

AMENDED IN SENATE APRIL 9, 2012

**SENATE BILL**

**No. 1492**

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**Introduced by Senator Leno**

February 24, 2012

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~~An act to amend Section 7284 of the Revenue and Taxation Code, relating to taxation.~~ *An act to add Part 5.7 (commencing with Section 11160) to Division 2 of the Revenue and Taxation Code, relating to local government finance.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1492, as amended, Leno. ~~Taxation.~~ *Voter-approved local assessment: vehicles.*

*Existing law authorizes certain counties to impose a local vehicle license fee not exceeding \$10 per vehicle, as provided, for the privilege of operating specified vehicles on public roads in the county. Existing law requires a county imposing this fee to contract with the Department of Motor Vehicles to collect and administer the fee, as specified.*

*This bill would authorize the City and County of San Francisco to impose a voter-approved local assessment for specified vehicles if certain conditions, including approval by local voters, are met. The bill would require the city and county to contract with the department to collect and administer the assessment, as provided.*

*The Personal Income Tax Law and the Corporation Tax Law authorize various deductions against the income that is otherwise subject to tax under those laws, including a deduction for local taxes that were paid or incurred by a taxpayer.*

*This bill would require the Franchise Tax Board to annually notify the department of estimated revenue losses to the state resulting from taxpayers deducting, for purposes of the Personal Income Tax Law and*

*the Corporation Tax Law, the voter-approved local assessments authorized by this bill, as specified. This bill would require the department to transmit from the assessments collected an amount equal to these reported losses for deposit in the General Fund.*

*This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.*

~~Existing law authorizes the board of supervisors of any county to license, for revenue and regulation, and to fix the license tax upon, every kind of lawful business transacted in the unincorporated area of the county, as specified.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

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

*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     *Local Assessment Act.*

3     *SEC. 2. Part 5.7 (commencing with Section 11160) is added*  
4     *to Division 2 of the Revenue and Taxation Code, to read:*

5  
6     *PART 5.7. VOTER-APPROVED LOCAL ASSESSMENT*

7  
8     *11160. This part is applicable only to the City and County of*  
9     *San Francisco.*

10    *11161. For purposes of this part:*

11    *(a) "Board of supervisors" means the board of supervisors of*  
12    *the city and county.*

13    *(b) "City and county" means the City and County of San*  
14    *Francisco.*

15    *(c) "Department" means the Department of Motor Vehicles.*

16    *(d) "Market value" has the same meaning and shall be*  
17    *determined in the same manner as required under Part 5*  
18    *(commencing with Section 10701) of Division 2.*

19    *(e) "Person" includes an individual, a firm, a corporation, a*  
20    *limited liability company, a partnership, or any other legal entity.*

21    *(f) "Resident of the city and county" means a person whose*  
22    *address, as reflected in department registration records, is in the*  
23    *city and county, but does not include a person that establishes to*

1 *the satisfaction of the department that the person's place of*  
2 *residence is elsewhere.*

3 (g) *"Voter-approved local assessment" means a supplemental*  
4 *charge added to the fee imposed pursuant to Part 5 (commencing*  
5 *with Section 10701).*

6 *11162. Notwithstanding Section 10758, the board of*  
7 *supervisors may, by ordinance, impose a voter-approved local*  
8 *assessment for general revenue purposes pursuant to this part, if*  
9 *all of the following conditions are met:*

10 (a) *The ordinance proposing the assessment complies with both*  
11 *of the following:*

12 (1) *Section 11163.*

13 (2) *Article 3.7 (commencing with Section 53720) of Chapter 4*  
14 *of Part 1 of Division 2 of Title 5 of the Government Code.*

15 (b) *The ordinance proposing the assessment is approved by*  
16 *two-thirds of all members of the board of supervisors.*

17 (c) *The ordinance proposing the assessment is submitted to the*  
18 *electorate of the city and county and is approved by a majority*  
19 *vote of the voters voting on the ordinance.*

20 (d) *The board of supervisors transmits to the department and*  
21 *the Franchise Tax Board a certified copy of the ordinance imposing*  
22 *that assessment immediately after the results of the election*  
23 *described in subdivision (c) are certified.*

24 (e) *The ordinance proposing the assessment does not create*  
25 *different classes of vehicles (whether by type, size, passenger*  
26 *capacity, value or cost, fuel consumption, or any other*  
27 *characteristic) for differential taxation (whether by rate, method,*  
28 *assessment ratio, or any other means), except that the exemptions*  
29 *from the vehicle license fee set forth in Part 5 (commencing with*  
30 *Section 10701) shall be applicable.*

31 *11163. An ordinance imposing a voter-approved local*  
32 *assessment pursuant to this part shall contain provisions in*  
33 *substance as follows:*

34 (a) *A provision that the assessment is imposed for the privilege*  
35 *of a resident of the city and county to operate upon the public*  
36 *highways in the city and county a vehicle or trailer coach, the*  
37 *registrant of which is subject to tax under Part 5 (commencing*  
38 *with Section 10701).*

1 (b) (1) A provision establishing the annual amount of the  
2 assessment at a rate that equals the difference between the  
3 following two rates:

4 (A) Two percent of the market value of the vehicle or trailer  
5 coach.

6 (B) The rate, including any offset to that rate, set forth in Part  
7 5 (commencing with Section 10701), for a vehicle or trailer coach.

8 (2) A provision that the rate established under the provision  
9 described in paragraph (1) is subject to both of the following:

10 (A) That the rate may not exceed 2 percent of the market value  
11 of the vehicle or trailer coach.

12 (B) That any adjustment that is required to be made to the rate  
13 because of a change in the rate, or any offset to that rate, set forth  
14 in Part 5 (commencing with Section 10701), shall not take effect  
15 until the first day of the first fiscal year that follows the fiscal year  
16 in which the change to the rate or offset set forth in that part  
17 became operative.

18 (c) A provision that the assessment will begin to be imposed as  
19 follows:

20 (1) If the election in which the ordinance receives voter approval  
21 occurs between January 1 and June 30, on the first January 1 that  
22 follows that election.

23 (2) If the election in which the ordinance receives voter approval  
24 occurs between July 1 and December 31, on the first July 1 that  
25 follows that election.

26 (d) Provisions identical to those contained in Part 5  
27 (commencing with Section 10701), insofar as they relate to vehicle  
28 license fees and are applicable, and insofar as they are consistent  
29 with this part, except that the name of the city and county as the  
30 taxing agency shall be substituted for that of the state.

31 (e) A provision that all amendments, subsequent to the effective  
32 date of the voter-approved local assessment ordinance, to Part 5  
33 (commencing with Section 10701) relating to vehicle license fees  
34 and not inconsistent with this part, shall automatically be  
35 incorporated into the voter-approved local assessment ordinance.

36 (f) A provision that requires the city and county to contract with  
37 the department, which contract shall contain provisions in  
38 substance as follows:

1 (1) A requirement that the department perform all functions  
2 incident to the administration and collection of the voter-approved  
3 local assessment.

4 (2) A provision specifying the manner in which refunds pursuant  
5 to Part 5 (commencing with Section 10701), as incorporated in  
6 the voter-approved local assessment ordinance pursuant to  
7 subdivisions (c) and (d), will be made and administered.

8 (3) A provision that requires the city and county to pay the  
9 department for the initial setup and programming costs identified  
10 by the department.

11 11163.2. Any ordinance approved pursuant to Section 11163  
12 shall be valid and enforceable even if approved, as required by  
13 Section 11162, by the board of supervisors and by the voters prior  
14 to the effective date of the act adding this section, but only if both  
15 of the following apply:

16 (a) Any assessment imposed pursuant to the approval of the  
17 ordinance is not levied until at least 90 days after the effective  
18 date of the act adding this section.

19 (b) The board of supervisors ratifies its adoption of the  
20 ordinance after the effective date of the act adding this section and  
21 prior to the first levy of the assessment imposed pursuant to the  
22 approval of the ordinance.

23 11164. The department shall do all of the following:

24 (a) Collect the voter-approved local assessment pursuant to a  
25 contract with the city and county.

26 (b) Deduct its costs in administering the voter-approved local  
27 assessment from the assessments collected under subdivision (a).

28 (c) From the assessments collected under subdivision (a),  
29 transmit to the Controller for deposit in the General Fund the  
30 amount reported under Section 11166.

31 (d) Transmit remaining revenues derived from the assessments  
32 collected under subdivision (a) to the city and county as promptly  
33 as feasible.

34 (e) The department and the Franchise Tax Board shall develop  
35 a reporting process that enables the department to report to the  
36 Franchise Tax Board in a timely manner the data necessary for  
37 the Franchise Tax Board to prepare the estimate of revenue loss  
38 specified in Section 11166.

39 11165. (a) This part shall not be construed to supplant any  
40 moneys that the state apportions to the city and county, including,

1 but not limited to, moneys apportioned to the city and county under  
2 the Vehicle License Fee Law set forth in Part 5 (commencing with  
3 Section 10701), or any successor to that law.

4 (b) Notwithstanding any other law, if the city and county that  
5 imposes a voter-approved local assessment has a reduction in  
6 revenue derived from that assessment because of an increase in  
7 the rate, including any offset to that rate, set forth in Part 5  
8 (commencing with Section 10701) for a vehicle or a trailer coach,  
9 reimbursement by the state shall not be made to the city and county  
10 for that loss in revenue.

11 11166. On or before January 1 of the second year that follows  
12 a year, or portion thereof, in which an assessment is imposed  
13 pursuant to this part, and annually thereafter, the Franchise Tax  
14 Board shall report to the department an estimate of the total  
15 amount of the revenue loss to the state for the prior year resulting  
16 from deductions taken under the Personal Income Tax Law (Part  
17 10 (commencing with Section 17001)) and the Corporation Tax  
18 Law (Part 11 (commencing with Section 23001)) for taxes paid or  
19 incurred as a result of a tax being imposed pursuant to this part.

20 SEC. 3. The Legislature finds and declares that a special law  
21 is necessary and that a general law cannot be made applicable  
22 within the meaning of Section 16 of Article IV of the California  
23 Constitution because numerous groups in the City and County of  
24 San Francisco have requested that authorization be granted for  
25 such an assessment in that city and county.

26 SECTION 1. ~~Section 7284 of the Revenue and Taxation Code~~  
27 ~~is amended to read:~~

28 ~~7284. (a) The board of supervisors of a county may license,~~  
29 ~~for revenue and regulation, and fix the license tax upon, every kind~~  
30 ~~of lawful business transacted in the unincorporated area of the~~  
31 ~~county, including, but not limited to, shows, exhibitions, and~~  
32 ~~games. The board may provide for the collection of the license tax~~  
33 ~~by suit or otherwise.~~

34 ~~(b) A board that imposes a license tax pursuant to subdivision~~  
35 ~~(a) upon a business operating both within and outside the board's~~  
36 ~~taxing jurisdiction shall levy the tax so that the measure of tax~~  
37 ~~fairly reflects that proportion of the taxed activity actually carried~~  
38 ~~on within the taxing jurisdiction.~~

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