
SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair
2025 - 2026 Regular

Bill No: SB 762
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Version: 1/5/26

Hearing Date: 1/14/26
Fiscal: No
Consultant: Peterson

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% even if it exceeds the 2% 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, 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.

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 the 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 enacting an ordinance or adopting 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 agencies impose 484 district taxes for general or special purposes: 407 imposed citywide, 71 imposed countywide, and 6 imposed in unincorporated county areas. 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. However, three transportation operators in the Bay Area have regional district taxes:

- The Bay Area Rapid Transit (BART) District, which covers Alameda, Contra Costa, and San Francisco counties;
- The Peninsula Corridor Joint Powers Board (CalTrain), which covers San Francisco, San Mateo, and Santa Clara counties; and
- The Sonoma-Marín Rail Transit District, which includes Sonoma and Marin counties.

State law caps the total tax rate for any county district tax at 2%. The cap applies countywide, so if one agency imposes a district tax, it may limit the ability of another agency in the same jurisdiction to impose a district tax if there is no remaining room under 2% cap. For example, if city X imposes a 1% tax in county A, county A in which city X is located could not impose an additional district tax above 1%. The Legislature has enacted numerous exceptions to the countywide 2% cap as outlined in the table below.

Counties	Cities	Other
Alameda	Alameda	Peninsula Corridor Joint Powers Board San Luis Obispo Council of Governments
Contra Costa	Berkeley	
Humboldt	Campbell	
Los Angeles	El Cerrito	
Monterey	Lancaster	
San Mateo	Palmdale	
Santa Clara	Pinole	
Solano	Santa Fe Springs	
Sonoma	Solano County cities	
Ventura	Victorville	

City of Hercules. Hercules is a city of over 26,000 residents in Contra Costa County. There are three countywide district taxes that combined add a total of 1.5% to the statewide rate of 7.25%. The City of Hercules imposes a district tax to add 0.5% for a total of 2%. This means the tax rate in the City of Hercules is 9.25%. State law excludes one of the 0.5% countywide taxes from the 2% cap. As a result, the City has an additional 0.5% under the district tax limitation, so its voters can approve a tax rate up to 9.75% without hitting the cap.

The City reports that various funding needs, including supporting essential city services, like parks and emergency services. It wants to give its voters the opportunity to decide whether to raise additional revenue to fund these needs.

Proposed Law

Senate Bill 762 allows the City of Hercules to impose a district tax, by ordinance or voter initiative, of up to 1% even if it exceeds the 2% cap when combined with other district taxes imposed by local agencies.

The city council 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.

Comments

1. Purpose of the bill. According to the author, “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? While the state sales and use tax rate decreased from 7.5% to 7.25% on January 1, 2017, 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. SB 762 could lead to a 10.75% tax rate in Hercules if the city imposes the maximum tax rate allowed under the bill and exercises its right under existing law to increase the tax rate by 0.5%. While local voters must approve any tax, the Committee may wish to consider whether SB 762 allows for rates that are too high.

3. Necessary? The City of Hercules can already impose an additional district tax up to 0.5% without hitting the 2% tax rate limitation. The Committee may wish to consider whether the City should use its existing room under the cap before going above it.

4. 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.”

5. 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 XIII C, 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). 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. SB 762's authority for Hercules to exceed the 2% cap applies to both taxes imposed by ordinance or initiative, so if voters submitted an initiative, rather than the City, the measure would have a majority vote requirement.

6. Gut and amend. As amended in March 2025, SB 762 made changes to the San Francisco Bay Conservation and Development Commission. On January 5, 2026, the author amended the bill to delete the initial contents of SB 762 and insert the current language relating to the City of Hercules.

7. 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.

8. Incoming! The Senate Rules Committee has ordered a double referral of SB 762: first to the Committee on Revenue and Taxation, which is scheduled to hear the measure at its January 14th meeting, and second to the Committee on Local Government.

Support and Opposition (1/9/2026)

Support: City of Hercules (Sponsor)

Opposition: None Submitted

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