

Date of Hearing: July 1, 2015

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT  
Brian Maienschein, Chair  
SB 767 (De León) – As Amended June 1, 2015

**SENATE VOTE:** 24-13

**SUBJECT:** Los Angeles County Metropolitan Transportation Authority: transactions and use tax.

**SUMMARY:** Authorizes the Los Angeles County Metropolitan Transportation Authority (MTA), subject to voter approval, to impose an additional transactions and use tax at a rate of 0.5%. Specifically, **this bill:**

- 1) Authorizes MTA to impose a transactions and use tax at a rate of 0.5% that is applicable to the incorporated and unincorporated areas of Los Angeles County.
- 2) Requires the ordinance imposing the tax to contain an expenditure plan that lists the transportation projects and programs to be funded by the tax and requires the expenditure plan to include all of the following:
  - a) The most recent cost estimates for each project and program identified in the expenditure plan;
  - b) The identification of the accelerated cost, if applicable, for each project and program in the expenditure plan;
  - c) The approximate schedule during which the MTA anticipates funds will be available for each project and program; and,
  - d) The expected completion dates for each project and program within a three-year range.
- 3) Requires the ordinance imposing the tax to contain the following:
  - a) A provision conforming the ordinance to the existing Transaction and Use Tax Law, except the 2% combined transactions and use tax cap;
  - b) A provision that limits MTA's administrative costs to 1.5% of total net revenues; and,
  - c) A requirement that the net revenues from the tax, defined to mean the total tax revenues, as specified, be used by MTA to fund transportation projects and programs identified in the expenditure plan.
- 4) Requires MTA to do the following:
  - a) Develop a transparent process to determine the most recent costs; and,
  - b) Post the expenditure plan, at least 30 days before submitting the ordinance, as specified under 5), below, on its Internet Web site in a prominent manner.

- 5) Requires the ordinance to be adopted by the MTA board, which shall also adopt a resolution that submits the ordinance to the voters.
- 6) Specifies that the ordinance only becomes operative, if approved by two-thirds of the voters voting on the measure, pursuant to Article XIII C of the California Constitution.
- 7) Requires, if the voters approve the ordinance, the expenditure plan included as an exhibit to the ordinance to be included in the revise and updated Long-Range Transportation Plan (LRTP) within one year of the date the ordinance takes effect.
- 8) Requires the LRTP to also include capital projects and programs adopted by each subregion that are submitted to MTA for inclusion in the LRTP, if the cost and schedule details are provided by the subregions in a manner consistent with the requirements of the plan. States that inclusion of a capital project or program in the LRTP is not a commitment or guarantee that the project or program will receive any future funding.
- 9) Defines "subregion" to have the same meaning as that term as defined in the LRTP process in effect as of January 1, 2008.
- 10) Allows MTA to incur bonded indebtedness payable from the net revenues of the tax.
- 11) Requires the tax authority granted by this bill to be imposed, pursuant to the existing Transactions and Use Tax Law, notwithstanding the 2% combined transactions and use tax cap.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

**COMMENTS:**

- 1) **Transaction and Use Taxes.** 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, which are unrestricted, or special taxes, 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.

Existing state 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%. The Legislature has granted several exemptions to the 2% cap, including to several counties to allow an additional countywide transaction and use tax for transportation purposes.

- 2) **Prior Legislation.** SB 314 (Murray), Chapter 785, Statutes of 2003, originally enacted provisions that authorized 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. AB 2321 additionally required MTA to adopt an expenditure plan prior to submitting a transactions and use tax to the voters and to include specified projects and programs in its Long-Range Transportation Plan. In November 2008, more than 67% of Los Angeles County voters approved this tax in a ballot measure known as Measure R. Measure R, in addition to Measure C (1990) and Proposition A (1980), are the three 0.5% countywide transactions and use taxes that provide the majority of MTA's funding.

AB 1446 (Feuer), Chapter 806, Statutes of 2012, authorized MTA, subject to voter approval, to extend the existing transactions and use tax (Measure R) for an unlimited amount of time, allowing MTA to determine a sunset date, if any. AB 1446 also required MTA to update its expenditure plan prior to submitting the tax measure to the voters. However, the measure put before Los Angeles County voters in November 2012 failed to achieve the two-thirds threshold necessary for passage. SB 1037 (Hernández), Chapter 196, Statutes of 2014, requires MTA to update its expenditure plan and Long-Range Transportation Plan before placing another transactions and use tax measure before the voters.

According to the Board of Equalization, Los Angeles County has 14 transaction and use taxes, three county-wide taxes for transportation purposes and 11 city-wide taxes. Despite the statutory exemption for MTA's transactions and use tax, Los Angeles County has reached the 2% cap.

- 3) **Bill Summary.** This bill authorizes MTA to impose by ordinance an additional 0.5% transactions and use tax, subject to two-thirds voter approval, pursuant to the California Constitution. The transaction and use tax authorized by this bill is not subject to the 2% cap in existing law.

Additionally, this bill aligns the taxing authority with substantially similar requirements established in existing law by SB 1037 (Hernández) for the extension of MTA's existing transactions and use tax (Measure R). This bill requires the expenditure plan included in the ordinance imposing the tax to include the following: (1) cost estimates for each project and program, using a transparent process; (2) accelerated costs of each of the plan's projects and programs, if applicable; (3) an approximate schedule for when MTA anticipates funds will be available for each project and program; and, (4) expected completion dates for each project and program. Additionally, this bill requires the revised and updated LRTP to include the expenditure plan if voters approve the ordinance within one year of the date the ordinance takes effect. The LRTP also must list capital projects and programs adopted by each subregion that are submitted to MTA for inclusion. The bill notes that including cost estimates does not mean the project is guaranteed funding.

This bill is sponsored by MTA.

- 4) **Author's Statement.** According to the author, "Los Angeles is one of the nation's most congested transportation corridors in the nation. According to the Texas Transportation Institute's 2012 Mobility Report, an auto commuter in Los Angeles spends an average of 61 hours delayed in traffic per year, costing about \$1,300 per year in lost time and wasted fuel due to congestion. These numbers will increase as the county's population will grow by one and a half million people in the next 30 years.

"At the state level, investments to preserve California's transportation system have not been sufficient to meet demand. Consequently, Los Angeles and other counties have raised additional revenues for transportation projects through sales tax increases. Although there continues to be an unmet need for transportation funding, LA County has reached its transactions and use tax limit and requires exemption from the State and the authority to raise the sales tax for transportation funding.

"In 2008, the Los Angeles County voters recognized the need for additional transportation investments, both for increased transit options and highway/road improvements, and approved Measure R. Over the next 30 years, it is projected Measure R will generate \$40 billion for congestion relief progress. Measure R is transforming Los Angeles County. The transit and highway projects now being constructed will relieve congestion and improve air quality. The Los Angeles Economic Development Council estimated in 2008 that Measure R projects will create 166,000 jobs.

"While Measure R will dramatically change mobility throughout Los Angeles, the projects funded by the measure do not encompass all of the transportation needs in the region. Residents, local governments, and transportation leaders in the region believe there are thousands of worthy projects, particularly transit projects, which will not be funded by Measure R. An additional half-cent sales tax will allow Los Angeles County to further expand its transit system, address key highway needs around the county, support local agency transportation programs, and improve the Metrolink service."

- 5) **Related Legislation.** This bill is substantially similar to AB 338 (Hernandez), which is currently pending in the Senate Transportation and Housing Committee. AB 338 would also authorize MTA to impose an additional countywide 0.5% transactions and use tax, but contains several differences to this bill. This bill allows MTA to determine the length of the transactions and use tax and AB 338 establishes a 30-year limit. Additionally, this bill does not contain several of the provisions in AB 338, including the requirement that the expenditure plan must contain a measure to ensure equity between regions, the dedicated percentage of revenue to bus and rail operations, or the requirement that MTA must notify the Legislature prior to adopting amendments to the adopted expenditure plan.

AB 464 (Mullin), currently pending on the Senate Floor, seeks to raise the overall statewide transactions and use tax rate cap from 2% to 3%. The authority granted by this bill is exempted from the 2% cap; however, if AB 464 were signed into law the authority granted by this bill would not be exempted from the 3% cap.

- 6) **Conflicting Legislation.** Provisions of this bill conflict with AB 338 (Hernández) and may need amendments to address the conflict, should both bills continue to move through the legislative process.
- 7) **Arguments in Support.** The Los Angeles County Metropolitan Transportation Authority states, "Currently, the Los Angeles Metropolitan Transit Authority is deciding whether to pursue a ballot measure to provide funding for additional transportation investments. This option is not possible without this legislation. Regardless of eventual decision made by the board, your legislation is essential to ensuring that all options to cut traffic, reduce smog, and increase mobility are available to the people of Los Angeles."

- 8) **Arguments in Opposition.** The California Taxpayers Association states, "Although the bill's intent to advance funding for transportation projects may be meritorious, any increase in the sales and use tax rate would only add to what is already one of the most regressive taxes in the state; and disproportionately impacts California's most vulnerable residents, making it more difficult for them to budget and purchase everyday necessities."
- 9) **Double-Referral.** This bill is double-referred to the Transportation Committee.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Los Angeles County Metropolitan Transportation Authority [SPONSOR]  
ACT, Southern California  
Avvantt Partners  
Amalgamated Transit Union  
California Asphalt Pavement Association  
CALPIRG  
CH2M HILL  
Climate Resolve  
Community Health Councils  
DE Architects  
Endangered Habitats League  
Environment California  
FAST  
Green Communications Initiative  
Hatch Mott MacDonald  
HDR  
International Brotherhood of Electrical Workers (IBEW), Local 11  
International Union of Operating Engineers (IUOE), Local 12  
Jacobs  
Kal Krishnan Consultant Services  
Laborers Local 1300  
Los Angeles Alliance for a New Economy (LAANE)  
Los Angeles Area Chamber of Commerce  
Los Angeles County Business Federation  
Los Angeles Community College District  
Los Angeles County Bicycle Coalition  
Los Angeles County Federation of Labor  
Los Angeles County Museum of Art (LACMA)  
Los Angeles / Orange Counties Building and Construction Trades Council  
Los Angeles Urban League  
Los Angeles Walks  
L.A. River Revitalization Corporation  
Mayor Eric Garcetti, City of Los Angeles  
Mayor Meghan Sahli-Wells, Culver City  
Metropolitan Pacific Capital, Inc.  
MNS Engineers, Inc.

**Support (continued)**

Mobility 21  
Move LA  
National Resources Defense Council (NRDC)  
Pacifica Services, Inc.  
Parsons Brinkerhoff  
SENER Engineering & Systems, Inc.  
SKANSKA  
Southern California Association of Governments  
Southern California Association of NonProfit Housing (SCANPH)  
Southern California Transit Advocates  
Stantec  
Subway to the Sea  
Transpo Group  
V&A Incorporated  
Westchester Neighborhood Association  
Westside Center for Independent Living

**Opposition**

California Taxpayers Association  
Howard Jarvis Taxpayers Association

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