

California Legislative Update March 13, 2020

The deadline to introduce bills was February 21. Prior to the deadline, we saw 1,450 new bills introduced between the two houses during the week February 17, with 1,120 bills introduced during the final two days prior to the deadline, bringing the total number of active bills to 2,203.

Avenu is currently monitoring more than 40 bills that seek to modify existing local taxes and impose new fees. Please note that this report is in no way complete. We will continue to update this list as new information emerges.

We would further note that there are a number of “spot” bills included in this report, which means that the intended purpose has either not yet been identified or is still under development. We have done our best to assess intent and will be sending periodic updates as new information is available. There is also the possibility that additional, non-substantive bills will be amended to include issues of concern to local governments.

In the meantime, please review this list at your earliest convenience and please do not hesitate to contact us with any questions you may have.

Government Relations Contact

Fran.Mancia@avenuinsights.com / 559.288.7296



Sales and Use Tax

AB 1962 (Voepel): Sales and use taxes: exemption: senior housing. Exempts the gross receipts from the sale of, and the storage, use or other consumption in this state of, building materials and supplies purchased by a qualified person for use in the construction of specified senior housing developments. Sunsets five years after the effective date on January 1, 2026.

Status: Will be heard in the Assembly Revenue & Taxation Committee on March 9.

AB 1978 (Gipson): Sales and use taxes: exclusion: pawnbrokers: transfer of vested property. Extends the sales and use tax exclusion for the transfer of vested property by a pawnbroker to the person who pledged the property to a pawnbroker as security for a loan from the definition of “sale” and “purchase,” thus excluding that transfer from imposition of sales and use tax from January 1, 2022 until January 1, 2027.

Status: Will be heard in the Assembly Revenue & Taxation Committee on March 9.

AB 2528 (Diep): Sales and use taxes: income taxes: written advice. This bill would require the Department of Tax and Fee Administration to confirm receipt of a request for written advice by sending a letter within 30 days from the date of receipt of the request. The bill would require the department to provide a response within 180 days from the date of request.

Status: Referred to the Assembly Revenue & Taxation Committee. Eligible to be heard on March 21.

AB 2626 (Bauer-Kahan): Sales and use taxes: exemption: local educational agency. Exempts from

the state sales and use tax, the sale, storage, use or other consumption of, tangible personal property purchased by a local educational agency.

Status: Referred to the Assembly Revenue & Taxation Committee. Eligible to be heard on March 22.

AB 2647 (Fong): Sales and use taxes. Makes non-substantive changes to the Revenue and Taxation Code pertaining to a lessee's possession of tangible personal property.

Comments: This is a spot bill. Staff will follow-up with the author's office on the intended purpose.

Status: Pending referral to a policy committee. Eligible to be heard on March 22.

AB 2795 (Gipson): Sales and use taxes. Makes non-substantive changes to the Revenue and Taxation Code.

Comments: This is a spot bill. Staff will follow-up with the author's office on the intended purpose.

Status: Pending referral. Eligible to be heard in a policy committee on March 22.

AB 2840 (Rubio): Sales and use tax. Makes non-substantive changes to provisions in the Revenue and Taxation Code pertaining to sales tax exemptions for menstrual hygiene products.

Comments: This is a spot bill. Staff will follow-up with the author's office on the intended purpose.

Status: Pending referral. Eligible to be heard in a policy committee on March 22.

AB 2989 (Arambula): Sales and use taxes: exemptions: blood screening testing. This bill, on and after January 1, 2021, would exempt the gross receipts from the sale in this state of, and the storage, use or other consumption in this state of, any reagents or chemicals, and lab equipment and supplies, used by a licensed blood bank to perform blood screening tests on donated human blood.

Status: Pending referral. Eligible to be heard in a policy committee on March 23.

AB 3193 (Patterson): Sales and use taxes: exemptions: trucks for use in interstate or foreign commerce. Makes non-substantive changes to the Revenue and Taxation Code pertaining to sales tax exemptions.

Comments: This is a spot bill. Staff will follow-up with the author's office on the intended purpose.

Status: Pending referral. Eligible to be heard in a policy committee on March 23.

AB 3360 (Cunningham): Sales and use tax: lease of solar equipment. This bill would exclude, in California's sales and use tax law, from the definitions of "sale" and "purchase," a lease of solar equipment used for purposes of complying with specified state building standards.

Status: Pending referral. Eligible to be heard in a policy committee on March 23.

SB 38 (Hill): Sales and use taxes: consumer designation: all volunteer fire department. This bill repeals the sunset provision on the designation of a qualifying volunteer fire department as a consumer, not a retailer, under the Sales and Use Tax Law.

Status: Pending referral to a policy committee in the Assembly.

SB 952 (Nielsen): Sales and use taxes: exemption: backup electrical resources: deenergization events. This bill, on and after January 1, 2021, would provide an exemption from sales and use taxes with respect to the sale of, or the storage, use or consumption of, a backup electrical resource, as defined, that is purchased for exclusive use by a city, county, special district or other entity of local government during deenergization events, as defined.

Status: Referred to the Senate Committee on Governance & Finance. Eligible to be heard on March 12.

SB 1357 (Portantino): Income tax credits: research and development: California Competes Tax Credit: sales and use taxes: refund. This bill would permit a

qualified person who has paid qualified sales tax reimbursement to a retailer on the sale of tangible personal property sold at retail in this state or has paid qualified use tax on the storage, use or other consumption of tangible personal property purchased from a retailer for storage, use or other consumption, in lieu of claiming the research and development income tax credit or the Cal Competes income tax credit under the Personal Income Tax Law or the Corporation Tax Law, to file a claim for a refund equal to the amount of the credit, as specified.

Status: Pending referral to a policy committee in the Senate. Eligible to be heard on March 25.000 or greater to fund health service programs.

Property Tax

AB 2769 (Petrie-Norris): Property taxation. Makes non-substantive changes to the Revenue and Taxation Code.

Comments: While this is currently spot bill, staff was informed that the author intends to amend the bill to augment the equity amount to the County of Orange by increasing the County's share of ad valorem property tax in years where assessed property value grows by 3% over the previous year. As proposed, funds will then be allocated to the County's system of care to be used to support homeless individuals and those at risk of homelessness.

Status: Pending referral to a policy committee. Eligible to be heard on March 22.

AB 2799 (Petrie-Norris): Property taxation: assessment: consultant contracts. Makes non-substantive changes to provisions in the Revenue and Taxation Code pertaining to contracts for the performance of appraisal work.

Comments: This is a spot bill. Staff will follow-up with the author's office on the intended purpose.

Status: Pending referral to a policy committee. Eligible to be heard on March 22.

AB 2829 (Ting): Property taxation: welfare exemption: rental housing: moderate-income

housing. On and after January 1, 2021, and before January 1, 2041, provides an exemption for qualified property, as defined, that meets the requirements of the welfare exemption and that is used exclusively for rental housing and related facilities, equal to that percentage of the value of the property that is equal to the percentage that the number of units serving moderate-income households, as defined, represents of the total number of residential units. Requires that a property that qualifies for a partial exemption under these provisions before January 1, 2041, continue to receive that exemption on and after January 1, 2041, until a change in ownership occurs or the property ceases to include any units available to and occupied by moderate-income households, as provided. Requires the Legislative Analyst's Office to annually collaborate with the State Board of Equalization to review the effectiveness of the exemption and submit a report of their review to the Legislature, beginning January 1, 2021, until January 1, 2042.

Status: Pending referral. Eligible to be heard in a policy committee on March 22.

SB 1179 (Archuleta): Property tax revenue allocations: County of Los Angeles: residential infill development. Establishes a pilot program in the County of Los Angeles, beginning in the 2021–22 fiscal year, which would authorize the auditor-controller to increase the total amount of ad valorem property tax revenue that is otherwise required to be allocated to specified cities within the county by the residential infill development amount, as defined, and to commensurately decrease the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund.

Status: Pending referral. Eligible to be heard in a policy committee on March 22.

Utility User Taxes

SB 1441 (McGuire): Local Prepaid Mobile Telephony Services Collection Act. Extends indefinitely local governments' authority to collect on local Utility User Taxes (UUT) from retail sales of

prepaid wireless telecommunication products and services.

Comments: Co-sponsored by Avenu Insights and Analytics, this is follow-up legislation to SB 344, which was enacted last year. SB 344 authorized a one-year sunset extension to allow local governments to collect on local UUT from retail sales of prepaid wireless telecommunication products and services. SB 1441 extends this authority indefinitely and makes other non-substantive changes to eliminate cross-references in the MTS act to the Prepaid Mobile Telephony Service Surcharge Collection Act. There are currently 101 cities and 3 counties who collect UUTs on prepaid wireless products, receiving approximately \$24 million in new revenue since the program was enacted.

Status: Pending referral. Eligible to be heard in a policy committee on March 25.

Transient Occupancy Tax (TOT)

SB 1072 (McGuire): Local agencies: transient occupancy taxes: online short-term rental facilitator collection. This bill would authorize a local agency, defined to mean a 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 to perform all functions incident to the collection and administration of any transient occupancy tax imposed on a short-term rental as specified in this bill.

Status: Referred to the Senate Committees on Governance & Finance and Judiciary.

Other Taxes

AB 2843 (Chu): Local employer affordable housing fees: Affordable Housing Assistance Fund. Requires a city or county or a city and county to collect an additional annual fee from any applicant for a local business license in an amount depending on the number of employees employed by the business, as

specified. Provides that funds collected under these provisions be deposited into a newly created “Affordable Housing Assistance Fund” to be used for specified purposes, including first-time homebuyer programs, vouchers for individuals experiencing homelessness, funding and subsidizing affordable housing development projects and rental assistance.

Status: Pending referral. Eligible to be heard in a policy committee on March 22.

Housing Production: Local Fees

AB 1484 (Grayson): Mitigation Fee Act: housing developments. Provides a comprehensive reform of the nexus standards that cities and counties use to determine their fees.

Status: Passed the Assembly. Pending action on the Senate Floor.

AB 1924 (Grayson): Housing development: fees. Requires jurisdictions to assess fees on a per-square-foot basis, giving developers the option to build smaller, more affordable units without being penalized with multiple fees.

Status: Double-referred to the Assembly committees on Local Government and Housing and Community Development.

AB 3144 (Grayson): Housing Cost Reduction Incentive Program. Provides state funding to reimburse local governments who waive impact fees. Establishes the Housing Cost Reduction Incentive Program within the Department of Housing and Community Development, for the purpose of reimbursing local governments for development impact fee waivers or reductions provided to qualified rental housing developments.

Status: Pending referral. Eligible to be heard in a policy committee on March 23.

AB 3145 (Grayson): Local governments: housing developments projects: fees and extractions cap. Establishes a ceiling for development fees based on

the median home price in a jurisdiction. Requires cities and counties that exceed this ceiling seek approval from the Department of Housing and Community Development.

Status: Pending referral. Eligible to be heard in a policy committee on March 23.

AB 3146 (Bonta and Grayson): Housing data: collection and reporting. Requires cities and counties to report a wide variety of housing data to the Department of Housing and Community Development, including the number of new housing units that have been issued a completed entitlement, a building permit or a certificate of occupancy.

Status: Pending referral. Eligible to be heard in a policy committee on March 23.

AB 3147 (Gabriel): Fees for development projects. The Mitigation Fee Act authorizes a local agency to charge a variety of fees in connection with the approval of a development project. It also prohibits the imposition of fees for specified purposes, including fees for water or sewer connections, capacity charges, zoning variances or changes, use permits, and building inspections or permits, among others, that exceed the estimated reasonable cost of providing the service for which the fee is charged, unless voter approval is obtained. AB 3147 would allow a developer to pay a fee they consider to be too high, continue construction while they are protesting the amount of that fee, and be reimbursed if a judicial review confirms that the fee exceeds reasonable costs.

Status: Pending referral. Eligible to be heard in a policy committee on March 23.

AB 3148 (Chiu): Planning and zoning: density bonuses: affordable housing: fee reductions. This bill would require a city, county, special district, water corporation utility or other local agency, except a school district, to reduce an impact fee or other charges imposed on the construction of a deed restricted affordable housing unit that is built pursuant to a density bonus, to amounts that are, depending on the affordability restriction on the unit, a specified percentage of the impact fee or other

charge that would be imposed on a market rate unit within the development. The bill would exempt from these provisions units that are required to be affordable pursuant to a local inclusionary housing ordinance.

Status: Pending referral. Eligible to be heard in a policy committee on March 23.

AB 3149 (Gloria): Mitigation Fee Act. This bill makes non-substantive changes to the Mitigation Fee Act.

Comments: According to the author's staff, the goal of the measure is to modernize the way that local agencies notify interested parties prior to levying a new fee or service charge or prior to approving an increase in an existing fee or service charge.

Status: Pending referral. Eligible to be heard in a policy committee on March 23.

Transportation Funding

AB 2310 (Daly): Road Maintenance and Rehabilitation Account: apportionment of funds: accrued interest. The Road Maintenance and Rehabilitation Program addresses deferred maintenance on the state highway system and the local street and road system. Funds available for the program are allocated for various specified purposes and the remaining funds available for the program are to be continuously appropriated 50% for allocation to the Department of Transportation for maintenance of the state highway system or for the State Highway Operation and Protection Program and 50% for apportionment to cities and counties by the Controller pursuant to a specified formula. This bill would continuously appropriate interest earnings derived from revenues deposited in the Road Maintenance and Rehabilitation Account to the department for maintenance of the state highway system or for purposes of the State Highway Operation and Protection Program.

Status: Referred to the Assembly Transportation Committee. Eligible to be heard on March 16.

AB 2738 (Quirk-Silva): Highway Users Tax Account: apportionment to counties: expenditure. Expands the purposes for which a county may spend money deposited into its road fund to include any street or road within the county. Requires the county to use those funds equitably throughout the county to identify and improve streets and roads that have the highest need. Requires the board of supervisors to consult with cities located in the county to identify opportunities for collaborative transportation projects to improve local streets and roads.

Comments: This bill is sponsored by the City of Fullerton.

Status: Referred to the Assembly Transportation Committee. Eligible to be heard on March 22.

Cannabis

AB 1948 (Bonta): Cannabis tax relief. Temporarily reduces, from 15% to 11%, the state excise tax on sales of cannabis and cannabis products and temporarily suspends the state cannabis cultivation tax until July 1, 2023.

Comments: This is a reintroduction of AB 3157 (Lackey, 2018) and AB 286 (Bonta, 2019). Both bills were held in the Assembly Appropriations Committee.

Status: Will be heard in the Assembly Revenue & Taxation Committee on March 9.

AB 3124 (Lackey): Tax exemption for medicinal patients. Exempts cannabis retailers from taxes levied on the sale, storage, use or consumption of medicinal cannabis or a medicinal cannabis product if it is purchased by a qualified patient or a primary caregiver of a qualified patient provided they have a valid physician's recommendation and a valid state government-issued identification card. Specifies that the state shall not reimburse any local agencies for sales and use tax revenues lost by them pursuant to this bill.

Comments: This bill is rumored to be a possible vehicle for an alternate cannabis tax simplification plan from the proposal outlined in the governor's

January Budget, which proposes to change when cannabis taxes are collected within the supply chain.

Status: Pending referral. Eligible to be heard in a policy committee on March 23.

AB 2456 (Ting): Model ordinance. Directs the Bureau of Cannabis Control to develop a model local ordinance, and to make the model local ordinance publicly available on its internet website.

Comments: This is a follow-up to AB 1356 (Ting), which was pulled from consideration by the author and is now dead after it was determined that it lacked sufficient votes to pass the Assembly. AB 1356 would have required jurisdictions where Proposition 64 passed with over 50% of the vote to authorize commercial cannabis retail via a specified formula. It was strongly opposed by cities and counties.

Status: Pending referral. Eligible to be heard in a policy committee on March 23.

AB 2122 (Rubio): Administrative penalties: unlicensed operators. Amends the civil penalty provisions approved in the cannabis trailer bill last year, which authorizes the Attorney General, licensing authority and/or other participating local government agencies to issue fines up to \$30,000 per day, per violation for engaging in commercial cannabis activity without a license. Under existing law, penalties are deposited into the General Fund. Instead, this bill requires civil penalties to be first used to reimburse the agencies for the costs of investigating and prosecuting the action. AB 2122 further provides that any actions must be filed within three years from the date of the first discovery of the violation.

Status: Pending referral. Eligible to be heard in a policy committee on March 23.

AB 2437 (Quirk): Civil actions: statute of limitations. Extends the statute of limitations (SOL) for civil actions brought under §26038 of the Business and Professions Code from one year to three years. §26038 currently authorizes the Attorney General, a district attorney or county counsel to obtain civil

penalties against person(s) engaged in unlicensed commercial cannabis activity.

Comments: The intent of this bill, which is sponsored by the California District Attorneys Association (CDAA), is to conform the SOL for the imposition of civil penalties on cannabis to other civil penalties in code. The sponsor believes that the default SOL of 1 year for cannabis civil penalties was an oversight and that unlicensed cannabis investigations are complex and multifaceted, often involving multiple agencies. As such, by the time investigations are concluded, the current one year SOL has often already run its course.

Status: Double-referred to the Assembly committees on Judiciary and Business & Professions. Hearing date TBD.

SB 1294 (Bradford): California Cannabis Equity Act of 2018. Makes non-substantive changes to provisions in the Business and Professions Code pertaining to the Cannabis Equity Act of 2018.

Comments: The California Cannabis Equity Act of 2018 established a local grant program to provide technical assistance to specified local equity programs operated by a local jurisdiction that focuses on inclusion and support of individuals and communities that were negatively or disproportionately impacted by cannabis criminalization. According to the author's staff, the author is considering additional modifications to improve the State's existing equity program provisions.

Status: Pending referral. Eligible to be heard in a policy committee on March 25.

SB 1244 (Bradford): Cannabis testing laboratories. Authorizes a licensed testing laboratory to receive and test samples of cannabis or cannabis products from state or local law enforcement, or a prosecuting or regulatory agency in order to test the cannabis or cannabis products.

Comments: This bill was brought forward by the City of Los Angeles. The intent is to aid local law enforcement in enforcing against unlicensed cannabis

activities by allowing them to bring confiscated products to testing laboratories.

Status: Pending referral. Eligible to be heard in a policy committee on March 22.

AB 2716 (Irwin): Cannabis advertising and marketing restrictions. Makes non-substantive changes to sections in the Business and Profession Code pertaining to cannabis advertising.

Comments: According to the author's staff, the author has expressed concerns with the proliferation of cannabis advertising on billboards and intends to modify provisions in the MAUCRSA that allow such advertising along freeways.

Status: Pending referral. Eligible to be heard in a policy committee on March 22.

AB 2355 (Bonta): Employment discrimination: medical cannabis. Prohibits employers from terminating or refusing to hire an individual based on their use of medicinal cannabis, granted that the employee has a medical cannabis ID card and/or physician's recommendation. Makes clear that the provisions would not apply to any employer if doing so could reasonably jeopardize them monetarily or incur damages due to federal law. Clarifies the same reasonable accommodation and the associated interactive processes that apply to other legal drugs also applies to medicinal cannabis patients.

Comments: The author tried a similar bill in 2018, AB 2069, which died in the Assembly Appropriations Committee amid tough opposition, particularly from the building trades unions. This year, the bill seems to have more protections in place for employers, and Bonta's office is continuing to meet with relevant stakeholders to address concerns around employee safety and certain exemptions.

Status: Double-referred to the Assembly committees on Labor and Employment and Judiciary. Eligible to be heard in a policy committee on March 23.

AB 1525 (Jones-Sawyer): Cannabis: financial institutions. Clarifies that no state law prohibits a financial institution from providing financial services

to a licensed cannabis business. Allows cannabis businesses to permit regulators to share the business' track-and-trace data with financial institutions.

Comments: This is a two-year bill carried over from last year, which got held in committee due to political issues outside of the policy itself. This bill passed the Assembly floor with strong bipartisan support (68-1-11).

Status: In Senate Rules, currently pending referral.

AB 3090 (Ting): Cannabis taxes: payment using stablecoins: report. Requires the California Department of Tax and Fee Administration (CDTFA) to issue and deliver to the Legislature a report on how the State, cities and counties could receive any cannabis tax amounts due by payment using stablecoins by January 1, 2022.

Comments: Last year, Assemblymember Ting introduced AB 953, which was originally intended to allow cannabis businesses to pay taxes via a type of digital currency/cryptocurrency called "stablecoin," which is backed by the USD. However, Ting hesitated in moving forward with the proposal, citing the need for more research.

Status: Pending referral. Eligible to be heard in a policy committee on March 23.

SB 51 (Hertzberg): Financial institutions: cannabis. Establishes a new state bank charter for the limited purpose of banking within the cannabis industry.

Comments: Though not reflected yet in language, we have confirmed that SB 51 will change substantially in 2020, while remaining cosponsored by State Treasurer Fiona Ma. The bill will instead establish rigorous protections in the Financial Code for existing state financial institutions that are banking with cannabis businesses. In the words of Hertzberg's staff, SB 51 is intended to be a "state-level SAFE Banking Act."

Status: Currently on the Assembly Inactive File pending amendments.

AB 2312 (Quirk): Cannabis. Makes non-substantive changes to the Business and Profession Codes pertaining to temporary cannabis events.

Comments: Though in spot form, the author's staff confirmed this bill will be follow-up legislation sponsored by CCIA and the City of Oakland in 2018. AB 2020 (Quirk) authorized temporary cannabis events at any venue expressly permitted by a locality. AB 2312 will further clarify that venues licensed under the Department of Alcoholic Beverage Control can still have cannabis temporary events so long as areas allowing alcohol sales and consumption are separate and distinct from those allowing cannabis sales and consumption. The bill is again co-sponsored by CCIA and the City of Oakland.

Status: Pending referral. Eligible to be heard in a policy committee on March 16.