

AMENDED IN ASSEMBLY APRIL 28, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 3074

**Introduced by Committee on Revenue and Taxation (Bermudez
(Chair), Harman, Laird, and Leno)**

March 11, 2004

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

LEGISLATIVE COUNSEL'S DIGEST

AB 3074, as amended, Committee on Revenue and Taxation. Property taxation: welfare exemption: facilities in the course of construction.

(1) Pursuant to authorization in the California Constitution, 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. The California Constitution specifies that this exemption applies to buildings under construction, the land on which the buildings are situated, and equipment in the buildings if their intended use is exclusively for exempt purposes. Existing property tax law specifies that “property used exclusively for religious, hospital, scientific, or charitable purposes” includes “facilities in the course of construction,” as defined.

This bill would specify that, for the 2005–06 fiscal year and each fiscal year thereafter, “facilities in the course of construction” include prospective construction or rehabilitation of a new or existing building

or improvement for which the intended use is exclusively for religious, hospital, or charitable purposes, ~~and for which as evidenced by an application for a building permit for the building or improvement has been submitted to a~~ the local planning or building department. ~~This bill would also require a taxpayer that claims an exemption pursuant to these provisions to notify the county assessor upon commencement of certain activities regarding the building or improvement, and would also require the assessor to notify the taxpayer regarding these activities, as specified.~~ By imposing additional duties on local officials in administering the welfare exemption, this bill would impose a state-mandated local program.

(2) 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.

(3) 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.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(4) 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 214.2 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 214.2. As used in Section 214.1, “facilities in the course of
- 4 construction” includes all of the following:



1 (a) The demolition or razing of a building with the intent to
2 replace it with facilities to be used exclusively for religious,
3 hospital, or charitable purposes.

4 (b) Definite onsite physical activity connected with
5 construction or rehabilitation of a new or existing building or
6 improvement, that results in changes visible to any person
7 inspecting the site, where the building or improvement is to be
8 used exclusively for religious, hospital, or charitable purposes.
9 Activity as described in the preceding sentence having been
10 commenced and not yet finished, unless abandoned, shall establish
11 that a building or improvement is “under construction” for the
12 purposes of Section 5 of Article XIII of the California
13 Constitution. Construction shall not be considered “abandoned”
14 if delayed due to reasonable causes and circumstances beyond the
15 assessee’s control, that occur notwithstanding the exercise of
16 ordinary care and the absence of willful neglect.

17 (c) (1) For the 2005–06 fiscal year and each fiscal year
18 thereafter, prospective construction or rehabilitation of a new or
19 existing building or improvement ~~for which the intended use is~~
20 ~~exclusively for religious, hospital, or charitable purposes, and for~~
21 ~~which an application for a building permit for the building or~~
22 ~~improvement has been submitted to a local planning or building~~
23 ~~department.~~

24 ~~(2) (A) Any tax, penalty, or interest assessed upon an exempt~~
25 ~~portion of a building or improvement described in paragraph (1)~~
26 ~~may not be refunded or cancelled until the assessor confirms, as~~
27 ~~provided in subparagraph (B), that the activities described in~~
28 ~~subdivision (b) have commenced with respect to the building or~~
29 ~~improvement.~~

30 ~~(B) A taxpayer claiming an exemption under this paragraph~~
31 ~~shall notify the assessor in writing by mail upon commencing the~~
32 ~~activities described in subdivision (b). On or before 30 days after~~
33 ~~receiving this notice, the assessor shall notify the taxpayer in~~
34 ~~writing by mail whether or not, in the assessor’s opinion, these~~
35 ~~activities have commenced.~~

36 ~~(3) An exemption allowed pursuant to this subdivision shall be~~
37 ~~applied retroactively, in the manner specified in Sections 271, 272,~~
38 ~~and 4831 for property that was acquired after or did not exist on~~
39 ~~the lien date, to the date upon which the application for a building~~
40 ~~permit for the building or improvement was submitted to a local~~



1 ~~planning or building department~~, as evidenced by an application
2 for a building permit to the local planning or building department
3 where the building or improvement is to be used exclusively for
4 religious, hospital, or charitable purposes.

5 (2) An exemption under this subdivision shall be applied
6 retroactively to the date of the permit application, but in no event
7 earlier than January 1, 2005, upon verification that the activities
8 described in subdivision (b) have begun.

9 (3) Any tax, penalty, or interest levied on the exempt portion of
10 the assessment shall be refunded or cancelled in the manner
11 specified in Sections 271 and 272 for property that was acquired
12 after or did not exist on the lien date, and shall be subject to the
13 four-year limitation prescribed by subdivision (a) of Section 4831.

14 (4) The amendments made to this section by the act adding this
15 subdivision are enacted pursuant to subdivision (b) of Section 4 of
16 Article XIII of the California Constitution and Section 5 of that
17 same article.

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

22 SEC. 3. Notwithstanding Section 17610 of the Government
23 Code, if the Commission on State Mandates determines that this
24 act contains costs mandated by the state, reimbursement to local
25 agencies and school districts for those costs shall be made pursuant
26 to Part 7 (commencing with Section 17500) of Division 4 of Title
27 2 of the Government Code. If the statewide cost of the claim for
28 reimbursement does not exceed one million dollars (\$1,000,000),
29 reimbursement shall be made from the State Mandates Claims
30 Fund.

31 SEC. 4. This act provides for a tax levy within the meaning of
32 Article IV of the Constitution and shall go into immediate effect.

