

Introduced by Senator Pan

February 26, 2015

An act to repeal and add Section 53084.5 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 533, as amended, Pan. Cities and counties: sales and use tax agreements.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law. That law provides that for the purpose of a local sales tax adopted pursuant to that law, all retail sales are consummated at the place of business of the retailer unless otherwise specified.

Existing law prohibits a local agency, as defined to mean all cities and counties, from entering into any form of agreement with any other person that would involve the payment, transfer, diversion, or rebate of any amount of Bradley-Burns local tax proceeds for any purpose if the agreement results in a reduction in the amount of revenue that is received by another local agency from a retailer that is located within the territorial jurisdiction of that other local agency, and the retailer continues to maintain a physical presence within the territorial jurisdiction of that other local agency, with specified exceptions, including an exception for an agreement to pay or rebate any Bradley-Burns local tax revenue relating to a buying company, as defined.

This bill would repeal that prohibition and instead prohibit, on or after January 1, 2016, a local agency from entering into any form of agreement that would result, directly or indirectly, in the payment, transfer, diversion, or rebate of Bradley-Burns local tax proceeds to any person, as defined, for any purpose, if the agreement results in a reduction in the amount of Bradley-Burns tax proceeds that, in the absence of the agreement, would be received by another local agency and the retailer continues to maintain a physical presence within the territorial jurisdiction of that other local agency, with specified exceptions. This bill would also impose specified notification and reporting requirements on a local agency entering into an agreement that results in a reduction of the amount of Bradley-Burns tax proceeds, that in the absence of the agreement, would be received by another local agency, prior to the ratification of that agreement. This bill would also require any local agency to post such an agreement on its Internet Web site ~~the local agency has entered into~~, including any agreements entered into prior to the effective date of this bill that are still in effect. By imposing these notification and reporting requirements on a local agency, this bill would impose a state-mandated local program. *This bill would exclude from these provisions a local agency that has a mutual tax revenue sharing agreement with each local agency that would be affected by the form of agreement generally prohibited by these provisions.*

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

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

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

- 1 SECTION 1. Section 53084.5 of the Government Code is
- 2 repealed.
- 3 SEC. 2. Section 53084.5 is added to the Government Code, to
- 4 read:

1 53084.5. (a) On or after January 1, 2016, a local agency shall
2 not enter into any form of agreement that would result, directly or
3 indirectly, in the payment, transfer, diversion, or rebate of any tax
4 revenue resulting from the imposition of a sales and use tax under
5 the Bradley-Burns Uniform Local Sales and Use Tax Law (Part
6 1.5 (commencing with Section 7200) of Division 2 of the Revenue
7 and Taxation Code) to any person for any purpose when both of
8 the following apply:

9 (1) The agreement results in a reduction in the amount of
10 revenue under the Bradley-Burns Uniform Local Sales and Use
11 Tax Law that, in the absence of the agreement, would be received
12 by another local agency.

13 (2) The retailer continues to maintain a physical presence within
14 the territorial jurisdiction of that other local agency.

15 (b) (1) A local agency entering into an agreement that results
16 in a reduction of the amount of revenue under the Bradley-Burns
17 Uniform Local Sales and Use Tax Law that, in the absence of the
18 agreement, would be received by another local agency shall post
19 the proposed agreement on its Internet Web site for at least 30
20 days prior to ratification or approval of that agreement by its
21 governing body.

22 (2) A local agency entering into an agreement that results in a
23 reduction of the amount of revenue under the Bradley-Burns
24 Uniform Local Sales and Use Tax Law that, in the absence of the
25 agreement, would be received by another local agency shall notify
26 the other local agency by certified mail addressed to the attention
27 of the chief executive of that other local agency at least 60 days
28 prior to ratification or approval of that agreement by its governing
29 body.

30 (3) A local agency shall post any agreement on its Internet Web
31 site it has entered into that results in a reduction of the amount of
32 revenue under the Bradley-Burns Uniform Local Sales and Use
33 Tax Law that, in the absence of the agreement, would be received
34 by another local agency, including any agreements entered into
35 prior to the effective date of this section that are still in effect.

36 (c) For the purposes of this section, the following ~~definitions~~
37 *terms* have the following meanings:

38 (1) “Local agency” means a chartered or general law city, a
39 chartered or general law county, or a city and county, of this state.

1 (2) “Person” means a person as defined in Section 6005 of the
2 Revenue and Taxation Code.

3 (3) “Physical presence” means the lease or ownership of any
4 real property for the purpose of carrying on business operations.

5 (4) “Retailer” means a retailer as defined by Section 6015 of
6 the Revenue and Taxation Code.

7 (d) This section shall not apply to any agreement by a local
8 agency to pay or rebate any use tax revenue resulting from the
9 imposition of a use tax under the Bradley-Burns Uniform Local
10 Sales and Use Tax Law relating to a use tax direct payment permit
11 issued under Section 7051.3 of the Revenue and Taxation Code.

12 (e) ~~Nothing in this~~ This section shall *not* be interpreted to limit
13 the ability of a local agency to contract with or otherwise enter
14 into an agreement pursuant to subdivision (b) of Section 7056 of
15 the Revenue and Taxation Code.

16 (f) *This section shall not apply to a local agency that has a*
17 *mutual tax revenue sharing agreement with each local agency that*
18 *would be affected by the form of agreement prohibited by*
19 *subdivision (a).*

20 SEC. 3. If the Commission on State Mandates determines that
21 this act contains costs mandated by the state, reimbursement to
22 local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.