

Full Text of Measure B (1996 November)

On November 5, 1996, the voters of Santa Cruz County, California, passed Measure B with a yes vote of 72.3%. Measure B provides for a 1/4th cent sales tax to be dedicated to Library funding. The tax went into effect March 1997 with the funds becoming available in the fiscal year beginning July 1, 1997. Below is the text of Measure B.

Ordinance No. 1

An Ordinance of the Santa Cruz County Public Library Authority Imposing A Transactions and Use Tax to be Administered by State Board of Equalization

The Board of Directors of the Santa Cruz County Public Library Authority ordains as follows:

Section 1. TITLE. This ordinance shall be known as the "Santa Cruz County Public Library Transactions and Use Tax Ordinance". The transactions and use tax provisions of this ordinance shall be applicable in the incorporated and unincorporated territory of the County of Santa Cruz, which territory shall be referred to herein as "District".

Section 2. PURPOSE. This ordinance is adopted to achieve the following, among other, purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes.

A. To impose a one-quarter of one percent retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, and as specifically authorized by Section 7285.5 of the Revenue and Taxation Code;

B. To adopt a retail transactions and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code;

C. To adopt a retail transactions and use tax ordinance which imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes; and

D. To adopt a retail transactions and use tax ordinance which can be administered in a manner which will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

Section 3. EXPENDITURE PLAN. The Expenditure Plan is designed to accomplish the specific projects listed below through the use of a combination of maintenance of effort contributions from the City of Watsonville, the City of Santa Cruz and the County and the revenues from the transactions and use tax. The expenditure plan provides for preserving the existing libraries; reversing the deterioration in services at the existing libraries, upgrading of facilities, services, and collections; and extending branch library services to the unserved and underserved areas of the County.

This expenditure plan is intended to provide Santa Cruz County with libraries which are on a par with those operated in other Bay Area communities.

The specific projects for which the revenues from the transactions and use tax may be expended are as follows:

A. Maintaining local public libraries;

- B. Restoring Open Hours at existing branches throughout the County;
- C. Expanding library programs for children and young adults;
- D. Expanding outreach programs for individuals who cannot easily come to a library through scheduled services at senior centers and the establishment of information centers where residents can access the library catalog and reserve materials through the automation system;
- E. Acquiring and replacing library equipment and library materials;
- F. Expanding and renovating the Santa Cruz and Watsonville central libraries;
- G. Extending branch library services to unserved areas of Live Oak and Capitola through operation of new branches; and
- H. Augmenting branch library services in the underserved areas of Scotts Valley, Felton, Boulder Creek, La Selva Beach and Freedom through expansion and renovation of facilities; increased hours of operation and increasing available library materials.

Section 4. CONTRACT WITH STATE. Prior to the operative date, the Santa Cruz County Public Library Authority shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the Santa Cruz County Public Library Authority shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 5. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the District at the rate of one-quarter of one percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

Section 6. PLACE OF SALE. For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

Section 7. USE TAX RATE. An excise tax is hereby imposed on the storage, use or other consumption in the District of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one-quarter of one percent of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 8. ADOPTION OF PROVISIONS OF STATE LAW. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

Section 9. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- A. Wherever the State of California is named or referred to as the taxing agency, the name of this Authority shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;
2. The result of that substitution would require action to be taken by or against this District or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance;
3. In those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; or,
 - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the said provisions of that code.
4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797, or 6828 of the Revenue and Taxation Code.

B. The word "District" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

Section 10. PERMIT NOT REQUIRED. If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code an additional transactor's permit shall not be required by this ordinance.

Section 11. EXEMPTIONS AND EXCLUSIONS.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sale and Use Tax Law or in the amount of any State-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property other than fuel or petroleum products to operators of aircraft to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government;
2. Sales of property to be used outside the District which is shipped to a point outside the District, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the District shall be satisfied:
 - a. With respect to vehicles (other than commercial vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code, by registration to an out-of-District address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-District and declaration under penalty of perjury, signed by the buyer, stating that the vehicle will be operated from that address; and
3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance;
4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which

the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance;

5. For the purposes of subsections (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There is exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this District of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any State-administered transactions and use tax ordinance;
2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California;
3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance;
4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance;
5. For the purposes of subsections (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract of lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
6. Except as provided in subparagraph (7), a retailer engaged in business in the District shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the District or participates within the District in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the canvasser, solicitor, subsidiary, or person in the District under the authority of the retailer.
7. "A retailer engaged in business in the District" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the District.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Section 12. AMENDMENTS. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Section 13. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the District, or against any officer of the State or the District, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Section 14. IMPLEMENTING POLICIES AND REGULATIONS. Upon approval of this ordinance by two-thirds of the voters, the Santa Cruz County Public Library Authority may adopt policies and regulations and take such other action as may be necessary for the implementation of the one-quarter of one percent (1/4%) transactions and use tax authorized by this ordinance.

Section 15. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 16. EFFECTIVE AND OPERATIVE DATES. This ordinance shall take effect as provided by law. This ordinance shall become effective according to law only if at least two-thirds of the electors voting on the measure at the election on November 5, 1996, vote to approve enactment of the ordinance. If so approved, the provisions of this ordinance authorizing the levy of the one-quarter of one percent transactions and use tax shall become operative on April 1, 1997.

Section 17. TERMINATION DATE. This ordinance shall terminate on April 1, 2013 and shall be of no further force and effect as of that date.

Section 18. READOPTION OF ORDINANCE NO. 1. This ordinance revises and readopts Ordinance No. 1 of the Santa Cruz Public Library Authority Imposing A Transaction And Use Tax To Be Administered By The State Board of Equalization, adopted on June 25, 1996.

PASSED AND ADOPTED this 6th day of August, 1996, by the Board of Directors of the Santa Cruz County Public Library Authority by the following vote:

AYES: DIRECTORS: Beautz, Wormhoudt, Belgard, Keeley, and Symons

NOES: DIRECTORS

ASSENT: DIRECTORS

ABSTAIN: DIRECTORS

s/ Walt Symons, Chairman of the Board of Directors

Attest: s/ Susan M. Rozario, Secretary

APPROVED AS TO FORM:

s/ DWIGHT L. HERR, County Counsel