

ASSEMBLY BILL

No. 2853

Introduced by Assembly Member Laird

**(Principal coauthors: Assembly Members Chavez, Daucher,
Hancock, La Malfa, Longville, Maze, Montanez, and Salinas)**

February 20, 2004

An act to amend Sections 27131, 27297.5, 50087, 53646, and 71380 of the Government Code, to amend Sections 1454, 1471, 1827, and 1850 of the Probate Code, and to amend Section 63.1 of the Revenue and Taxation Code, relating to local government expenses, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2853, as introduced, Laird. Local government expenses: state mandates.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

Existing law requires a county recorder to notify debtors of the recordation of involuntary liens affecting the title of real property.

Existing law governing the procedures for creation of the relationship of guardian and ward and establishment of conservatorship provides for appointment of a counsel to represent the interests of a proposed ward or conservatee under designated circumstances, trial by jury on the issue of whether a wardship or conservatorship should be

established, a court-appointed investigator, and annual review by the court of each conservatorship initiated pursuant to these provisions.

Existing law requires local courts and affected agencies to prorate specified fines, penalties, forfeitures, and fees among state and local shares according to a uniform accounting system established by the Controller and to conduct an audit of accounts of this proration established by the Controller.

Existing law requires a county assessor to report quarterly to the State Board of Equalization on specified property purchases or transfers between family members that involve a claim for exclusion from “change of ownership” assessment requirements.

Existing law requires the board of supervisors in each county that invests surplus funds to establish a treasury oversight committee.

Existing law requires the treasurer in the case of counties and the treasurer or chief financial officer in the case of cities to annually render to their respective legislative bodies and any oversight committee a statement of investment policy and quarterly reports.

Existing law requires every city, county, or city and county that has a specified population and that conducts any survey or maintains any statistical tabulation of minority group employees to categorize employees whose ancestry or ethnic origin is Filipino, as specified.

This bill would make these requirements optional, thereby eliminating state-mandated local programs, but would state that the Legislature, in recognition of the state and local interests served by these programs, encourages local agencies and officials to continue taking the actions formerly mandated by these provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. Section 27131 of the Government Code is
- 2 amended to read:
- 3 27131. (a) The board of supervisors in each county or city
- 4 and county ~~shall~~ *may*, if the county or city and county is investing
- 5 surplus funds, establish a county treasury oversight committee.
- 6 The board of supervisors, in consultation with the county treasurer,
- 7 shall determine the exact size of the committee, which shall consist



1 of from 3 to 11 members, and the categories from which the
2 members shall be represented, as specified in subdivisions (a) to
3 (g), inclusive, of Section 27132. Members shall be nominated by
4 the treasurer and confirmed by the board of supervisors.

5 *(b) In recognition of the state and local interests served by the*
6 *action made optional in subdivision (a), the Legislature*
7 *encourages local agencies to continue taking the action formerly*
8 *mandated by this section.*

9 SEC. 2. Section 27297.5 of the Government Code is amended
10 to read:

11 27297.5. (a) Upon recordation of an abstract of judgment or
12 other document creating an involuntary lien affecting the title to
13 real property, unless the county recorder has received from the
14 judgment creditor proof of service pursuant to subdivision (b) of
15 a copy of the document being recorded, the county recorder ~~shall~~
16 *may*, whenever the recorded document evidencing ~~such~~ *that* lien
17 contains the address of the person or persons against whom the
18 involuntary lien is recorded or the address of the judgment debtor's
19 attorney of record, within 10 days notify the person or persons or
20 attorney of record by mail of the recordation.

21 (b) As an alternative to notice by the recorder, the judgment
22 creditor or lienholder may serve upon the person or persons against
23 whom the abstract of judgment or document creating an
24 involuntary lien is to be recorded, a copy thereof in one of the
25 following ways:

26 (1) By personal delivery. Proof of service pursuant to this
27 paragraph shall be shown by the affidavit of the person making the
28 service, showing the time, place, and manner of service, the name
29 and address of the person served, and any other facts necessary to
30 show that service was made in accordance with this paragraph. If
31 there is no address for a person to be served known to the judgment
32 creditor or lienholder, he or she shall append to the abstract of
33 judgment or involuntary lien an affidavit to that effect.

34 (2) By leaving it at the person's residence or place of business
35 in the care of some person in charge. Proof of service pursuant to
36 this paragraph shall be shown by the affidavit of the person making
37 the service, showing the time, place, and manner of service, the
38 name and address of the person served, together with the title or
39 capacity of the person accepting service, and any other facts



1 necessary to show that service was made in accordance with this
2 paragraph.

3 (3) By registered or certified mail, postage prepaid, addressed
4 to the person’s residence or place of business. This service is
5 complete at the time of mailing. Proof of service pursuant to this
6 paragraph shall be shown by an affidavit setting forth the fact of
7 service, the name and residence or business address of the person
8 making this service, showing that he or she is a resident of, or
9 employed in, the county where the mailing occurs, the fact that he
10 or she is over the age of 18 years, the date and place of deposit in
11 the mail, the name and address of the person served as shown on
12 the envelope, and the fact that the envelope was sealed and
13 deposited in the mail, with the postage thereon fully prepaid, and
14 sent by registered or certified mail.

15 (c) The judgment creditor may add the actual cost of service
16 pursuant to subdivision (b) to the judgment or involuntary lien.
17 The costs shall not exceed the cost had the abstract of judgment or
18 involuntary lien been recorded pursuant to subdivision (a).

19 (d) As used in this section, “involuntary lien” means a lien
20 ~~which~~ *that* the person or persons against whom the lien is recorded
21 has not executed or has not consented to by contract.

22 (e) This section shall not apply to the recordation of any
23 documents relating to an involuntary lien in favor of the federal
24 government pursuant to federal law or statute or to the recordation
25 of any state tax lien against real property.

26 (f) The failure of the county recorder or a judgment creditor or
27 lienholder to notify the person or persons against whom an abstract
28 of judgment or involuntary lien is recorded as ~~required~~ *authorized*
29 by this section shall not affect the constructive notice otherwise
30 imparted by recordation, nor shall it affect the force, effect, or
31 priority otherwise accorded the lien.

32 (g) In the event that the notice is returned to the recorder by the
33 postal service as undeliverable, the recorder is not required to
34 retain the returned notice.

35 (h) *In recognition of the state and local interests served by the*
36 *action made optional in subdivision (a), the Legislature*
37 *encourages the county recorder to continue taking the action*
38 *formerly mandated by this section.*

39 SEC. 3. Section 50087 of the Government Code is amended
40 to read:



1 50087. (a) Every city, county, or city and county ~~which that~~
2 has at least 5,000 residents or in which 5 percent of the population
3 is of Filipino ancestry or ethnic origin, according to the last federal
4 census, and ~~which that~~ conducts any survey as to the ancestry or
5 ethnic origin of its employees, or ~~which that~~ maintains any
6 statistical tabulation of minority group employees, ~~shall may~~
7 categorize employees whose ancestry or ethnic origin is Filipino
8 as Filipinos in such survey or tabulation.

9 (b) *In recognition of the state and local interests served by the*
10 *action made optional in subdivision (a), the Legislature*
11 *encourages the local agency to continue taking the action formerly*
12 *mandated by this section.*

13 SEC. 4. Section 53646 of the Government Code is amended
14 to read:

15 53646. (a) (1) In the case of county government, the
16 treasurer ~~shall may~~ annually render to the board of supervisors and
17 any oversight committee a statement of investment policy, which
18 the board shall review and approve at a public meeting. Any
19 change in the policy shall also be reviewed and approved by the
20 board at a public meeting.

21 (2) In the case of any other local agency, the treasurer or chief
22 fiscal officer of the local agency ~~shall may~~ annually render to the
23 legislative body of that local agency and any oversight committee
24 of that local agency a statement of investment policy, which the
25 legislative body of the local agency shall consider at a public
26 meeting. Any change in the policy shall also be considered by the
27 legislative body of the local agency at a public meeting.

28 (b) (1) The treasurer or chief fiscal officer ~~shall may~~ render a
29 quarterly report to the chief executive officer, the internal auditor,
30 and the legislative body of the local agency. The quarterly report
31 shall be so submitted within 30 days following the end of the
32 quarter covered by the report. Except as provided in subdivisions
33 (e) and (f), this report shall include the type of investment, issuer,
34 date of maturity par and dollar amount invested on all securities,
35 investments and moneys held by the local agency, and shall
36 additionally include a description of any of the local agency's
37 funds, investments, or programs, that are under the management
38 of contracted parties, including lending programs. With respect to
39 all securities held by the local agency, and under management of
40 any outside party that is not also a local agency or the State of



1 California Local Agency Investment Fund, the report shall also
2 include a current market value as of the date of the report, and shall
3 include the source of this same valuation.

4 (2) The quarterly report shall state compliance of the portfolio
5 to the statement of investment policy, or manner in which the
6 portfolio is not in compliance.

7 (3) The quarterly report shall include a statement denoting the
8 ability of the local agency to meet its pool's expenditure
9 requirements for the next six months, or provide an explanation as
10 to why sufficient money shall, or may, not be available.

11 (4) In the quarterly report, a subsidiary ledger of investments
12 may be used in accordance with accepted accounting practices.

13 (c) Pursuant to subdivision (b), the treasurer or chief fiscal
14 officer shall report whatever additional information or data may be
15 required by the legislative body of the local agency.

16 (d) The legislative body of a local agency may elect to require
17 the report specified in subdivision (b) to be made on a monthly
18 basis instead of quarterly.

19 (e) For local agency investments that have been placed in the
20 Local Agency Investment Fund, created by Section 16429.1, in
21 National Credit Union Share Insurance Fund-insured accounts in
22 a credit union, in accounts insured or guaranteed pursuant to
23 Section 14858 of the Financial Code, or in Federal Deposit
24 Insurance Corporation-insured accounts in a bank or savings and
25 loan association, in a county investment pool, or any combination
26 of these, the treasurer or chief fiscal officer may supply to the
27 governing body, chief executive officer, and the auditor of the
28 local agency the most recent statement or statements received by
29 the local agency from these institutions in lieu of the information
30 required by paragraph (1) of subdivision (b) regarding
31 investments in these institutions.

32 (f) The treasurer or chief fiscal officer shall not be required to
33 render a quarterly report, as required by subdivision (b), to a
34 legislative body or any oversight committee of a school district or
35 county office of education for securities, investments, or moneys
36 held by the school district or county office of education in
37 individual accounts that are less than twenty-five thousand dollars
38 (\$25,000).

39 (g) Except as provided in subdivisions (h) and (i), each city,
40 county, or city and county shall submit copies of its second and



1 fourth quarter reports to the California Debt and Investment
2 Advisory Commission within 60 days after the close of the second
3 and fourth quarters of each calendar year. Any city, county, or city
4 and county not required to submit a report pursuant to subdivision
5 (h) or (i) shall file with the commission a written statement within
6 60 days of the end of the second and fourth quarters of the calendar
7 year stating the distribution and amount of its investment portfolio
8 and that it is therefore not subject to this reporting requirement.
9 This subdivision shall become inoperative on January 1, 2007.

10 (h) A city shall not be required to submit a quarterly report to
11 the commission if, during the entire reporting period, the city has
12 maintained 100 percent of its investment portfolio in (1) the
13 treasury of the county in which it is located for investment by the
14 county treasurer pursuant to Section 53684, (2) the Local Agency
15 Investment Fund created by Section 16429.1, (3) National Credit
16 Union Share Insurance Fund-insured accounts in a credit union, in
17 accounts insured or guaranteed pursuant to Section 14858 of the
18 Financial Code, or in Federal Deposit Insurance
19 Corporation-insured accounts in a bank or savings and loan
20 association, or (4) in any combination of these.

21 (i) A county or city and county shall not be required to submit
22 a quarterly report to the commission if, during the entire reporting
23 period, the county has maintained 100 percent of its investment
24 portfolio in (1) the Local Agency Investment Fund created by
25 Section 16429.1, (2) National Credit Union Share Insurance
26 Fund-insured accounts in a credit union, in accounts insured or
27 guaranteed pursuant to Section 14858 of the Financial Code, or in
28 Federal Deposit Insurance Corporation-insured accounts in a bank
29 or savings and loan association, or (3) in any combination of these.

30 (j) The city, county, or city and county investor of any public
31 funds, no later than 60 days after the close of the second quarter
32 of each calendar year and 60 days after the subsequent
33 amendments thereto, shall provide the statement of investment
34 policy required pursuant to this section, to the California Debt and
35 Investment Advisory Commission.

36 (k) *In recognition of the state and local interests served by the*
37 *actions made optional in subdivisions (a) and (b), the Legislature*
38 *encourages the local agency officials to continue taking the*
39 *actions formerly mandated by those provisions.*



1 SEC. 5. Section 71380 of the Government Code is amended
2 to read:

3 71380. (a) The Controller shall establish, supervise, and as
4 necessary revise a uniform accounting system, including a system
5 of audit, to the end that all fines, penalties, forfeitures, and fees
6 assessed by courts, and their collection and appropriate
7 disbursement, shall be properly and uniformly accounted for. The
8 accounting system shall apply to superior courts, together with
9 probation offices, central collection bureaus and any other
10 agencies having a role in this process.

11 (b) *Notwithstanding subdivision (a), a superior court or any*
12 *other local agency to which the uniform accounting system applies*
13 *is not required to conduct any audit that the Controller establishes*
14 *pursuant to subdivision (a). However, in recognition of the state*
15 *and local interests served by an audit, the Legislature encourages*
16 *these local agencies to conduct an audit.*

17 SEC. 6. Section 1454 of the Probate Code is amended to read:

18 1454. (a) The court ~~shall~~ *may* appoint a court investigator
19 when one is required for the purposes of a proceeding under this
20 division. The person appointed as the court investigator shall be an
21 officer or special appointee of the court with no personal or other
22 beneficial interest in the proceeding.

23 (b) The person appointed as the court investigator shall have
24 the following qualifications:

25 (1) The training or experience, or both, necessary (i) to make
26 the investigations required under this division, (ii) to communicate
27 with, assess, and deal with persons who are or may be the subject
28 of proceedings under this division, and (iii) to perform the other
29 duties required of a court investigator.

30 (2) A demonstrated sufficient knowledge of law so as to be able
31 to inform conservatees and proposed conservatees of the nature
32 and effect of a conservatorship proceeding and of their rights, to
33 answer their questions, and to inform conservators concerning
34 their powers and duties.

35 (c) *In recognition of the state and local interests served by the*
36 *action made optional in subdivision (a), the Legislature*
37 *encourages the court to continue taking the action formerly*
38 *mandated by this section.*

39 SEC. 7. Section 1471 of the Probate Code is amended to read:



1 1471. (a) If a conservatee, proposed conservatee, or person
2 alleged to lack legal capacity is unable to retain legal counsel and
3 requests the appointment of counsel to assist in the particular
4 matter, whether or not ~~such~~ *this* person lacks or appears to lack
5 legal capacity, the court ~~shall~~ *may*, at or before the time of the
6 hearing, appoint the public defender or private counsel to represent
7 the interest of ~~such~~ *this* person in the following proceedings under
8 this division:

9 (1) A proceeding to establish a conservatorship or to appoint a
10 proposed conservator.

11 (2) A proceeding to terminate the conservatorship.

12 (3) A proceeding to remove the conservator.

13 (4) A proceeding for a court order affecting the legal capacity
14 of the conservatee.

15 (5) A proceeding to obtain an order authorizing removal of a
16 temporary conservatee from the temporary conservatee's place of
17 residence.

18 (b) If a conservatee or proposed conservatee does not plan to
19 retain legal counsel and has not requested the court to appoint legal
20 counsel, whether or not ~~such~~ *this* person lacks or appears to lack
21 legal capacity, the court ~~shall~~ *may*, at or before the time of the
22 hearing, appoint the public defender or private counsel to represent
23 the interests of ~~such~~ *this* person in any proceeding listed in
24 subdivision (a) if, based on information contained in the court
25 investigator's report or obtained from any other source, the court
26 determines that the appointment would be helpful to the resolution
27 of the matter or is necessary to protect the interests of the
28 conservatee or proposed conservatee.

29 (c) In any proceeding to establish a limited conservatorship, if
30 the proposed limited conservatee has not retained legal counsel
31 and does not plan to retain legal counsel, the court ~~shall~~ *may*
32 immediately appoint the public defender or private counsel to
33 represent the proposed limited conservatee. The proposed limited
34 conservatee shall pay the cost for ~~such~~ *this* legal service if he or she
35 is able. This subdivision applies irrespective of any medical or
36 psychological inability to attend the hearing on the part of the
37 proposed limited conservatee as allowed in Section 1825.

38 (d) *In recognition of the state and local interests served by legal*
39 *representation in conservatorship proceedings, the Legislature*



1 *encourages courts to appoint the public defender or private*
2 *counsel in the circumstances described in this section.*

3 SEC. 8. Section 1827 of the Probate Code is amended to read:

4 1827. (a) The court shall hear and determine the matter of the
5 establishment of the conservatorship according to the law and
6 procedure relating to the trial of civil actions, including trial by
7 jury if demanded by the proposed conservatee.

8 (b) *Notwithstanding subdivision (a), the court is not required*
9 *to hold a trial by jury in a conservatorship proceeding where*
10 *counsel is appointed pursuant to Section 1471 of this code or*
11 *subdivision (d) of Section 27706 of the Government Code.*
12 *However, in recognition of the state and local interests served by*
13 *a trial by jury, the Legislature encourages courts to hold a trial by*
14 *jury in these circumstances.*

15 SEC. 9. Section 1850 of the Probate Code is amended to read:

16 1850. (a) Except as provided in subdivision (b), each
17 conservatorship initiated pursuant to this part ~~shall~~ *may* be
18 reviewed by the court one year after the appointment of the
19 conservator and biennially thereafter.

20 (b) This chapter does not apply to either of the following:

21 (1) A conservatorship for an absentee as defined in Section
22 1403.

23 (2) A conservatorship of the estate for a nonresident of this state
24 where the conservatee is not present in this state.

25 (c) *In recognition of the state and local interests served by the*
26 *action made optional in subdivision (a), the Legislature*
27 *encourages the court to continue taking the action formerly*
28 *mandated by that provision.*

29 SEC. 10. Section 63.1 of the Revenue and Taxation Code is
30 amended to read:

31 63.1. (a) Notwithstanding any other provision of this chapter,
32 a change in ownership shall not include the following purchases
33 or transfers for which a claim is filed pursuant to this section:

34 (1) The purchase or transfer of real property which is the
35 principal residence of an eligible transferor in the case of a
36 purchase or transfer between parents and their children.

37 (2) The purchase or transfer of the first one million dollars
38 (\$1,000,000) of full cash value of all other real property of an
39 eligible transferor in the case of a purchase or transfer between
40 parents and their children.



1 (3) (A) Subject to subparagraph (B), the purchase or transfer
2 of real property described in paragraphs (1) and (2) of subdivision
3 (a) occurring on or after March 27, 1996, between grandparents
4 and their grandchild or grandchildren, if all of the parents of that
5 grandchild or those grandchildren, who qualify as the children of
6 the grandparents, are deceased as of the date of purchase or
7 transfer.

8 (B) A purchase or transfer of a principal residence shall not be
9 excluded pursuant to subparagraph (A) if the transferee grandchild
10 or grandchildren also received a principal residence, or interest
11 therein, through another purchase or transfer that was excludable
12 pursuant to paragraph (1) of subdivision (a). The full cash value
13 of any real property, other than a principal residence, that was
14 transferred to the grandchild or grandchildren pursuant to a
15 purchase or transfer that was excludable pursuant to paragraph (2)
16 of subdivision (a) and the full cash value of a principal residence
17 that fails to qualify for exclusion as a result of the preceding
18 sentence shall be included in applying, for purposes of paragraph
19 (2) of subdivision (a), the one million dollar (\$1,000,000) full cash
20 value limit specified in paragraph (2) of subdivision (a).

21 (b) (1) For purposes of paragraph (1) of subdivision (a),
22 “principal residence” means a dwelling for which a homeowners’
23 exemption or a disabled veterans’ residence exemption has been
24 granted in the name of the eligible transferor. “Principal
25 residence” includes only that portion of the land underlying the
26 principal residence that consists of an area of reasonable size that
27 is used as a site for the residence.

28 (2) For purposes of paragraph (2) of subdivision (a), the one
29 million dollar (\$1,000,000) exclusion shall apply separately to
30 each eligible transferor with respect to all purchases by and
31 transfers to eligible transferees on and after November 6, 1986, of
32 real property, other than the principal residence, of that eligible
33 transferor. The exclusion shall not apply to any property in which
34 the eligible transferor’s interest was received through a transfer, or
35 transfers, excluded from change in ownership by the provisions of
36 either subdivision (f) of Section 62 or subdivision (b) of Section
37 65, unless the transferor qualifies as an original transferor under
38 subdivision (b) of Section 65. In the case of any purchase or
39 transfer subject to this paragraph involving two or more eligible
40 transferors, the transferors may elect to combine their separate one



1 million dollar (\$1,000,000) exclusions and, upon making that
2 election, the combined amount of their separate exclusions shall
3 apply to any property jointly sold or transferred by the electing
4 transferors, provided that in no case shall the amount of full cash
5 value of real property of any one eligible transferor excluded under
6 this election exceed the amount of the transferor's separate unused
7 exclusion on the date of the joint sale or transfer.

8 (c) As used in this section:

9 (1) "Purchase or transfer between parents and their children"
10 means either a transfer from a parent or parents to a child or
11 children of the parent or parents or a transfer from a child or
12 children to a parent or parents of the child or children. For purposes
13 of this section, the date of any transfer between parents and their
14 children under a will or intestate succession shall be the date of the
15 decedent's death, if the decedent died on or after November 6,
16 1986.

17 (2) "Purchase or transfer of real property between
18 grandparents and their grandchild or grandchildren" means a
19 purchase or transfer on or after March 27, 1996, from a
20 grandparent or grandparents to a grandchild or grandchildren if all
21 of the parents of that grandchild or those grandchildren who
22 qualify as the children of the grandparents are deceased as of the
23 date of the transfer. For purposes of this section, the date of any
24 transfer between grandparents and their grandchildren under a will
25 or by intestate succession shall be the date of the decedent's death.

26 (3) "Children" means any of the following:

27 (A) Any child born of the parent or parents, except a child, as
28 defined in subparagraph (D), who has been adopted by another
29 person or persons.

30 (B) Any stepchild of the parent or parents and the spouse of that
31 stepchild while the relationship of stepparent and stepchild exists.
32 For purposes of this paragraph, the relationship of stepparent and
33 stepchild shall be deemed to exist until the marriage on which the
34 relationship is based is terminated by divorce, or, if the
35 relationship is terminated by death, until the remarriage of the
36 surviving stepparent.

37 (C) Any son-in-law or daughter-in-law of the parent or parents.
38 For the purposes of this paragraph, the relationship of parent and
39 son-in-law or daughter-in-law shall be deemed to exist until the
40 marriage on which the relationship is based is terminated by



1 divorce, or, if the relationship is terminated by death, until the
2 remarriage of the surviving son-in-law or daughter-in-law.

3 (D) Any child adopted by the parent or parents pursuant to
4 statute, other than an individual adopted after reaching the age of
5 18 years.

6 (4) “Grandchild” or “grandchildren” means any child or
7 children of the child or children of the grandparent or
8 grandparents.

9 (5) “Full cash value” means full cash value, as defined in
10 Section 2 of Article XIII A of the California Constitution and
11 Section 110.1, with any adjustments authorized by those sections,
12 and the full value of any new construction in progress, determined
13 as of the date immediately prior to the date of a purchase by or
14 transfer to an eligible transferee of real property subject to this
15 section.

16 (6) “Eligible transferor” means a grandparent, parent, or child
17 of an eligible transferee.

18 (7) “Eligible transferee” means a parent, child, or grandchild
19 of an eligible transferor.

20 (8) “Real property” means real property as defined in Section
21 104. Real property does not include any interest in a legal entity.

22 (9) “Transfer” includes, and is not limited to, any transfer of
23 the present beneficial ownership of property from an eligible
24 transferor to an eligible transferee through the medium of an inter
25 vivos or testamentary trust.

26 (10) “Social security number” also includes a taxpayer
27 identification number issued by the Internal Revenue Service in
28 the case in which the taxpayer is a foreign national who cannot
29 obtain a social security number.

30 (d) (1) The exclusions provided for in subdivision (a) shall not
31 be allowed unless the eligible transferee, the transferee’s legal
32 representative, or the executor or administrator of the transferee’s
33 estate files a claim with the assessor for the exclusion sought and
34 furnishes to the assessor each of the following:

35 (A) A written certification by the transferee, the transferee’s
36 legal representative, or the executor or administrator of the
37 transferee’s estate, signed and made under penalty of perjury that
38 the transferee is a grandparent, parent, child, or grandchild of the
39 transferor and that the transferor is his or her parent, child, or
40 grandparent. In the case of a grandparent-grandchild transfer, the



1 written certification shall also include a certification that all the
2 parents of the grandchild or grandchildren who qualify as children
3 of the grandparents were deceased as of the date of the purchase
4 or transfer and that the grandchild or grandchildren did or did not
5 receive a principal residence excludable under paragraph (1) of
6 subdivision (a) from the deceased parents, and that the grandchild
7 or grandchildren did or did not receive real property other than a
8 principal residence excludable under paragraph (2) of subdivision
9 (a) from the deceased parents. The claimant shall provide legal
10 substantiation of any matter certified pursuant to this
11 subparagraph at the request of the county assessor.

12 (B) A written certification by the transferor, the transferor's
13 legal representative, or the executor or administrator of the
14 transferor's estate, signed and made under penalty of perjury that
15 the transferor is a grandparent, parent, or child of the transferee
16 and that the transferor is seeking the exclusion under this section
17 and will not file a claim to transfer the base year value of the
18 property under Section 69.5.

19 (C) A written certification shall also include either or both of
20 the following:

21 (i) If the purchase or transfer of real property includes the
22 purchase or transfer of residential real property, a certification that
23 the residential real property is or is not the transferor's principal
24 residence.

25 (ii) If the purchase or transfer of real property includes the
26 purchase or transfer of real property other than the transferor's
27 principal residence, a certification that other real property of the
28 transferor that is subject to this section has or has not been
29 previously sold or transferred to an eligible transferee, the total
30 amount of full cash value, as defined in subdivision (c), of any real
31 property subject to this section that has been previously sold or
32 transferred by that transferor to eligible transferees, the location of
33 that real property, the social security number of each eligible
34 transferor, and the names of the eligible transferees of that
35 property.

36 (D) If there are multiple transferees, the certification and
37 signature may be made by any one of the transferees, if both of the
38 following conditions are met:

39 (i) The transferee has actual knowledge that, and the
40 certification signed by the transferee states that, all of the



1 transferees are eligible transferees within the meaning of this
2 section.

3 (ii) The certification is signed by the transferee as a true
4 statement made under penalty of perjury.

5 (2) If the full cash value of the real property purchased by or
6 transferred to the transferee exceeds the permissible exclusion of
7 the transferor or the combined permissible exclusion of the
8 transferors, in the case of a purchase or transfer from two or more
9 joint transferors, taking into account any previous purchases by or
10 transfers to an eligible transferee from the same transferor or
11 transferors, the transferee shall specify in his or her claim the
12 amount and the allocation of the exclusion he or she is seeking.
13 Within any appraisal unit, as determined in accordance with
14 subdivision (d) of Section 51 by the assessor of the county in which
15 the real property is located, the exclusion shall be applied only on
16 a pro rata basis, however, and shall not be applied to a selected
17 portion or portions of the appraisal unit.

18 (e) (1) The State Board of Equalization shall design the form
19 for claiming eligibility. Except as provided in paragraph (2), any
20 claim under this section shall be filed:

21 (A) For transfers of real property between parents and their
22 children occurring prior to September 30, 1990, within three years
23 after the date of the purchase or transfer of real property for which
24 the claim is filed.

25 (B) For transfers of real property between parents and their
26 children occurring on or after September 30, 1990, and for the
27 purchase or transfer of real property between grandparents and
28 their grandchildren occurring on or after March 27, 1996, within
29 three years after the date of the purchase or transfer of real property
30 for which the claim is filed, or prior to transfer of the real property
31 to a third party, whichever is earlier.

32 (C) Notwithstanding subparagraphs (A) and (B), a claim shall
33 be deemed to be timely filed if it is filed within six months after
34 the date of mailing of a notice of supplemental or escape
35 assessment, issued as a result of the purchase or transfer of real
36 property for which the claim is filed.

37 (2) In the case in which the real property subject to purchase or
38 transfer has not been transferred to a third party, a claim for
39 exclusion under this section that is filed subsequent to the
40 expiration of the filing periods set forth in paragraph (1) shall be



1 considered by the assessor, subject to all of the following
2 conditions:

3 (A) Any exclusion granted pursuant to that claim shall apply
4 commencing with the lien date of the assessment year in which the
5 claim is filed.

6 (B) Under any exclusion granted pursuant to that claim, the
7 adjusted full cash value of the subject real property in the
8 assessment year described in subparagraph (A) shall be the
9 adjusted base year value of the subject real property in the
10 assessment year in which the excluded purchase or transfer took
11 place, factored to the assessment year described in subparagraph
12 (A) for both of the following:

13 (i) Inflation as annually determined in accordance with
14 paragraph (1) of subdivision (a) of Section 51.

15 (ii) Any subsequent new construction occurring with respect to
16 the subject real property.

17 (3) (A) Unless otherwise expressly provided, the provisions of
18 this subdivision shall apply to any purchase or transfer of real
19 property that occurred on or after November 6, 1986.

20 (B) Paragraph (2) shall apply to purchases or transfers between
21 parents and their children that occurred on or after November 6,
22 1986, and to purchases or transfers between grandparents and their
23 grandchildren that occurred on or after March 27, 1996.

24 (4) For purposes of this subdivision, a transfer of real property
25 to a parent or child of the transferor shall not be considered a
26 transfer to a third party.

27 (f) The assessor ~~shall~~ *may* report quarterly to the State Board
28 of Equalization all purchases or transfers, other than purchases or
29 transfers involving a principal residence, for which a claim for
30 exclusion is made pursuant to subdivision (d). Each report shall
31 contain the assessor's parcel number for each parcel for which the
32 exclusion is claimed, the amount of each exclusion claimed, the
33 social security number of each eligible transferor, and any other
34 information the board ~~shall~~ *may* require in order to monitor the one
35 million dollar (\$1,000,000) limitation in paragraph (2) of
36 subdivision (a). *In recognition of the state and local interests*
37 *served by the action made optional in this subdivision, the*
38 *Legislature encourages the assessor to continue taking the action*
39 *formerly mandated by this subdivision.*



1 (g) This section shall apply to both voluntary transfers and
2 transfers resulting from a court order or judicial decree. Nothing
3 in this subdivision shall be construed as conflicting with paragraph
4 (1) of subdivision (c) or the general principle that transfers by
5 reason of death occur at the time of death.

6 (h) (1) Except as provided in paragraph (2), this section shall
7 apply to purchases and transfers of real property completed on or
8 after November 6, 1986, and shall not be effective for any change
9 in ownership, including a change in ownership arising on the date
10 of a decedent's death, that occurred prior to that date.

11 (2) This section shall apply to purchases or transfers of real
12 property between grandparents and their grandchildren occurring
13 on or after March 27, 1996, and, with respect to purchases or
14 transfers of real property between grandparents and their
15 grandchildren, shall not be effective for any change in ownership,
16 including a change in ownership arising on the date of a decedent's
17 death, that occurred prior to that date.

18 SEC. 11. This act is an urgency statute necessary for the
19 immediate preservation of the public peace, health, or safety
20 within the meaning of Article IV of the Constitution and shall go
21 into immediate effect. The facts constituting the necessity are:

22 In order to make necessary statutory changes to fully implement
23 the Budget Act of 2003 at the earliest possible time, it is necessary
24 that this act take effect immediately.

