

Date of Hearing: August 28, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
SB 152 (McGuire) – As Amended August 27, 2018

SENATE VOTE: Vote not relevant

SUBJECT: Transactions and use taxes: County of Sonoma.

SUMMARY: Allows Sonoma County or any city within the county to impose a transactions and use tax (TUT) for general or specific purposes, and the Sonoma County Transportation Authority (SCTA) to impose a TUT for specific purposes, at a rate of no more than 1% above the 2% limit allowed by existing law. Specifically, this bill:

- 1) Allows Sonoma County or any city within the county to impose a TUT for general or specific purposes, and the SCTA to impose a TUT for specific purposes, at a rate of no more than 1% that would, in combination with all other taxes imposed in accordance with TUT Law, exceed the 2% limit allowed by existing law, if all of the following requirements are met:
 - a) Sonoma County, a city within the county, or the SCTA adopts an ordinance proposing the TUT by any applicable voting approval requirement;
 - b) The ordinance proposing the TUT is approved by the voters voting on the ordinance in accordance with Article XIII C of the California Constitution; and,
 - c) The TUT conforms to TUT Law, as specified.
- 2) Allows the election on an ordinance proposing a TUT to occur on or after November 6, 2018.
- 3) Repeals the provisions of this bill on January 1, 2026, if an ordinance proposing a TUT has not been approved by that date.
- 4) Finds and declares that a special statute is necessary because of the unique fiscal pressures being experienced in Sonoma County in providing essential programs and services.

EXISTING LAW:

- 1) Allows counties and cities to impose TUTs for general or specific purposes via ordinance approved by the required percentage of voters, as specified.
- 2) Allows, pursuant to the Local Transportation Authority and Improvement Act (Transportation Authority Act), a county to establish a transportation authority.
- 3) Allows a transportation authority to impose a TUT in accordance with the Transportation Authority Act and TUT Law, as specified.
- 4) Prohibits the combined rate of all taxes imposed in accordance with TUT Law in any county from exceeding 2%, with specified exemptions.

FISCAL EFFECT: None

COMMENTS:

- 1) **Transactions and Use Taxes.** Existing law authorizes cities and counties to impose TUTs 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%. TUTs 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. Local transportation authorities may also impose TUTs in accordance with TUT Law and the Transportation Authority Act, which allows a TUT rate in 0.25% increments with a 1% maximum.

Prior to 2003, cities lacked the ability to place TUTs before their voters without first obtaining approval from 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.

Because of the interaction between city-imposed and county-imposed TUTs, the concern that counties will run into the 2% cap still applies today. Currently, the Counties of Alameda, Contra Costa, Los Angeles, Santa Clara, and San Mateo have reached the 2% limit, and the Counties of Marin, Santa Cruz, 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 TUT for transportation purposes.

According to the State Board of Equalization, 257 local agencies were imposing their own TUTs as of April 1, 2017. Six of the 54 county-imposed TUTs are for general purposes and 48 are for special purposes, with 35 dedicated for transportation purposes. Of the 203 city-imposed TUTs, 163 are for general purposes and 40 are for special purposes.

- 2) **Sonoma County Transportation Authority.** According to its website, "The Sonoma County Transportation Authority (SCTA) was created in 1990 and is governed by a twelve-member Board of Directors representing each of the nine cities - Cloverdale, Cotati, Healdsburg, Petaluma, Rohnert Park, Santa Rosa, Sebastopol, Sonoma and Windsor - and the Sonoma County Board of Supervisors. The SCTA acts as the countywide planning and fund programming agency for transportation and performs a variety of important functions related to advocacy, project management, planning, finance, grant administration and research.

"The SCTA was formed as a result of federal and State legislation to address regional planning and funding matters. In 2004, the SCTA responsibilities expanded to include management of the Measure M sales tax program – a voter approved ¼ cent sales tax that generates about \$20M annually for transportation purposes. The SCTA is responsible for managing Measure M funds and prioritizing most state and federal funds available to Sonoma County for roadway, transit, bicycle and pedestrian projects. The SCTA serves as the entity responsible for planning and prioritizing transportation improvement projects at a countywide level and provides project management in partnership with Caltrans on the State Highway system. The same Board of Directors also coordinates countywide climate

protection activities through its other role as the Sonoma County Regional Climate Protection Authority (RCPA)."

- 3) **Bill Summary.** This bill allows Sonoma County, any city in the county, and the SCTA to impose a TUT that would exceed the countywide 2% limit by up to 1%. A TUT for the county or the cities can be for general or specific purposes, while the SCTA would be limited to a special purpose TUT.

All agencies must first adopt an ordinance and obtain the appropriate voter approval pursuant to the California Constitution in order before imposing a TUT, which must conform to TUT Law. The bill allows the election on the ordinance to take place on or after November 6, 2018. If an ordinance has not been approved by January 1, 2026, the provisions of this bill are repealed as of that date.

This bill is sponsored by the author.

- 4) **Author's Statement.** According to the author, "SB 152 would allow the voters within Sonoma County to decide whether they want to increase sales taxes to address local needs. Last year, Sonoma County experienced the most destructive and deadly wild land fire in modern American History during the depths of a housing crisis – 5,300 homes were lost countywide and in Santa Rosa, an astounding five percent of their total housing stock was destroyed. Fragile watersheds were decimated, infrastructure must be rebuilt, and the real fabric of community must be re-sewn. The Fires have put tremendous strain on the County and the largest City between the Golden Gate and Oregon border, The City of Santa Rosa.

"This bill would advance an increasing of the current sales tax cap, but it's the voters of Sonoma County who will be the ultimate deciders on if they want to increase taxes on important issues such as making the local fire service more resilient, disaster recovery, housing, critical mental health services among other important issues. SB 152 would authorize the County of Sonoma or any city within the county to impose a sales tax increase by no more than one cent. This legislative authority has a sunset embedded – It would be repealed if it's not used by January 1, 2026. The Legislature has granted several similar exemptions to localities, and SB 152 is consistent with those prior exemptions. SB 152 will give local residents an additional tool they may need to help lift themselves up to move forward on their long road to recovery."

- 5) **Exemptions to the 2% Cap.** The Legislature has previously granted exemptions to the 2% statutory cap, including the following:
- a) **Alameda County.** In 2010, voters in Union City in Alameda County approved a TUT of 0.5%, which, in addition to three other county 0.5% taxes, crowded out the county from imposing any additional taxes under the 2% combined rate. In 2011, the Legislature provided a one-time exemption for Alameda County from the 2% TUT combined rate cap [AB 1086 (Wieckowski), Chapter 327, Statutes of 2011]. However, while 66.53% of Alameda County voters approved the tax, it was not enacted as it fell short of the two-thirds vote required (Measure B1). The Legislature extended the authority for 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 210 (Wieckowski), Chapter 194, Statutes of 2013].

In November of 2014, voters in Alameda County passed Measure BB, a TUT at 0.5% to fund transportation improvements for 30 years. AB 1665 (Bonilla), Chapter 45, Statutes of 2016, removed the existing authority granted to Alameda County and Contra Costa County to impose an additional TUT, subject to voter approval, and instead, granted Contra Costa County's existing authority to the Contra Costa Transportation Authority. That tax also fell short, garnering 63.45% (Measure X). More recently, AB 366 (Bonta), Chapter 502, Statutes of 2016, provided an exemption to the City of Alameda from the 2% combined rate cap, until January 1, 2025, and SB 703 (Skinner), Chapter 651, Statutes of 2017, revived Alameda County's authority to impose TUTs outside the current 2% countywide cap.

- b) **Los Angeles County.** SB 314 (Murray), Chapter 785, Statutes of 2003, originally enacted provisions that authorized the Los Angeles County Metropolitan Transportation Authority (LA Metro) 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 LA Metro to impose a transactions and use tax for 30 years. In November 2008, more than 67% of Los Angeles County voters approved this tax in a ballot measure known as Measure R.

AB 1446 (Feuer), Chapter 806, Statutes of 2012, authorized LA Metro, subject to voter approval, to extend the existing transactions and use tax (Measure R) for an unlimited amount of time, allowing LA Metro to determine a sunset date, if any. However, Measure J put before Los Angeles County voters in November 2012, narrowly failed to achieve the two-thirds threshold necessary for passage. SB 767 (De León), Chapter 580, Statutes of 2015, authorized LA Metro to impose an additional countywide 0.5% TUT. In November of 2016, Los Angeles County voters passed Measure M with 71.15% of the vote.

- c) **Santa Clara County and Santa Fe Springs.** As mentioned above, SB 703 re-authorized Alameda County to impose a TUT above the 2% limit and extended this authority to Santa Clara County and the City of Santa Fe Springs.

- 6) **Additional Previous Legislation.** AB 464 (Mullin) of 2015 would have increased the countywide TUT combined cap from 2% to 3% statewide, but was vetoed with the following message: "This bill would raise, on a blanket basis, the limit on local transactions and use tax for all counties and cities from two percent to three percent. Although I have approved raising the limit for individual counties, I am reluctant to approve this measure in view of all the taxes being discussed and proposed for the 2016 ballot."

SB 33 (Wolk) of 2014 was nearly identical to this bill. SB 33 was referred to the Assembly Rules Committee but was never heard.

- 7) **Arguments in Support.** The Sonoma County Board of Supervisors, in support, states, "The October 2017 wildfires left a devastating impact on our local community which prompted local governments to prioritize efforts to invest in recovery and resiliency efforts. Wildfires have become increasingly destructive and are a lasting threat to California. Wildfires not

only endanger life and property, but they have devastating financial impacts in the community. In the aftermath of the worst fires in Sonoma County history, issues involving disaster response and recovery, safety net services, and road infrastructure require increased options to fund critical projects.

"SB 152 would increase the cap on local sales tax, allowing voters with increased options to fund local needs. Recent priorities include disaster response and recovery infrastructure such as increasing the number of fire and emergency medical first responders to improve emergency coverage throughout the County; the construction of new fire stations and improvements to existing stations; county-wide apparatus replacement program improving the safety and reliability of vehicles; and the improvement of fire prevention efforts such as vegetation management and forest health initiatives. Safety net services have also been prioritized which include improvements to programs supporting those with mental illness and substance use disorders, in addition to increased homelessness services. The restoration and maintenance of local roads and community transportation programs would also continue to be prioritized.

"Key priorities of the Sonoma County Legislative Platform are to support legislation that seeks funding for disaster response and recovery infrastructure, safety net services, and local roads infrastructure. SB 152 would allow the community increased options to fund critical programs to further the local recovery and resiliency efforts."

8) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Sonoma County Board of Supervisors

Opposition

None on file

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