

COUNTY OF SANTA BARBARA
LEGISLATIVE ANALYSIS FORM

This form is required for the Legislative Program Committee to consider taking an advocacy position on an issue or legislative item.

BILL NUMBER: ABX2 10	AUTHOR: Assembly Member Bloom
INTRO/AMEND DATE: July 16, 2015/ March 16, 2016	AUTHOR'S POLITICAL PARTY: Democrat
BILL STATUS: Senate Appropriations	

1) BILL SUBJECT:

Local taxes: authorization: cigarettes and tobacco products

2) FROM DEPARTMENT:

CEO

3) IS THIS ITEM SPECIFICALLY REFERENCED IN THE LEGISLATIVE PLATFORM?

Not directly, but supported under Principle: Fiscal Stability

4) WHICH POLICY-RELATED MATTER IS OF CONCERN WITH THIS BILL?

Tax Revenue and public health

5) HOW WOULD THIS BILL IMPACT THE COUNTY? (Current practices, responsibility, authority, pros/cons, affected programs and/or services, etc.)

This bill has the potential to bring millions of dollars in new revenue to the County, would require a ballot measure to approve a new tax.

The bill would be a tax at the distributor level and not retail. The bill currently gives counties leeway on how they want to collect, and they could contract with BOE which would likely be the most cost effective way to administer the tax. It appears that Counties would retain the funds instead of being sent to the State first.

Estimating potential revenue is difficult. A rough estimate from the American Cancer Society, a \$1 tax, estimates SB County potential at \$10M based on smoking rates. But this is hard to truly gauge with a lot of factors that go in to tobacco sales (e.g.: an additional tax could decrease sales).

If the legislation is passed, then it would go into effect on Jan 1, 2017, after which Counties could start a ballot process.

6) IMPACT ON COUNTY PROGRAM:

Major

Minor

None

SANTA BARBARA COUNTY IMPACT:

Major

Minor

None

STATEWIDE IMPACT:

Major

Minor

None

Explanation of Impacts:



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7) WOULD THIS BILL IMPACT:

- | | | |
|---|---|-----------------------------|
| a. Efficient service delivery and operations? | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| b. Fiscal stability? | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| c. Inter-agency cooperation? | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| d. Local control? | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| e. Protection of safety net services? | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| f. Community sustainability/economic stability? | <input type="checkbox"/> YES | <input type="checkbox"/> NO |

Additional Comments:

8) FISCAL IMPACT ON THE COUNTY:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Revenue Increase | <input type="checkbox"/> Revenue Decrease | <input type="checkbox"/> Unfunded Mandate |
| <input type="checkbox"/> Cost Increase | <input type="checkbox"/> Cost Decrease | <input type="checkbox"/> Undetermined |
| <input type="checkbox"/> None | | |

Additional Comments:

9) OTHER AGENCIES THAT SHOULD REVIEW THIS BILL:

Please list other agencies below:

10) CSAC POSITION ON BILL:

- | | | |
|--|---------------------------------|---|
| <input type="checkbox"/> Support | <input type="checkbox"/> Oppose | <input type="checkbox"/> Support if Amended |
| <input type="checkbox"/> Oppose unless Amended | <input type="checkbox"/> Watch | <input checked="" type="checkbox"/> No position taken |

11) OTHER LOCAL OR STATEWIDE ORGANIZATIONS THAT HAVE TAKEN A POSITION ON THIS BILL:

(Indicate support or opposition for each)

Support:

- American Academy of Pediatrics, California
- American Cancer Society Cancer Action Network
- American Heart Association/American Stroke Association
- American Lung Association in California
- Association of Northern California Oncologists
- California Academy of Family Physicians
- California Black Health Network
- California Chronic Care Coalition
- California Dental Association
- California Medical Association
- California Optometric Association



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California Pan-Ethnic Health Network
 California Primary Care Association
 California Society of Addiction Medicine
 Community Action Fund of Planned Parenthood Orange and San Bernardino Counties
 First 5 California
 March of Dimes, California Chapter
 Medical Oncology Association of California
 Planned Parenthood Advocacy Project Los Angeles
 Planned Parenthood Affiliates of California
 Planned Parenthood Mar Monte
 Planned Parenthood Northern California Action Fund
 Planned Parenthood of the Pacific Southwest

Oppose:

California Chamber of Commerce
 California Distributor Association
 California Retailers Association
 California Taxpayers Association
 Howard Jarvis Taxpayers Association
 National Federation of Independent Business

12) PROPOSED AMENDMENTS: (Attach separate sheet)

13) RECOMMENDATION:

- | | | |
|--|--|---|
| <input type="checkbox"/> Active Support* | <input type="checkbox"/> Passive Support | <input type="checkbox"/> Support if Amended* |
| <input type="checkbox"/> Active Opposition* | <input type="checkbox"/> Passive Opposition | <input type="checkbox"/> Oppose unless Amended* |
| <input type="checkbox"/> Watch | <input type="checkbox"/> Concerns (Why? Explain in #6) | <input type="checkbox"/> No Position (Why?) |
| <input type="checkbox"/> No Change since Last Position | | |

* Indicates that the department believes that the Board of Supervisors should take a formal position on this bill

Additional Comments:

14) LEGISLATIVE ANALYSIS FORM PREPARED BY: Joseph Toney

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AB X2-10 (Bloom)
Local Tobacco Taxation
Fact Sheet

Updated: March 3, 2016

PURPOSE

AB X2-10 will help local jurisdictions to fight tobacco addiction and fund tobacco prevention and cessation services through targeted, local taxation of tobacco products.

SUMMARY

AB X2-10 would grant County Board of Supervisors the authority to place local tobacco tax measures on the ballot for a public vote.

EXISTING LAW

Currently, the Board of Equalization assesses a cigarette tax on each cigarette distributed in the State of California. The cigarette tax is paid by distributors through the use of stamps which are affixed to each package of cigarettes prior to distribution. The tax rate is comprised of a single tax and two surtaxes. Additionally, the tobacco products tax is imposed upon the distribution of tobacco products based on the wholesale cost of these products at a rate determined annually by the State Board of Equalization (BOE). Tobacco products include all forms of cigars, smoking tobacco, chewing tobacco, and snuff, as well as any other articles or products made of, or containing, at least 50 percent tobacco.

BACKGROUND

California has not increased its tobacco tax since 1998, and at 87 cents per pack of cigarettes, our state currently ranks 35th in the nation for tobacco tax rates. Under existing law, the Cigarette and Tobacco Products Tax imposes a tax on every distributor of cigarettes and tobacco products in the state, including the taxes required under the Tobacco Tax and Health Protection Act of 1988 (Proposition 99) and the California Families and Children Act of 1998 (Proposition 10).

Tobacco related illness kills approximately 40,000 Californians every single year. At least 30% of cancer deaths and 87% of all lung cancer deaths are

caused by smoking. Nationally, one out of every five deaths is attributable to smoking.

Smoking is the leading cause of preventable death in the United States. It kills more people than alcohol, AIDS, car accidents, illegal drugs, murders and suicides combined. The Surgeon General projects that, without further action, 5.6 million youth age 0-17 alive today will die prematurely from tobacco use.

More than 600 local jurisdictions nationwide have their own cigarette tax rates or fees, bringing in more than \$430 million in annual revenue that is used to reduce smoking rates, especially among youth, and to decrease smoking-caused death, disease, and costs. For every 10 percent increase in the price of cigarettes, there is a 4 percent reduction in overall cigarette consumption and a 6.5 percent reduction in youth consumption.

SUPPORT

American Cancer Society Cancer Action Network
 American Lung Association in California
 Association of Northern California Oncologists
 American Heart Association
 California Black Health Network
 California Chronic Care Coalition
 California Dental Association
 California Medical Association
 California Optometric Association
 California Pan-Ethnic Health Network
 California Primary Care Association
 California Society of Addiction Medicine
 Community Action Fund of Planned Parenthood of Orange and San Bernardino Counties
 First Five California
 Health Access California
 Medical Oncology Association of Southern California, Inc.
 Planned Parenthood Advocacy Project Los Angeles County
 Planned Parenthood Affiliates of California
 Planned Parenthood Mar Monte
 Planned Parenthood Northern California Action Fund
 Planned Parenthood Action Fund of the Pacific Southwest

OPPOSE

California Distributor Association
CalChamber
Howard Jarvis

AMENDED IN ASSEMBLY MARCH 3, 2016

CALIFORNIA LEGISLATURE—2015—16 SECOND EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 10

Introduced by Assembly Member Bloom

(Principal coauthor: Senator McGuire)

July 16, 2015

An act to ~~amend Section~~ *amend, repeal, and add Sections 30111 and 30462* of, and to add Section 7284.8 to, the Revenue and Taxation Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 10, as amended, Bloom. Local taxes: authorization: cigarettes and tobacco products.

The Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products at specified rates. That law specifies that the taxes imposed by that law are in lieu of all other state, county, municipal, or district taxes on the privilege of distributing cigarettes or tobacco products. The California Constitution prohibits the Legislature from imposing taxes for local purposes, but allows the Legislature to authorize local governments to impose them.

This bill would ~~authorize~~ *authorize, on and after January 1, 2017,* the board of supervisors of a county or city and county to impose a tax on the privilege of distributing cigarettes and tobacco products in the county or city and county, including within an incorporated city within the ~~county~~ *county, and would make conforming changes. This bill would define "distributing" to mean making a sale of cigarettes or tobacco products in a county or city and county that has not been taxed by a cigarette or tobacco products tax ordinance of that county or city and county.*

This bill would authorize the board of supervisors of a county or city and county to enter into an agreement with another county or city and county to share any startup and ongoing administrative costs of a tax imposed pursuant to that authorization. This bill also would authorize the board of supervisors of a county or city and county to contract with the State Board of Equalization to perform functions incident to the administration or operation of the cigarette and tobacco products tax ordinance of the county, with reimbursement for costs incurred, and would require the State Board of Equalization to perform those functions pursuant to that contract.

This bill also would require the State Board of Equalization to permit the examination of its records with respect to the tax imposed pursuant to the Cigarette and Tobacco Products Tax Law upon request by a county or city and county officer or employee to the extent necessary for the proper administration of that local cigarette and tobacco products tax, and authorizes the State Board of Equalization to require reimbursement. The bill would make knowingly accessing, using, or disclosing that confidential information without authorization a crime, thereby imposing a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. Section 7284.8 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 7284.8. (a) Subject to the limitations of the California
- 4 Constitution, a board of supervisors of a county or city and county
- 5 may, in accordance with Article 3.7 (commencing with Section
- 6 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the
- 7 Government Code, impose a tax on the privilege of distributing
- 8 cigarettes and tobacco products in the county or city and county.
- 9 The board of supervisors may impose this tax within an
- 10 incorporated city within the county.

1 (b) For purposes of this section:

2 (1) “Cigarette” means a cigarette, as defined in Section 30003.

3 (2) “Tobacco products” means tobacco products, as defined in
4 subdivision (b) of Section 30121.

5 (3) “Distributing” means making a sale of cigarettes or tobacco
6 products in a county or city and county that has not been taxed by
7 a cigarette or tobacco products tax ordinance of that county or
8 city and county.

9 (4) “Sale” includes any transfer of title or possession for a
10 consideration, exchange, or barter, in any manner or by any means
11 whatever.

12 (c) The board of supervisors of a county or city and county may
13 enter into an agreement with another county or city and county to
14 share any startup and ongoing administrative costs of a tax
15 imposed pursuant to the authorization of this section.

16 (d) The board of supervisors of a county or city and county may
17 contract with the State Board of Equalization to perform functions
18 incident to the administration or operation of the cigarette and
19 tobacco products tax ordinance of the county or city and county,
20 and the State Board of Equalization shall perform those functions
21 pursuant to that contract. The county or city and county shall
22 reimburse the State Board of Equalization for any costs incurred
23 by the board in performing those functions.

24 (e) (1) The State Board of Equalization shall permit the
25 examination of any records of the board with respect to the tax
26 imposed pursuant to the Cigarette and Tobacco Products Tax Law
27 (Part 13 (commencing with Section 30001)) upon request by a
28 county or city and county officer or employee to the extent
29 necessary for the proper administration of a tax imposed pursuant
30 to the authorization of this section.

31 (2) The State Board of Equalization may require reimbursement
32 for costs incurred in complying with a request made pursuant to
33 paragraph (1).

34 (3) Any person who knowingly accesses, uses, or discloses any
35 confidential information provided by the State Board of
36 Equalization pursuant this subdivision without authorization is
37 guilty of a misdemeanor.

38 (f) This section shall become operative on January 1, 2017.

39 ~~SEC. 2. Section 30111 of the Revenue and Taxation Code is~~
40 ~~amended to read:~~

1 ~~30111. The taxes imposed by this part are in lieu of all other~~
 2 ~~state, municipal, or district taxes on the privilege of distributing~~
 3 ~~cigarettes or tobacco products.~~

4 ~~This section does not prohibit the application of Part 1~~
 5 ~~(commencing with Section 6001), Part 1.5 (commencing with~~
 6 ~~Section 7200), Part 1.6 (commencing with Section 7251), or Article~~
 7 ~~2 (commencing with Section 37021) of Part 17 to the sale, storage,~~
 8 ~~use or other consumption of cigarettes or tobacco products.~~

9 ~~SEC. 2. Section 30111 of the Revenue and Taxation Code is~~
 10 ~~amended to read:~~

11 ~~30111. (a) The taxes imposed by this part are in lieu of all~~
 12 ~~other state, county, municipal, or district taxes on the privilege of~~
 13 ~~distributing cigarettes or tobacco products.~~

14 ~~This section does not prohibit the application of Part 1~~
 15 ~~(commencing with Section 6001), Part 1.5 (commencing with~~
 16 ~~Section 7200), 7200) or Part 1.6 (commencing with Section 7251),~~
 17 ~~or Article 2 (commencing with Section 37021) of Part 17 7251)~~
 18 ~~to the sale, storage, use use, or other consumption of cigarettes or~~
 19 ~~tobacco products.~~

20 ~~(b) This section shall become inoperative and shall be repealed~~
 21 ~~on January 1, 2017.~~

22 ~~SEC. 3. Section 30111 is added to the Revenue and Taxation~~
 23 ~~Code, to read:~~

24 ~~30111. (a) The taxes imposed by this part are in lieu of all~~
 25 ~~other state, city, or district taxes on the privilege of distributing~~
 26 ~~cigarettes or tobacco products. This section does not prohibit the~~
 27 ~~application of Part 1 (commencing with Section 6001), Part 1.5~~
 28 ~~(commencing with Section 7200), or Part 1.6 (commencing with~~
 29 ~~Section 7251) to the sale, storage, use, or other consumption of~~
 30 ~~cigarettes or tobacco products.~~

31 ~~(b) This section shall become operative on January 1, 2017.~~

32 ~~SEC. 4. Section 30462 of the Revenue and Taxation Code is~~
 33 ~~amended to read:~~

34 ~~30462. (a) All money deposited in the Cigarette Tax Fund~~
 35 ~~under this part is hereby appropriated, subject to the provisions of~~
 36 ~~any budget bill heretofore or hereafter enacted, and shall, upon~~
 37 ~~order of the Controller, be drawn therefrom and allocated for the~~
 38 ~~following purposes:~~

39 ~~(1) To pay the refunds authorized by this part.~~

1 (2) The balance remaining in the fund shall be transferred to
 2 the General Fund of this state on or before the last calendar day
 3 of each month.

4 (b) It is the intent of the Legislature that Section 30111 continues
 5 to prohibit the imposition of local taxes by any city, charter city,
 6 town, county, charter county, city and county, charter cities and
 7 counties, or other political subdivision or agency of this state, on
 8 the sale, use, ownership, holding, or other distribution of cigarettes
 9 and tobacco products except as provided by Section 30111. The
 10 Legislature finds and declares that the need for uniform statewide
 11 regulation and collection of cigarette taxes is a matter of statewide
 12 concern, and it is the Legislature’s intent to regulate the subject
 13 matter of cigarette taxes comprehensively and to occupy the field
 14 to the exclusion of local action except as specifically provided by
 15 Section 30111.

16 (c) *This section shall become inoperative and shall be repealed*
 17 *on January 1, 2017.*

18 *SEC. 5. Section 30462 is added to the Revenue and Taxation*
 19 *Code, to read:*

20 *30462. (a) All money deposited in the Cigarette Tax Fund*
 21 *under this part is hereby appropriated, subject to the provisions*
 22 *of any budget bill heretofore or hereafter enacted, and shall, upon*
 23 *order of the Controller, be drawn therefrom and allocated for the*
 24 *following purposes:*

- 25 (1) *To pay the refunds authorized by this part.*
- 26 (2) *The balance remaining in the fund shall be transferred to*
 27 *the General Fund of this state on or before the last calendar day*
 28 *of each month.*

29 (b) *It is the intent of the Legislature that Section 30111 continues*
 30 *to prohibit the imposition of local taxes by any city, charter city,*
 31 *town, or political subdivision or agency of this state other than a*
 32 *county, charter county, city and county, and charter city and*
 33 *county, on the sale, use, ownership, holding, or other distribution*
 34 *of cigarettes and tobacco products except as provided by Section*
 35 *30111. The Legislature finds and declares that the need for uniform*
 36 *statewide regulation and collection of cigarette taxes is a matter*
 37 *of statewide concern and it is the Legislature’s intent to regulate*
 38 *the subject matter of cigarette taxes comprehensively and to occupy*
 39 *the field to the exclusion of local action except as specifically*
 40 *provided by Section 30111.*

AB 10

— 6 —

1 (c) *This section shall become operative on January 1, 2017.*

2 *SEC. 6. No reimbursement is required by this act pursuant to*
3 *Section 6 of Article XIII B of the California Constitution because*
4 *the only costs that may be incurred by a local agency or school*
5 *district will be incurred because this act creates a new crime or*
6 *infraction, eliminates a crime or infraction, or changes the penalty*
7 *for a crime or infraction, within the meaning of Section 17556 of*
8 *the Government Code, or changes the definition of a crime within*
9 *the meaning of Section 6 of Article XIII B of the California*
10 *Constitution.*

O