

Date of Hearing: April 6, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2453 (Bennett) – As Amended March 21, 2022

SUBJECT: Transactions and use taxes: Ventura County Transportation Commission.

SUMMARY: Authorizes the Ventura County Transportation Commission (VCTC) to impose a transaction and use tax (TUT) that exceeds the 2% statutory limitation. Specifically, **this bill:**

- 1) Allows the VCTC to impose a TUT for the support of countywide transportation programs at a rate of no more than 0.5% that would, in combination with all taxes imposed, exceed the 2% cap established by law, if both of the following conditions are met:
 - a) The ordinance proposing the TUT is submitted to the electorate and is approved by the voters voting on the ordinance in accordance with Article XIII C of the California Constitution.
 - b) The TUT conforms to existing TUT Law.
- 2) Specifies that if an ordinance proposing the TUT authorized by this bill is not approved, the provisions in this bill shall be repealed on January 1, 2027.
- 3) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable because of the critical needs of the transportation infrastructure within Ventura County.

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

Rate	Jurisdiction	Purpose/Authority
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 or transactions and use taxes. 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.

As of January 1, 2022, local jurisdictions (city, county, and special districts) impose a combined 379 district taxes 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 District (Alameda, Contra Costa, and San Francisco counties) and the Sonoma-Marín Rail Transit District (Sonoma and Marin counties). Of the 379 district taxes, 65 are imposed countywide, three are imposed in unincorporated county areas, and 311 are imposed citywide.

- 3) **Ventura County.** Ventura County currently does not impose any countywide district taxes. However, it has four city-wide district taxes levied within its borders, including: the Cities of

Oxnard, Port Hueneme, Santa Paula, and Ventura. Since the City of Oxnard has the highest city tax in the county at 2.00%, Ventura County has reached the 2.00% combined rate limitation. Subject to voter approval, enactment of this bill would allow the VCTC to impose a countywide district tax rate up to 0.50%. In combination with other current TUTs, would exceed the 2.00% rate limitation.

- 4) **Recent Approach.** In 2019, the Legislature approved, but the Governor vetoed AB 618 (Stone). This bill 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. The veto message stated that it was unclear whether authorization was needed because both had room within the cap to impose the tax.

In response, the Legislature enacted AB 723 (Quirk), Chapter 747, Statutes of 2019, which provided that neither the tax imposed by the 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. Instead of explicitly allowing a tax above the cap, AB 723 created more room under it for Alameda County, and cities in Alameda and Santa Cruz counties to impose district taxes.

SB 1349 (Glazer), Chapter 369, Statutes of 2020, followed this same approach by specifying that the current 0.5% TUT imposed by BART does not count against the 2% cap in Contra Costa County, among other provisions.

- 5) **Bill Summary and Author's Statement.** This bill allows the VCTC to impose a TUT for the support of countywide transportation programs at a rate of no more than 0.5% that would, in combination with all taxes imposed, exceed the 2% cap established by law, if specified conditions are met. This bill also provides that if an ordinance proposing the TUT authorized by this bill is not approved, the provisions in this bill shall be repealed on January 1, 2027. The author is the sponsor of this bill.

According to the author, "AB 2453 simply provides the voters of Ventura County the ability to raise the transaction and use tax to provide for more infrastructure funding. The bill does not increase the tax itself – that discretion continues to remain with the voters."

- 6) **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 9.75% in the City of Oxnard. While any increase would have to be approved by the voters, the Committee may wish to consider whether AB 2453 allows for rates that are too high.
- 7) **Arguments in Support.** According to the Carpenters Local Union 805, "Because a municipality within Ventura County has reached the maximum 2% local transaction and use tax cap, the entirety of the County is prohibited from imposing additional transaction and use taxes that would be applicable countywide. This prohibition extends to any tax increase, implemented by the citizenry or by the County.

“We support AB 2453 because this will create hundreds of local jobs and will improve our highways and bridges as well as reduce traffic congestion in Ventura County. This will help reinvest back into our community with revenue that will stimulate our local economy. This bill is necessary to ensure the citizens of Ventura County have the flexibility to pay for additional infrastructure projects, should they vote to do so.”

- 8) **Arguments in Opposition.** According to the California Taxpayers Association, “CalTax opposes AB 2453 for the following reasons:

“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 in the ensuing years, and should not be circumvented.

“California has one of the highest state-level sales and use tax rates in the country. The sales and use tax is a regressive tax that has the largest impact on California’s lowest-income residents. Increasing the tax makes it more expensive 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. Increasing the cost of living with a sales tax increase will harm Californians, and will disproportionately impact the state’s most vulnerable residents.”

REGISTERED SUPPORT / OPPOSITION:

Support

Blois Construction
 Meissner Filtration Products
 Mustang Marketing
 Rebuild Social Partnership
 Toro Enterprises
 United Brotherhood of Carpenters and Joiner of America, Carpenters Local Union 805
 WSP USA Engineering
 One Individual

Opposition

California Taxpayers Association

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