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
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

Measure B - Continued Next Page
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 Dahigren, 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
MEASURE SUBMITTED TO THE VOTERS

COUNTY

MARIN COUNTY
HALF CENT GENERAL SALES TAX MEASURE
MEASURE 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 published in local newspapers?

FULL TEXT OF ORDINANCE
MARIN COUNTY BOARD OF SUPERVISORS
ORDINANCE NO. 3282

AN ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, AMENDING ORDINANCE NO. 3250, IMPOSING A GENERAL TRANSACTIONS AND USE TAX, AT THE RATE OF ONE CENT FOR EACH PERIOD NOT TO EXCEED TWENTY YEARS, PURSUANT TO THE AUTHORITY GRANTED BY REVENUE AND TAXATION CODE OF 1976 TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

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SECTION I. Title and Character of Tax. This ordinance shall be known as the County of Marin General Transactions and Use Tax Ordinance. The County of Marin hereinafter shall be called "Marin County." This ordinance shall be applicable in the incorporated and unincorporated territory of Marin County. After submission to and approval by a majority of the County of Marin electorate pursuant to Article 13 C, §2(b) of the California Constitution, the tax imposed by this Ordinance shall be a General Tax in name only, the burden and incident of which is defined by Article 13 C, §1(a) of the California Constitution and any other applicable laws.

SECTION II. Operative Date. "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

SECTION III. Purpose. Pursuant to Article 13 C, §2(b) of the California Constitution, the tax imposed by this Ordinance shall be submitted to and approved by a majority of the County of Marin electorate. Once so approved by a majority vote of the County of Marin electorate, this tax is a General Tax as defined by general governmental purposes and is not subject to the limitations as defined by Article 13 C, §1(a) of the California Constitution and any other applicable laws. This ordinance is adopted to achieve the following, among other purposes, as directed by the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. To impose a 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 Section 7255 of Part 1.7 of Division 2 which authorizes Marin County to adopt this tax ordinance for general governmental purposes and which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose. This ordinance is not adopted pursuant to the authority granted by Government Code §26561 and the appropriations of the revenue from the tax shall not be limited to the purposes set forth in Government Code §26564;
B. To incorporate provisions identical to those of the Sales and Use Tax Law of the State of California insfar 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 impose a general tax and provide a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as practically as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the 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 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 provide the burden and record keeping imposed upon persons subject to taxation under the provisions of this ordinance.

SECTION IV. Contract with State. Prior to the operative date, Marin County shall enter into a 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 Marin County shall not have entered into such a contract with the State Board of Equalization prior to the operative date, it shall nevertheless be allowed cost 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. Provided, however, that the contract shall not be entered pursuant to Government Code §26561 and nothing in the contract will limit, in any way, the availability of the revenue from the tax for appropriations and expenditures for "general governmental purposes," as that term is used in Article 13 C, §1(a) of the California Constitution and as provided in §14 of this ordinance.

SECTION V. Transactions Tax Rate. For the privilege of selling tangible personal property at retail, a general tax, as defined by Article 13 C, §4 of the California Constitution and any other applicable laws, is hereby imposed upon all retailers in the incorporated and unincorporated territory of Marin County at the rate of one-half 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 VI. 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 general 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, the State Board of Equalization shall, for the purposes of the sale, determine the place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed by the State Board of Equalization.

SECTION VII. Use Tax Rate. An excise tax is hereby imposed on the storage, use or other consumption in Marin County 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-half 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 and use tax regardless of the place to which delivery is made. Such an excise tax shall be a general tax as defined by Article 13 C, §1(a) of the California Constitution and any other applicable laws.

SECTION VIII. Adoption of Provisions of State Law. Except as otherwise provided in this ordinance and except as far 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 IX. Limitations on Adoption of State Law and Collection of Use Tax. In so far as 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 Marin County shall be substituted therefor.
1. When 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 Treasurer, or the Constitution of the State of California;
2. When the result of that substitution would require an action to be taken by or against Marin County 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: 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; or
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 words "Marin County" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6230 and in the definition of that phrase in Section 6233.

SECTION X. 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 tax collector's permit shall not be required by this Ordinance.

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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 and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-ad ministered or federal excise taxes or use tax.
B. There are excluded from the computation of the amount of transactions tax the gross receipts from:
1. Sales of tangible personal property, other than fuel or paper, to operators of aircraft to be used in 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 personal 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 or his agent to a common carrier for shipment to a common carrier 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 9640) of the Vehicle Code by a person with 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 purchase 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 a period of time wherein 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 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 transactions tax under any state administered transactions and use tax ordinance.
2. Other than fuel or petroleum, products purchased by operators of aircraft to be used in or consumed principally outside Marin County, or by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or reward under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government, in addition to the exemptions provided in Sections 6386 and 6386.1 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 property is subject to a lease or other arrangement by which 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, of possession of, or the 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. For the purposes of subsections (3) and (4) of this section, a retailer engaged in business in Marin County shall not be required to collect use tax from the purchaser of tangible personal property unless, at the point of sale, the retailer ships or delivers the property to a place outside 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 9640) 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 within Marin County.
D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions taxes 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 the person to 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 as defined in 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 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 §26065. 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 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 is conducted for the purpose of which annual audits 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 circumstances 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 on and from tangible personal property and services. In regular session of the Board of Supervisors of the County of Marin introduced on the 28th day of July, 1995, and finally passed and adopted this 4th day of August, 1995, by the following vote to-wit: AYES: SUPERVISORS Harry J. Moore, Harold C. Brown, Jr., Steve Kinsey, Annette Ross, John S. Kress
NOES: NONE
ABSENT: NONE
s/ John S. Kress
PRESIDENT, BOARD OF SUPERVISORS
ATTEST:
/\  Martin Nichols
|  CLERK |
/\  Allen Haim
Chief Deputy County Counsel