
SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair

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BRADLEY-BURNS UNIFORM LOCAL SALES AND USE TAX LAW: LOCATION OF TRANSACTION: GENUINE HUMAN INTERACTION

Prohibits local agencies from paying consultants certain levels of compensation on tax sharing agreements.

Background

Sales and use tax. 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 and remit 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
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, they are 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. CDTFA collects sales taxes from retailers, deposits the state share in the General Fund, and then allocates the local share of the Bradley-Burns sales tax and any district tax to the appropriate jurisdiction.

Bradley-Burns. The Bradley-Burns Uniform Sales Tax Act allows all local agencies to apply its own sales and use tax on the same base of tangible personal property. This tax rate currently is

fixed at 1.25% of the sales price of tangible personal property sold at retail in the local jurisdiction, or purchased outside the jurisdiction for use within the jurisdiction. Cities and counties use this 1% tax to support general operations, while the remaining 0.25% is used for county transportation purposes. In California, all cities and counties impose Bradley-Burns local taxes.

Bradley-Burns law specifies the "place of sale" for purposes of the local sales tax. Bradley-Burns sales taxes are allocated to the place of business of the retailer, unless the property sold is delivered by the retailer or his or her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination, in which case no tax is collected. CDTFA must consider specific characteristics of the retailer to correctly determine the "place of sale," and therefore correctly allocate the local share of Bradley-Burns sales tax:

- For a retailer that has *one location in the state*, that location is determined to be the place of sale for all of its sales. CDTFA does so even if title to the property passes from seller to buyer outside of the jurisdiction of the seller, or if the property never enters the jurisdiction of the seller. For example, CDTFA would determine that all local taxes attributable to a furniture store in the City of Sacramento would be sourced to that city, regardless of where the store delivered furniture to the buyer.
- For a retailer that has *more than one location in the state*, CDTFA determines the location based on the location where principal negotiations occurred. In the above example, if a retailer has more than one location, CDTFA considers the place of business the location where the retailer takes the order, regardless of whether they subsequently forward it to another location for delivery. For example, if a resident of the City of Davis called a furniture store in Sacramento to order a lamp, which the store shipped to Davis from its location in Vacaville, CDTFA would consider Sacramento the place of business for purposes of allocating the local tax.
- For a retailer that has *no location in the state, but has a stock of property in the state from which it fills orders*, CDTFA considers the place of sale as the location from which the property is shipped. If a resident of the City of Davis ordered a lamp from an internet retailer that did not have a retail location in the state, but filled the order from its warehouse in Vacaville, CDTFA would consider Vacaville the place of sale.

Allocating Bradley-Burns sales taxes at the place of sale leads to competition among cities and counties to attract land uses that generate local revenues.

Economic development incentives. Counties and cities engage in a wide variety of economic development activities to build their tax bases. Local officials use various tactics to influence where, when, and how the private sector invests capital and improves real property:

- Regulatory tools, including general plans, zoning, and subdivision standards;
- Direct spending, including building public works projects like dams, water systems, sewers, levees, and roads, as well as grants and loans, and site preparation; and
- Tax policies, including lower rates on local taxes (such as sales taxes or property taxes) for selected taxpayers and tax abatements where officials return the revenues to the taxpayers.

Local officials sometimes use their economic development powers to induce businesses to relocate to their communities. State law bans cities and counties from subsidizing the relocation

of big box retailers and auto malls within the same market area (SB 114, Torlakson, 2003). State law also prohibits a local agency from entering into an agreement that would result in the payment, transfer, diversion, or rebate of Bradley-Burns local tax proceeds to a retailer if the agreement results in a reduction of revenue that is received by another local agency when the retailer continues to maintain a physical presence and location within that other local agency (SB 533, Pan, 2015).

Even with these restrictions on economic development incentives, local agencies can still offer the following types of agreements:

- A reduction in the use tax proceeds that are distributed to the originating local agency through one or more countywide pools;
- Any agreement to pay or rebate any local use tax revenue related to a use tax direct payment permit;
- Any mutual tax revenue sharing agreement between local agencies to pay, transfer, or divert tax revenues that would be received by one local agency to another local agency, and where the agreement would not result in a rebate of those tax revenues to a retailer; and
- An agreement where a retailer expands its operations into another jurisdiction, but the originating local agency receives no less revenue than if the expansion did not occur.

Economic development incentives local agencies offer range in terms of (1) the level of rebate, (2) how long the retailer receives the benefit, (3) the types of jobs or services the retailer must provide in return, and (4) how long the retailer must promise to stay in the jurisdiction. Some agreements offer over half of the Bradley-Burns revenue generated by the facility, for periods of time ranging from one year to 30 years. The City of Fresno has recently entered into long-term agreements with Amazon, Nordstrom, and the Gap, and the City of Dinuba has done the same with Best Buy.

State Auditor and Legislative Analyst Reports. Both the California State Auditor and the Legislative Analyst's Office (LAO) have issued reports questioning the statewide benefit of economic development incentives local agencies offer to retailers for locating in their jurisdiction. The November 2017 report from the California State Auditor entitled, "The Bradley-Burns Tax and Local Transportation Funds: Changing the Allocation Structure for the Bradley-Burns Tax Would Result in a More Equitable Distribution of Local Transportation Funding," states:

"Some counties may benefit disproportionately from the Bradley-Burns tax because of the way state law currently directs the allocation of the funds. Retailers generally allocate Bradley-Burns tax revenue based on the place of sale, which they identify according to their business structure. However, retailers that make sales over the Internet may allocate sales to various locations, including their warehouses, distribution center, or sales offices. This approach tends to concentrate Bradley-Burns tax revenue into the warehouses' or sales offices' respective jurisdictions. Consequently, counties with a relatively large amount of industrial space may receive disproportionately larger amounts of Bradley-Burns tax, and therefore Local Transportation Fund, revenue. The State could make its distribution of Bradley-Burns tax revenue derived from online sales more

equitable if it based allocations of the tax on the destinations to which goods are shipped rather than on place of sale.”

Similarly, a 2007 LAO report entitled, “Allocating Local Sales Taxes,” states:

“The use of financial incentive does not result in net benefits to a broader economic region within the state. It simply shifts existing sales taxes from one jurisdiction to another—at the cost of government resources that could be used for other purposes. The counterproductive aspects of the current system could be addressed through major reforms involving either the local sales tax allocation methodology or changes in local government’s system of taxes. Both of these options would involve significant public policy trade-offs and would require changes to the state’s Constitution.”

Recent developments with tax sharing agreements. Bradley-Burns tax sharing agreements have come under renewed scrutiny. According to an article published in *Bloomberg Tax*:

“Bloomberg Tax investigations into some of the agreements found that Apple has received \$107.7 million from its hometown Cupertino, eBay Inc. has received more than \$97 million from its home base of San Jose, Walmart.com has received more than \$15 million from San Bruno tied to an e-commerce office, Best Buy Co. Inc. has received \$49.3 million from Dinuba tied to a warehouse, and Williams-Sonoma Inc. has received \$58.7 million from Shafter tied to a call center.”¹

Bloomberg Tax also noted some local agencies made information about agreements difficult to find. The City of San Bruno didn’t include payments to Walmart.com on its public check registers, which are approved by city councils during regular meetings.² San Bruno initially denied a request from Bloomberg Tax to provide information about payments to Walmart.com, citing taxpayer confidentiality rules, but released it following a request under the California Public Records Act.³

One aspect of the controversy behind these tax sharing agreements is the compensation that consultants who help broker the agreement between the city and the retailer. *Bloomberg* reporter Laura Mahoney published a series of articles looking at the details of these agreements. For example, in the City of Dinuba’s deal with Best Buy:

“...the city keeps 40% of annual tax proceeds, Best Buy gets half and the tax lawyer who brokered the agreement and several others around the state, Robert E. Cendejas, gets the remaining 10%...Best Buy isn’t required to do anything for its money; the only expectation is that it retain at least 285 jobs at the warehouse. Since 2016, Dinuba’s total sales tax revenue has increased from \$4.9 million a

¹ Laura Mahoney, “California Cities Agree to Rein in Apple-Like Tax Windfalls.” Bloomberg Tax Report, August 17, 2023.

² Laura Mahoney, “Walmart’s California Sales Tax Deal is Successful but Vulnerable.” Bloomberg Tax Report, October 11, 2023.

³ *Ibid.*

year to a peak of \$30.8 million in 2020, with most of that increase coming from Best Buy as e-commerce took off during the Covid pandemic.”⁴

The compensation paid to Robert E. Cendejas was the subject of an ethics investigation by the Fair Political Practices Commission (FPPC). Despite earning over \$8 million from the Dinuba deal, FPPC did not find sufficient evidence of any wrongdoing.⁵

In an effort to generate additional public information about agreements between local agencies and retailers to refund Bradley-Burns sales taxes, AB 2854 (Irwin, 2024) required local agencies to publish specified information on tax sharing agreements, and provide it to CDTFA. This includes information on the compensation of all parties to the agreement.

The City of Shafter wants to limit the compensation that outside consultants can receive from tax sharing agreements.

Proposed Law

Senate Bill 1172 prohibits paying consultants on tax sharing agreements in an amount that exceeds the lower of the following:

- 5% of the total tax revenues shared pursuant to the tax sharing agreement; or
- \$250,000.

SB 1172 also requires local agencies to, within 30 days of entering into a tax sharing agreement, publish on its internet website and report to the State Controller all the following:

- Names of all consultants involved;
- Total amount and compensation structure to be received by the consultants;
- Form of compensation paid; and
- Include a copy of any consultant contract.

The measure does not apply to local agency staff the jurisdiction employs or technical consultants providing non-compensated advisory services.

SB 1172 only applies to tax sharing agreements entered into on or after January 1, 2027.

The measure also defines its terms.

Comments

1. Purpose of the bill. According to the author, “SB 1172 is about protecting the integrity of taxpayer dollars and ensuring they are used for their intended purpose, investing back into communities. Local tax-sharing agreements can play an important role in attracting business, but when those agreements lack clear guardrails, they can unintentionally divert public funds away from essential services. In some cases, consultant compensation is tied directly to the amount of

⁴ Laura Mahoney, “E-Commerce Tax Deals Pit California Cities Against Each Other.” Bloomberg CityLab, February 23, 2023.

⁵ Laura Mahoney, “California Watchdog Clears Lawyer at Center of Tax-Sharing Deals.” Bloomberg Tax Report, February 16, 2023.

tax revenue rebated, creating incentives that prioritize larger or longer revenue diversions rather than sustainable, community-focused outcomes. This is especially significant for small and rural communities, where limited tax bases mean fewer resources for public safety, infrastructure, and long-term economic stability. Without transparency and accountability, these communities are at greater risk of losing critical funding with little visibility into how decisions are made.

“SB 1172 addresses this problem by establishing reasonable limits and transparency requirements that ensure public funds are protected and decisions are made in the open. The bill does not eliminate tax-sharing agreements, but it reinforces their purpose by aligning incentives with genuine economic development and requiring clear disclosure of how taxpayer dollars are used. By putting these safeguards in place, SB 1172 strengthens public trust and ensures that economic development tools support, rather than undermine, the long-term health of California’s communities, particularly those that can least afford to lose scarce public resources.”

2. Just because it’s not illegal, doesn’t make it right. Tax-sharing agreements divert public tax dollars to private entities—in the absence of them, those tax dollars flow to public entities to support services. In the case of agreements that provide compensation to the broker, one individual can make millions of dollars off a single agreement. Those resources could have gone towards hiring more firefighters, expanding services to individuals experiencing homelessness, or other public services. SB 1172 puts significant limitations on compensation, but because it does not prohibit it entirely or limit compensation derived from past agreements, public funds will continue to be funneled to private individuals.

3. Race to the bottom. Allowing communities to take advantage of their sales tax revenue to offer huge rebates, sometimes more than half of the total sales tax revenue received, often results in shifting economic activity from one jurisdiction that needs more economic growth to another. As the rebates grow larger and larger, the benefits accrue more and more to the company receiving the rebate, not the local agency providing it. As this race to the bottom continues, more and more tax dollars go to retailers, not to local jurisdictions. Taxpayers pay sales tax under the supposition that the revenue goes to the state and local agencies to provide services, not to provide a rebate to a corporation. Instead, retailers often receive a significant portion of the benefits of this sales tax revenue. Local agencies are pitted against each other to attract retailers with these incentives in exchange for a promise of jobs and economic activity. However, both local agencies end up on the losing end. The local agency that loses the competition loses jobs and economic activity. The local agency that wins the competition ends up sacrificing a portion of sales tax revenue they may have generated if the retailer had plans to locate in that jurisdiction anyway.

In 2019, the Legislature passed SB 531 (Glazer) which would have prohibited a local agency from entering into any agreement that results in a rebate of Bradley-Burns local tax revenues to a retailer in exchange for that retailer locating within that agency’s jurisdiction. Governor Newsom vetoed the legislation stating in his veto message:

“I am returning Senate Bill 531 without my signature.

“This bill would prohibit a local agency from entering into any agreement that would result, directly or indirectly, in a rebate of the Bradley-Burns Uniform Local Sales and Use Tax revenues to a retailer that locates or maintains a place of sale within the jurisdiction of that local agency.

“Current use of these tax agreements are limited but also an important local tool that captures additional economic activity, particularly in rural and inland California cities that continue to face significant economic challenges like high unemployment rates. Therefore, completely removing these tax options from local decision makers is the wrong approach.

“I do support greater oversight with respect to the use of these tax agreements and have signed Assembly Bill 485, which will increase transparency regarding the economic outcomes that result from these types of agreements. This will allow the state to better understand the nature of the agreements between local jurisdictions and businesses, as well as the challenges and obstacles to inclusive growth.”

SB 1172 does not address whether these agreements should continue to exist in California, meaning further agreements that shift sales tax revenue from jurisdictions without these agreements to those who do will continue to take place. Should the Legislature revisit whether these agreements should exist at all?

6. Treating the symptom, not the disease. Both the Auditor and the LAO have suggested replacing situs-based allocation with a population-based allocation system to reduce incentives for local governments to use their economic development powers to promote retail developments. The LAO also suggested that replacing local government sales tax revenues with a different tax base could achieve similar results. Yet, because Section 25.5 of Article XIII of the California Constitution prohibits the Legislature from enacting a statute that would change the method of distributing revenues derived under Bradley-Burns Uniform Local Sales and Use Tax Law, as it read on November 3, 2004, except to comply with federal law or to allow the state to participate in an interstate compact, moving away from a situs-based sales tax allocation system would require a Constitutional Amendment or enacting a new local tax scheme. While SB 1172 reduces compensation outside consultants can receive from these agreements, broad tax reform is needed to address the underlying problem.

7. It's all been done before. AB 2854 required local agencies to post information on tax sharing agreements on their website, and send information to CDTFA. This information includes the parties to the agreement and their compensation. The measure also included fines for local agencies that do not comply. SB 1172 requires local agencies to post similar information on these agreements on their website, which may duplicate the information AB 2854 already requires. The Committee may wish to consider amending the bill to remove SB 1172's reporting requirement.

8. Charter city. The California Constitution allows cities that adopt charters to control their own “municipal affairs.” In all other matters, charter cities must follow the general, statewide laws. Because the Constitution doesn't define “municipal affairs,” the courts determine whether a topic is a municipal affair or whether it's an issue of statewide concern. SB 1172 does not include language that identifies its provisions as matters of statewide concern, which means charter cities may not be subject to its provisions. The Committee may wish to consider amending the bill to ensure it applies to all cities, not just general law cities.

9. Let's be clear. Committee staff recommend the following clarifying amendments:

- The tax sharing agreement definition that SB 1172 uses is not consistent with how the Legislature has defined these agreements in previous legislation. The Committee may wish to consider amending the bill to use a more consistent definition of tax sharing agreements; and
- The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Because SB 1172 imposes new duties on local officials with respect to posting additional information on tax sharing agreements on their websites, Legislative Counsel says it imposes a new state mandate. The measure states that no reimbursement has to be made, but does not provide a reason disclaiming the state's responsibility. The Committee may wish to consider amending the bill to clarify the state's mandate responsibility.
- SB 1172's content deals with tax sharing agreements, but the bill's title refers to determining where sales take place for purposes of distributing sales and use tax revenue. The Committee may wish to consider amending the bill to match the bill's title to its contents.

10. Coming and going. The Senate Rules Committee has ordered a double referral of SB 1172: first to the Committee on Local Government to hear issues related to local government powers, and second to the Committee on Revenue and Taxation.

Support and Opposition (4/10/2026)

Support: City of Shafter (Sponsor)
League of California Cities

Opposition: None Submitted

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