

ASSEMBLY THIRD READING

AB 210 (Wieckowski)

As Amended April 23, 2013

Majority vote

LOCAL GOVERNMENT	7-2	REVENUE & TAXATION	5-3
Ayes: Achadjian, Levine, Alejo, Bradford, Gordon, Mullin, Bonta		Ayes: Bocanegra, Gordon, Mullin, Pan, Ting	
Nays: Melendez, Waldron		Nays: Dahle, Harkey, Nestande	

SUMMARY: Extends the current authority for Alameda County to adopt an ordinance imposing a transactions and use tax from January 1, 2014, to December 31, 2020, and allows Contra Costa County to adopt an ordinance imposing a transactions and use tax in the same manner as Alameda County. Specifically, this bill:

- 1) Extends the sunset date, from January 1, 2014, to December 31, 2020, to provide authority to Alameda County to adopt an ordinance to impose a transactions and use tax that exceeds the combined statutory rate of 2%.
- 2) Allows, until December 31, 2020, Contra Costa County to adopt an ordinance to impose a transactions and use tax not to exceed 0.5% for the support of a countywide transportation program at a rate that would, in combination with other taxes, exceed the statutory limit of 2%.
- 3) Allows Alameda County and Contra Costa County to place the ordinance proposing the transactions and use tax to the voters in an election outside the November general election.
- 4) Finds and declares that a special law is necessary because of the unique fiscal pressures experienced in Alameda and Contra Costa County in providing essential transportation programs.

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) Allows the County of Alameda 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 on the November 6, 2012, general election ballot 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 the County of Alameda 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 January 1, 2014.

FISCAL EFFECT: None

COMMENTS: 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.

In Alameda County, Union City voters recently passed a transactions and use tax of 0.5%, which in addition to the countywide rate of 1.5% occupy the tax capacity under the 2% combined rate. The existing 2% transactions and use tax limit would have prevented the enactment of a ballot measure in November of 2012 to increase the tax if it was approved by the voters. In order to remedy this AB 1086 (Wieckowski), Chapter 327, Statutes of 2011, allows a one-time exemption from the 2% transactions and use tax combined rate cap that is currently in statute. This one-time exemption was only for Alameda County and only applied if two-thirds of voters, voting in the November 6, 2012, election agreed and only if the transactions and use tax conforms to Transactions and Use Tax Law.

To take advantage of this one-time remedy, Measure B1 was placed on the November 6, 2012, ballot in Alameda County. According to the author, "Measure B1 was supported by an overwhelming majority of voters at 66.53%, but fell .15% short of reaching the two-thirds threshold. Given the clear majority of voters that support continued improvements to meet the county's vast transportation needs, the Alameda County Transportation Commission is seeking approval to take another ballot measure before voters prior to 2020."

This bill allows Alameda County to go back to the voters with another ballot measure by extending their existing authority, from January 1, 2014, to December 31, 2020, to adopt an ordinance to impose a transactions and use tax that exceeds the combined rate of 2%. According to the Alameda County Transportation Commission (Alameda CTC) they are in the process of developing long-term policies and a funding plan to return with another ballot measure prior to 2020. This bill is sponsored by the Alameda CTC.

Additionally, Contra Costa Transportation Authority (CCTA) is currently working on a 2014 update of the Countywide Comprehensive Transportation Plan (CTP). The development of the CTP is underway and includes a public input component, polling, and strategic planning that may inform the CCTA in their decision to develop an expenditure plan that includes a local transportation measure. Without this bill, if the CCTA decides to proceed with an increase, the existing 2% transactions and use tax limit will prevent the enactment of the tax if it is approved

by the voters. The City of El Cerrito recently enacted an additional transactions and use tax of 0.5%, which in addition to the current rate of 0.5% in El Cerrito and the countywide rate of 1% occupy the tax capacity under the 2% combined rate. The CCTA would like the option of placing a ballot measure before the voters to exceed the existing 2% cap by 0.5%.

This bill requires Contra Costa County to abide by requirements established for Alameda County in order to exceed the 2% transactions and use tax cap. Like Alameda County, this bill provides Contra Costa County an exemption to the 2% cap, if two-thirds of voters in an election agree, and only if the transactions and use tax conforms to Transactions and Use Tax Law. This bill allows the two counties to place a ballot measure for a transactions and use tax up to 0.5% in any election until December 31, 2020.

The Legislature may wish to discuss if the 2% transactions and use tax combined rate cap needs to be raised statewide, instead of having counties come to the Legislature on a case by case basis.

Support arguments: While this bill allows Alameda and Contra Costa County to exceed the current 2% combined county rate, it abides by all local voting requirements, and would only take effect if voters approve the new transactions and use tax at an election prior to December 31, 2020.

Opposition arguments: Opponents argue that this bill will further distort the intention and design of California local sales tax by promoting inconsistent rates amongst the counties. Additionally, excessive tax rates put the state at a competitive disadvantage and forestall an economic recovery.

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