
SENATE COMMITTEE ON REVENUE AND TAXATION

Senator Jerry McNerney, Chair

2025 - 2026 Regular

Bill No: SB 762
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Tax Levy: No
Fiscal: No

TRANSACTIONS AND USE TAX: CITY OF HERCULES

Allows the City of Hercules to impose a district tax, by ordinance or voter initiative, of up to 1% above the 2% countywide cap.

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, requiring them to register with the California Department of Fee & Tax Administration (CDTFA), and remit taxes collected from purchasers to CDTFA. Sales tax applies whenever there is a retail sale. The current sales and use tax rate is 7.25%. Additionally, cities, counties, and specified special districts may increase the sales and use tax, also known as district or transactions and use taxes.

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	

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. 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 assessed at the same rate as the sales tax and must be remitted on or before the last day of the month following the quarterly period in which the purchase was made.

District Taxes. The California Constitution states that taxes levied by local governments are either general taxes or special taxes. General taxes are levied to fund general governmental

purposes, without being imposed for any specific purpose, and are subject to majority approval by voters. Special taxes are subject to a 2/3 vote approval by voters. Proposition 13 (1978) required a 2/3 vote of each house of the Legislature for state tax increases, and a 2/3 vote for local special taxes. Proposition 62 (1986) prohibited local agencies from imposing general taxes without majority approval of local voters, or 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. As of January 1, 2026, local jurisdictions impose a combined 484 district taxes for general or special purposes. Of the 484 district taxes, 71 are imposed countywide, six are imposed in county unincorporated areas, and 407 are imposed citywide. Generally, local agencies impose these taxes throughout one entire jurisdiction, such as a single county, an unincorporated area within a single county, or an incorporated city. However, transportation operators in the San Francisco Bay Area have regional district taxes, among them the Bay Area Rapid Transit (BART) District, which covers Alameda and Contra Costa counties, as well as the City and County of San Francisco.

State law caps the total rate for district or transactions and use taxes in any county to 2%. The cap applies countywide, so if one agency imposes a district tax, it may limit the ability of another agency in the same county to impose an additional district tax. For example, if city x (located in county a) imposes a 1% district tax, then county a could not impose an additional county-wide district tax of 1.5% because now, city x would be subject to district taxes of 2.5%, which is above the 2% cap. Therefore, county a could only enact an additional district tax of up to 1%. Anything greater would exceed the 2% cap.

The Legislature generally enacts exceptions to the 2% cap annually. In 2024, the Legislature enacted exemptions for Solano County, any of its cities, and the Cities of Pinole and Campbell (AB 3259, Wilson); as well as for the Cities of Lancaster, Palmdale, and Victorville (AB 2443, J. Carrillo). Last year, the Legislature enacted similar exemptions for the San Luis Obispo Council of Governments (SB 333, Laird) and the Monterey-Salinas Transit District (AB 761, Addis).

City of Hercules. Located on the coast of San Pablo Bay in Contra Costa County, the City of Hercules has a population of 26,016 according to the 2020 U.S. Census. The City has imposed a 0.5% district tax since January 1, 2012, which, when combined with the three other 0.5% district taxes imposed in Contra Costa County (BART, Contra Costa County Transportation Authority, and Contra Costa County), results in a 9.25% rate in the City. Currently, the City can impose another district tax of 0.5% without legislation because BART's rate does not count towards the cap (AB 723, Quirk, 2020).

To protect essential services and improve critical transportation infrastructure, the City wants authority to exceed the 2% cap to impose a district tax of up to 1%.

Proposed Law

Senate Bill 762 allows the City of Hercules to impose a district tax, by ordinance or voter initiative, of up to 1% above the 2% cap when combined with other district taxes imposed by local agencies in Contra Costa County.

The Board or respective city council must adopt an ordinance proposing the tax unless it's proposed by voter initiative. The ordinance must be submitted to the electorate for approval and be approved by voters according to the appropriate Constitutional voter approval threshold. Other than the 2% cap, the tax must otherwise conform to state district tax law.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. "SB 762 provides the City of Hercules residents with a limited opportunity to vote on local tax measures. The increase in revenue would support the protection and maintenance of essential city services- such as faster 911 response times and improved park infrastructure - while achieving long-term financial stability and economic development."

2. Too high? California's sales and use tax 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 heavily on low-income individuals than on high-income individuals, because those of lesser means generally spend a greater percentage of their income on taxable sales, even if California exempts many necessities such as food and prescription medication. While below the highest rate in the state (the cities of Lancaster and Palmdale in Los Angeles County currently impose 11.25% rates), the rate could reach 10.25% in the City of Hercules should voters fully utilize SB 762's authority. Additionally, the City can currently impose a 0.5% tax without a legislative exemption from the cap. While local voters must approve any tax, the Committee may wish to consider whether SB 762 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, since, as noted above, California's sales and use tax rate is very high. 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 XIIIIC, 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 Senate Governance and Finance 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 argued if the Court held 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). Since then, voters in several local agencies across the state have approved special taxes by

majority-vote initiative, and no court thus far has invalidated them, most recently in the City of San Diego (*All. San Diego v. California Taxpayers Action Network*, 114 Cal. App. 5th 1121, 1127, 337 Cal. Rptr. 3d 589, (2025)). SB 762's authority for the City of Hercules to exceed the 2% cap applies to both taxes imposed by ordinance or initiative, so if voters submitted an initiative to impose a special tax, rather than the county or a city, they could approve it by majority vote.

5. Special legislation. The California Constitution prohibits special legislation when a general law can apply (Section 16 of Article IV). SB 762 contains findings and declarations explaining the need for legislation that applies only to transaction and use taxes imposed within the City of Hercules.

6. Hello friend. The Senate Rules Committee ordered a double referral of SB 762. First, to the Committee on Revenue & Taxation, and second to the Committee on Local Government.

Support and Opposition (1/8/26)

Support: City of Hercules (Sponsor).

Opposition: None received.

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