

Legislative Update August 2021

August 3rd, 2021

The following includes updates for 2021 legislative statuses on bills related to sales and use tax, medical and adult use cannabis taxation and regulation, property taxation, economic development and business licenses that HdL has been tracking.

California's state budget has taken longer than usual to complete thanks to higher income tax returns and federal funding which was not expected in previous state budget projections. The preliminary budget was signed on July 1st, but a second budget bill was signed on July 12th which details the states spending plans for the fiscal year. The key spending items include combating drought and wildfires, along with numerous climate change initiatives. The budget also includes economic assistance to small businesses and individuals as well.

The State Legislature went on recess July 15th. Bills will be heard in the Appropriations Committees and on the floor when the Legislature returns August 15th. Bills approved by the Legislature must be sent to the Governor by September 15th.

The following includes updates for 2021 legislative statuses on bills related to sales and use tax, medical and adult use cannabis taxation and regulation, property taxation, economic development, business licenses and constitutional amendments that HdL has been tracking since the start of this legislative session.

Click [HERE](#) to download this Legislative Update in PDF format.



SALES AND USE TAX LEGISLATION

SB 792 (Glazer) Sales and Use Tax - Reporting for Retailers

Current law requires a retailer or purchaser subject to the sales and use tax to file, on or before the last day of the month following each quarterly period, a return for the preceding quarterly period. This bill, for reporting periods beginning on or after January 1, 2022, would require a qualified retailer, defined as a retailer whose annual sales of tangible personal property transacted online exceeded \$50,000,000 for the previous calendar year, to include with each tax return a schedule that reports for each local jurisdiction the gross receipts from the qualified sale of tangible personal property shipped or delivered to purchasers in that jurisdiction.

Status: Co-authors revised.

AB 1163 (Nazarian) Local Government Taxation Grocery Prohibition

Current law, until January 1, 2031, prohibits the imposition, increase, levy and collection, or enforcement by a local agency of any tax, fee, or other assessment on groceries, except as provided, and allows a local agency to continue to levy and collect, enforce, or reauthorize any tax, fee, or other assessment on groceries imposed, extended, or increased on or before January 1, 2018. Current law also requires the California Department of Tax and Fee Administration to cease administering the Bradley-Burns local sales and use tax of a local agency that is found by a court, as provided, to have violated the grocery tax prohibition. This bill would repeal the prohibition on the imposition, increase, levy and collection, or enforcement by a local agency of any tax, fee, or other assessment on groceries, including the requirement that the department cease administering a local sales and use tax.

Status: Not heard in policy committee. 2-year bill.

AB 1402 (Levine) Marketplace Facilitator Fee Collection

This bill would treat a marketplace facilitator that is registered or required to register with the department under the Fee Collection Procedures Law, and who facilitates a retail sale of tangible personal property by a marketplace seller, as the retailer or dealer or both for purposes of collecting and remitting fees imposed upon the consumer in relation to that retail sale. The bill would further require a marketplace seller to register with the department for purposes of taxes or fees administered pursuant to the Fee Collection Procedures Law for sales made on its own behalf and not facilitated by a registered marketplace facilitator. This bill contains other existing laws.

Status: Ordered to second reading pursuant to Senate Rule 28.8.

SB 415 (Melendez) Motor Vehicle Fuel Tax

The Community Services District Law authorizes the formation of community services districts for various specified purposes including acquiring, constructing, improving, and maintaining streets, roads, and any incidental works. Current law grants a district that acquires, constructs, improves, and maintains streets, roads, and any incidental works the powers, duties, and authority of a county for those works. This bill would require a county that forms a community services district for the purpose of maintaining public roads within the district to report the mileage of the roads maintained by the district to the Department of Transportation as maintained county highways. The bill would require

the Controller to deem those roads reported by a county, and certified by the department, to be maintained county roads for purposes of apportioning funds from the Highway Users Tax Account and the Road Maintenance and Rehabilitation Account.

Status: Not heard in policy committee. 2-year bill.

SB 771 (Becker) Zero Emissions Vehicle Exemption

Current state sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. The Sales and Use Tax Law provides various exemptions from those taxes. This bill, on or after January 1, 2022, would provide an exemption from those taxes with respect to the sale in this state of, and the storage, use, or other consumption in this state of, a qualified motor vehicle, as defined, sold to a qualified buyer, as defined. The bill would provide that this exemption does not apply to specified state sales and use taxes from which the proceeds are deposited into the Local Revenue Fund, the Local Revenue Fund 2011, or the Local Public Safety Fund.

Status: In Assembly. Read first time. Held at Desk.



BUSINESS LICENSE LEGISLATION

AB 1181 (Nguyen) Business License Fees (*May be excluded*)

This bill would prohibit cities and counties, including charter cities and counties, from imposing or collecting license fees from restaurants from January 1, 2020, to December 31, 2021, as provided, and would require the city or county to refund to a restaurant any license fees collected during that period. By imposing new duties on cities and counties with respect to imposing or collecting specified license fees, and by requiring that the fees be refunded, this bill would impose a state-mandated local program.

Status: Not heard in policy committee. 2-year bill.

SB 555 (McGuire) Short Term Rental Facilitator

This bill would authorize a local agency, defined to mean a city, county, or city and county, including a charter city, county, or city and county, to enact an ordinance exclusively delegating its authority to collect any transient occupancy tax imposed by that local agency on short-term rentals to the California Department of Tax and Fee Administration and to enter into a contract with the department for purposes of registration, rate posting, collection, and transmission of revenues necessary to collect and administer any transient occupancy tax imposed on a short-term rental as specified in this bill.

Status: Passed re-referred to Senate Judiciary Committee.

CANNABIS-RELATED LEGISLATION

AB 45 (Aguiar-Curry) Industrial Hemp Products

Current law requires a person who manufactures pet food in California to obtain a license from the State Department of Public Health. Existing law also prohibits the manufacture, sale, or delivery of a pet food ingredient or processed pet food that is adulterated and defines 'adulterated' for this purpose. This bill would require a manufacturer of dietary supplements and food that includes industrial hemp to be able to demonstrate that all parts of the plant used come from a state or country that has an established and approved an industrial hemp program, as defined which inspects or regulates hemp under a food safety program or equivalent criteria to ensure safety for human or animal consumption and that the industrial hemp cultivator or grower is in good standing and compliance with the governing laws of the state or country of origin.

Status: Hearing postponed by committee.

AB 273 (Irwin) Cannabis Advertisements on Highways

Current law places various advertising and marketing restrictions on licensees, including prohibiting a licensee from publishing or disseminating advertising or marketing that is attractive to children, from advertising or marketing cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school, or youth center, and from advertising or marketing on a billboard or similar device visible from an interstate highway or on a state highway within California. This bill would remove the existing reference to advertising or marketing on a billboard or similar device visible from an interstate highway or on a state highway within California, and would specify that a licensee seeking to advertise or market through broadcast, cable, radio, print, and

digital communications is required to obtain reliable up-to-date audience composition data demonstrating that at least 71.6 percent of the audience viewing the advertising or marketing is reasonably expected to be 21 years of age or older.

Status: Hearing canceled. 2-year bill.

AB 1138 (Rubio) Unlawful Cannabis Activity Enforcement

This bill would impose a civil penalty on persons aiding and abetting unlicensed commercial cannabis activity of up to 3 times the amount of the license fee for each violation, but in no case more than \$30,000 for each violation. The bill would prohibit filing an action for civil penalties brought against a person pursuant to Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) 3 years after the first date of discovery of the violation.

Status: Read second time and amended. Re-referred to Committee on Appropriations.

AB 1302 (Quirk) Commercial Cannabis Billboard Restrictions

Current law prohibits a licensee, under the Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (AUMA), from advertising or marketing on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border. This bill, instead, would prohibit a licensee from advertising or marketing on a billboard or similar advertising device located within a 15-mile radius of the California border on an Interstate Highway or on a State Highway which crosses the California border. This bill would declare that its provisions further the purposes and intent of AUMA.

Status: Passed and re-referred to Committee on Appropriations.

SB 59 (Caballero) Cannabis Provisional Licenses

The Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), until January 1, 2022, authorizes a licensing authority, in its sole discretion, to issue a provisional license if the applicant has submitted a completed license application to the licensing authority, including evidence that compliance with the California Environmental Quality Act (CEQA) or local cannabis ordinances is underway, if applicable, as specified. This bill would prohibit a licensing authority from issuing a new provisional license to an applicant on or after July 1, 2022, unless the applicant is a qualified equity applicant, as defined by the California Cannabis Equity Act, and would authorize a licensing authority to reinstate a provisional license issued prior to July 1, 2022, to an

applicant for the same activity previously licensed at the location. The bill would extend the repeal date of these provisional license provisions to July 1, 2028.

Status: Ordered to inactive file on request of Senator Caballero.



PROPERTY TAX LEGISLATION

AB 119 (Salas) County Assessors - Direct Levies Information

Current law requires each county to have certain offices, including the office of auditor who is designated to perform certain duties, including apportioning property tax revenue to each jurisdiction according to tax rate area. Current law defines tax rate areas for the purpose of property tax allocation. This bill would require the county auditor, or other county officer designated by the county, to make publicly available on their internet website information about direct levies, as defined, including the range of combined direct levies assessed on real property. The bill would require a website posting that identifies contact information for each direct levy assessed within their jurisdiction, to also include the range of fees assessed on individual parcels of real property subject to the special district's assessment.

Status: Not heard in policy committee. 2-year bill.

SB 9 (Atkins) Housing Development - Proposals

The bill would set forth what a local agency can and cannot require in approving the construction of 2 residential units, including, but not limited to, authorizing a city or county local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of up to 2 units or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances.

Status: Passed and re-referred to Committee on Appropriations.



ECONOMIC DEVELOPMENT

AB 726 (Garcia, E) Qualified Manufacturing Facility

Current law, until January 1, 2024, authorizes a county, city and county, or city to establish a capital investment incentive program. Current law requires a county, city and county, or city that has so elected, to pay a capital investment incentive amount to the proponent of a qualified manufacturing facility for up to 15 years, upon request by a proponent in writing. Current law defines “qualified manufacturing facility” for these purposes. This bill would add a business engaged in manufacturing of fuels, electrical parts, or components used in the field of clean transportation or the production of alternative fuel vehicles or electric vehicles to the list of business that may operate a qualified manufacturing facility.

Status: Chaptered by Secretary of State - Chapter 121, Statutes of 2021.

SB 87 (Caballero) Establishment of California Small Business COVID-19 Relief Grant Program Within CALOSBA

This bill would establish the California Small Business COVID-19 Relief Grant Program within California Office of the Small Business Advocate (CALOSBA) to assist qualified small businesses affected by COVID-19 through administration of grants. The bill would require CalOSBA to provide grants to qualified small businesses, as defined, in accordance with specified criteria, including geographic distribution based on COVID-19 restrictions, industry sectors most impacted by the pandemic, and underserved small businesses. The bill would repeal these provisions on January 1, 2024.

Status: Approved by the Governor. Chaptered by Secretary of State. Chapter 7, Statutes of 2021.

SB 314 (Weiner) Covid-19 Alcohol Permit Extension

This bill would prohibit the authorization of a catering permit for use at any one premise for more than 52 events in one calendar year, except as specified. The bill would, until July 1, 2023, authorize the Department of Alcoholic Beverage Control to, for 365 days from the date the COVID-19 state of emergency order is lifted, (or longer if the licensee has a pending application for permanent expansion of their premises), allow licensees to continue to exercise license privileges in an expanded licensed area authorized pursuant to a COVID-19 temporary catering permit, as provided.

Status: Passed and re-referred to Committee on Appropriations.

SB 793 (Weiner) Music Venue and Entertainment Zone Alcohol Consumption Ordinance

This bill would authorize a licensed beer manufacturer, a licensed winegrower, and any on-sale licensee to sell certain alcoholic beverages for consumption on the premises and off the premises within an entertainment zone, which the bill would define as a zone created by a city, county, or city and county ordinance on or after January 1, 2022, that authorizes consumption of one or more types of alcoholic beverages on public streets, sidewalks, or public rights-of-way in that zone.

Status: Ordered to inactive file on request of Senator Wiener.



CONSTITUTIONAL AMENDMENTS

ACA 1 (Aguiar-Curry) Affordable Housing and Public Infrastructure with Voter Approval

The California Constitution prohibits the ad valorem tax rate on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions. This measure would create an additional exception to the 1% limit that would authorize a city, county, city and county, or special district to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing, or the acquisition or lease of real property for those purposes, if the proposition proposing that tax is approved by 55% of the voters of the city, county, or city and county, as applicable, and the proposition includes specified accountability requirements.

Status: Referred to Assembly Local Government.

ACA 5 (Voepel) Fuel Taxes, Sales and Use Taxes, and Fees Expenditure Restrictions

The California Constitution restricts the expenditure of revenues from taxes imposed by the state on fuels used in motor vehicles upon public streets and highways to street and highway and certain mass transit purposes. These restrictions do not apply to revenues from taxes or fees imposed under the Sales and Use Tax Law or the Vehicle License

Fee Law. This measure would explicitly restrict the expenditure of all interest earned and other increment derived from the investment of those tax revenues and any proceeds from the lease or sale of real property acquired using those tax revenues only for the purposes described above.