Date of Hearing: August 25, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Susan Talamantes Eggman, Chair
AB 366 (Bonta) – As Amended June 14, 2016

SUBJECT: Transactions and use taxes: City of Alameda.

SUMMARY: Allows the City of Alameda to adopt an ordinance proposing the imposition of a transactions and use tax that exceeds the 2% statutory limitation.

The Senate amendments delete the Assembly version of this bill, and instead:

1) Allow the City of Alameda to impose a transactions and use tax for general purposes at a rate of no more than 0.5% 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 city adopts an ordinance proposing the transactions and use tax by any applicable voting requirements;

   b) The ordinance proposing the transactions and use tax is approved by the voters voting on the ordinance in accordance with California Constitution Article XIII C, and the election on the ordinance proposing the tax may occur on or after January 1, 2017; and,

   c) The transactions and use tax conforms to the Transactions and Use Tax Law, as specified.

2) Provide, if the ordinance proposing the transactions and use tax is not approved, that the provisions of the bill shall be repealed as of January 1, 2025.

3) Find and declare that a special law is necessary because of the unique fiscal pressures in the City of Alameda.

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, 20 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.** This bill provides an exemption to the City of Alameda from the 2% transactions and use tax combined rate cap that is currently in statute. This bill authorizes the City of Alameda to adopt an ordinance to propose the imposition of a transactions and use tax for general purposes at a rate of no more than 0.5%, and with the appropriate voter approval pursuant to the California Constitution, which requires a majority vote for transaction and use taxes for general purposes. If the ordinance proposing the transactions

and use tax is not approved by voters by January 1, 2025, the provisions of the bill would be repealed as of that same date.

According to the City of Alameda, the sponsor of this bill, the City is considering placing a measure on the 2018 or 2020 ballot.

3) **Prior Legislation.** 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]. In November of 2014, voters in Alameda County passed Measure BB, a transactions and use tax at 0.5% to fund transportation improvements for 30 years. AB 1665 (Bonilla), Chapter 45, Statutes of 2016, removes the existing authority granted to Alameda County and Contra Costa County to impose an additional transactions and use tax, subject to voter approval, and instead, grants Contra Costa County's existing authority to the Contra Costa Transportation Authority.

AB 464 (Mullin) of 2015 would have increased the countywide transactions and use tax combined cap from 2% to 3%, but was vetoed by the Governor.

4) **Support Arguments**. The City of Alameda argues that this bill "would allow voters to decide if they want to increase taxes to fund City services that are critical to maintaining Alameda's quality of life. If the City is successful and the Sales Tax rate does not otherwise change, this could potentially bring the City's Sales Tax rate to ten percent."

5) **Opposition Arguments.** Howard Jarvis Taxpayers Association argues "Radically different tax rates across different counties also make it more difficult for businesses to remain compliant with the law. Counties need to learn to balance their budgets and control pension excesses. We simply cannot justify increased regressive taxation upon hard working families."

REGISTERED SUPPORT / OPPOSITION:

Support

City of Alameda [SPONSOR]
Alameda Chamber of Commerce
Alameda Firefighters Association, Local 689
Alameda Police Officers Association
Alameda Unified School District

Opposition

California Taxpayers Association
Howard Jarvis Taxpayers Association

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