

AMENDED IN ASSEMBLY FEBRUARY 16, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 204

Introduced by Assembly Member Halderman

January 27, 2011

An act to add Section 6378.2 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 204, as amended, Halderman. Sales and use taxes: exemption: biomass energy production.

The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. That law provides various exemptions from those taxes.

This bill would exempt from those taxes the sale of, and the storage, use, or other consumption in this state of, equipment purchased by a biomass energy facility, as defined, for use in its biomass energy production in this state.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which conforms to the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated in these laws. Section 2230 of the Revenue and Taxation

Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

~~This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse cities and counties for sales and use tax revenues lost by them pursuant to this bill.~~

~~This bill would specify that this exemption does not apply to local sales and use taxes or transactions and use taxes.~~

This bill would take effect immediately as a tax levy.

~~Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state sales and use taxes enacted by the Legislature are automatically incorporated into the local taxes.~~

~~Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.~~

~~This bill would provide that no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~yes~~no.

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

- 1 SECTION 1. Section 6378.2 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 6378.2. (a) There are exempt from the taxes imposed by this
- 4 part the gross receipts from the sale of, and the storage, use, or
- 5 other consumption in this state of, equipment purchased by a
- 6 biomass energy facility for use in its biomass energy production
- 7 in this state.
- 8 (b) For purposes of this section, “biomass energy facility” means
- 9 a facility that engages in the controlled combustion, when separated
- 10 from other solid waste, of any of the following materials for the
- 11 purpose of producing electricity or heat:
- 12 (1) Agricultural crop residues.
- 13 (2) Bark, lawn, yard, and garden clippings.
- 14 (3) Leaves, silvicultural residue, and tree and brush pruning.
- 15 (4) Wood, wood chips, and wood waste.
- 16 (5) Nonrecyclable pulp or nonrecyclable paper materials.

1 ~~SEC. 2. Notwithstanding Section 2230 of the Revenue and~~
2 ~~Taxation Code, no appropriation is made by this act and the state~~
3 ~~shall not reimburse any local agency for any sales and use tax~~
4 ~~revenues lost by it under this act.~~

5 *(c) Notwithstanding any provision of the Bradley-Burns Uniform*
6 *Local Sales and Use Tax Law (Part 1.5 (commencing with Section*
7 *7200)) or the Transactions and Use Tax Law (Part 1.6*
8 *(commencing with Section 7251)), the exemption established by*
9 *this section shall not apply with respect to any tax levied by a*
10 *county, city, or district pursuant to, or in accordance with, either*
11 *of those laws.*

12 ~~SEC. 3.~~

13 *SEC. 2.* This act provides for a tax levy within the meaning of
14 Article IV of the Constitution and shall go into immediate effect.