

ASSEMBLY BILL

No. 1451

**Introduced by Assembly Member Leno
(Coauthors: Assembly Members Garcia and Levine)**

February 23, 2007

An act to amend Section 73 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1451, as introduced, Leno. Property tax: exclusion from newly constructed: active solar energy system.

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. The California Constitution authorizes the Legislature to provide that "newly constructed" does not include, among other things, the construction or addition of an active solar energy system. Existing property tax law excludes from the definition of "newly constructed," through the 2008–09 fiscal year, the construction or addition of an active solar energy system, as defined.

This bill would modify this exclusion to instead specify that an active solar energy system used in the production of electricity, in the case where the electricity is transmitted to a utility for inclusion in the utility's transmission or distribution network, includes all equipment and property, other than land, used up to the point of interconnection with the utility transmission or distribution network. This bill would also

specify, for purposes of this exclusion, “the construction or addition of an active solar energy system” includes the construction of an active solar energy system in a newly constructed single-family residence that is offered for sale and for which the owner-builder incorporated an active solar energy system in the initial construction of the residence and the owner-builder does not intend to occupy the residence. This bill would require the State Board of Equalization to prescribe the manner and form for a taxpayer to claim this exclusion. This bill would require the county assessor to reduce the base year value of these residences by the value of the active solar energy system, as specified.

This bill would also extend the active solar energy system exclusion from the definition of “newly constructed” through the 2015–16 fiscal year.

(2) By imposing new duties on county assessors, this bill would 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, 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.

(3) 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.

(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 73 of the Revenue and Taxation Code is
- 2 amended to read:
- 3 73. (a) Pursuant to the authority granted to the Legislature
- 4 pursuant to paragraph (1) of subdivision (c) of Section 2 of Article

1 XIII A of the California Constitution, the term “newly constructed,”
2 as used in subdivision (a) of Section 2 of Article XIII A of the
3 California Constitution, does not include the construction or
4 addition of any active solar energy system, as defined in
5 subdivision (b).

6 (b) (1) “Active solar energy system” means a system that uses
7 solar devices, which are thermally isolated from living space or
8 any other area where the energy is used, to provide for the
9 collection, storage, or distribution of solar energy.

10 (2) “Active solar energy system” does not include solar
11 swimming pool heaters or hot tub heaters.

12 (3) Active solar energy systems may be used for any of the
13 following:

14 (A) Domestic, recreational, therapeutic, or service water heating.

15 (B) Space conditioning.

16 (C) Production of electricity.

17 (D) Process heat.

18 (E) Solar mechanical energy.

19 (c) (1) (A) The Legislature finds and declares that the definition
20 of spare parts in this paragraph is declarative of the intent of the
21 Legislature, in prior statutory enactments of this section that
22 excluded active solar energy systems from the term “newly
23 constructed,” as used in the California Constitution, thereby
24 creating a tax appraisal exclusion.

25 (B) An active solar energy system that uses solar energy in the
26 production of electricity includes storage devices, power
27 conditioning equipment, transfer equipment, and parts related to
28 the functioning of those items. In general, the use of solar energy
29 in the production of electricity involves the transformation of
30 sunlight into electricity through the use of devices such as solar
31 cells or other ~~collectors~~ *solar collecting equipment*. However, an
32 active solar energy system used in the production of electricity
33 includes only equipment used up to, but not including, the stage
34 of the transmission or use of the electricity, *except in the case in*
35 *which the electricity is transmitted to a utility for inclusion in the*
36 *utility’s transmission or distribution network, in which case the*
37 *active solar energy system includes all equipment and property,*
38 *other than land, used up to the point of interconnection with the*
39 *utility transmission or distribution network*. For the purpose of
40 this paragraph, the term “parts” includes spare parts that are owned

1 by the owner of, or the maintenance contractor for, an active solar
2 energy system that uses solar energy in the production of electricity
3 and which spare parts were specifically purchased, designed, or
4 fabricated by or for that owner or maintenance contractor for
5 installation in an active solar energy system that uses solar energy
6 in the production of electricity, thereby including those parts in
7 the tax appraisal exclusion created by this section.

8 (2) An active solar energy system that uses solar energy in the
9 production of electricity also includes pipes and ducts that are used
10 exclusively to carry energy derived from solar energy. Pipes and
11 ducts that are used to carry both energy derived from solar energy
12 and from energy derived from other sources are active solar energy
13 system property only to the extent of 75 percent of their full cash
14 value.

15 (3) An active solar energy system that uses solar energy in the
16 production of electricity does not include auxiliary equipment,
17 such as furnaces and hot water heaters, that use a source of power
18 other than solar energy to provide usable energy. An active solar
19 energy system that uses solar energy in the production of electricity
20 does include equipment, such as ducts and hot water tanks, that is
21 utilized by both auxiliary equipment and solar energy equipment,
22 that is, dual use equipment. That equipment is active solar energy
23 system property only to the extent of 75 percent of its full cash
24 value.

25 (d) (1) *Notwithstanding any other law, for purposes of this*
26 *section, “the construction or addition of any active solar energy*
27 *system” includes the construction of an active solar energy system*
28 *in a newly constructed single-family residence that is offered for*
29 *sale and for which the owner-builder incorporated an active solar*
30 *energy system in the initial construction of the residence and the*
31 *owner-builder does not intend to occupy the residence. The*
32 *assessor shall administer this subdivision in the following manner:*

33 (A) *The initial purchaser of the residence shall file a claim with*
34 *the assessor and provide to the assessor any documents necessary*
35 *to identify the value attributable to the active solar energy system*
36 *included in the purchase price of the residence.*

37 (B) *The assessor shall evaluate the claim and determine the*
38 *portion of the purchase price that is attributable to the active solar*
39 *energy system. The assessor shall then reduce the new base year*
40 *value established as a result of the change in ownership of the*

1 *residence to reflect that portion of the value attributable to the*
2 *active solar energy system.*

3 *(C) The extension of the new construction exclusion to the initial*
4 *purchaser of a newly constructed residence shall remain in effect*
5 *only until there is a subsequent change in ownership of the*
6 *residence.*

7 *(2) The State Board of Equalization shall prescribe the manner*
8 *and form for claiming the new construction exclusion required by*
9 *this subdivision.*

10 ~~(d)~~

11 *(e) This section applies to property tax lien dates for the*
12 *1999–2000 fiscal year to the ~~2008–09~~ 2015–16 fiscal year,*
13 *inclusive. For purposes of supplemental assessment, this section*
14 *applies only to qualifying construction or additions completed on*
15 *or after January 1, 1999.*

16 ~~(e)~~

17 *(f) This section shall remain in effect only until January 1, ~~2010~~*
18 *2017, and as of that date is repealed.*

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

23 SEC. 3. If the Commission on State Mandates determines that
24 this act contains costs mandated by the state, reimbursement to
25 local agencies and school districts for those costs shall be made
26 pursuant to Part 7 (commencing with Section 17500) of Division
27 4 of Title 2 of the Government Code.

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