AMENDED IN SENATE JUNE 14, 2011

CALIFORNIA LEGISLATURE—2011–12 FIRST EXTRAORDINARY SESSION

ASSEMBLY BILL No. 23

Introduced by Assembly Member Blumenfield

May 19, 2011

An act ~~relating to the Budget Act of 2011~~ *to add Section 41204.4 to the Education Code, and to amend Sections 97.68 and 7203.1 of the Revenue and Taxation Code, relating to local government finance, and making an appropriation therefor, to take effect immediately, bill related to the budget*.

LEGISLATIVE COUNSEL'S DIGEST

AB 23, as amended, Blumenfield. ~~Budget Act of 2011.~~ *Local government finance.*

The Bradley-Burns Uniform Local Sales and Use Tax Law (Bradley-Burns Law) authorizes a county that adopts a specified ordinance to impose local sales and use taxes at a rate of 1.25%, and similarly authorizes a city, located within a county imposing those taxes, to impose local sales and use taxes at a rate of 1% or less, which is credited against the county taxes. Existing law temporarily suspends, during the revenue exchange period, the authority for a county and city to impose local sales and use taxes at the rate of 0.25% under the Bradley-Burns Law by requiring, for that period, sales and use tax rates of 1% for a county and 0.75% or less for a city. Existing law defines the "revenue exchange period" as the period on and after July 1, 2004, and before the first day of the first calendar quarter commencing more than 90 days following a specified notification by the Director of Finance to the State Board of Equalization.

Existing law requires the auditor of each county, during the fiscal adjustment period, as defined, to decrease the amount of ad valorem property tax revenue otherwise allocated to a county's Educational Revenue Augmentation Fund by the countywide adjustment amount, which is measured by the combined revenue loss of the county, and the cities therein, resulting from the temporary suspension of the authority to impose a portion of their sales and use taxes. Existing law requires the auditor to instead allocate this amount among the county, and the cities therein, in reimbursement of their revenue losses resulting from that suspension.

This bill would end the temporary suspension of the authority of a county and city to impose sales and use taxes at the rate of 0.25% under the Bradley-Burns Law by redefining the "revenue exchange period" to a period ending on June 30, 2011. This bill would also make this provision temporarily suspending that authority during the revenue exchange period inoperative on July 1, 2011. The bill would make related and conforming changes.

By imposing new duties upon local officials with respect to the allocation of ad valorem property tax revenues, this bill would impose a state-mandated local program.

Existing law prescribes the percentage of General Fund Revenues appropriated for school districts and community college districts for purposes of the provisions of the California Constitution requiring minimum funding for the public schools.

This bill would require the Director of Finance to adjust that percentage in a specified manner.

This bill would appropriate $1,000 from the General Fund to the State Board of Equalization for administrative operations.

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.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2011.~~

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

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

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

SECTION 1. Section 41204.4 is added to the Education Code, to read:

41204.4. (a) Notwithstanding any other law, the Director of Finance shall adjust "the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986–87" for purposes of making the calculations required under paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution in a manner that ensures that the shift to school districts and community college districts of local property tax revenues as a result of Section 97.68 of the Revenue and Taxation Code has no net fiscal impact upon the combined amount of General Fund proceeds of taxes and allocated local proceeds of taxes that are otherwise required to be applied by the state for the support of school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution.

(b) For purposes of Section 8 of Article XVI of the California Constitution, the property tax revenues transferred to school districts, county offices of education, and community college districts as a result of Section 97.68 of the Revenue and Taxation Code shall constitute "allocated local proceeds of taxes."

SEC. 2. Section 97.68 of the Revenue and Taxation Code is amended to read:

97.68. Notwithstanding any other ~~provision of~~ law, in allocating ad valorem property tax revenue allocations for each fiscal year during the fiscal adjustment period, all of the following apply:

(a) (1) The total amount of ad valorem property tax revenue otherwise required to be allocated to a county's Educational Revenue Augmentation Fund shall be reduced by the countywide adjustment amount.

(2) The countywide adjustment amount shall be deposited in a Sales and Use Tax Compensation Fund that shall be established in the treasury of each county.

(b) For purposes of this section, the following definitions apply:

(1) "Fiscal adjustment period" means the period beginning with the 2004–05 fiscal year and continuing through the fiscal year in which the Director of Finance notifies the ~~State Board of Equalization~~ *board* pursuant to subdivision (b) of Section 99006 of the Government Code.

(2) Except as otherwise provided in subdivision (d), the "countywide adjustment amount" means the combined total revenue loss of the county and each city in the county that is annually estimated by the Director of Finance, based upon the actual amount of sales and use tax revenues transmitted under Section 7204 in that county in the prior fiscal year and any projected growth on that amount for the current fiscal year as determined by the ~~State Board of Equalization~~ *board* and reported to the director on or before August 15 of each fiscal year during the fiscal adjustment period, to result for each of those fiscal years from the 0.25 percent reduction in local sales and use rate tax authority applied by Section 7203.1. The director shall adjust the estimates described in this paragraph if the board reports to him or her any changes in the projected growth in local sales and use tax revenues for the current fiscal year.

(3) "In lieu local sales and use tax revenues" means those revenues that are transferred under this section to a county or a city from a Sales and Use Tax Compensation Fund or an Educational Revenue Augmentation Fund.

(c) Except as otherwise provided in subdivision (d), for each fiscal year during the fiscal adjustment period, in lieu sales and use tax revenues in the Sales and Use Tax Compensation Fund shall be allocated among the county and the cities in the county, and those allocations shall be subsequently adjusted, as follows:

(1) The Director of Finance shall, on or before September 1 of each fiscal year during the fiscal adjustment period, notify each county auditor of that portion of the countywide adjustment amount for that fiscal year that is attributable to the county and to each city within that county.

(2) The county auditor shall allocate revenues in the Sales and Use Tax Compensation Fund among the county and cities in the county in the amounts described in paragraph (1). The auditor shall allocate one-half of the amount described in paragraph (1) in each January during the fiscal adjustment period and shall allocate the balance of that amount in each May during the fiscal adjustment period.

(3) After the end of each fiscal year during the fiscal adjustment period, other than a fiscal year subject to subdivision (d), the Director of Finance shall, based on the actual amount of sales and use tax revenues that were not transmitted for the prior fiscal year, recalculate each amount estimated under paragraph (1) and notify the county auditor of the recalculated amount.

(4) If the amount recalculated under paragraph (3) for the county or any city in the county is greater than the amount allocated to that local agency under paragraph (2), the county auditor shall, in the fiscal year next following the fiscal year for which the allocation was made, transfer an amount of ad valorem property tax revenue equal to this difference from the Sales and Use Tax Compensation Fund to that local agency.

(5) If the amount recalculated under paragraph (3) for the county or any city in the county is less than the amount allocated to that local agency under paragraph (2), the county auditor shall, in the fiscal year next following the fiscal year for which the allocation was made, reduce the total amount of ad valorem property tax revenue otherwise allocated to that city or county from the Sales and Use Tax Compensation Fund by an amount equal to this difference and instead allocate this difference to the county Educational Revenue Augmentation Fund.

(6) If there is an insufficient amount of moneys in a county's Sales and Use Tax Compensation Fund to make the transfers required by paragraph (4), the county auditor shall transfer from the county Educational Revenue Augmentation Fund an amount sufficient to make the full amount of these transfers.

(d) Notwithstanding any other provision of this section, when Section 7203.1 ceases to be ~~operative ,~~ *operative,* all of the following apply:

(1) If Section 7203.1 ceases to be operative on ~~an~~ *or after* October 1 *and before January 1* of a fiscal year during the fiscal adjustment period, all of the following apply:

(A) The "countywide adjustment amount" for that fiscal year means an amount equal to sum of the following two amounts:

(i) The combined total revenue loss of the county and each city in the county that is estimated by the director, based upon actual sales and use tax revenues transmitted under Section 7204 for the first quarter of the prior fiscal year as determined by the ~~State Board of Equalization~~ *board* and reported to the director on or before that August 15, to result for the first quarter of the current fiscal year from the 0.25 percent reduction in local sales and use tax rate authority applied by Section 7203.1.

(ii) The difference between the following two amounts:

(I) The total amount that was allocated to the county and each city in the county under subdivision (c) for the prior fiscal year.

(II) The actual total amount of local sales and use tax revenue that was not transmitted the county or city and county and each city in the county for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1.

(B) On or before January 31 of that fiscal year, the auditor shall allocate to the county and each city in the county that portion of the countywide adjustment amount for that fiscal year that is attributable to the county and each city in the county.

(C) On or before May 1 of that fiscal year, the ~~State Board of Equalization~~ *board* shall report to the director the actual total amount of local sales and use tax revenue that was not transmitted to the county and each city in the county in that fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1. On or before May 1 of that fiscal year, the director shall do both of the following:

(i) Determine the difference between the following two amounts:

(I) The amount specified in clause (i) of subparagraph (A) that was allocated to the county and each city in the county for that fiscal year under subparagraph (B).

(II) The actual total amount of local sales and use tax revenue that was not transmitted to the county and each city in the county for that fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1.

(ii) Notify the auditor of each county of the amounts determined under clause (i) for his or her county and all of the cities in that county.

(D) (i) If, for any county or city, the amount described in subclause (I) of clause (i) of subparagraph (C) is greater than the amount described in subclause (II) of clause (i) of subparagraph (C), the county auditor shall, on or before May 31 of that fiscal year, reallocate from the entity to the county Educational Revenue Augmentation Fund the difference between those amounts.

(ii) If, for any county or city, the amount described in subclause (I) of clause (i) of subparagraph (C) is less than the amount described in subclause (II) of clause (i) of subparagraph (C), the county auditor shall, on or before May 31 of that fiscal year, reallocate from the county Educational Revenue Augmentation Fund to that entity the difference between those amounts.

(2) If Section 7203.1 ceases to be operative on ~~a~~ *or after* January 1 *and before April 1* of a fiscal year during the fiscal adjustment period, all of the following apply:

(A) The "countywide adjustment amount" for that fiscal year means an amount equal to the sum of the following two amounts:

(i) The combined total revenue loss of the county and each city in the county that is estimated by the director, based upon actual sales and use tax revenues transmitted under Section 7204 for the first and second quarters of the prior fiscal year as determined by the ~~State Board of Equalization~~ *board* and reported to the director on or before that August 15, to result for the first and second quarters of that fiscal year from the 0.25 percent reduction in local sales and use tax rate authority applied by Section 7203.1.

(ii) The difference between the following two amounts:

(I) The total amount that was allocated to the county and each city in the county under subdivision (c) for the prior fiscal year.

(II) The actual total amount of local sales and use tax revenue that was not transmitted the county or city and county and each city in the county for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1.

(B) The auditor shall allocate to the county and each city in the county that portion of the countywide adjustment amount for that fiscal year that is attributable to the county and each city in the county. One-half of this amount shall be allocated on or before January 31 of that fiscal year and the other one-half of that amount shall be allocated on or before May 31 of that fiscal year.

(C) On or before June 30 of that fiscal year, the ~~State Board of Equalization~~ *board* shall report to the director the actual total amount of local sales and use tax revenue that was not transmitted to the county and each city in the county for that fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1. On or before June 30 of that fiscal year, the director shall do both of the following:

(i) Determine the difference between the following two amounts:

(I) The amount specified in clause (i) of subparagraph (A) that was allocated to the county and each city in the county for that fiscal year under subparagraph (B).

(II) The actual total amount of local sales and use tax revenue that was not transmitted to the county and each city in the county for that fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1.

(ii) Notify the auditor of each county of the amounts determined under clause (i) for his or her county and all of the cities in that county.

(D) (i) If, for any county or city, the amount described in subclause (I) of clause (i) of subparagraph (C) is greater than the amount described in subclause (II) of clause (i) of subparagraph (C), the county auditor shall, on or before January 31 of the following fiscal year, reallocate from the entity to the county Educational Revenue Augmentation Fund the difference between those amounts.

(ii) If, for any county or city, the amount described in subclause (I) of clause (i) of subparagraph (C) is less than the amount described in subclause (II) of clause (i) of subparagraph (C), the county auditor shall, on or before January 31 of the following fiscal year, reallocate from the county Educational Revenue Augmentation Fund to that entity the difference between those amounts.

(3) If Section 7203.1 ceases to be operative on ~~an~~ *or after* April 1 *and before July 1* of a fiscal year during the fiscal adjustment period, all of the following apply:

(A) On or before May 1 of that fiscal year, the director shall determine and report to the auditor of each county that portion of the countywide adjustment amount that is attributable to the estimated sales and use tax revenue losses, resulting from the rate suspension applied by Section 7203.1, for the fourth quarter of that fiscal year for the county and each city in the county.

(B) The auditor shall reduce the total amount that is otherwise required to be allocated in May of that fiscal year from the county Sales and Use Tax Compensation Fund to the county and each city in the county by the amount reported by the director with respect to that entity under subparagraph (A). After the May allocations have been made, the auditor shall transfer any moneys remaining in the county Sales and Use Tax Compensation Fund to the county Educational Revenue Augmentation Fund.

(C) On or before January 1 of the next fiscal year, the ~~State Board of Equalization~~ *board* shall report to the director the actual total amount of local sales and use tax revenue that was not transmitted to the county and each city in the county for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1. On or before January 1 of that fiscal year, the director shall do both of the following:

(i) Determine the difference between the following two amounts:

(I) The total amount that was allocated to the county and each city in the county for the prior fiscal year under subdivision (c), as adjusted under subparagraph (B).

(II) The actual total amount of local sales and use tax revenue that was not transmitted to the county and each city in the county for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1.

(ii) Notify the auditor of each county of the amounts determined under clause (i) for his or her county and all of the cities in that county.

(D) (i) If, for any county or city, the amount described in subclause (I) of clause (i) of subparagraph (C) is greater than the amount described in subclause (II) of clause (i) of subparagraph (C), the county auditor shall, on or before January 31 of that fiscal year, reallocate from the entity to the county Educational Revenue Augmentation Fund the difference between those amounts.

(ii) If, for any county or city, the amount described in subclause (I) of clause (i) of subparagraph (C) is less than the amount described in subclause (II) of clause (i) of subparagraph (C), the county auditor shall, on or before January 31 of the following fiscal year, reallocate from the county Educational Revenue Augmentation Fund to that entity the difference between those amounts.

(4) If Section 7203.1 ceases to be operative on ~~a~~ *or after* July 1 *and before the following October 1*, all of the following apply:

(A) On or before January 1 of that fiscal year, the ~~State Board of Equalization~~ *board* shall notify the Director of Finance of the actual total amount of local sales and use tax revenue that was not transmitted to each county and city for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1.

(B) On or before January 31 of that fiscal year, the director shall do both of the following:

(i) Determine for each city, county, and city and county, the difference between the following two amounts:

(I) The total amount that was allocated to that entity under subdivision (c) for the prior fiscal year.

(II) The actual total amount of local sales and use tax revenue that was not transmitted to the entity for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1.

(ii) Notify the auditor of each county of the amounts determined under clause (i) for his or her county and all of the cities in that county.

(C) (i) If, for any county or city, the amount described in subclause (I) of clause (i) of subparagraph (B) is greater than the amount described in subclause (II) of clause (i) of subparagraph (B), the county auditor shall, on or before January 31 of that fiscal year, reallocate from the entity to the county Educational Revenue Augmentation Fund the difference between those amounts.

(ii) If, for any county or city, the amount described in subclause (I) of clause (i) of subparagraph (B) is less than the amount described in subclause (II) of clause (i) of subparagraph (B), the county auditor shall, on or before January 31 of the following fiscal year, reallocate from the county Educational Revenue Augmentation Fund to that entity the difference between those amounts.

(e) For the 2005–06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, may not reflect any portion of any property tax revenue allocation required by this section for a preceding fiscal year.

(f) This section may not be construed to do any of the following:

(1) Reduce any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3, or Article 4 (commencing with Section 98), had this section not been enacted. The allocation made pursuant to subdivisions (a) and (c) shall be adjusted to comply with this paragraph.

(2) Require an increased ad valorem property tax revenue allocation to a community redevelopment agency.

(3) Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is determined or allocated in a county.

(g) Existing tax exchange or revenue sharing agreements, entered into prior to the operative date of this section, between local agencies or between local agencies and nonlocal agencies shall be deemed to be temporarily modified to account for the reduced sales and use tax revenues, resulting from the temporary reduction in the local sales and use tax rate, with those reduced revenues to be replaced in kind by property tax revenue from a Sales and Use Tax Compensation Fund or an Educational Revenue Augmentation Fund, on a temporary basis, as provided by this section.

SEC. 3. Section 7203.1 of the Revenue and Taxation Code is amended to read:

7203.1. (a) Notwithstanding any other ~~provision of~~ law, during the revenue exchange period only, the authority of a county or a city under this part to impose a tax rate as specified in an ordinance adopted pursuant to Sections 7202 and 7203 is suspended, and the tax rate to be applied instead during that period under any ordinance as so adopted is the applicable of the following:

(1) In the case of a county, 1 percent.

(2) In the case of a city, three-quarters of 1 percent or less.

(b) For purposes of this section, "revenue exchange period" means the period on and after July 1, 2004, and ~~before the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code~~ *through and including June 30, 2011*.

(c) Subdivision (a) is a self-executing provision that operates without regard to any decision or act on the part of any local government. A change in a local general tax rate resulting from either the rate limitations applied by subdivision (a) or the end of the revenue exchange period is not subject to voter approval under either statute or Article XIII C of the California Constitution.

(d) Existing tax exchange or revenue sharing agreements, entered into prior to the operative date of this section, between local agencies or between local agencies and nonlocal agencies shall be deemed to be temporarily modified to account for the reduction in sales and use tax revenues resulting from this section, with those reduced revenues to be replaced as may otherwise be provided by law.

(e) This section shall cease to be operative on July 1, 2011.

SEC. 4. The sum of one thousand dollars ($1,000) is hereby appropriated from the General Fund to the State Board of Equalization for administrative operations.

SEC. 5. 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.

SEC. 6. This act addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation on January 20, 2011, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 7. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified *as related to the budget in the Budget Bill, and shall take effect immediately.*

~~SECTION 1. It is the intent of the Legislature to enact statutory changes relating to the Budget Act of 2011.~~

~~SEC. 2. This act addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation on January 20, 2011, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.~~

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