

AMENDED IN ASSEMBLY MARCH 8, 2011  
AMENDED IN ASSEMBLY FEBRUARY 16, 2011  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 204**

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**Introduced by Assembly Member Halderman**

January 27, 2011

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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~~ taxes 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 specify that this exemption does not apply to local sales and use taxes or transactions and use taxes *and taxes from which revenues are deposited into the Local Public Safety Fund, the Local Revenue Fund, or the Fiscal Recovery Fund.*

~~This bill would take effect immediately as a tax levy.~~

*This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.*

Vote: majority. 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 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~~ *the following terms*  
9 *have the following meanings:*

10 (1) *“Agricultural wastes and residues” include, but are not*  
11 *limited to, animal wastes, remains and tallow, food wastes,*  
12 *recycled cooking oils, and pure vegetable oils.*

13 (2) *“Biomass energy facility” means a facility that engages in*  
14 ~~the controlled combustion, when separated from other solid waste,~~  
15 ~~of any of the following materials for the purpose of producing~~  
16 ~~electricity or heat:~~

17 (1) ~~Agricultural crop residues.~~

18 (2) ~~Bark, lawn, yard, and garden clippings.~~

19 (3) ~~Leaves, silvicultural residue, and tree and brush pruning.~~

20 (4) ~~Wood, wood chips, and wood waste.~~

21 (5) ~~Nonrecyclable pulp or nonrecyclable paper materials.~~  
22 *produces energy for distribution using biomass materials.*

23 (3) *“Biomass materials” means any organic material not*  
24 *derived from fossil fuels, including, but not limited to, agricultural*  
25 *crops, agricultural wastes and residues, waste pallets, crates,*

1 *dunnage, manufacturing and construction wood wastes, landscape*  
2 *and right-of-way tree trimmings, mill residues that result from*  
3 *milling lumber, rangeland maintenance residues, biosolids, sludge*  
4 *derived from organic matter, and wood and wood waste from*  
5 *timbering operations.*

6 (4) *“Landscape and right-of-way tree trimmings” include all*  
7 *solid waste materials that result from tree or vegetation trimming*  
8 *or removal to establish or maintain a right-of-way on public or*  
9 *private land for the provision of public utilities, including, but not*  
10 *limited to, natural gas, water, electricity, and telecommunications,*  
11 *for fuel hazard reduction resulting in fire protection and*  
12 *prevention, or for the public’s recreational use.*

13 (c) Notwithstanding any provision of the Bradley-Burns Uniform  
14 Local Sales and Use Tax Law (Part 1.5 (commencing with Section  
15 7200)) or the Transactions and Use Tax Law (Part 1.6  
16 (commencing with Section 7251)), the exemption established by  
17 this section shall not apply with respect to any tax levied by a  
18 county, city, or district pursuant to, or in accordance with, either  
19 of those laws.

20 (d) Notwithstanding subdivision (a), the exemption provided by  
21 this section shall not apply with respect to any tax levied pursuant  
22 to Section 6051.2, 6051.5, 6201.2, or 6201.5, or pursuant to Section  
23 35 of Article XIII of the California Constitution.

24 ~~SEC. 2.—This act provides for a tax levy within the meaning of~~  
25 ~~Article IV of the Constitution and shall go into immediate effect.~~

26 *SEC. 2. This act provides for a tax levy within the meaning of*  
27 *Article IV of the Constitution and shall go into immediate effect.*  
28 *However, the provisions of this act shall become operative on the*  
29 *first day of the first calendar quarter commencing more than 90*  
30 *days after the effective date of this act.*