



The 2017 Legislative Session convened on January 4, and several measures have already been introduced. In addition, the Governor has released his proposed 2017-18 State Budget. February 17 is the last day for bills to be introduced. Senators may introduce up to 65 bills during a session; Assembly Members may introduce up to 50 bills during a regular two-year session. Proposition 54 adopted by voters in November 2016 requires all bills, including the budget and budget trailer bills, must be in print for three days prior to the final vote in either house of the Legislature.

This report is an initial discussion framework noting that 2017 legislative proposals will continue to be introduced and as expected with any new Federal Administration, policy priorities impacting local funding will likely shift.

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## SECTION 1: 2017 GOALS AND PRIORITIES

### League of Cities 2017 Strategic Goals

- **Transportation:** Increase Funding for Critical Transportation and Water Infrastructure
- **Homelessness:** Develop Realistic Responses to the Homeless Crisis
- **Housing:** Improve the Affordability of Workforce Housing and Secure Additional Funds for Affordable Housing
- **Cannabis/ Marijuana – Public Safety:** Address Public Safety Impacts of Reduced Sentencing Laws, Protect Local Priorities in the Implementation of AUMA (Proposition 64), and Preserve City Rights to Deliver Emergency Medical Services

### CSAC Priorities (Discussed at the 2016 CSAC Annual Conference)

- **Governance/ Local Control:** Protecting County Governance Authority
- **Mandates:** Mandates Reimbursement Reform and Debt Repayment
- **Revenues:** Local Tax Authority Protection
- **Elections:** Elections Administration Investment and One-Time Funding
- **RDA Winding Down:** On-Schedule Redevelopment Agency Dissolution
- **Broadband Technology:** Broadband Access and Adoption



**SECTION 2: SELECTED POLICY PROPOSALS AND ISSUE THEMES**

- **Sales and Use Tax** (Legislation, Sales Tax Rate Lowered 01/01/17, BOE Publication 123, *Quill's* Physical Presence)

*Sales and Use Tax Legislation*

**Exemption:** State and local sales and use tax exemption for feminine hygiene products. (*AB 9/ Garcia*)

**Interest/ Penalties:** Would prohibit the assessment of interest and penalties against any person for failure to make payments of any taxes if the failure to make a payment is attributable to the failure of the Board of Equalization's (BOE) Internet Web site. (*SB 11/ Gaines*)

**Exemption for Manufacturing and Research:** Expands the law to qualified software publishers, and qualified persons that conduct agricultural business activities. (*SB 13/ Gaines*)

**Challenging Quill:** The 2016 election has left the future of federal remote sales tax legislation uncertain. Previous efforts to overturn the U.S. Supreme Court's 1992 ruling have involved negotiation with the private sector and policy discussions. The debate took a different turn in 2016, with Alabama, Tennessee, and South Dakota pushing measures inviting litigation to reverse *Quill*. Most recently Wyoming considered a proposal (H.B. 19) to determine how its Department of Revenue could bring action to obtain a judgement that the remote seller's obligation to remit sales tax is applicable and valid under state and federal law. After the bill's introduction Amazon.com announced they will begin collection tax on remote sales in February. Amazon now collects sales tax in 32 states and the District of Columbia.

**BOE Updated Guide for Businesses Identifying and Reporting Use Tax:** BOE Publication 123, California Businesses: How to Identify and Report California Use Tax Due (<http://www.boe.ca.gov/pdf/pub123.pdf>)

**Sales and Use Tax Rate Lowered on January 1, 2017:** The total statewide rate dedicate specific percentages to the general fund, local public safety, education, transportation and other purposes dropped from 7.5 percent to 7.25 percent as a result of the expiration of the sales tax increase in Proposition 30, approved by voters in 2012. Proposition 30 included a personal income tax rate increase that was set to expire at the end of 2018, but voters' via Proposition 55 extended that tax increase through 2030. <http://www.boe.ca.gov/news/sp111500att.htm>

- **Transportation / Infrastructure** (Proposed 2017-18 State Budget, Legislation)

*Proposed 2017-18 State Budget (Transportation) Highlights:*

California has 50,000 lane miles of state and federal highways, 304,000 miles of locally owned roads, operation of three of the top six Amtrak intercity rail services in the nation (nearly 900 miles of track), and transit systems operated by 180 local transit agencies.

**Selected Components to Support the Governor's Proposed Transportation Program:** \$1 billion Cap and Trade for Caltrans to expand the grant program for local projects that encourage active transportation such as bicycling and walking, with at least 50 percent of the funds directed to benefit disadvantaged communities. **Local Streets and Roads/Local Partnership Funds:** About \$11.4 billion in shared revenues to cities and counties for local road maintenance, and over \$2.2 billion in state-local partnership grants. **Sustainable Transportation Grants:** An increase of \$25 million annually for competitive planning grants to assist regions and local governments to achieve the sustainable transportation requirements in SB 375 from 2008. **Corridor Mobility Improvements:** An increase of over \$2.7 billion for multi-modal investments on key congested commute corridors that demonstrate best practices for quality public transit and managed highway lanes such as priced express lanes or high-occupancy vehicle lanes. Included is \$25 million annually to expand the freeway service patrol program. **Highway Repairs and Maintenance:** An increase of almost \$18 billion (including \$1 billion from Caltrans efficiency savings) for Caltrans to fund repairs and maintenance on the state highway system.



**Governor's Proposed Funding:** The 10-year funding plan will provide a total of almost \$43 billion in new funding and redirected savings from efficiencies for transportation priorities. **Road Improvement Charge:** \$2.1 billion from a new \$65 fee on all vehicles, including hybrids and electrics. **Stabilize Gasoline Excise Tax:** \$1.1 billion by setting the gasoline excise tax at the 2013-14 rate of 21.5 cents and eliminating the current annual adjustments. **Diesel Excise Tax:** \$425 million from an 11-cent increase in the diesel excise tax. **Cap and Trade:** \$500 million in additional Cap and Trade proceeds. **Caltrans Efficiencies:** \$100 million in cost-saving reforms.

#### *Transportation / Infrastructure Proposed Funding and Legislation*

**Funding for Deferred Maintenance on State Highway and Local Street and Road Systems:** Increases the diesel tax an aggregate 15 cents per gallon. Increases the motor vehicle fuel tax 12 cents per gallon. Increases the sales and use tax on diesel fuel by an additional 3.5 percent. Increases the vehicle registration fee for standard vehicles by \$38 annually, and \$165 for zero-emission electric vehicles. Restricts the use of funds, dedicating the money to transit capital projects; Redirects certain vehicle weight fees from servicing transportation debt to funding road construction projects, and prohibits the fee revenue from being loaned to the general fund. (AB 1/ Fraizer)

**Fees and Rebates on Sales of New Cars:** State's intent of the Legislature to enact legislation to reduce net emissions from greenhouse gases from transportation by imposing fees and granting rebates on sales of new automobiles and light trucks. (AB 33/ Quirk)

#### ▪ **Cannabis/ Marijuana** (Proposed 2017-18 State Budget, Proposed Legislation, BOE Compliance Manual Changes)

MuniServices developed a "**Blue Chip**" team of experts to provide "Cannabis Support Services" to local jurisdictions. The team experience includes, audit and compliance, tax/fee revenue projection, land use and zoning evaluation, ordinance development, public safety concerns, polling, research and stakeholder outreach. MuniServices maintains a **Resource Center** on its website that provides information related to current issues, trends, policy reports, regulatory updates, data, relevant resources, and more. <http://www.muniservices.com/services/cannabis-support-services>

#### *Proposed 2017-18 State Budget (Cannabis) Highlights*

Implementing the current medical and recreational cannabis statutes separately will result in duplicative costs of an additional \$25 million for a second track and trace system. The proposed 2017-18 Budget includes \$52.2 million for the regulation of cannabis in 2017-18 to fund regulatory activities, processing of licenses, and enforcement. Since cannabis license fees will not be collected until January 1, 2018, the General Fund provided loans to the Marijuana Control Fund to cover the initial implementation and regulatory costs for cannabis-related activities.

**Department of Consumer Affairs:** \$22.5 million to enhance the Bureau of Medical Cannabis Regulation within the Department of Consumer Affairs. The Bureau will regulate the transportation, storage, distribution, and sale of cannabis within the state and will also be responsible for licensing, investigation, enforcement, and coordination with local governments.

**Department of Public Health:** \$1 million for the licensing and regulation of medical cannabis product manufacturers.

**Department of Food and Agriculture:** \$23.4 million to provide Cannabis Cultivation Program administrative oversight, promulgate regulations, issue cannabis cultivation licenses, and perform an Environmental Impact Report. The Department is responsible, with assistance from the Department of Technology and the BOE, for establishing a track and trace program to report the movement of medical cannabis products throughout the distribution chain using unique identifiers.

**BOE:** \$5.3 million in FY2017-18 to notify businesses of the new tax requirements and update its information technology systems to register businesses and process tax returns from retail sales. Proposition 64 requires the BOE to administer an excise tax on cannabis sales and a cultivation tax on all harvested cannabis that enters the commercial market.

**Department of Health Care Services:** \$5 million in 2016-17 for the public information program specified in Proposition 64, to be established and implemented no later than September 1, 2017.



### *Cannabis / Marijuana Legislation*

**Medical and Nonmedical Regulation and Advertising:** Among various provisions would specify that licensees under the MCRSA may operate for profit or not for profit; including provisions for when a retailer license may be issued for storefront locations and advertising. *(AB 64/ Bonta)*

**Marketing to Minors:** States the intent of the Legislature to introduce legislation relating to the prohibition of the marketing of adult-use marijuana to children. *(AB 76/ Chu)*

**Local Regulation:** Allows a city, county, or city and county, to regulate, by ordinance, the sale of a substance used as a recreational drug that poses a threat to human life or health and a particular risk to minors. Allows a city council or county board of supervisors to require vendors to maintain records of sale, make inventory available for inspection by a peace officer, and store a substance in a secure place that cannot be accessed by minors. *(SB 139/ Wilk)*

*Proposed Revisions to Compliance Manuals Chapter 2, Registration and Chapter 7, Collections. (Medical Marijuana Seller Registration) <http://www.boe.ca.gov/sutax/staxmanuals.htm>*

**Comments are Due March 10.** Board of Equalization Staff on January 10 notified interested parties of its intent to commence the review of policies and procedures for medical marijuana seller registration and for collections from successors. MuniServices team is reviewing the proposals and will notify clients of its analysis and any suggested action.

- **Housing** (Proposed 2017-18 State Budget and Housing Needs by County, Legislation)

### *Proposed 2017-18 State Budget (Housing) Highlights*

As reported in the Governor's proposed 2017-18 State Budget, the state projects 180,000 units of new housing construction is needed annually over the next 10 years to meet the state's growing housing demand. Production has remained below 100,000 new units annually over the last eight years. Approximately half of all California households are spending more than 30 percent of their income on housing costs, and nearly one-third of all California households are spending more than 50 percent of income on housing costs. **Proposed 2017-18 Budget:** \$3.2 billion in state and federal funding and award authority. Specific county needs can be found at <http://www.ebudget.ca.gov/2017-18/pdf/BudgetSummary/HousingandLocalGovernment.pdf>.

### *Housing Legislation*

**Sustainability District:** Would authorize certain local governments (including charter cities) to establish by ordinance a housing sustainability district, including authorizing residential use within the district through the ministerial issuance of a permit. Authorizes locals to apply to the Office of Planning and Research for approval for a zoning incentive payment and provide information about the proposed housing sustainability district ordinance. *(AB 73/ Chiu)*

**Recording Fees for Affordable Housing Use:** Would enact the Building Homes and Jobs Act and make legislative findings and declarations relating to the need for establishing permanent, ongoing sources of funding dedicated to affordable housing development; imposes a fee of \$75 to be paid at the time of the recording of every real estate instrument, not to exceed \$225. Of the tax revenue, 20 percent is designated for "affordable owner-occupied workforce housing," and 10 percent for housing related to agricultural workers. *(SB 2/ Atkins)*

**Bonds:** Would enact the Affordable Housing Bond Act of 2018, which, if adopted, would authorize the issuance of bonds in the amount of \$3 billion with proceeds from the sale of these bonds used to finance various existing housing programs, as well as infill infrastructure financing and affordable housing matching. *(SB 3/ Beall)*

**Elimination of Mortgage Interest Deduction for Second Homes:** The bill increases the housing credit dollar amount that may be allocated to low-income housing projects and farm worker housing projects. *(AB 71/ Chiu)*



- **Redevelopment** (Proposed 2017-18 State Budget) Highlights

The winding down of the state's former redevelopment agencies eliminated the state's approximately 400 redevelopment agencies and replaced them with locally organized successor agencies. The returning of property tax includes the periods of FY2011-12 through FY2015-16, with approximately \$1.7 billion returned to cities, \$2.1 billion to counties, and \$658 million to special districts. **Proposed 2017-18 Budget:** Anticipates that cities will receive an additional \$733 million in general purpose revenues in 2016-17 and 2017-18 combined, with counties receiving \$869 million and special districts \$260 million. The Budget anticipates that additional ongoing property tax revenues of more than \$900 million annually will be distributed to cities, counties, and special districts. This unrestricted funding can be used by local governments to fund police, fire, housing, and other public services.

- **Shared Economy/ TOT**

At the time of print we are not aware of legislation to address TOT collection mechanisms for on-line platforms. In 2016 there were measures proposed that intended to allow online platforms (also known as "collecting platforms") to *elect* to participate and collect TOT revenues and the return the revenue to locals; "collecting platforms" would be subject to an annual audit or review conducted by the State Controller. Another measure would have set up a mechanism to allow locals and on-line platforms to 'opt in' a process for the collection of TOT revenues. MuniServices anticipates the discussion to continue during the 2017 Legislative Session.

- **Cap and Trade / Electric Utility Credit**

Cap and Trade, the market based regulation is designed to reduce greenhouse gases from multiple sources. To date, the state has appropriated approximately \$3.4 billion in Cap and Trade auction proceeds for programs that reduce or sequester greenhouse gases by providing individuals, households, communities, and regions more transit options, modern housing near jobs and services, additional tree cover, forest and watershed improvements, healthy soils, recycling opportunities, and housing upgrades to cut energy use. **Local Impact:** With Cap and Trade proceeds from the electric utility sector, over 10.8 million households have received climate credits on their bills twice per year since 2014 to reduce by over \$2 billion the impact of changing household electric utility costs. Clients are encouraged to contact their MuniServices Client Manager for city-specific impact.

- **Regulations**

**Mandatory Legislative Review of Regulations:** Requires all new regulations exceeding \$50 million to be reviewed by the Legislature before going into effect. (AB 77/ Fong)

**Administrative Regulations Review:** Would require each state agency to, on or before January 1, 2020, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, and report to the Legislature and Governor. (AB 12/ Cooley)

### SECTION 3: TAX REFORM

State Controller Betty Yee in 2016 set forth conceptual discussion points for tax reform, and the League of California Cities convened an Internal Working Group, which include representatives from MuniServices, to discuss policy concepts. We look forward to advancing discussions and policy in 2017. See: [http://www.sco.ca.gov/Files-EO/Comprehensive\\_Tax\\_Reform\\_in\\_California\\_A\\_Contextual\\_Framework\\_06\\_16.pdf](http://www.sco.ca.gov/Files-EO/Comprehensive_Tax_Reform_in_California_A_Contextual_Framework_06_16.pdf)

SB 983 (2014) was the catalyst for a more serious policy conversation on sales tax reform. The bill would have shifted the point of sale for card lock systems from the place where the sale was negotiated to the 'point of delivery of fuel to the vehicle.' This legislation would have opened the door for other bills to redistribute Bradley-Burns sales tax, further destabilizing a jurisdiction's tax base. Senator Hertzberg during the 2015-16 session floated proposals to expand the tax base to services. In 2016, AB 2321 was intended to have the DMV transmit data to the BOE with respect to off-highway vehicles and for the BOE to allocate the use taxes to the specific jurisdiction where the vehicle is registered; current revenues are designated in the county-wide pool. At the time of print we are not aware of related proposed measures.



Local governments' continue to ask their voters to consider local revenue measures to support community needs. In November 2016, 353 out of 427 tax or bond measures passed. The 167 tax measures that passed will increase local taxes by more than \$2 billion annually. Local sales taxes account for more than \$1.5 billion of these revenues. For perspective in 2010 there were 20 local sales tax measures presented to voters, in 2012 there were 35, in 2014 there were 54, and in 2016 there were 89. Many cities with a voter-approved UUT ordinance are also exploring ways to capture revenues from new technologies, for example the taxation of certain digital goods (such as over the top television services) yet recognizing that there is currently a lack of clarity on the issue of "nexus." To-date no California cities have taken action on this national issue. MuniServices notes with appreciation the Governor's signature on AB 1717 (2014) that created a collection mechanism to capture existing UUT revenues from prepaid wireless (once considered a new technology).

#### **SECTION 4: UUT TRENDS**

- **OTT Service:** Developing a consensus on the taxation of certain OTT services, recognizing that there is currently a lack of clarity on the issue of "nexus", which may be addressed through future federal legislation or federal case law.
- **Updating Nexus Rules:** Pursuing federal laws that will replace outdated "physical presence" nexus rules with modern "economic presence" rules for the taxation of digital goods (like OTT service) or sales over the internet.
- **Prepaid Wireless Reviews:** Compliance reviews of major remitters of prepaid wireless UUT (direct sellers and large retail stores) to verify they are applying and remitting the UUT properly.
- **BOE as a "UUT Tax Collector":** Evaluating AB 1717 (a moratorium with an expiration date of 2020) as a cost-effective tool for collecting prepaid wireless UUT.
- **Next Big Service/Product:** Keeping an eye on the technology/marketing horizon for the next big service or trend that may have taxation implications, and timely addressing the issue with an appropriate administrative ruling.
- **Internet Tax Freedom Act (ITFA):** A "California exception for voter-approved ordinance" should remain a priority.
- **Gas and Electricity, Conservation:** Including more energy efficient products will continue to reduce energy consumption. Also, it is likely that renewable resources like solar will continue to be off-limits for local taxes (currently under a moratorium ban). In 2020, the state goal is that 35% of the electricity in California will come from non-taxable renewables. So, unless inflation produces high energy costs, don't expect much growth in your energy UUT beyond that attributable to population growth.
- **UUT for Water, Sewer and Garbage:** Given the above trends, UUT cities may want to consider imposing a UUT (with voter approval) on water, sewer, and garbage.

#### **SECTION 5: BOARD OF EQUALIZATION - JANUARY 24 TO 26 MEETING/ 2017 CALENDAR**

##### **January 24 to 26, Meeting in Sacramento - Agenda Highlights**

**Legislative Proposals:** A provision that would allow under the Sales Tax Law to allow retailers to report sales tax liability on a cash basis. Our team will monitor this hearing and report the Board's disposition.

**Education and Compliance:** MuniServices has long-supported Board policy and efforts that promote compliance with the law to maximize the collection of local revenues. During the January meeting the Board will look at new methods of education and outreach in cities across the State, including live chat and use of the Boards YouTube channel to provide relevant educational content to taxpayers.

**Agenda:** [http://www.boe.ca.gov/meetings/pdf/2017/012417\\_PAN\\_January\\_Sacramento.pdf](http://www.boe.ca.gov/meetings/pdf/2017/012417_PAN_January_Sacramento.pdf)

##### **2017 BOE Calendar**

**Culver City:** February 22-24, April 25-27, September 26-28, November 14-16. **Irvine:** July 27-28. **Sacramento:** March 28-20, May 23-25, June 20-22, August 29-31, October 24-26, December 11-12

#### **GOVERNMENT RELATIONS CONTACT AND RESOURCES**

<http://www.muniservices.com/services/government-relations/>