

SENATE GOVERNANCE & FINANCE COMMITTEE
Senator Lois Wolk, Chair

BILL NO: SB 1183
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CONSULTANT: Grinnell

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FISCAL: Yes
TAX LEVY: No

BICYCLE TAX

Allows cities, counties, and regional park districts to impose a tax on bicycles.

Background and Existing Law

In 1933, California enacted its sales tax, followed by the use tax two years later. Charter cities began applying their own sales taxes soon after, commencing with the City of San Bernardino in 1945. The Legislature also first authorized general law cities to levy their own sales and use taxes in 1949. While BOE administered the state tax, each city imposed, collected, and audited its own sales and use tax, which could be set at any rate the city chose, and could apply to different products than the state or other city sales taxes.

In 1955, the Legislature enacted the Bradley Burns Local Sales and Use Tax Law to provide uniformity for local sales and use taxes. The uniform act allowed local agencies to levy its own tax of one percent, and centralized administration, collection, and audit with the Board of Equalization (BOE), replacing the previous system where each city implemented its own tax on whatever products it chose. The Act required local agencies to be perfectly uniform with each other and the state, charge the same rate, and adopt the state's base for the sales tax, which is "tangible personal property." Subsequently, the Legislature allowed cities, counties, and special districts to impose their own transactions and use tax within its jurisdiction subject to voter approval, known as "local add-ons" or "district taxes," so long as they relied on the same base and procedures as the sales and use tax.

The California Constitution requires 2/3 voter approval when a local agency wants to impose or increase a special tax (Proposition 13, 1978). However, the Legislature must authorize school or special districts to impose taxes because these agencies have no plenary taxing powers. Responding to Proposition 13's reduction in local revenue, the Legislature generally authorized all local agencies to impose special taxes with 2/3 voter approval (SB 785, Foran, 1979), but voters subsequently approved an initiative requiring the Legislature to grant specific taxing power to local agencies to impose taxes (Proposition 62, 1986). The Legis-

lature allows park districts to form Mello-Roos district to levy special taxes, and impose qualified special taxes, commonly known as parcel taxes.

Proposed Law

Senate Bill 1183 allows a city, county or regional park district to impose a special tax at the point of sale on bicycles, except for those with a wheel diameter of less than 20 inches. The local agency can impose whatever rate of tax it chooses, so long as the rate is specified in the ordinance placing the tax on the ballot for voter approval. BOE must collect and remit the tax to the local agency imposing the tax similar to sales and use taxes. The local agency may use the net proceeds of the tax to:

- Improve paved and natural surface trails, including rehabilitating, restoring, and expanding existing trails,
- Develop new trails, and
- Maintain local and regional trail systems and networks.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. According to the author, "In a 2002, National Highway Transportation Safety Administration survey, seven in ten people said that they would like to bike more than they do now. However, less than half of those surveyed were satisfied by how their communities were designed for bicycling. The survey also indicated that the most popular changes for bicyclists were additional bike lanes, paths, and trails, followed by improvements to existing facilities. These preferences align with large health and safety benefits associated with use of bicycle facilities, recognized in California's Active Transportation Program, and the state's Sustainable Communities Act, SB 375. Despite its clear benefits and alignment with state goals, bike trail facilities suffer from a lack of stable funding. Unlike roadway infrastructure, which is supported by a variety of fuel and motor vehicle taxes, bike trail infrastructure lacks funding support from users. Existing law does not allow communities to a levy a tax specific to the point of sale of a bicycle, other than sales and use taxes generally applicable to tangible personal property. SB 1183 allows cities, counties, or regional park districts to impose a point of sale tax on new bicycles, subject to voter approval, for the purpose of maintaining, improving, and constructing paved and natural surface trails. SB 1183 gives communities a new choice and mechanism for supporting local bicycle infrastructure. Investing in bicycle infrastructure and promoting cycling can draw new money to a local economy by attracting, residents, visitors, and businesses."

2. A steep climb? SB 1183 allows local agencies to impose a tax on bicycles to fund bike trail creation, expansion, and improvement. However, the bill presents potential administrative headaches for BOE, as well as buyers and sellers of bicycles. First, BOE would need to inform affected taxpayers of the new tax, create new tax returns, receive and remit revenue, and adjudicate appeals, a complicated process that the measure doesn't fund with an appropriation. BOE does administer sales and use taxes for cities, counties, and some transportation districts, which BOE funds by retaining a percentage of revenue to pay its costs, but the total proceeds of SB 1183's tax may not cover BOE's administrative costs. BOE also would have to collect information about a park district's boundaries to identify retailers and bring them into compliance with the collection and remitting process, as BOE isn't currently aware of regional park districts because they don't impose sales and use taxes. Second, bicycle sellers would have to adjust their software systems to account for potential differences in tax rates imposed on bicycles in jurisdictions imposing the tax, and those that operate in a jurisdiction imposing the tax may be placed at a competitive disadvantage to those who don't because of different final prices and compliance burdens. Lastly, bicycle purchasers who buy a bike and pay the added tax may not reside within the boundaries of the jurisdiction imposing it, or use the public bicycle trails the tax funds. *The Committee may wish to consider whether SB 1183 represents wise tax policy.*

3. A ticket to pleasure ride? The Legislature has allowed countywide special districts to impose their own transactions and use taxes on transfers of tangible personal property within the county, generally for transportation. SB 1183 would set a precedent by allowing regional park districts, regional park, or open-space district to impose a point-of-sale tax. However, state law does authorize a county or regional park districts to impose a "pleasure riding tax," not above \$10 per horse, mule, or other animal used substantially for pleasure riding or trail use to fund trail maintenance, acquisition, and construction. The taxing agency may make payment of the tax a condition of using its trails. As an alternative, *the Committee could amend SB 1183 to conform the current pleasure riding tax to include bicycles.*

4. Amendments needed. SB 1183 should be amended to account for the following issues:

- The measure doesn't similarly enact a use tax requirement, so a taxpayer buying a bicycle in a jurisdiction that doesn't impose the tax, on-line, or in another state or country won't pay the tax, but can use the bike in his or her home jurisdiction without paying the tax.
- The bill doesn't further qualify who must collect and remit the tax beyond "at the point of sale." Does this include wholesale transactions, sales for resale, or an occasional bike sale to a friend or family member?

- SB 1183 doesn't allow for a credit against another agency's tax if overlapping jurisdictions impose the same tax, similar to the credit against the county sales tax for taxes paid on purchases made in cities.
- Providing that the bike tax isn't part of the sales and use tax base.
- Cities and counties, a term that refers solely to the City and County of San Francisco, aren't included on the list of entities that can impose the tax.

Support and Opposition (04/03/14)

Support: California Park and Recreation Society; East Bay Regional Park District.

Opposition: California Retailers' Association, California Taxpayers' Association, Howard Jarvis Taxpayers' Association.