



This edition focuses on pending measures and issues of interest to local government, including new laws. The Legislature has approximately 3 weeks (until Friday, September 11) to consider active bills introduced this year. The Governor this week also vetoed AB 464 (Mullin) which would have raised the combined rate of all local transactions and use tax that may be levied within a county from 2% to 3%. The Governor's veto message indicated that he is reluctant to approve the bill in view of all of the taxes being discussed and proposed for the 2016 ballot.

In addition to reporting and advocating on California legislation, MuniServices monitors and is active in policy development at the State Board of Equalization (BOE). The BOE's Business Taxes Committee on September 15, 2015 will consider proposed regulations to implement a local government sought mechanism in AB 1717 (Chapter 885, Statutes of 2014) to collect revenues from prepaid wireless. As previously reported MuniServices led the local government advocacy effort for the enactment of this landmark legislation. It is estimated that AB 1717 will result in a 15 to 20% increase in existing wireless Utility Users Tax (UUT) noting that resulting will vary depending on the demographics of a city and the number of larger retail stores there. The BOE recently sent a contract and other documents to local governments that must be signed by a City before the BOE will collect the City's UUT on prepaid wireless. MuniServices is now assisting its client cities in satisfying those statutory requirements in time for the January 1, 2016 commencement date. Please contact your MuniServices Client Service Manager for additional information.

On August 4, 2015 the BOE sent a 'courtesy notice' to cities regarding refunds under a settlement (Mohan vs. Dell Inc. Class Action). The refunds will result in an indirect de-allocation of local tax from each Countywide Pool and de-allocation of district tax to affected Special Taxing jurisdictions. Each jurisdiction's cash distribution in August and December 2015 will be reduced by amount of the de-allocation from their respective countywide pool. Only those jurisdictions estimated to be negatively affected by \$50,000 or more were notified of the specific amount of the de-allocation. Requests to the BOE for more detailed information associated with all countywide pools have been made but to date no response has been received. We recommend that clients wanting more detail call the designated number at the BOE at 916.445.7767.

This report is organized as follows:

- **Legislative Proposals** (Chaptered, Sales Tax, Post Redevelopment, Hotel Taxes & Short Term Rentals, Cannabis Regulation & Banking, Transportation Revenues, Open Government & Technology Uses, and Local Governance)
- **Proposed Internet Tax Freedom Act (S 431)**
- **Remote Transaction Parity Act (HR 2775)**
- **GASB Rule** (Governments to Show Value of Taxes Waived Under Agreements with Businesses or Taxpayers)
- **Gap Between Goods and Services/ SB 8**
- **Clarification to the Final True-Up for the Triple Flip**
- **Application of the FAA Ruling on the Use of Local Revenues**
- **Mandate Reimbursements** (Interest Due to Locals by September)
- **California 2016 Ballot Proposition Update**
- **State Traffic Amnesty Program/ Unpaid Traffic Ticket Fines**
- **Conferences and Presentations**

LEGISLATIVE PROPOSALS

Chaptered

- Prohibits locals from imposing a fine on residents for a brown lawn during a state of emergency (**AB 1/ Brown**)
- Locals can set up designated spots for car sharing or ride sharing programs (**AB 1015/Bloom**)
- Permits locals to authorize private parking facilities to regulate unauthorized parking (**AB 451/Bonilla**)
- Extends the FTB state-local tax information sharing program to counties, and to a city and county (**AB 279/ Dodd**)
- Extends to 7 months after a locals fiscal year the deadline to submit to the Controller an annual report of the agency's financial transactions (**AB 341/ Achadjian**)

**LEGISLATIVE PROPOSALS****Sales Tax**

- Prohibits revenue sharing agreements causing loss to other locals; public notice requirements **(SB 533/Pan)**
- Sales tax exemption for energy or water efficient appliances provided at no cost to low income participants in an energy efficient program; \$4.5 million state and local loss & precedent **(AB 88/ Gomez)**

Post Redevelopment & Economic Development

- Revisions to post-redevelopment dissolution; opposed by the League and several locals **(AB 113)**
- Allows redevelopment successor agencies to spend proceeds from bonds issued in 2011 **(AB 974/ Bloom)**
- Enhanced Infrastructure Financing Districts; clarifying implementation requirements **(AB 313/ Atkins)**
- Offers a 30 % tax credit for seismic rehabilitation of endangered properties **(AB 428/ Nazarian)**
- Allows locals to form Community Revitalization and Investment Authorities to administer economic development and affordable housing programs **(AB 2/ Alejo)**

Hotel Taxes & Short Term Rentals

- Relative to travel reimbursement; prohibits a State agency from prohibiting state employees from using a transportation network or using a short-term rental **(AB 229/ Chang)**
- Requires vacation rental businesses to comply with local ordinances **(SB 593/ McGuire)**
- Advertiser of an online platform or Internet Web site must have property owner's permission **(SB 761/ Hall)**

Cannabis Regulation & Banking

- The BOE instituted the Cannabis Compliance Pilot Project to determine the scope of non-compliance and develop strategies to address compliance barriers. A primary focus is the collection of taxes and reducing the tax gap.
- Regulate medical marijuana **(AB 266/Bonta & SB 643/ McGuire)**
- Framework for regulation and allows the BOE to tax medical cannabis **(AB 243/ Wood)**
- The U.S. Senate Appropriations Committee in July voted 16-14 to approve an amendment to **H.R. 2076**, the Marijuana Businesses Access to Banking Act of 2015 that would block the use of federal dollars to punish banks serving marijuana companies that operate legally under the guidelines of state law
- **AJR 25 (Lackey)** is a proposed non-binding California resolution that urges the President and Congress to support legislation that allows banks & credit unions to perform financial services for marijuana businesses
- http://ballotpedia.org/California_2016_ballot_propositions for detail on proposed statewide ballot measures

Transportation Revenues

- Increase various transportation revenues for 5 years for \$4.3 to \$4.6 billion annually; focuses on preservation and maintenance of existing programs. Revenue sources include excise tax on diesel and fuel, VRF for all vehicles (including electric) and Road Access Fee **(SBx11 & SB 16/ Beall)**
- Increases SUT on diesel from 1.75% to 5.25%. Revenues go to transit via formula (State Transit Assistance Formula) **(ABx1 8/ Chiu & Bloom and SB x1 7/Allen)**
- Doubles cap and trade appropriations for Transit and Intercity Rail Program (to 20%) and Local Carbon Transit Program (to 10%) **(ABx1 7/ Nazarian & SB x1 8/ Hill)**
- **Others:** ABx1 1 / Alejo related to weight fees; SB x1 11/ Berryhill for a CEQA exemption; (ABx1 2/ Perea & SBx1 14/Canella) related to public private partnerships; SCAX1 1 & SCA 7/ Huff that provide constitutional protections; and ABx1 3 & ABx1 4/ Frazier related to transportation funding
- The "Coalition Framework to Increase Funding for Transportation in Special Session" includes guiding principles that outline priorities and funding sources linked with accountability and reform measures. Coalition documents are on the League's website at www.cacities.org.
- Changes the method (to 4 years of historical data) used by the BOE to adjust the excise tax on fuel **(SB 321/ Beall)**

Open Government & Technology Uses

- Automated license plate recognition systems/ requirements for local agencies for use of data **(SB 34/Hill)**
- Requirements for local governments' for 'open data' public records format **(AB 169/ Maienschein)**

**Local Governance**

- Cap-and-Trade spending for ‘disadvantaged and low-income communities’ **(AB 156/Perea)**
- Relates to formulas for calculating VLF adjustments to include the assessed property valuation within inhabited territory annexed to cities **(AB 448/ Brown and SB 25/ Roth)**
- Requires the Department of Parks and Recreation to establish an outdoor-related grant program to increase underserved populations to participate in outdoor/educational experiences; League supports **(AB 1603/ Stone)**
- Defines “smoking” and broadens the definition of “tobacco product” to include electronic cigarettes; extends current restrictions and prohibitions against the use of tobacco products to electronic cigarettes **(SB 140/Leno)**
- The Safe Neighborhood Parks, Rivers, and Coastal Protection Bond Act of 2016; \$200 million for grants for local park rehabilitation and improvements to local governments on a per capita basis; \$800 million for the creation and expansion of parks in “park-poor” neighborhoods **(SB 317 / De Leon)**
- Allows a county (subject to voter approval) to impose a tax for the privilege of distributing cigarettes and tobacco products **(SBX29/ McGuire)**

PROPOSED INTERNET TAX FREEDOM ACT (S 431)

Background: A permanent Internet Tax Freedom Forever Act, as proposed, would have a very significant adverse impact on cities’ existing UUT on telecommunications. In 2007, the federal moratorium forbidding local and state taxes on Internet services was amended to also forbid such taxes on telecommunication services which are used to gain access to Internet services (in other words, broadband telecommunications). Today, wired and wireless broadband telecommunication networks are rapidly replacing the old public switched telecommunication network. **Issue:** Unless S 431 is amended, California UUT cities will suffer large losses of existing telecom UUT. **Advocacy:** A number of California cities are banding together to urgently request their two US Senators that S.431 be amended to include an exception for voter-approved excise taxes, like our UUTs. California is the only state with a voter-approval requirement and that has local excise taxes on telecommunications. Such an amendment would prevent a federal pre-emption or override of our state Constitutional requirement of voter-approved local taxes.

REMOTE TRANSACTION PARITY ACT (HR 2775) / E-FAIRNESS: MAKING SENSE OF THE FEDERAL DEBATE ON ONLINE SALES TAX COLLECTION (GFOA)

Issue: There are multiple proposals before Congress that attempt to advance online sales tax collection. The current tax structure for online sales creates vast disparities between brick and mortar businesses and online retailers, and costs state and local governments an estimated \$23 billion per year in taxes owed on remote sales. 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. **Advocacy:** S. 698 and HR 2775 are supported by MuniServices. MuniServices attended the GFOA’s August 12 hosted webinar on the topic. Dustin McDonald, the GFOA’s Federal Liaison Director is asking for advocacy assistance that includes increasing co-sponsorship for HR 2775 (there are currently 46 co-sponsors) and drafting support letters for HR 2775. The GFOA’s Federal Liaison Center resources can be found at <http://www.gfoa.org/flc>.

GASB RULE REQUIRING GOVERNMENTS TO SHOW VALUE OF TAXES WAIVED UNDER AGREEMENTS WITH BUSINESSES OR TAXPAYERS

Issue: The *Wall Street Journal* on August 4, 2015 reported on a rule approved by the Governmental Accounting Standards Board, requiring government officials to show the value of property, sales and income taxes that have been waived under agreements with companies or other taxpayers. The rule is in effect next year. See <http://www.wsj.com/articles/new-rule-to-lift-veil-on-tax-breaks-1438725046>.



GAP BETWEEN GOODS AND SERVICES

Senator Hertzberg introduced SB 8 earlier this year that is placeholder language to broaden the tax base by imposing a sales tax on services. The discussion and action on this bill is expected to continue during the 2016 Legislative Session. The *Wall Street Journal* last month reported on the gap between goods and services. Examples cited of the cumulative change for related products and services for the five years ended in May 2015:

- Television set (-57.7); cable / satellite service (13.7)
- Bottle of wine @ home(-0.6); bottle of wine @ restaurant (12.0)
- Men's suits and coats (-3.7); dry cleaning (9.2)
- Household cleaning products (0.3); household domestic service (7.8)
- Stationary (-1.4); postage for mail delivery (19.2)
- Sports equipment (-15.3); tickets to sporting event (17.3)

Source: <http://www.wsj.com/articles/inflation-is-low-but-u-s-consumers-still-feel-a-pinch-1436727650>

CLARIFICATION TO FINAL TRIPLE FLIP TRUE UP

As reported the BOE has 90 days to return to the 1% local tax rate, but can only return to 1% on the 1st of the 1st month of a calendar quarter. This means the earliest date the BOE can return to the 1% local tax rate is January 1, 2016.

- **First 1% allocation:** 1st advance portion of the **March 2016** payment
- **Final true-up:** The State will need to make one final true-up after the end of the FY 2015-2016 (**June 2016**); will be sent through the county Sales and Use Tax Compensation Funds, and not directly to cities and counties. County Auditors will disburse the final payments from the Fund

APPLICATION OF THE FAA RULING AND IMPACT ON THE USE OF LOCAL REVENUES

Issue: A FAA re-interpretation of a ruling that requires states and locals to target jet fuel revenue for the benefit of airports, or lose revenues has a compliance requirement of 2017. The rule does not apply to taxes in effect on December 31, 1987 including the local Bradley Burns 1.25% rate or the 4.75% state general fund rate in effect at the time. Refer to California City Finance at <http://californiacityfinance.com/FAA150701.pdf> for a broader analysis on the ruling. **Advocacy:** Jurisdictions that are impacted should contact their Congressional Representatives and federal lobbyists as soon as possible with concerns.

INTEREST DUE BY SEPTEMBER / MANDATE REIMBURSEMENTS

Principal and Interest Payments: The DOF sent an "executive order" to the State Controller for the reimbursement of costs incurred in complying with state unfunded mandates prior to 2004. The Controller issued payments for the principal owed (around June 22) and payment for the interest owed is expected by September 2015, after the Controller's office recalculates and verifies amounts estimated by DOF.

CALIFORNIA 2016 BALLOT PROPOSITIONS

As discussed above the Governor vetoed AB 464 (Mullin) that would have raised the cap for locally-approved transactions and use taxes citing he is reluctant to approve the bill in view of all of the taxes being discussed and proposed for the 2016 ballot. According to BallotPedia, an interactive almanac of U.S. politics, to date, four statewide ballot propositions have been certified for the 2016 ballot in California. One legislative referral is on the June 7, 2016, primary ballot and one is on the November 8, 2016, general election ballot. Additionally, one initiative and one veto referendum are on the general election ballot. As of August 13, 2015, several measures have been approved for circulation. Once the Office of the Attorney General of California has prepared a ballot title and a summary of a proposed initiative, the initiative is considered to be "cleared for circulation." Its supporters then have 150 days from the date that the title and summary were prepared to collect and submit to election officials the required signatures. See http://ballotpedia.org/California_2016_ballot_propositions.



STATE TRAFFIC AMNESTY PROGRAM/ UNPAID TRAFFIC TICKET FINES/ JUDICIAL COUNCIL BUSINESS MEETING ON AUGUST 21, 2015

The Court Executives Advisory Committee and Judicial Council staff is recommending approval of the Statewide Traffic Tickets/Infraction Amnesty Program Guidelines developed for use by court and county collection programs statewide in the implementation of the one-time amnesty program, as authorized by Vehicle Code section 42008.8. The amnesty program provides relief to individuals with violations of eligible Vehicle and non-Vehicle Code infractions and specified misdemeanors by reducing outstanding court-ordered debt by 50 or 80 percent (as applicable) and/or reinstating suspended driver's licenses. The 18-month amnesty program will operate from October 1, 2015 to March 31, 2017.

CONFERENCES AND MEETINGS / MUNISERVICES PARTICIPATION

September 15, Sacramento. BOE Business Taxes Committee. *Participation:* MuniServices VP of Government Relations Fran Mancía will provide comments on AB 1717's proposed regulation (prepaid wireless collection mechanism)

September 27, Seattle. ICMA Annual Conference. *Participation:* Attendee

September 30, San Jose. League of California Cities. *Participation:* Exhibitor and Platinum Partner. MuniServices Client Manager Julia Erdkamp will present during a session on revenue recovery strategies and tax reform; Fran Mancía will participate in a Partner Speaker Theatre session on tax reform concepts

October 14, Burbank. CMRTA. *Participation:* Sponsoring the Conference opening reception, and Exhibitor. Fran Mancía will present a comprehensive legislative update

November 13, Laguna. Contract Cities. *Participation:* Attendee and Sponsor

December 1, San Diego. Municipal Financial Institute. *Participation:* Sponsor and Exhibitor. Julia Erdkamp and MuniServices Client Manager Bret Harmon will focus on using data analytics to improve economic decision-making and public engagement

CLIENT SERVICE TEAM

Doug Jensen (Doug.Jensen@MuniServices.com)

Mary Flynn (Mary.Flynn@MuniServices.com)

Bret Harmon (Bret.Harmon@MuniServices.com)

Julia Erdkamp (Julia.Erdkamp@MuniServices.com)

Marina Sloan (Marina.Sloan@MuniServices.com)

Fran Mancía (Fran.Mancia@MuniServices.com) (Vice President, Government Relations)

Brenda Narayan (Brenda.Narayan@MuniServices.com) (In-House Lobbyist/ Editor, Policy Update)

Patricia Dunn (Patricia.Dunn@MuniServices.com) (Contracts)