
MEASURE SUBMITTED TO THE VOTERS

COUNTY

**MARIN COUNTY
HALF CENT GENERAL SALES TAX MEASURE
MEASURE B**

B Shall the people of Marin County approve County Ordinance No. 3282 enacting a County half cent general sales tax for no more than 20 years and requesting an annual independent sales tax expenditure audit to the public and publicized in local newspapers?

**MARIN COUNTY
HALF CENT GENERAL SALES TAX MEASURE
FULL TEXT OF MEASURE B**

This Measure authorizes the Marin County Board of Supervisors to enact a half cent retail transaction and use tax (sales tax) for general countywide purposes, with the following mandatory restrictions:

- The Tax Must Expire in 20 Years

If approved by the voters, this half cent sales tax must expire after 20 years. The tax will be imposed for a period commencing April 1, 1999 and terminating March 30, 2019. The length of this tax can not be extended without approval of the Marin County voters in an election.

- An Independent Audit Must Be Conducted Annually

An independent auditor must be retained by the Board of Supervisors each year to audit the sales tax program expenditures. A noticed public hearing will be conducted by the Board of Supervisors to review and accept the audit and ensure that the tax dollars are being spent responsibly in accordance with adopted public policies. The results of these annual independent audits must be published in local newspapers and copies must be made available to the public at large.

**IMPARTIAL ANALYSIS BY COUNTY COUNSEL
MEASURE B**

Measure B would authorize a half cent sales tax within the County of Marin. This sales tax would be a general tax. If approved by a majority of the voters the Measure B sales tax will become effective April 1, 1999.

California Revenue and Taxation Code Section 7285 authorizes the County Board of Supervisors to levy a transaction and use (i.e., a "sales") tax at certain rates, including a one half percent (i.e., half cent) rate, if the tax is approved by a majority of the voters in an election on the issue.

Measure B states that the half cent sales tax is to be used "for general governmental purposes". This means that the tax proceeds may be used by the County for any legal governmental purpose without restriction. The County is not in any way legally bound to use the tax monies for any special purpose or for any particular project or projects.

The measure contains two mandatory restrictions.

First, the ordinance authorizing the tax must expire after twenty years. That is, voters approving the measure are expressly approving the imposition of the tax for a period commencing April 1, 1999 and terminating March 31, 2019.

Second, an independent auditor must be retained by the Board of Supervisors each year to audit the sales tax program expenditures. A noticed public hearing will be conducted by the Board of Supervisors to review and accept the audit and ensure that the tax dollars are being spent responsibly in accordance with adopted public policies. The results of these annual independent audits must be published in local newspapers and copies must be made available to the public at large.

These two "mandatory restrictions" do not in any way legally restrict the scope of County's right to use the tax proceeds for "general governmental purposes". They limit the duration of the collection of the tax, establish retention of an independent auditor and require a noticed public hearing conducted by the Board to review and accept the audit, and require a published audit of the expenditures actually made by the County Board of Supervisors.

Dated: August 21, 1998

PATRICK K. FAULKNER
County Counsel

The above statement is an impartial analysis of Measure B. If you desire a copy of the ordinance, please call the elections department at 499-6456 and a copy will be mailed at no cost to you. This ordinance can be obtained from the following web page: www.smartvoter.org

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ARGUMENT IN FAVOR OF MEASURE B

Vote **YES ON MEASURES A AND B** for balanced traffic relief in Marin County.

Congestion is getting worse, commutes take longer, traffic safety is declining. Our quality of life is suffering.

Vote **Yes on Measure A**. Tell our leaders to spend our tax dollars on transportation improvements.

Vote **Yes on Measure B**. Provide resources through a half-cent sales tax to repair potholes and rough roads throughout the county, unlock the gridlock that plagues our roadways, and make safety improvements that protect lives. **Measure B** will provide funds that can be used for county purposes.

With passage of **Measure A**, voters will indicate that they want these funds used to accomplish the following purposes:

- Implement Marin County segment of commuter rail service between Healdsburg and San Rafael.
- Improve local bus service, including new community shuttle services and other flexible transit services.
- Reduce future traffic by acquiring land or development rights in environmentally sensitive areas such as Baylands.
- Attack congestion on Highway 101 through completion of carpool lanes between Novato and Mill Valley.
- Improve maintenance and repair of streets and roads throughout Marin.
- Expand Paratransit services for senior citizens and disabled persons.
- Improve pedestrian and bicycle facilities, including a bikeway between the Golden Gate Bridge and San Rafael.
- Balance what's good for our environment and our economy.

Vote **Yes on Measures A and B** to protect your tax dollars:

- Limit administrative expenses to 2 percent.
- Qualify Marin for more state and federal dollars.
- Create a sales tax that will end after 20 years.

Vote **Yes on Measures A and B** for accountability, innovative approaches and local control of our tax dollars.

Join the Marin League of Conservation Voters, the Marin Chapter of AARP and Marin Coalition for Balanced Transportation. Vote **Yes on Measures A and B**.

s/ James L. Phillips, President
Marin League of Conservation Voters

s/ Elissa Giambastiani, President
San Rafael Chamber of Commerce

s/ C. Norman Gravdahl, President
Chapter 4139 AARP

s/ Patrick M. Seidler, Bicycle Advocate
Transportation Alternatives for Marin County

s/ James E. Middleton, Superintendent/President
College of Marin

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE B

Measure B proponents are mounting a slick PR campaign to convince you that a frog is a prince and a slow train to nowhere constitutes sound transportation planning!

- Proponents say Measure B will improve traffic and the environment. But Measure B is a sales tax increase to raise \$300 million for "general county purposes".
- Proponents say these measures include protections for your tax dollars. But Measure A clearly states it is "advisory" only.
- Proponents say you can trust elected officials to abide by voters' will and spend your tax dollars for 20 years as Measure A directs. But 3 or 4 years from now many of these officials won't even be in office.

Even if proceeds were spent as suggested, it makes no sense to fund a 20-year plan for a diesel train that, given advances in technology and telecommunications, could be anachronistic long before the tax expires – let alone that it is environmentally unsound technology now! **Environmental groups opposing Measure B include Marin Audubon Society, CAPS and the Environmental Forum of Marin.**

We need to invest in a transportation system that **services all Marin** before we tax ourselves for a train that starts in Sonoma County and ends in downtown San Rafael – not at the Larkspur Ferry. Ask yourself how many Marin residents would ride this train?

With a reported campaign budget of \$350,000, Measure B proponents and their Sacramento consultants are using information from opinion polls (paid for by County taxpayers) to persuade you to vote for this boondoggle measure.

Don't be fooled! Vote NO on Measure B.

s/ Barbara Salzman, President
Marin Audubon Society

s/ Marc Wolin, Member
Republican County Central Committee,
Marin County

s/ Georgiana McCarty, Former Executive
Committee Member, Marin Group Sierra Club

s/ Nancy P. McCarthy, President
Marin United Taxpayers Association

s/ Michael R. Arnold, Ph.D., Chair
Marin Citizens for Effective Transportation



ARGUMENT AGAINST MEASURE B

Measure B is a scam. Measure B has nothing to do with traffic or transit. Just read it. It is a general tax increase to raise \$300 million for the County's general fund -- with no restrictions on how it is spent. Not one penny would have to go for transit, environmentally sensitive lands or anything else listed in "advisory only" Measure A. It could be used to build another jail, increase government salaries -- whatever elected officials want.

Even if the \$300 million *were* spent as Measure A describes, it would not reduce congestion. On the contrary, this plan could unleash a stampede of developers who are champing at the bit to bring more commercial and housing development to Marin -- and bring more traffic with it.

- GG Transit is raising fares and cutting service. Yet none of the \$300 million will improve the San Francisco commute.
- **It's so slow!** Commuters won't use a train that gets to Santa Rosa slower than a car.
- The extremely costly, slow train would take few cars off the road during commute period because most passengers would be former bus riders.
- This plan proposes \$55 million for contradictory purposes: preserving land and providing land for work force housing. **How does more housing reduce commute hour congestion?**

Experts agree that the high costs, coupled with traditionally low ridership of suburban rail lines, create tremendous pressure for new high density growth along the rail line to fill empty cars and fare boxes.

Additionally, a sales tax burdens low-income families proportionately more than the wealthy. It taxes everyone to benefit a few commuters from Santa Rosa and will harm local businesses!

Don't be conned. Measure B won't relieve congestion and only developers will benefit.

Join environmental and taxpayer groups, transit advocates and community leaders in voting **NO on MEASURE B.**

- s/ Barbara Salzman, President
Marin Audubon Society
- s/ Ann Thomas, Director
Citizen Advocates for Preservation of
St. Vincent's/Silveira
- s/ Michael B. Arnold, Ph.D., Chair
Marin Citizens for Effective Transportation
- s/ Joy Dahlgren, Ph.D.
Transportation Research Engineer
- s/ Nancy P. McCarthy, President
Marin United Taxpayers Association

REBUTTAL TO ARGUMENT AGAINST MEASURE B

Traffic congestion and environmental degradation are getting worse in Marin County. **Opponents would do *nothing* about it.**

Measures A+B are a balanced approach developed by a broad-based coalition of environmental, civic, business and neighborhood leaders and representatives.

Vote Yes on Measures A+B to direct our elected officials to spend our tax dollars on transportation improvements. They will abide by the voters' will. In fact, county supervisors have endorsed Measures A+B.

Vote Yes on Measures A+B for the resources to repair potholes and rough roads, increase public transit alternatives, help unlock the gridlock that plagues our roadways, and make safety improvements.

Vote Yes on Measures A+B because it makes economic sense, providing matching funds to make millions of dollars in state and federal transportation assistance available for many additional road and transit improvement projects.

Vote Yes on Measures A+B for both transportation and land-use controls to relieve congestion.

Vote Yes on Measures A+B to include strong protections for our tax dollars, limiting administrative expenses to 2 percent, requiring annual published audits and setting a 20-year limit on the tax.

We can put our heads in the sand and let traffic congestion get worse each year in Marin County. Or we can support Measures A+B to provide a balanced transportation and environmental approach to relieve the gridlock, repair local roads and increase safety.

The choice is clear. Vote Yes on Measures A+B.

- s/ N. Douglas Martin, Jr.
V.P. and Counsel, Firemans Fund,
Chair, Marin Economic Commission
- s/ Henry F. Moody, President
Panamax
- s/ Ellen Straus
Dairy Rancher
- s/ Grace A. Hughes
President/CEO -- Marin Airporter
- s/ William T. Bagley, Former Chairman
California Transportation Commission

End of Measure B



SECTION XI. 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 Sales and Use Tax Law or 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 Marin County which is shipped to a point outside Marin County, 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 Marin County 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-Marin County 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-Marin County and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
 - 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 are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in Marin County 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 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;
 - 6. Except as provided in subparagraph (7), a retailer engaged in business in Marin County shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into Marin County or participates within Marin County 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 retailer in Marin County or through any representative, agent, canvasser, solicitor, subsidiary, or person in Marin County under the authority of the retailer.

- 7. "A retailer engaged in business in Marin County" 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 Marin County.

- 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 XII. 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 or the term thereof, nor shall any such amendments operate so as to affect the fact that the tax imposed by this ordinance is a general tax, as defined by Article 13 C, §1(a) of the California Constitution and any other applicable laws.

SECTION XIII. General Tax. The tax imposed by this ordinance is a general tax within the meaning of Article 13 C, §1(a) of the California Constitution. The revenue generated by this general tax is available for general governmental purposes. To that end, the Auditor-Controller is instructed to deposit the revenue from the tax into the County General Fund and to include his estimate of the revenue from this general tax, together with his estimates of other revenue sources, in the tabulation that he is annually required to prepare by Government Code §29060. The revenue from this general tax shall be available to the Board of Supervisors for annual appropriations in the County's budget for any lawful expenditure. Nothing in this ordinance nor in any other ordinance, advisory measure, resolution, or policy shall be construed as limiting, in any way, the amount or the objects of the appropriations and expenditures that can be made from the revenue of the tax nor be construed as creating a continuing appropriation.

SECTION XIV. Annual Independent Audit. An annual independent audit of expenditures from proceeds of the tax imposed by this Ordinance shall be conducted. Results of the audit shall be published in local newspapers. In addition, copies of these documents will be available to the public at large.

SECTION XV. Termination of Taxes. This ordinance shall remain in effect for not longer than twenty (20) years unless extended by the voters in the manner set forth in Revenue and Taxation Code §7285.

SECTION XVI. 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 XVII. Effective Date. This ordinance relates to the levying and collecting of the Marin County transactions and use taxes and shall take effect immediately.

In regular session of the Board of Supervisors of the County of Marin introduced on the 28th day of July, 1998, and finally passed and adopted this 4th day of August, 1998, by the following vote to-wit:

AYES: SUPERVISORS Harry J. Moore, Harold C. Brown, Jr., Steve Kinsey, Annette Rose, John B. Kress

NOES: NONE
ABSENT: NONE

s/ John S. Kress
PRESIDENT, BOARD
OF SUPERVISORS

ATTEST:

s/ Martin Nichols
CLERK

s/ Allen Haim
Chief Deputy County Counsel