

AMENDED IN SENATE APRIL 27, 2011

AMENDED IN SENATE APRIL 14, 2011

**SENATE BILL**

**No. 653**

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**Introduced by Senator Steinberg**

February 18, 2011

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An act to amend Sections 17041.5, 30111, and 32010 of, to add Section 17041.6 to, and to add Chapter 3.53 (commencing with Section 7289), Chapter 3.54 (commencing with Section 7289.10), Chapter 3.55 (commencing with Section 7289.20), Chapter 3.56 (commencing with Section 7289.30), Chapter 3.57 (commencing with Section 7289.40), and Chapter 3.58 (commencing with Section 7289.50), to Part 1.7 of Division 2 of, the Revenue and Taxation Code, relating to local taxation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 653, as amended, Steinberg. Local taxation: counties: *school districts*: general authorization.

The California Constitution prohibits the Legislature from imposing taxes for local purposes, but allows the Legislature to authorize local governments to impose them.

This bill would authorize the ~~board of supervisors~~ *governing board* of any county or city and county *and any school district*, subject to specified constitutional and voter approval requirements, to levy, increase, or extend a local personal income tax, transactions and use tax, vehicle license fee, and excise tax, including, but not limited to, an alcoholic beverages tax, a cigarette and tobacco products tax, a sweetened beverage tax, and an oil severance tax, as provided.

This bill would require the State Board of Equalization, the Franchise Tax Board, or the Department of Motor Vehicles to perform various

functions incident to the administration and operation of a local tax if the county or city and county or *the school district* contracts with the state agency to perform those functions.

*This bill for each fiscal year would also require a county or city and county and a school district to reimburse the state for any losses incurred by the state General Fund due to any deductions allowed under the Personal Income Tax Law and the Corporation Tax Law for any local taxes levied, increased, or extended pursuant to this authorization by that county or city and county or school district, as specified. This bill would, for each fiscal year, require the Franchise Tax Board, with the assistance of the State Board of Equalization, to estimate the losses incurred by the state General Fund attributable to each county or city and county or a school district due to any local taxes levied, increased, or extended by that county or city and county or school district.*

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Chapter 3.53 (commencing with Section 7289)  
2 is added to Part 1.7 of Division 2 of the Revenue and Taxation  
3 Code, to read:

4  
5 CHAPTER 3.53. GENERAL LOCAL TAX AUTHORIZATION

6  
7 7289. Notwithstanding any other law, but subject to the  
8 limitations of the California Constitution, the ~~board of supervisors~~  
9 ~~of any county or city and county governing board of any county~~  
10 ~~or city and county and any school district~~ may, in accordance with  
11 Article 3.7 (commencing with Section 53720) of Chapter 4 of Part  
12 1 of Division 2 of Title 5 of the Government Code, levy, increase,  
13 or extend any of the following taxes:

14 (a) A local personal income tax that is assessed and collected  
15 by the Franchise Tax Board in accordance with Section 17041.6.

16 (b) A transactions and use tax, adopted in accordance with the  
17 Transactions and Use Tax Law (Part 1.6 (commencing with Section  
18 7251)), notwithstanding any rate limitations specified in that law  
19 for a county or city and county or *a school district*.

20 (c) A local vehicle license fee that is assessed and collected in  
21 accordance with Chapter 3.54 (commencing with Section 7289.10).

1 (d) (1) An excise tax, including, but not limited to, a local  
2 alcoholic beverage tax, a local cigarette and tobacco products tax,  
3 a local sweetened beverage tax, and a local medical marijuana tax.

4 (A) A local alcoholic beverage tax shall be assessed and  
5 collected in accordance with Chapter 3.55 (commencing with  
6 Section 7289.20).

7 (B) A local cigarette and tobacco products tax shall be assessed  
8 and collected in accordance with Chapter 3.56 (commencing with  
9 Section 7289.30).

10 (C) A local sweetened beverage tax shall be assessed and  
11 collected in accordance with Chapter 3.58 (commencing with  
12 Section 7289.50).

13 (2) Notwithstanding paragraph (1), an excise tax shall not  
14 include a motor vehicle fuel tax or diesel fuel tax.

15 (3) A county or city and county *or a school district* may contract  
16 with the State Board of Equalization to administer an excise tax.  
17 The contract shall contain a provision that the county or city and  
18 county *or a school district* shall reimburse the State Board of  
19 Equalization for all refunds, losses, and costs incurred in the  
20 administration of the tax.

21 (e) A local tax on extractive business activities, as defined in  
22 paragraph (3) of subdivision (d) of Section 25128, not to exceed  
23 2 percent of the wholesale value per unit measure.

24 (f) A local oil severance tax that is assessed and collected in  
25 accordance with Chapter 3.57 (commencing with Section 7289.40).

26 *7289.1. (a) For each fiscal year, a county or city and county  
27 and a school district shall reimburse the state for any losses  
28 incurred by the state General Fund due to any deductions allowed  
29 for that fiscal year under the Personal Income Tax Law (Part 10  
30 (commencing with Section 17001)) and the Corporation Tax Law  
31 (Part 11 (commencing with Section 23001)) for any local taxes  
32 levied, increased, or extended pursuant to this chapter by that  
33 county or city and county or school district, in accordance with  
34 the estimate prescribed by subdivision (b).*

35 *(b) For each fiscal year, the Franchise Tax Board, with  
36 assistance from the State Board of Equalization, shall estimate  
37 the losses incurred by the state General Fund attributable to each  
38 county or city and county or a school district due to any local taxes  
39 levied, increased, or extended pursuant to this chapter by that  
40 county or city and county or school district.*

1 SEC. 2. Chapter 3.54 (commencing with Section 7289.10) is  
 2 added to Part 1.7 of Division 2 of the Revenue and Taxation Code,  
 3 to read:

4  
 5 CHAPTER 3.54. ~~COUNTY~~ LOCAL VEHICLE LICENSE FEE  
 6

7 7289.10. (a) An ordinance *or resolution* imposing a local  
 8 vehicle license fee, as authorized pursuant to Chapter 3.53  
 9 (commencing with Section 7289), shall not to exceed 1.35 percent.

10 (b) (1) The Department of Motor Vehicles shall administer the  
 11 local vehicle license fee.

12 (2) Prior to the operative date of any ordinance *or any resolution*  
 13 imposing a local vehicle license fee, the county or city and county  
 14 *or a school district* shall contract with the Department of Motor  
 15 Vehicles to perform all functions incident to the administration of  
 16 the local vehicle license fee.

17 (3) The contract shall require the county or city and county *or*  
 18 *a school district* to reimburse the Department of Motor Vehicles  
 19 for all refunds, losses, and costs incurred in the administration and  
 20 operation of the local vehicle license fee.

21 (4) The local vehicle license fee shall be assessed and collected  
 22 in the same manner as the fee imposed by Part 5 (commencing  
 23 with Section 10701).

24 (5) (A) Amounts collected pursuant to this chapter shall be  
 25 transmitted to the Treasurer and deposited in the State Treasury  
 26 to the credit of the Local Vehicle License Fee Account in the  
 27 General Fund, which is hereby created.

28 (B) Notwithstanding Section 13340 of the Government Code,  
 29 the moneys in the Local Vehicle License Fee Account are hereby  
 30 continuously appropriated, without regard to fiscal year, to the  
 31 Controller for allocation to each county and city and county *and*  
 32 *school district* in which the local vehicle license fee is imposed.

33 SEC. 3. Chapter 3.55 (commencing with Section 7289.20) is  
 34 added to Part 1.7 of Division 2 of the Revenue and Taxation Code,  
 35 to read:

36  
 37 CHAPTER 3.55. ~~COUNTY~~ LOCAL ALCOHOLIC BEVERAGE TAX  
 38

39 7289.20. (a) Subject to the requirements of this chapter, the  
 40 ~~board of supervisors of a county or city and county governing~~

1 *board of a county or city and county and a school district* may  
2 impose a tax on the privilege of selling beer, wine, or distilled  
3 spirits at retail in the county *or the district*, as authorized pursuant  
4 to Chapter 3.53 (commencing with Section 7289). The board of  
5 supervisors may impose this tax within an incorporated city within  
6 the county or city and county.

7 (b) Any tax imposed shall not exceed the following:

8 (1) On beer, five cents (\$0.05) per 12 ounces and at a  
9 proportionate rate for any other quantity.

10 (2) On wine, five cents (\$0.05) per 5 ounces and at a  
11 proportionate rate for any other quantity.

12 (3) On distilled spirits, five cents (\$0.05) per 1.5 ounces and at  
13 a proportionate rate for any other quantity.

14 (c) Any tax imposed shall not be regulatory within the meaning  
15 of Section 22 of Article XX.

16 7289.21. For purposes of this chapter, “beer,” “wine,” and  
17 “distilled spirits” have the same meanings as provided in Sections  
18 23006, 23007, and 23005 of the Business and Professions Code.

19 7289.22. (a) The imposition of a tax pursuant to this chapter  
20 shall not prohibit the concurrent application of a tax imposed  
21 pursuant to the Sales and Use Tax Law (Part 1 (commencing with  
22 Section 6001)), the Bradley-Burns Uniform Sales and Use Tax  
23 Law (Part 1.5 (commencing with Section 7200)), or a tax imposed  
24 in accordance with the Transactions and Use Tax Law (Part 1.6  
25 (commencing with Section 7251)), on the sale of or the, storage,  
26 use, or other consumption of, beer, wine or distilled spirits.

27 (b) Notwithstanding Section 7203.5 or any other law, the  
28 imposition of a tax pursuant to this chapter by a county or city and  
29 county shall not prohibit the concurrent administration by the board  
30 of a sales or use tax ordinance adopted by that county pursuant to  
31 the Bradley-Burns Uniform Local Sales and Use Tax Law (Part  
32 1.5 (commencing with Section 7200)) or in accordance with the  
33 Transactions and Use Tax Law (Part 1.6 (commencing with Section  
34 7251)).

35 7289.23. Any ordinance *or resolution* levying a tax pursuant  
36 to this chapter shall provide that the tax shall conform to Part 1.6  
37 (commencing with Section 7251). However, a tax imposed pursuant  
38 to this chapter is not a sales or use tax or a transactions or use tax,  
39 and shall not be considered as such for purposes of Section 7251.1.

1 7289.24. An ordinance *or resolution* adopted pursuant to this  
2 chapter shall be operative on the first day of a calendar quarter  
3 commencing more than 90 days after the adoption of the ordinance  
4 *or resolution*.

5 7289.26. Prior to the operative date of any ordinance *or*  
6 *resolution* imposing a tax pursuant to this chapter, the ~~board of~~  
7 ~~supervisors of the county or city and county~~ *governing board of*  
8 *the county or city and county or the school district* shall do either  
9 of the following:

10 (a) Notify the State Board of Equalization in writing that the  
11 county or city and county *or the school district* will be responsible  
12 for administering the tax imposed pursuant to an ordinance *or*  
13 *resolution* authorized by this chapter on its own behalf, and that  
14 the ordinance *or resolution* does not impose any duties or  
15 responsibilities for administering the tax upon the State Board of  
16 Equalization.

17 (b) Contract with the State Board of Equalization to perform  
18 all functions incident to the administration and operation of the  
19 ordinance *or resolution*. If the county or city and county *or the*  
20 *school district* has not contracted with the board prior to the  
21 operative date of the ordinance *or resolution*, the operative date  
22 shall be delayed until the first day of the first calendar quarter  
23 following the execution of the contract.

24 7289.27. For a county or city and county *or a school district*  
25 that elects to contract with the State Board of Equalization to  
26 administer a tax imposed by the county *or city and county or the*  
27 *school district*, as authorized by this chapter, the following shall  
28 apply:

29 (a) The contract shall require the county *or city and county or*  
30 *the school district* to do both of the following:

31 (1) Reimburse the State Board of Equalization for, and hold the  
32 board harmless from, any and all costs, losses, or refunds.

33 (2) In the event that a legal action is commenced challenging  
34 the validity of the tax in its entirety, as opposed to the application  
35 of the tax to an individual taxpayer, place the tax proceeds into an  
36 interest-bearing escrow account until the legality of the tax is  
37 resolved by a final and nonappealable decision rendered by a court  
38 of competent jurisdiction. This paragraph shall be enforceable by  
39 any interested party in a proceeding for a writ of mandate.

1 (b) The county or city and county *or the school district* shall  
2 reimburse the State Board of Equalization for any costs the board  
3 incurs in preparing to administer and operate the tax. The county  
4 or city and county *or the school district* shall reimburse the board  
5 as the costs are incurred and billed by the board, on a monthly  
6 basis. These reimbursable costs shall include costs incurred for  
7 the following:

- 8 (1) Developing procedures.
- 9 (2) Programming for data processing.
- 10 (3) Developing and adopting appropriate regulations.
- 11 (4) Designing and printing forms.
- 12 (5) Developing instructions for the State Board of Equalization  
13 staff and for taxpayers.

14 (6) Any other necessary preparatory costs, including the State  
15 Board of Equalization's direct and indirect costs as specified by  
16 Section 11256 of the Government Code.

17 (c) Any dispute as to the amount of preparatory costs incurred  
18 by the State Board of Equalization shall be resolved by the Director  
19 of Finance, whose decision shall be final. The maximum amount  
20 of all preparatory costs to be paid by the county or city and county  
21 *or the school district* to the board shall not exceed one hundred  
22 seventy-five thousand dollars (\$175,000).

23 (d) In addition to the amounts paid to the State Board of  
24 Equalization for the preparatory costs described in subdivision (b),  
25 the county or city and county *or the school district* shall reimburse  
26 the board for the cost of the board's services in administering the  
27 tax. The amount of this cost shall be determined by the board with  
28 the concurrence of the Department of Finance.

29 (e) All revenues collected from taxes imposed pursuant to the  
30 authorization of this chapter in counties or a city and county *or*  
31 *school districts* that have contracted with the State Board of  
32 Equalization to administer the tax shall be remitted to the board  
33 and allocated by the board as follows:

34 (1) First, for reimbursement to the board for the reasonable  
35 costs, as specified in subdivisions (b) and (d), of administering  
36 and enforcing the tax ordinance on behalf of the county *or city*  
37 *and county or the school district* pursuant to the contract between  
38 the board and the county or city and county *or the school district*.

39 (2) Second, for transmission to each county or city and county  
40 *or school district* that has contracted with the board pursuant to

1 subdivision (b) of Section 7289.26, in proportion to the amount  
 2 of revenues derived from each county's or city and county's *or*  
 3 *school district's* respective tax.

4 (f) The State Board of Equalization shall transmit to a county  
 5 or city and county *or a school district* all revenues derived from  
 6 the taxes imposed pursuant to this chapter and collected by the  
 7 board pursuant to a contract with the county or city and county *or*  
 8 *the school district* periodically as promptly as feasible. The  
 9 transmittals shall be made at least twice in each calendar quarter.

10 7289.28. Except as provided in Section 7289.29, to the extent  
 11 practicable, Chapter 5 (commencing with Section 6451), Chapter  
 12 6 (commencing with Section 6701), Chapter 7 (commencing with  
 13 Section 6901), and Chapter 8 (commencing with Section 7051) of  
 14 Part 1, shall govern determinations, collection of tax,  
 15 overpayments, and refunds, and administration of all taxes imposed  
 16 under the authorization of this chapter.

17 7289.29. The return and payment of any tax imposed pursuant  
 18 to the authorization of this chapter shall be due and payable to the  
 19 board on the same date as the return and payment of the tax  
 20 imposed pursuant to Part 1 (commencing with Section 6001),  
 21 provided that the retailer is within the jurisdiction of a county or  
 22 city and county *or a school district* that elects to contract with the  
 23 board to administer the tax, pursuant to subdivision (b) of Section  
 24 7289.26. If the retailer is within the jurisdiction of a county or city  
 25 and county *or a school district* that has elected not to contract with  
 26 the board to administer the tax, the return and payment of the tax  
 27 imposed pursuant to the authorization of this chapter is due and  
 28 payable from the retailer as prescribed in the ordinance *or*  
 29 *resolution* adopted by the county or city and county *or the school*  
 30 *district*.

31 SEC. 4. Chapter 3.56 (commencing with Section 7289.30) is  
 32 added to Part 1.7 of Division 2 of the Revenue and Taxation Code,  
 33 to read:

34

35 CHAPTER 3.56. ~~COUNTY~~ LOCAL CIGARETTE AND TOBACCO  
 36 PRODUCT TAX  
 37

38 7289.30. (a) Subject to the requirements of this chapter, the  
 39 ~~board of supervisors of a county or city and county governing~~  
 40 *board of a county or city and county and a school district* may

1 impose a tax on the privilege of distributing cigarettes and tobacco  
2 products in the county *or the district*, as authorized pursuant to  
3 Chapter 3.53 (commencing with Section 7289). The board of  
4 supervisors may impose this tax within an incorporated city within  
5 the county or city and county.

6 (b) Any tax imposed shall not exceed the following:

7 (1) On cigarettes, five cents (\$0.05) per cigarette.

8 (2) On tobacco products, based on the wholesale cost of these  
9 products, at a tax rate, as determined annually by the State Board  
10 of Equalization, which is equivalent to five cents (\$0.05) per  
11 cigarette.

12 (3) Any tax imposed shall be assessed and collected in the same  
13 manner as the taxes imposed by the Cigarette and Tobacco Products  
14 Tax Law (Part 13 (commencing with Section 30001)).

15 7289.31. An ordinance *or resolution* adopted pursuant to this  
16 chapter shall be operative on the first day of a calendar quarter  
17 commencing more than 110 days after the adoption of the  
18 ordinance *or resolution*.

19 7289.32. Prior to the operative date of any ordinance *or*  
20 *resolution* imposing a tax pursuant to this chapter, the ~~board of~~  
21 ~~supervisors of the county or city and county governing board of~~  
22 ~~the county or city and county or the school district~~ shall do either  
23 of the following:

24 (a) Notify the State Board of Equalization in writing that the  
25 county or city and county *or the school district* will be responsible  
26 for administering the tax imposed pursuant to an ordinance *or*  
27 *resolution* authorized by this chapter on its own behalf, and that  
28 the ordinance *or resolution* does not impose any duties or  
29 responsibilities for administering the tax upon the State Board of  
30 Equalization.

31 (b) Contract with the State Board of Equalization to perform  
32 all functions incident to the administration and operation of the  
33 ordinance *or resolution*. If the county *or city and county or the*  
34 *school district* has not contracted with the board prior to the  
35 operative date of the ordinance *or resolution*, the operative date  
36 shall be delayed until the first day of the first calendar quarter  
37 following the execution of the contract.

38 7289.33. For a county or city and county *or a school district*  
39 that elects to contract with the State Board of Equalization to  
40 administer a tax imposed by the county or city and county *or the*

1 *school district*, as authorized by this chapter, the following shall  
2 apply:

3 (a) The contract shall require the county or city and county *or*  
4 *the school district* to do both of the following:

5 (1) Reimburse the State Board of Equalization for, and hold the  
6 board harmless from, any and all costs, losses, or refunds.

7 (2) In the event that a legal action is commenced challenging  
8 the validity of the tax in its entirety, as opposed to the application  
9 of the tax to an individual taxpayer, place the tax proceeds into an  
10 interest-bearing escrow account until the legality of the tax is  
11 resolved by a final and nonappealable decision rendered by a court  
12 of competent jurisdiction. This paragraph shall be enforceable by  
13 any interested party in a proceeding for a writ of mandate.

14 (b) The county or city and county *or the school district* shall  
15 reimburse the State Board of Equalization for any costs the board  
16 incurs in preparing to administer and operate the tax. The county  
17 or city and county *or the school district* shall reimburse the board  
18 as the costs are incurred and billed by the board, on a monthly  
19 basis. These reimbursable costs shall include costs incurred for  
20 the following:

21 (1) Developing procedures.

22 (2) Programming for data processing.

23 (3) Developing and adopting appropriate regulations.

24 (4) Designing and printing forms.

25 (5) Developing instructions for the State Board of Equalization  
26 staff and for taxpayers.

27 (6) Any other necessary preparatory costs, including the State  
28 Board of Equalization's direct and indirect costs as specified by  
29 Section 11256 of the Government Code.

30 (c) Any dispute as to the amount of preparatory costs incurred  
31 by the State Board of Equalization shall be resolved by the Director  
32 of Finance, whose decision shall be final. The maximum amount  
33 of all preparatory costs to be paid by the county or a city and county  
34 *or the school district* to the board shall not exceed one hundred  
35 seventy-five thousand dollars (\$175,000).

36 (d) In addition to the amounts paid to the State Board of  
37 Equalization for the preparatory costs described in subdivision (b),  
38 the county or a city and county *or the school district* shall  
39 reimburse the board for the cost of the board's services in

1 administering the tax. The amount of this cost shall be determined  
2 by the board with the concurrence of the Department of Finance.

3 (e) All revenues collected from taxes imposed pursuant to the  
4 authorization of this chapter in counties or a city and county *or*  
5 *school districts* that have contracted with the State Board of  
6 Equalization to administer the tax shall be remitted to the board  
7 and allocated by the board as follows:

8 (1) First, for reimbursement to the board for the reasonable  
9 costs, as specified in subdivisions (b) and (d), of administering  
10 and enforcing the tax ordinance on behalf of the county or city and  
11 county *or the school district* pursuant to the contract between the  
12 board and the county or city and county *or the school district*.

13 (2) Second, for transmission to each county or city and county  
14 *or school district* that has contracted with the board pursuant to  
15 subdivision (b) of Section 7289.32, in proportion to the amount  
16 of revenues derived from each county's or city and county's *or*  
17 *school district's* respective tax.

18 (f) The State Board of Equalization shall transmit to a county  
19 or city and county *or a school district* all revenues derived from  
20 the taxes imposed pursuant to this chapter and collected by the  
21 board pursuant to a contract with the county or city and county *or*  
22 *the school district* periodically as promptly as feasible. The  
23 transmittals shall be made at least twice in each calendar quarter.

24 7289.34. Except as provided in Section 7289.45, to the extent  
25 practicable, Chapter 4 (commencing with Section 30181), Chapter  
26 5 (commencing with Section 30301), Chapter 6 (commencing with  
27 Section 30361), and Chapter 8 (commencing with Section 30451)  
28 of Part 13, shall govern determinations, collection of tax,  
29 overpayments, and refunds, and administration of all taxes imposed  
30 under the authorization of this chapter.

31 7289.35. The return and payment of any tax imposed pursuant  
32 to the authorization of this chapter is due and payable to the board  
33 on the same date as the return and payment of the tax imposed  
34 pursuant to Part 13 (commencing with Section 30001), provided  
35 that the retailer is within the jurisdiction of a county or city and  
36 county *or a school district* that elects to contract with the board to  
37 administer the tax, pursuant to subdivision (b) of Section 7289.32.  
38 If the retailer is within the jurisdiction of a county or city and  
39 county *or a school district* that has elected not to contract with the  
40 board to administer the tax, the return and payment of the tax

1 imposed pursuant to the authorization of this chapter is due and  
 2 payable from the retailer as prescribed in the ordinance *or*  
 3 *resolution* adopted by the county or city and county *or the school*  
 4 *district*.

5 SEC. 5. Chapter 3.57 (commencing with Section 7289.40) is  
 6 added to Part 1.7 of Division 2 of the Revenue and Taxation Code,  
 7 to read:

8

9 CHAPTER 3.57. ~~COUNTY~~ LOCAL OIL SEVERANCE TAX

10

11 7289.40. (a) Subject to the requirements of this chapter, the  
 12 ~~board of supervisors of a county or city and county governing~~  
 13 ~~board of a county or city and county and a school district~~ may  
 14 impose a tax upon a producer for the privilege of severing oil from  
 15 the earth or water in the county *or the district* for sale, transport,  
 16 consumption, storage, profit, or use, as authorized pursuant to  
 17 Chapter 3.53 (commencing with Section 7289). The board of  
 18 supervisors may impose this tax within an incorporated city within  
 19 the county or city and county.

20 (b) Any tax imposed shall not exceed 10 percent of the gross  
 21 value of the product.

22 (c) Except as otherwise provided in this chapter, the tax shall  
 23 be upon the entire production in the county or city and county *or*  
 24 *the school district*, regardless of the place of sale or to whom sold  
 25 or by whom used, or the fact that the delivery may be made to  
 26 points outside the county or city and county *or the school district*.

27 (d) The tax shall be in addition to any ad valorem taxes imposed  
 28 by the state, or any of its political subdivisions, or any local  
 29 business license taxes that may be incurred for the privilege of  
 30 severing oil from the earth or water or doing business in that  
 31 locality. An exemption shall not be allowed from the payment of  
 32 an ad valorem tax related to equipment, material, or property by  
 33 reason of the payment of the gross severance tax.

34 (e) Two or more producers that are corporations and are owned  
 35 or controlled directly or indirectly, as defined in Section 25105,  
 36 by the same interests shall be considered as a single producer for  
 37 purposes of application of the tax.

38 (f) There shall be exempted from the imposition of the tax  
 39 imposed pursuant to this part oil produced by a stripper well in  
 40 which the average value of oil as of January 1 of the prior year is

1 less than thirty dollars (\$30) per barrel price of California oil. The  
2 Division of Oil, Gas, and Geothermal Resources in the Department  
3 of Conservation shall provide notification of all wells that have  
4 been certified as a stripper well.

5 (g) For oil produced in this state from a well that qualifies under  
6 Section 3251 of the Public Resources Code or which has been  
7 inactive for a period of at least the preceding five consecutive  
8 years, the imposition of the tax imposed pursuant to this part shall  
9 be reduced to zero for a period of 10 years. The Division of Oil,  
10 Gas, and Geothermal Resources in the Department of Conservation  
11 shall determine which wells qualify under Section 3251 of the  
12 Public Resources Code or which have been inactive for a period  
13 of at least the preceding five consecutive years, and shall provide  
14 notification of its determinations.

15 (h) There shall be exempted from the imposition of a tax  
16 imposed all oil owned or produced by the state and any political  
17 subdivision's (including any local public entity, as defined by  
18 Section 900.4 of the Government Code) proprietary share of oil  
19 produced under any unit, cooperative, or other pooling agreement.

20 7289.41. For purposes of any tax imposed, all of the following  
21 definitions shall apply:

22 (a) "Barrel of oil" means 42 United States gallons of 231 cubic  
23 inches per gallon computed at a temperature of 60 degrees  
24 Fahrenheit.

25 (b) "Gross value" means the sale price at the mouth of the well,  
26 including any bonus, premium, or other thing of value paid for the  
27 oil. If there is no sale at the time of severance, "gross value" means  
28 the sale price when the oil is sold, including any bonus, premium,  
29 or other thing of value paid for the oil. If oil is exchanged for  
30 something other than cash, or if the relation between the buyer and  
31 the seller is such that the consideration paid, if any, is not indicative  
32 of the true value or market price, then the board shall determine  
33 the value of the oil subject to the tax based on the cash price paid  
34 to producers for like quality oil in the vicinity of the well.

35 (c) "Oil" means petroleum, or other crude oil, condensate, casing  
36 head gasoline, or other mineral oil that is mined, produced, or  
37 withdrawn from below the surface of the soil or water in the county  
38 or city and county *or the district*.

39 (d) "Producer" means any person or entity that takes oil from  
40 the earth or water in the county or city and county *or the district*

1 in any manner; any person that owns, controls, manages, or leases  
2 any oil well in the earth or water of the county or city and county  
3 *or the district*; any person that produces or extracts in any manner  
4 any oil by taking it from the earth or water in the county or city  
5 and county *or the district*; any person that acquires the severed oil  
6 from a person or agency exempt from property taxation under the  
7 United States Constitution or other laws of the United States or  
8 under the California Constitution or other laws of the State of  
9 California; and any person that owns an interest, including a royalty  
10 interest, in oil or its value, whether the oil is produced by the person  
11 owning the interest or by another on the person's behalf by lease,  
12 contract, or other arrangement.

13 (e) "Production" means the total gross amount of oil produced,  
14 including the gross amount attributable to a royalty or other  
15 interest.

16 (f) "Severed" or "severing" means the extraction or withdrawing  
17 from below the surface of the earth or water of any oil, regardless  
18 of whether the extraction or withdrawal shall be by natural flow,  
19 mechanical flow, forced flow, pumping, or any other means  
20 employed to get the oil from below the surface of the earth or  
21 water, and shall include the extraction or withdrawal by any means  
22 whatsoever of oil upon which the tax has not been paid, from any  
23 surface reservoir, natural or artificial, or from a water surface.

24 (g) "Stripper well" means a well that has been certified by the  
25 Division of Oil, Gas, and Geothermal Resources in the Department  
26 of Conservation as an oil well incapable of producing an average  
27 of more than 10 barrels of oil per day during the entire taxable  
28 month. Once a well has been certified as a stripper well, that  
29 stripper well shall remain certified as a stripper well until the well  
30 produces an average of more than 10 barrels of oil per day during  
31 an entire taxable month.

32 7289.42. Prior to the operative date of any ordinance *or*  
33 *resolution* imposing a tax pursuant to this chapter, the ~~board of~~  
34 ~~supervisors of the county or city and county governing board of~~  
35 *the county or city and county or the school district* shall do either  
36 of the following:

37 (a) Notify the State Board of Equalization in writing that the  
38 county or city and county *or the school district* will be responsible  
39 for administering the tax imposed pursuant to an ordinance *or a*  
40 *resolution* authorized by this chapter on its own behalf, and that

1 the ordinance *or resolution* does not impose any duties or  
2 responsibilities for administering the tax upon the State Board of  
3 Equalization.

4 (b) Contract with the State Board of Equalization to perform  
5 all functions incident to the administration and operation of the  
6 ordinance *or resolution*. If the county or city and county *or the*  
7 *school district* has not contracted with the board prior to the  
8 operative date of the ordinance *or resolution*, but shall contract,  
9 the operative date shall be delayed until the first day of the first  
10 calendar quarter following the execution of the contract.

11 7289.43. For a county or city and county *or a school district*  
12 that elects to contract with the State Board of Equalization to  
13 administer a tax imposed by the county or city and county *or the*  
14 *school district*, as authorized by this chapter, the following shall  
15 apply:

16 (a) The contract shall require the county *or city and county or*  
17 *the school district* to do both of the following:

18 (1) Reimburse the State Board of Equalization for, and hold the  
19 board harmless from, any and all costs, losses, or refunds.

20 (2) In the event that a legal action is commenced challenging  
21 the validity of the tax in its entirety, as opposed to the application  
22 of the tax to an individual taxpayer, place the tax proceeds into an  
23 interest-bearing escrow account until the legality of the tax is  
24 resolved by a final and nonappealable decision rendered by a court  
25 of competent jurisdiction. This paragraph shall be enforceable by  
26 any interested party in a proceeding for a writ of mandate.

27 (b) The county or city and county *or the school district* shall  
28 reimburse the State Board of Equalization for any costs the board  
29 incurs in preparing to administer and operate the tax. The county  
30 or city and county *or the school district* shall reimburse the board  
31 as the costs are incurred and billed by the board, on a monthly  
32 basis. These reimbursable costs shall include costs incurred for  
33 the following:

34 (1) Developing procedures.

35 (2) Programming for data processing.

36 (3) Developing and adopting appropriate regulations.

37 (4) Designing and printing forms.

38 (5) Developing instructions for the State Board of Equalization  
39 staff and for taxpayers.

1 (6) Any other necessary preparatory costs, including the State  
2 Board of Equalization's direct and indirect costs as specified by  
3 Section 11256 of the Government Code.

4 (c) Any dispute as to the amount of preparatory costs incurred  
5 by the State Board of Equalization shall be resolved by the Director  
6 of Finance, whose decision shall be final. The maximum amount  
7 of all preparatory costs to be paid by the county or city and county  
8 *or the school district* to the board shall not exceed one hundred  
9 seventy-five thousand dollars (\$175,000).

10 (d) In addition to the amounts paid to the State Board of  
11 Equalization for the preparatory costs described in subdivision (b),  
12 the county or city and county *or the school district* shall reimburse  
13 the board for the cost of the board's services in administering the  
14 tax. The amount of this cost shall be determined by the board with  
15 the concurrence of the Department of Finance.

16 (e) All revenues collected from taxes imposed pursuant to the  
17 authorization of this chapter in counties or a city and county *or*  
18 *school districts* that have contracted with the State Board of  
19 Equalization to administer the tax shall be remitted to the board  
20 and allocated by the board as follows:

21 (1) First, for reimbursement to the board for the reasonable  
22 costs, as specified in subdivisions (b) and (d), of administering  
23 and enforcing the tax ordinance on behalf of the county *or city*  
24 *and county or the school district* pursuant to the contract between  
25 the board and the county or city and county *or the school district*.

26 (2) Second, for transmission to each county or city and county  
27 *or school district* that has contracted with the board pursuant to  
28 subdivision (b) of Section 7289.42, in proportion to the amount  
29 of revenues derived from each county's or city and county's *or*  
30 *school district's* respective tax.

31 (f) The State Board of Equalization shall transmit to a county  
32 or city and county *or a school district* all revenues derived from  
33 the taxes imposed pursuant to this chapter and collected by the  
34 board pursuant to a contract with the county or city and county *or*  
35 *the school district* periodically as promptly as feasible. The  
36 transmittals shall be made at least twice in each calendar quarter.

37 7289.44. (a) For a producer within a jurisdiction of a county  
38 or city and county *or a school district* that elects to contract with  
39 the State Board of Equalization to administer the tax pursuant to  
40 subdivision (b) of Section 7289.42, the following apply:

1 (1) (A) The return and payment of any tax imposed pursuant  
2 to the authorization of this chapter is due and payable to the board  
3 quarterly on or before the last day of the month next succeeding  
4 each calendar quarter.

5 (B) Each producer shall prepare and file with the board a return  
6 in the form prescribed by the board containing information as the  
7 board deems necessary or appropriate for the proper administration  
8 of the tax. The return shall be filed on or before the last day of the  
9 calendar month following the calendar quarter to which it relates,  
10 together with a remittance payable to the board for the amount of  
11 tax due for that period.

12 (2) The board may prescribe those forms and reporting  
13 requirements as necessary to implement the tax, including, but not  
14 limited to, information regarding the location of the well by county  
15 or city and county *or district*, the gross amount of oil produced,  
16 the quantity sold and the selling price, the prevailing market price  
17 of oil, and the amount of tax due.

18 (3) The board shall administer and collect the tax, to the extent  
19 practicable, pursuant to the Fee Collection Procedures Law (Part  
20 30 (commencing with Section 55001) of Division 2). For purposes  
21 of this part, the references in the Fee Collection Procedures Law  
22 to “fee” shall include the tax imposed by this part, and to  
23 “feepayer” shall include a producer required to pay the tax imposed  
24 by this part.

25 (4) The board may prescribe, adopt, and enforce emergency  
26 regulations relating to the administration and enforcement of this  
27 chapter. Any emergency regulations prescribed, adopted, or  
28 enforced pursuant to this chapter shall be adopted in accordance  
29 with Chapter 3.5 (commencing with Section 11340) of Part 1 of  
30 Division 3 of Title 2 of the Government Code, and for purposes  
31 of that chapter, including Section 11349.6 of the Government  
32 Code, the adoption of these regulations is an emergency and shall  
33 be considered by the Office of Administrative Law as necessary  
34 for the immediate preservation of the public peace, health and  
35 safety, and general welfare. Notwithstanding Chapter 3.5  
36 (commencing with Section 11340) of Part 1 of Division 3 of Title  
37 2 of the Government Code, including subdivision (e) of Section  
38 11346.1 of the Government Code, any emergency regulations  
39 adopted pursuant to this section shall be filed with, but not be

1 repealed by, the Office of Administrative Law, and shall remain  
2 in effect until revised by the director.

3 (b) If the producer is within the jurisdiction of a county or city  
4 and county *or a school district* that has elected not to contract with  
5 the board to administer the tax, the determinations, collection of  
6 tax, overpayments, and refunds, and administration of the tax  
7 imposed under the authorization of this chapter shall be prescribed  
8 in the ordinance *or resolution* adopted by the county or city and  
9 county *or the school district*.

10 SEC. 6. Chapter 3.58 (commencing with Section 7289.50) is  
11 added to Part 1.7 of Division 2 of the Revenue and Taxation Code,  
12 to read:

13  
14 CHAPTER 3.58. ~~COUNTY~~ LOCAL SWEETENED BEVERAGE TAX

15  
16 7289.50. (a) Subject to the requirements of this chapter, the  
17 ~~board of supervisors of a county or city and county governing~~  
18 *board of a county or city and county and a school district* may  
19 impose a tax upon a distributor for the privilege of distributing  
20 bottled sweetened beverages and concentrate in the county *or city*  
21 *and county or the school district*, as authorized pursuant to Chapter  
22 3.53 (commencing with Section 7289). The board of supervisors  
23 may impose this tax within an incorporated city within the county  
24 or city and county.

25 (b) Any tax imposed shall be calculated as follows:

26 (1) The tax on bottled sweetened beverages distributed in the  
27 county or city and county shall be imposed per fluid ounce, not to  
28 exceed one cent (\$0.01) per fluid ounce.

29 (2) The tax on concentrate distributed in the county or city and  
30 county *or the school district*, either as concentrate or as a sweetened  
31 beverage derived from that concentrate, shall be imposed per fluid  
32 ounce of sweetened beverage produced from that concentrate, not  
33 to exceed one cent (\$0.01) per fluid ounce. For purposes of  
34 calculating the tax for concentrate, the volume of sweetened  
35 beverage to be produced from concentrate shall be the largest  
36 volume resulting from use of the concentrate according to any  
37 manufacturer's instructions.

38 (c) There shall be exempted from the imposition of a tax  
39 imposed the distribution of bottled sweetened beverages or  
40 concentrate distributed by a distributor to:

1 (1) To a person when, pursuant to the contract of sale, the bottled  
2 sweetened beverages or concentrates are shipped to a point outside  
3 of this state by the distributor by means of any of the following:

4 (A) Facilities operated by the distributor.

5 (B) Delivery by the distributor to a carrier, customs broker, or  
6 forwarding agent, whether hired by the purchaser or not, for  
7 shipment to the out-of-county point.

8 (2) To a person where the county or city and county *or the*  
9 *school district* is prohibited from taxing that sale, use, or  
10 consumption under the Constitution or laws of the United States  
11 or under the Constitution of this state.

12 7289.51. For purposes of any tax imposed, all of the following  
13 definitions shall apply:

14 (a) “Beverage container” means any closed or sealed container  
15 regardless of size or shape, including, without limitation, those  
16 made of glass, metal, paper, plastic, or any other material or  
17 combination of materials.

18 (b) “Bottled sweetened beverage” means a sweetened beverage  
19 contained in a beverage container.

20 (c) “Beverage dispensing machine” means a device which mixes  
21 concentrate with any one or more other ingredients and dispenses  
22 the resulting mixture into an open container as a ready-to-drink  
23 beverage.

24 (d) “Caloric sweetener” means any caloric substance suitable  
25 for human consumption that humans perceive as sweet and  
26 includes, without limitation, sucrose, fructose, including high  
27 fructose corn sweetener, glucose, other sugars, and fruit juice  
28 concentrates. “Caloric” means a substance that adds calories to  
29 the diet of a person who consumes that substance.

30 (e) “Concentrate” means a syrup, powder, or base product that  
31 is used for mixing, compounding, or making sweetened beverages  
32 in a beverage dispensing machine. For purposes of this part,  
33 “concentrate” does not include any of the following:

34 (1) Any product that is solely used in preparing coffee or tea.

35 (2) Any product for consumption by infants and which is  
36 commonly referred to as “infant formula.”

37 (3) Any product for use for weight reduction.

38 (4) Any product containing milk or milk products or plant  
39 proteins sources.

- 1 (5) Any frozen concentrate or freeze-dried concentrate to which  
2 only water is added to produce a sweetened beverage containing  
3 more than 10 percent natural fruit juice or more than 10 percent  
4 natural fruit juice.
- 5 (6) Any product that is sold and is intended to be used for the  
6 purpose of an individual consumer mixing a sweetened beverage.
- 7 (7) Medical food.
- 8 (8) Any product to which no caloric sweeteners have been  
9 added.
- 10 (f) “Consumer” means a person who purchases a bottled  
11 sweetened beverage or concentrate for a purpose other than resale  
12 in the ordinary course of business.
- 13 (g) “Distribution” includes:
- 14 (1) The sale of bottled sweetened beverages or concentrate to  
15 a retailer.
- 16 (2) The receipt of untaxed bottled sweetened beverages or  
17 concentrate in this state from an unregistered out-of-state distributor  
18 by a retailer.
- 19 (h) “Distributor” means any person, or the distributor’s agent,  
20 who makes a distribution of bottled sweetened beverages,  
21 sweetened beverages, or concentrate in the state, whether or not  
22 that person also sells these products to consumers.
- 23 (i) “Medical food” means medical food as defined in Section  
24 109971 of the Health and Safety Code.
- 25 (j) “Milk” means natural liquid milk, regardless of animal source  
26 or butterfat content, natural milk concentrate, whether or not  
27 reconstituted, regardless of animal source, plant source, or butterfat  
28 content, or dehydrated natural milk, whether or not reconstituted  
29 and regardless of animal source or butterfat content.
- 30 (k) “Natural fruit juice” means the original liquid resulting from  
31 the pressing of fruit, the liquid resulting from the reconstitution of  
32 natural fruit juice concentrate, or the liquid resulting from the  
33 restoration of water to dehydrated natural fruit juice.
- 34 (l) “Natural vegetable juice” means the original liquid resulting  
35 from the pressing of vegetables, the liquid resulting from the  
36 reconstitution of natural vegetable juice concentrate, or the liquid  
37 resulting from the restoration of water to dehydrated natural  
38 vegetable juice.
- 39 (m) “Nonalcoholic beverage” means any beverage not subject  
40 to tax under Part 14 (commencing with Section 32001).

1 (n) “Person” means an individual, trust, firm, joint stock  
2 company, business concern, business trust, receiver, trustee,  
3 syndicate, social club, fraternal organization, estate, corporation,  
4 including, but not limited to, a government corporation, partnership,  
5 limited liability company, and association or any other group or  
6 combination acting as a unit. “Person” also includes any city,  
7 county, city and county, district, commission, the state, or any  
8 department, agency, or political subdivision thereof, any interstate  
9 body, and the United States and its agencies and instrumentalities  
10 to the extent permitted by law.

11 (o) “Powder” or “base product” means a solid mixture of  
12 ingredients used in making, mixing, or compounding sweetened  
13 beverages by mixing the powder or base product with any one or  
14 more other ingredients, including, without limitation, water, ice,  
15 syrup, simple syrup, fruits, vegetables, fruit juice, vegetable juice,  
16 or carbonation or other gas.

17 (p) “Retail sale” means the sale of bottled sweetened beverages  
18 or sweetened beverages to a consumer.

19 (q) “Retailer” means any person who sells in this state bottled  
20 sweetened beverages or sweetened beverages to a consumer,  
21 whether or not that person is also a distributor as defined in this  
22 section.

23 (r) “Sale” means the transfer of title or possession for  
24 consideration in any manner or by any means whatever.

25 (s) “Simple syrup” means a mixture of sugar and water.

26 (t) (1) “Sweetened beverage” means any sweetened  
27 nonalcoholic beverage sold for human consumption that contains  
28 any added caloric sweeteners, including, but not limited to, the  
29 following: soda water, ginger ale, root beer, all beverages  
30 commonly referred to as cola, lime, lemon, lemon-lime, and other  
31 flavored beverages, including any fruit or vegetable beverage  
32 containing 10 percent or less natural fruit juice or natural vegetable  
33 juice, and all other drinks and beverages commonly referred to as  
34 “soda,” “soda pop,” and “soft drinks.”

35 (2) “Sweetened beverage” does not include any of the following:

36 (A) Any product sold in liquid form for consumption by infants,  
37 which is commonly referred to as “infant formula.”

38 (B) Any product sold in liquid form for use for weight reduction.

39 (C) Water, to which no caloric sweeteners have been added.

1 (D) Any product containing milk or milk products or plant  
2 protein sources.

3 (E) Medical food.

4 (F) Coffee or tea.

5 (u) “Syrup” means the liquid mixture of ingredients used in  
6 making, mixing, or compounding sweetened beverages using one  
7 or more other ingredients including, without limitation, water, ice,  
8 a powder, simple syrup, fruits, vegetables, fruit juice, vegetable  
9 juice, or carbonation or other gas.

10 7289.52. Prior to the operative date of any ordinance *or*  
11 *resolution* imposing a tax pursuant to this chapter, the ~~board of~~  
12 ~~supervisors of the county or city and county governing board of~~  
13 ~~the county or city and county or the school district~~ shall do either  
14 of the following:

15 (a) Notify the State Board of Equalization in writing that the  
16 county or city and county *or the school district* will be responsible  
17 for administering the tax imposed pursuant to an ordinance *or a*  
18 *resolution* authorized by this chapter on its own behalf, and that  
19 the ordinance *or resolution* does not impose any duties or  
20 responsibilities for administering the tax upon the State Board of  
21 Equalization.

22 (b) Contract with the State Board of Equalization to perform  
23 all functions incident to the administration and operation of the  
24 ordinance *or resolution*. If the county or city and county *or the*  
25 *school district* has not contracted with the board prior to the  
26 operative date of the ordinance *or resolution*, but shall contract,  
27 the operative date shall be delayed until the first day of the first  
28 calendar quarter following the execution of the contract.

29 7289.53. For a county or city and county *or a school district*  
30 that elects to contract with the State Board of Equalization to  
31 administer a tax imposed by the county or city and county *or the*  
32 *school district*, as authorized by this chapter, the following shall  
33 apply:

34 (a) The contract shall require the county *or city and county or*  
35 *the school district* to do both of the following:

36 (1) Reimburse the State Board of Equalization for, and hold the  
37 board harmless from, any and all costs, losses, or refunds.

38 (2) In the event that a legal action is commenced challenging  
39 the validity of the tax in its entirety, as opposed to the application  
40 of the tax to an individual taxpayer, place the tax proceeds into an

1 interest-bearing escrow account until the legality of the tax is  
2 resolved by a final and nonappealable decision rendered by a court  
3 of competent jurisdiction. This paragraph shall be enforceable by  
4 any interested party in a proceeding for a writ of mandate.

5 (b) The county or city and county *or the school district* shall  
6 reimburse the State Board of Equalization for any costs the board  
7 incurs in preparing to administer and operate the tax. The county  
8 or city and county *or the school district* shall reimburse the board  
9 as the costs are incurred and billed by the board, on a monthly  
10 basis. These reimbursable costs shall include costs incurred for  
11 the following:

- 12 (1) Developing procedures.
- 13 (2) Programming for data processing.
- 14 (3) Developing and adopting appropriate regulations.
- 15 (4) Designing and printing forms.
- 16 (5) Developing instructions for the State Board of Equalization  
17 staff and for taxpayers.
- 18 (6) Any other necessary preparatory costs, including the State  
19 Board of Equalization's direct and indirect costs as specified by  
20 Section 11256 of the Government Code.

21 (c) Any dispute as to the amount of preparatory costs incurred  
22 by the State Board of Equalization shall be resolved by the Director  
23 of Finance, whose decision shall be final. The maximum amount  
24 of all preparatory costs to be paid by the county or city and county  
25 *or the school district* to the board shall not exceed one hundred  
26 seventy-five thousand dollars (\$175,000).

27 (d) In addition to the amounts paid to the State Board of  
28 Equalization for the preparatory costs described in subdivision (b),  
29 the county or city and county *or the school district* shall reimburse  
30 the board for the cost of the board's services in administering the  
31 tax. The amount of this cost shall be determined by the board with  
32 the concurrence of the Department of Finance.

33 (e) All revenues collected from taxes imposed pursuant to the  
34 authorization of this chapter in counties or a city and county *or*  
35 *school districts* that have contracted with the State Board of  
36 Equalization to administer the tax shall be remitted to the board  
37 and allocated by the board as follows:

- 38 (1) First, for reimbursement to the board for the reasonable  
39 costs, as specified in subdivisions (b) and (d), of administering  
40 and enforcing the tax ordinance on behalf of the county *or city*

1 *and county or the school district* pursuant to the contract between  
2 the board and the county or city and county *or the school district*.

3 (2) Second, for transmission to each county or city and county  
4 *or school district* that has contracted with the board pursuant to  
5 subdivision (b) of Section 7289.52, in proportion to the amount  
6 of revenues derived from each county's or city and county's *or*  
7 *school district's* respective tax.

8 (f) The State Board of Equalization shall transmit to a county  
9 or city and county *or a school district* all revenues derived from  
10 the taxes imposed pursuant to this chapter and collected by the  
11 board pursuant to a contract with the county or city and county *or*  
12 *the school district* periodically as promptly as feasible. The  
13 transmittals shall be made at least twice in each calendar quarter.

14 7289.54. (a) For a distributor that is subject to the jurisdiction  
15 of a county or city and county *or a school district* that elects to  
16 contract with the State Board of Equalization to administer the tax  
17 pursuant to subdivision (b) of Section 7289.52, the following apply:

18 (1) Every distributor shall register with the board. Every  
19 application for registration shall be made upon a form prescribed  
20 by the board and shall set forth the name under which the applicant  
21 transacts or intends to transact business, the location of his or her  
22 place or places of business, and any other information as the board  
23 may require. An application for an account shall be authenticated  
24 in a form or pursuant to methods as may be prescribed by the  
25 board.

26 (2) (A) There is exempt from any tax the distribution of bottled  
27 sweetened beverages or concentrate distributed by a distributor to  
28 a distributor registered with the board under paragraph (1) when  
29 supported by a properly completed exemption certificate.

30 (B) The exemption certificate to be provided by a distributor to  
31 another distributor as described in subparagraph (A) shall consist  
32 of a statement that is signed under penalty of perjury by a person  
33 with authority to bind the distributor. The certificate shall be dated  
34 and include the distributor's name and account number. A new  
35 certificate shall be given if any information in the current certificate  
36 changes. The certificate may be included as part of any business  
37 records normally used to document a sale or distribution.

38 (C) A distributor who has paid a tax, either directly to the board  
39 or to another distributor registered pursuant to paragraph (1), and  
40 makes a subsequent distribution of bottled sweetened beverages

1 or concentrate may claim a credit on its return for the period in  
2 which the subsequent sale or distribution occurs.

3 (3) (A) The return and payment of any tax imposed pursuant  
4 to the authorization of this chapter is due and payable to the board  
5 quarterly on or before the last day of the month next succeeding  
6 each calendar quarter.

7 (B) Each distributor shall prepare and file with the board a return  
8 in the form prescribed by the board containing information as the  
9 board deems necessary or appropriate for the proper administration  
10 of the tax. The return shall be filed on or before the last day of the  
11 calendar month following the calendar quarter to which it relates,  
12 together with a remittance payable to the board for the amount of  
13 tax due for that period.

14 (4) The board may prescribe those forms and reporting  
15 requirements as necessary to implement the tax, including, but not  
16 limited to, information regarding the total amount of bottled  
17 sweetened beverages and concentrate sold and the amount of tax  
18 due.

19 (5) The board shall administer and collect the tax, to the extent  
20 practicable, pursuant to the Fee Collection Procedures Law (Part  
21 30 (commencing with Section 55001) of Division 2). For purposes  
22 of this part, the references in the Fee Collection Procedures Law  
23 to “fee” shall include the tax imposed by this part, and to  
24 “feepayer” shall include a producer required to pay the tax imposed  
25 by this part.

26 (6) The board may prescribe, adopt, and enforce emergency  
27 regulations relating to the administration and enforcement of this  
28 chapter. Any emergency regulations prescribed, adopted, or  
29 enforced pursuant to this chapter shall be adopted in accordance  
30 with Chapter 3.5 (commencing with Section 11340) of Part 1 of  
31 Division 3 of Title 2 of the Government Code, and for purposes  
32 of that chapter, including Section 11349.6 of the Government  
33 Code, the adoption of these regulations is an emergency and shall  
34 be considered by the Office of Administrative Law as necessary  
35 for the immediate preservation of the public peace, health and  
36 safety, and general welfare. Notwithstanding Chapter 3.5  
37 (commencing with Section 11340) of Part 1 of Division 3 of Title  
38 2 of the Government Code, including subdivision (e) of Section  
39 11346.1 of the Government Code, any emergency regulations  
40 adopted pursuant to this section shall be filed with, but not be

1 repealed by, the Office of Administrative Law, and shall remain  
2 in effect until revised by the director.

3 (7) Returns shall be authenticated in a form or pursuant to  
4 methods as may be prescribed by the board.

5 (b) If the distributor is within the jurisdiction of a county or city  
6 and county *or a school district* that has elected not to contract with  
7 the board to administer the tax, the determinations, collection of  
8 tax, overpayments, refunds, and administration of the tax imposed  
9 under the authorization of this chapter shall be prescribed in the  
10 ordinance *or resolution* adopted by the county or city and county  
11 *or the school district*.

12 SEC. 7. Section 17041.5 of the Revenue and Taxation Code  
13 is amended to read:

14 17041.5. Notwithstanding any statute, ordinance, regulation,  
15 rule or decision to the contrary, a city, governmental subdivision,  
16 district, public and quasi-public corporation, municipal corporation,  
17 whether incorporated or not or whether chartered or not, shall not  
18 levy or collect or cause to be levied or collected any tax upon the  
19 income, or any part thereof, of any person, resident, or nonresident.  
20 *For purposes of this section, “governmental subdivision, district,*  
21 *public and quasi-public corporation, municipal corporation,*  
22 *whether incorporated or not or whether chartered or not” shall*  
23 *not include a school district.*

24 This section shall not be construed so as to prohibit the levy or  
25 collection of any otherwise authorized license tax upon a business  
26 measured by or according to gross receipts.

27 SEC. 8. ~~Section 17041.6 is added to the Revenue and Taxation~~  
28 ~~Code, to read:~~

29 ~~17041.6. (a) A local ordinance, authorized pursuant to Chapter~~  
30 ~~3.53 (commencing with Section 7289) of Part 1.7, imposing a local~~  
31 ~~personal income tax shall become operative for taxable years~~  
32 ~~beginning on or after January 1 of the first calendar year following~~  
33 ~~approval by the voters of the county or city and county, provided~~  
34 ~~written notice of that approval is provided by the county or city~~  
35 ~~and county elections official no later than September 30 of the~~  
36 ~~preceding calendar year.~~

37 ~~(b) (1) A local personal income tax may be calculated as a~~  
38 ~~percentage of taxable income shown on the state personal income~~  
39 ~~tax return filed for a taxable year by a resident of the county in~~  
40 ~~which the local personal income tax is imposed.~~

- 1     ~~(2) A local personal income tax shall not exceed 1 percent of~~  
2     ~~taxable income for a taxable year.~~
- 3     ~~(3) A local personal income tax may be imposed on one or more~~  
4     ~~of the income tax brackets prescribed in Section 17041.~~
- 5     ~~(e) For each taxable year for which a local personal income tax~~  
6     ~~is operative under subdivision (a), in addition to any other taxes~~  
7     ~~imposed by this part, an additional tax on the taxable income of a~~  
8     ~~county or city and county resident shall be imposed at the rate~~  
9     ~~approved by the voters of that county or city and county.~~
- 10    ~~(d) For purposes of applying Part 10.2 (commencing with~~  
11    ~~Section 18401) of Division 2, the tax imposed under this section~~  
12    ~~shall be treated as if it were imposed under Section 17041.~~
- 13    ~~(e) Any credit authorized under this part shall not be applied to~~  
14    ~~reduce taxes imposed under this section.~~
- 15    ~~(f) Amounts paid for the local personal income tax authorized~~  
16    ~~under this section shall not be allowed as a deduction under this~~  
17    ~~part.~~
- 18    ~~(g) (1) Prior to the operative date of any ordinance imposing a~~  
19    ~~local personal income tax, the county or city and county shall~~  
20    ~~contract with the Franchise Tax Board to perform all functions~~  
21    ~~incident to the administration of the local personal income tax.~~
- 22    ~~(2) The contract shall require the county or city and county to~~  
23    ~~reimburse the Franchise Tax Board for all refunds, losses, and~~  
24    ~~costs incurred in the administration and operation of the local~~  
25    ~~personal income tax.~~
- 26    ~~(h) Any information, information sources, or enforcement~~  
27    ~~remedies and capabilities available to the county or city and county~~  
28    ~~shall be made available to the Franchise Tax Board to be used in~~  
29    ~~conjunction with, or independent of, the information, information~~  
30    ~~sources, or remedies and capabilities available to the Franchise~~  
31    ~~Tax Board for purposes of administering this section.~~
- 32    ~~(i) The Franchise Tax Board may adopt regulations necessary~~  
33    ~~to administer this section.~~
- 34    ~~(j) (1) Amounts collected pursuant to this section shall be~~  
35    ~~transmitted to the Treasurer and deposited in the State Treasury~~  
36    ~~to the credit of the Local Personal Income Tax Account in the~~  
37    ~~General Fund, which is hereby created.~~
- 38    ~~(2) Notwithstanding Section 13340 of the Government Code,~~  
39    ~~the moneys in the Local Personal Income Tax Account are hereby~~  
40    ~~continuously appropriated, without regard to fiscal year, to the~~

1 ~~Controller for allocation to each county and city and county in~~  
2 ~~which the local personal income tax is imposed.~~

3 *SEC. 8. Section 17041.6 is added to the Revenue and Taxation*  
4 *Code, to read:*

5 *17041.6. (a) A local ordinance or resolution, authorized*  
6 *pursuant to Chapter 3.53 (commencing with Section 7289) of Part*  
7 *1.7, imposing a local personal income tax shall become operative*  
8 *for taxable years beginning on or after January 1 of the first*  
9 *calendar year following approval by the voters of the county or*  
10 *city and county or the school district, provided written notice of*  
11 *that approval is provided by the county or city and county elections*  
12 *official no later than September 30 of the preceding calendar year.*

13 *(b) (1) A local personal income tax may be calculated as a*  
14 *percentage of taxable income shown on the state personal income*  
15 *tax return filed for a taxable year by a resident of the county or*  
16 *city and county or the school district in which the local personal*  
17 *income tax is imposed.*

18 *(2) A local personal income tax shall not exceed 1 percent of*  
19 *taxable income for a taxable year.*

20 *(3) A local personal income tax may be imposed on one or more*  
21 *of the income tax brackets prescribed in Section 17041.*

22 *(c) For each taxable year for which a local personal income*  
23 *tax is operative under subdivision (a), in addition to any other*  
24 *taxes imposed by this part, an additional tax on the taxable income*  
25 *of a county or city and county and a school district resident shall*  
26 *be imposed at the rate approved by the voters of that county or*  
27 *city and county or that school district.*

28 *(d) For purposes of applying Part 10.2 (commencing with*  
29 *Section 18401), the tax imposed under this section shall be treated*  
30 *as if it were imposed under Section 17041.*

31 *(e) Any credit authorized under this part shall not be applied*  
32 *to reduce taxes imposed under this section.*

33 *(f) (1) Prior to the operative date of any ordinance or resolution*  
34 *imposing a local personal income tax, the county or city and county*  
35 *or the school district shall contract with the Franchise Tax Board*  
36 *to perform all functions incident to the administration of the local*  
37 *personal income tax.*

38 *(2) The contract shall require the county or city and county or*  
39 *the school district to reimburse the Franchise Tax Board for all*

1 *refunds, losses, and costs incurred in the administration and*  
2 *operation of the local personal income tax.*

3 *(g) Any information, information sources, or enforcement*  
4 *remedies and capabilities available to the county or city and county*  
5 *or the school district shall be made available to the Franchise Tax*  
6 *Board to be used in conjunction with, or independent of, the*  
7 *information, information sources, or remedies and capabilities*  
8 *available to the Franchise Tax Board for purposes of administering*  
9 *this section.*

10 *(h) The Franchise Tax Board may adopt regulations necessary*  
11 *to administer this section.*

12 *(i) (1) Amounts collected pursuant to this section shall be*  
13 *transmitted to the Treasurer and deposited in the State Treasury*  
14 *to the credit of the Local Personal Income Tax Account in the*  
15 *General Fund, which is hereby created.*

16 *(2) Notwithstanding Section 13340 of the Government Code,*  
17 *the moneys in the Local Personal Income Tax Account are hereby*  
18 *continuously appropriated, without regard to fiscal year, to the*  
19 *Controller for allocation to each county and city and county and*  
20 *school district in which the local personal income tax is imposed.*

21 SEC. 9. Section 30111 of the Revenue and Taxation Code is  
22 amended to read:

23 30111. The taxes imposed by this part are in lieu of all other  
24 state, county, municipal, or district taxes on the privilege of  
25 distributing cigarettes or tobacco products.

26 This section does not prohibit the application of Part 1  
27 (commencing with Section 6001), Part 1.5 (commencing with  
28 Section 7200), Part 1.6 (commencing with Section 7251), or Article  
29 2 (commencing with Section 37021) of Part 17 to the sale, storage,  
30 use, or other consumption of cigarettes or tobacco products, or a  
31 local ordinance, authorized pursuant to Chapter 3.53 (commencing  
32 with Section 7289), imposing a local alcoholic beverage tax in  
33 accordance with Chapter 3.55 (commencing with Section 7289.20).

34 SEC. 10. Section 32010 of the Revenue and Taxation Code is  
35 amended to read:

36 32010. The taxes imposed by this part are in lieu of all county,  
37 municipal, or district taxes on the sale of beer, wine, or distilled  
38 spirits.

39 This section does not prohibit the application of Part 1  
40 (commencing with Section 6001), Part 1.5 (commencing with

1 Section 7200), or Part 1.6 (commencing with Section 7251) to the  
 2 sale, storage, use, or other consumption of beer, wine, or distilled  
 3 spirits, or a local ordinance, authorized pursuant to Chapter 3.53  
 4 (commencing with Section 7289), imposing a local cigarette and  
 5 tobacco products tax in accordance with Chapter 3.56 (commencing  
 6 with Section 7289.30).

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9 **CORRECTIONS:**

10 **Text—Pages 4 and 20.**

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