(2.8)

Date of Hearing: May 9, 2001

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Patricia Wiggins, Chair
AB 680 (Steinberg) – As Amended: April 30, 2001

SUBJECT: Land use: sales tax and property tax revenue distribution.

SUMMARY: Reallocates sales tax on a per capita basis and reduces property tax revenue transfers to the Educational Revenue Augmentation Fund (ERAF) within the greater Sacramento region, as defined, and authorizes cities and counties within that region to obtain air emission reduction credits (credits) for specified purposes. Specifically, this bill:

1) States legislative intent to provide credits on a regional basis as incentives for land use projects that promote sustainable growth in order to reduce emissions and provide open space, allow new and expanding powerplants in the greater Sacramento area to purchase credits, and to afford flexibility to powerplants while also ensuring that credits meet all existing applicable standards.

2) Defines the "greater Sacramento region" (hereinafter "Region") as encompassing the Counties of El Dorado, Placer, Sacramento, Sutter, Yolo, and Yuba.

3) Defines "district" as any air quality management district or air pollution control district within the Region.

4) Defines "land use projects" as including, but not being limited to, transit-oriented development, infill development, development providing balance between jobs and housing, mixed-use development, and neotraditional design development.

5) Authorizes cities or counties within the Region to receive credits in connection with land use projects from a district that reduce air emissions.

6) Requires the Air Resources Board (ARB) to develop criteria for which land use projects qualify for credits, and a methodology to establish what amount of credits are appropriate with respect to types of land use projects.

7) Requires a district to facilitate the sale of credits by cities or counties to a public or private entity that owns or operates powerplants located in or proposed for construction in the Region, and authorizes that entity to use the credits to offset emissions from any powerplant within the Region.

8) Requires that funds received from the sale of credits shall be used to fund other emission reduction programs, including, but not limited to, the preservation of open space in the Region as part of a land use project.

9) Requires the auditor of a qualified county, as defined, to reduce the total amount of property tax revenue otherwise allocated to ERAF by the total amount of the sales tax reimbursement payments, as defined, transferred to qualified agencies, as defined, and to transfer a sales tax reimbursement payment to each qualifying agency.

10) Requires the State Board of Equalization (BOE) to provide the auditor with any information necessary to calculate a sales tax reimbursement payment.

11) Defines "qualified agency" as any city or county whose local Bradley-Burns sales tax revenue was less in 2002 than in 2001 as a result of the implementation of the sales tax allocation provisions of this bill (see below), or any qualified county that has waived its rights under a revenue neutrality agreement with respect to city incorporations occurring on or before January 1, 1995, and before January 1, 2003.

12) Defines "qualified county" as the counties within the Region.

13) Defines "sales tax reimbursement payment" as the amount of sales tax revenue equal to the difference between local sales tax revenue derived from a 1% sales tax rate that a qualified agency would have received in 2002 under the statutes in effect on December 31, 2001, and the amount of local sales tax derived from the same rate that a qualified agency received during 2002 pursuant to this bill's sales tax revenue provisions.

14) Makes the following findings and declarations:

   a) Situs-based sales tax allocation has caused serious fiscal problems, public service inefficiencies, and has fiscalized land use decisions so that they focus on sales tax generation instead of community land use needs.

   b) Situs-based sales tax allocation has led to unhealthy competition between local jurisdictions for revenue-generating retail development and to revenue streams that do not correspond to the level of public service supported by those streams.

   c) Existing law and the dynamics of local government finance have maintained or even exacerbated the adverse consequences of situs-based sales tax allocation.

   d) The Region provides a unique and instructive perspective on this issue due to its rapid growth and the incorporation of new cities with authority to levy sales tax, which makes the Region uniquely suited to the trial and implementation of a regional local sales tax revenue allocation program aimed at eliminating the adverse effects of situs-based sales tax allocation.

   e) The Legislature intends this program to be a pilot program.

15) Requires BOE to segregate Bradley-Burns sales tax revenue collected in the Region.

16) Requires BOE, for each quarter commencing with the second quarter of 2002, to multiply the most recent jurisdictional shares, as defined, by the total amount of the segregated revenue of

the Region, and to transmit, in no fewer than two transmittals in the subsequent quarter, the allocations of sales tax revenue so calculated to the cities and counties within the Region that impose sales tax.

17) Requires BOE, no later than March of 2002, and each year thereafter, and within 30 days of determining new population estimates, to calculate jurisdictional shares for cities and counties imposing a sales tax within the Region.

18) Requires BOE to calculate jurisdictional shares by first determining the total population of the Region and the total population of each city or county (in the case of counties, total population refers only to residents of unincorporated areas) imposing a sales tax within the Region, and then dividing the second of these numbers by the first.

19) Requires that these population determinations be based on the annual population estimates made by the population research unit of the Department of Finance (DOF), except that for calendar year 2002 the determination shall be based on either DOF's annual estimate or the most recent census, whichever is later.

20) Requires DOF to re-estimate the population of any affected city or county within the Region and report the estimate to BOE within 30 days if a newly incorporated city imposes a sales tax, a city in the Region annexes additional territory, or two or more cities in the Region consolidate into one city.

21) Provides for the repeal of this program if Sec. 97.15 of the Revenue and Taxation Code is either repealed or amended so that cities and counties in the Region no longer receive sales tax reimbursement payments as provided for in this bill.

22) Declares that a special law is necessary due to the unique fiscal, jurisdictional, and public service dynamics of the Region.

EXISTING LAW:

1) Permits stationary sources of air emissions to offset increases in emissions of air contaminants by purchasing credits obtained by another stationary source for reductions in emissions.

2) Authorizes, under the Bradley-Burns Uniform Local Sales Tax and Use Tax Law, a county to impose a local sales and use tax of 1.25% and similarly authorizes a city located within a county imposing such a tax to impose a local sales tax of 1% that is credited against the county rate.

3) Requires any city, county, or city and county imposing such a sales and use tax to contract with BOE to administer the tax, and requires BOE to transmit sales and use tax revenues to the city, county, or city and county in which the tax was collected at least twice per calendar quarter.

4) Requires county auditors to allocate property tax revenue to local jurisdictions, and generally requires that each jurisdiction receive an amount equal to the total received in the previous

fiscal year, subject to specified modifications, plus the jurisdiction's portion of the incremental increase in revenues.

5) Reduces the amounts of property tax revenues that would otherwise be allocated to local jurisdictions according to specified formulas, and requires these revenues instead be transferred to each county's ERAF for allocation to schools.

FISCAL EFFECT: Author's preliminary estimate of $30 million cost to General Fund to backfill reduction of ERAF, plus annual increments in out years.

COMMENTS:

1) The last 25 years have seen a profound change in the way local governments in California finance themselves. Starting with Proposition 13, and drastically accelerating after the imposition of the ERAF shift in the early 1990s, property tax revenues collected from home and business properties have become a significantly smaller percentage of the local government fiscal mix. As a result, sales tax revenue from retail transactions has assumed that much greater importance. Under Bradley-Burns, local governments are allocated 1% of the sales tax assessed for every retail purchase that takes place within their boundaries. This is commonly referred to as "situs-based" sales tax allocation. Given the current inflated importance of sales tax revenue to local governments' total fiscal mix, this has led to competition among local jurisdictions to bring more retail sales tax generators into their jurisdictions. In this scramble for retail sales tax, other priorities, including transportation, adequate housing supply, loss of open space and agricultural lands, and sustainable long-term land use planning, have suffered at a time when increasing population is placing new strains on already overburdened infrastructure and services. This phenomenon is commonly referred to as the fiscalization of land use.

2) According to the author, the Sacramento region faces the prospect of one million new residents within the next twenty years. The region is using more power than it currently generates, and air quality is steadily deteriorating. The impacts of the fiscalization of land use are being felt throughout the region.

3) AB 680 creates a three-part mechanism to address these issues on a regional basis by reallocating the greater Sacramento region's Bradley-Burns sales tax revenues on a per capita basis rather than a situs basis, reimbursing jurisdictions that see their sales tax revenues decline as a result with property tax revenues obtained by reducing the ERAF shift, and allowing local governments to receive credits for reducing air emissions through land use policies and sell these credits to powerplant operators to allow for the development of additional energy supplies within the district.

4) Air Emission Reduction Credits. The U.S. Environmental Protection Agency (US-EPA) offers a range of options for providing credits for sustainable land use practices that help reduce emissions. According to the author, while in the past credits have been project-based, US-EPA is moving towards allowing credits for the adoption of land use policies that lead to reductions in air pollution.

Three power generation plants – at Rio Linda, Roseville, and Rancho Seco – are being considered at present. Since the Sacramento area is already in a condition of non-attainment of air quality standards, none of these plants can be built unless air emission reduction credits can be obtained. There are currently not enough credits in the region to allow for power generation facilities.

AB 680 creates a means by which cities and counties within the region can obtain credits for adopting land use policies that are determined by the ARB to contribute to emission reductions, and then sell these credits to powerplant operators to allow for additional generating plants to be built in the area. The proceeds of these sales must be invested in additional emission reduction programs, including, but not limited to, the preservation of open space.

This proposal is predicated on US-EPA's authorization of credits for land use policies. It is unclear at present whether US-EPA is in fact going to do so. Given the recent change of leadership at US-EPA, this portion of AB 680 appears to be vulnerable to being made meaningless by federal action (or inaction).

5) Sales Tax Allocation. AB 680 sets forth a multi-step formula by which the region's Bradley-Burns sales tax revenues would be distributed on a per capita basis. First, BOE is required to calculate the jurisdictional shares for each county and city within the region by first determining the region's total population, then determining the population of each city and county, and then dividing the second number by the first, resulting in a multiplier for each jurisdiction. Then, BOE is required to segregate the region's sales tax revenues and then, once per calendar quarter, multiply each jurisdiction's multiplier by the total segregated sales tax revenue. The resulting amount is then to be distributed to each jurisdiction at least twice during the subsequent quarter. Population is to be determined annually based on the estimates of the population research unit of DOF, except for the 2002 calendar year, in which either the DOF estimate or the census is to be used, whichever is later. Also, DOF is to newly estimate population in the affected city or county if a newly incorporated city imposes a sales tax, an existing city annexes additional territory, or two or more cities consolidate into one.

PROPOSED AMENDMENT: The author has proposed amending the bill so that the redistribution of sales tax revenue would be limited to the incremental growth in that amount from the baseline year of 2001, rather than the entire pool of segregated sales tax revenue. After calculating the jurisdictional shares, BOE would calculate the "base quarter revenue" for each city or county. The "base quarter revenue" would be defined as the amount of sales tax revenue received by the city or county in the corresponding quarter of 2001. After determining this number, BOE would then multiply each city or county's jurisdictional share by the amount remaining in the pooled revenues after deducting the base quarter revenues. BOE would then transmit to each qualified city or county their base quarter revenue amount plus their share of the incremental growth of sales tax revenue.

PROPOSED AMENDMENT: The author proposes to amend the bill to delete the current provisions repealing the sales tax reallocation program if the ERAF reduction provision of the bill is either repealed or amended, and instead express legislative intent to enact a program to encourage cities and counties in the Region to establish land use projects and to fund it with monies that would otherwise be diverted to ERAF. It would also state legislative intent that the program not interfere with any existing revenue neutrality agreements.

6) Property Tax Allocation. Since some cities with strong retail sectors will suffer reductions in revenues as a result of shifting from a situs-based to a per capita-based sales tax allocation system, AB 680 proposes to make these cities whole by reimbursing them with property tax revenues currently being diverted to ERAF. A city's reimbursement would be determined by the difference between what it would have received in 2002 under situs-based allocation and what it receives in 2002 based on per capita allocation. A county's reimbursement would be based on whether it has waived its rights under a revenue neutrality agreement. In addition to making cities and counties whole, this reimbursement system also reduces the receiving jurisdiction's dependence on sales tax by changing the mix of sales and property tax revenues it receives. This in turn could serve as a motivation to pursue more balanced land use policies.

7) AB 680's property tax provisions do not appear to account for years subsequent to 2002. For how long will jurisdictions be receiving reimbursement payments? Will they continue to be calculated based on the difference between actual revenues and hypothetical situs-based revenues? How does this system compensate for the changing balance of retail and property-tax generating development in a jurisdiction that may well result from changing the sales tax-property tax mix?

8) While many cities and counties have expressed frustration at being forced to enter into bidding wars for sales tax-generating retail development at the expense of housing or other property tax-generating development, other cities have consciously chosen to be primarily commercial or primarily residential. It can be argued that a sales tax reallocation program that is seen as a godsend by one city could be seen as state-imposed coercion to change by another. Also, replacing Bradley-Burns sales tax revenue, which many cities see as theirs by right, with property tax revenue, which many cities and counties see as undependable subsequent to Proposition 13 and ERAF, has led to concerns that cities may become even less the masters of their own destinies and more subject to the whims of the state. Recent history suggests that this is not a completely irrational or paranoid concern. The author may wish to consider these issues as the bill moves forward.

REGISTERED SUPPORT / OPPOSITION:

Support

CA Rural Legal Assistance Foundation
CA State Association of Counties
City of Sacramento
County of Sacramento
Sacramento Municipal Utility District
Western Center on Law and Poverty

Opposition

Cities of: Arcadia, Bellflower, Camarillo, Carlsbad, Cerritos, Chino Hills, Commerce, Concord, Diamond Bar, Fairfield, Fontana, Hawaiian Gardens, Industry, Irwindale, La Mirada, Laguna Hills, Laguna Niguel, Lakewood, Lawndale, Monterey Park, Moreno Valley, Norwalk, Palm Desert, Palmdale, Paramount, Pittsburg, Pleasant Hill, Rancho Cucamonga, Redding, Rosemead, Roseville, Santa Fe Springs, Saratoga, Simi Valley, South Gate, Thousand Oaks, Ventura, Vernon, Victorville, Visalia, Yorba Linda
League of CA Cities

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