

Date of Hearing: April 19, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1256 (Wood) – As Amended March 23, 2023

SUBJECT: Transactions and use taxes: County of Humboldt.

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

- 1) Allows the Humboldt County Board of Supervisors to impose a TUT for the support of countywide transportation programs and general services at a rate of no more than 1% 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 Humboldt County Board of Supervisors adopts an ordinance proposing the TUT by any applicable voting approval requirement.
 - b) The ordinance proposing the TUT is submitted to the electorate and is approved by the voters voting on the ordinance in accordance with constitutional requirements.
 - c) The TUT conforms to TUT Law, as specified.
- 2) Specifies that a TUT imposed pursuant to 1) above, shall not be considered for purposes of the combined rate limitation established by law.
- 3) Provides that, if an ordinance proposing the TUT authorized by this bill is not approved, the provisions of this bill shall be repealed on January 1, 2027.
- 4) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable because of the critical needs of transportation infrastructure and general services within Humboldt 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

Rate	Jurisdiction	Purpose/Authority
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
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 taxes or TUTs. 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.

Generally, the combined TUT tax rate imposed within a local jurisdiction cannot exceed 2%. To determine whether a county has reached this rate limitation, all countywide taxes and the highest combined rate imposed by a city within the county are counted towards the county's rate limit. For example, if a county imposes three 0.5% countywide taxes and two cities within the county each impose a 0.5% tax, the combined rate in those two cities would be

2%. In such a circumstance, the two cities could not impose another TUT, and the county could not impose another countywide TUT, absent special authority to exceed the rate limitation.

As of April 1, 2023, local jurisdictions impose a combined 411 TUTs 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 (BART) District (Alameda, Contra Costa, and San Francisco counties) and the Sonoma-Marín Rail Transit District (Sonoma and Marin counties). Of the 411 TUTs, 67 are imposed countywide, four are imposed in unincorporated county areas, and 340 are imposed citywide.

- 3) **Humboldt County.** Humboldt County has eight TUTs levied within its borders, including one countywide tax and seven citywide taxes. The current 0.50% countywide tax rate is imposed directly by Humboldt County. Since the City of Eureka has the highest city tax in the county at 1.50%, Humboldt County has reached the 2.00% combined rate limitation. Subject to voter approval, enactment of this bill would allow Humboldt County to impose a countywide TUT rate of up to 1.00%, which, combined with other current transactions and use taxes, would exceed the 2.00% rate limitation.
- 4) **Bill Summary and Author’s Statement.** This bill allows Humboldt County to impose a TUT for the support of countywide transportation programs and general services at a rate of no more than 1% that would, in combination with all taxes imposed, exceed the 2% cap established by law, if specified conditions are met. This bill 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. Humboldt County is the sponsor of this bill.

According to the author, “AB 1256 would authorize the Humboldt County Board of Supervisors to impose a transactions and use tax for the support of countywide transportation programs at a rate of no more than 1% that would, in combination with other transactions and use taxes, exceed the combined rate limit of 2%, if the voters approve the ordinance proposing the tax. As Humboldt County recovers from recent natural disasters, this bill is needed to provide the opportunity to propose a roads tax for the purpose of building and maintaining safe roads.”

- 5) **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 10.25% in the City of Eureka. While any increase would have to be approved by the voters, the Committee may wish to consider whether AB 1256 allows for rates that are too high.
- 6) **Recent Legislation.** AB 618 (Stone) of 2019 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. AB 618 was vetoed with a message that stated, “The Cities of

Emeryville and Scotts Valley have not yet reached the statewide cap of 2 percent, making it unclear why additional tax authority is needed.”

AB 723 (Quirk), Chapter 747, Statutes of 2019, provided that neither the tax imposed by 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.

SB 1349 (Glazer), Chapter 369, Statutes of 2020, permitted Contra Costa County, and cities within Contra Costa County, additional legal flexibility to impose local TUTs.

AB 2453 (Bennett), Chapter 286, Statutes of 2022, authorized the Ventura County Transportation Commission to impose a TUT of no more than 0.5% that does not count against the cap in Ventura County.

- 7) **Arguments in Support.** According to Humboldt County, “AB 1256 allows the county to enact a voter-approved ordinance that exceeds the current state-limited sales tax rate, preserving our flexibility to address local safety and infrastructure needs. Despite ongoing funding challenges in meeting essential needs such as emergency response, homeless services and safe infrastructure, the county has continued to work collaboratively with its municipalities to effectively address these issues. Furthermore, our region has recently suffered from natural catastrophes including earthquakes, storm damage and flooding. The county is not only recovering from these impacts but also planning responsibly for future disasters. Over the past several years, local leaders and residents have recognized that locally controlled sources of funding are essential for long-term fiscal sustainability. The county wishes to preserve its flexibility to augment or expand local sales tax funding options to address our safety and infrastructure needs. The City of Eureka has already reached the maximum rate allowable under current code, and without AB 1256, it would not be possible to expand these critical local funding sources in our region.”
- 8) **Arguments in Opposition.** According to the California Taxpayers Association, “California has the highest state-level sales and use tax rate in the country, and several cities in California, including Eureka, have even higher rates. The sales and use tax is a regressive tax that has the greatest impact on low-income residents because it makes it more expensive for these taxpayers 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. Adding even more to the cost of living with a sales tax increase would harm Californians, and will disproportionately impact the state’s most vulnerable residents.

“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, and should not be circumvented.”

- 9) **Double-Referral.** This bill is double-referred to the Assembly Committee on Revenue and Taxation.

REGISTERED SUPPORT / OPPOSITION:

Support

Humboldt County [SPONSOR]

Opposition

California Taxpayers Association

Howard Jarvis Taxpayers Association

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