



*California State Board of Equalization,
Legislative Division*

LEGISLATIVE BULLETIN



State Capitol Building (from the East) c.1945
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PROPERTY TAX LEGISLATION 2003

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TABLE OF CONTENTS

CHAPTERED LEGISLATION ANALYSES	PAGE
<u>Assembly Bill 205 (Goldberg) Chapter 421</u> <i>Domestic Partners and Responsibilities Act</i>	1
<u>Assembly Bill 322 (Para) Chapter 278</u> <i>Disabled Veterans' Exemption</i>	4
<u>Assembly Bill 986 (J. Horton) Chapter 569</u> <i>Study to Consolidate Tax Agencies' Functions</i>	8
<u>Assembly Bill 1744 (Committee on Revenue and Taxation) Chapter 316</u> <i>Property Tax Omnibus Bill – California Assessors' Association sponsored</i>	
<i>Exemption Filing – New Acquisitions</i>	11
<i>New Construction Information</i>	13
<i>Business Property Statement – Conditional Sales Contract</i>	14
<u>Senate Bill 1049 (Committee on Budget and Fiscal Review) Chapter 741</u> <i>State Responsibility Area Fire Protection Benefit Fee</i>	15
<u>Senate Bill 1059 (Committee on Revenue and Taxation) Chapter 604</u> <i>Property Tax Omnibus Bill – California Assessors' Association sponsored</i>	16
<i>Business Property Statement – Bulk Sales</i>	17
<i>Tentative Maps</i>	17
<i>Historical Aircraft Exemption</i>	18
<i>Nonprofit Cemetery Exemption</i>	20
<i>Notice of Proposed Escape Assessment</i>	21
<i>Escape Assessment –Notation on Roll</i>	22
<i>Assessment Appeals Boards – Assessment Cancellation</i>	23

<u>Senate Bill 1062 (Committee on Revenue and Taxation) Chapter 471</u>	24
<i>Property Tax Omnibus Bill – Board of Equalization sponsored</i>	
<i>Open Space Contracts – Cancellation Values</i>	25
<i>Environmentally Contaminated Property</i>	26
<i>Supplemental and Escape Assessments – Form Approval</i>	27
<i>Pending Supplemental Assessment Roll Notation</i>	28
<i>Board Prescribed Forms</i>	29
<i>Disaster Relief – Property Tax Deferral</i>	30
<i>Welfare Exemption Administration Streamlining</i>	31
<i>Open Space and Timberland Preserve Zone Contracts</i>	34
<i>Open Space Land and Restricted Historical Property – Interest Rate</i>	35
<i>Unsecured Roll – Tax Rate</i>	36
<i>Miscellaneous Technical & Housekeeping Provisions</i>	37
TABLE OF SECTIONS AFFECTED	38

Assembly Bill 205 (Goldberg) Chapter 421*Domestic Partners and Responsibilities Act*

Effective January 1, 2005. Among its provisions, adds Section 297.5 to the Family Code and amends Section 14771 of the Government Code.

BILL SUMMARY

This bill enacts the California Domestic Partners and Responsibilities Act of 2003 to provide registered domestic partners with (1) the same rights, protections, and benefits, and (2) the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, except those conferred by the California Constitution or a statute that was adopted by initiative, as are granted to and imposed upon spouses.

Sponsor: Assembly Member Goldberg

LAW PRIOR TO AMENDMENT**Property Taxes**

With respect to property taxes, there are various benefits granted to spouses and children of spouses that are provided for in the Constitution (Articles XIII and XIII A). Because these benefits are expressly stated in the constitution, this bill would not apply to these provisions of property tax law.

Public-Use Forms

Subdivision (a) of Section 14771 of the Government Code gives the State Forms Management Program, which is in the Department of General Services, an oversight role with respect to public-use forms and form design. However, due to the need for tax forms to be available to the public on a timely basis, all tax forms, including returns, schedules, notices, and instructions prepared by the Board of Equalization and the Franchise Tax Board, are exempt from this oversight pursuant to subdivision (b) of Section 14771.

AMENDMENTS

- This bill adds Section 297.5 of the Family Code to provide that:
 1. **Registered domestic partners** have the same rights, protections, and benefits, and are subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon **spouses**.

2. **Former registered domestic partners** shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon **former spouses**.
 3. A **surviving registered domestic partner**, following the death of the other partner, shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon a **widow or a widower**.
 4. The rights and obligations of **registered domestic partners with respect to a child of either of them** shall be the **same as those of spouses**. The rights and obligations of former or surviving registered domestic partners with respect to a child of either of them shall be the same as those of former or surviving spouses.
 5. Subdivision (h) of Section 297.5 provides that this act **does not preclude any state or local agency from exercising its regulatory authority to implement statutes** providing rights to, or imposing responsibilities upon, domestic partners.
 6. Subdivision (i) of Section 297.5 provides that this section **does not amend or modify any provision of the California Constitution or any provision of any statute that was adopted by initiative**.
- This bill also adds paragraph (14) to subdivision (a) of Section 14771 of the Government Code, to require the director of General Services, through the forms management center, to provide notice to state agencies, forms management representatives, and departmental forms coordinators, that in the usual course of reviewing and revising **all public-use forms that refer to or use the terms spouse, husband, wife, father, mother, marriage, or marital status, that appropriate references to domestic partner, parent, or domestic partnership are to be included**.
 - These provisions are **operative on January 1, 2005**.

COMMENTS

1. **Purpose** This bill is intended to "significantly expand the rights and responsibilities currently provided to registered domestic partners and their families to include nearly all the legal rights, benefits, responsibilities, duties, and obligations under state law currently available only to married couples. Those legal protections and responsibilities guide couples through nearly every complex legal situation faced by families such as death, divorce, custody disputes, illness, childbirth, and adoption." According to the author, "There is simply no good reason to deny those additional rights and duties to registered, committed domestic partners and their children. Granting these rights and responsibilities will further the State's interest in promoting stable and lasting family relationships, and will protect family members from the economic and social consequences of abandonment, separation, the death of loved ones, and other life crises. It will also protect couples, the children they are raising, third parties, and the State from numerous harms and costs."
2. **Updating Board public-use forms and other documents.** Although the Board's tax forms are specifically exempted from the provisions of Government Code Section 14771(a), the Board could review and consider appropriate references to domestic partners when updating any tax forms or other documents to which this bill would apply.
3. **Proposed Family Code Section 297.5 does not amend or modify any provision of the California Constitution or any provision of any statute that was adopted by initiative.**
4. **This bill would not preclude a state agency from exercising its authority to adopt regulations to implement statutes that provide rights to, or impose responsibilities upon, domestic partners.**

Assembly Bill 322 (Para) Chapter 278

Disabled Veterans' Exemption

Effective September 4, 2003. Amends Sections 205.5 and 279 of the Revenue and Taxation Code.

BILL SUMMARY

This bill provides that a disabled veteran receiving the disabled veterans' property tax exemption on their home will continue to receive the exemption after the veteran no longer resides in the home because he or she has been confined to a care facility or hospital.

Sponsor: California Association of County Veteran's Services Officers

LAW PRIOR TO AMENDMENT

Article XIII, Section 4 of the California Constitution provides that the Legislature may exempt from property tax, in whole or in part, the home of a person or a person's spouse, including an unmarried surviving spouse, if the person, because of injury incurred in military service, is totally disabled. This exemption is commonly referred to as the "disabled veterans' exemption." The disabled veterans' exemption is also available to the surviving spouse of a person who has died as a result of a service connected injury or death while on active duty in military service.

Revenue and Taxation Code Section 205.5 provides that the disabled veterans' exemption is available to property that constitutes the **principal place of residence** of a veteran who has a disability rating at 100% or has a disability compensation rating at 100% because he or she is unable to secure or follow a substantially gainful occupation. The exemption is available in two amounts:

- \$100,000 for qualified persons, hereafter referred to as the "basic exemption" which is provided on a one time filing basis, and
- \$150,000 for qualified persons with low incomes, as specified, hereafter referred to as the "low income exemption" which requires a first time filing and subsequent annual filings to reaffirm income eligibility. For the 2003 assessment year, the household income limit is \$42,814.

Existing law provides that a property is not eligible for the disabled veterans' property tax exemption if the owner does not occupy the property as his or her principal place of residence on the lien date. Revenue and Taxation Code Section 279 provides that a claim for the disabled veterans' property tax exemption, once granted, shall remain in effect until:

- title to the property changes,
- the owner does not occupy the home as his or her principal place of residence on the lien date,
- the veteran is no longer disabled as defined in Section 205.5, or
- the property is altered so that it is no longer a residence.

With respect to this bill, existing law provides that a property is ineligible for the exemption if a disabled veteran or the surviving spouse of a disabled veteran does not occupy the property as his or her principal place of residence on the lien date. Existing law is silent as to the specific issue when the reason for not residing in the property is confinement to a hospital or other care facility.

AMENDMENTS

This measure amends Section 205.5 of the Revenue and Taxation Code to provide that property is deemed to be the principal place of residence of a disabled veteran who is confined to a hospital or other care facility, if that property would have been that veteran's principal place of residence were it not for his or her confinement to a hospital or other care facility, provided that the residence is not rented or leased to a third party. A family member that resides at the residence is not considered to be a third party.

In addition, this measure makes corresponding amendments to Section 279 which provides that the disabled veterans' exemption, once granted, will remain in continuous effect.

BACKGROUND

The following table lists the number of disabled veterans' exemptions claimed in each of the 58 counties.

San Diego	3349	San Francisco	132
Los Angeles	1386	Sutter	126
Sacramento	1317	Mendocino	126
Riverside	1192	Santa Cruz	118
Solano	1000	Yuba	112
San Bernardino	975	Tehama	100
Orange	967	Napa	99
Monterey	766	Kings	95
Contra Costa	590	Madera	85
Santa Clara	493	Tuolumne	70
Alameda	471	Calaveras	59
Shasta	455	Yolo	58
Ventura	435	Del Norte	55
Fresno	428	Siskiyou	48
Sonoma	354	Mariposa	45
San Joaquin	329	Imperial	41
Stanislaus	300	Amador	38
Kern	287	Plumas	33
Butte	281	Lassen	25
Santa Barbara	267	Trinity	22
Merced	242	San Benito	20
Placer	231	Glenn	16
San Mateo	204	Modoc	12
Tulare	200	Colusa	11
San Luis Obispo	178	Inyo	8
El Dorado	176	Sierra	5
Marin	174	Mono	2
Humboldt	153	Alpine	1
Nevada	141		
Lake	138		

COMMENTS

1. **Purpose** This bill is intended to ensure that a disabled veteran who enters a rest home will continue to receive the exemption on his or her home. The practice of some counties is to disqualify the property from receiving the exemption in this situation.
2. **Statement of legislative intent.** The statement of intent provides that the Legislature finds and declares the following:
 - There are many disabled veterans who own property that qualifies for the disabled veterans' property tax exemption, but due to the fact that these disabled veterans are confined to hospitals or other medical institutions they are unable to occupy that property as their principal places of residence. In many cases the spouses of these disabled veterans continue to occupy the property as their principal places of residence.
 - It is the intent of the Legislature in enacting this act to amend the Revenue and Taxation Code to conform with the California Constitution to further extend the disabled veterans' property tax exemption to property owned by the spouse of a living disabled veteran while that disabled veteran is confined to a hospital or other care facility and to extend the disabled veterans' property tax exemption to an otherwise qualifying veteran who is unable to occupy that property as his or her principal place of residence because he or she is confined to a hospital or other care facility, provided that the property is not rented or leased to a third party.
3. **Key amendments.** The April 7 amendments specify that if the home is rented or leased to a third party while the disabled veteran is in a care facility or hospital then the exemption would not apply. Additionally, the amendments modified Section 279 to change cross references to definitions in other sections of code that did not exist and to delete references to regulations related to the disabled veterans exemption that do not exist.
4. **Spouse continues to reside in the home.** This bill codifies the existing practices of many, but not all, counties in the situation where a disabled veteran enters a rest home and a spouse continues to reside in the home. Many counties allow the exemption to remain on the property under the rationale that the absence from the home is temporary. However, a few counties consider the home to be ineligible for the exemption due to the technicality that it is no longer "the principal place of residence" of the veteran even when a spouse is residing in the home. In these counties, if the veteran were to subsequently die, the home would requalify for the exemption since unmarried surviving spouses are eligible for the disabled veterans' exemption.

5. **Vacant home.** This bill codifies the existing practices of some, but not all, counties in the situation where a disabled veteran enters a care facility and the home is left vacant.
6. **Rented home.** If the home is rented or leased, the assessment practice of most counties is to disqualify the home from receiving the exemption. This bill codifies the existing practice of most counties.
7. **Existing law and regulations are silent on this issue.** However, there is Board guidance on this subject as it relates to the homeowners' exemption. Letter to Assessors 82/50 advises that a homeowner's "temporary absence" from a home would not disqualify the home from the homeowners' exemption provided the home is not rented or leased to others on the lien date. With respect to the situation where a parent is confined to a rest home and an adult child resides in the home, the Board has advised that if the parent is expected to return and rent is not charged, the homeowners' exemption may continue. However, an absence of more than one year might raise questions as to whether the home is still the parent's principal residence. Some counties have extended this written advice to the disabled veterans' exemption.

Assembly Bill 986 (J. Horton) Chapter 569

Study to Consolidate Tax Agencies' Functions

Effective January 1, 2004. Adds Section 38 to the Revenue and Taxation Code.

BILL SUMMARY

This bill requires the Legislative Analyst (LAO) to submit a report to the Legislature on the consolidation of the remittance processing and cashing functions, and the mail processing operations, of the Board of Equalization (BOE), Franchise Tax Board (FTB), and the Employment Development Department (EDD), based on specified criteria.

Sponsor: Assembly Member Jerome Horton

LAW PRIOR TO AMENDMENT

Under existing law, the BOE, which consists of 5 voting members (4 members elected to represent the 4 districts throughout California, and the Controller) administers the sales and use tax, cigarette and tobacco products tax, alcoholic beverage tax, and various other taxes and fees. The BOE also sets values of property for state-ASSESSEES and monitors the property tax assessment practices of county assessors.

The FTB administers the state personal income taxes and corporations income taxes.

The EDD is responsible for the audit and collection of employment taxes and maintains employment records for more than 19 million California workers.

AMENDMENT

This bill adds Section 38 to the Revenue and Taxation Code to require the LAO to submit a report to the Legislature regarding the possible consolidation of the remittance processing and cashing functions, and the mail processing operations, of the FTB, BOE, and EDD.

The bill requires the three agencies to provide all data and information that the LAO identifies as necessary for completing the report and also require the agencies to assist in the preparation of the report. The information provided would include, but not be limited to, an evaluation of the short- and long-term fiscal and budgetary advantages and disadvantages from the proposed consolidation of the specific functions. All information would be required to be submitted to the LAO by July 1, 2004.

The purpose of the report would be to determine, to the extent possible and based on available information and reasonable assumptions, if there are any benefits to the consolidation of the management and control of these operations, based on all of the following criteria:

- The elimination of duplicative functions and fragmented responsibilities.
- Increase operational efficiencies due to the use of improved technologies and economies of scale.
- Additional interest earnings for the state.

For purposes of this bill, “remittance processing and cashiering” means receiving, batching, balancing, and depositing remittances.

The LAO is required to provide its report and any recommendations and considerations with regard to the possible consolidation of the specified functions to the Legislature by November 1, 2004.

BACKGROUND

Assembly Bill 3181 (Leonard) of 1986 would have required that beginning July 1, 1988, the cashiering operations of the BOE and EDD be done by the FTB. The bill also would have required that a task force, consisting of BOE, EDD, FTB, the Department of Finance, and the State Treasurer be established to prepare an implementation plan. If the task force determined that the proposed consolidation was not cost-effective, then the consolidation would not have taken place. AB 3181 did not pass out of the Senate Revenue and Taxation Committee. AB 3181 attempted to implement a suggestion from the Little Hoover Commission, which based its recommendation on a study conducted by the accounting firm Peat, Marwick, and Mitchell.

IN GENERAL

The BOE collects 25 different taxes and fees, including sales and use tax that provides nearly forty (40) percent of the State’s revenue. As such, the BOE is dedicated to leadership in the field of tax administration, taxpayer services, and taxpayer information. Each year the BOE manually processes monthly, quarterly, fiscal yearly, and calendar yearly tax payments and return forms from approximately one million registered businesses. The BOE mails out return forms along with a return envelope to registered taxpayers for all the tax programs administered. Peak periods occur the month following each of the four calendar quarters. The second and fourth quarters produce the largest volume since these periods include monthly, quarterly and yearly (fiscal and calendar) filers. Monthly peak periods also occur due to the filing of prepayment forms by quarterly prepayment reporting basis taxpayers. These taxpayers are required to make two prepayments during the first two months of the quarter followed by a quarterly return and payment.

COMMENTS

1. **Purpose.** Its purpose is to require a study of consolidating specified operations of the BOE, FTB, and EDD in the furtherance of good government and the elimination of wasteful or duplicative processes. The author intends an independent third party to study the efficiencies that could be achieved by combining resources of the three taxing agencies in order to provide elected officials with the data they need to make an informed decision about the issue of consolidation.
2. **July 21, 2003 amendments.** The amendments add the requirement that the three agencies provide the information requested by the LAO by July 1, 2004. The amendments also change the due date of the LAO's report to the Legislature from July 1 to November 1, 2004.
3. **July 15, 2003 amendments.** The amendments delete the phrase "under the State Board of Equalization" as one of the bases for the consolidation study. The amendments were accepted as author amendments at the July 9, 2003 Senate Revenue and Taxation Committee hearing in response to the committee analysis which questioned the need to restrict the study to the consolidation of cashiering, remittance and mail processing functions within the BOE.
4. **The bill would study the combination of processes that are common to all three taxing agencies.** The proposed study would require the LAO to look at the tasks leading up to the point at which the tax return information must be reviewed and verified by tax experts at each of the three different agencies. The return review process requires employees to apply laws, rules, and policies that are unique to each of the different taxing agencies. The consolidation approach contained in this bill looks for common grounds to achieve efficiencies on processes that are not unique to any of the agencies.
5. **The following are some of the issues that would need to be addressed in a study.**
 - Should the agencies combine facilities or run separate facilities?
 - How would the processes work if some information is scanned at one agency while it is key entered in another?
 - How would the different data centers communicate with each other when the BOE uses the Teale Data Center, EDD primarily uses the Health and Human Services Data Center, and FTB maintains its own data center?
 - What are the underlying confidentiality issues with agencies sharing information?
 - Which fund gets priority when a taxpayer sends insufficient payment for all three tax programs?
 - Are there any issues with electronic fund transfer payments?
6. **Related Legislation.** Assembly Bill 1503 (Levine) contains legislative intent to conduct a study on the most economically feasible and effective method of collecting taxes and other revenues owed to the state. The bill was never heard by a committee in 2003.

Assembly Bill 1744 (Assembly Revenue and Taxation Committee) Chapter 316*Property Tax Omnibus Bill - California Assessors' Association Sponsored*

Effective January 1, 2004. Amends Sections 75.21, 271, 441, and 442 of the Revenue and Taxation Code.

BILL SUMMARY

This bill contains **California Assessors' Association sponsored** provisions to:

- Change the date for a property owner that is eligible for specified exemptions to file an exemption claim on new purchases of property, from prior to the next January 1 to within 90 days after acquisition (or February 15 of the following calendar year, whichever occurs earlier for property acquired in November or December). §75.21, §271
- Related to information about new construction from owner-builders and owner-developers that built or sold the property:
 - Clarify that they are required to provide information related to the new construction to the assessor. §441
 - Require that information including the total consideration provided by the purchaser for the property be provided upon written request. §441
- Require property owners that lease property to list those items on their property statement when the lease is actually a conditional sales contract (i.e., the lessee can acquire ownership of the property at the end of the lease for a nominal amount). §442

Exemption Filing – New Acquisitions*Revenue and Taxation Code Sections 75.21 and 271***LAW PRIOR TO AMENDMENT**

Revenue and Taxation Code Section 271 allows for the cancellation or refund of taxes on properties on the regular roll that are acquired by various exempt organizations after the lien date (January 1) but prior to the beginning of the fiscal year (July 1). It allows for a similar cancellation or refund of taxes for organizations that do not come into existence until after the lien date and thereafter acquire properties before the beginning of the fiscal year.

For organizations that acquire properties after the fiscal year begins (on or after July 1), the taxes for that fiscal year are either canceled or refunded in pro-ratio to the number of days in the fiscal year that the property was owned by the organization. To receive the cancellation, refund, or proration, an application for the exemption must be filed "on or before the lien date in the calendar year next succeeding the calendar year in which the property was acquired." Basically, this means that for any property acquired between January 2, 2002, and December 31, 2002, an exemption claim for the property must be filed on or before January 1, 2003. However, if an organization does not file a claim within this time period but files an exemption claim afterwards, the maximum tax on the property will not exceed \$250.

AMENDMENTS

This bill amends Revenue and Taxation Code Section 271 to instead provide that the exemption claim must be filed "within 90 days from the first day of the month following the month in which the property was acquired or by February 15 of the following calendar year, whichever occurs earlier." In addition, this bill makes a conforming amendment to Section 75.21 to provide that, for new acquisitions of property in certain instances, a separate exemption claim for the supplemental roll is not required. Instead, the claim filed for the regular roll pursuant to Section 271 will also apply to the supplemental roll.

COMMENTS

1. **Purpose.** If an organization acquires property near the end of the calendar year (for example, a donation of property to the organization recorded on December 31, 2002) there may be insufficient time to complete and file a claim by the next lien date (i.e., January 1, 2003). This amendment instead gives organizations a uniform 90 days after acquiring properties (or until the following February 15 for November and December acquisitions) to file a claim for the refund, cancellation, or pro-ratio of taxes on the regular roll. This gives more time to file a claim form for property acquired in the last three months of the year, but less time to file a claim for property acquired in the first nine months of the year. The transition from "end of year" to "90 days" could result in some late filings from nonprofits not aware of the change in the first few years. However, if this occurred, at most \$250 in tax would be owed. This bill also makes conforming technical amendments to Section 75.21(f)(1) which provides that a separate claim for the supplemental roll is not required to be filed when an organization that is already receiving an exemption on other property acquires a new property (because the annual claim filed for the upcoming assessment year will include the new property acquisition). Instead, the claim filed pursuant to Section 271 on a new acquisition would suffice for both the regular and supplemental rolls.
2. **Amendments.** The June 18, 2003 amendments make technical amendments to Section 75.21.

New Construction Information
Revenue and Taxation Code Section 441

LAW PRIOR TO AMENDMENT

Section 441(d) of the Revenue and Taxation Code requires that taxpayers make available for examination information or records regarding their property to the assessor that are required by the assessor for assessment purposes. The law specifies that details of property acquisition transactions, construction and development costs, rental income, and other data relevant to the determination of an estimate of value are information essential to the proper discharge of the assessor's duties.

AMENDMENTS

This bill adds subparagraph (2) to subdivision (d) of Section 441 of the Revenue and Taxation Code to provide that these provisions apply to an owner-builder or an owner-developer of new construction that is sold to a third party, is constructed on behalf of a third party, or is constructed for the purpose of selling that property to a third party.

In addition, it requires that the owner-builder or owner-developer of new construction provide the assessor with information and records regarding that property within 45 days of receipt of a written request by the assessor. It specifies that information and records requested include the total consideration provided by the purchaser or on behalf of the purchaser that was paid or provided either, as part of or outside of the purchase agreement, including, but not limited to, consideration paid or provided for the purchase or acquisition of upgrades, additions, or any other additional or supplemental work performed or arranged for by the owner-builder or owner-developer on behalf of the purchaser.

COMMENTS

1. **Sponsor.** This provision is sponsored by San Diego County. Its purpose is to counteract a trend by some homebuyers of new homes to not report the total purchase price paid for the home to establish a lower assessed value for property tax purposes. Some of these homebuyers are unaware that they are required to report the total consideration paid for the property.
2. **Failure to Report Total Purchase Price.** It has been reported that some sales agents of homes in new home subdivisions have suggested to prospective buyers that they could pay for additional upgrades and options on the home with cash and then not report the cost of these upgrades and options to the county assessor. For example, a home buyer who purchases a home with a base price of \$350,000 could select \$25,000 in upgraded kitchen and flooring options and pay for these items with cash. In the change of ownership statement to the assessor, a purchase price of \$350,000 rather than \$375,000 is reported. Thereby "saving" \$250 per year in taxes if these options and upgrades are not discovered. Homebuyers who finance the options and upgrades are unable to conceal the true price paid for the home since the down payment and the financing is reported on the change of ownership statement. In addition to

potentially reducing the amount of property taxes paid, this practice reduces the documentary transfer taxes charged when the deed is recorded with the county recorder.

- 3. Assessors have had difficulties obtaining information from some subdivision homebuilders and developers who will not provide information about a property after the sale has been completed.** In completing the building records detailing the property characteristics of property in subdivisions, where the floor plans and features are variable but within a known range, the county assessor will often obtain information from the developers to minimize the intrusion to the new home buyer and reduce the administrative costs by collecting the information from a central source. However, some home builders and developers claim that Section 441 does not apply to them since they are no longer the owner of the property, and they therefore are not required by law to provide the assessor with any information about the property. Instead, they state that the assessor should contact the new buyer to obtain details on the property. This bill requires such information to be disclosed by the builder or developer after the sale.

<p style="text-align: center;">Business Property Statement – Conditional Sales Contract <i>Revenue and Taxation Code Section 442</i></p>

LAW PRIOR TO AMENDMENT

Existing property tax law requires the owners of specified property interests, including property that is the subject of a lease, to file a property statement with the county assessor listing all property interests held by that owner. Existing law specifies that property leased under a conditional sales agreement to tax-exempt schools, colleges, libraries, and museums need not be included in the lessor's property statement.

Existing law does not specifically require that property leased under a conditional sales agreement, an agreement that allows the lessee the option to purchase the property for a nominal price at the end of the term of the lease, to be included in the lessor's property statement.

AMENDMENT

This bill amends Section 442 of the Revenue and Taxation Code to require the lessor of property that is leased under a conditional sales agreement to list that leased property on the lessor's property statement.

COMMENTS

Purpose. According to the sponsor it is often unclear to both lessors and lessees who should report property subject to a conditional sales agreement for taxation purposes. It is possible that both parties report the property, potentially leading to double taxation if undiscovered, or that neither party reports the property, leading to an escape assessment that may later be discovered in an audit of either party. This bill clarifies which party is responsible for reporting the property for property tax assessment purposes.

Senate Bill 1049 (Committee on Budget and Fiscal Review) Chapter 741*State Responsibility Area Fire Protection Benefit Fee*

Effective January 1, 2004. Among its provisions adds Article 3.5 (commencing with Section 4138) to Chapter 1 of Part 2 of Division 4 of the Public Resources Code.

BILL SUMMARY

Creates a benefit assessment fee for fire prevention and suppression in state responsibility areas.

LAW PRIOR TO AMENDMENT

Currently property owners in state responsibility areas do not pay for fire protection.

AMENDMENT

This bill adds Section 4139 to the Public Resources Code to create an annual state responsibility area fire protection benefit fee at a specified level. The benefit fee is not imposed on parcels exempt from property taxes or parcels owned by a public agency and located within that agency's boundaries. The benefit fee is to be collected in the same manner and at the same time as the secured property taxes. This bill allows the Department of Forestry and Fire Protection access to county assessment records for purposes of administering the fee.

Senate Bill 1059 (Senate Revenue and Taxation Committee) Chapter 604

Property Tax Omnibus Bill California Assessors' Association Sponsored

Effective January 1, 2004. Amends Sections 72, 220.5, 531.8, 533 and 1610.8 of, and adds Sections 256.6, 256.7, 276.5 to, the Revenue and Taxation Code and amends Section 6105 of the Commercial Code.

BILL SUMMARY

This California Assessors' Association sponsored omnibus property tax bill:

- Updates the timeframe when a notice of bulk sale must include a completed business property statement to conform to changes in the lien date and business property statement filing periods. *Commercial Code §6105*
- Authorizes a board of supervisors to require local agencies that approve tentative maps to provide a copy of the maps to the assessor. *§72*
- Related to the historical aircraft exemption:
 - Requires taxpayers claiming the exemption to provide certificates of attendance indicating public display of the aircraft at least 12 days annually. *§220.5*
 - Allows an 80% partial exemption for claims filed after the February 15 deadline but before August 1. *§276.5*
- Related to cemeteries:
 - Establishes simplified annual filing for certain nonprofit cemeteries via the return of a postcard. *§256.6*
 - Eliminates the need to file a claim to receive the cemetery exemption for certain pioneer cemeteries in the unincorporated area of the county where the assessor is unable to identify a legal cemetery authority to file the claim. Also allows the cancellation of any taxes, penalties, or interest on such cemeteries. *§256.7*
- Deletes a requirement that a specific employee's name be listed as a contact person on a Notice of Proposed Escape Assessment. *§531.8*
- Allows escape assessments to be noted on the roll for the current assessment year as either a notation on the physical document or an electronic copy. *§533*
- Modifies language referencing the cancellation of assessments by the county board of equalization. *§1610.8*

Business Property Statement - Bulk Sales <i>Commercial Code Section 6105</i>
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LAW PRIOR TO AMENDMENT

Existing law requires that a completed business property statement must accompany a notice of bulk sale that is filed between March 1 and the last Friday in May.

AMENDMENT

This bill amends Section 6105 of the Commercial Code to change the period of time during which a completed business property statement must accompany a notice of a bulk sale to those notices filed between January 1 and May 7.

COMMENTS

1. **Purpose.** This bill updates the dates specified in the code to conform to changes in the lien date (from March 1 to January 1) and last day to file the business property statement (from the last Friday in May to May 7).
2. **Key Amendments.** The June 30 amendment changed the last day of the period to file a business property statement with a notice of bulk sale from May 31 to May 7. The last day to file a business property statement without penalty is May 7 whereas May 31 is the last day to amend a timely filed business property statement.

Tentative Maps <i>Revenue and Taxation Code Section 72</i>
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LAW PRIOR TO AMENDMENT

Under existing law when a parcel is split the assessor must allocate the assessed value of that property among the new parcels created.

AMENDMENT

This bill amends Section 72 of the Revenue and Taxation Code to authorize board of supervisors to adopt an ordinance that requires the local agency that approves a set of tentative maps to provide a copy of these maps to the assessor as soon as possible after the maps are filed.

COMMENTS

1. **Purpose.** According to the sponsor, when a large parcel is split into one or more parcels it can be difficult to determine where existing improvements on the property are located in order to assign the improvements to the proper new parcel number and obtaining copies of these maps would aid in that process.

2. **Key Amendments.** The August 18 amendment requires that the local agency approving the map file a copy with the assessor rather than requiring the property owner to submit the maps. This amendment reflects negotiations with the California Land Surveyor's Association.
3. **The phrase “tentative maps” is not clear as to the type of the maps this bill is intended to address.** The sponsor may want to further define the phrase “tentative maps” to more clearly indicate that it relates to a map of a proposed split of a pre-existing parcel or place the provision in an area of law where such tentative maps are required and/or referenced. The section of code proposed to be amended, Section 72, relates to transmittal of building permits and building plans. Section 327.1, which was added to the code last year and also sponsored by the California Assessors’ Association, authorizes a county board of supervisors to adopt an ordinance requiring a copy of a recorded digital subdivision map to be filed with the county assessor. This may be a more appropriate location for this provision. Would tentative maps that are not approved also be required to be filed with the assessor? As currently drafted, the language states maps are to be submitted as soon as they are filed.

Historical Aircraft Exemption

Revenue and Taxation Code Sections 220.5 and 276.5

LAW PRIOR TO AMENDMENT

Revenue and Taxation Code Section 220.5 provides a property tax exemption for aircraft of historical significance. A one-time fee of \$35 is imposed with the initial application for exemption. Thereafter, Section 255 requires that persons re-file for the exemption each year by February 15. To qualify for the exemption the aircraft must be displayed to the public at least 12 days during the year.

If a person misses the filing deadline, the exemption is not available for that year. (Article XIII, Section 6 of the California Constitution and Section 260 provide that failure to claim an exemption is a waiver of the exemption for that year.)

AMENDMENTS

This bill amends Section 220.5 to specify that persons claiming the exemption attach a certificate of attendance from the coordinator of the event at which the aircraft was displayed.

This bill also adds Section 276.5 to allow a partial exemption of 80% for claims for the aircraft of historical significance exemption filed after February 15 but on or before August 1.

COMMENTS

1. **Purpose.** The historical aircraft exemption was created in 1987 (Stats. 1987, Ch. 267, SB 95). The enacting legislation made no specific provisions for the general administration of the exemption and, therefore, did not provide for late filing. The following year, the Board sponsored legislation (Stats. 1988, Ch. 1271, AB 2878) to provide basic administrative provisions for the new exemption. Specifically, Section 254 was amended to require an annual claim form, Section 255 was amended to specify a filing deadline of April 1, and Section 259.11 was added to specify that the claim provide information that both the owner and the aircraft qualify for the exemption. Late filing was not included in this follow-up legislation. Documents related to this Board-sponsored legislation do not indicate whether or not late filing was considered. Los Angeles County indicates that 2 to 3 taxpayers miss the current deadline each year. The sponsors note that most other exemptions have late filing provisions and believe that the lack of a partial exemption for claims filed after the deadline is an oversight that should be corrected. The purpose of the amendments to Section 220.5 is to statutorily require documentation to substantiate 12 days of public display.

2. **Key Amendments.** The June 30 amendment restores the provisions allowing a partial exemption for late filed claims. The April 21 amendment had deleted the provision to add Section 276.5 to the Revenue and Taxation Code to allow a partial exemption of 80% for claims for the aircraft of historical significance exemption filed after February 15 but on or before August 1. This provision had been included in the bill as introduced, but temporarily deleted over a concern that it would expand the exemption.

3. **Related Legislation.** Similar late-filing provisions were previously contained in SB 2086 (Senate Revenue and Taxation) of the 2001-02 Legislative year but were inadvertently chaptered out.

4. **Suggested Amendment.** Public aircraft show events are generally weekend events. Because it may take multiple events to reach the 12-day threshold, the following language is suggested:

When applying for an exemption pursuant to this section, the claimant shall attach to that application a certificate~~s~~ of attendance from the event coordinators~~s~~ of the event at which the aircraft was on displayed sufficient to attain the minimum number of days on display as required by this paragraph.

5. **Delay Operative Date.** The sponsors may wish to consider delaying the operative date of the Section 220.5 provisions to January 1, 2005. Since this new requirement would be effective on January 1, 2004, documentation for participation in events held in the 2003 year would be required to be submitted with the February 15, 2004 claim, but historical aircraft owners would not have known to obtain attendance certificates during the 2003 calendar year.

Nonprofit Cemetery Exemption
Revenue and Taxation Code Sections 256.6 and 256.7

LAW PRIOR TO AMENDMENT

Under existing law, Article XIII, Section 3(g) of the Constitution and Revenue and Taxation Code Section 204 provide for a property tax exemption of nonprofit cemeteries. The cemetery exemption is available on property used or held exclusively for the burial or other permanent deposit of the human dead and property used or held exclusively for the care, maintenance or upkeep of such property or such dead, except any such property that is used or held for profit.

Current law requires that a property qualifying for the cemetery exemption must have a new exemption claim filed on the property every year by February 15.

AMENDMENTS

This bill adds Section 256.6 to the Revenue and Taxation Code to simplify the process for filing the cemetery exemption claim form each year. Rather than re-filing a full claim each year, the cemetery operator would return a postcard sent by the assessor to renew the exemption for the following year.

The assessor would send the notice by January 1 and the cemetery operator would return the card by February 15, indicating that the property continues to be used for cemetery purposes.

In addition, this bill adds Section 256.7 to the Revenue and Taxation Code to provide that when the assessor can not identify a legal cemetery authority to file an exemption claim on certain types of cemeteries, as defined, a claim form is not required. In addition, if there are any taxes, penalty, or interest imposed on such cemeteries, they may be canceled as erroneously levied or charged.

Cemeteries qualifying for this section are limited to cemeteries in use prior to the year 1900 which are no longer used for current or future interments.

BACKGROUND

Other exemptions where simplified annual re-filing is available include:

Welfare Exemption. Revenue and Taxation Code Section 254.5 provides simplified annual re-filing for property eligible for exemption pursuant to Section 214.15, which provides the welfare exemption to land holdings for the future construction of homes for sale to low-income persons, and also Section 231, which provides the welfare exemption for property owned by a nonprofit organization and leased to a governmental agency.

Religious Exemption. Revenue and Taxation Code Section 257.1 provides simplified annual refiling for property eligible for the religious exemption.

COMMENTS

1. **Purpose.** Since property used for cemetery purposes rarely changes, this provision is intended to reduce the annual paperwork for both non-profit cemeteries and assessors' offices to renew the cemetery exemption. Additionally, this provision is intended to address the situation of certain historic cemeteries, that are otherwise eligible for exemption under the cemetery exemption, but have none the less been sold for tax delinquency because no one has filed a claim on the cemetery.
2. **Amendments.** The August 18 amendment adds new Section 256.7 to the Revenue and Taxation Code. This amendment was taken at the request of California Saving Graves, a nonprofit organization that works to preserve and restore endangered and forgotten cemeteries. This amendment would not require that an exemption claim be filed to receive the cemetery exclusion for pre-1900 cemeteries where a legal authority is unknown and cannot be determined. If a cemetery authority is known, the postcard provisions of Section 256.6 would instead apply. This bill would also allow the cancellation of taxes on such cemeteries to address future sales of historic cemeteries for tax default where the property is eligible for exemption from property tax except that the annual claim form was not filed.
3. **This Bill Creates a Board Prescribed Form.** This bill requires the Board to prescribe the notice sent with the postcard to explain the circumstances under which the property would be disqualified from receiving the cemetery exemption.
4. **Failure to Return the Postcard Would Not Automatically Result in the Loss of the Exemption.** Instead the assessor could inspect the property to verify it was still being used as a non-profit cemetery. This provision may assist certain situations, such as historical and pioneer cemeteries in which ownership of the cemetery is unknown or is in dispute, and no one is available to file an exemption claim on the property. Situations have occurred where these cemeteries have been subsequently sold for tax delinquency.

Notice of Proposed Escape Assessments - Specific Contact Information

<i>Revenue and Taxation Code Section 531.8</i>
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LAW PRIOR TO AMENDMENT

Existing law requires that a "Notice of Proposed Escape Assessment" include the name and telephone number of a person at the assessor's office who is knowledgeable with respect to the proposed escape assessment or assessments and may be contacted with any questions with respect to the proposed assessment or assessments.

AMENDMENT

This bill amends Section 531.8 of the Revenue and Taxation Code to delete the requirement that a specific person's name be listed on notice.

COMMENT

The sponsors note that it is costly to program the computer systems to customize each Notice of Proposed Escape Assessment to list the specific name of a person rather than a more general-purpose notice.

Escape Assessments - Notation on Roll
Revenue and Taxation Code Section 533

LAW PRIOR TO AMENDMENT

Existing law requires that escape assessments enrolled on the current assessment roll include a notation which reads "Escaped assessment for year 19_ pursuant to Sections ____ of the Revenue and Taxation Code" when the escape assessment is for another assessment year other than the current year.

The assessment roll generally lists the assessed value of all property located in the county for a particular fiscal year. Revenue and Taxation Code Section 1602 requires that the assessment roll, or a copy thereof, be made available for inspection by all interested parties during regular office hours. Sections 109.5 and 109.6 provide that the data included in the assessment roll may be electronically maintained so that no physical document need be prepared. But the data must be stored in a manner that can be made readily available to the public in an understandable form.

AMENDMENT

This bill amends Section 533 of the Revenue and Taxation Code to provide that the specified notation be made either on the hard copy of the roll or in an electronic format.

COMMENT

Under the current method of electronic assessment rolls, it is not practical to implement Section 533 on the assessment roll itself, which is basically a requirement intended for a physical paper format.

Interested parties can determine from other electronic sources maintained by the assessor and available at the assessor's office regarding any escape assessments.

<p style="text-align: center;">Assessment Appeals Board – Assessment Cancellation <i>Revenue and Taxation Code Section 1610.8</i></p>
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LAW PRIOR TO AMENDMENT

Section 1610.8 requires that the county board of equalization provide a notice to property owners after certain activities including "canceling assessments of any property not subject to taxation."

AMENDMENT

This bill modifies this language to instead read "canceling improper assessments."

COMMENT

SB 1063 (Chapter 199 of the Statutes of 2003) repealed Section 1613 and moved the substance of its provisions into Section 1610.8. However the substitute language in Section 1610.8 is broader than the prior language of Section 1613. Former Section 1613(c) provided that the board: "Make and enter new assessments, *at the same time canceling previous entries*, when any assessment made by him is deemed by the county board so incomplete as to render doubtful the collection of the tax." The replacement language in Section 1610.8, however, provides for the cancellation "of any property not subject to taxation." This bill modifies the language to instead refer to the cancellation of "improper assessments" to better reflect the county board of equalizations authority over such actions.

Senate Bill 1062 (Committee on Revenue and Taxation) Chapter 471

Property Tax Omnibus Bill – Board of Equalization sponsored

Effective January 1, 2004. Among its provisions, amends Sections 51203 and 51283 of the Government Code and amends Sections 69.4, 75.11, 75.31, 155, 194, 213.7, 214, 214.01, 214.8, 218, 231, 254.5, 259.5, 259.7, 272, 423, 439.2, 532, 534, 1609.5, 1841, and adds Sections 74.7 and 254.6 to, and repeals Sections 75.30, 401.9, 5098, and 5098.5 of the Revenue and Taxation Code.

This **Board of Equalization sponsored** omnibus property tax bill:

- Requires assessors to notify property owners of an open space contract cancellation value and the right to appeal that value within sixty days, clarify the commencement of the appeals period, and correct cross reference errors. *Government Code §51203 and §51283.*
- Separates the base year value transfer provisions and new construction exclusions for environmentally contaminated property that is remediated. *§69.4 and §74.7*
- Makes technical modifications to language related to statutes of limitations for supplemental and escape assessments. *§75.11 and §532*
- Eliminates the requirement that a special notation be made on the assessment roll being prepared for a pending supplemental assessment. *§75.30*
- Allows supplemental and escape assessment notices to be Board-approved rather than Board-prescribed. *§75.31, §534*
- Replaces the title "Executive Secretary" with "Executive Director." *§155, §1609.5, §1841*
- Increases the minimum amount of damage required to qualify for property tax deferral from \$5,000 to \$10,000, consistent with the \$10,000 level for disaster relief under Section 170. *§194*
- Streamlines the joint administration of the welfare exemption by eliminating the duplication of effort. *§§ 213.7, 214, 214.01, 214.8, 231, 254.5, 254.6, 259.5, 259.7, and 272*
- Corrects a cross reference error to Section 61 and make nonsubstantive changes that recast its provisions. *§218*
- Repeals an obsolete section of law related to the lien date change over from March 1 to January 1 for the 1997-98 fiscal year for certain open space and timberland preserve zone contracts. *§401.9*

- Changes the date by which the Board is required to publish interest rate components used to value enforceably restricted open-space land and restricted historical property, and delete obsolete language. §423, §439.2
- Repeals obsolete sections of the Property Taxes Law. §5098 and §5098.5

<p>Open Space Contracts - Cancellation Values <i>Government Code Section 51283</i></p>
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LAW PRIOR TO AMENDMENT

Sections 51280 through 51285 of the Government Code (known collectively as Article 5 of Chapter 7 of the Government Code) govern the cancellation of open-space contracts. These open-space contracts, which restrict the property to certain uses, allow the property owner to receive property tax relief. Government Code Section 51283 requires the county assessor to determine a "cancellation value" of the land for the purpose of determining a cancellation fee. In accordance with current law, the cancellation value is the current fair market value of the land as if unrestricted. The cancellation fee will be an amount equal to 12 1/2 percent of the current fair market value. Government Code Section 51240 allows cities and counties to include in their open-space contracts restrictions, terms, and conditions, including payments and fees, that are more restrictive than those set forth in governing statutes.

The county assessor must certify the cancellation value to the board of supervisors or council so that the cancellation fee can be determined. Government Code Section 51203 provides that the fair market valuation referenced in Section 51283 may be appealed pursuant to Revenue and Taxation Code Section 1604. However, due to subsequent renumbering of sections of the Revenue and Taxation Code, what was once Revenue and Taxation Code Sections 1604 and 1604.1 is now Revenue and Taxation Code Section 1605. Section 1605 provides that the property owner has 60 days from the "date of notice" to appeal the value. However, Government Code Section 51283 does not require that the property owner receive a "notice" of the cancellation value.

AMENDMENTS

This bill amends Government Code Section 51203 to update the cross reference to Revenue and Taxation Code Section 1605; and amends Government Code Section 51283(a) to require that assessors notify property owners of the cancellation value and their right to appeal that value within 60 days of the date of the notice or postmark date, whichever is later.

COMMENT

Clerks of county assessment appeals boards, county assessors, and taxpayers are unsure of when the 60-day appeals period provided for in Section 1605 begins. Since the county assessor determines the cancellation value and certifies the value to the board of supervisors or city council, it makes sense that at the time the value is certified to the board or council, the assessor also notify the property owner of the value so that if the property owner disagrees it can be appealed prior to the board or council setting the fee. Many assessors' offices, in fact currently provide such a notice. The date of the notice also serves to clarify the point in which the 60-day appeal period begins to run.

<p style="text-align:center">Environmentally Contaminated Property <i>Revenue and Taxation Code Sections 69.4 and 74.7</i></p>

LAW PRIOR TO AMENDMENT

Section 69.4 of the Revenue and Taxation Code implements Proposition 1 of November 1998 which was enacted to provide two possible forms of property tax relief to property owners who unknowingly purchase contaminated property - either a base year value transfer to a replacement property or a new construction exclusion if the property must be rebuilt after the land contamination is cleaned up. Section 69.4 contains both the new construction provision and the base year value transfer provision, which is essentially a change in ownership exclusion. Change in ownership exclusions (commencing with Section 60) are contained in Chapter 2 of Part 0.5 of Division 1 of the Property Taxes Law, while the new construction exclusions are contained in Chapter 3 (commencing with Section 70.)

AMENDMENTS

This bill deletes the new construction exclusion from Section 69.4 in Chapter 2, *Change in Ownership and Purchase*, and place the provisions in a newly established section of code, Section 74.7 in Chapter 3, *New Construction*.

BACKGROUND

On November 3, 1998, the voters of California approved Proposition 1, adding subdivision (i) to Section 2 of Article XIII A of the California Constitution. Upon implementation by the Legislature, this amendment allows one of two forms of property tax relief for qualified contaminated property. Specifically, property owners are able to choose from *either* of the following:

- They may sell or otherwise transfer the qualified contaminated property and transfer its base year value to a replacement property of equal or lesser value. The replacement property must be acquired or newly constructed within five years *after* the sale or transfer of the qualified contaminated property. If the replacement property is located in a different county than the qualified contaminated property, then the county in which the replacement property is located must have passed a resolution accepting such base year value transfers.

- If structures located on the qualified contaminated property are substantially damaged or destroyed in the course of the remediation of the environmental problems, the repair or replacement of such structures may be excluded from the definition of “new construction” provided that the repaired or replacement structure is similar in size, utility, and function to the original structure.

This relief applies to replacement property that is acquired or newly constructed on or after January 1, 1995, and to property repairs performed on or after that date.

Chapter 941 (Stats. 1999, SB 1231) added Section 69.4 to the Revenue and Taxation Code to provide the necessary Legislative implementation of the constitutional amendment. Since many of the specific conditions and limitations of this property tax relief are detailed in the constitutional language, the existing statutory language is brief and both the new construction provision and the base year value transfer provision, which is essentially a change in ownership exclusion, were contained in one statute.

COMMENT

This bill separates the base year value transfer and new construction exclusions provisions and place them in appropriate chapters in the Revenue and Taxation Code.

<p>Supplemental and Escape Assessments – Form Approval <i>Revenue and Taxation Code Sections 75.11 and 532</i></p>
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LAW PRIOR TO AMENDMENT

Section 75.11(d)(3) provides that any supplemental assessment resulting from an unrecorded change in ownership or change in control for which either a change in ownership statement required by Section 480 or a preliminary change in ownership report required by Section 480.3 is not timely filed may be made within eight years after July 1 of the assessment year in which the event occurred. Similarly, Section 532(b)(2) provides that any escape assessment resulting from an unrecorded change in ownership or change in control for which either a change in ownership statement required by Section 480 or a preliminary change in ownership report required by Section 480.3 is not filed may be made within eight years after July 1 of the assessment year in which the property escaped taxation or was underassessed. However, neither Section 480 nor Section 480.3 cover a change in control. Change in control involves legal entities to which Section 480.1 applies. The unlimited statute of limitations period under Section 532(b)(3) applies to legal entities who have not filed a change in ownership statement as required by Sections 480.1 or 480.2.

AMENDMENTS

This bill amends Section 75.11 of the Revenue and Taxation Code to delete the erroneous reference to "change in control."

This bill also amends Section 532(b)(2) to add the word “timely” in order to clarify and make consistent the statute of limitations in situations when a change in ownership statement was not properly filed.

COMMENT

An individual should not be able in the 6th year after a change in ownership event to file a change in ownership statement six years after the fact to technically exclude them from Section 532(b)(2)'s "not filed" language and thereby default to the 4-year statute of limitations rather than the eight year statute of limitations. The addition of "timely" is consistent with the last sentence of 532(b)(2) which states that, for the "unrecorded change in ownership", the deed or other document evidencing the change in ownership must be filed with the county recorder's office "at the time the event took place." This addition is also consistent with Section 75.11(d)(3).

Pending Supplemental Assessment Roll Notation

Revenue and Taxation Code Section 75.30

LAW PRIOR TO AMENDMENT

Section 75.30 of the Revenue and Taxation Code requires the assessor to place a notation on "the roll being prepared" (i.e., the roll for the next fiscal year) to indicate a pending supplemental assessment and to also notify the auditor, who places a notation of pending supplemental assessment on the current roll or on an attached separate document.

AMENDMENTS

This bill repeals Section 75.30 of the Revenue and Taxation Code to eliminate the requirement that a notation that a supplemental assessment is pending be made on the roll being prepared.

BACKGROUND

The assessment roll generally lists the assessed value of all property located in the county for a particular fiscal year, and includes information such as the location of the property (either by assessors parcel number or legal description) the property owner's name and mailing address and any exemptions the property is receiving.

Revenue and Taxation Code Section 1602 requires that the assessment roll, or a copy thereof, be made available for inspection by all interested parties during regular office hours. Sections 109.5 and 109.6 provide that the data included in the assessment roll may be electronically maintained so that no physical document need be prepared. But the data must be stored in a manner that can be made readily available to the public in an understandable form.

COMMENTS

Many assessor's offices maintain electronic rolls, so it is not practical to implement Section 75.30 which is a requirement intended for a physical paper format. Thus, the repeal of Section 75.30 reflects the existing practice in many county assessors' offices.

The public can determine any pending supplemental assessments from other data sources maintained by the assessor and available at the assessor's office. Additionally, with respect to the property owner specifically impacted by a pending supplemental assessment, Section 75.31 requires the assessor to personally notify the assessee of the new base year value and the amount of the supplemental assessment(s). With respect to transmitting the date to the county auditor, Section 75.40 outlines the supplemental assessment information that the assessor is to transmit to the auditor.

<p>Board Prescribed Forms</p>

<p><i>Revenue and Taxation Code Sections 75.31 and 534</i></p>
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LAW PRIOR TO AMENDMENT

The administration of the property tax requires the use of a variety of forms, notices and claims for exemptions or exclusions. Some sections of law outline the types of information that must be included in the document or provides the precise wording that must be included. Some sections of law specifically provide that the relevant form, claim, or notice for that particular section of law will be "prescribed" by the Board of Equalization. With respect to any property tax exemption enacted by statute or constitutional amendment, Revenue and Taxation Code Section 251 provides that the Board is to prescribe all procedures and forms related to the exemption. A form, notice, or claim that is "prescribed" requires that each of the 58 counties use an exact replica of the document created by the Board.

AMENDMENTS

This bill amends Sections 75.31 and 534 of the Revenue and Taxation Code to provide that supplemental assessment notices and escape assessment notices are to be Board-approved rather than Board-prescribed.

BACKGROUND

When a new base year value has been established for a change in ownership or completion of new construction, Revenue and Taxation Code Section 75.31 requires the assessor to send a notice of the new base year value to the assessee called a "notice of supplemental assessment." Similarly, whenever an escape assessment is made, Section 534 requires that the assessee be notified of the assessment before it becomes effective. The escape assessment notice requirements of Section 534 pre-date Proposition 13. The supplemental assessment notice requirements of Section 75.31 were added in 1983. Chapter 647, Statutes of 2000 (SB 2170), amended these two sections to require that certain additional information concerning the assessee's right to an informal review and right to appeal be included in the notice given by the assessor. It additionally amended these sections of law to require that the heretofore pre-existing notices be prescribed by the Board.

COMMENTS

1. **Purpose.** Because these two forms are Board-prescribed (BOE-66 and BOE-67), it has caused an undue hardship on various counties and some have been unable to comply with the law. The design of some counties' notices fit the county's computer system already established. To make the counties change their systems, in order to produce a notice that is the replica of the Board notice, would entail an added expense. Additionally, in some cases, the computer system is tied in with the County Auditor's and County Tax Collector's Offices. So, to change the Assessor's requirements would also cause changing the computer systems in the other two county offices. Thus, this bill changes the notice requirements in Sections 75.31 and 534 from Board-prescribed to Board-approved.
2. **Oversight would be retained over the content of the forms.** Property Tax Rule 252 provides that certain forms created by the county must be "approved" by the Board. These include the two notices in question here: notice of supplemental assessment and notice of escape assessment. Therefore, these two notices would still be reviewed and approved by the Board to ensure they contain the necessary information required by Section 75.31 and 534.

<p>Disaster Relief – Property Tax Deferral <i>Revenue and Taxation Code Section 194</i></p>
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LAW PRIOR TO AMENDMENT

Property taxes may be reduced following a disaster, misfortune, or calamity in those counties where the board of supervisors has adopted an ordinance authorizing the disaster relief provisions of Revenue and Taxation Code Section 170. Disaster relief is provided by allowing the county assessor, under specified conditions, to reassess the property after the lien date to recognize the loss in a property's market value. One of these conditions is that the sum of the full cash values of the land, improvements and personalty before the damage or destruction exceeds the sum of the values after the damage by \$10,000 or more.

In addition, any property owner whose real property has been substantially damaged or destroyed in a Governor proclaimed state of emergency, and who has applied for property tax relief under Section 170, may apply to defer payment of property taxes on the next installment of the regular secured roll pursuant to Section 194 et seq. To qualify for deferral, for property receiving a homeowners' exemption, subdivision (f) of Section 194 defines "substantial disaster damage" as damage amounting to at least 10 percent of its fair market value or \$5,000, whichever is less. For all other property, the damage must be at least 20% of value

AMENDMENTS

This bill amends Section 194 of the Revenue and Taxation Code to update the minimum amount of damage to qualify for property tax deferral from \$5,000 to \$10,000 consistent with the \$10,000 level for disaster relief under Section 170.

COMMENT

This threshold amount was increased from \$5,000 to \$10,000 by SB 1181 (Chapter 407, Stats. 2001), effective January 1, 2002, and damages must be at least 20% of value. The damage threshold of \$5,000 is now outdated since the threshold to qualify for relief under Section 170 has been increased to \$10,000. Therefore, the \$5,000 threshold amount in Section 194(f) should be increased to \$10,000 to conform with the change made to Section 170 effective January 1, 2002.

Welfare Exemption Administration Streamlining

Revenue and Taxation Code Sections 213.7, 214, 214.01, 214.8, 231, 254.5, 254.6, 259.5, 259.7, and 272

LAW PRIOR TO AMENDMENT

Administration. In general, the Welfare Exemption from local property taxes is available for a qualifying organization putting property to a qualifying use. Both conditions must be met for the exemption to be granted, i.e., the organization that owns (or in some cases leases) the property must meet certain requirements and the use of the property must meet certain requirements. Under existing law, the exemption is jointly administered by the Board and the county assessor, with each agency reviewing the same documents filed by claimants in order to determine if an exemption should be granted. Organizations must reapply for the welfare exemption every year.

Organizations filing in a county for the first time must file additional information with their claims so it can be determined if the entity is a qualifying organization. The first filing consists of the claim form, tax exemption letter(s), articles of incorporation with amendments, financial statements, and applicable supplemental affidavits depending on the use of the property. Additionally, claimants must file annual claims for each property location every year so that it can be determined if the use of the property is qualifying.¹ All documents are filed in duplicate. The assessor reviews the documents and makes an initial determination of eligibility, then forwards a copy of the documents to the Board. Statute requires the Board to make a finding as to the eligibility on every claim for each applicant and the applicant's property and forward its finding to the assessor concerned. Currently, the Board is responsible for reviewing all claims filed in the state, which now approaches 30,000 annually.

Appeals. In the joint review process, if the Board staff finds an organization or a property to be ineligible, the claimant may request a hearing before the elected members of the Board. However, if the Board finds that the organization or a property is eligible, the exemption may nevertheless be denied at the local level by the assessor. (The assessor may not, however, grant an exemption that the Board

¹ Annual claims include the claim form, with applicable attachments and supplemental affidavits.

has denied.) If the assessor denies an exemption that was granted by the Board, the organization's remedy is to pursue legal action, since local assessment appeals boards do not have the authority to hear welfare exemption claims.

AMENDMENTS

Administration. This bill eliminates duplicative review functions, so the Board will determine whether an *organization* is eligible for the welfare exemption and the county assessor will determine whether the *use of the property* is eligible for the welfare exemption.

Organization. The Board would determine whether the organization itself is eligible to receive the welfare exemption. The organization would file the first filing documents (articles of incorporation, tax letters, financial statements) one time with the Board rather than in duplicate in each county that the claimant has property. If the Board determined that an organization qualified, the Board will issue an *organizational clearance certificate* that the claimant would file with the assessor in any of the 58 counties. §254.5

Property Use. The county assessor will determine whether a qualifying organization's property is eligible for the exemption based on the property's use. Claimants will continue to file annual claims with the county assessor in order for the assessor to determine whether the property owned or operated by a qualifying organization is actually used for exempt purposes on the lien date. However, Board staff will no longer be required to review claims and forward findings to assessors. Thus, rather than claimants filing in duplicate, the claimant will only file one copy for the assessor to review. The assessor's determination of whether an organization's property use satisfies the requirements of Section 214 would be made by the county assessor without review by the Board staff. But the assessor could not grant a claim unless the organization holds a valid organizational clearance certificate issued by the Board. §254.6

Appeals. This bill modifies the appeals procedures before the Board to conform to the proposed division of duties. If Board staff finds that an organization is ineligible for an organizational clearance certificate (or revokes its clearance certificate) the organization could appeal to the Members of the Board of Equalization.²

This bill outlines in statute the existing procedures for an organization to follow if the assessor denies the welfare exemption for nonqualifying property use. If denied, the claimant could file a claim for refund of property taxes with the county board of supervisors and then file a refund action in superior court. This is the procedure under existing law, and is therefore not a change in law.

Audits. This bill also clarifies that the Board and assessor may audit organizations to verify continuing qualification for the exemption. § 254.5(c)(2), §254.6(f)

² If the Board denies the organization, the organization may file a file a refund action in superior court after filing a claim for refund of property taxes with the local County Board of Supervisors to exhaust their administrative remedies, which existing procedures generally require, prior to filing suit.

County Surveys. This bill requires the Board to review the assessors' administration of the welfare exemption as part of the assessment standards surveys conducted by Board staff to ensure proper administration of these exemptions. §254.5(g)

BACKGROUND

The current system of joint administration is duplicative in that:

- Claimants must file all claims, including attached documents, in duplicate with the county assessor for each property and each separate location.
- Claimants must file the same organizational documents, tax letters, and financial statements in each county that the organization has property.
- Different assessors review the same first filing documents (i.e., articles, tax letters, and financial statements) when the organization has property located in multiple counties.
- Both the county assessor and the Board review the same documents for first filings and annual claims.

COMMENTS

1. **Purpose.** The current system of joint administration and review is criticized as being unnecessarily burdensome on claimants, duplicative, and costly. The purpose of this measure is to address these criticisms by (1) eliminating duplication of effort in administering the welfare exemption, (2) reducing the paper filing requirements on welfare exemption claimants and (3) eliminating the annual paperwork shuffle between the Board and counties.
2. **Separation of Duties.** This bill updates the joint administration of the welfare exemption. The Board will determine whether an *organization* is qualified for the welfare exemption and the county assessor will determine whether the *use of the property* is eligible for the welfare exemption. The assessor's determination of whether an organization's property use satisfies the requirements of Section 214 will be made exclusively by the county assessor without review by the Board staff. This system establishes a division of duties, with no duplication of effort, that permits the Board and assessors to focus on the tasks which they are best suited to fulfill. The Board has the technical expertise on evaluating whether the organization meets the established criteria and the assessor is in the best position to inspect the property and determine its use.
3. **This bill retains joint administration of the welfare exemption and safeguards.** The joint administration was established by the Legislature as a safeguard against favoritism in granting exemptions at the local level. This bill would retain state oversight since no organization could receive the welfare exemption on any property in California if it did not receive an organizational clearance certificate from the Board. In addition, this bill would require the Board to review the assessors' administration of the welfare exemption as part of the assessment standards surveys conducted by Board staff to ensure proper administration of these exemptions.

- Paperwork Reduction for Non-Profits.** This bill would reduce the amount of paperwork that an organization is required to provide. The establishment of a centralized location to obtain an organizational clearance certificate that may be used in each of the 58 counties will greatly reduce the paperwork demands placed on non-profits. The claimant would file the organizational documents one time with the Board and file the claims for use of property with the assessor. The organization will no longer be required to file duplicate organizational documents each time they start operation in a new county, and would no longer be required to file annual claims, including supplemental affidavits, in duplicate. In addition, the streamlining of the process would reduce the amount of time until the claimant is notified of eligibility. Currently the assessor must wait for the Board to concur with the assessor's recommendation to grant the exemption.

<p style="text-align: center;">Open Space and Timberland Preserve Zone Contracts <i>Revenue and Taxation Code Section 401.9</i></p>
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LAW PRIOR TO AMENDMENT

Existing law provides that certain open space lands and timberland preserve zone property can receive preferential assessment resulting in a reduced assessed value. One condition of receiving this tax relief is that the property be subject to an "enforceable restriction" as to the use of the land. For the first fiscal year that the special assessment procedure is sought, Revenue and Taxation Code Section 430.5 requires that the necessary enforceable restriction be recorded "on or before the lien date" of the particular fiscal year. Section 430.5 also specifies that property owners must commence the enforceable restriction process no later than a certain date to ensure that there is sufficient time to finalize and record the restriction prior to the relevant lien date.

AMENDMENTS

This bill repeals, as obsolete, Section 401.9 of the Revenue and Taxation Code related to the lien date change over from March 1 to January 1 for the 1997-98 fiscal year for certain open space and timberland preserve zone contracts.

BACKGROUND

In 1996, Section 430.5 provided that property owners could commence the enforceable restriction process up to the December 15 prior to the lien date. However, in 1995, legislation had been enacted to change the lien date from March 1 to January 1, commencing with the 1997-98 fiscal year. Thus, the lien date for the 1997-98 fiscal year would be January 1, 1997 rather than March 1, 1997. And for new open space and timberland preserve zone contracts the law permitted property owners to start the enforceable restriction process as late as December 15, 1996, but the restriction must have been recorded by January 1, 1997 -- a period of only two weeks.

In anticipation of this timing problem, Section 401.9 was added to the Revenue and Taxation Code (SB 1827, Ch. 1087, Stats. 1996, Committee on Revenue and Taxation) to ensure that property owners entering into new contracts where the enforceable restriction was recorded in the period of time between the new and old lien dates (January 1, 1997 through February 28, 1997), would be able to receive the special assessment procedures for the 1997-98 fiscal year. This section of code was relevant only to the 1997-98 fiscal year and is now obsolete. In 1997, Section 430.5 was amended (SB 542, Ch. 941 Stats. 1997) to change the deadline for commencing the enforceable restriction process from December 15 to October 15 thereby providing a permanent solution to the timing problem created with the change in the lien date.

COMMENT

This bill repeals Section 401.9, which is related to the lien date change over from March 1 to January 1 for the 1997-98 fiscal year for certain open space and timberland preserve zone contracts, since it is now obsolete.

Open-Space Land and Restricted Historical Property - Interest Rate Components

Revenue and Taxation Code Sections 423 and 439.2

LAW PRIOR TO AMENDMENT

Revenue and Taxation Code Section 423 requires assessors to value property that is enforceably restricted under open-space contract or agricultural conservation easement by a specified capitalization of income method. Subdivision (b)(1) of Section 423 requires the Board to announce, by September 1, an interest rate component that is the arithmetic mean of the most recent 5 years of yield rates for long-term United States government bonds as most recently published by the Federal Reserve Board as of each September 1. The Federal Reserve Board publishes the yield rates on a weekly basis each Monday morning for the previous week.

Similarly, Revenue and Taxation Code Section 439.2 requires assessors to value enforceably restricted historical property by a specified capitalization of income method. Subdivisions (b)(1) and (c)(1) require the Board to announce no later than September 1 of the year preceding, the assessment an interest rate component that is equal to the effective rate on conventional mortgages as determined by the Federal Housing Finance Board. The Federal Housing Finance Board publishes this rate once a month, usually on the last Tuesday of the month.

AMENDMENTS

This bill amends Revenue and Taxation Codes 423 and 439.2 to specify that the interest rate component be based upon the most recent yield rate published by the respective Federal agencies "on September 1" rather than the "most recently published." It also gives the Board until October 1 to calculate, prepare, and mail the announcement.

This bill also deletes obsolete date specific language in Section 423.

BACKGROUND

The Federal Reserve Board publishes the yield rates on a weekly basis. Consequently, to use the "most recently published figures" usually gives the Board less than a week to prepare and mail the announcements. The announcement is done via a letter to Assessors which must first go through an internal review process before it can be released.

COMMENTS

1. **Purpose.** The delay of the formal publication of the interest rate component gives the Board a reasonable amount of time to prepare and mail the announcements. Assessors do not need the information to complete their assessments until January 1. Additionally, since much of the value calculations are now computerized, the urgency to release this information as early as possible no longer exists.
2. **No impact on assessments.** The time period for calculating the interest rate components remain the same, so the resulting assessment values will not be impacted.
3. **Obsolete Language.** Subparagraphs (A) through (E) of Section 423(b)(1) provide for the five-year phase implementation (1993-94 through 1997-98) for the open space lands interest component. Since the implementation phase has been completed, these subparagraphs are now unnecessary.

Unsecured Roll - Tax Rate

Revenue and Taxation Code Sections 5098 and 5098.5

LAW PRIOR TO AMENDMENT

Revenue and Taxation Code Sections 5098 and 5098.5 would have provided automatic property tax refunds plus interest in the event that a court ruled that the tax rate to apply to property on the unsecured portion of the assessment roll in the first year of Proposition 13 was 1% rather than the prior year's tax rate of 2.67%.

AMENDMENTS

This bill repeals Sections 5098 and 5098.5 of the Revenue and Taxation Code.

BACKGROUND

Section 12 of Article XIII of the California Constitution provides that the tax rate to be applied to the assessed value of property on the unsecured roll is the rate used for property on the secured roll in the prior fiscal year. Proposition 13 added Article XIII A to the California Constitution of which Section 1(a) established a new maximum ad valorem tax rate of 1%, but the language specified that the provisions applied to *real* property. Section 1(a) of Article XIII A was silent as to the tax rate to be applied to *personal* property, which is often collected on the unsecured roll, and Proposition 13 had not modified Section 12 of Article XIII.

In implementing Proposition 13 in its first year, the issue arose as to the proper tax rate for property on the unsecured portion of the assessment roll for the 1978-79 fiscal year. Should it be the prior year's secured tax rate as Article XIII, Section 12 specified, which would be the tax rate for the 1977-78 fiscal year, a pre-Proposition 13 rate of about 2.67% or did the new Proposition 13 tax rate of 1% found in Article XIII, Section 1 apply? In practical application, for the 1978-79 fiscal year, 22 counties used the secured tax rate for the 1977-78 fiscal year and 36 counties used the new Proposition 13 tax rate of 1%.

The issue of the proper tax rate to apply was litigated in *Board of Supervisors of San Diego County v. Gerald J. Lonergan as Auditor and Controller*, and the California Supreme Court ultimately decided the issue on August 14, 1980 (27 Cal.3d 855). The Court found that Section 1(a) of Article XIII was not applicable to property taxed on the unsecured portion of the assessment roll for the 1978-79 fiscal year. Taxes on unsecured property, both real and personal, were to be assessed at the prior year's rate for the secured roll as provided by Article XIII, Section 12 of the Constitution.

During the time this matter was still unsettled, legislation was enacted adding Revenue and Taxation Code Sections 5098 and 5098.5 to provide automatic refunds in the event the court ruled that the proper tax rate was the reduced Proposition 13 tax rate of 1%. Taxpayers in counties who paid taxes based on the higher tax rate would not need to file a claim for refund and interest on the extra taxes paid would be included in the refund amount (AB 1973, Ch. 60, Stats. 1980, in effect April 11, 1980). However, in accordance with the decision, refunds were not necessary.

COMMENT

These sections of law were rendered obsolete by the California Supreme Court decision in *Board of Supervisors of San Diego County v. Gerald J. Lonergan* on August 14, 1980 (27 Cal.3d 855) and may be repealed.

<p>Miscellaneous Technical-Housekeeping Provisions <i>Revenue and Taxation Code Sections 155, 218, 1841, 1609.5</i></p>

1. **Cross Reference Error.** This bill amends Section 218 of the Revenue and Taxation Code to correct a cross reference error to Section 61. Chapter 388 of the Statutes of 1996 relettered subdivisions (e), (f), (g), (h), and (i) of Section 61 to (f), (g), (h), (i), and (j) respectively. Section 218 contains a cross reference to relettered subdivision (h) of Section 61. Therefore, Revenue and Taxation Code Section 218 should be amended to change the code cross-reference from Section 61(h) to Section 61(i).
2. **Amendments.** The August 18 amendment adds subdivision letter designations to Section 218 and rearranges and groups provisions defining the term "dwelling."
3. **Executive Director.** This bill replaces the term "Executive Secretary" with "Executive Director" to reflect the current title. §155, §1841, §1609.5

TABLE OF SECTIONS AFFECTED

SECTIONS	BILL NUMBER	CHAPTER NUMBER	SUBJECT	
Revenue & Taxation Code				
§38	Add	AB 986	Ch. 569	Consolidation Study
§69.4	Amend	SB 1062	Ch. 471	Environmentally Contaminated Property
§72	Amend	SB 1059	Ch. 604	Tentative Maps
§74.7	Add	SB 1062	Ch. 471	Environmentally Contaminated Property
§75.11	Amend	SB 1062	Ch. 471	Supplemental Assessment
§75.21	Amend	AB 1744	Ch. 316	Supplemental Assessment - Exemption
§75.30	Repeal	SB 1062	Ch. 471	Supplemental Assessment - Roll
§75.31	Amend	SB 1062	Ch. 471	Supplemental Assessment - Notice
§155	Amend	SB 1062	Ch. 471	Extension of Time for Official Acts
§194	Amend	SB 1062	Ch. 471	Disaster Relief - Deferral
§205.5	Amend	AB 322	Ch. 278	Disabled Veterans
§213.7	Amend	SB 1062	Ch. 471	Volunteer Fire Departments
§214	Amend	SB 1062	Ch. 471	Welfare Exemption Streamlining
§214.01	Amend	SB 1062	Ch. 471	Welfare Exemption Streamlining
§214.8	Amend	SB 1062	Ch. 471	Welfare Exemption Streamlining
§218	Amend	SB 1062	Ch. 471	Homeowners' Exemption
§220.5	Amend	SB 1059	Ch. 604	Historical Aircraft
§231	Amend	SB 1062	Ch. 471	Welfare Exemption Streamlining
§254.5	Amend	SB 1062	Ch. 471	Welfare Exemption Streamlining
§254.6	Add	SB 1062	Ch. 471	Welfare Exemption Streamlining
§256.6	Add	SB 1059	Ch. 604	Historic Cemeteries
§256.7	Add	SB 1059	Ch. 604	Historic Cemeteries

TABLE OF SECTIONS AFFECTED

SECTIONS	BILL NUMBER	CHAPTER NUMBER	SUBJECT
Revenue & Taxation Code			
§259.5 Amend	SB 1062	Ch. 471	Welfare Exemption Streamlining
§259.7 Amend	SB 1062	Ch. 471	Welfare Exemption Streamlining
§271 Amend	AB 1744	Ch. 316	Exemption Filing Deadlines
§272 Amend	SB 1062	Ch. 471	Welfare Exemption Streamlining
§276.5 Add	SB 1059	Ch. 604	Historical Aircraft
§279 Amend	AB 322	Ch. 278	Disabled Veterans' Exemption
§401.9 Repeal	SB 1062	Ch. 471	Land Use Restriction Contracts
§423 Amend	SB 1062	Ch. 471	Enforceably Restricted Open Space Land
§439.2 Amend	SB 1062	Ch. 471	Enforceable Restricted Historical Property
§441 Amend	AB 1744	Ch. 316	Information – New Construction
§442 Amend	AB 1744	Ch. 316	Property Statement – Leased Property
§531.8 Amend	SB 1059	Ch. 604	Notice of Proposed Escape Assessment
§532 Amend	SB 1062	Ch. 471	Escape Assessment – Statue of Limitations
§533 Amend	SB 1059	Ch. 604	Escape Assessment – Roll Notation
§534 Amend	SB 1062	Ch. 471	Escape Assessment - Notice Form
§1609.5 Amend	SB 1062	Ch. 471	Subpoenas
§1610.8 Amend	SB 1059	Ch. 604	Assessment Appeals Boards - Jurisdiction
§1841 Amend	SB 1062	Ch. 471	BOE Actions - Notice to Local Agencies
§5098 Repeal	SB 1062	Ch. 471	Potential Court Actions - Refunds
§5098.5 Repeal	SB 1062	Ch. 471	Potential Court Action - Interest

TABLE OF SECTIONS AFFECTED

SECTIONS	BILL NUMBER	CHAPTER NUMBER	SUBJECT
Commercial Code			
§6105 Amend	SB 1059	Ch. 604	Business Property Statements – Bulk Sales
Family Code			
§297.5 Add	AB 205	Ch. 421	Registered Domestic Partners
Government Code			
§14771 Amend	AB 205	Ch. 421	Registered Domestic Partners – Tax Forms
§51203 Amend	SB 1062	Ch. 471	Open Space Contracts
§51283 Amend	SB 1062	Ch. 471	Open Space Contracts
Public Resources Code			
§4139 Add	SB 1049	Ch. 741	Access to County Assessment Records