

Assembly Bill No. 10

Passed the Assembly March 3, 2016

Chief Clerk of the Assembly

Passed the Senate March 10, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend, repeal, and add Sections 30111 and 30462 of, and to add Section 7284.8 to, the Revenue and Taxation Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 10, Bloom. Local taxes: authorization: cigarettes and tobacco products.

The Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products at specified rates. That law specifies that the taxes imposed by that law are in lieu of all other state, county, municipal, or district taxes on the privilege of distributing cigarettes or tobacco products. 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, on and after January 1, 2017, the board of supervisors of a county or city and county to impose a tax on the privilege of distributing cigarettes and tobacco products in the county or city and county, including within an incorporated city within the county, and would make conforming changes. This bill would define “distributing” to mean making a sale of cigarettes or tobacco products in a county or city and county that has not been taxed by a cigarette or tobacco products tax ordinance of that county or city and county.

This bill would authorize the board of supervisors of a county or city and county to enter into an agreement with another county or city and county to share any startup and ongoing administrative costs of a tax imposed pursuant to that authorization. This bill also would authorize the board of supervisors of a county or city and county to contract with the State Board of Equalization to perform functions incident to the administration or operation of the cigarette and tobacco products tax ordinance of the county, with reimbursement for costs incurred, and would require the State Board of Equalization to perform those functions pursuant to that contract.

This bill also would require the State Board of Equalization to permit the examination of its records with respect to the tax imposed pursuant to the Cigarette and Tobacco Products Tax Law upon request by a county or city and county officer or employee to the extent necessary for the proper administration of that local cigarette and tobacco products tax, and authorizes the State Board of Equalization to require reimbursement. The bill would make knowingly accessing, using, or disclosing that confidential information without authorization a crime, thereby imposing a state-mandated local program.

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.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 7284.8 is added to the Revenue and Taxation Code, to read:

7284.8. (a) Subject to the limitations of the California Constitution, a board of supervisors of a county or city and county may, in accordance with Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, impose a tax on the privilege of distributing cigarettes and tobacco products in the county or city and county. The board of supervisors may impose this tax within an incorporated city within the county.

(b) For purposes of this section:

- (1) "Cigarette" means a cigarette, as defined in Section 30003.
- (2) "Tobacco products" means tobacco products, as defined in subdivision (b) of Section 30121.
- (3) "Distributing" means making a sale of cigarettes or tobacco products in a county or city and county that has not been taxed by a cigarette or tobacco products tax ordinance of that county or city and county.
- (4) "Sale" includes any transfer of title or possession for a consideration, exchange, or barter, in any manner or by any means whatever.

(c) The board of supervisors of a county or city and county may enter into an agreement with another county or city and county to share any startup and ongoing administrative costs of a tax imposed pursuant to the authorization of this section.

(d) The board of supervisors of a county or city and county may contract with the State Board of Equalization to perform functions incident to the administration or operation of the cigarette and tobacco products tax ordinance of the county or city and county, and the State Board of Equalization shall perform those functions pursuant to that contract. The county or city and county shall reimburse the State Board of Equalization for any costs incurred by the board in performing those functions.

(e) (1) The State Board of Equalization shall permit the examination of any records of the board with respect to the tax imposed pursuant to the Cigarette and Tobacco Products Tax Law (Part 13 (commencing with Section 30001)) upon request by a county or city and county officer or employee to the extent necessary for the proper administration of a tax imposed pursuant to the authorization of this section.

(2) The State Board of Equalization may require reimbursement for costs incurred in complying with a request made pursuant to paragraph (1).

(3) Any person who knowingly accesses, uses, or discloses any confidential information provided by the State Board of Equalization pursuant to this subdivision without authorization is guilty of a misdemeanor.

(f) This section shall become operative on January 1, 2017.

SEC. 2. Section 30111 of the Revenue and Taxation Code is amended to read:

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

This section does not prohibit the application of Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200) or Part 1.6 (commencing with Section 7251) to the sale, storage, use, or other consumption of cigarettes or tobacco products.

(b) This section shall become inoperative and shall be repealed on January 1, 2017.

SEC. 3. Section 30111 is added to the Revenue and Taxation Code, to read:

30111. (a) The taxes imposed by this part are in lieu of all other state, city, or district taxes on the privilege of distributing cigarettes or tobacco products. This section does not prohibit the application of Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), or Part 1.6 (commencing with Section 7251) to the sale, storage, use, or other consumption of cigarettes or tobacco products.

(b) This section shall become operative on January 1, 2017.

SEC. 4. Section 30462 of the Revenue and Taxation Code is amended to read:

30462. (a) All money deposited in the Cigarette Tax Fund under this part is hereby appropriated, subject to the provisions of any budget bill heretofore or hereafter enacted, and shall, upon order of the Controller, be drawn therefrom and allocated for the following purposes:

(1) To pay the refunds authorized by this part.

(2) The balance remaining in the fund shall be transferred to the General Fund of this state on or before the last calendar day of each month.

(b) It is the intent of the Legislature that Section 30111 continues to prohibit the imposition of local taxes by any city, charter city, town, county, charter county, city and county, charter cities and counties, or other political subdivision or agency of this state, on the sale, use, ownership, holding, or other distribution of cigarettes and tobacco products except as provided by Section 30111. The Legislature finds and declares that the need for uniform statewide regulation and collection of cigarette taxes is a matter of statewide concern, and it is the Legislature's intent to regulate the subject matter of cigarette taxes comprehensively and to occupy the field to the exclusion of local action except as specifically provided by Section 30111.

(c) This section shall become inoperative and shall be repealed on January 1, 2017.

SEC. 5. Section 30462 is added to the Revenue and Taxation Code, to read:

30462. (a) All money deposited in the Cigarette Tax Fund under this part is hereby appropriated, subject to the provisions of any budget bill heretofore or hereafter enacted, and shall, upon

order of the Controller, be drawn therefrom and allocated for the following purposes:

(1) To pay the refunds authorized by this part.

(2) The balance remaining in the fund shall be transferred to the General Fund of this state on or before the last calendar day of each month.

(b) It is the intent of the Legislature that Section 30111 continues to prohibit the imposition of local taxes by any city, charter city, town, or political subdivision or agency of this state other than a county, charter county, city and county, and charter city and county, on the sale, use, ownership, holding, or other distribution of cigarettes and tobacco products except as provided by Section 30111. The Legislature finds and declares that the need for uniform statewide regulation and collection of cigarette taxes is a matter of statewide concern and it is the Legislature's intent to regulate the subject matter of cigarette taxes comprehensively and to occupy the field to the exclusion of local action except as specifically provided by Section 30111.

(c) This section shall become operative on January 1, 2017.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2016

Governor