

*On January 7, 2019, the Legislature reconvened. Governor Gavin Newsom and other Constitutional Officers were sworn into office and new bills have been introduced. The deadline to introduce new legislation is February 22nd. Additionally, the new Governor proposed his January Budget on Thursday, January 10, 2019. The following includes a summary of the Governor's proposed budget and updates for 2019 legislative statuses on bills related to sales and use tax, medical and adult use cannabis taxation and regulation, property taxation and economic development that HdL will be tracking.*



## Governors Proposed Budget

The \$209 billion budget proposal relies on record-setting tax revenues to boost public school spending and healthcare programs while proposing one-time spending to address the homeless/housing crisis and prepare for future natural disasters. In addition, the Governor proposes putting over \$13 billion into eliminating debts, increasing reserves and paying down unfunded pension liabilities.

Before accounting for transfers such as the Rainy-Day Fund, the General Fund revenue is higher than the 2018 Budget Act projections by \$8.1 billion from 2017-18 through 2019-20. General Fund revenue, including transfers, is expected to be \$137 billion in 2018-19 and \$143 billion in 2019-20. Department of Finance (DOF) attributes the projected increase since the 2018 Budget Act to an improved outlook for personal income tax driven by strong wage withholdings and capital gains.

Reserves are expected to grow to \$18.5 billion combined in 2019-20, with \$15.3 billion in the State's Rainy-Day Fund, \$2.3 billion in the Special Fund for Economic Uncertainty and \$700 million in the Social Services reserve.

### Sales and Use Tax

The sales and use tax generated General Fund revenue of \$25 billion in 2017-18 is expected to generate \$26.2 billion in 2018 and \$27.4 billion in 2019-20.

- The sales tax revenue forecast outlined in the 2018 Budget Act has since been revised down. The newly revised figures reflect a reduction of \$378 million in 2017-18, \$430 million in 2018-19 and \$565 million in 2019.
- Receipts from sales tax, the state's second largest revenue source, are expected to contribute 18.8 percent of all State General Fund revenues in 2019-20.

### Tax on Services

During the Governor's budget presentation, a member of the audience asked about taxing services. The Governor responded that it should be considered. Expanding California's sales tax to services has been a topic of conversation for years but never proceeds due to extreme opposition from those that perform services.

### Wayfair v. South Dakota

DOF and CDFTA project an additional \$219 million in tax revenue in 2018-19 and \$554 million in 2019-20. These projections reflect the current South Dakota \$1,000,000/200 transactions annual exemption limits. The Assembly is currently attempting to pass legislation that would lower the exemption threshold to \$500,000 in total annual transactions and potentially increase state and local tax revenue. Please find additional information for AB 147 on page 3.

### **Medicinal and Adult-Use Cannabis**

The DOF expects cannabis excise tax revenues to continue to increase with the legal cannabis market developing. They forecast the tax to generate \$355 million in 2018-19 and \$514 million in 2019-20. However, with their forecast, they caution that “revenue estimates for a newly created market are subject to significant uncertainty.”

The Budget includes \$200.6 million from the Cannabis Tax Fund and the Cannabis Control Fund. It also includes an additional \$2.9 million for CDFTA for a cannabis tax enforcement program to increase cannabis tax compliance.

### **Property Tax**

Statewide property tax revenues are estimated to generate \$73.8 billion in 2019-20. A 6 percent increase in forecasted for 2018-19 and a 6.8 percent growth in 2019-20. Approximately 42 percent (\$31 billion) of 2019-20 property tax revenues will go to K-12 schools. This includes \$2.1 billion that schools are expected to receive in 2019-20 pursuant to the dissolution of redevelopment agencies.

Although sales volume declined slightly from 2017 to 2018, the budget anticipates continued solid growth in property tax revenue. The DOF bases this on their data that shows that the demand for homes outpaces supply in many areas of the state. Additionally, employment rates and income are projected to remain strong, contributing to the willingness of prospective homebuyers to enter into the housing market.

### Property Tax Backfill

The Budget includes \$31.3 million to backfill wildfire-related property tax revenue losses for cities, counties and special districts. This includes funding for the following:

- \$11.5 million to backfill entities in Butte, Lake, Los Angeles, Orange, Riverside, Shasta, and Siskiyou counties for losses estimated to be incurred in 2019-20 as a result of the 2018 wildfires.
- \$16.1 million to backfill entities in Butte County for losses estimated to be incurred in 2020-21 and 2021-22 due to the Camp Fire.
- \$3.6 million to backfill entities in Lake County for losses estimated to be incurred in 2019-20, 2020-21 and 2021-22 resulting from the wildfires in 2015, 2016, and 2017.

The wildfire-related property tax revenue losses incurred by K-14 schools are backfilled under the Proposition 98 school funding mechanism. The Budget estimates K-14 schools will incur \$19 million in 2019-20 property tax revenue losses because of the November 2018 wildfires.



## Legislative Update

### **ACA 2 (Nazarian) State Tax Agency**

This would authorize the Legislature to abolish the State Board of Equalization and instead vest all powers, duties and responsibilities in a single state tax agency or separately in multiple state tax agencies. The measure would deem the CDTFA and the Office of Tax Appeals to be state tax agencies for purposes of these provisions and vest those entities specified powers, duties and responsibilities currently vested in the SBOE.

*Status: Introduced December 3, 2018.*

### **AB 72 (Committee on the Budget) Wildfire Recovery, Emergency Preparedness**

The Senate passed this bill on February 12, 2019 and it's now on the Governor's desk awaiting a signature. This budget bill included the appropriation of \$31.3 million General Fund to backfill property tax losses incurred as a result of wildfires. This includes estimated current year losses for Butte, Lake, Los Angeles, Orange, Riverside, Shasta & Siskiyou counties; and estimated losses in 2019-20 and 2020-21 for the counties of Butte and Lake.



## Sales and Use Tax Legislation

### **AB31 (C. Garcia) Sales and Use Tax Exemption for Feminine Hygiene Products**

This bill, on or after January 1, 2020, would exempt sales and use taxes from the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of tampons, sanitary napkins, menstrual sponges and menstrual cups.

*Status: Referred to Assembly Committee on Revenue & Taxation Committee on January 17, 2019.*

### **AB 66 (Gonzalez) Sales and Use Tax Exemption for Diapers**

This bill would exempt from sales and use taxes the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of diapers for infants and toddlers, designated size 3 or under.

*Status: Referred to Assembly Committee on Revenue & Taxation committee on January 17, 2019.*

### **AB 147 (Burke) Use Tax Collection for Retailers Engaged in Business in State**

The Sales and Use Tax Law specifies that a retailer engaged in business in this state includes any retailer entering into agreements under which a person or persons in this state, for a commission or other consideration, directly or indirectly refer potential purchasers of tangible personal property to the retailer, whether by an Internet-based link or an Internet Web site, or otherwise, provided that the retailer meets specified total cumulative sales thresholds, including that the retailer has, during the preceding 12 months, total cumulative sales in this state of tangible personal property in excess of \$1,000,000. This bill would reduce that threshold to \$500,000. This bill would also define a retailer under the Sales and Use Tax Law to include every person who is registered with the department as a retailer for purposes of the Sales and Use Tax Law or who is a retailer engaged in business in this state as defined in that law and facilitates a retail sale by another seller that is not registered with the department and who 1) lists or advertises for sale, in any forum, tangible personal property owned by the seller that is subject to tax under the Sales and Use Tax Law, and 2) directly or indirectly through agreements or arrangements with third parties collects payment from the customer and transmits that payment to the seller, regardless of whether compensation or other consideration is received in exchange for its services. The bill would provide that a person meeting that definition who facilitates a sale of tangible personal property for another seller that is not registered under the Sales and Use Tax Law is the retailer "selling" or "making a sale of" the tangible personal property for purposes of use tax collection.

*Status: Referred to the Assembly Committee on Revenue & Taxation on January 24, 2019.*



**DOF and CDFTA project an additional \$219 million in tax revenue in 2018-19 and \$554 million in 2019-20 resulting from the Wayfair v. South Dakota Supreme Court decision.**

**AB 176 (Cervantes) California Alternative Energy and Advanced Transportation Financing Authority**

This bill would extend the authorization to provide financial assistance in the form of a sales and use tax exclusion for qualifying alternative energy projects from January 1, 2021, to January 1, 2031. Under current law, the California Alternative Energy and Advanced Transportation Financing Authority Act authorizes the California Alternative Energy and Advanced Transportation Financing Authority to provide financial assistance in the form of a sales and use tax exclusions from exceeding \$100,000,000 for each calendar year. Qualifying alternative energy projects that promote California-based manufacturing, reduction in greenhouse gases, or reduction in air and water pollution or energy consumption. *Status: Referred to the Assembly Committee on Natural Resources and Revenue and Taxation on January 24, 2019.*

**AB 321 (Patterson) Trucks for Use In Interstate Or Out-of-state Commerce Exemption**

This bill would exclude sales and use tax from the sale of, or the storage, use, or consumption of, a new, used, or remanufactured truck with an unladen weight of 6,000 pounds or more that is purchased for use within this state. *Status: Introduced January 30, 2019.*

**AB 399 (Brough) Hazardous Substance Tax Law Remittance**

Current law requires hazardous waste disposal fees and hazardous waste facility and generator fees be administered and collected by CDTFA in accordance with the Hazardous Substances Tax Law. Existing law requires a feepayer, within 30 days of the date of assessment, to deliver a remittance of the amount of those assessed fees to the office of the department. This bill would require a feepayer to deliver that remittance to the office of the department within 45 days, instead of 30 days of the date of assessment. *Status: Introduced February 6, 2019.*

**AB 405 (B Rubio) Water Treatment Tax Exemption**

This bill would exempt the gross receipts from the sale, storage, use, or other consumption in this state of, chemicals used to treat water, recycled water, or wastewater from sales and use tax regardless of whether those chemicals or other agents become a component part thereof and regardless of whether the treatment takes place before or after the delivery to consumers. *Status: Introduced February 7, 2019.*

**AB 421 (Waldron) Transportation finance: De Luz Community Services District**

With respect to the portion of revenues that is derived from increases in the motor vehicle fuel excise tax beginning in 2010, current law requires, after certain allocations are made, the Controller allocate the remaining amount of this portion of revenues; 44% to the state transportation improvement program, 12% to the State Highway Operation and Protection Program and 44% to cities and counties for local street and road purposes. This bill would require the Controller to allocate a portion of these revenues available for counties to the De Luz Community Services District for local street and road purposes as though the De Luz Community Services District were a county. The bill would thereby make an appropriation. *Status: Introduced February 7, 2019.*

### **SB 43 (Allen) Carbon Taxes**

This bill would require the State Air Resources Board, in consultation with the CDTFA, to submit a report to the Legislature on the results of a study, as specified, to propose, and to determine the feasibility and practicality of a system to replace the tax imposed pursuant to the SUT Law with an assessment on retail products sold or used in the state based on the carbon intensity of the product to encourage the use of less carbon-intensive products.

*Status: Referred to Senate Committee on Environmental Quality and the Senate Committee on Governance and Finance on January 16, 2019.*

### **SB 162 (Galgiani) California Alternative Energy and Advanced Transportation Financing Authority Sales and Use Taxes Exclusions**

The California Alternative Energy and Advanced Transportation Financing Authority Act establishes the California Alternative Energy and Advanced Transportation Financing Authority. The act authorizes, until January 1, 2021, the authority to provide financial assistance to a participating party in the form of specified sales and use tax exclusions for projects, including those that promote California-based manufacturing, California-based jobs, advanced manufacturing, reduction of greenhouse gases, or reduction in air and water pollution or energy consumption. This bill would extend the sales and use tax exclusion for qualifying projects until January 1, 2030.

*Status: Referred to the Senate Governance and Finance Committee on February 6, 2019.*



## **Cannabis-Related Legislation**

### **AB 141 (Cooper) Cannabis Informational, Educational or Training Events**

This bill would allow retailers, cultivators and manufacturers that are licensed under MAUCRSA to participate in, and not be required to obtain a temporary cannabis event license or other temporary license for a cannabis informational, educational or training event for state and local government officials and their employees.

*Status: Referred to the Assembly Committee on Business and Professions on January 24, 2019.*

### **AB 286 (Bonta) Cannabis Tax**

The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) imposed an excise tax commencing January 1, 2018 on the purchase of cannabis and cannabis products at the rate of 15% of the average market price of any retail sale by a cannabis retailer. Commencing January 1, 2018, AUMA also imposed a cultivation tax upon all cultivators on all harvested cannabis that enters the commercial market. This bill would reduce that excise tax rate to 11% on and after the operative date of this bill until June 1, 2022, at which time the excise tax rate would revert back to 15%. This bill would suspend the imposition of the cultivation tax on and after the operative date of this bill until June 1, 2022.

*Status: Referred to the Assembly Committees on Revenue and Taxation and Business and Professions on February 7, 2019*

### **SB 51 (Hertzberg) Cannabis Financial Institutions**

This bill would create the Cannabis Limited Charter Banking and Credit Union Law to be administered by the Commissioner of Business Oversight and the Department of Business Oversight. The bill would create the Cannabis Limited Charter Bank and Credit Union Advisory Board and specify its composition to include the Treasurer, the Controller and the Chief of the Bureau of Cannabis Control, and commit the general responsibility that this law functions in a safe and efficient way.

*Status: Referred to the Senate Banking, and Financial Institutions Committee on January 16, 2019.*



## **Property Tax Legislation**

### **AB 42 (Gallagher) Disaster Relief for County of Butte Camp Fire**

This bill would state the intent of the Legislature to enact legislation that would provide property tax revenue reductions resulting from reassessments for damages incurred within the County of Butte due to the 2018 Camp Fire.

*Status: Introduced December 3, 2018.*

### **AB 213 (Reyes) Property Tax Revenue Allocation Adjustments for Vehicle License Fee**

This bill, for the 2019-2020 fiscal year, will alter the vehicle license fee adjustment fee calculation to the product of that sum and the percentage change in gross taxable assessed valuation within the jurisdiction of that entity between the 2018-2019 fiscal year and the product of the amount of specified motor vehicle license fee revenues that the Controller allocated to the applicable city in July 2010 and 1.17. Additionally, beginning fiscal year 2020-2021, the vehicle license fee adjustment would amount to be the sum of the vehicle license fee adjustment amount for the prior fiscal year and the product of the amount as so described and the percentage change from the prior fiscal year in gross taxable assessed valuation within the jurisdiction of the entity.  
*Status: Referred to the Committee on Local Government on February 4, 2019.*

### **ACA 1 (Aguiar-Curry) Voter Approval for Affordable Housing and Public Infrastructure Exception**

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, or city and county to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, rehabilitation, or replacement of public infrastructure or affordable housing, 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: Introduced December 3, 2018.*

### **SB 196 (Beall) Community Land Trust Welfare Exemption**

Current property tax law provides for a “welfare exemption” for property used exclusively for religious, hospital, scientific, or charitable purposes and that is owned or operated by certain types of nonprofit entities, if certain qualifying criteria are met. This bill, for lien dates occurring on and after January 1, 2020, would provide that property is within the welfare exemption if that property is owned by a community land trust and the property is being or will be developed or rehabilitated as housing.

*Status: Introduced January 31, 2019.*

### **SCA 3 (Hill) Inheritance Exclusion for Change in Ownership**

Summary: The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, “full cash value” is defined as the assessor’s valuation of real property as shown on the 1975-76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. The California Constitution specifies various transfers that are not deemed to be a “purchase” or “change in ownership” of a property for these purposes, including the purchase or transfer of a principal residence from parents to their children, or, under certain circumstances, from grandparents to their grandchildren, and the purchase or transfer of the first \$1,000,000 of the full cash value of all other real property transferred from parents or grandparents to their children or grandchildren. This measure would limit the above-described \$1,000,000 exclusion for purchases or transfers of real property other than a principal residence to purchases or transfers of nonresidential real property.

*Status: Read in the Assembly Committee on Rules on January 7, 2019*



## **Economic Development Legislation**

### **AB 11 (Chiu) Community Redevelopment Law of 2019**

This bill would authorize a city or county, or two or more cities acting jointly, to propose the formation of an affordable housing and infrastructure agency by adoption of a resolution of intention that meets specified requirements, including that the resolution of intention include a pass-through provision and an override pass-through provision.  
*Status: Referred to the Assembly Committee on Housing and Community Development on January 17, 2019.*

### **SB 5 (Beall) Local-State Sustainability Investment Incentive Program**

This bill would establish the Local-State Sustainable Investment Incentive Program which would be administered by the Sustainable Investment Incentive Committee. This would authorize a city, county, city and county, joint powers agency, enhanced infrastructure financing district, affordable housing authority, community revitalization and investment authority or transit village development district to apply to the Sustainable Investment Incentive Committee to participate in the program and would authorize the committee to approve or deny applications for projects meeting specific criteria. *Status: Referred to the Senate Committee on Governance and Finance January 24, 2019.*

### **SB 15 (Portantino) Redevelopment**

The Community Redevelopment Law authorized the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law dissolved redevelopment agencies as of February 1, 2012, and provides for the designation of successor agencies, as defined, to wind down the affairs of the dissolved redevelopment agencies. This bill would state the intent of the Legislature to enact legislation relating to redevelopment. *Status: Referred to the Senate Committee on Rules January 16, 2019.*

### **SB 128 (Beall) Change in Bond Issuance Requirements for Enhanced Infrastructure Financing Districts**

Existing law authorizes the legislative body of a city or a county to establish an enhanced infrastructure financing district, with a governing body referred to as a public financing authority, to finance public capital facilities or other specified projects of communitywide significance. Existing law authorizes the public financing authority to issue bonds for these purposes upon approval by 55% of the voters voting on a proposal to issue the bonds and requires the proposal submitted to the voters to include specified information regarding the bond issuance. This bill would instead authorize the public financing authority to issue bonds for these purposes without submitting a proposal to the voters and require the resolution to issue bonds to contain specified information related to the issuance of the bonds. *Status: Referred to the Senate Committee on Governance and Finance January 24, 2019.*