

AMENDED IN ASSEMBLY JULY 8, 2009

AMENDED IN SENATE MAY 28, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 10

Introduced by Senator Leno

December 1, 2008

An act to add Part 5.6 (commencing with Section 11160) to Division 2 of the Revenue and Taxation Code, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

SB 10, as amended, Leno. Voter-approved local assessment: vehicles.

Existing law authorizes certain counties to impose a local vehicle license fee not exceeding \$10 per vehicle, as provided, for the privilege of operating specified vehicles on public roads in the county. Existing law requires a county imposing this fee to contract with the Department of Motor Vehicles to collect and administer the fee, as specified.

This bill would authorize counties and the City and County of San Francisco to impose a voter-approved local assessment for specified vehicles if certain conditions, including approval by local voters, are met. The bill would require the county or the city and county to contract with the department to collect and administer the assessment, as provided. ~~The bill would authorize a county or city and county to assess a lesser amount for low-emission vehicles, as defined.~~

The Personal Income Tax Law and the Corporation Tax Law authorize various deductions against the income that is otherwise subject to tax under those laws, including a deduction for local taxes that were paid or incurred by a taxpayer.

This bill would require the Franchise Tax Board to notify the department of estimated revenue losses to the state resulting from taxpayers deducting, for purposes of the Personal Income Tax Law and the Corporation Tax Law, the voter-approved local assessments authorized by this bill. This bill would require the department to transmit from the assessments collected an amount equal to these reported losses for deposit in the General Fund.

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

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

1 SECTION 1. This act shall be known and may be cited as the
2 Local Assessment Act.

3 SEC. 2. Part 5.6 (commencing with Section 11160) is added
4 to Division 2 of the Revenue and Taxation Code, to read:

5
6 PART 5.6. VOTER-APPROVED LOCAL ASSESSMENT

7
8 11160. This part is applicable only to counties and to the City
9 and County of San Francisco.

10 11161. For purposes of this part:

11 (a) "Board of supervisors" means the board of supervisors of
12 the county or the city and county.

13 (b) "City and county" means the City and County of San
14 Francisco.

15 (c) "County" means any county of the state.

16 (d) "Department" means the Department of Motor Vehicles.

17 (e) "Market value" has the same meaning and shall be
18 determined in the same manner as required under Part 5
19 (commencing with Section 10701) of Division 2.

20 (f) "Person" includes an individual, a firm, a corporation, a
21 limited liability company, a partnership, or any other legal entity.

22 (g) "Resident of the county or city and county" means a person
23 whose address, as reflected in department registration records, is
24 in the county or the city and county, but does not include a person
25 that establishes to the satisfaction of the department that the
26 person's place of residence is elsewhere.

27 (h) "Voter-approved local assessment" means a supplemental
28 charge added to the fee imposed pursuant to Section 10751.

1 11162. Notwithstanding Section 10758, the board of
2 supervisors may, by ordinance, impose a voter-approved local
3 assessment for general revenue purposes pursuant to this part, if
4 all of the following conditions are met:

5 (a) The ordinance proposing the assessment complies with both
6 of the following:

7 (1) Section 11163.

8 (2) Article 3.7 (commencing with Section 53720) of Chapter 4
9 of Part 1 of Division 2 of Title 5 of the Government Code.

10 (b) The ordinance proposing the assessment is approved by
11 two-thirds of all members of the board of supervisors.

12 (c) The ordinance proposing the assessment is submitted to the
13 electorate of the county or city and county and is approved by a
14 majority vote of the voters voting on the ordinance.

15 (d) The board of supervisors transmits to the department and
16 the Franchise Tax Board a certified copy of the ordinance imposing
17 that assessment immediately after the results of the election
18 described in subdivision (c) are certified.

19 11163. An ordinance imposing a voter-approved local
20 assessment pursuant to this part shall contain provisions in
21 substance as follows:

22 (a) A provision that the assessment is imposed for the privilege
23 of a resident of the county or the city and county to operate upon
24 the public highways in the county or the city and county a vehicle
25 or trailer coach, the registrant of which is subject to tax under Part
26 5 (commencing with Section 10701).

27 (b) (1) A provision establishing the annual amount of the
28 assessment at a rate that equals the difference between the
29 following two rates:

30 (A) Two percent of the market value of the vehicle or trailer
31 coach.

32 (B) The rate, including any offset to that rate, set forth in Part
33 5 (commencing with Section 10701), for a vehicle or trailer coach.

34 (2) A provision that the rate established under the provision
35 described in paragraph (1) is subject to both of the following:

36 (A) That the rate may not exceed 2 percent of the market value
37 of the vehicle or trailer coach.

38 (B) That any adjustment that is required to be made to the rate
39 because of a change in the rate, or any offset to that rate, set forth
40 in Part 5 (commencing with Section 10701), shall not take effect

1 until the first day of the first fiscal year that follows the fiscal year
2 in which the change to the rate or offset set forth in that part
3 became operative.

4 (c) A provision that the assessment will begin to be imposed as
5 follows:

6 (1) If the election in which the ordinance receives voter approval
7 occurs between January 1 and June 30, on the first January 1 that
8 follows that election.

9 (2) If the election in which the ordinance receives voter approval
10 occurs between July 1 and December 31, on the first July 1 that
11 follows that election.

12 (d) Provisions identical to those contained in Part 5
13 (commencing with Section 10701), insofar as they relate to vehicle
14 license fees and are applicable, except that the name of the county
15 or the city and county as the taxing agency shall be substituted for
16 that of the state.

17 (e) A provision that all amendments, subsequent to the effective
18 date of the voter-approved local assessment ordinance, to Part 5
19 (commencing with Section 10701) relating to vehicle license fees
20 and not inconsistent with this part, shall automatically be
21 incorporated into the voter-approved local assessment ordinance.

22 (f) A provision that requires the county or the city and county
23 to contract with the department, which contract shall contain
24 provisions in substance as follows:

25 (1) A requirement that the department perform all functions
26 incident to the administration and collection of the voter-approved
27 local assessment.

28 (2) A provision specifying the manner in which refunds to
29 licensees pursuant to Part 5 (commencing with Section 10701), as
30 incorporated in the voter-approved local assessment ordinance
31 pursuant to subdivisions (c) and (d), will be made and administered.

32 (3) A provision that requires the county or the city and county
33 to pay the department for the initial setup and programming costs
34 identified by the department.

35 11163.2. Any ordinance approved pursuant to Section 11163
36 shall be valid and enforceable even if approved, as required by
37 Section 11162, by the board of supervisors and by the voters prior
38 to the effective date of the act adding this section, but only if both
39 of the following apply:

1 (a) Any assessment imposed pursuant to the approval of the
2 ordinance is not levied until at least 90 days after the effective date
3 of the act adding this section.

4 (b) The board of supervisors ratifies its adoption of the ordinance
5 after the effective date of the act adding this section and prior to
6 the first levy of the assessment imposed pursuant to the approval
7 of the ordinance.

8 ~~11163.5. (a) A county or city and county imposing an~~
9 ~~assessment pursuant to this part may impose an assessment at a~~
10 ~~rate less than the rate provided by Section 11163, as determined~~
11 ~~by the county or city and county, for low-emission vehicles.~~

12 ~~(b) For purposes of this section, “low-emission vehicle” means~~
13 ~~any vehicle described in subdivision (a) of Section 5205.5 of the~~
14 ~~Vehicle Code.~~

15 11164. The department shall do all of the following:

16 (a) Collect the voter-approved local assessment pursuant to a
17 contract with the county or the city and county.

18 (b) Deduct its costs in administering the voter-approved local
19 assessment from the assessments collected under subdivision (a).

20 (c) From the assessments collected under subdivision (a),
21 transmit to the Controller for deposit in the General Fund the
22 amount reported under Section 11166.

23 (d) Transmit revenues derived from the assessments collected
24 under subdivision (a) to the county or the city and county as
25 promptly as feasible.

26 ~~(e) Report quarterly to the Franchise Tax Board, at a time and~~
27 ~~in a manner prescribed by the Franchise Tax Board, the aggregate~~
28 ~~amount paid by each person or entity that paid an assessment~~
29 ~~imposed under this part in the prior calendar quarter.~~

30 *(e) The Department of Motor Vehicles and the Franchise Tax*
31 *Board shall develop a reporting process that enables the*
32 *department to report to the board in a timely manner the data*
33 *necessary for the board to prepare the estimate of revenue loss*
34 *specified in Section 11166.*

35 11165. (a) This part shall not be construed to supplant any
36 moneys that the state apportions to the county or the city and
37 county, including, but not limited to, moneys apportioned to that
38 entity under the Vehicle License Fee Law set forth in Part 5
39 (commencing with Section 10701), or any successor to that law.

1 (b) Notwithstanding any other provision of law, if a county or
2 city and county that imposes a voter-approved local assessment
3 has a reduction in revenue derived from that assessment because
4 of an increase in the rate, including any offset to that rate, set forth
5 in Part 5 (commencing with Section 10701) for a vehicle or a trailer
6 coach, reimbursement by the state shall not be made to the county
7 or city and county for that loss in revenue.
8 11166. On or before January 1 of the second year that follows
9 a year, or portion thereof, in which an assessment is imposed
10 pursuant to this part, the Franchise Tax Board shall report to the
11 department an estimate of the total amount of the revenue loss to
12 the state for the prior year resulting from deductions taken under
13 the Personal Income Tax Law (Part 10 (commencing with Section
14 17001)) and the Corporation Tax Law (Part 11 (commencing with
15 Section 23001)) for taxes paid or incurred as a result of a tax being
16 imposed pursuant to this part.