

Senate Bill No. 533

CHAPTER 717

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

[Approved by Governor October 9, 2015. Filed with
Secretary of State October 9, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 533, 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 revenues 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 revenues to any person, as defined, for any purpose, if the agreement results in a reduction in the amount of Bradley-Burns local tax revenues 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 local tax revenues, 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, including any agreements entered into prior to January 1, 2016, 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 any mutual tax revenue sharing agreement between local agencies to pay, transfer, or divert Bradley-Burns local tax revenues to another local agency, and where the agreement would not result, directly or indirectly, in the payment, transfer, diversion, or rebate of those tax revenues to a retailer.

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.

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

SECTION 1. Section 53084.5 of the Government Code is repealed.

SEC. 2. Section 53084.5 is added to the Government Code, to read:

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

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

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

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

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

(3) A local agency shall post any agreement on its Internet Web site it has entered into that results in a reduction of the amount of revenue under the Bradley-Burns Uniform Local Sales and Use Tax Law that, in the absence of the agreement, would be received by another local agency, including any

agreements entered into prior to January 1, 2016, that are still in effect on and after that date.

(c) For the purposes of this section, the following terms have the following meanings:

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

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

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

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

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

(e) This section shall not be interpreted to limit the ability of a local agency to contract with or otherwise enter into an agreement pursuant to subdivision (b) of Section 7056 of the Revenue and Taxation Code.

(f) This section shall not apply to any mutual tax revenue sharing agreement between local agencies to pay, transfer, or divert tax revenues that would be received by a local agency resulting from the imposition of a sales and use tax under the Bradley-Burns Uniform Local Sales and Use Tax Law to another local agency, and where the agreement would not result, directly or indirectly, in the payment, transfer, diversion, or rebate of those tax revenues to a retailer.

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