

Continued June 2, 1999

- c) The City Council, on motion of Council Member Hitchcock, Pennino second, unanimously directed the City Clerk to post for the following vacancies on the Greater Lodi Area Youth Commission:

**Greater Lodi Area Youth Commission**

Mena Khan	Term to expire August 30, 1999
Mike Rouzer	Term to expire August 30, 1999
Bobby Whitmire	Term to expire August 30, 1999

- d) City Clerk Reimche provided a status report regarding the inactive Personnel Board of Review.
- e) City Clerk Reimche informed the City Council that her office received a notice of application from Pacific Gas & Electric (PG&E) Company for a gas rate decrease and electric revenue increase: annual earnings assessment proceeding. This matter was for information only.

10. **REGULAR CALENDAR**

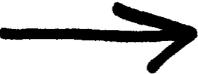
None.

11. **ORDINANCES**

None.

12. **COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS**

(Mayor Pro Tempore Mann was not feeling well, and left the meeting at approximately 10:25 p.m.)

- a) Wilbert Ruhl, 265 Almond Drive, Lodi, commented that once again the proposed ProStyle Sports Complex is on the agenda as a Closed Session matter. Mr. Ruhl stated that he feels nothing should be done until the public knows what is going on. He further stated that he feels the City is ignoring farmers in this matter and asked that it be put on hold until appropriate information is available to the public.
- b) Ken Knowles, representing Tokay Radio Control Modelers, 665 Sandpiper, Lodi, invited City Council Members and the community to its 30<sup>th</sup> Annual Tokay Open House, which will be held on June 5, 1999 from 9:00 a.m. until 3:00 p.m.
-  c) Georgianna Reichelt, 3605 East Louise, Manteca, also spoke about the proposed ProStyle Sports Complex being on the Closed Session agenda and cautioned the City Council regarding partnering. Ms. Reichelt stated that if the City is going to enter into a partnership, it should be done in the open. Ms. Reichelt presented a copy of an article that appeared in The Record on May 16, 1999, which she indicated reflects some of her concerns.

Secondly, Ms. Reichelt addressed the City Council regarding Senator Burton's Senate Constitutional Amendment proposal directed at modifying procedures for extensions of County Transportation Sales Tax Measures (SCA 3), highlighting various provisions of the proposal and voicing her concerns regarding the matter.

This matter had been brought before the San Joaquin County Council of Governments (COG) Board at their May 27<sup>th</sup> meeting. Council Member Pennino responded to Ms. Reichelt's comments advising that the COG Board voted to support SCA 3 at the May 27<sup>th</sup> meeting, with the stipulation that any extension of Measure K funds be brought to the voters of San Joaquin in some manner.



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NUMBER OF PAGES: 7  
(not including this cover sheet)

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If any of these pages are not legible or you do not receive all the pages, please call us at (209) 468-3913.

The COG Board voted to support  
SCA 3 at their May 27 meeting  
with the stipulation that any  
extension of Measure K should  
be brought to the voters of San  
Joaquin County in some manner.

Item 8A

COG Board  
May, 1999

## STAFF REPORT

**SUBJECT:** Senator Burton's Senate Constitutional Amendment Directed At Modifying Procedures for Extensions of County Transportation Sales Tax Measures

**RECOMMENDED ACTION:** Motion to Recommend Support for the Legislative Proposal on Extensions of County Transportation Sales Tax Measures

**DISCUSSION:**

As this staff report is being written, Senator John Burton is amending SCA 3, a constitutional amendment to modify the existing requirements for approval of half cent sales taxes for transportation purposes. The Senator has identified this as being the most significant piece of legislation in securing infrastructure funding in California.

Today, seventeen counties in California have approved half cent sales taxes to fund transportation projects. Sixteen of the seventeen have sunset dates. (Only Los Angeles remains in perpetuity, because it was passed prior to Legislatively adopted procedures for these measures.) The remaining 16 will have to secure a two thirds majority at the ballot box to continue in place, even though all were passed with the need for a simple majority vote. These measures combined produce transportation revenue equal to that produced by the State of California in its State Transportation Improvement Program. Loss of this infrastructure funding will have a one billion impact on transportation funding in California. This is why groups like the California Chambers of Commerce, the California Business Roundtable, and Cal Tax have indicated support for measures to continue the half cent sales taxes for transportation.

The California State Supreme Court modified its previous rulings in 1995 and now has ruled that a 2/3 majority vote is required for these sales taxes to be extended. The two extension votes that have been taken so far have both receive majority votes of 53% in Santa Clara, and 58% in Alameda, but neither were a 2/3 majority. Santa Clara managed

to pass a new half cent sales tax for transportation by calling it a general sales tax, and then having an advisory vote on the ballot that directed these funds be best used for transportation purposes. This measure passed with 51% of the vote and was upheld as constitutional since a general purpose tax only requires a simple majority vote. This has been tried in three other counties which presently do not have transportation sales taxes. In all three, the advisory transportation measure passed, but the general sales tax did not. This method, (known as the A plus B method) has been assailed as too gimmicky, and not very transferrable to counties other than Santa Clara.

Senator Burton's proposal which should be placed in language in SCA 3 on May 18, uses the existing constitutional process for a sales tax increase. It however requires a constitutional amendment since not all counties have sales taxes for transportation.

**The Proposal:**

- ✓ 2/3 vote of the Legislature required
- ✓ Majority vote of voters statewide in November of 2000  
(these first two provisions are consistent with existing constitutional requirements.)
- ✓ Local measures are renewed upon action by the Local Transportation Authority
- ✓ New measures (not extensions) require that the statewide ballot measure passes in that county.
- ✓ A separate statute would be passed requiring some kind of expenditure plan be passed in each county well before the November, 2000 election

The benefit of the proposal is that it uses existing constitutional provisions to allow sales taxes for transportation purposes to be passed with a majority vote, while not impacting the requirements of Proposition 13.

There have been other suggestions for dealing with this issue.

- Bring forward a constitutional amendment to reduce the requirement for voter approval from 2/3 to a simple majority. Such a blanket approach is unlikely to pass either the legislature or voters.
- Flip-flop the requirement that general sales taxes only require a majority vote, while special tax measures that specify the expenditures require a 2/3 vote. While intuitively this appears to make a good deal of sense (Cal Tax has already written Senator Burton that they would be supportive of such a measure) it has little voter support. Indications are that most voters are unaware that a general sales tax increase can be passed with a majority vote, they therefor react the same as the

above proposal.

- **Raise the gasoline tax.** While there is some argument that the gasoline tax acts like a user fee, polling has consistently indicated that the gasoline tax is one of the most unpopular of all taxes. A half cent sales tax raise the equivalent of a 10 cent gasoline tax, but voters are far more willing to support the sales tax than they are a modest 4 cent gas tax increase. The attached polling demonstrates that this is not an acceptable measure for voters. Also, the State Constitution precludes use of gas tax for most non-road, and non-highway expenditures thus leaving agencies like ACE and SMART out of the funding programs.

The attached polling of likely California voters was commissioned by various interest groups supportive of an increase in transportation financing. The results of the survey work resulted in the approaches above being set aside, and the only viable option remaining being the Burton proposal. This was supported by 59% of likely voters.

#### **COG STAFF RECOMMENDATION:**

COG staff recommends support for the Burton proposal. The COG Board has indicated an interest in securing an extension of the existing half cent sales tax for transportation. The existing 2/3 requirement presents a major challenge for passage. The Burton proposal leaves the requirements of Proposition 13 in place while adapting the requirements to the reality of existing transportation sales tax authorities. The proposal does not create new sales tax counties, unless voters in those counties approve the statewide ballot measure. Also, it would continue existing sales tax in counties such as San Joaquin, should the Local Transportation Authority approve.

The COG Board through its approval of the Regional Transportation Plan has highlighted the significant shortfall in funding for transportation when Measure K expires in April of 2011. The Burton Proposal allows us to shore up that shortfall.

#### **FINANCIAL IMPACT:**

Support has no financial impact on San Joaquin County. Eventual passage of the Burton Proposal will require us to develop an expenditure plan for the extended sales tax. That will require 4 months of COG staff time, and staff time of anywhere from 1 week to 2 months for each of our local jurisdictions. Passage of the proposal and approval by the voters will result in extending the transportation sales tax for an additional twenty years.

*M:\staff\rrpt\may99\sca3*

SCA 3 Senate Constitutional Amendment - AMENDED

[http://www.loginfo.ca.gov/pub/bill/sen/ab\\_0050/sca\\_3\\_bill\\_19990325\\_amended\\_sen.html](http://www.loginfo.ca.gov/pub/bill/sen/ab_0050/sca_3_bill_19990325_amended_sen.html)

BILL NUMBER: SCA 3 AMENDED  
BILL TEXT

AMENDED IN SENATE MAY 25, 1999  
AMENDED IN SENATE MAY 11, 1999

INTRODUCED BY Senators Burton and Karnette  
(Principal coauthor: Assembly Member Dutka)  
(Coauthors: Senators Baca, Costa, Figueroa, Kelley, Rainey,  
and Speier)  
(Coauthors: Assembly Members Calderon, Cardoza, Davis, Honda,  
Kuehl, Longville, Mazzone, Migden, Romero, Torlakson, and Washington)

FEBRUARY 8, 1999

Senate Constitutional Amendment No. 3--A resolution to propose to the people of the State of California an amendment ~~to the Constitution of the State, by adding Section 16 to Article XI thereof, by amending Section 4 of Article XIII thereof, and by amending Section 2 of Article XIII thereof, relating to taxation~~ to the Constitution of the State, by adding Article XIXA thereto, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SCA 3, as amended, Burton. ~~Local government; special taxes; transportation~~ Transportation funding: sales and use tax .

Existing laws set forth in the California Constitution and in statutory provisions either impose or authorize the imposition of state or local sales and use taxes upon the gross receipts from the sale within the taxing jurisdiction of, or the storage, use, or other consumption in this jurisdiction of, tangible personal property.

This measure would impose, for a period of 20 years, an additional state sales and use tax rate of 0.5% for transportation purposes. This measure would impose the additional tax only in a county that has adopted a transportation expenditure plan, and in which this measure is approved by a majority of the voters of the county voting on the measure. This measure would, in an adopting county that has in effect a countywide transactions and use tax for transportation funding on the date this measure is approved, impose the additional tax only when the existing tax is repealed or becomes inoperative.

This measure would require the additional sales and use tax to be collected by the State Board of Equalization and would require that revenues derived from that tax be deposited in the Local Transportation Infrastructure Account, which this measure would create in the State Transportation Fund. This measure would require moneys in that account that were collected in each county, less administrative costs and refunds, to be allocated to that county on a quarterly basis by the Controller.

~~The California Constitution requires a 2/3 vote of the electorate for approval of special taxes of a city, county, or special district, not including ad valorem taxes on real property or a transaction or sales tax on the sale of real property.~~

~~This measure would amend the Constitution to provide that a local jurisdiction, as defined, by a majority vote of its voters voting on the proposition, may impose a sales and use tax or transactions and use tax, if the tax is imposed exclusively to fund projects and services for the purpose of transportation, as provided.~~

Vote: 2/3. Appropriation: no. Fiscal committee: ~~no~~

yes - State-mandated local program: no.

~~Received by the Senate, the Assembly concurring, That~~

WHEREAS, Adequate transportation infrastructure and services are critical to sustaining California's prosperity as well as the necessary daily activities of all Californians; and

WHEREAS, California's current transportation infrastructure and levels of transportation services and funding are inadequate to meet California's present needs, much less the increased needs being created by California's continued growth; and

WHEREAS, California's inadequate transportation system has, in many instances, become a burden upon individual citizens, businesses, and public entities; and

WHEREAS, Eighteen counties in California representing over 80 percent of the population have passed local countywide transportation sales tax measures by majority vote for critically needed highway and public transit needs representing about one-half of all new capital invested in new facilities over the last 10 years in our state; and

WHEREAS, The record clearly demonstrates that these funds have been administered efficiently and effectively to build, maintain, and operate high priority local improvement projects; and

WHEREAS, In order to ensure that California will be able to meet its current and future transportation needs and thereby preserve and enhance the prosperity and daily activities of all Californians, it is necessary to establish an additional funding source that is dedicated exclusively to the funding of California's local transportation requirements, is administered by local government representatives, and is directly responsive to each county's local transportation needs; now, therefore, be it

RESOLVED BY THE SENATE, THE ASSEMBLY CONCURRING, That the Legislature of the State of California at its 1999-2000 Regular Session commencing on the seventh day of December 1998, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding Article XIXA thereto, to read:

ARTICLE XIXA

TRANSPORTATION IMPROVEMENT AND MAINTENANCE ACT

SECTION 1. (a) Notwithstanding any other provision of this Constitution, for the exclusive purpose of funding local and regional transportation planning, research, design, construction, operation, maintenance, rehabilitation, and environmental mitigation directly related to transportation project impacts, the following sales and use taxes are hereby imposed under those conditions and at the time and in the manner set forth in subdivision (b):

(1) For the privilege of selling tangible personal property at retail, a sales tax upon all retailers at the rate of one-half of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state.

(2) An excise tax upon the storage, use, or other consumption in this state of tangible personal property purchased from any retailer for storage, use, or other consumption in this state at the rate of one-half of 1 percent of the sales price of the property.

(b) (1) The taxes described in subdivision (a) may be imposed only within a county in which a plan has been adopted for the expenditure of tax revenues to fund transportation purposes. If the voters in a

county have previously approved a countywide transactions and use tax of one-half of 1 percent for transportation funding, the policy board of the agency responsible for administering the previously approved transactions and use tax may adopt the expenditure plan. If a countywide transactions and use tax for transportation funding that has received voter approval is not in effect, then the expenditure plan must be approved by both of the following:

(A) The county board of supervisors.

(B) The governing bodies of cities in the county representing a majority of the population of the incorporated areas of the county, unless there are no incorporated areas in the county.

Once adopted, a county transportation expenditure plan may be amended only by a two-thirds vote of the adopting authority or by a majority vote by the voters in that county voting on the amendment.

(2) Notwithstanding Section 8.5 of Article IV, the taxes described in subdivision (a) are hereby imposed, as provided in paragraph (3), in a county only if the measure adding this article was approved by a majority vote of the voters of that county voting on the measure, except that in a county in which a countywide transactions and use tax for transportation funding is in effect on the date the measure adding this article was approved, the taxes described in subdivision (a) are not imposed until the current countywide transactions and use tax for transportation funding is repealed or becomes inoperative.

For purposes of this article, a countywide transactions and use tax for transportation funding does not include any portion of a local sales tax that is imposed pursuant to 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), or its successor.

(3) Upon a county's compliance with the conditions set forth in paragraphs (1) and (2), the taxes described in subdivision (a) are imposed in that county for a period of 20 years commencing with the first calendar quarter that commences more than 90 days after the effective date of this section or the date of county compliance if that date is later. Except as provided in paragraph (2), the taxes described in subdivision (a) shall be so imposed in a county in addition to any other state or local sales or transactions and use taxes imposed in that county pursuant to law.

(4) The taxes described in subdivision (a) shall be administered in the same manner as the taxes imposed pursuant to the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or its successor, and shall be subject to any exemption from tax set forth in that law.

(c) The taxes described in subdivision (a) shall be collected and administered by the State Board of Equalization, or its successor agency. The revenues derived from that tax shall be deposited in the Local Transportation Infrastructure Account, which is hereby established in the State Transportation Fund. The Controller shall allocate the moneys in that account no less frequently than on a quarterly basis as follows:

(1) To the State Board of Equalization and to the Controller for their respective costs of collection and administration, which may not exceed 1 percent of the moneys deposited in the account.

(2) For the payment of refunds of amounts of tax improperly collected pursuant to this section.

(3) The balance among the counties, by allocating to each county all of the remaining amount of those tax revenues that were collected with respect to a sale, use, storage, or other consumption of tangible personal property that occurred in that county.

(d) All revenues received by a county pursuant to this section shall be expended exclusively for local and regional transportation

planning, research, design, construction, operation, maintenance, rehabilitation, and environmental mitigation directly related to transportation project impacts. ~~the Legislature of the State of California at its 1999-2000 Regular Session commencing on the seventh day of December 1999, two thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:~~

~~First That Section 16 is added to Article XI thereof, to read:~~  
~~SEC. 16. (a) Notwithstanding any other provision of law, a local jurisdiction, by a majority vote of its voters voting on the proposition, may impose any sales and use tax or transactions and use tax that it is otherwise authorized by law to impose, provided that the tax is imposed exclusively to fund projects and services for the purpose of transportation, the tax supplements, and does not supplant, existing local revenues being used for transportation, and the local jurisdiction maintains its existing commitment of local funds for transportation purposes.~~

~~(b) For purposes of this section:~~

~~(1) "Local jurisdiction" includes, but is not limited to, a city, county, or special district, or a local government defined by subdivision (b) of Section 1 of Article XIII.~~

~~(2) The funding of projects includes the servicing of indebtedness issued for the purpose of funding these projects.~~

~~(c) In no event shall this section be construed to authorize a local jurisdiction to impose within its boundaries an ad valorem tax on real property, or a transaction tax or sales tax on the sale of real property.~~

~~Second That Section 4 of Article XIII A thereof is amended to read:~~

~~Section 4. Except as provided by Section 16 of Article XI, cities, counties, and special districts, by a two-thirds vote of their voters voting on the proposition, may impose special taxes on the respective city, county, or district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within the respective city, county, or special district.~~

~~Third That Section 2 of Article XIII C thereof is amended to read:~~

~~SEC. 2. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:~~

~~(a) All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.~~

~~(b) No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.~~

~~(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).~~

~~(d) Except as provided by Section 16 of Article XI, local government may not impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate~~