



PRELIMINARY 2016 BILL REVIEW AND OTHER MEASURES

February 19th was the deadline for bills to be introduced in Sacramento. The deadline does not apply to bills introduced in special sessions, and does not preclude lawmakers from using the gut-and-amend maneuver to insert entirely new proposals into existing bills. This report is a preliminary review of 2016 bill introductions and other measures.

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SECTION 1: SELECTED LEGISLATION*Sales Tax on Services*

- **Sales tax on services:** Intent for legislation to expand retail sales tax to services. The proposal states SB 1445 would “provide tax relief to middle- and low-income Californians, secure greater stability for California’s infrastructure and workforce, and enhance California’s business climate” **(SB 1445/ Hertzberg)**
- See “As Nation Moves to a Services Economy, State’s Look to Tax it More” by The Pew Charitable Trusts <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/02/26/as-nation-moves-to-a-service-economy-states-look-to-tax-it-more>

Shared Economy Short Term Rentals

- **BOE contracting authority: local tax collection:** AB 2006 according to the author’s office is a ‘back up’ spot bill to Senator McGuire’s 2015 effort to carry language related to local TOT revenue collection from short-term rentals. SB 593 was intended to create policy for local effort to regulate land use impacts and collect taxes. Locals should watch this issue carefully since there may be effort to have the BOE as the collection authority for short-term rental TOT revenues. It is unclear at this point what bill (if any) will be used to move this policy **(AB 2006/ (Mullin & SB 593/ McGuire)**

Sales & Use Tax Exemptions

- **Exemption for diapers until 2022:** Applies to diapers designated 3 years old or under; BOE estimates state and local revenue loss of \$36.3 million **(AB 717/Garcia)**
- **Exemption for feminine products:** BOE estimates state and local revenue loss of \$20 million **(AB 1561/Garcia)**
- **Exemptions for disaster preparedness products:** Applies to qualified purchases for a two-day period in 2017 and excludes revenues that are deposited; revenue impact pending **(AB 1562/ Kim)**
- **Exemption for pawn broker sales:** Includes intent legislation if an original pledger re-acquires from a pawnbroker the property originally pawned as security for a loan; revenue impact pending **(AB 2365/ Gipson)**
- **Exemption for nonprofit construction materials:** Authorizes a partial exemption for building and construction materials purchased by a non-profit organization; revenue impact pending **(AB 2518 /Gomez)**
- **Exemption for gun safes:** Authorizes for one calendar year a partial exemption for specified types of gun safes with a purchase price of \$1,000 or less; revenue impact pending **(AB 2540/ Melendez)**
- **Exemption for hydrogen refueling station equipment:** Authorizes an exemption for hydrogen refueling station equipment purchased by a recipient of a grant under the Alternative and Renewable Fuel and Vehicle Technology program; revenue impact pending **(AB 2673/Harper)**



- **Exemption for certain new vehicle sales:** Applies to out-of-state buyers taking delivery in state until 2012; the revenue impact reported depends on taxpayer behavior, but historical experience estimates a reduction of \$25,000 annually **(SB 680/Wieckowski)**
- **Exemption for zero-emission equipment used by ports:** Authorizes, from January 1, 2017, to January 1, 2030, a partial exemption for zero-emission equipment purchased by port operators to transport or handle freight and cargo within a California public seaport; revenue impact pending **(SB 1338/Lara)**
- **Exemptions for back-to-school tax holiday:** Provides a partial exemption for clothing, footwear, books, computers and other school supplies during a two-day period in August; revenue impact pending **(SB 1210/ Gaines)**

Additional Sales and Use Tax Measures

- **Taxation of sales at state-designated fairs:** Requires tax returns filed for sales and use tax purposes to segregate the gross receipts of the seller and the sales price of the property when the place of sale or use is on or within the property of a state-designated fair; requires that 30 percent of revenue from those sales and use tax amounts be deposited into the Fair and Exposition Fund and appropriated for fair-related purposes **(AB 2678/ Gray)**
- **Authorizes a customer to file a claim for refund of excess sales and use tax paid by the customer:** Includes an amount of \$1,000 or greater, allowing the BOE to make a direct refund to the customer **(SB 640/ Beall)**
- **Non-substantive changes to the transactions and use tax law** (AB 1895/ Brough); **Non-substantive changes to the sales and use tax law** (AB 1896/ Brough and AB 2047/ Mullin); **Spot bill** (SB 1394/ Hall)

Point of Sale

- **Use tax on third party vehicle sales: transfer of title:** 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 **(AB 2321 /Rodriguez)**

Transactions and Use Taxes

- **Transactions and use taxes: County of Alameda, County of Contra Costa, and Contra Costa Transportation Authority:** Extends the taxing authority for a transactions and use tax (of 0.5%) from December 2020 to December 2024 for Contra Costa County and the Contra Costa Transportation Authority; the County of Alameda would be included under this bill **(AB 1665/ Bonilla)**
- **Transactions and use taxes: San Bernardino County Transportation Authority:** Authorizes the creation of the San Bernardino County Transportation Authority as the successor agency to the San Bernardino Transportation Committee and provides powers that include the imposition of sales taxes **(SB 892 /Leyva)**

Local Ballots

- **Impartial analysis for local ballots:** Requires local governments to provide an impartial analysis for local ballots (75 words or less) in the format of "What does a yes vote mean?" and "What does a no vote mean?" **(AB 2265 /Stone)**
- **Moving local transportation tax measures up the ballot:** Authorizes county boards of supervisors to direct county elections officials to reorder the November 8, 2016 ballots to display local tax measures related to transportation above state ballot measures **(AB 2152 /Gray)**

Economic Development / Post Redevelopment

- **Community revitalization:** Improves AB 2 (from 2015) that created a new form of redevelopment **(AB 2492 /Alejo)**

Special District Funding

- **New Inland Empire taxing district:** Authorizes the Desert Healthcare District to expand into the Coachella Valley and to identify funding options for the district; authorizing is subject to the approval of the Riverside County Board of Supervisors **(AB 2414/ (Garcia)**

Amnesty

- **Amnesty for tax penalties and fees:** Requires the Franchise Tax Board (FTB) and the BOE to administer a tax penalty and fee amnesty for a three-month period, for tax periods beginning before January 1, 2015, if certain conditions are met **(AB 2692/ Brough)**

*Cannabis*

- **Clarification for cities and counties to regulate medical cannabis in their jurisdictions:** Removes the provisions from last year's AB 243 that would have granted the Department of Food and Agriculture the sole licensing authority for medical marijuana authority cultivation if a local cultivation regulation was not in effect as of March 1, 2016 **(AB 21/ Bonta - Chaptered)**
- **Training for licensee agents and employees:** Requires a state licensee to institute and maintain a training program for the licensee's agents and employees regarding compliance with the Medical Marijuana Regulation and Safety Act **(AB 26/ Jones-Sawyer)**
- **BOE advisory group:** Requires the BOE to create a group to examine strategies including point-of-sale systems to improve financial monitoring of cannabis businesses **(AB 1575/ Bonta)**
- **Taxing medical marijuana:** Imposes a tax on the distribution of medical marijuana by licensed cultivators; requires distributors to collect the tax from cultivators and remit to the BOE. The tax would be imposed at a rate of \$9.25 per ounce of marijuana flowers, \$2.75 per ounce of leaves, and \$1.25 per immature plant for sale **(AB 2243/ Wood)**
- **Tax amnesty:** Sets up a tax penalty amnesty program between April 1 to September 30, 2016 for medical cannabis dispensaries to begin to comply with the tax laws **(SB 567/Gipson)**
- **Cash payments:** Allows the BOE to accept cash payments for cannabis businesses **(AB 821/ Gipson)**
- **Policing authority for medical marijuana cultivation:** An exemption from the medical marijuana licensing requirements does not limit or prevent local government from exercising its police power authority **(SB 435/Pan)**

Property Tax

- **Property taxation: certificated aircraft assessment:** Intent language for provisions regarding the assessment of certificated aircraft **(AB 2622/ Nazarian)**
- **Property taxation welfare exemption increase:** Increases exemption for tax cap on certain low income housing owned by non-profits; estimated annual local property tax reduction is at \$240,000 **(SB 678/ Hill)**
- **Commercial property reassessment:** Proposed "split roll" **(SCA 5/ Hancock; SB 1093/ Hancock & Mitchell)**
- **Property tax postponement:** Various provisions for senior citizen and disabled citizen property tax postponement **(AB 1952/ Gordon)**
- **Parcel tax notices:** Requires local governments to notify all property owners that the electorate will be voting on a parcel tax **(AB 2476/ Daly)**
- **Property tax and VLF allocation to newly incorporated cities:** Modifies the property tax revenue allocation and car tax revenue allocations to cities that were incorporated after January 1, 2004, and before January 1, 2012 **(SB 817/ Roth and AB 2277/ Melendez)**
- **Property tax contracts:** Requires government agencies to provide copies of recorded contracts to the assessor as soon as possible after the date of recordation; could be burdensome for locals **(AB 2450/ Achadjian)**
- **Property tax exemption for disabled veterans:** Expands the definition of "veteran," for purposes of the disabled veteran's property tax exemption, to include a person who was discharged from service in other-than-dishonorable conditions and otherwise meets the exemption criteria **(SB 1458/Bates)**

Transparency

- **Online postings for local government meetings:** Requires local governments to post a direct link to their meeting agenda online **(AB 2257/ (Maienschein)**
- **Government financial transparency:** Establishes the "California Financial Transparency Act of 2016" and requires a (currently unspecified) state government entity to maintain a website that lists state financial obligations **(SB 1251/ Moorlach)**
- **State and local outstanding debt reporting:** Would require the state to track and report on all state and local outstanding debt until fully repaid or redeemed **(SB 1029/ Hertzberg)**

Wages

- **Double pay the fourth Thursday in November:** Certain grocery and retail stores would be required to pay at least two times the regular rate of pay to an employee for work **(AB 67/ Gonzalez)**

**SECTION 2: TRIPLE FLIP FINAL PAYMENT**

The return to 1% allocations: The sales tax rate returned to 1% on January 1, 2016. It takes time for sales under the restored 1% tax rate to translate into sales tax payments to counties and cities. The sales tax payments (allocations) to counties and cities returned to the 1% rate in March 2016.

How this year is different: Historically, the State made payments in January and May via property tax in lieu distributed by your respective county to repay local sales tax borrowed via the Triple Flip to repay the Economic Recovery Bond Act of 2004. Those payments also included true-up payments for the prior fiscal year. In this final year of the triple flip, the State is only going to send funds via property tax in lieu payments to locals in January and May to cover the true-up for FY 2014-2015 and the estimated withholding from the latter part of June 2015 through the first part of September 2015. The withholding from the latter part of September 2015 through March 2016 and any residual true-up payments will fund in August 2016. As a result, most of the remaining amounts owed to local jurisdictions will be moved to August.

An idea of scale: Generally, the total the State owes a local jurisdiction in 2016 is 3/16 of its total annual sales tax. Roughly 1/3 of which is paid over January and May. The remaining 2/3 is paid in August. Said another way, the August payment is roughly 1/8 of an entire year's sales tax.

A note about accruals: As a result, Counties and Cities that do not accrue at through August will face a shortfall in FY 2015-2016. Those Counties and Cities will experience a one-time, "artificial" bump in FY 2016-2017. Cities and Counties that accrue at least August will experience a one-time bump in FY 2015-2016.

(Prepared by Bret Harmon, Client Service Manager)

SECTION 3: PREPAID MOBILE TELEPHONY SERVICES REVENUES (AB 1717) REGULATION APPROVED

The public hearing for proposed Prepaid Mobile Telephony Services (Prepaid MTS) Regulations 2460, 2461, and 2462; and proposed amendments to Emergency Telephone Users Surcharge Regulations 2401, 2422, and 2413, were approved on January 26, 2016. MuniServices, through the cooperative efforts of participating cities, spent five years working with the wireless industry, retailers, the Governor's office, the BOE, the CPUC, and the Legislature in developing a solution for a complicated problem for collecting existing revenues from "prepaid wireless." We expect our client Utility User Tax (UUT) cities, on the average, to experience a 15 to 20% increase in their wireless UUT once the state program is fully functioning, probably by the fourth quarter of 2016. We will be closely monitoring BOE implementation costs.



SECTION 4: GAS TAX/ TRANSPORTATION / ROAD MAINTENANCE/ VEHICLE FUEL TAX

AB 1591 (Fraizer) Proposed Road Maintenance and Rehabilitation Program: Creates the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway, and local street road system. Over the next 10 years, the state faces a \$59 billion shortfall to adequately maintain the existing state highway system, in order to keep it in a basic state of good repair. Cities and counties face a \$78 billion shortfall over the next decade to adequately maintain the existing network of local streets and roads. Statewide taxes and fees dedicated to the maintenance of the system have not been increased in more than 20 years, with those revenues losing more than 55 percent of their purchasing power, while costs to maintain the system have steadily increased and much of the underlying infrastructure has aged past its expected useful life. California motorists are spending \$17 billion annually in car repair bills, which is more than \$700 per driver, due to the state's roads.

Revenues: Increases the gas tax by 22.5 cents (\$3.3 billion annually); Imposes a \$38 VLF (\$1.254 billion annually); and Imposes a \$165 vehicle fee on zero emission vehicles (\$16 million annually)

Allocations: 5% to counties that approve a transaction and use tax on or after July 1, 2016 for transportation (\$228.5 million annually); 47.5% to the State Highway Operation and Protection Program (SHOPP) (2.17 billion annually); 47.5 to local streets and roads (\$2.17 billion annually)

- **Transportation funding debt payments:** Redirects transportation revenue from funding debt service payments to instead pay for road improvement projects (**AB 2411/ Frazier**)
- **Transportation: advisory question: election:** Would require the Secretary of State to submit to the voters in the November 2016 election a question regarding a regressive tax increase on gasoline and vehicle registration with respect to low-income and middle class families (**AB 1910/ Harper**)
- **Vehicle fuel tax reduction:** Includes intent language for legislation to reduce the amount of the motor vehicle fuel tax (**AB 2326/ Wagner**)

Source and methodology for the \$59 billion state shortfall estimate:

http://www.dot.ca.gov/hq/transprog/SHOPP/2016%20SHOPP/proposed_2016_SHOPP_01-29-16.pdf

Source and methodology for the \$78 billion cities and counties shortfall estimate:

<http://www.cacities.org/Member-Engagement/Professional-Departments/Public-Works-Officers/California-Statewide-Local-Streets-and-Roads-Needs>

Governor's 2016-17 Proposed State Budget Transportation Priorities

The Governor's package of revenues will be split evenly between state and local transportation priorities. The ten year funding plan will provide a total of \$36 billion for transportation with an emphasis on repairing and maintaining existing transportation infrastructure. It also includes a significant investment in public transit. Specifically, the proposal includes annualized resources as follows:

Road Improvement Charge: \$2 billion from a new \$65 fee on all vehicles, including hybrids and electrics

Stabilize Gasoline Excise Tax: \$500 million by setting the gasoline excise tax beginning in 2017-18 at the historical average of 18 cents and eliminating the current annual adjustments. The broader gasoline tax would then be adjusted annually for inflation to maintain purchasing power

Diesel Excise Tax: \$500 million from an 11 cent increase in the diesel excise tax beginning in 2017-18. This tax would also be adjusted annually for inflation to maintain purchasing power

Cap and Trade: \$500 million in additional cap and trade proceeds

Caltrans Efficiencies: \$100 million in cost saving reforms

**SECTION 5: FEDERAL PROPOSALS****Permanent Internet Tax Freedom Act Ban**

A permanent ITFA ban in the Trade bill was signed by the President. On October 22, 2015 Senator Feinstein sent a letter to ranking members in the Senate with concerns that a permanent prohibition would hurt local governments, especially in California; the Senator asked for consideration to protect existing voter-approved taxes on telecommunication networks. Unfortunately, ITFA was part of the bargain made in the Senate to get bi-partisan support for the President's trade bill, and to get assurances on a vote later this year on the Marketplace Fairness Act/Remote Transactions Parity Act. The actual impact of ITFA (which has been in effect as a moratorium for 18 years) on UUT remains to be seen, as traditional local exchange is gradually being replaced by broadband networks. By the end of this calendar year, MuniServices should have more real data to indicate: whether prepaid wireless revenues are likely to offset any losses due to ITFA; whether reductions in local exchange will continue; and any other trends in the broadband area that could affect your UUT.

- **Internet tax prohibition:** Prohibits the state and its subdivisions from imposing a tax on broadband telecommunications used to access the Internet (**AB 2184/ Low**)

The Remote Transactions Parity Act/ MuniServices HR 2775 Impact Analysis

HR 2775, The Remote Transactions Parity Act, is bipartisan legislation that would not impose a new tax, but would enable state and local governments to compel retailers to collect and remit sales taxes on online sales, which are already owed to them under current law. HR 2775 is similar to the proposed Federal Marketplace Fairness Act of 2015 (S. 698) that would permit states to require vendors with more than \$1 million in gross receipts from remote sales to collect sales tax on purchases made by state residents if the state adopts and implements specified simplification requirements. Both S. 698 and HR 2775 are supported by MuniServices, the National League of Cities, Government Finance Officers Association, National Association of Counties, and the US Conference of Mayors. MuniServices prepared an impact analysis that was distributed via the CSMFO if some form of HR 2775 were enacted.

Wireless Tax Fairness with a California Exception (H.R. 4287)

H.R. 4287 would bar states and localities from imposing new discriminatory taxes on cell phone services, providers, or property. As drafted the measure includes an exclusion to protect local governments with local voter-approved measures. For several years, the wireless industry has sought a moratorium on new wireless taxes. This law, as originally written, would affect cities that have not yet obtained voter approval of a modern telecom ordinance, and it would also affect a city with a modern ordinance that wished to go to the voters for a tax increase. Three years ago, MuniServices worked extensively with the California League of Cities and their D.C. lobbyists to obtain an amendment (H.R. 4287) that would exclude voter approved local taxes from the moratorium (California exception). The "voter approval" exclusion came about as the result of MuniServices and local jurisdiction advocacy efforts along with numerous letters that our client cities sent to the California delegation.