

MEMORANDUM

To: Mayor & Council
cc: Peggy Flynn, Corey Garberolio
From: Mike Healy *MTH*
Date: October 2, 2023
Re.: Local Sales Tax Adders in Petaluma

California law limits local sales tax adders to 2.0%, or 2.0 cents on the dollar. Cal. Rev. & Tax Code § 7251.1. Several counties and cities have had statutes enacted authorizing them to exceed the statewide 2.0 cents cap; these typically range up to an additional ½ cent. The statute authorizing Sonoma County to exceed the statewide 2.0 cents cap has by far the most generous local cap: an additional one cent, for a total of 3.0% or 3 cents on the dollar. Cal. Rev. & Tax Code § 7292.8.

Currently, local sales tax adders in effect in Petaluma total 2.25 cents, leaving only 0.75 cents of permissible additional sales tax adders until one of the existing taxes sunsets or is repealed.

CURRENT LOCAL SALES TAX ADDERS IN EFFECT IN PETALUMA

	<u>Tax Rate</u>	<u>Expires</u>
SCTA Measure M (Nov. 2004) – Highway 101	1/4 cent	3/31/25
to be extended by		
SCTA Measure DD (Nov. 2020) – transportation	1/4 cent (begins 4/1/25)	3/31/45
County Measure O (Nov. 2020) – mental health	1/4 cent	3/31/31
County Measure M (Nov. 2018) – parks	1/8 cent	3/31/29
County Measure Y (Nov. 2016) – libraries	1/8 cent	3/31/27
SMART Measure Q (Nov. 2008) – SMART rail	1/4 cent	3/31/29
County Measure F (Nov. 2006) – open space	1/4 cent	3/31/31
Petaluma Measure U (Nov. 2020) – general	1 cent	no sunset
TOTAL CURRENT SALES TAX ADDERS IN PETALUMA	<u>2 1/4 cents</u>	

PROPOSED LOCAL SALES TAX ADDERS ON THE MARCH 2024 BALLOT

Two local sales tax adders have qualified for the March 2024 ballot. Both are special taxes placed on the ballot by initiative, to take advantage of the California Supreme Court's

Upland decision, allowing special taxes to be adopted by a majority vote rather than two-thirds. These are:

County Fire Chiefs' Measure	1/2 cent	no sunset
County "Our Kids Our Future"	1/4 cent	no sunset

If both of the local sales taxes on the March 2024 ballot are approved by local voters, the 3.0% or 3.0 cents on the dollar cap will have been reached in Petaluma, and no further local sales tax measures can be adopted until an existing tax either sunsets or is repealed.

Any claim that Cal. Rev. & Tax Code § 7292.8, enacted via S.B. 152 in 2018, does not establish a hard cap of 3.0% on local sales tax adders in Sonoma County, is not supported by the legislative history of that bill. See attached.

UNFINISHED BUSINESS

Bill No: SB 152
Author: McGuire (D)
Amended: 8/27/18
Vote: 21

PRIOR SENATE VOTES NOT RELEVANT

SENATE GOVERNANCE & FIN. COMMITTEE: 5-2, 8/31/18 (Pursuant to
Senate Rule 29.10)

AYES: McGuire, Beall, Hernandez, Hertzberg, Lara
NOES: Nguyen, Moorlach

ASSEMBLY FLOOR: Not available

SUBJECT: Transactions and use taxes: County of Sonoma

SOURCE: Author

DIGEST: This bill authorizes Sonoma County, any of its cities, and the Sonoma County Transportation Authority to impose transactions and use taxes above the 2% cap.

Assembly Amendments delete the previous contents of the bill relating to Medi-Cal, and insert provisions authorizing Sonoma County, any of its cities, and the Sonoma County Transportation Authority to impose transactions and use taxes above the 2% cap.

ANALYSIS:

Existing law:

- 1) Imposes the sales tax on every retailer engaged in business in this state that sells tangible personal property, and requires them to collect the appropriate tax from the purchase and remit the amount to the California Department of Tax and Fee Administration.

- 2) Applies whenever a retail sale is made, which is basically any sale other than one for resale in the regular course of business.
- 3) Provides that unless the person pays the sales tax to the retailer, he or she is liable for the use tax, which is imposed on any person consuming tangible personal property in the state. The use tax rate is the same rate as the sales tax rate, and must be remitted on or before the last day of the month following the quarterly period in which the person made the purchase.
- 4) Levies the sales and use tax at a current rate of 7.25%.
- 5) 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 (California Constitution, Article XIII C).
- 6) Allows cities and counties to increase the sales and use tax applied within their jurisdictions, also known as district or transactions and use taxes (TUTs), in increments of .125% for either specific or general purposes pursuant to the California Constitution's voter approval requirements.
- 7) Caps the maximum TUT rate at 2% within the county; however, allows exceptions from the cap for the Cities of El Cerrito and Santa Fe Springs, Alameda County, Contra Costa County, San Mateo County, the Transportation Agency for Monterey County, and the Los Angeles Metropolitan Transportation Authority.

This bill:

- 1) Allows the County of Sonoma, or any city within the County, to impose a transactions and use tax for general purposes at a rate of up to 1%, above the 2% cap.
- 2) Authorizes the same agencies and the Sonoma County Transportation Authority to impose a special tax up to 1% above the 2% cap.
- 3) Requires any tax imposed under the bill to conform with TUT law.
- 4) Directs any agency imposing a tax under the bill to first adopt an ordinance proposing the tax, and specifying the applicable voting requirement.
- 5) Provides that voters must approve the tax according the appropriate voter approval threshold at an election on or after November 6, 2018.
- 6) Repeals its authority on January 1, 2026, if the tax is not imposed.

- 7) Contains a legislative finding and declaration explaining the need for legislation that applies only to Sonoma County.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No
None.

SUPPORT: (Verified 8/31/18)

Sonoma County Board of Supervisors

OPPOSITION: (Verified 8/31/18)

Howard Jarvis Taxpayers Association

ARGUMENTS IN SUPPORT: According to the author, “SB 152 would allow the voters within Sonoma County to decide whether they want to increase sales taxes to address local needs. Last year, Sonoma County experienced the most destructive and deadly wild land fire in modern American History during the depths of a housing crisis – 5,300 homes were lost countywide and in Santa Rosa, an astounding five percent of their total housing stock was destroyed. Fragile watersheds were decimated, infrastructure must be rebuilt, and the real fabric of community must be re-sewn. The Fires have put tremendous strain on the County and the largest City between the Golden Gate and Oregon border, The City of Santa Rosa. This bill would advance an increasing of the current sales tax cap, but it’s the voters of Sonoma County who will be the ultimate deciders on if they want to increase taxes on important issues such as making the local fire service more resilient, disaster recovery, housing, critical mental health services among other important issues. SB 152 would authorize the County of Sonoma or any city within the county to impose a sales tax increase by no more than one cent. This legislative authority has a sunset embedded – It would be repealed if it’s not used by January 1, 2026. The Legislature has granted several similar exemptions to localities, and SB 152 is consistent with those prior exemptions. SB 152 will give local residents an additional tool they may need to help lift themselves up to move forward on their long road to recovery.”

ARGUMENTS IN OPPOSITION: According to the Howard Jarvis Taxpayers Association, “SB 152, in a gut-and-amend maneuver, (the bill was amended on Friday) would allow the Legislature to authorize an additional one cent sales tax for the County of Sonoma, or any city within the county, that would exceed the existing two percent Bradley-Burns sales tax cap imposed upon local municipalities. This would set Sonoma County’s overall sales tax rate at 9.125 percent. While the measure appears to abide by all local voting requirements, it

sets a dangerous precedent to begin to allow counties to increase taxes beyond existing law. Counties need to learn to balance their budgets and control pension excesses. We simply cannot justify increased regressive taxation upon hard working families when California already has the highest state sales tax rate in the nation. The existing two percent Bradley-Burns threshold for local sales taxes has been in place for decades with good reason. It promotes uniformity and keeps taxes reasonable. Tax compliance is already a concern with multiple tax rates across a county already in place, as well as many municipalities already having a double-digit sales tax rate.”

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119
8/31/18 19:40:28

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