

AMENDED IN ASSEMBLY JUNE 10, 2004

AMENDED IN SENATE APRIL 1, 2004

SENATE BILL

No. 1880

**Introduced by Committee on Revenue and Taxation (Senators
Cedillo (Chair), Alpert, Bowen, and Burton)**

February 26, 2004

An act to amend Section 24002.5 of the Government Code, and to *amend Sections 217, 217.1, 220.5, 533, and 5365 of, and to repeal Sections 218.1 and 5180 of the Revenue and Taxation Code, relating to taxation.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1880, as amended, Committee on Revenue and Taxation. Property—~~taxes~~ *taxation*: ~~local government~~: county assessors: *exemptions*: *assessments*: technical code maintenance.

(1) Existing law provides for the manner in which property is to be valued and assessed. Existing law requires a county assessor to possess a valid appraiser's certificate issued by the State Board of Equalization. Notwithstanding this requirement, existing law authorizes a duly elected or appointed person to exercise the duties of county assessor for one year, if the person obtains a temporary appraiser's certificate from the board within 30 days of this election or appointment.

This bill would instead specify that a duly elected or appointed person may exercise the duties of county assessor for one year, if the person obtains a temporary appraiser's certificate from the board no later than 30 days after taking office.

(2) Existing law also authorizes the exemption of specified property, in accordance with the California Constitution, from the imposition of

the property tax, including specified works of art displayed in publicly owned galleries and museums, personal property displayed in specified aerospace museums, and aircraft of historical significance, as defined. Existing law requires a taxpayer that claims these exemptions to file an affidavit with the county assessor, a designee of the assessor, or a notary, as specified.

This bill would eliminate the requirement that the taxpayer sign this affidavit before a notary public, the assessor, or the assessor’s designee and instead would require a taxpayer that claims these exemptions to sign the affidavit under penalty of perjury.

(3) Existing property tax law requires certain assessments to be entered on the roll for the current assessment year, as defined, and in the case of escape assessments, to be entered with a notation, as specified.

This bill would remove that requirement and a requirement relating to the 1981–82 fiscal year for the business inventory exemption.

(4) Existing property tax law requires an owner of an aircraft to file a statement with a county assessor, setting forth the make, model, and year of manufacture of the aircraft.

This bill would require disclosure of additional information about the aircraft necessary to ascertain the full value of the aircraft, as specified.

~~This~~

(5) This bill would make technical, nonsubstantive changes to the property tax law by eliminating obsolete provisions.

(6) This bill, by requiring a taxpayer to sign affidavits under penalty of perjury, would create a new crime and thereby impose a state-mandated local program.

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.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 24002.5 of the Government Code is
2 amended to read:



1 24002.5. (a) A person may not exercise the powers and duties
2 of the office of assessor unless he or she holds a valid appraiser’s
3 certificate issued by the State Board of Equalization pursuant to
4 Article 8 (commencing with Section 670) of Chapter 3 of Part 2
5 of Division 1 of the Revenue and Taxation Code.

6 (b) Notwithstanding subdivision (a), a duly elected or
7 appointed person may exercise the powers and duties of assessor,
8 for a period not to exceed one year, if he or she acquires a
9 temporary appraiser’s certificate from the State Board of
10 Equalization no later than 30 days after taking office.

11 (c) This section does not apply to any person holding the office
12 of assessor on January 1, 1997.

13 SEC. 2. *Section 217 of the Revenue and Taxation Code is*
14 *amended to read:*

15 217. (a) Except as provided in subdivision (d), the following
16 articles of personal property ~~which~~ *that* have been made available
17 for display in a publicly owned art gallery or museum, or a
18 museum ~~which~~ *that* is regularly open to the public and ~~which~~ *that*
19 is operated by a nonprofit organization ~~which has qualified~~ *that*
20 *qualifies* for exemption pursuant to Section 23701d, shall be
21 exempt from taxation:

22 (1) Original paintings in oil, mineral, water, vitreous enamel,
23 or other colors, pastels, original mosaics, original drawings and
24 sketches in pen, ink, pencil, or watercolors, or works of the free
25 fine arts in any other media including applied paper and other
26 materials, manufactured or otherwise, ~~such as~~ *that* are used on
27 collages, artists’ proof etchings unbound, and engravings and
28 woodcuts unbound, lithographs, or prints made by other hand
29 transfer processes unbound, original sculptures or statuary. As
30 used in this subdivision:

31 (A) “Sculpture” and “statuary” shall ~~be understood to~~ include
32 professional productions of sculptors only whether in round or in
33 relief, in bronze, marble, stone, terra cotta, ivory, wood, metal, or
34 other materials, or whether cut, carved, or otherwise wrought by
35 hand from the solid block or mass of marble, stone, alabaster, or
36 from metal, or other materials, or cast in bronze or other metal or
37 substance, or from wax or plaster, or constructed from any material
38 or made in any form as the professional productions of sculptors,
39 only.



1 (B) “Original” when used to modify the words “sculptures”
2 and “statuary” shall ~~be understood to~~ include the original work or
3 model and the first 10 castings, replicas, or reproductions made
4 from the sculptor’s original work or model, with or without a
5 change in scale ~~and~~, regardless of whether or not the sculptor is
6 alive at the time the castings, replicas, or reproductions are
7 completed.

8 (C) “Painting,” “mosaic,” “drawing,” “work of the free fine
9 arts,” “sketch,” “sculpture,” and “statuary” shall not ~~be~~
10 ~~understood to~~ include any articles of utility ~~or~~, *articles designed*
11 for industrial use, ~~nor such as or any articles that~~ are made wholly
12 or in part by stenciling or any other mechanical process.

13 (D) “Etchings,” “engravings,” and “woodcuts,”
14 “lithographs,” or “prints made by other hand transfer processes,”
15 shall ~~be understood to~~ include only ~~such as~~ *works that* are printed
16 by hand from plates, stones or blocks etched, drawn, or engraved
17 with handtools and ~~not such as do not include works that~~ are
18 printed from plates, stones or blocks etched, drawn or engraved by
19 photochemical or other mechanical processes.

20 (2) Original works of the free fine arts, ~~that are not provided~~
21 ~~for~~ *described* in paragraph (1) of this subdivision, ~~are~~ subject to
22 ~~such~~ regulations, as the board may prescribe ~~as to proof, to prove~~
23 that the article represents some school, kind, or medium of the free
24 fine arts. As used in this paragraph “original works of the free fine
25 arts” shall not ~~be understood to~~ include any article of utility or *any*
26 *article designed* for industrial use.

27 (b) When making a claim for an exemption pursuant to this
28 section, a person claiming the exemption shall ~~appear before the~~
29 ~~assessor, shall give~~ *provide* all information required and answer all
30 questions in an affidavit, ~~and shall subscribe and swear to the~~
31 ~~affidavit before the assessor~~ *under penalty of perjury*. The assessor
32 may require other proof of the facts stated before allowing the
33 exemption. The affidavit shall be accompanied by a certificate of
34 the director or other officer of the art gallery or museum in which
35 the property for which an exemption is claimed under this section
36 was made available for display that the property was available for
37 public display in the art gallery or museum for the period specified
38 in subdivision (e).

39 (c) The provisions of Sections 255 and 260 shall be applicable
40 to the exemption provided by this section.



1 (d) The exemption provided by subdivision (a) shall not apply
2 to any work of art loaned by any person who holds works of art
3 primarily for purposes of sale.

4 (e) The exemption provided by this section shall not apply
5 unless the property was made available for public display in the art
6 gallery or museum for a period of 90 days during the 12-month
7 period immediately preceding the lien date for the year for which
8 the exemption is claimed.

9 If the property was first made available for public display less
10 than 90 days prior to the lien date, the exemption may be granted
11 if the person claiming the exemption certifies in writing that the
12 property will be made available for public display for at least 90
13 days during the 12-month period commencing with the first day
14 the property was made available for public display.

15 (f) For purposes of this section “regularly open to the public”
16 means that the gallery or museum was open to the public not less
17 than 20 hours per week for not less than 35 weeks of the 12-month
18 period immediately preceding the lien date for the year for which
19 the exemption is claimed.

20 If the gallery or museum has been open for less than 35 weeks
21 during the 12-month period immediately preceding the lien date
22 or for less than 20 hours per week during ~~such~~ *that* period, the
23 exemption may be granted if the director or other officer of the
24 gallery or museum certifies in writing that the gallery or museum
25 will be open for not less than 20 hours per week for not less than
26 35 weeks during the 12-month period beginning with the day the
27 gallery or museum was first opened.

28 (g) If a person certifies in writing that the property will be made
29 available and the gallery or museum open for the periods specified
30 in subdivisions (e) and (f), and the property is not so made
31 available or the gallery or museum is not so opened, the exemption
32 shall be canceled, and an escape assessment may be made as
33 provided in Section 531.1.

34 *SEC. 3. Section 217.1 of the Revenue and Taxation Code is*
35 *amended to read:*

36 217.1. (a) Except as provided in subdivision (d), the
37 following articles of personal property ~~which have been~~ *that are*
38 made available for display in a publicly owned aerospace museum,
39 or an aerospace museum ~~which~~ *that* is regularly open to the public
40 and ~~which~~ *that* is operated by a nonprofit organization ~~which has~~



1 ~~qualified that qualifies~~ for exemption pursuant to Section 23701d,
2 shall be exempt from taxation:

3 (1) Aircraft ~~which that~~ have been restored or maintained,
4 whether currently certified or not for flight purposes.

5 (2) Aircraft donated in perpetuity to the aerospace museum.

6 (b) When making a claim for an exemption pursuant to this
7 section, a person claiming the exemption shall give all information
8 required and answer all questions in an affidavit, and shall
9 subscribe and swear to the ~~affidavit before, at the election of the~~
10 ~~claimant, either the assessor or a notary public~~ *affidavit, under*
11 *penalty of perjury*. The assessor may require other proof of the
12 facts stated before allowing the exemption. The affidavit shall be
13 accompanied by a certificate of the director or other officer of the
14 aerospace museum in which the property for which an exemption
15 is claimed under this section was made available for display that
16 the property was available for public display in the aerospace
17 museum for the period specified in subdivision (e).

18 (c) For the 1984–85 assessment year and each assessment year
19 thereafter, the provisions of Sections 255 and 260 shall be
20 applicable to the exemption provided by this section.

21 (d) The exemption provided by subdivision (a) shall not apply
22 to any aircraft loaned by any person who holds aircraft primarily
23 for purposes of sale.

24 (e) The exemption provided by this section shall not apply
25 unless the property was made available for public display in the
26 aerospace museum for a period of 90 days during the 12-month
27 period immediately preceding the lien date for the year for which
28 the exemption is claimed.

29 If the property was first made available for public display less
30 than 90 days prior to the lien date, the exemption may be granted
31 if the person claiming the exemption certifies in writing that the
32 property will be made available for public display for at least 90
33 days during the 12-month period commencing with the first day
34 the property was made available for public display.

35 (f) For purposes of this section, “regularly open to the public”
36 means that the aerospace museum was open to the public not less
37 than 20 hours per week for not less than 35 weeks of the 12-month
38 period immediately preceding the lien date for the year for which
39 the exemption is claimed.



1 If the aerospace museum has been open for less than 35 weeks
2 during the 12-month period immediately preceding the lien date
3 or for less than 20 hours per week during that period, the
4 exemption may be granted if the director or other officer of the
5 aerospace museum certifies in writing that the aerospace museum
6 will be open for not less than 20 hours per week for not less than
7 35 weeks during the 12-month period beginning with the date the
8 aerospace museum was first opened.

9 (g) If a person certifies in writing that the property will be made
10 available and the aerospace museum open for the periods specified
11 in subdivisions (e) and (f), and the property is not so made
12 available or the aerospace museum is not so opened, the exemption
13 shall be canceled, and an escape assessment may be made as
14 provided in Section 531.1.

15 (h) The exemption provided by this section shall be applicable
16 for the 1979–80 fiscal year and each fiscal year thereafter.

17 *SEC. 4.* Section 218.1 of the Revenue and Taxation Code is
18 repealed.

19 ~~*SEC. 3.*~~

20 *SEC. 5.* *Section 220.5 of the Revenue and Taxation Code is*
21 *amended to read:*

22 220.5. (a) Aircraft of historical significance shall be exempt
23 from taxation.

24 (b) The exemption provided in subdivision (a) applies only if
25 all of the following conditions are satisfied:

26 (1) The assessee is an individual owner who does not hold the
27 aircraft primarily for purposes of sale.

28 (2) The assessee does not use the aircraft for commercial
29 purposes or general transportation.

30 (3) The aircraft is available for display to the public at least 12
31 days during the 12-month period immediately preceding the lien
32 date for the year for which the exemption is claimed. If the aircraft
33 was first made available for public display less than 12 days prior
34 to the lien date, the exemption may be granted if the claimant
35 certifies in writing that the aircraft will be made available for
36 public display at least 12 days during the 12-month period
37 commencing with the first day the property was made available for
38 public display. When applying for an exemption pursuant to this
39 section, the claimant shall attach to that application a certificate of



1 attendance from the event coordinator of the event at which the
2 aircraft was displayed as required by this paragraph.

3 (c) When claiming an exemption pursuant to this section, the
4 claimant shall provide all information required and answer all
5 questions contained in an affidavit furnished by the assessor. The
6 claimant shall sign and swear to the accuracy of the contents of the
7 affidavit before either a notary public or the assessor or his or her
8 designee, at the claimant's option *the affidavit, under penalty of*
9 *perjury*. The assessor may require additional proof of the
10 information or answers provided in the affidavit before allowing
11 the exemption.

12 (d) For purposes of this section, “aircraft of historical
13 significance” means any aircraft that is an original, restored, or
14 replica of a heavier than air powered aircraft that is 35 years or
15 older or any aircraft of a type or model of which there are fewer
16 than five in number known to exist worldwide.

17 (e) A fee of thirty-five dollars (\$35) shall be charged and
18 collected by the assessor upon the initial application for an
19 exemption pursuant to this section.

20 *SEC. 6. Section 533 of the Revenue and Taxation Code is*
21 *amended to read:*

22 533. (a) ~~(1) Assessments made pursuant to Article 3~~
23 ~~(commencing with Section 501) of this chapter or pursuant to this~~
24 ~~article shall be entered on the roll for the current assessment year,~~
25 ~~as defined in Section 118, and, if this is not the roll for the~~
26 ~~assessment year in which the property escaped assessment, the~~
27 ~~entry shall be followed with “Escaped assessment for year _____~~
28 ~~pursuant to Sections _____ of the Revenue and Taxation Code.”~~

29 ~~(2) The assessor may make the entries described in paragraph~~
30 ~~(1) on either the hard copy of the roll or the electronic version of~~
31 ~~the roll, as determined by the assessor.~~

32 ~~(b) (1) If the assessments are an escape assessment is made as~~
33 ~~a result of an audit that discloses that property assessed to the party~~
34 ~~audited has been incorrectly assessed either for a past tax year for~~
35 ~~which taxes have been paid and a claim for refund is not barred by~~
36 ~~Section 5097 or for any tax year for which the taxes are unpaid, the~~
37 ~~tax refunds resulting from the incorrect assessments shall be an~~
38 ~~offset against proposed tax liabilities, including accumulated~~
39 ~~penalties and interest, resulting from escaped assessments for any~~
40 ~~tax year covered by the audit.~~



1 ~~(2) Beginning with the 1981-82 fiscal year, assessment for the~~
 2 ~~current and prior year shall be entered using a 100 percent~~
 3 ~~assessment ratio and the tax rate for years prior to the 1981-82~~
 4 ~~fiscal year will be divided by four.~~

5 ~~(3)~~

6 ~~(b) If these a tax refunds exceed refund, authorized under this~~
 7 ~~section exceeds any proposed tax liabilities, including~~
 8 ~~accumulated penalties and interest, the party audited shall be~~
 9 ~~notified by the tax collector of the amount of the excess and of the~~
 10 ~~fact that a claim for cancellation or refund may be filed with the~~
 11 ~~county as provided by Section 5096 or 5096.7. If the assessment~~
 12 ~~caused an excess payment of taxes and therefore resulted in an~~
 13 ~~overpayment by the state for property tax relief as provided by~~
 14 ~~Section 219, then subsequent subventions for property tax relief~~
 15 ~~shall be reduced by the amount of the overpayment.~~

16 *SEC. 7.* Section 5180 of the Revenue and Taxation Code is
 17 repealed.

18 *SEC. 8.* Section 5365 of the Revenue and Taxation Code is
 19 amended to read:

20 5365. Upon request of the assessor of the county in which an
 21 aircraft is habitually based, the owner shall file with ~~him~~ *the*
 22 *assessor a statement setting forth information about the aircraft*
 23 *that is necessary to ascertain the full value of the aircraft,*
 24 *including, but not limited to, the serial number, the make, ~~model~~*
 25 *and model, year of manufacture of the aircraft, and engine and*
 26 *maintenance information, including the total hours logged on the*
 27 *aircraft following the last major overhaul of the engine of the*
 28 *aircraft.*

29 *SEC. 9.* *No reimbursement is required by this act pursuant to*
 30 *Section 6 of Article XIII B of the California Constitution because*
 31 *the only costs that may be incurred by a local agency or school*
 32 *district will be incurred because this act creates a new crime or*
 33 *infraction, eliminates a crime or infraction, or changes the penalty*
 34 *for a crime or infraction, within the meaning of Section 17556 of*
 35 *the Government Code, or changes the definition of a crime within*
 36 *the meaning of Section 6 of Article XIII B of the California*
 37 *Constitution.*

O