

ASSEMBLY BILL

No. 1229

Introduced by Assembly Member Campos

February 27, 2015

An act to amend Section 214 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1229, as introduced, Campos. Property taxation: welfare exemption: rental housing and related facilities.

Existing property tax law establishes a partial welfare exemption for property used exclusively for rental housing and related facilities, as defined, that are owned and operated by either of any certain types of nonprofit entities or veterans' organizations that meet specified exemption requirements, if either of certain qualifying criteria are met. Existing law requires the partial exemption to be equal to that percentage of the value of the property that is equal to the percentage that the number of units serving lower income households represents of the total number of residential units in any year. For purposes of the exemption, existing law defines "related facilities" to, among other things, exclude any portions of the overall development that are nonexempt commercial space.

This bill would specify that "related facilities" does not include any portions of the overall development that are occupied commercial space.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 214 of the Revenue and Taxation Code
2 is amended to read:

3 214. (a) Property used exclusively for religious, hospital,
4 scientific, or charitable purposes owned and operated by
5 community chests, funds, foundations, limited liability companies,
6 or corporations organized and operated for religious, hospital,
7 scientific, or charitable purposes is exempt from taxation, including
8 ad valorem taxes to pay the interest and redemption charges on
9 any indebtedness approved by the voters prior to July 1, 1978, or
10 any bonded indebtedness for the acquisition or improvement of
11 real property approved on or after July 1, 1978, by two-thirds of
12 the votes cast by the voters voting on the proposition, if:

13 (1) The owner is not organized or operated for profit. However,
14 in the case of hospitals, the organization shall not be deemed to
15 be organized or operated for profit if, during the immediately
16 preceding fiscal year, operating revenues, exclusive of gifts,
17 endowments and grants-in-aid, did not exceed operating expenses
18 by an amount equivalent to 10 percent of those operating expenses.
19 As used herein, operating expenses include depreciation based on
20 cost of replacement and amortization of, and interest on,
21 indebtedness.

22 (2) No part of the net earnings of the owner inures to the benefit
23 of any private shareholder or individual.

24 (3) The property is used for the actual operation of the exempt
25 activity, and does not exceed an amount of property reasonably
26 necessary to the accomplishment of the exempt purpose.

27 (A) For the purposes of determining whether the property is
28 used for the actual operation of the exempt activity, consideration

1 shall not be given to use of the property for either or both of the
2 following described activities if that use is occasional:

3 (i) The owner conducts fundraising activities on the property
4 and the proceeds derived from those activities are not unrelated
5 business taxable income, as defined in Section 512 of the Internal
6 Revenue Code, of the owner and are used to further the exempt
7 activity of the owner.

8 (ii) The owner permits any other organization that meets all of
9 the requirements of this subdivision, other than ownership of the
10 property, to conduct fundraising activities on the property and the
11 proceeds derived from those activities are not unrelated business
12 taxable income, as defined in Section 512 of the Internal Revenue
13 Code, of the organization, are not subject to the tax on unrelated
14 business taxable income that is imposed by Section 511 of the
15 Internal Revenue Code, and are used to further the exempt activity
16 of the organization.

17 (B) For purposes of subparagraph (A):

18 (i) “Occasional use” means use of the property on an irregular
19 or intermittent basis by the qualifying owner or any other qualifying
20 organization described in clause (ii) of subparagraph (A) that is
21 incidental to the primary activities of the owner or the other
22 organization.

23 (ii) “Fundraising activities” means both activities involving the
24 direct solicitation of money or other property and the anticipated
25 exchange of goods or services for money between the soliciting
26 organization and the organization or person solicited.

27 (C) Subparagraph (A) shall have no application in determining
28 whether paragraph (3) has been satisfied unless the owner of the
29 property and any other organization using the property as provided
30 in subparagraph (A) have filed with the assessor a valid
31 organizational clearance certificate issued pursuant to Section
32 254.6.

33 (D) For the purposes of determining whether the property is
34 used for the actual operation of the exempt activity, consideration
35 shall not be given to the use of the property for meetings conducted
36 by any other organization if the meetings are incidental to the other
37 organization’s primary activities, are not fundraising meetings or
38 activities as defined in subparagraph (B), are held no more than
39 once per week, and the other organization and its use of the
40 property meet all other requirements of paragraphs (1) to (5),

1 inclusive, of this subdivision. The owner or the other organization
 2 also shall file with the assessor a copy of a valid, unrevoked letter
 3 or ruling from the Internal Revenue Service or the Franchise Tax
 4 Board stating that the other organization, or the national
 5 organization of which it is a local chapter or affiliate, qualifies as
 6 an exempt organization under Section 501(c)(3) or 501(c)(4) of
 7 the Internal Revenue Code or Section 23701d, 23701f, or 23701w.

8 (E) Nothing in subparagraph (A), (B), (C), or (D) shall be
 9 construed to either enlarge or restrict the exemption provided for
 10 in subdivision (b) of Section 4 and Section 5 of Article XIII of the
 11 California Constitution and this section.

12 (4) The property is not used or operated by the owner or by any
 13 other person so as to benefit any officer, trustee, director,
 14 shareholder, member, employee, contributor, or bondholder of the
 15 owner or operator, or any other person, through the distribution
 16 of profits, payment of excessive charges or compensations, or the
 17 more advantageous pursuit of their business or profession.

18 (5) The property is not used by the owner or members thereof
 19 for fraternal or lodge purposes, or for social club purposes except
 20 where that use is clearly incidental to a primary religious, hospital,
 21 scientific, or charitable purpose.

22 (6) The property is irrevocably dedicated to religious, charitable,
 23 scientific, or hospital purposes and upon the liquidation,
 24 dissolution, or abandonment of the owner will not inure to the
 25 benefit of any private person except a fund, foundation, or
 26 corporation organized and operated for religious, hospital,
 27 scientific, or charitable purposes.

28 (7) The property, if used exclusively for scientific purposes, is
 29 used by a foundation or institution that, in addition to complying
 30 with the foregoing requirements for the exemption of charitable
 31 organizations in general, has been chartered by the Congress of
 32 the United States (except that this requirement shall not apply
 33 when the scientific purposes are medical research), and whose
 34 objects are the encouragement or conduct of scientific
 35 investigation, research, and discovery for the benefit of the
 36 community at large.

37 The exemption provided for herein shall be known as the
 38 “welfare exemption.” This exemption shall be in addition to any
 39 other exemption now provided by law, and the existence of the
 40 exemption provision in paragraph (2) of subdivision (a) of Section

1 202 shall not preclude the exemption under this section for museum
2 or library property. Except as provided in subdivision (e), this
3 section shall not be construed to enlarge the college exemption.

4 (b) Property used exclusively for school purposes of less than
5 collegiate grade and owned and operated by religious, hospital, or
6 charitable funds, foundations, limited liability companies, or
7 corporations, which property and funds, foundations, limited
8 liability companies, or corporations meet all of the requirements
9 of subdivision (a), shall be deemed to be within the exemption
10 provided for in subdivision (b) of Section 4 and Section 5 of Article
11 XIII of the California Constitution and this section.

12 (c) Property used exclusively for nursery school purposes and
13 owned and operated by religious, hospital, or charitable funds,
14 foundations, limited liability companies, or corporations, which
15 property and funds, foundations, limited liability companies, or
16 corporations meet all the requirements of subdivision (a), shall be
17 deemed to be within the exemption provided for in subdivision
18 (b) of Section 4 and Section 5 of Article XIII of the California
19 Constitution and this section.

20 (d) Property used exclusively for a noncommercial educational
21 FM broadcast station or an educational television station, and
22 owned and operated by religious, hospital, scientific, or charitable
23 funds, foundations, limited liability companies, or corporations
24 meeting all of the requirements of subdivision (a), shall be deemed
25 to be within the exemption provided for in subdivision (b) of
26 Section 4 and Section 5 of Article XIII of the California
27 Constitution and this section.

28 (e) Property used exclusively for religious, charitable, scientific,
29 or hospital purposes and owned and operated by religious, hospital,
30 scientific, or charitable funds, foundations, limited liability
31 companies, or corporations or educational institutions of collegiate
32 grade, as defined in Section 203, which property and funds,
33 foundations, limited liability companies, corporations, or
34 educational institutions meet all of the requirements of subdivision
35 (a), shall be deemed to be within the exemption provided for in
36 subdivision (b) of Section 4 and Section 5 of Article XIII of the
37 California Constitution and this section. As to educational
38 institutions of collegiate grade, as defined in Section 203, the
39 requirements of paragraph (6) of subdivision (a) shall be deemed
40 to be met if both of the following are met:

1 (1) The property of the educational institution is irrevocably
2 dedicated in its articles of incorporation to charitable and
3 educational purposes, to religious and educational purposes, or to
4 educational purposes.

5 (2) The articles of incorporation of the educational institution
6 provide for distribution of its property upon its liquidation,
7 dissolution, or abandonment to a fund, foundation, or corporation
8 organized and operated for religious, hospital, scientific, charitable,
9 or educational purposes meeting the requirements for exemption
10 provided by Section 203 or this section.

11 (f) Property used exclusively for housing and related facilities
12 for elderly or handicapped families and financed by, including,
13 but not limited to, the federal government pursuant to Section 202
14 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section
15 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of
16 Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of
17 Public Law 101-625 (42 U.S.C. Sec. 8013), and owned and
18 operated by religious, hospital, scientific, or charitable funds,
19 foundations, limited liability companies, or corporations meeting
20 all of the requirements of this section shall be deemed to be within
21 the exemption provided for in subdivision (b) of Section 4 and
22 Section 5 of Article XIII of the California Constitution and this
23 section.

24 The amendment of this paragraph made by Chapter 1102 of the
25 Statutes of 1984 does not constitute a change in, but is declaratory
26 of, existing law. However, no refund of property taxes shall be
27 required as a result of this amendment for any fiscal year prior to
28 the fiscal year in which the amendment takes effect.

29 Property used exclusively for housing and related facilities for
30 elderly or handicapped families at which supplemental care or
31 services designed to meet the special needs of elderly or
32 handicapped residents are not provided, or that is not financed by
33 the federal government pursuant to Section 202 of Public Law
34 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public
35 Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law
36 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law
37 101-625 (42 U.S.C. Sec. 8013), shall not be entitled to exemption
38 pursuant to this subdivision unless the property is used for housing
39 and related facilities for low- and moderate-income elderly or
40 handicapped families. Property that would otherwise be exempt

1 pursuant to this subdivision, except that it includes some housing
2 and related facilities for other than low- or moderate-income elderly
3 or handicapped families, shall be entitled to a partial exemption.
4 The partial exemption shall be equal to that percentage of the value
5 of the property that is equal to the percentage that the number of
6 low- and moderate-income elderly and handicapped families
7 represents of the total number of families occupying the property.

8 As used in this subdivision, “low and moderate income” has the
9 same meaning as the term “persons and families of low or moderate
10 income” as defined by Section 50093 of the Health and Safety
11 Code.

12 (g) (1) Property used exclusively for rental housing and related
13 facilities and owned and operated by religious, hospital, scientific,
14 or charitable funds, foundations, limited liability companies, or
15 corporations, including limited partnerships in which the managing
16 general partner is an eligible nonprofit corporation or eligible
17 limited liability company, meeting all of the requirements of this
18 section, or by veterans’ organizations, as described in Section
19 215.1, meeting all the requirements of paragraphs (1) to (7),
20 inclusive, of subdivision (a), shall be deemed to be within the
21 exemption provided for in subdivision (b) of Section 4 and Section
22 5 of Article XIII of the California Constitution and this section
23 and shall be entitled to a partial exemption equal to that percentage
24 of the value of the property that is equal to the percentage that the
25 number of units serving lower income households represents of
26 the total number of residential units in any year in which any of
27 the following criteria applies:

28 (A) The acquisition, rehabilitation, development, or operation
29 of the property, or any combination of these factors, is financed
30 with tax-exempt mortgage revenue bonds or general obligation
31 bonds, or is financed by local, state, or federal loans or grants and
32 the rents of the occupants who are lower income households do
33 not exceed those prescribed by deed restrictions or regulatory
34 agreements pursuant to the terms of the financing or financial
35 assistance.

36 (B) The owner of the property is eligible for and receives
37 low-income housing tax credits pursuant to Section 42 of the
38 Internal Revenue Code of 1986, as added by Public Law 99-514.

39 (C) In the case of a claim, other than a claim with respect to
40 property owned by a limited partnership in which the managing

1 general partner is an eligible nonprofit corporation, that is filed
2 for the 2000–01 fiscal year or any fiscal year thereafter, 90 percent
3 or more of the occupants of the property are lower income
4 households whose rent does not exceed the rent prescribed by
5 Section 50053 of the Health and Safety Code. The total exemption
6 amount allowed under this subdivision to a taxpayer, with respect
7 to a single property or multiple properties for any fiscal year on
8 the sole basis of the application of this subparagraph, may not
9 exceed twenty thousand dollars (\$20,000) of tax.

10 (D) (i) The property was previously purchased and owned by
11 the Department of Transportation pursuant to a consent decree
12 requiring housing mitigation measures relating to the construction
13 of a freeway and is now solely owned by an organization that
14 qualifies as an exempt organization under Section 501(c)(3) of the
15 Internal Revenue Code.

16 (ii) This subparagraph shall not apply to property owned by a
17 limited partnership in which the managing partner is an eligible
18 nonprofit corporation.

19 (2) In order to be eligible for the exemption provided by this
20 subdivision, the owner of the property shall do both of the
21 following:

22 (A) (i) For any claim filed for the 2000–01 fiscal year or any
23 fiscal year thereafter, certify and ensure, subject to the limitation
24 in clause (ii), that there is an enforceable and verifiable agreement
25 with a public agency, a recorded deed restriction, or other legal
26 document that restricts the project’s usage and that provides that
27 the units designated for use by lower income households are
28 continuously available to or occupied by lower income households
29 at rents that do not exceed those prescribed by Section 50053 of
30 the Health and Safety Code, or, to the extent that the terms of
31 federal, state, or local financing or financial assistance conflicts
32 with Section 50053, rents that do not exceed those prescribed by
33 the terms of the financing or financial assistance.

34 (ii) In the case of a limited partnership in which the managing
35 general partner is an eligible nonprofit corporation, the restriction
36 and provision specified in clause (i) shall be contained in an
37 enforceable and verifiable agreement with a public agency, or in
38 a recorded deed restriction to which the limited partnership
39 certifies.

1 (B) Certify that the funds that would have been necessary to
2 pay property taxes are used to maintain the affordability of, or
3 reduce rents otherwise necessary for, the units occupied by lower
4 income households.

5 (3) As used in this subdivision:

6 (A) “Lower income households” has the same meaning as the
7 term “lower income households” as defined by Section 50079.5
8 of the Health and Safety Code.

9 (B) “Related facilities” means any manager’s units and any and
10 all common area spaces that are included within the physical
11 boundaries of the rental housing development, including, but not
12 limited to, common area space, walkways, balconies, patios,
13 clubhouse space, meeting rooms, laundry facilities and parking
14 areas, except any portions of the overall development that are
15 ~~nonexempt~~ *occupied* commercial space.

16 (C) “Units serving lower income households” shall mean units
17 that are occupied by lower income households at an affordable
18 rent, as defined in Section 50053 of the Health and Safety Code
19 or, to the extent that the terms of federal, state, or local financing
20 or financial assistance conflicts with Section 50053, rents that do
21 not exceed those prescribed by the terms of the financing or
22 financial assistance. Units reserved for lower income households
23 at an affordable rent that are temporarily vacant due to tenant
24 turnover or repairs shall be counted as occupied.

25 (h) Property used exclusively for an emergency or temporary
26 shelter and related facilities for homeless persons and families and
27 owned and operated by religious, hospital, scientific, or charitable
28 funds, foundations, limited liability companies, or corporations
29 meeting all of the requirements of this section shall be deemed to
30 be within the exemption provided for in subdivision (b) of Section
31 4 and Section 5 of Article XIII of the California Constitution and
32 this section. Property that otherwise would be exempt pursuant to
33 this subdivision, except that it includes housing and related
34 facilities for other than an emergency or temporary shelter, shall
35 be entitled to a partial exemption.

36 As used in this subdivision, “emergency or temporary shelter”
37 means a facility that would be eligible for funding pursuant to
38 Chapter ~~11~~ *11.5* (commencing with Section 50800) of Part 2 of
39 Division 31 of the Health and Safety Code.

1 (i) Property used exclusively for housing and related facilities
 2 for employees of religious, charitable, scientific, or hospital
 3 organizations that meet all the requirements of subdivision (a) and
 4 owned and operated by funds, foundations, limited liability
 5 companies, or corporations that meet all the requirements of
 6 subdivision (a) shall be deemed to be within the exemption
 7 provided for in subdivision (b) of Section 4 and Section 5 of Article
 8 XIII of the California Constitution and this section to the extent
 9 the residential use of the property is institutionally necessary for
 10 the operation of the organization.

11 (j) For purposes of this section, charitable purposes include
 12 educational purposes. For purposes of this subdivision,
 13 “educational purposes” means those educational purposes and
 14 activities for the benefit of the community as a whole or an
 15 unascertainable and indefinite portion thereof, and do not include
 16 those educational purposes and activities that are primarily for the
 17 benefit of an organization’s shareholders. Educational activities
 18 include the study of relevant information, the dissemination of that
 19 information to interested members of the general public, and the
 20 participation of interested members of the general public.

21 (k) In the case of property used exclusively for the exempt
 22 purposes specified in this section, owned and operated by limited
 23 liability companies that are organized and operated for those
 24 purposes, the State Board of Equalization shall adopt regulations
 25 to specify the ownership, organizational, and operational
 26 requirements for those companies to qualify for the exemption
 27 provided by this section.

28 (l) The amendments made by Chapter 354 of the Statutes of
 29 2004 shall apply with respect to lien dates occurring on and after
 30 January 1, 2005.

31 SEC. 2. Notwithstanding Section 2229 of the Revenue and
 32 Taxation Code, no appropriation is made by this act and the state
 33 shall not reimburse any local agency for any property tax revenues
 34 lost by it pursuant to this act.

35 SEC. 3. This act provides for a tax levy within the meaning of
 36 Article IV of the Constitution and shall go into immediate effect.

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