
THIRD READING

Bill No: SB 1494
Author: Glazer (D), et al.
Amended: 5/20/24
Vote: 21

SENATE LOCAL GOVERNMENT COMMITTEE: 6-1, 4/17/24
AYES: Durazo, Dahle, Glazer, Skinner, Wahab, Wiener
NOES: Seyarto

SENATE REVENUE AND TAXATION COMMITTEE: 6-0, 4/24/24
AYES: Glazer, Dahle, Bradford, Dodd, Padilla, Skinner
NO VOTE RECORDED: Ashby

SUBJECT: Local agencies: Sales and Use Tax: retailers

SOURCE: Author

DIGEST: This bill prohibits a local agency, on or after January 1, 2024, from entering into, renewing, or extending sales and use tax rebate agreements with retailers in exchange for locating in their jurisdiction, and voids agreements entered into before that date on January 1, 2030.

Senate Floor Amendments of 5/17/24 delete the urgency clause and add coauthors.

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 register with the California Department of Tax and Fee Administration (CDTFA), as well as collect and remit appropriate tax at purchase and remit the amount to CDTFA. Sales tax applies whenever a retail sale occurs, which is generally any sale other than one for resale in the regular course of business. The current rate is 7.25%.

- 2) Allows cities, counties, and specified special districts to increase the sales and use tax, also known as district or transactions and use taxes.
- 3) Allows CDTFA to collect sales taxes from retailers, deposit the state share in the General Fund, and then allocate the local share of the Bradley-Burns sales tax and any district tax to the appropriate jurisdiction. The Bradley-Burns Uniform Sales Tax Act allows all local agencies to apply its own sales and use tax on the same base of tangible personal property. This tax rate currently is fixed at 1.25% of the sales price of tangible personal property sold at retail in the local jurisdiction, or purchased outside the jurisdiction for use within the jurisdiction. Cities and counties use this 1% tax to support general operations, while the remaining 0.25% is used for county transportation purposes. In California, all cities and counties impose Bradley-Burns local taxes.
- 4) Specifies the "place of sale" for purposes of the local sales tax. Bradley-Burns sales taxes are allocated to the place of business of the retailer, unless the property sold is delivered by the retailer or his or her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination, in which case no tax is collected. CDTFA must consider specific characteristics of the retailer to correctly determine the "place of sale," and therefore correctly allocate the local share of Bradley-Burns sales tax.
- 5) Bans cities and counties from subsidizing the relocation of big box retailers and auto malls within the same market area (SB 114, Torlakson, Chapter 781, Statutes of 2003).
- 6) Prohibits a local agency from entering into an agreement that would result in the payment, transfer, diversion, or rebate of Bradley-Burns local tax proceeds to a retailer if the agreement results in a reduction of revenue that is received by another local agency when the retailer continues to maintain a physical presence and location within that other local agency (SB 533, Pan, Chapter 717, Statutes of 2015).

This bill:

- 1) Prohibits a local agency, on or after January 1, 2024, from entering into, renewing, or extending any form of agreement that would result in the payment, transfer, diversion, or rebate of any sales and use tax revenue to any retailer in exchange for the retailer locating or maintaining a place of business that serves as the place of sale if it generates revenue for another local agency.

- 2) Declares any such agreement that exists before January 1, 2024, to be void and unenforceable starting on January 1, 2030.
- 3) Requires a local agency to post any such agreement that exists before January 1, 2024, on its website until it expires or is made void or unenforceable on January 1, 2030.

Background

Counties and cities engage in a wide variety of economic development activities to build their tax bases. Local officials use various tactics to influence where, when, and how the private sector invests capital and improves real property. Local officials sometimes use their economic development powers to induce businesses to relocate to their communities. Economic development incentives local agencies offer range in terms of (1) the level of rebate; (2) how long the retailer receives the benefit; (3) the types of jobs or services the retailer must provide in return; and (4) how long the retailer must promise to stay in the jurisdiction. Agreements typically offer between 30% to 60% of the Bradley-Burns revenue generated by the facility, for periods of time ranging up to 40 years. The City of Fresno recently entered into long-term agreements with Amazon, Nordstrom, and the Gap, and the City of Dinuba has done the same with Best Buy. The City of Cupertino has an agreement with Apple, and San Bruno has an agreement with Wal-Mart.

Comments

- 1) *Purpose of the bill.* According to the author, “SB 1494 would address the issue of corporations manipulating our tax code. Right now, California’s broken tax system allows retailers to allocate sales tax revenue from online sales to specific distribution centers and warehouses regardless of where the sale occurred. This creates a perverse economic incentive for cities to give millions of dollars in sales tax revenue back to corporations in return for designating that municipality as the point of sale. This bill would end the exploitation of an economic tool that concentrates tax revenue among a minority of cities (at the expense of their neighbors) and instead ensures each jurisdiction gets its fair share to use tax revenue for the intended purpose of bettering the community.”
- 2) *What’s left?* Cities that focus their economic development efforts on warehouse and distribution centers view these agreements as valuable economic development tools that create employment and economic activity that cannot be generated any other way. Even if one of these agreements requires a significant rebate back to a retailer, that city still may be better off because it will receive more sales tax revenue than if the retailer did not locate their warehouse or

distribution in their city. Do other economic development incentives the state does allow provide sufficient opportunities for cities seeking continued economic growth, particularly cities with available land and above-average unemployment rates?

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 5/17/24)

City of Simi Valley

OPPOSITION: (Verified 5/17/24)

California Association for Local Economic Development

California Business Properties Association

California Business Roundtable

California Chamber of Commerce

California Manufacturers & Technology Association

California Retailers Association

California Taxpayers Association

Central Valley Business Federation

City of Beaumont

City of Dinuba

City of Eastvale

City of Fresno

City of Merced

City of La Palma

City of Long Beach

City of Ontario

City of Perris

City of Rancho Cucamonga

City of Tracy

County of Fresno

League of California Cities

Los Angeles County Business Federation

Naiop, the Commercial Real Estate Development Association

Silicon Valley Leadership Group
United Chamber Advocacy Network

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