives an exemption for all state and local sales taxes, purchases made by municipal and state agencies are subject to state and local sales taxes. Increasing the local sales tax would increase costs for purchases made by cities and counties, public school districts, and universities operating in the county.”

REGISTERED SUPPORT / OPPOSITION:

Support

ACT LA
Active San Gabriel Valley
California Contract Cities Association (if amended)
California Housing Partnership Corporation
City of Santa Monica
Corporation for Supportive Housing
Downtown Women’s Center
Fusion Community Empowerment
HOPICS
IKAR-LA
Inner City Law Center
Jovenes

LA Family Housing
LA Forward
LA Voice
Long Beach Gray Panthers
Los Angeles County
Los Angeles Homeless Services Authority
NoHo Home Alliance
People Assisting the Homeless (PATH)
Safe Place for Youth
Southern California Association of Nonprofit Housing
The People Concern
United Way of Greater Los Angeles
Venice Community Housing
1 Individual

Concerns

City of La Mirada
City of Palmdale
City of Santa Fe Springs
City of Whittier
Los Angeles County Division, League of California Cities

Opposition

Apartment Association of Greater Los Angeles
Building Owners and Managers Association
California Business Properties Association
California Business Roundtable
California Manufacturers and Technology Association
California Rental Housing Association
California Taxpayers Association
City of Bellflower
City of Compton
City of Lakewood (unless amended)
City of Norwalk (unless amended)
City of Paramount (unless amended)
Howard Jarvis Taxpayers Association
NAIOP, the Commercial Real Estate Development Association

Analysis Prepared by: Jimmy MacDonald / L. GOV. / (916) 319-3958