Bill No:	AB 1256	**Hearing Date:**	6/7/23
Author:	Wood	**Tax Levy:**	No
Version:	3/23/23	**Fiscal:**	No
Consultant:	Grinnell		

TRANSACTIONS AND USE TAXES: COUNTY OF HUMBOLDT

Allows the Humboldt County Board of Supervisors to impose a transactions and use tax that exceeds the 2% countywide cap.

Background

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), and remit tax to CDFTA. 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
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 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.

District 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 or transactions and use taxes. Generally, local agencies impose these taxes 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 (which covers Alameda, Contra Costa, and the City and County of San Francisco) and the Sonoma-Marin Rail Transit District (which includes Sonoma and Marin counties). As of April 1, 2023, local agencies impose 411 district taxes for general or special purposes. 67 are imposed countywide, four are imposed in unincorporated county areas, and 340 are imposed citywide.

State law caps the total rate for any county at 2%. The cap applies countywide, so if one agency imposes a district tax, it limits the ability of another agency that shares the jurisdiction to do so to the remaining room under 2%. For example, if a city imposes a 1% tax, the county in which the city is located or a special district serving that city could not impose one above 1%.

The Legislature has enacted several exceptions to the 2% cap, including in the cities of Alameda, Berkeley, Emeryville, and Santa Fe Springs; as well as Alameda, Contra Costa, and Santa Clara counties. In 2018, the Legislature created an exemption to the 2% cap to allow the County of Sonoma, any city in the County, and the Sonoma County Transportation Authority to impose a district tax in increments of 0.25% up to 1% (SB 152, McGuire).

Humboldt County. Humboldt County currently imposes a 0.5% district tax, which became effective on January 1, 2015. However, voters in the City of Eureka approved Measure H at the November, 2020, general election, which imposed a 1.25% district tax on January 1, 2021, replacing a previous 0.5% tax that expired on the same date. Measure H's tax applies in addition to a previously-imposed 0.25% tax, bringing the combined rate in the City of Eureka to 9.25%. As a result, the 2% countywide cap in state law precludes the County from imposing an additional district tax.

Citing funding challenges meeting essential needs such as emergency response, homeless services, and safe infrastructure, the author wants to allow the Humboldt County Board of Supervisors to impose a district tax that exceeds the 2% cap.

Proposed Law

Assembly Bill 1256 allows the Humboldt County Board of Supervisors to impose a transactions and use tax of up to 1% to support countywide transportation programs and general services even if it exceeds the 2% cap when combined with other district taxes imposed by local agencies in Humboldt County. The Board must adopt an ordinance proposing the tax, submit the ordinance to the electorate for approval, and be approved by voters. The tax must also conform to state district tax law.

The bill repeals the authority for the County to impose a tax in excess of the cap on January 1, 2027.

State Revenue Impact

No estimate.

Comments

1. Purpose of the 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."

2. Too high? While the state sales and use tax rate decreased from 7.5% to 7.25% on January 1, 2017, California's rate is high compared to other states, especially when incorporating locally imposed district taxes. Tax experts generally agree that sales and use taxes are regressive, meaning 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, even if California's exempts many necessities such as food and prescription medication. AB 1256 could lead to a rate in the City of Eureka of 10.25% if the County imposes the maximum tax rate allowed under the bill. While local voters must approve any tax, the Committee may wish to consider whether AB 1256 allows for rates that are too high.

3. Existing cap. SB 566 (Scott, 2003) imposed the uniform 2% cap for both cities and counties, in response to a multitude of jurisdiction-specific bills seeking to authorize district taxes. The cap set an upper limit on the local rate, as California's sales and use tax rate is very high as noted above. In 2015, AB 464 (Mullin) attempted to raise the cap to 3%, however, Governor Brown vetoed the bill, stating:

> "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."

4. *Upland*. On August 28, 2017, the California Supreme Court entered a decision in *California Cannabis Coalition v. City of Upland*, 3 Cal. 5th 924, which held that Article XIIIC, Section Two, subdivision (b)'s requirement that general taxes be submitted to the electorate at a regularly scheduled general election where members of the local governing board are subject to election did not apply to taxes proposed by voter initiative. As discussed in the Committee's March 7, 2018, joint oversight hearing, "*Uproar over Upland? Assessing the California Supreme Court's Decision*," groups seeking to impose special taxes by majority vote by initiative soon argued that if the Court held that the general election requirement in subdivision (b) did not apply to initiatives, then neither did the 2/3 vote requirement for special taxes in subdivision (d). At least seven such taxes imposed by voters in various local agencies across the state have been approved, and no court thus far has invalidated them. With that said, AB 1256's authority to exceed the 2% cap is granted solely to the Humboldt County Board of Supervisors, so would not apply to an initiative seeking to impose a special tax by majority vote.

5. Special legislation. The California Constitution prohibits special legislation when a general law can apply (Section 16 of Article IV).   AB 1256 contains findings and declarations explaining the need for legislation that applies only to the County of Humboldt because of the critical needs of the transportation infrastructure and general services within the County of Humboldt.

Assembly Actions

Assembly Local Government Committee:	5-2
Assembly Revenue and Taxation Committee:	8-2
Assembly Floor:	55-14

Support and Opposition (6/2/23)

Support: County of Humboldt (Sponsor)

Opposition:
California Taxpayers Association
Howard Jarvis Taxpayers Association

-- END --