

AMENDED IN ASSEMBLY MAY 16, 2002

AMENDED IN ASSEMBLY APRIL 29, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2662**

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**Introduced by Assembly Member Bogh**

February 22, 2002

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An act to amend ~~Sections 214 and 214.2~~ *Section 214* of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2662, as amended, Bogh. Property tax: welfare exemptions: health care facilities.

Existing property tax law establishes a welfare exemption under which property is exempt from taxation if, among other things, that property is used exclusively for religious, hospital, scientific, or charitable purposes and is owned and operated by an entity, as provided, that is itself organized and operated for those purposes. For purposes of the welfare exemption, property used exclusively for religious, hospital, or charitable purposes includes facilities in the course of construction, as defined, that is not abandoned, as defined.

This bill would include within the welfare exemption property used exclusively for religious, hospital, scientific, or charitable purposes and owned and operated by a limited liability company having a single member religious, hospital, scientific, or charitable fund, foundation, or corporation, if the property and the organization meet specified, existing requirements relating to tax-exempt status.



The bill would also provide, for purposes of the existing welfare exemption from property taxation, that property is in the course of construction, and not abandoned, if the construction or rehabilitation is financed or reimbursed from the proceeds of tax-exempt financing, and that specified conditions are met regarding the issuance of the bonds in connection with the tax-exempt financing, and the time constraints within which the construction or rehabilitation would be required to occur.

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

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

This bill would take effect immediately as a tax levy.

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

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

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

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

13       (1) The owner is not organized or operated for profit. However,  
14 in the case of hospitals, the organization shall not be deemed to be  
15 organized or operated for profit if, during the immediately  
16 preceding fiscal year, operating revenues, exclusive of gifts,  
17 endowments and grants-in-aid, did not exceed operating expenses  
18 by an amount equivalent to 10 percent of those operating expenses.

1 As used herein, operating expenses include depreciation based on  
2 cost of replacement and amortization of, and interest on,  
3 indebtedness.

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

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

9 (A) For the purposes of determining whether the property is  
10 used for the actual operation of the exempt activity, consideration  
11 shall not be given to use of the property for either or both of the  
12 following described activities if that use is occasional:

13 (i) The owner conducts fundraising activities on the property  
14 and the proceeds derived from those activities are not unrelated  
15 business taxable income, as defined in Section 512 of the Internal  
16 Revenue Code, of the owner and are used to further the exempt  
17 activity of the owner.

18 (ii) The owner permits any other organization that meets all of  
19 the requirements of this subdivision, other than ownership of the  
20 property, to conduct fundraising activities on the property and the  
21 proceeds derived from those activities are not unrelated business  
22 taxable income, as defined in Section 512 of the Internal Revenue  
23 Code, of the organization, are not subject to the tax on unrelated  
24 business taxable income that is imposed by Section 511 of the  
25 Internal Revenue Code, and are used to further the exempt activity  
26 of the organization.

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

28 (i) “Occasional use” means use of the property on an irregular  
29 or intermittent basis by the qualifying owner or any other  
30 qualifying organization described in clause (ii) of subparagraph  
31 (A) that is incidental to the primary activities of the owner or the  
32 other organization.

33 (ii) “Fundraising activities” means both activities involving  
34 the direct solicitation of money or other property and the  
35 anticipated exchange of goods or services for money between the  
36 soliciting organization and the organization or person solicited.

37 (C) Subparagraph (A) shall have no application in determining  
38 whether paragraph (3) has been satisfied unless the owner of the  
39 property and any other organization using the property as provided  
40 in subparagraph (A) have filed with the assessor duplicate copies

1 of valid unrevoked letters or rulings from the Internal Revenue  
2 Service that state that the owner and the other organization qualify  
3 as exempt organizations under Section 501(c)(3) of the Internal  
4 Revenue Code. The owner of the property and any other  
5 organization using the property as provided in subparagraph (A)  
6 also shall file duplicate copies of their most recently filed federal  
7 income tax returns.

8 (D) For the purposes of determining whether the property is  
9 used for the actual operation of the exempt activity, consideration  
10 shall not be given to the use of the property for meetings conducted  
11 by any other organization if the meetings are incidental to the other  
12 organization's primary activities, are not fundraising meetings or  
13 activities as defined in subparagraph (B), are held no more than  
14 once per week, and the other organization and its use of the  
15 property meet all other requirements of paragraphs (1) to (5),  
16 inclusive, of subdivision (a). The owner of the other organization  
17 also shall file with the assessor duplicate copies of valid,  
18 unrevoked letters or rulings from the Internal Revenue Service or  
19 the Franchise Tax Board stating that the other organization, or the  
20 national organization of which it is a local chapter or affiliate,  
21 qualifies as an exempt organization under Section 501(c)(3) or  
22 Section 501(c)(4) of the Internal Revenue Code or Section  
23 23701d, 23701f, or 23701w, together with duplicate copies of that  
24 organization's most recently filed federal income tax return, if the  
25 organization is required by federal law to file a return.

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

30 (4) The property is not used or operated by the owner or by any  
31 other person so as to benefit any officer, trustee, director,  
32 shareholder, member, employee, contributor, or bondholder of the  
33 owner or operator, or any other person, through the distribution of  
34 profits, payment of excessive charges or compensations, or the  
35 more advantageous pursuit of their business or profession.

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

1       (6) The property is irrevocably dedicated to religious,  
2 charitable, scientific, or hospital purposes and upon the  
3 liquidation, dissolution or abandonment of the owner will not  
4 inure to the benefit of any private person except a fund,  
5 foundation, or corporation organized and operated for religious,  
6 hospital, scientific, or charitable purposes.

7       (7) The property, if used exclusively for scientific purposes, is  
8 used by a foundation or institution that, in addition to complying  
9 with the foregoing requirements for the exemption of charitable  
10 organizations in general, has been chartered by the Congress of the  
11 United States (except that this requirement shall not apply when  
12 the scientific purposes are medical research), and whose objects  
13 are the encouragement or conduct of scientific investigation,  
14 research, and discovery for the benefit of the community at large.

15      The exemption provided for herein shall be known as the  
16 “welfare exemption.” This exemption shall be in addition to any  
17 other exemption now provided by law, and the existence of the  
18 exemption provision in paragraph (2) of subdivision (a) of Section  
19 202 shall not preclude the exemption under this section for  
20 museum or library property. Except as provided in subdivision (e),  
21 this section shall not be construed to enlarge the college  
22 exemption.

23      (b) Property used exclusively for school purposes of less than  
24 collegiate grade and owned and operated by religious, hospital, or  
25 charitable funds, foundations, or corporations, which property and  
26 funds, foundations, or corporations meet all of the requirements of  
27 subdivision (a), shall be deemed to be within the exemption  
28 provided for in subdivision (b) of Section 4 and Section 5 of  
29 Article XIII of the California Constitution and this section.

30      (c) Property used exclusively for nursery school purposes and  
31 owned and operated by religious, hospital, or charitable funds,  
32 foundations, or corporations, which property and funds,  
33 foundations, or corporations meet all the requirements of  
34 subdivision (a), shall be deemed to be within the exemption  
35 provided for in subdivision (b) of Section 4 and Section 5 of  
36 Article XIII of the California Constitution and this section.

37      (d) Property used exclusively for a noncommercial educational  
38 FM broadcast station or an educational television station, and  
39 owned and operated by religious, hospital, scientific, or charitable  
40 funds, foundations, or corporations meeting all of the

1 requirements of subdivision (a), shall be deemed to be within the  
2 exemption provided for in subdivision (b) of Section 4 and Section  
3 5 of Article XIII of the California Constitution and this section.

4 (e) Property used exclusively for religious, charitable,  
5 scientific, or hospital purposes and owned and operated by  
6 religious, hospital, scientific, or charitable funds, foundations, or  
7 corporations or educational institutions of collegiate grade, as  
8 defined in Section 203, which property and funds, foundations,  
9 corporations, or educational institutions meet all of the  
10 requirements of subdivision (a), shall be deemed to be within the  
11 exemption provided for in subdivision (b) of Section 4 and Section  
12 5 of Article XIII of the California Constitution and this section. As  
13 to educational institutions of collegiate grade, as defined in  
14 Section 203, the requirements of paragraph (6) of subdivision (a)  
15 shall be deemed to be met if both of the following are met:

16 (1) The property of the educational institution is irrevocably  
17 dedicated in its articles of incorporation to charitable and  
18 educational purposes, to religious and educational purposes, or to  
19 educational purposes.

20 (2) The articles of incorporation of the educational institution  
21 provide for distribution of its property upon its liquidation,  
22 dissolution, or abandonment to a fund, foundation, or corporation  
23 organized and operated for religious, hospital, scientific,  
24 charitable, or educational purposes meeting the requirements for  
25 exemption provided by Section 203 or this section.

26 (f) Property used exclusively for housing and related facilities  
27 for elderly or handicapped families and financed by, including, but  
28 not limited to, the federal government pursuant to Section 202 of  
29 Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section  
30 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of  
31 Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of  
32 Public Law 101-625 (42 U.S.C. Sec. 8013), and owned and  
33 operated by religious, hospital, scientific, or charitable funds,  
34 foundations, or corporations meeting all of the requirements of  
35 this section shall be deemed to be within the exemption provided  
36 for in subdivision (b) of Section 4 and Section 5 of Article XIII of  
37 the California Constitution and this section.

38 The amendment of this paragraph made by Chapter 1102 of the  
39 Statutes of 1984 does not constitute a change in, but is declaratory  
40 of, the existing law. However, no refund of property taxes shall be

1 required as a result of this amendment for any fiscal year prior to  
2 the fiscal year in which the amendment takes effect.

3     Property used exclusively for housing and related facilities for  
4 elderly or handicapped families at which supplemental care or  
5 services designed to meet the special needs of elderly or  
6 handicapped residents are not provided, or that is not financed by  
7 the federal government pursuant to Section 202 of Public Law  
8 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public  
9 Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law  
10 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law  
11 101-625 (42 U.S.C. Sec. 8013), shall not be entitled to exemption  
12 pursuant to this subdivision unless the property is used for housing  
13 and related facilities for low- and moderate-income elderly or  
14 handicapped families. Property that would otherwise be exempt  
15 pursuant to this subdivision, except that it includes some housing  
16 and related facilities for other than low- or moderate-income  
17 elderly or handicapped families, shall be entitled to a partial  
18 exemption. The partial exemption shall be equal to that percentage  
19 of the value of the property that is equal to the percentage that the  
20 number of low- and moderate-income elderly and handicapped  
21 families occupying the property represents of the total number of  
22 families occupying the property.

23     As used in this subdivision, “low and moderate income” has the  
24 same meaning as the term “persons and families of low or  
25 moderate income” as defined by Section 50093 of the Health and  
26 Safety Code.

27     (g) (1) Property used exclusively for rental housing and  
28 related facilities and owned and operated by religious, hospital,  
29 scientific, or charitable funds, foundations, or corporations,  
30 including limited partnerships in which the managing general  
31 partner is an eligible nonprofit corporation, meeting all of the  
32 requirements of this section, or by veterans’ organizations, as  
33 described in Section 215.1, meeting all the requirements of  
34 paragraphs (1) to (7), inclusive, of subdivision (a), shall be deemed  
35 to be within the exemption provided for in subdivision (b) of  
36 Section 4 and Section 5 of Article XIII of the California  
37 Constitution and this section and shall be entitled to a partial  
38 exemption equal to that percentage of the value of the property that  
39 the portion of the property serving lower income households

1 represents of the total property in any year in which either of the  
2 following criteria applies:

3       (A) The acquisition, rehabilitation, development, or operation  
4 of the property, or any combination of these factors, is financed  
5 with tax-exempt mortgage revenue bonds or general obligation  
6 bonds, or is financed by local, state, or federal loans or grants and  
7 the rents of the occupants who are lower income households do not  
8 exceed those prescribed by deed restrictions or regulatory  
9 agreements pursuant to the terms of the financing or financial  
10 assistance.

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

14     (C) In the case of a claim, other than a claim with respect to  
15 property owned by a limited partnership in which the managing  
16 general partner is an eligible nonprofit corporation, that is filed for  
17 the 2000–01 fiscal year or any fiscal year thereafter, 90 percent or  
18 more of the occupants of the property are lower income  
19 households whose rent does not exceed the rent prescribed by  
20 Section 50053 of the Health and Safety Code. The total exemption  
21 amount allowed under this subdivision to a taxpayer, with respect  
22 to a single property or multiple properties for any fiscal year on the  
23 sole basis of the application of this subparagraph, may not exceed  
24 twenty thousand dollars (\$20,000) of tax.

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

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

1       (ii) In the case of a limited partnership in which the managing  
2 general partner is an eligible nonprofit corporation, the restriction  
3 and provision specified in clause (i) shall be contained in an  
4 enforceable and verifiable agreement with a public agency, or in  
5 a recorded deed restriction to which the limited partnership  
6 certifies.

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

11     (3) As used in this subdivision, “lower income households”  
12 has the same meaning as the term “lower income households” as  
13 defined by Section 50079.5 of the Health and Safety Code.

14     (h) Property used exclusively for an emergency or temporary  
15 shelter and related facilities for homeless persons and families and  
16 owned and operated by religious, hospital, scientific, or charitable  
17 funds, foundations, or corporations meeting all of the  
18 requirements of this section shall be deemed to be within the  
19 exemption provided for in subdivision (b) of Section 4 and Section  
20 5 of Article XIII of the California Constitution and this section.  
21 Property that otherwise would be exempt pursuant to this  
22 subdivision, except that it includes housing and related facilities  
23 for other than an emergency or temporary shelter, shall be entitled  
24 to a partial exemption.

25     As used in this subdivision, “emergency or temporary shelter”  
26 means a facility that would be eligible for funding pursuant to  
27 Chapter 11 (commencing with Section 50800) of Part 2 of  
28 Division 31 of the Health and Safety Code.

29     (i) Property used exclusively for housing and related facilities  
30 for employees of religious, charitable, scientific, or hospital  
31 organizations that meet all the requirements of subdivision (a) and  
32 owned and operated by funds, foundations, or corporations that  
33 meet all the requirements of subdivision (a) shall be deemed to be  
34 within the exemption provided for in subdivision (b) of Sections  
35 4 and 5 of Article XIII of the California Constitution and this  
36 section to the extent the residential use of the property is  
37 institutionally necessary for the operation of the organization.

38     (j) For purposes of this section, charitable purposes include  
39 educational purposes. For purposes of this subdivision,  
40 “educational purposes” means those educational purposes and

1 activities for the benefit of the community as a whole or an  
2 unascertainable and indefinite portion thereof, and shall not  
3 include those educational purposes and activities that are primarily  
4 for the benefit of an organization's shareholders. Educational  
5 activities include the study of relevant information, the  
6 dissemination of that information to interested members of the  
7 general public, and the participation of interested members of the  
8 general public.

9 (k) Property used exclusively for religious, hospital, scientific,  
10 or charitable purposes and owned and operated by a limited  
11 liability company having a single member religious, hospital,  
12 scientific, or charitable fund, foundation, or corporation, which  
13 property and fund, foundation, or corporation meet all the  
14 requirements of subdivision (a), shall be deemed to be within the  
15 exemption provided for in subdivision (b) of Section 4 and Section  
16 5 of Article XIII of the California Constitution and this section.

17 SEC. 2. ~~Section 214.2 of the Revenue and Taxation Code is~~  
18 ~~amended to read:~~

19 214.2. (a) ~~As used in Section 214.1, "facilities in the course~~  
20 ~~of construction" shall include the demolition or razing of a~~  
21 ~~building with the intent to replace it with facilities to be used~~  
22 ~~exclusively for religious, hospital, or charitable purposes.~~

23 (b) ~~As used in Section 214.1, "facilities in the course of~~  
24 ~~construction" shall include definite onsite physical activity~~  
25 ~~connected with construction or rehabilitation of a new or existing~~  
26 ~~building or improvement, that results in changes visible to any~~  
27 ~~person inspecting the site, where the building or improvement is~~  
28 ~~to be used exclusively for religious, hospital, or charitable~~  
29 ~~purposes. Activity as described in the preceding sentence having~~  
30 ~~been commenced and not yet finished, unless abandoned, shall~~  
31 ~~establish that a building or improvement is "under construction"~~  
32 ~~for the purposes of Section 5 of Article XIII of the California~~  
33 ~~Constitution. Construction shall not be considered "abandoned"~~  
34 ~~if delayed due to reasonable causes and circumstances beyond the~~  
35 ~~assessee's control, that occur notwithstanding the exercise of~~  
36 ~~ordinary care and the absence of willful neglect. Construction or~~  
37 ~~rehabilitation financed or reimbursed in whole or in part from the~~  
38 ~~proceeds of any tax exempt financing, that has been commenced~~  
39 ~~but not yet finished, shall not be deemed to be abandoned if both~~  
40 ~~of the following conditions are met:~~

1       (1) The construction or rehabilitation commences not later than  
2 180 days following the date the issuer of the bonds to be issued in  
3 connection with the tax-exempt financing, by resolution or in any  
4 other reasonable form, declares its official intent to initiate the  
5 process for the issuance of the bonds to be issued in connection  
6 with the tax-exempt financing.

7       (2) The construction or rehabilitation is substantially  
8 completed not later than 36 months following the date specified in  
9 paragraph (1).

10      SEC. 3.

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

15      SEC. 4.

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

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