



2018 BACK TO SESSION EDITION

State Ballot Update / Proposed Tax Fairness, Transparency and Accountability Act

The Proposed TFTA is Withdrawn: The initiative would have raised the approval threshold from 50% to two-thirds on all local tax-related measures and was withdrawn from the November 2018 ballot process minutes after Governor Brown signed AB 1838. AB 1838, until January 1, 2031, prohibits any local tax, fee, or other assessment on groceries and is retroactive to January 1, 2018. The Governor's signing message cites the far reaching proposed TFTA and that Mayors from across the state supported the compromise represented in AB 1838.

Can Locals Pull Ballot Measures and how Did this Happen and? First, it is politics. SB 1253 (Steinberg/2014) is the mechanism that allowed proponents to withdraw an initiative even after it has qualified for the ballot. A bill analysis shows support by the California Business Roundtable. Pending SB 1153 authorizes the proponent of a local initiative to withdraw the initiative at any time before the 88th day before the election.

What's Ahead: Shortly after the compromise solidified AB 1838, the California Medical Association and California Dental Association filed a proposed initiative for the 2020 ballot with the Attorney General's office for a statewide soda tax. The proposal includes a provision allowing for local taxes and well as pre-emption to AB 1838. We also anticipate legislation; Assembly Member Bloom plans to re-introduce a "health impact fee" on sugary beverages. Proposed AB 1335 (Bonta) would establish certain warnings related to sugar sweetened beverages.

Selected Measures on the November 2018 Ballot

- **Property Owners Transferring Their Property Tax Base to a Replacement Property** (Proposition 5)
- **Gas Tax Repeal** (Proposition 6)
- **Daylight Savings Time** (Proposition 7)
- **Division of CA Into Three States** (Proposition 9)
- **Enact Rent Control on Residential Property** (Proposition 10)

South Dakota vs. Wayfair, Inc. / Sales and Use Tax Standards

The ruling upheld South Dakota's remote seller statute, in effect allowing states to force e-commerce companies that lack an in-state physical presence to collect and remit their sales and use taxes – thereby boosting local sales tax revenues. This overrules the long-standing physical presence requirement established by *Bellas Hess* in 1967 and reaffirmed by the Court in *Quill* in 1992. As a result, the Court is changing a fundamental aspect of the sales tax nexus requirement.

What This Means: States now can require out-of-state retailers to collect their state's sales taxes, at least in some circumstances, even if they do not have a store, warehouse, or physical presence in that state.

Implementation: The California Department of Tax & Fee Administration's (CDTFA) "guide" is no longer live. While the CDTFA initially projected to begin collecting August 1, 2018, with new revenue included in the November clean-up, we are now uncertain about the actual timing.

Will California Need Special Legislation? There are still implementation details to be worked out at the state level, so exact timing of when increased sales tax revenue may materialize is unknown. *Wayfair* addressed South Dakota legislation that imposes sales and use tax requirements on businesses that deliver more than \$100,000 of goods or services into the state or engage in at least 200 transactions for delivery of goods or services into the state.

Collecting Transactions and Use Taxes May be a Potential Issue: MuniServices has learned that the Legislature is questioning whether locals could collect on the TUT. We earlier reported that for entities who receive TUT, we anticipate the CDTFA to register the affected companies just like they would any other out-of-state business and instruct them to collect the tax rate of the ship to location thus collecting the add-on tax rates.



The Revenue: MuniServices is currently basing its preliminary sales tax revenue estimates for California agencies on the Government Accounting Office estimates for uncollected internet sales tax across the nation of roughly \$8 to \$13 billion. As a point of reference, total US Amazon retail ecommerce sales (gross merchandise value) are expected to hit \$258.22 billion in 2018, up 29% over 2017—far exceeding total US retail ecommerce’s growth of 16%. While Amazon already collects and remits sales taxes, the volume and growth of the ecommerce industry is significant.

Countywide Pools: The decision impacts revenues from “use” taxes. The revenues will flow to the countywide pools because the distinction remains for those businesses that have a physical presence in California versus not.

Congressional Action / Implementation Moratorium: Some stakeholders are advocating for Congress to create a six-month moratorium on sales tax collection to help businesses comply with different state statutes.

LEGISLATIVE & POLICY ROUNDUP

The Legislature reconvened from Recess on August 7 and must act on bills by August 31. The Governor will have until September 30th to sign or veto measures. Please refer to leginfo.ca.gov for up to date bill information. Please note this report includes active bills. Refer to <https://www.avenuinsights.com/category/governments-relations/> for previously published reports.

Sales and Use Taxes/ District Taxes

Change Local Sales Tax Revenue from On-Line Transactions Allocation from Point of Sale to Point of Delivery: MuniServices was told by the author’s office that while not technically dead, Senator Glazer may no longer push SCA 20 forward. SCA 20 would, if approved by the voters, shift the allocation of sales and use tax for all online purchases from point-of-sale (POS) to point-of-destination. While the current system allows jurisdictions that house distribution centers and warehouses that fulfill internet sales to receive sales and use tax allocations, those jurisdictions would lose these revenues under SCA 20, and cities and counties with residents that make purchases online would instead receive increased revenues.

(SCA 20 / Glazer) (Winners and Losers)

Sales and Use Tax Exemption (State and Local):

Charitable Thrift: Deletes the January 1, 2019 sunset. The exemption applies if the purpose of the thrift store is to obtain funding for medical, hospice, or social services provided to individuals with HIV or AIDS by the nonprofit organizations. The CDTFA reports this bill would result in an annual revenue loss of \$1.1 million.

(SB 1484/ E. Hernandez) (Revenue Loss)

North Lake Tahoe Transportation Authority, and City of Berkeley: Transactions and Use Tax – Exclusion from the 2% Cap: Would authorize these jurisdictions to impose a tax for general or specific purposes at a rate of no more than 0.5% that would exceed the combined rate limit of 2%, if the city adopts an ordinance proposing the tax and is approved by the voters. The author during Senate Governance and Finance Committee’s June 20 hearing said he would welcome other localities coming to him to be included in his bill.

(AB 2920/ Thurmond) (Revenue Tool)

Sales and Use Tax Exemption (State and Local):

Military and Veterans Medical Facilities: Exempts “building materials and supplies” purchased for use in the construction of a “qualified facility.” MuniServices confirmed that SB 1007 will no longer include a retroactive exemption.

(SB 1007/ Hertzberg)

(Revenue Loss)

Property and Parcel Taxes / DTT

Community Land Trust: For lien dates after January 1, 2019, provides a welfare exemption (used exclusively for religious, hospital, scientific, or charitable purposes) if the property is owned by a community land trust. The exemption would apply if the property is being or will be developed or rehabilitated for certain housing.

(SB 1056/ Beall) (Revenue Loss)



Local Parcel Taxes Imposed by School Districts: Would allow parcel taxes to apply uniformly to unimproved properties taxed at a lower rate. **(AB 2954/ Bonta)**

Exemption From School Parcel Taxes: Davis Joint Unified School District: Would allow the voters in this district to decide whether to provide a parcel tax exemption for public school employees. **(SB 958/ Dodd)**

Qualified Special Taxes: Exemption: Information (Parcel Tax): If a school district qualifies for an exemption from a special tax, would require a county tax collector to include a hyperlink identified as 'Parcel Tax Exemptions,' on the tax collectors' homepage. **(AB 2458/ Weber)**

Property Tax Backfill for Local Government Due to October 2017 Fires and Southern California Mudslides: Provides \$32.9 million to backfill the property tax revenue losses that cities, counties, and special districts will incur in 2017–18 and 2018–19. **(State Budget)**

Business License

GO-Biz Information Technology/ Master Business License Center: Would recast provisions related to CalGold, renaming the center the "Master Business License Center," and requiring GO-Biz Information Technology to establish an electronic online permit assistance center. MuniServices has asked for consideration of an amendment to include "State" to the new name in order to prevent confusion with respect to local licensing. **(AB 767/ Quirk-Silva)**

Business Licenses/ Identification Requirements for Locals: Requires locality that licenses businesses to accept a California driver's license or identification number, individual taxpayer identification number, or municipal identification number in lieu of a social security number if the locality requires a social security number for the issuance of a business license. **(AB 2184/ Chiu)** **(Implementation Requirements)**

City Business Tax Data Exchange Program: Removes the repeal date of January 1, 2019 for a tax data exchange agreement between the Franchise Tax Board and local governments. **(SB 855/ State Budget)**

Local Governance / Additional Issues

Microenterprise Home Kitchen Operations: Establishes microenterprise home kitchens as a new category of retail food facility, that cities or counties would have discretion to authorize and permit, to be operated by a resident in a private home. **(AB 626/ Garcia)** **(Implementation Requirements)**

Taxicab Regulation: Makes changes to AB 1069/ 2017 that allowed for taxicab operators to obtain one to two permits in each county, instead of permits in every city and county in which the taxi operates and allowed for fewer permit fees and business licenses. The League of Cities in its opposition letters states: "The bill is loosely drafted in a way that could allow for taxicab companies to conduct "jurisdiction shopping" by allowing a taxicab company to determine itself as "substantially located" in a city or county where it only maintains a business address, even if its driving and business activities are all conducted elsewhere. Taxicab companies would only have to furnish this self-collected information upon request, which would result in local agencies having to "chase down" which companies are doing business in their jurisdiction in a way consistent with these complicated definitions." **(AB 939/ Low)** **(Implementation Requirements)**

Digital Sign Demonstration Pilot Program: Would authorize an enterprise initiative between Caltrans and the private sector for a new, state-of-the-art, digital sign network to provide real-time information for enhanced statewide emergency and traveler communications – at no cost to the State. The League of California opposes the bill stating: "Under existing law, local governments ensure public input from their residents regarding the design, size, illumination, and location of these signs to mitigate aesthetic and environmental impacts. AB 1405 would cut local communities out of this process. While some local jurisdictions have adopted bans of outdoor digital signs within their cities, this bill would alternatively allow Caltrans to place signs along segments of the highway adjacent to these cities despite the bans." **(AB 1405/ Mullin)** **(Implementation Requirements/ Local Control)**



Vision Zero Task Force: Requires the Secretary of Transportation, by July 1, 2019, to convene the Vision Zero Task Force to evaluate whether an alternative to the current process for setting speed limits should be considered and make recommendations on other steps to increase pedestrian and bicyclist safety. This task force will incorporate several different types of members including members from academia, law enforcement, local government, labor groups, and safety experts. **(AB 2363/ Friedman)**

Parking Penalties: States that existing provisions requiring payment plans applies regardless of whether the unpaid parking tickets were issued before July 1, 2018. Public agencies are still in the process of implementing AB 503 (Lackey, Chapter 741, Statutes of 2017), which created a process for individuals to repay their unpaid parking penalties while being able to register and operate their vehicles. Because of the retroactive application of AB 2544, the citations currently in that process would need to be withdrawn to be compliant with the provisions in this bill. Multiplied across hundreds of local agencies, this would amount to an unnecessary loss of limited resources. **(AB 2544/ Lackey) (Implementation Requirements/ Revenue Loss)**

Ordinances: Violation Increase: Would among other provisions increase the amount for a first violation to \$130, \$700 for a 2nd violation of the same ordinance within one year, and \$1,300 for each additional violation of the same ordinance within one year of the first violation. Existing law limits the maximum fine or penalty amounts for infractions, to \$100 for the first violation, \$200 for a 2nd violation of the same ordinance within one year of the first violation, and \$500 for each additional violation of the same ordinance within one year of the first violation. **(AB 2598/ Quirk) (Implementation Requirements/ Revenue Increase)**

Ordinances Review: Gambling: Requires the Department of Justice to review and comment on any submitted ordinance within 60 days of receiving the ordinance under the Bureau Gambling Control Act. The Bureau has often taken more than a year to respond to local governments regarding review of their proposed ordinance amendments, as required by law. **(AB 2838/ Low)**

Local Government: Taxation: Prohibition: Groceries: Sweetened Beverages: Would effective date of the chapter and until January 1, 2031, prohibit a local any tax, fee, or other assessment on groceries. Would allow 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. Would make inoperative on the effective date of this measure any tax, fee, or other assessment on groceries imposed by a local agency after January 1, 2018. Would also ban cities and counties from creating taxes on soda and other sugary drinks for more than a decade **(SB 872/ Budget) (Local Control)**

Sidewalk Vendors/ Licensing: Limits Local Authority: A local agency shall not prohibit a sidewalk vendor from selling food or merchandise in a park owned or operated by the local authority, except the local authority may prohibit stationary sidewalk vendors from vending in the park only if the operator of the park has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire. **(SB 946/ Lara) (Implementation Requirements/ Local Control)**

Regional Park and Open Space Districts/ Financing: Authorizes the formation of a regional park and open space district by the adoption of a resolution of application by a county or city that contains the territory proposed to be included in the district. Requires information, including the methods by which the district would be financed. **(AB 2600/ Flora)**

Local Initiatives Public Review Process: Would authorize the proponent of a county, municipal, or district initiative to withdraw the initiative at any time before the 88th day before the election, whether or not the petition has already been found sufficient by the elections official. SB 1253 from 2014 permitted proponents of statewide initiatives to withdraw an initiative up to the qualification deadline even if it has enough valid signatures to qualify for the ballot, among other provisions. **(SB 1153/ Stern)**



California State Auditor: High-Risk Local Government Agency Audit Program: Current law requires the California State Auditor to notify the Joint Legislative Audit Committee whenever he or she identifies a local government as at high risk. This bill would authorize the California State Auditor to first conduct an initial assessment, during which he or she may gather information from a local government agency for the purpose of identifying it as a high-risk local government agency. **(SB 1293/ Lara)**

Nuisance Abatement: Would authorize, until January 1, 2024, a city or county to collect fines related to nuisance abatement. Would require any fines or penalties recovered to be used for supporting local enforcement of state and local building and fire code standards. **(SB 1416/ McGuire)** **(Implementation Requirements)**

Economic Development

Office of Sustainable Outdoor Recreation: Promotes economic development and job growth of the outdoor recreation economy. **(AB 1918/ E. Garcia)**

California Economic Development Strategic Plan: Would require the Governor's Office of Business and Economic Development to lead the preparation of a California Economic Development Strategic Plan. **(AB 2596/ Cooley)**

Warehouses: Public Input: Would require each local agency to provide specified information to the public before approving an economic development subsidy for a warehouse distribution center, as defined, and to, among things, hold hearings and report on those subsidies. See SCA 20/ Glazer. **(AB 2853/ Medina)** **(Implementation Requirements)**

Underground Economy: Establishes Tax Recovery and Criminal Enforcement Task Force (TRaCE) in the DOJ to combat underground economic activities through a multi-agency collaboration to, among other things, recover state revenue lost to the underground economy. **(SB 1272/ Galgiani)**

Enhanced Infrastructure Financing Districts Maintenance: Authorizes an infrastructure financing districts to fund maintenance of public capital facilities on a pay-as-you-go basis. **(SB 1145/ Leyva)**

Film and TV Tax Credit 3.0: Extends the Film Tax Credit beginning July 1, 2020 and July 1, 2025. Allows the credit in the amount equal to 20% or 25% of qualified expenditures for production of films in the State of California. Limits the aggregate amount of the new credits to be allocated in each fiscal year to \$330 million, plus additional amounts. **(SB 871/ Committee on Budget and Fiscal Review)** **(Economic Development Enhancement)**

Shared Economy Housing / TOT Revenues

Privacy: Lodging, Common Carriers, and Public Places of Accommodation/ Protecting Local Audits: Would prohibit entities that offer lodging, transportation, or other accommodation to the public from disclosing, producing, providing, releasing, transferring, disseminating, or otherwise communicating all or any part of any guest record, as defined, orally, in writing, or by electronic or any other means to a 3rd party, other than a California peace officer, without a court-issued subpoena, warrant, or order. MuniServices provided the authors office with language that protects locals' ability to perform TOT compliance audits. **(SB 1194 / Lara)** **(Implementation Requirements)**

Cannabis

Indian Tribes: Commercial Cannabis Activity: Would amend AUMA by authorizing the Governor to enter into an agreement with a federally recognized Indian tribe authorizing commercial cannabis activity and requiring the tribe to establish a tribal cannabis regulatory commission or agency, that would exercise exclusive regulatory authority over all commercial cannabis activity, by both Indians and non-Indians, in Indian country and that requires the commission to adopt standards that meet or exceed the standards adopted under the state's regulatory framework governing commercial cannabis activity. **(AB 924/ Bonta)**

Personal Information: Establishes privacy protections against the unauthorized disclosure of a cannabis consumer's personal information by a cannabis licensee. Prohibits the licensee to disclose the consumer's nonpublic personal information to a third party not directly related to the cannabis transaction. MuniServices has requested that clarification language be included in the bill to allow "agents" to represent locals. **(AB 2402/ Low)** **(Public-Private Partnerships)**

**Cannabis: Local Jurisdiction Licensees: Event Permits:**

Would authorize a state temporary event license to be issued to a licensee for an event to be held at any other venue expressly approved by a local jurisdiction for events. AB 2020 is supported by the League of California Cities and in a letter states: "Currently, the BCC can only authorize a temporary cannabis event at a county fair event or district agricultural event. The bill would help maintain local control and could help cities support small and local cannabis businesses." **(AB 2020/ Quirk)** (Implementation Requirements)

Cannabis: Definitions of "Immature Plant:" Adds 18 inches as the benchmark for defining an "immature plant." Removes ambiguity from current regulations that define mature plants as plants that are "flowering." The bill will help prevent unlawful cannabis diversion and give further scrutiny to the "seed to sale" tracking of legal cannabis. **(AB 2555 / Cooley)**

Banks for the Cannabis Industry: Provides for the licensure and supervision of cannabis limited charter banks and credit unions authorized to offer limited depository services to cannabis businesses. Restricts the activities to accepting deposits and issuing and redeeming special purpose checks. Prohibits these banks or credit unions from engaging in banking activity with any other financial institution that lacks a limited purpose charter. **(SB 930/ Hertzberg)**

Bureau of Cannabis Control Proposed Regulations: Includes language that undermines local authority to ban deliveries. **Comments are due August 27.**

CDTFA Proposed Rule Making: Taxing cannabis. **Comments are due by August 17.**

Removing Cannabis From the Federally Controlled Substances List: (H.R. 1227 and Schumer Amendment)

End Cannabis Prohibition: (S. 1689)

Telecommunication/ Utility Issues / Net Neutrality**Multistate Regional Transmission System**

Organization: Would delegate to the California Energy Commission the ability to authorize the transformation of the California Independent System Operator (CAISO) into a multistate regional transmission system. Prohibits a California electrical transmission facility owner, a retail seller of electricity, or a local publicly

owned electric utility to join a multistate regional transmission system organization. MuniServices is further evaluating this proposal for impact. **(AB 813/ Holden)**

Telecommunications: Universal Services Programs: Would extend the sunset date for both the California High-Cost Fund-A (CHCF-A) and the California High-Cost Fund-B (CHCF-B) in order to continue to provide affordable basic telephone service to rural California. AB 1959 is supported by the League of California Cities.

An analysis states: "Building and maintaining telecommunication networks in rural regions would result in a high cost for customers without support from California's High Cost Fund-A and B programs." CHCF-A and the CHCF-B were established to subsidize both small independent telephone companies and large telephone corporations to provide service in the rural and smaller metropolitan communities. These subsidies are paid for by surcharges on telephone bills. **(AB 1959/ Wood)**

County Services Area (CSA): Broadband: Net Neutrality: Allows CSAs to provide broadband Internet access service, and requires that any public entity providing broadband Internet access service do so in accordance with "net neutrality" principles. Net neutrality is the principle that Internet service providers (ISPs) should not discriminate against legal content and applications by charging content providers different delivery speeds to deliver their content. **(AB 1999/ Chau)**

Water Utility Service: Sale of Water: Allows for city-owned water systems serving less than 10,000 people to sell the system without first going to an election. Requires the city to determine that it is uneconomical and not in the public interest to own and operate the public water utility and allows the sale if 4/5th of the city's legislative body adopts a resolution. **(AB 2339 / Gipson)** (Implementation Requirements/ Local Control)

Net Neutrality/ Broadband Internet Access: Would codify portions of the recently-rescinded Federal Communications Commission rules protecting "net neutrality." It is unclear whether this will affect UUT receipts from OTT streaming video. **(SB 822/ Wiener and SB 460 / De Leon)**



PUC Rates: Adjustments: Impact on UUT's: Would direct the CPUC to reduce the rates it approves for investor-owned utilities for gas, electricity, and water service in order to pass on to customers the tax savings these utilities will receive under the recently enacted federal tax bill. This will indirectly result in lower UUT revenues for cities from these utilities, since UUTs are based on the customer service charges and this bill will reduce those charges. Under the recent Federal House Resolution 1 utilities are expected to receive lower taxes. **(SB 1028/ Hill)**

Discontinuation of Residential Water Service: Urban and Community Water Systems (200 or more Connections)/ Local Impact: Would prohibit an urban and community water system from discontinuing residential service for nonpayment until a payment by a customer has been delinquent for at least 60 days. Would require an urban and community water system to contact the customer named on the account and provide the customer with the urban and community water system's policy on discontinuation of residential service for nonpayment no less than 7 business days before discontinuation of residential service. **(SB 998/ Dodd)** *(Implementation Requirements/ Local Control)*

PERS Election

CalPERS is conducting one election this fall for the public agency representative seat on the CalPERS Board of Administration. Under the California Constitution, the CalPERS Board has exclusive authority to administer the CalPERS Pension Fund. Ballots will be mailed August 31 and votes must be received by October 1. MuniServices understands that on average approximately 6% of eligible voters participate in the election. Please refer to the following link for further detail: www.calpers.ca.gov/boardelection.

Federal Issues

The Access Broadband Act (H.R. 3994) would create an Office of Internet Connectivity and Growth (OICG) within the National Telecommunications & Information Administration, which is the White House's chief telecom policy advisor. If signed into law, OICG would track rural broadband programs that receive federal funding, the economic impact of broadband expansion, and progress towards closing the digital divide.

The Precision Agriculture Connectivity Act of 2018 (H.R. 4881) would direct the Federal Communications Commission to create a task force to "meet the connectivity and technology needs of precision agriculture in the United States." Those are broadband-enabled technologies that allow farmers to collect data in real time on cropland and ranch land.

The STREAMLINE Small Cell Deployment Act (S. 3157) would force a one-size-fits-all preemption that will harm local negotiations and policy work – slowing the deployment of new broadband infrastructure. NLC joined a number of other state and local government organizations on a letter to senators opposing the bill. This bill would complicate existing efforts by state and local governments to deploy broadband service.

United States Conference of Mayors Adopted a Resolution Preserving a Free and Open Internet:
<https://www.usmayors.org/the-conference/resolutions/?category=c9205&meeting=86th%20Annual%20Meeting>

Federal Tax Reform 2.0: The Federal Ways and Means Committee published a framework that includes concepts to build on the Tax Cuts and Jobs Act in three main ways. This includes: 1) Protecting middle-class and small business tax cuts; 2) Promoting family savings; and 3) Spurring new business innovation.

Government Relations Contact

Brenda Narayan (Brenda.Narayan@avenuinsights.com/ 916.261.5147)

Fran Mancia (Fran.Mancia@avenuinsights.com/ 559.288.7296)