



REVENUE AND TAXATION POLICY COMMITTEE
Friday, June 23, 2023
10:00 a.m.- 2:00 p.m.

Sheraton Fairplex Hotel and Conference Center
601 West McKinley Avenue, Pomona

General Briefing and Special Listening Session
on Affordable Housing Production for All Policy Committee Members
10:00 a.m.

Upon adjournment, individual policy committee meetings will begin

AGENDA

- I. Welcome and Introductions**
- II. What Has CalPERS Queued Up Next? *Informational***
Getting Ahead of the Retirement Cost Curve
Speaker: Doug Pryor, Senior Consulting Actuary, Foster & Foster Actuaries and Consultants
- III. Legislative Advocacy Update *Informational***
 1. [Advocacy Priorities](#)
 2. [Cal Cities 2023 Hot and Priority Bills - all portfolios](#)
 3. [Revenue and Taxation Bills](#) (Attachment A)
- IV. Department Of Transportation: IIJA Federal SS4A Grant Update *Informational***
Speaker: Ryan Greenway, Caltrans, Assistant Federal Liaison
- V. City Managers Sales Tax Working Group Update (Attachment B) *Action***
 1. Proposal: Prospective changes to sales tax sharing agreements
 2. Proposal: Reconciliation of Cal Cities Policy and Guiding Principles
- VI. Adjourn**

Next Virtual Meeting: Staff will notify committee members by August 4 if the policy committee will meet in September. If you have any questions, please contact [Meg Desmond](#), Cal Cities Associate Manager, Legislative Administration.

Brown Act Reminder: The League of California Cities' Board of Directors has a policy of complying with the spirit of open meeting laws. Generally, off-agenda items may be taken up only if:

- 1) Two-thirds of the policy committee members find a need for immediate action exists and the need to take action came to the attention of the policy committee after the agenda was prepared (Note: If fewer than two-thirds of policy committee members are present, taking up an off-agenda item requires a unanimous vote); or*
- 2) A majority of the policy committee finds an emergency (for example: work stoppage or disaster) exists.*

A majority of a city council may not, consistent with the Brown Act, discuss specific substantive issues among themselves at League meetings. Any such discussion is subject to the Brown Act and must occur in a meeting that complies with its requirements.

Special Listening Session on Affordable Housing Production

As part of Cal Cities on-going efforts to showcase the work cities are doing on housing and to further our efforts to proactively drive a housing agenda that responds to the statewide crisis and respects local decision-making, we want to hear from you.

For too long the focus on finding solutions to the housing crisis has been driven in Sacramento by the Legislature. It's time to take the conversation out of the Capitol and that's why Cal Cities is hosting a series of listening sessions with cities statewide, and stakeholder meetings — both regionally and at the state level — on broad solutions that protect local control and boost affordable housing production.

As part of this effort, Cal Cities is hosting its first listening session at the June policy committee meetings in Pomona, CA, to hear directly from city officials regarding what they need to help spur much needed affordable housing construction in their communities.

Below are several discussion questions for you to consider in preparation for the listening session:

- What are the barriers you have identified that are hampering affordable housing construction in your community?
- Does your city have the needed tools and resources to help spur housing construction? If not, what is lacking? If so, what are they?
- What kind of assistance is the California Department of Housing and Community Development providing to your city (technical assistance, grant programs, implementation regulations, guidelines, etc.)?
- Please provide specific examples of actions your city has taken to help spur housing construction and identify recently approved housing projects. You may also email examples to jrhine@calcities.org



2023 Hot Bill List: Rev & Tax Thursday, June 15, 2023

Revenue and Taxation						
Measure/ Author	Location	Title	Brief Summary	Documents	Primary Lobbyist	Cal Cities Position
AB 84 (Ward D)	6/7/2023- S. GOV. & F.	Property tax: welfare exemption: affordable housing.	This measure expands the types of eligible financing for a welfare exempt property to qualified 501(c)(3) bonds. This bill also authorizes "welfare exempt" units that are not owned by a community land trust or that were not financed with low-income housing tax credits to remain eligible for the welfare exemption if the occupant's income rises above 80% of the area median income, but not above 100% of the area median income.	AB 84 Concerns Asm. Approp.pdf AB 84 (Ward) Opposition Sample Letter for Cities Assembly Rev and Tax Comm	Nick Romo Revenue and Taxation	Concerns
AB 972 (Maienschein D)	6/7/2023- S. GOV. & F.	Local Assistance and Grant Program Streamlining Workgroup.	Would coordinate, align, and streamline local government assistance resources to ensure that every community has the same opportunity to compete for state funding opportunities by convening a statewide, cross-agency Local Assistance and Grant Program Streamlining Workgroup, no later than April 2024.	AB 972 Local Assistance Workgroup Sponsor Sen Gov and Finance AB 972 Local Assistance Workgroup Sponsor Approps.pdf	Ben Triffo Revenue and Taxation	Sponsor

SB 96 (Portantino D)	6/8/2023- A. REV. & TAX	Historic Venue Restoration and Resiliency Act.	This bill redirects back to cities General Fund Sales and Use Tax revenue from retailers making sales at historic venues during historic events, resulting in cities having more funding to distribute to these venues.	SB 96 (Portantino) - Support Letter to Aprp.pdf	Ben Triffo Revenue and Taxation	Support
SB 512 (Bradford D)	5/30/2023- A. DESK	Cannabis: taxation: gross receipts.	This bill amends the definition of gross receipts and sales price in the Sales and Use Tax Law to exclude both the state cannabis excise tax and any local taxes imposed on cannabis licensees; and excludes the amount of any cannabis excise tax or sales and use tax from the definition of gross receipts for purposes of a local tax or fee imposed on a cannabis retailer.	Letter Pending - See Cal Cities Position	Ben Triffo Revenue and Taxation	Pending
SB 584 (Limón D)	5/31/2023- A. DESK	Laborforce housing: Short- Term Rental Tax Law.	This bill would impose a statewide 15 percent tax on the occupancy of short-term rentals. Proceeds of the tax would be used to provide grants for the creation of "laborforce housing."	SB 584 Short Term Rental Tax Oppose Unless Amended Sample Letter SB 584 Short Term Rental Tax Oppose Unless Amended	Ben Triffo Revenue and Taxation	Oppose Unless Amend
SB 588 (Allen D)	6/8/2023- A. REV. & TAX	Property taxation: welfare exemption: lower income households: cap.	This bill would eliminate the property tax welfare exemption cap of \$20 million for non-profit developers utilizing private funding, as long as 90 percent of the units are made continuously available to or are occupied by lower income households at a rent that does not exceed the rent for lower income households.	SB 588(Allen) Concerns - Letter to Approp SB 588 (Allen) Property taxation. Concerns. Sample Letter for Cities. Senate Gov and Finance.	Ben Triffo Revenue and Taxation	Concerns



**Revenue and Taxation Policy Committee
Legislative Agenda
June 2023**

Staff: Ben Triffo, Legislative Representative, (916) 738-9062
Jessica Sankus, Senior Policy & Legislative Affairs Analyst, (916) 658-8283

1. *Prospective changes to sales tax sharing agreements*
City Managers Sales Tax Working Group Recommendation: Reducing competition for situs-based sales tax revenue by instituting parameters for sales tax sharing agreements.

Summary

Throughout late 2022 and early 2023, the City Managers Sales Tax Working Group (working group) convened a subcommittee to workshop proposals to institute prospective, reasonable, and targeted limits to sales tax sharing agreements (rebate agreements) to reduce competition for situs-based sales tax revenue between cities. The subcommittee took into consideration the conversations, feedback, and survey responses of the working group members.

Although subcommittee members hold a variety of perspectives and experiences regarding the merits or flaws of sales tax sharing agreements, the subcommittee conversations ultimately focused on how to preserve sales tax sharing agreements as an economic incentive tool while establishing parameters that reduce competition and create a fairer environment.

Background

The Sales Tax Working Group of the City Managers Department is convened to review evolving trends, explore policy implications, and identify additional data to support reform discussions. The 2022 working group convenes a diverse and representative group of California city officials dedicated to examining local government sales tax issues to provide recommendations that equitably benefit California cities, further fiscal sustainability, and strengthen the viability of the sales tax.

Throughout 2022, the reconvened group explored existing law, regulations and practices regarding tax sourcing rules including national trends. The group has given significant attention to reforming tax sourcing rules and tax rebate agreements. The group has also identified additional issues within county pool allocation policy.

Within the suite of recommendations adopted by the previous iteration of the working group in 2018, the previous group reached consensus to limit rebate agreements as follows:

1. Sales tax rebate agreements involving online retailers should be prohibited going forward as they have the effect of encouraging revenue to be shifted away from numerous communities and concentrated to the benefit of one.

2. Any type of agreement that seeks to move a retailer from one community to another within a market area should also be prohibited going forward. Existing law already prohibits such agreements for auto dealers and big box stores.

To this end, Senator Glazer introduced [SB 531](#) in 2019, which would have prospectively banned sales tax rebate agreements between a retailer and a local agency involving Bradley-Burns Sales and Use Taxes. In 2019, Governor Newsom vetoed SB 531. In his veto message, Governor Newsom noted that:

*“Current use of these tax agreements are limited but also an important local tool that captures additional economic activity, particularly in rural and inland California cities that continue to face significant economic challenges like high unemployment rates...Therefore, **completely removing these tax options from local decision makers is the wrong approach.**” [Emphasis added]*

2022-23 Working Group Conversations on Sales Tax Sharing Agreements

Throughout late 2022 and into 2023, working group members discussed a path forward to limit sales tax sharing agreements without implementing a statewide prohibition. Although subcommittee members hold a variety of perspectives and experiences regarding the merits or flaws of sales tax sharing agreements, the subcommittee of the working group ultimately focused on how to preserve sales tax sharing agreements as an economic incentive tool while establishing parameters that reduce competition and create a fairer environment.

This compromise scenario included the following comments and recommendations:

- Any changes to statute regarding sales tax sharing agreements should be prospective in nature.
- Existing sales tax sharing agreements should be “grandfathered in” (exempted to some degree)
- If a bill is introduced, this will cause companies to put pressure on cities to enter into sales tax sharing agreements before the bill is signed. The bill would need to be effective as of the date the bill was introduced, or something similar to prevent a “rush” to enter into agreements.
- There should be a cap on the percentage/proportion rebated to a private business in sales tax sharing agreements, prospectively.
- There should be a cap on the duration of sales tax sharing agreements.
- There should be more oversight and public review of sales tax sharing agreements.
- A majority of the working group's conversation included an exploration of county pool calculations and whether it is equitable that sales tax revenue that is rebated to a private business is included in the county pool calculations (i.e., the proportion of each city's taxable sales compared to the county as a whole includes taxable sales that are rebated to a private business). Generally, this means that a city generating 4% of all taxable sales in a county receives 4% of the pool, even if 1% of the city's taxable sales was rebated to a private business.
- To reach an equitable policy recommendation, working group members recommend modifying the formula that determines the pro rata portion of the county pool for each city. Working group members discussed whether it would

be more appropriate to remove the amount that is rebated to private businesses, or, whether all of the sales tax generated via a sales tax sharing agreement should be deducted from the county pool calculation.

- Regardless of what the group decides regarding how much should be deducted, this modified calculation would need to apply to only new sales tax sharing agreements, in order to honor the agreement/intention that recommendations adopted by the working group will be prospective in nature.

2022 Working Group Member Survey Results

July 2022 Survey

Would you support legislative efforts to limit future (prospective) sales tax sharing agreements in which a city rebates some portion of money to a private business?

Yes: 62% (25 responses)

No: 28% (11 responses)

Unsure: 10% (4 responses)

May 2022 Survey

Should measures be taken to reduce competition for situs-based sales tax revenue?

Yes: 70% (26 responses)

No: 19% (4 responses)

Unsure: 11% (7 responses)

2023 Cal Cities Statewide Survey on Sales Tax Sharing Agreements

In March 2023 Cal Cities conducted a statewide survey to understand the scope and scale of sales tax sharing agreements statewide, the results of which would inform future recommendations of the City Managers Sales Tax Working Group. 132 cities responded to the survey and comprise diverse representation across the state geographically and economically.

The key results of the survey are as follows:

- Of the 132 survey respondents, 36 cities had one or more sales tax sharing agreement (27% of respondents).
- Of the 36 survey respondents that have sales tax sharing agreements, 22 cities have one rebate agreement and 14 had more than one.
- The median duration of the rebate agreements is 18.5 years.
- The median percent of sales tax rebated to a private business is 50%.
- 33% of the agreements (12 out of 36) have caps on rebates and the median tax rebate cap is 50%.
- 31% (11 out of 36) of the agreements have term extension options.
- 69% (25 out of 36) have tiered rebate formulas or baselines in the formula for their agreement (rebating above a threshold).

Existing Law

In 2013, Governor Brown signed [AB 562](#) (Chapter 740, Statutes of 2013) which requires local agencies, beginning January 2014, to provide specified information to the public

before approving any economic development subsidy of \$100,000 or more. The information is to be made publicly available on the local agency's website in the form of an Economic Development Subsidy Report.

In 2019, Governor Newsom signed [AB 485](#) (Chapter, 803, Statutes of 2019) which expand the provisions of AB 562 specifically to warehouse distribution centers and require local governments to hold hearings and report on those subsidies. AB 485 requires local agencies to submit a report to the Governor's Office of Business and Economic Development providing specified information and would require the office to make those reports available to the public through its internet website.

AB 485 also prohibits a local agency from signing a nondisclosure agreement regarding a warehouse distribution center as part of negotiations or in the contract for any economic development subsidy.

Existing Cal Cities Policy

From the [Cal Cities Summary of Existing Policy and Guiding Principles](#)

Reduce Competition

Restrictions should be implemented and enforced to prohibit the enactment of agreements designed to circumvent the principle of situs-based sales and redirect or divert sales tax revenues from other communities when the physical location of the affected businesses does not change.

Sales tax rebate agreements involving online retailers are inappropriate because they have the effect of encouraging revenue to be shifted away from numerous communities and concentrated to the benefit of one. Any type of agreement that seeks to lure a retailer from one community to another within a market area should also be prohibited going forward.

Recommendation from the City Managers Sales Tax Working Group

Sales Tax Sharing Agreement Parameters, Enhanced Transparency, and Modifications to County Pool Calculations

- All policy changes to sales tax sharing agreements will be prospective in nature (will not affect existing agreements). However, existing sales tax sharing agreements should not have the ability to be renewed in perpetuity, i.e., term extensions that would be a loophole to avoid new requirements are prohibited.
- Institute a maximum duration of 20 years for new sales tax sharing agreements.
- Institute a rebate cap of 50% of the sales tax generated by the private business.
- Require the state to create and maintain a database and dashboard of all Economic Development Subsidy Reports on a website.
- Exclude from the county pool calculations of the local Bradley Burns 1% sales and use tax the sales tax gained from a sales tax sharing agreement that is rebated to a private business. (See example charts attached to this analysis)

Staff Recommendation:

Staff recommends support of the working group's recommendation.

Committee Recommendation:

Board Recommendation:

Tax Sharing Agreements: Changes to County Pool Calculation (Example)

Recommendation: Exclude only the rebated amount of local tax from a jurisdiction’s direct allocations for the purpose of calculating a county pool pro-rata share.

Notes:

"Total Direct Allocations" means the direct allocations included in calculation of pro-rata shares.

"Pool Amount" means the use tax that is reported by the taxpayer to the countywide pool and then distributed to each jurisdiction in that county on a pro-rata share of total taxable sales.

In this example, "City C" has a new tax rebate agreement.

Status Quo				Recommended Modification					
	Direct allocations	Pro Rata Share	Pool Dollars		Direct allocations	Rebated Amount	Direct Allocation Excluding Rebated Amount	Pro-Rata Share of Direct Allocation Excluding Rebated Amount	Pool Dollars
City A	\$ 100,000	15.2%	\$ 75,988	City A	\$ 100,000	\$ -	\$ 100,000	17.9%	\$ 89,606
City B	\$ 40,000	6.1%	\$ 30,395	City B	\$ 40,000	\$ -	\$ 40,000	7.2%	\$ 35,842
City C	\$ 500,000	76.0%	\$ 379,939	City C	\$ 500,000	\$ 100,000	\$ 400,000	71.7%	\$ 358,423
City D	\$ 12,000	1.8%	\$ 9,119	City D	\$ 12,000	\$ -	\$ 12,000	2.2%	\$ 10,753
City E	\$ 6,000	0.9%	\$ 4,559	City E	\$ 6,000	\$ -	\$ 6,000	1.1%	\$ 5,376
Total Direct Allocations	\$ 658,000			Total Direct Allocations	\$ 658,000		\$ 558,000		
Pool Amount	\$ 500,000			Pool Amount	\$ 500,000				

2. Reconciliation of Cal Cities existing policy and guiding principles to reflect the definition of equitable e-commerce sales tax revenue distribution as drafted by the City Managers Sales Tax Working Group.

Summary

In January 2023, the City Managers Sales Tax Working Group adopted a guiding definition of equitable e-commerce sales tax revenue distribution for the Revenue and Taxation policy committee and Board of Directors consideration. This guiding definition contextualizes equity within the evolving landscape of consumer preferences, technological advances, and the needs of cities. The proposed framework is considered critical to forming recommendations that further fiscal sustainability and strengthen the viability of the sales tax.

Background

The Sales Tax Working Group of the City Managers Department is convened to review evolving trends, explore policy implications, and identify additional data to support reform discussions. The 2022 working group convenes a diverse and representative group of California city officials dedicated to examining local government sales tax issues to provide recommendations that equitably benefit California cities, further fiscal sustainability, and strengthen the viability of the sales tax.

Throughout 2022, the group explored existing law, regulations and practices regarding tax sourcing rules including state and national trends. The group has given significant attention to reforming tax sourcing rules and tax rebate agreements. The group has also identified additional issues within county pool allocation policy.

Given the growing consensus to develop recommendations on several matters, while more time is needed to support a robust discussion on broader tax sourcing rules, the group has identified two phases for its work – short- and long-term actions. As part of the first phase of group's work plan it has recommended a guiding definition of equitable e-commerce sales tax revenue distribution. "Equity" is distributing resources and access to opportunities based on the needs of the recipients in order to reach fair and just outcomes for all.

In January 2023, the City Managers Sales Tax Working Group and the Revenue and Taxation Policy Committee adopted this guiding definition of equitable e-commerce sales tax revenue distribution to contextualize equity within the evolving landscape of consumer preferences, technological advances, and the needs of cities. This context is critical to forming recommendations that further fiscal sustainability and strengthen the viability of the sales tax. This equity statement was subsequently adopted by the Cal Cities Board of Directors.

This equity statement is the lens by which the working group will explore and answer the following questions: 1) Does the existing sales and use tax system equitably distribute revenues?, 2) Given significant transformations in commerce and how consumers access the marketplace, are changes to the local Bradley Burns 1 percent sales and use tax distribution needed?, and 3) What are the outcomes of any changes and how can they be equitably and fairly implemented?

Equity Statement

The equitable allocation of remote revenues from e-commerce recognizes both sides of the transaction and their contribution to sales tax generation. Allocation of the Bradley Burns 1 percent local sales tax revenue from in-state online purchases should proportionately benefit those communities that provide the infrastructure and incentives that facilitate the transaction and delivery of those goods and those communities that are the destinations for the goods. The regional impacts to infrastructure, land use, environmental quality, and public health stemming from e-commerce as well as the financial dependence of communities on the resulting revenues must be recognized. Changes to consumer behavior, which consists of more online shopping, must also be considered as to the fiscal sustainability of all cities.

City officials should account for these factors in the evolving marketplace and continuously strive for prospective fair and equitable revenue sharing based on data, as available. City officials should also employ their best judgement to support policies that benefit the sustainability of all cities.

Existing Cal Cities Policy

From the [Cal Cities Summary of Existing Policy and Guiding Principles](#) (May 2022):

Reduce Competition

The existing situs-based sales tax under the Bradley Burns 1% baseline should be preserved and protected. Tax proceeds collected from internet sales should be allocated to the location where the product is received by the purchaser.

Policy Change for Consideration

To better reflect the progress of the working group and the emphasis on equity as adopted in January 2023 and upheld in subsequent meetings, it is recommended that Cal Cities existing policy publication be updated to replace the struck sentence, below, with the working groups' equity statement:

Reduce Competition

The existing situs-based sales tax under the Bradley Burns 1% baseline should be preserved and protected. ~~Tax proceeds collected from internet sales should be allocated to the location where the product is received by the purchaser.~~

Staff Recommendation

Staff recommends support of this change to reconcile Cal Cities existing policies and guiding principles.

Committee Recommendation:

Board Recommendation: