



Happy New Year!

The 2016 Legislative Session convened Monday January 5. Several measures have been introduced (with more ahead to report) and the Governor released his proposed 2016-17 State Budget on January 7. There are a few dates to note with respect to legislative and budget deadlines:

- **January 22:** last day for a committee to hear and report a bill introduced in 2015 to the Floor
- **January 22:** last day for Members to submit bill requests to the Office of the Legislative Counsel
- **February 19:** last day for bills to be introduced
- **June 15:** Budget must be passed

The League of California Cities adopted four strategic goals for 2015, including a focus on the new economy to “Update the Local Government Tax Structure to Respond to the *New Economy*.” The League’s Revenue and Taxation Committee had several briefings in 2015 on emerging trends and issues regarding both sales tax and property tax. MuniServices principals have been actively involved in a sub-group with League Staff to address this goal. Fran Mancina, MuniServices Vice President of Government Relations was re-appointed in 2016 to the League’s Revenue and Taxation Committee and will continue to collaborate with stakeholders during this process. Refer to Section 5, “The Changing Economy/ Tax Reform” of this report for more information.

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SECTION 1: 2016-17 STATE BUDGET PROPOSAL HIGHLIGHTS

The Governor released his 2016-17 State Budget proposal on January 7, 2015 that includes a \$122.6 billion General Fund budget plan that makes significant increases in funding for education, health care and state infrastructure. We will continue to comb through the proposal and provide updates. Here are some initial comments:

Rainy Day Fund: The Governor's budget makes a supplemental deposit of \$2 billion into the state's Rainy Day Fund - boosting the balance from 37 percent today to 65 percent of its constitutional target.

Mandates: We were informed that the Governor's proposed 2016-17 State Budget mandate suspensions are similar to last year's budget. The Governor's staff indicated as part of a budget briefing that final payments for an "executive order" for the reimbursement of costs incurred in complying with state unfunded mandates prior to 2004 have been made.

Local Government/ RDA: The Local Government section of the proposed budget summary reviews the implementation of last year's SB 107 that made numerous changes to the RDA dissolution process, with the most significant short-term change is transitioning successor agencies from a biannual Recognized Obligation Payment Schedule (ROPS) process to an annual ROPS process in 2016.

Local Government/ Re-Entry Centers: \$25 million is included in the Budget to provide incentive payments to cities and counties that agree to issue permits for hard-to-site facilities such as re-entry centers and mental health facilities between January 1, 2016 and June 30, 2017. The Administration will work with city and county stakeholders during the spring to develop an allocation methodology while also safeguarding existing permitted facilities.

Local Wildfire Relief: The Budget includes funding to support Lake and Calaveras Counties with paying for revenue loss; backfill (\$1.9 million) in response to the losses for the respective fires along with \$2.6 million for a contract with South Lake County Fire and a \$267,000 contract with Calaveras County. These are one time budget items however the Governor stated the State needs to have the funding in place for future incidents.

State and Local Transportation: The budget reflects the Governor's transportation package, first outlined last summer, that would provide \$36 billion over the next decade to improve the maintenance of highways and roads, expand public transit, and improve critical trade routes (see Section 4 of this report).

Managed Care Expiration: As reported in previous reports and conversations with clients, the Governor vetoed various sales tax exemption and income measures in 2015 because of the uncertainty with the funding for managed care and the tax measures that may appear on the 2016 ballot. The Governor also vetoed AB 464 (Mullin) that would have raised the cap for locally-approved transactions and use taxes citing similar reasons. The managed care tax expiration is amongst the Governor's concern because it is a critical component of the state's financing for health care. The Budget proposes a tax reform package to extend a federally allowable managed care organization tax.

Cap and Trade: The budget continues the Administration's actions to reduce greenhouse gas emissions through a \$3.1 billion Cap and Trade Expenditure Plan that will reduce emissions through programs that support clean transportation, reduce short-lived climate pollutants, protect natural ecosystems and benefit disadvantaged communities.

Education, Minimum Wage and Additional Proposals: The budget increases (k-12) school spending per student to \$10,591 in 2016-17 which is an increase of nearly \$3,600 compared to 2011-12 level and keeps tuition at 2011-12 levels for another year for the University of California and California State University, maintaining affordability while continuing to help students reduce the time it takes to successfully complete a degree. The budget reflects the implementation of the increase in the state's minimum wage to \$10 per hour effective January 1st and provides funding (\$380 million) for the second year of the Earned Income Tax Credit to help the state's poorest working families. The budget also provides a cost-of-living increase for aged, blind and disabled Californians in the Supplemental Security Income/State Supplemental Payment (SSI/SSP) program, the first state increase in grant levels since 2006.

**SECTION 2: LEGISLATION****Sales & Use Tax**

- **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) Two-Year**

Shared Economy / Short Term Rentals

- **TOT revenues from transient residential rentals:** Bolsters local effort to regulate land use impacts and collect taxes **(SB 593/ McGuire) Two-Year**
- See: http://www.muniservices.com/wp-content/uploads/122815_MuniServices_Policy_Report_-_Shared_Economy_-_Short_Term_Rentals_-_Considerations.pdf

Cannabis Regulation

- **Critical clean up legislation related to cannabis to avoid pre-empting local governments:** Removes the provisions from last year's AB 243 that would grant the Department of Food and Agriculture the sole licensing authority for medical marijuana authority cultivation applicants in a city, county or city and county. Without this critical clean-up bill, the provision will pre-empt local governments from enacting any kind of local cultivation regulation if they do not have one in effect as of March 1, 2016. **(AB 21/ Bonta)**
- Refer to <http://www.cacities.org/Top/News/News-Articles/2016/January/Medical-Marijuana-Clean-up-Legislation-Moves-Forwa>
- **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 (MMRSA) **(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; includes a study requirement with findings and any proposed changes **(AB 1575/ Bonta)**

Documentary Transfer Chargers / Property Taxation

- **Commercial and industrial property reassessment:** Proposed "split roll" **(SCA 5/ Hancock) Two-Year**
- **Property taxation welfare exemption increase:** Increases exemption for religious, hospital, charitable and certain rental properties when criteria is met where the occupants are from lower income households to \$100,000 of tax, with respect to lien dates occurring on and after January 1, 2017 **(SB 674/ Hill)**
- **Proposed Ballot Initiative: Property Tax Surcharge to Fund Poverty Reduction Programs**
- See: http://www.muniservices.com/wp-content/uploads/121615_MuniServices_Policy_Update_-_Property_Tax_News_Inflation_Factors___Proposed_Ballot_Initiative___New_Laws.pdf

SECTION 3: PREPAID MOBILE TELEPHONY SERVICES REVENUES (AB 1717/ BOE HEARING DURING THE JANUARY 26-28 MEETING)

The BOE will hold its public hearing for the proposed regulations and amendments to implement AB 1717. MuniServices, through the cooperative efforts of participating cities, spent four years in working with the wireless industry, retailers, the Governor's office, the BOE, the CPUC, and the Legislature in developing a legislative solution to a complicated problem. We conservatively expect our client UUT cities to experience a 15 to 20% increase in their wireless UUT once the state program is fully functioning. 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, are planned for the January 26-28, 2016 Board Meeting. We anticipate the final BOE hearing to go smoothly; Fran Mancina from MuniServices will again testify in support of the proposed regulations and express the collaborative working relationship we have had with Board Staff in implementing this new program, as well as our on-going concern about implementation costs.



SECTION 4: TRANSPORTATION / ROAD MAINTENANCE

MuniServices is a "Fix Our Roads" coalition partner and looks forward to joining its local government partners on this issue. See <http://fixcaroads.com> for more detail on the special session, coalition partners, and efforts.

Legislation

Proposed Road Maintenance and Rehabilitation Program (AB 1591/(Fraizer)) would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. Over the next 10 years, the state faces a \$59 billion shortfall line 4 to adequately maintain the existing state highway system, in order line 5 to keep it in a basic state of good repair. Similarly, cities and counties face a \$78 billion shortfall over the next decade to adequately maintain the existing network line 8 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. The below is a preliminary review of the revenue and allocation aspect of the bill; we are working to understand the mechanics:

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 60 local streets and roads (\$2.17 billion annually)

- Changes the method (to 4 years of historical data) used by the BOE to adjust the excise tax on fuel (**SB 321/ Beall**)

"Special Session" Legislation

- Increase various transportation revenues for 5 years for \$4.3 to \$4.6 billion annually. 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 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**)
- 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

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: THE CHANGING ECONOMY AND TAX REFORM

Expanding the Tax Base

Please note that at the time this report is prepared we are not familiar with a formal proposal on the subject of a state service tax. As previously reported Senator Hertzberg introduced SB 8 in 2015 that is placeholder language to broaden the tax base by imposing a sales tax on services. It has been reported that eighty percent of California's economy is now providing services, not goods, and most of these services are untaxed. The discussion and action on this issue is expected to continue during the 2016 Legislative Session.

Here is what we know based on a conversation reported in the *Orange County Register* where Senator Hertzberg spoke during an Orange County Taxpayers Association meeting late October 2015. **Levy and to whom:** A maximum 5 percent tax on services, such as those provided by attorneys, accountants, engineers and architects. Exempted would be education, rent, health care and utilities, as well as services provided by businesses with under \$100,000 in gross revenues. The new revenue would replace some of the more volatile revenue derived from income taxes, particularly those from the wealthy. **Income tax:** The top state income tax rate of 12.3 percent would be reduced to 9.3 percent, and there would also be a cut in the rate for individuals making less than \$100,000 and couples making less than \$200,000. **Business income tax:** Businesses with less than \$1 million in sales would be exempt from the current 8.8 percent business income tax. An April 2015 study by the State Board of Equalization discusses and estimate of potential revenue to be derived taxation of currently non-taxable services <http://www.boe.ca.gov/legdiv/pdf/ServicesRevEstimate.pdf>.

Considerations / Reforms

- **Leakage:** Leakage from internet sales. (E Fairness)
- **Pooling:** End Pooling of Online Retail Sales, third party vehicle sales made at DMV, and lower threshold to \$100,000 from \$500,000 on out of state sales)
- **Self accrual:** Lower self accrual of use tax on construction projects from \$5 million to \$1 million
- **Sales tax distribution:** From changing market--remote sales in California (CA based internet sales) (possibly split 75/25)
- **Modernize** (Broaden to Services, On-Line Travel Companies & Vacation Rentals, Digital Downloads, flexible to future changes)
- **Destination Sourcing** (Allocate local sales tax to the destination of buyer for all on-line retail sales)
- **Exemptions** (Adopt criteria and sunset) Note: There are hundreds of exemptions; the cost to locals is \$3.2 billion. Revenue lost is BOE estimates using data from outside sources. Data is not available for the majority of exemptions, and remain unknown. BOE Publication 61. A list (last published in July 2014) is available in Sales and Use Tax: Exemptions and Exclusions (Publication 61). The Board of Equalization also has a series of questions and answers about the application of sales tax. Also refer to <http://www.boe.ca.gov/sutax/sutexempt.htm> for "new and sales and use tax exemptions."

League of California Cities 2015 Priority / Revenue and Taxation Committee

As noted in the introduction, the League of California Cities adopted four strategic goals for 2015, including a focus on the new economy to "Update the Local Government Tax Structure to Respond to the *New Economy*." The League's Revenue and Taxation Committee had several briefings in 2015 on emerging trends and issues regarding both sales tax and property tax. Fran Mancia, MuniServices Vice President of Government Relations was re-appointed in 2016 to the League's Revenue and Taxation Committee and will continue to collaborate with stakeholders during this process.

MuniServices – Presentations on the New Economy / Tax Reform

See: http://www.muniservices.com/wp-content/uploads/MuniServices_-_CMRTA_2015_Annual_Conference_Legislative_Presentation.pdf



SECTION 6: FEDERAL PROPOSALS

Internet Tax Freedom Act

A one year extension (to October 1, 2016) of the ITFA moratorium was included in the Omnibus Spending bill, which Congress adopted and the President signed in December 2015. Although there may still be an attempt to put a permanent ITFA ban in the Trade bill (to be considered in January, 2016), it appears that there is enough opposition in the Senate to prevent that from happening. The US Conference of Mayors' sent the following to MuniServices in December 2015: "The Conference of Mayors opposes the permanent extension of the Internet Tax Freedom Act and feels it should be allowed to expire. To tax or not to tax Internet access is a decision that should be made at the state and local level. We will continue to urge that any short-term extension of ITFA of more than a year, be combined with (HR 2775, The Remote Transactions Parity Act) RTPA which will help state and local governments collect an estimated \$26 billion annually due on remote sales." A proposed permanent Internet Tax Freedom Forever Act (S 431) 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 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. California is the only state with a voter-approval requirement and that has local excise taxes on telecommunications. 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.

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, Governance 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.

Estimates for quarterly retail e-commerce sales as per the US Census bureau (CB15-133 published November 17, 2015).

- **Estimate:** Adjusted for seasonal variation, but not for price changes, was \$87.5 billion, an increase of 4.2 percent ($\pm 0.9\%$) from the second quarter of 2015.
- **Total retail sales:** Estimated at \$118.5 billion, an increase of 1.2 percent ($\pm 0.2\%$) from the second quarter of 2015.
- **E-commerce sales:** Increased 15.1 percent from the third quarter of 2014. Accounted for 7.4 percent of total sales.
- **Not adjusted basis:** Totaled \$81.1 billion, an increase of 2.9 percent ($\pm 0.9\%$) from the second quarter of 2015.

Additional Federal Proposals Impacting Local Revenues

Wireless Tax Fairness Act of 2015 (H.R. 4287) introduced by Representative Lofgren in late December 2015 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. It is likely that another attempt will occur in 2016. 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 (also in 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 numerous letters that our client cities sent to the California delegation.

**SECTION 7: TRIPLE FLIP IN 2016 (WIND DOWN PROCESS UPDATE/ BOE PAYMENTS)**

When does the Sales Tax Allocation return to 1% from ¾%? The tax rate returns to 1% on January 1, 2016. Cities and Counties again will receive sales tax at the 1% rate beginning with the 1st Advance portion of the March 2016 payment.

When are Cities and Counties made whole? The DOF and BOE will be able to calculate the outstanding payments in May 2016. The outstanding amount will be the tax withheld from 2015Q3 and 2015Q4 sales and a true-up of January and May 2016 SUTCF payments and actual withheld from 2015Q2 sales. The DOF and BOE anticipate Cities and Counties will receive the final amounts due in August 2016. The final payment will make Cities and Counties whole. Cities and Counties that accrue through August or part of September will experience a bump in sales tax revenue in FY 2015-2016 due to the unwinding of the Triple Flip and a return to receiving sales tax allocations at 1%. MuniServices' forecasts provide detailed information about how much a City or County would accrue and the size of the one-time bump in annual sales tax.

SECTION 8: FAA RULING & USE OF LOCAL JET FUEL REVENUES (2017 COMPLIANCE REQUIREMENT)

A FAA re-interpretation of a ruling requires states and locals to target jet fuel revenue for the benefit of airports, or lose revenues. 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. Impacted jurisdictions and the State were required to submit an 'action plan' to the FAA by the December 8, 2015. See http://www.muniservices.com/wp-content/uploads/112315_MuniServices_Policy_Update_-_FAA_Ruling_on_Use_of_Jet_Fuel_Revenues__Sample_Draft_Action_Plan__Final.pdf

SECTION 9: STATE MORATORIUM, UNTIL 2020 ON LOCAL TAXES OF CLEAN ENERGY RESOURCES: AB 792

AB 792 (Chapter 534, Statutes of 2014/ Mullin) became effective by imposing a moratorium until 2020 on local taxation of electricity derived from clean energy resources such as solar, and certain types of cogeneration and fuel cells, and where the resource is located on the user's property. MuniServices is working to verify whether state agencies "certify" certain resources are "clean" per AB 792, how a city should keep track of these resources if they become taxable in 2020, and how the CPUC is proposing to address the metering of solar as well as the additional costs that such resources impose on the overall system. All of these issues are complex in nature, but are very important as "clean resources" will be a growing segment of electrical generation in the future in California. The ability to collect UUT on all forms of electricity, regardless of technology, will depend on how well we anticipate and address the practical issues of metering and tax collection of all forms of electric generation.

**SECTION 10: COMPENDIUM OF 2015 POLICY UPDATES AND ECONOMIC TRENDS AND NEWS REPORTS (HYPERLINKED)****Policy Updates**

December 28, 2015

Shared Economy Short Term Rentals Considerations

December 16, 2015

Property Tax News (Inflation Factors Proposed Ballot Initiative New Laws)

December 4, 2015

ITFA and E Fairness in Omnibus Spending Plan – Request for Support and Action

November 23, 2015

FAA Compliance Requirements with the Ruling Diverting the Use of Revenues from Aviation Fuel

November 3, 2015

MuniServices Policy Update (2015 Final End of Session Report and Other Policy Issues)

October 15, 2015

CMRTA 2015 Annual Conference Legislative Presentation

October 12, 2015

Preliminary 2015 End of Session Issue Update

September 14, 2015

2015 End of Session Bill List – Governor’s Action Pending

September 9, 2015

MuniServices Policy Update – Issue Report

August 20, 2015

MuniServices Policy Update – Issue Report (with AB 1717 / UUT Regulatory Report)

August 6, 2015

MuniServices Policy Update (Triple Flip Wind Down)

July 17, 2015

MuniServices Policy Update – Issue Report (includes Federal Issues)

July 9, 2015

AB 974(Bloom) RDA Bonds – MuniServices Support Letter

June 29, 2015

EZ Transparency – As featured in the U.S. Conference of Mayors Business Council Best Practice Report

June 17, 2015

AB 464 (Mullin) Transactions and Use Tax – MuniServices Support

June 16, 2015

ITFA (H.R. 235 and S. 431) – Reject Permanent Extension Request for Amendments

June 10, 2015

MuniServices Policy Update – Issue Report

May 18, 2015

MuniServices Policy Update – Issue Report (RDA May Revision Update)

March 17, 2015

AB 1717 Implementation – Interested Parties Submission

March 17, 2015

MuniServices Policy Update (Anticipated Winding Down of the Triple Flip)

March 3, 2015

MuniServices Policy Update (Changes in the Economy – Policy Considerations)

January 15, 2015

2015 Federal Policy Issues / Legislative Platform**Economic News and Trends**

October 13, 2015

October 2015 Economic News and Trends

July 2015

July 2015 Economic News and Trends

April, 2015

April 2015 Economic News and Trends

January 20, 2015

January 2015 Economic News and Trends

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