PA

County of Los Angeles
**CHIEF ADMINISTRATIVE OFFICE**
713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
http://cao.co.la.ca.us

DAVID E. JANSSEN
Chief Administrative Officer

Board of Supervisors
GLORIA MOLINA
First District

YVONNE BRATHWAITE BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

April 16, 2004

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Yvonne Brathwaite Burke
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

**MOTION TO OPPOSE AB 2546 (LOWENTHAL) – AUDITS OF SALES AND USE TAXES (ITEM NO. 6, AGENDA OF APRIL 20, 2004)**

Item No. 6 on the April 20, 2004 Agenda is a motion by Supervisor Knabe to oppose AB 2546 (Lowenthal) and send a five-signature letter to Assemblyman Alan Lowenthal, the Los Angeles County Delegation, the Assembly Revenue and Taxation Committee, the California Association of Counties, and the Governor.

As amended on April 13, 2004, AB 2546 would grant a city, county, or city and county, the discretion, under specified conditions, to conduct an examination of the books, papers, records, or equipment of any person selling tangible personal property, or any person liable for the use tax within their jurisdiction. The local auditing entity would be required to follow the Board of Equalization's (BOE) audit procedures.

If the BOE collects sales and use tax revenues based on the findings of the local auditing entity, AB 2546 would require the BOE to compensate the local auditing entity 25 percent of the sales and use taxes collected. If a refund is granted in the future, an amount equal to the refund would be deducted from the sales tax payments made to the local entity in the same year as the refund is paid. AB 2546 would allow local auditing entities to contract with a private auditing firm to conduct examinations.

AB 2546 would prohibit a city, county, or city and county from conducting audits if any of the following circumstances apply: 1) the person has a permit or sub-permit for other locations not within the jurisdiction of the local government; 2) the BOE has notified that person of a pending board audit or examination; 3) the BOE is conducting an audit or examination; 4) the BOE has issued either a notice of determination, or a notice that no tax

liability was due, to that person within the last five years; 5) the BOE has already audited the same period, or has notified the person that an audit of the same period is pending; or 6) a city, county, or city and county examined the books, papers, records, or equipment of that person within the last three years and no significant additional tax liability was found.

According to the 2001-02 BOE annual report, the BOE audits nearly 1.5 percent of active accounts each year, concentrating on those considered most likely to be inaccurate in their tax reporting. In 2001-02, the sales and use tax audit program identified $339.9 million of taxes owed to the State. While the sales and use tax is a major revenue source for some cities, it is not a major source of discretionary revenue to the County. The Adopted 2003-04 County Budget includes $44 million in revenue from the sales tax, which represents approximately 1 percent of the County's locally generated revenue.

The County Auditor-Controller (AC) indicates that if AB 2546 is enacted, and the Board of Supervisors directed the AC to perform sales and use tax audits, it would only apply to businesses in the unincorporated area of the County and AC staff would have to be trained on BOE procedures or contract with private vendors. The AC indicates that this may not be cost-effective. The AC does not have sufficient staff to perform audits and would require additional resources to hire an auditing firm, monitor their work, and address or track their audit findings. Therefore, the AC recommends that the County oppose AB 2546.

**Since there is no existing County policy on this issue, a position on AB 2546 is a matter for Board policy determination.**

AB 2546 is sponsored by the author and supported by the City of Long Beach. There is no registered opposition. This measure is currently in the Assembly Revenue and Taxation Committee awaiting a hearing date.

DEJ:GK
MAL:EW:ib

c: Executive Officer, Board of Supervisors
Auditor-Controller
County Counsel