

ASSEMBLY BILL

No. 2878

Introduced by Assembly Member Wiggins

February 25, 2002

An act to amend Section 7202 of, and to add Sections 96.11, 7202.1, and 11000.2 to, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2878, as introduced, Wiggins. Local government finance.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes a county to impose a local sales and use tax at a rate of 1.25%, and similarly authorizes a city, located within a county imposing such a tax rate, to impose a local sales tax rate of 1% that is credited against the county rate. Existing law requires a city, county, or city and county imposing a local sales and use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law to contract with the State Board of Equalization to administer the local sales and use tax. Existing law also requires the board, at least twice during each calendar quarter, to transmit local sales and use tax revenue to the city, county, or city and county in which the revenue was collected.

The Vehicle License Fee (VLF) Law establishes, in lieu of any ad valorem property tax upon vehicles, an annual license fee for any vehicle subject to registration in this state in the amount of 2% of the market value of that vehicle, as specified, but offsets this amount by 67.5% for vehicle license fees with a final due date on or after July 1, 2001. The California Constitution requires that revenues generated from the annual vehicle license fee be allocated to cities and counties. The VLF law provides that General Fund moneys be transferred, as specified, to cities and counties to compensate for reduced revenues resulting from VLF offsets.

This bill would increase the amount of ad valorem property tax revenue allocated to a city or county in the 2001–02 fiscal year by an amount equal to the amount of General Fund moneys, as specified, received in the 2001–02 fiscal year by that city or county as compensation for revenue losses resulting from VLF offsets. This bill would also decrease the amount of property tax revenue allocated to a school district in the 2001–02 fiscal year by an amount equal to the amount of General Fund moneys, as specified, received in the 2001–02 fiscal year by a city or county, in the same tax rate area as that school district, to compensate for revenue losses resulting from VLF offsets.

This bill would prohibit, on or after July 1, 2002, a city from imposing a sales and use tax rate under the Bradley-Burns Uniform Local Sales and Use Tax Law in excess of 0.85%, unless an additional increase, specified by this bill, in the amount of property tax revenue allocated to that city fails to fully compensate for the revenue loss resulting from this rate restriction. This bill would also increase the amount of ad valorem property tax allocated to a city in the 2001–02 fiscal year by an amount, not to exceed a specified limit, that is otherwise equal to the difference between the amount of sales and use tax revenue received by a city in the 2001–02 fiscal year and the amount that city would have received if that city had imposed a 0.85% rate in that fiscal year. This bill would also commensurately reduce the amount of ad valorem property tax revenue allocated to a county in the 2001–02 fiscal year by an amount equal to these increased allocations to cities.

By requiring local auditors to implement the new revenue allocations required by these provisions, this bill would impose a state-mandated local program.

This bill would also require the Department of Finance, on or before October 1, 2002, to make certain calculations required to implement these revenue allocation increases and reductions. This bill would also



prohibit any allocation to redevelopment agencies of any of the revenues shifted by the bill.

This bill would also prohibit, on and after July 1, 2002, the state from transferring General Fund moneys to cities and counties to fund VLF offsets.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Fair Allocation of Revenues to Entities Act of 2002.

3 SEC. 2. Section 96.11 is added to the Revenue and Taxation
4 Code, to read:

5 96.11. (a) Notwithstanding any other provision of law, the
6 computations and allocations made by each county pursuant to
7 Section 96.1 shall be modified for the 2001–02 fiscal year as
8 follows:

9 (1) (A) The total amount of ad valorem property tax revenue
10 otherwise allocated to a city or a county shall be increased by an
11 amount equal to the amount of revenue received by that city or
12 county during the 2001–02 fiscal year pursuant to paragraph (1)
13 of subdivision (a) of Section 11000.

14 (B) The total amount of ad valorem property tax revenue
15 otherwise allocated to a school district in each tax rate area shall
16 be reduced by an amount equal to the amount of additional revenue
17 allocated to a city or a county, pursuant to subparagraph (A), in that
18 tax rate area.



1 (2) (A) The total amount of ad valorem property tax revenue
2 otherwise allocated to a city shall be increased by an amount that
3 is equal to the reduction in the amount of sales and use tax revenue
4 received by that city in the 2001–02 fiscal year that would have
5 occurred had the city imposed a sales and use tax rate of 0.85
6 percent during that fiscal year, except that the amount of this
7 increase may not exceed the total amount of ad valorem property
8 tax revenue allocated to the county in those tax rate areas including
9 the county and that city.

10 (B) The total amount of ad valorem property tax revenue
11 otherwise allocated to the county shall be reduced by an amount
12 equal to the total amount of increases allocated to cities in the
13 county pursuant to subparagraph (A).

14 (b) The Department of Finance shall make the calculations
15 required by subdivision (a) with respect to Section 11000 and sales
16 and use tax revenues, and shall, on or before October 1, 2002,
17 notify the auditor of each county of the allocations required
18 pursuant to these calculations.

19 (c) (1) It is the intent of the Legislature that school districts be
20 reimbursed, pursuant to Section 42238 of the Education Code, for
21 any decreases in the amount of ad valorem property tax revenue
22 allocated to school districts as a result of the implementation of
23 subparagraph (B) of paragraph (1) of subdivision (a).

24 (2) If a school district is no longer an excess school tax entity
25 as a result of subparagraph (B) of paragraph (1) of subdivision (a),
26 that entity shall receive from the state an amount equal to the
27 difference between the following amounts:

28 (A) The amount of moneys that would otherwise be required to
29 be apportioned to that entity pursuant to Section 42238 of the
30 Education Code.

31 (B) The school district’s allocation reduction pursuant to
32 subparagraph (B) of paragraph (1) of subdivision (a).

33 (d) Notwithstanding any other provision of law, ad valorem
34 property tax revenue that is reallocated pursuant to subdivision (a)
35 may not be allocated, either directly or indirectly, to a
36 redevelopment agency.

37 (e) For the 2002–03 fiscal year and each fiscal year thereafter,
38 ad valorem property tax revenue allocations made pursuant to
39 Section 96.1 shall incorporate the allocation adjustments required
40 by this section.



1 SEC. 3. Section 7202 of the Revenue and Taxation Code is
2 amended to read:

3 7202. The sales tax portion of any sales and use tax ordinance
4 adopted under this part shall be imposed for the privilege of selling
5 tangible personal property at retail, and shall include provisions in
6 substance as follows:

7 (a) A provision imposing a tax for the privilege of selling
8 tangible personal property at retail upon every retailer in the
9 county at the rate of 1¹/₄ percent of the gross receipts of the retailer
10 from the sale of all tangible personal property sold by that person
11 at retail in the county.

12 (b) Provisions identical to those contained in Part 1
13 (commencing with Section 6001), insofar as they relate to sales
14 taxes, except that the name of the county as the taxing agency shall
15 be substituted for that of the state and that an additional seller's
16 permit shall not be required if one has been or is issued to the seller
17 under Section 6067.

18 (c) A provision that all amendments subsequent to the effective
19 date of the enactment of Part 1 (commencing with Section 6001)
20 relating to sales tax and not inconsistent with this part, shall
21 automatically become a part of the sales tax ordinance of the
22 county.

23 (d) A provision that the county shall contract prior to the
24 effective date of the county sales and use tax ordinances with the
25 State Board of Equalization to perform all functions incident to the
26 administration or operation of the sales and use tax ordinance of
27 the county. Any such contract shall contain a provision that the
28 county agrees to comply with the provisions of Article 11
29 (commencing with Section 29530) of Chapter 2 of Division 3 of
30 Title 3 of the Government Code.

31 (e) A provision that the ordinance may be made inoperative not
32 less than 60 days, but not earlier than the first day of the calendar
33 quarter, following the county's lack of compliance with Article 11
34 (commencing with Section 29530) of Chapter 2 of Division 3 of
35 Title 3 of the Government Code or following an increase by any
36 city within the county of the rate of its sales or use tax above the
37 rate in effect at the time the county ordinance was enacted.

38 (f) A provision that the amount subject to tax shall not include
39 the amount of any sales tax or use tax imposed by the State of
40 California upon a retailer or consumer.



1 (g) A provision that there is exempted from the sales tax 80
2 percent of the gross receipts from the sale of tangible personal
3 property, other than fuel or petroleum products, to operators of
4 aircraft to be used or consumed principally outside the county in
5 which the sale is made and directly and exclusively in the use of
6 the aircraft as common carriers of persons or property under the
7 authority of the laws of this state, the United States, or any foreign
8 government.

9 (h) A provision that any person subject to a sales and use tax
10 under the county ordinance shall be entitled to credit against the
11 payment of taxes due under that ordinance the amount of sales and
12 use tax due to any city in the county; provided, that the city sales
13 and use tax is levied under an ordinance including provisions in
14 substance as follows:

15 (1) A provision imposing a tax for the privilege of selling
16 tangible personal property at retail upon every retailer in the city
17 at ~~the a percentage rate of 1 percent or less, as determined~~
18 *pursuant to Section 7202.1*, of the gross receipts of the retailer
19 from the sale of all tangible personal property sold by that person
20 at retail in the city and a use tax ~~of 1 percent or less at a percentage~~
21 *rate, determined pursuant to Section 7202.1*, of the purchase price
22 upon the storage, use or other consumption of tangible personal
23 property purchased from a retailer for storage, use or consumption
24 in the city.

25 (2) Provisions identical to those contained in Part 1
26 (commencing with Section 6001), insofar as they relate to sales
27 and use taxes, except that the name of the city as the taxing agency
28 shall be substituted for that of the state (but the name of the city
29 shall not be substituted for the word “state” in the phrase “retailer
30 engaged in business in this state” in Section 6203 nor in the
31 definition of that phrase in Section 6203) and that an additional
32 seller’s permit shall not be required if one has been or is issued to
33 the seller under Section 6067.

34 (3) A provision that all amendments subsequent to the effective
35 date of the enactment of Part 1 (commencing with Section 6001)
36 relating to sales and use tax and not inconsistent with this part, shall
37 automatically become a part of the sales and use tax ordinance of
38 the city.

39 (4) A provision that the city shall contract prior to the effective
40 date of the city sales and use tax ordinance with the State Board of



1 Equalization to perform all functions incident to the
2 administration or operation of the sales and use tax ordinance of
3 the city which shall continue in effect so long as the county within
4 which the city is located has an operative sales and use tax
5 ordinance enacted pursuant to this part.

6 (5) A provision that the storage, use or other consumption of
7 tangible personal property, the gross receipts from the sale of
8 which has been subject to sales tax under a sales and use tax
9 ordinance enacted in accordance with this part by any city and
10 county, county, or city in this state, shall be exempt from the tax
11 due under this ordinance.

12 (6) A provision that the amount subject to tax shall not include
13 the amount of any sales tax or use tax imposed by the State of
14 California upon a retailer or consumer.

15 (7) A provision that there are exempted from the computation
16 of the amount of the sales tax the gross receipts from the sale of
17 tangible personal property to operators of aircraft to be used or
18 consumed principally outside the city in which the sale is made and
19 directly and exclusively in the use of the aircraft as common
20 carriers of persons or property under the authority of the laws of
21 this state, the United States, or any foreign government.

22 (8) A provision that, in addition to the exemptions provided in
23 Sections 6366 and 6366.1, the storage, use, or other consumption
24 of tangible personal property purchased by operators of aircraft
25 and used or consumed by the operators directly and exclusively in
26 the use of the aircraft as common carriers of persons or property
27 for hire or compensation under a certificate of public convenience
28 and necessity issued pursuant to the laws of this state, the United
29 States, or any foreign government is exempt from the use tax.

30 SEC. 4. Section 7202.1 is added to the Revenue and Taxation
31 Code, to read:

32 7202.1. (a) Notwithstanding any other provision of law, on
33 and after July 1, 2002, the maximum sales and use tax rate that may
34 be imposed by a city pursuant to paragraph (1) of subdivision (h)
35 of Section 7202 is, except as provided in subdivision (b), 0.85
36 percent.

37 (b) Notwithstanding subdivision (a), if the amount of the
38 increase in the total amount of property tax revenue, allocated to
39 a city pursuant to subparagraph (A) of paragraph (2) of subdivision
40 (a) of Section 96.11, is less than the reduction in the amount of



1 sales and use tax revenue that would have been received by that
2 city in the 2001–02 fiscal year pursuant to Section 7204, had the
3 city imposed during that fiscal year a local sales and use tax rate
4 of 0.85 percent, the city may impose a sales and use tax rate that
5 exceeds 0.85 percent to that extent necessary to generate additional
6 revenues in an amount that fully offsets this reduction.

7 SEC. 5. Section 11000.2 is added to the Revenue and Taxation
8 Code, to read:

9 11000.2. Notwithstanding any other provision of law, on and
10 after July 1, 2002, the state may not transfer any moneys from the
11 General Fund to fund Vehicle License Fee Law offsets pursuant to
12 Section 11000.

13 SEC. 6. Notwithstanding Section 17610 of the Government
14 Code, if the Commission on State Mandates determines that this
15 act contains costs mandated by the state, reimbursement to local
16 agencies and school districts for those costs shall be made pursuant
17 to Part 7 (commencing with Section 17500) of Division 4 of Title
18 2 of the Government Code. If the statewide cost of the claim for
19 reimbursement does not exceed one million dollars (\$1,000,000),
20 reimbursement shall be made from the State Mandates Claims
21 Fund.

22 SEC. 7. This act is an urgency statute necessary for the
23 immediate preservation of the public peace, health, or safety
24 within the meaning of Article IV of the Constitution and shall go
25 into immediate effect. The facts constituting the necessity are:

26 In order for the allocations of revenue to local government to be
27 effective in the 2002–03 fiscal year, which begins on July 1, 2002,
28 it is necessary that this act take immediate effect.

