



This publication is meant to give you the latest and greatest news and information from around the City.

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SECTION 1 CITY OF IMPERIAL BEACH LAUNCHES TWITTER PAGE

The City of Imperial Beach is now sending out tweets on Twitter. To see the short messages, go to <https://twitter.com/#!/cityofib> or search for us by our Twitter profile name @CityofIB. We also have a Twitter “follow button” on the home page of our City website at www.cityofib.com. Check us out on Twitter!

The City is using this as another way to let people know what’s going on in the City. It will also be helpful in emergency situations to inform the public about steps to take and the status of the event.

Often the tweets, which are limited to 140 characters, will refer people to the City’s website for more information.

SECTION 2 SEWER BILLINGS MAILED

This week staff mailed out letters with invoices to City residents who were determined to have been under-billed by \$50.00 or more for sewer service on their property tax bill for fiscal year 2011/2012. Staff mailed out 933 letters on Tuesday, December 20, 2011.

SECTION 3 PALM AVENUE STREET REPAIRS

The CalAM contractor working on repairs to Palm Avenue between 3rd and 4th Streets has come across additional damage, super saturated soil requiring additional excavation and backfill, that will extend the street repair to Wednesday, December 28th.

SECTION 4 SANDAG TOLL ROAD 125

The transaction that transferred ownership of the lease to operate the State Route 125 toll road was completed, and beginning Dec. 22nd SANDAG will be the operator of the South Bay facility. Please see **Attachment #1** for more details.

SECTION 5 HDL UPDATE ON SALES TAX PROPOSALS

There have not been any notable changes in sales tax related legislation since HdL's spring update. The State Legislature's tentative 2012 calendar indicates that any two year bills have to move out of their house of origin by January 31st and the deadline for new bills is February 24th. Additional updates will be provided as new issues are introduced.

Most of the legislature's attention for the next few weeks is expected to be focused on the "trigger cuts" in education and social services mandated by California's 2011-12 budget agreement if revenues do not meet expectations. In her December 13th analysis, the State Director of Finance concluded that revenues would be \$2.2 billion below the original budget forecast. An earlier mid-November analysis by the Legislative Analyst concluded that 2011-12 revenues would be \$3.7 billion less than projected and that the shortfall in 2012-13 will hit \$12.8 billion.

The following are current sales tax related issues of significance to local governments:

Federal Internet Sales Tax Proposals

In 1992, the Supreme Court ruled that states cannot require sellers without a physical presence in their state to collect state and local taxes and that requiring remote sellers to collect sales tax would place an undue burden on interstate commerce. Since then, numerous attempts to have Congress address the interstate commerce issues raised in the subject case, Quill v. North Dakota, decision have been unsuccessful.

This year, three different bills have been introduced that would allow states to impose sales or use tax collection requirement on remote sellers:

- Main Street Fairness Act - S.1452 & H.R.2701 - Introduced in July by Sen. Durbin (D - IL) & Rep. Conyers (D - MI).
- Marketplace Equity Act - H.R.3179 - Introduced in October by Rep. Speier (D - CA) & Rep. Womack (R - AR).
- Marketplace Fairness Act - S.1832 - Introduced in November by Sen. Enzi (R - WY).

All three bills attempt to address the same issues with slightly different approaches. The most recent, S.1832, is more of a hybrid of the first two and appears to have greater bipartisan support. All the bills have similar uniformity requirements including a single state-level agency to administer the tax and a small seller exception. Each bill would allow the destination rate to be collected if adequate software and taxability matrices are provided to the sellers. Otherwise, only a single, blended rate or the highest state-level rate would be allowed.

The Durbin/Conyers bill requires membership in the Streamlined Sales and Use Tax Agreement (SSUTA) while the other two bills would allow states to collect if they meet certain simplification requirements regardless of membership. The Enzi bill also allows sellers to use third-party providers to collect and remit sales taxes on their behalf. For a side by side comparison prepared by the Board of Equalization Legislative and Research Division, go to:

<http://www.boe.ca.gov/legdiv/pdf/CongressionalActssidebyside.pdf>

The general discord and paralysis in Congress on almost every issue makes passage of any of these bills questionable although the chances are much better than in previous years. The disparity between brick-and-mortar retailers that must collect the tax and remote retailers that do not is getting increased national publicity as are the problems of revenue strapped local governments.

National Retail advocates are more focused in their arguments showing that brick-and-mortar retailers generate three jobs for every one created by a remote retailer. The growing number of states who have adopted legislation expanding the definition of nexus to in-state affiliates of remote sellers has also softened the opposition of some online marketing associations who would prefer uniformity rather than dealing with a patchwork of individual state laws.

Amazon has recently gone on record as supporting the Enzi bill partially out of compromise agreements with California and Tennessee and partially as part of a plan to charge affiliate vendors, who are responsible for 40 percent of the merchandise that it sells online, a 2.9 percent fee to collect and remit sales and use taxes.

Regardless of whether federal legislation is enacted, California will get partial relief in 2012 when AB 155 (Calderon) goes into effect. In that bill, the Governor gave a one-year reprieve from previously adopted ABX1 28 which required in-state affiliates of remote sellers to collect sales and use tax. The bill also softened the previous threshold requirement for collecting the tax from vendors with annual sales of \$500,000 or more to \$1 million or more. The bill becomes effective if no federal nexus legislation is enacted by July 31, 2012. The effective date gets extended to January 1, 2013 if federal legislation is enacted but not implemented by California.

In exchange for the reprieve, Amazon agreed to drop its efforts to repeal ABX1 28 through a referendum. The company also promised the Governor that they would create 10,000 full-time and 25,000 seasonal jobs in California by the end of 2015.

Estimates on how much revenue the reforms will generate have been difficult to develop. In 2007, the Board of Equalization projected that California cities and counties lost approximately \$103 million annually from unreported online consumer orders and another \$172 million a year from unregistered out-of-state purchases by businesses. ABX4 18, which was previously signed into law in 2009, helped to improve collection of taxes from out-of-state business purchases by requiring businesses with gross annual receipts in excess of \$100,000 who do not possess a sales tax permit to register with the Board of Equalization for purposes of reporting the corresponding use tax. Although helpful, the recoveries to date have been a relatively small portion of the previously estimated losses.

[New Add-On Sales Taxes Approved](#)

At the November 8, 2011 election, seven cities and one county asked voters to consider new transaction and use taxes while the city of Del Rey Oaks asked for authority to extend an existing tax for another five years. Six of the nine proposals prevailed with Del Rey Oaks, Fairfax, Palm Springs, Oakdale and Vallejo receiving better than the needed 50 percent approvals and Mendocino County achieving the supermajority for approval of their 1/8 cent library tax. Proposals in Fillmore, Coachella and San Francisco failed.

The two-thirds approval rate is consistent with recent trends of voters looking more favorably on tax proposals for community specific local services where they have more input and control. The new measures go into effect April 1, 2012 and will bring the number of cities with add-on transactions taxes to 97 and the number of countywide transactions tax districts to 40. Several more agencies are contemplating tax measures for their spring 2012 ballots.

For a summary of the votes on these measures and a voting history on all sales tax elections going back to 2004, go to:

http://www2.hdlcompanies.com/misc/0-2011-Analysis_of_CityTaxElections_2004-2011-Rev_Dec2011.pdf

http://www2.hdlcompanies.com/misc/0-2011-Analysis_of_CountyTaxElections_2004-2011-

Sales Tax Litigation

City of South San Francisco v. BOE, City of Brisbane v. BOE, Cities of Alameda, Irvine, Newport Beach, Roseville, San Ramon and Santa Fe Springs v. BOE (San Francisco Superior Court Cases 509231, 509232, and 509234)

This is a consolidation of three cases where the petitioners contend that the Board of Equalization is incorrectly interpreting the California Uniform Commercial Code to allocate use tax from out-of-state purchases via the countywide allocation pools. The petitioners have filed for a Writ of Mandate directing that the Board's interpretation and previous denials be reversed and that all revenues allocated to the pools for the last 20 years from 465 specific businesses be reallocated to the petitioners with interest.

Although the total impact has yet to be calculated, it is an important case for the majority of local agencies in California because of the potential for a massive and disruptive shift in the distribution of Bradley-Burns, Proposition 172 and ¼ cent County Transportation Funds concentrated into just a few agencies. If the petitioners prevail, up to 25 percent of the involved tax revenues would go to the contingency fee audit company that first filed the claims on behalf of the interested agencies. Because the change would impact future distribution of revenues far beyond the specific 465 claims, even some of the petitioning agencies cannot be assured that they wouldn't eventually be overall losers in a statewide reallocation of revenues.

The petitioner's claims have been opposed by the League of California Cities and the California State Association of Counties because of the burden that redistributing 20 years of revenue already spent would create and because of the lack of information to accurately assess the overall impact going forward. The California Retailers Association opposes the claims because of the demands of attempting to reconstruct twenty years of sales history with 63 percent of the retail entities involved having since merged, consolidated, sold or otherwise disappeared. The City and County of San Francisco and 89 HdL Clients represented by the firm of Wendel, Rosen, Black and Dean have intervened in defending the Board of Equalization. The City of El Segundo has intervened on the side of the petitioners.

The trial began on October 17th in the San Francisco Superior Court of Judge A. James Robertson II and is hoped to be concluded before the holidays although the judge's order for "first hand" witnesses to testify as to the history of the BOE's policies and regulations in the early 1970's may require an extension into next year. Regardless of the eventual ruling, most observers believe that there will be further appeals to a higher court and a final disposition could still be a year or more away.

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NEWS

Date: December 21, 2011

For Release: Immediately
Contact: David Hicks, (619) 699-6939, or e-mail: dhic@sandag.org

SR 125 ACQUISITION COMPLETE South Bay Toll Road Under SANDAG Management

The transaction that transferred ownership of the lease to operate the State Route 125 toll road was completed today, and beginning Dec. 22nd SANDAG will be the operator of the South Bay facility.

“Drivers on the South Bay Expressway will see no immediate changes,” said SANDAG Board Chair and Encinitas Mayor Jerome Stocks. “But in the coming months, the Board will move to cut the tolls, bringing congestion relief to South Bay decades sooner than previously planned, removing the need to build other facilities elsewhere, and saving \$268 million in taxpayer money.”

After an exhaustive due diligence and public hearing process, the SANDAG Board of Directors voted Dec. 16 to purchase the asset for \$341.5 million – roughly one-third of what a private consortium spent to build the toll road. The facility stretches for about 10 miles through eastern Chula Vista from State Route 905 near the Otay Mesa Port of Entry to State Route 54 near the Sweetwater Reservoir.

No significant changes are expected in the first few months. SANDAG has contracted with the former operator and is retaining the existing staff to continue running the facility during a six-month transition phase. SANDAG will oversee the operations.

Next spring, SANDAG expects to begin a process to lower tolls. Reduced tolls are expected to attract more users to SR 125, relieving congestion on I-805 and reducing the need for some improvements there. (Construction will begin in 2012 on two carpool lanes – one in each direction – on I-805 in South Bay. However, the acquisition of SR 125 will make it unnecessary to add another two carpool lanes on I-805 in the future, with the end result being a \$268 million savings to taxpayers.)

About SANDAG

The [San Diego Association of Governments](http://www.sandag.org) (SANDAG) is the San Diego region’s primary public planning, transportation, and research agency, providing the public forum for regional policy decisions about growth, transportation planning and construction, environmental management, housing, open space, energy, public safety, and binational topics. SANDAG is governed by a Board of Directors

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- Encinitas
- Escondido
- Imperial Beach
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- Oceanside
- Poway
- San Diego
- San Marcos
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- California Department of Transportation
- Metropolitan Transit System
- North County Transit District
- United States Department of Defense
- San Diego Unified Port District
- San Diego County Water Authority
- Southern California Tribal Chairmen’s Association
- Mexico

composed of mayors, council members, and supervisors from each of the region's 18 cities and the county government.

Find SANDAG on Facebook at [facebook.com/SANDAGregion](https://www.facebook.com/SANDAGregion).

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CITY OF IMPERIAL BEACH

News



RELEASE: Immediate

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CITY HALL OFFICES WILL BE CLOSED DURING EMPLOYEE FURLOUGH

-- Emergency and Public Works Services Still Available --

Imperial Beach City offices will be closed during the annual city employee furlough starting Friday, Dec. 23. City offices will reopen Tuesday, Jan. 3, 2012. City services will not be available during this period, except for, Public Safety, Fire, and designated Public Works Department services. Also, during the furlough licensed contractors can make emergency repairs on commercial or residential water, gas, or electric components and/or systems as long as a permit is obtained on Jan. 3. Requests for Building Inspections needed between December 23rd and December 28th will be conducted on December 28th only. Any inspections needed after December 28th will be conducted after January 2nd. In an emergency situation, call the Building Inspection Request Line (619) 628-1360 and indicate the address, type of repair being performed and contact information. Only a licensed contractor can perform emergency repairs on building, electrical, mechanical and plumbing components or systems.

Designated public works and stand-by crews are available for sewer, public facility and emergency street services. During the furlough period, call (619) 628-1369 for Public Works

services. For public safety emergencies call 911. For non-emergency services (including Public Works issues) the public may also call the Sheriff's 24 hour line at (858) 565-5200. To report graffiti, call the Graffiti Hotline at (619) 575-3745.

During the holiday, the Administrative Services Department will have a deposit drop-off box for business license payments at the southeastern, rear entrance to the Civic Center. Payments dropped off during this period will be certified when normal hours resume Jan. 3.

For more information, contact the Imperial Beach city offices at (619) 423-8300 or visit, www.cityofib.com.

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