

AMENDED IN SENATE AUGUST 29, 2011

AMENDED IN SENATE AUGUST 22, 2011

AMENDED IN ASSEMBLY MAY 11, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 563

Introduced by Assembly Member Furutani

February 16, 2011

An act to ~~amend Section 408 of~~ *add Section 408.4* to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 563, as amended, Furutani. Property taxation: assessor: disclosure: appraisal information.

Existing property tax law requires the assessor to disclose certain appraisal information to specified state and local agencies, including, among others, the county recorder when conducting an investigation to determine whether a documentary transfer tax is imposed, and requires certain state agencies to reimburse the assessor for any costs incurred in disclosing this information.

This bill would expand the list of local agencies the assessor is required to disclose certain appraisal information to, to include designated employees of a city's finance office when conducting an investigation to determine whether a documentary transfer tax should be imposed for an unrecorded change in control or ownership of property, and would also require the city to reimburse the assessor for any costs incurred in disclosing this information. This bill would require the designated employee of a city's finance office to certify to the assessor, under penalty of perjury, that he or she needs the information

to assist with the preparation and enforcement of the Documentary Transfer Tax Act and that the information provided to him or her that is not public record and that is not open to public inspection shall not become public record and shall not be open to public inspection.

By expanding the crime of perjury, and by imposing additional duties on county officials with respect to the disclosure of certain information, 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 no reimbursement is required by this act for a specified reason.

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 408.4 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 408.4. (a) The assessor shall disclose information, furnish
- 4 abstracts, or permit access to all records in his or her office to
- 5 designated employees of a city’s finance office when conducting
- 6 an investigation to determine whether a documentary transfer tax
- 7 should be imposed for an unrecorded change in control or
- 8 ownership of property.
- 9 (b) Upon the written request of a designated employee of a city’s
- 10 finance office, the assessor shall provide to the designated
- 11 employee of a city’s finance office information for the preparation
- 12 and enforcement of Part 6.7 (commencing with Section 11901) of
- 13 Division 2. The information provided by the assessor shall not
- 14 include social security numbers. The designated employee of a
- 15 city’s finance office shall, under penalty of perjury, certify to the
- 16 assessor that he or she needs the information to assist with the
- 17 preparation and enforcement of Part 6.7 (commencing with Section
- 18 11901) of Division 2 and that the information provided pursuant
- 19 to this subdivision that is not public record and that is not open
- 20 to public inspection shall not become public record and shall not
- 21 be open to public inspection.
- 22 (c) Whenever the assessor discloses information, furnishes
- 23 abstracts, or permits access to records in his or her office to

1 *designated employees of a city's finance office pursuant to this*
2 *subdivision, the city shall reimburse the assessor for any costs*
3 *incurred as a result thereof.*

4 SECTION 1. ~~Section 408 of the Revenue and Taxation Code~~
5 ~~is amended to read:~~

6 ~~408. (a) Except as otherwise provided in subdivisions (b), (c),~~
7 ~~(d), and (e), any information and records in the assessor's office~~
8 ~~that are not required by law to be kept or prepared by the assessor,~~
9 ~~disabled veterans' exemption claims, and homeowners' exemption~~
10 ~~claims, are not public documents and shall not be open to public~~
11 ~~inspection. Property receiving the homeowners' exemption shall~~
12 ~~be clearly identified on the assessment roll. The assessor shall~~
13 ~~maintain records which shall be open to public inspection to~~
14 ~~identify those claimants who have been granted the homeowners'~~
15 ~~exemption.~~

16 ~~(b) (1) The assessor may provide any appraisal data in his or~~
17 ~~her possession to the assessor of any county.~~

18 ~~The assessor shall disclose information, furnish abstracts, or~~
19 ~~permit access to all records in his or her office to law enforcement~~
20 ~~agencies, the county grand jury, the board of supervisors or their~~
21 ~~duly authorized agents, employees, or representatives when~~
22 ~~conducting an investigation of the assessor's office pursuant to~~
23 ~~Section 25303 of the Government Code, the county recorder when~~
24 ~~conducting an investigation to determine whether a documentary~~
25 ~~transfer tax is imposed, designated employees of a city's finance~~
26 ~~office when conducting an investigation to determine whether a~~
27 ~~documentary transfer tax should be imposed for an unrecorded~~
28 ~~change in control or ownership of property, the Controller,~~
29 ~~employees of the Controller for property tax postponement~~
30 ~~purposes, probate referees, employees of the Franchise Tax Board~~
31 ~~for tax administration purposes only, staff appraisers of the~~
32 ~~Department of Financial Institutions, the Department of~~
33 ~~Transportation, the Department of General Services, the State~~
34 ~~Board of Equalization, the State Lands Commission, the State~~
35 ~~Department of Social Services, the Department of Child Support~~
36 ~~Services, the Department of Water Resources, and other duly~~
37 ~~authorized legislative or administrative bodies of the state pursuant~~
38 ~~to their authorization to examine the records.~~

39 ~~(2) Upon the written request of a designated employee of a city's~~
40 ~~finance office, the assessor shall provide to the designated~~

1 employee of a city's finance office information for the preparation
2 and enforcement of Part 6.7 (commencing with Section 11901) of
3 Division 2. The information provided by the assessor shall not
4 include social security numbers. The designated employee of a
5 city's finance office shall, under penalty of perjury, certify to the
6 assessor that he or she needs the information to assist with the
7 preparation and enforcement of Part 6.7 (commencing with Section
8 11901) of Division 2 and that the information provided pursuant
9 to this subdivision that is not public record and that is not open to
10 public inspection shall not become public record and shall not be
11 open to public inspection.

12 ~~(3) Whenever the assessor discloses information, furnishes~~
13 ~~abstracts, or permits access to records in his or her office to staff~~
14 ~~appraisers of the Department of Financial Institutions, the~~
15 ~~Department of Transportation, the Department of General Services,~~
16 ~~the State Lands Commission, or the Department of Water~~
17 ~~Resources, or to designated employees of a city's finance office,~~
18 ~~pursuant to this subdivision, the department or city shall reimburse~~
19 ~~the assessor for any costs incurred as a result thereof.~~

20 ~~(e) Upon the request of the tax collector, the assessor shall~~
21 ~~disclose and provide to the tax collector information used in the~~
22 ~~preparation of that portion of the unsecured roll for which the taxes~~
23 ~~thereon are delinquent. The tax collector shall certify to the assessor~~
24 ~~that he or she needs the information requested for the enforcement~~
25 ~~of the tax lien in collecting those delinquent taxes. Information~~
26 ~~requested by the tax collector may include social security numbers,~~
27 ~~and the assessor shall recover from the tax collector his or her~~
28 ~~actual and reasonable costs for providing the information. The tax~~
29 ~~collector shall add the costs described in the preceding sentence~~
30 ~~to the assessee's delinquent tax lien and collect those costs subject~~
31 ~~to subdivision (e) of Section 2922.~~

32 ~~(d) The assessor shall, upon the request of an assessee or his or~~
33 ~~her designated representative, permit the assessee or representative~~
34 ~~to inspect or copy any market data in the assessor's possession.~~
35 ~~For purposes of this subdivision, "market data" means any~~
36 ~~information in the assessor's possession, whether or not required~~
37 ~~to be prepared or kept by him or her, relating to the sale of any~~
38 ~~property comparable to the property of the assessee, if the assessor~~
39 ~~bases his or her assessment of the assessee's property, in whole~~
40 ~~or in part, on that comparable sale or sales. The assessor shall~~

1 provide the names of the seller and buyer of each property on
2 which the comparison is based, the location of that property, the
3 date of the sale, and the consideration paid for the property, whether
4 paid in money or otherwise. However, for purposes of providing
5 market data, the assessor may not display any document relating
6 to the business affairs or property of another.

7 (e) (1) With respect to information, documents, and records,
8 other than market data as defined in subdivision (d), the assessor
9 shall, upon request of an assessee of property, or his or her
10 designated representative, permit the assessee or representative to
11 inspect or copy all information, documents, and records, including
12 auditors' narrations and workpapers, whether or not required to
13 be kept or prepared by the assessor, relating to the appraisal and
14 the assessment of the assessee's property, and any penalties and
15 interest thereon.

16 (2) After enrolling an assessment, the assessor shall respond to
17 a written request for information supporting the assessment,
18 including, but not limited to, any appraisal and other data requested
19 by the assessee.

20 (3) Except as provided in Section 408.1, an assessee, or his or
21 her designated representative, may not be permitted to inspect or
22 copy information and records that also relate to the property or
23 business affairs of another, unless that disclosure is ordered by a
24 competent court in a proceeding initiated by a taxpayer seeking to
25 challenge the legality of the assessment of his or her property.

26 (f) (1) Permission for the inspection or copying requested
27 pursuant to subdivision (d) or (e) shall be granted as soon as
28 reasonably possible to the assessee or his or her designated
29 representative.

30 (2) If the assessee, or his or her designated representative,
31 requests the assessor to make copies of any of the requested
32 records, the assessee shall reimburse the assessor for the reasonable
33 costs incurred in reproducing and providing the copies.

34 (3) If the assessor fails to permit the inspection or copying of
35 materials or information as requested pursuant to subdivision (d)
36 or (e) and the assessor introduces any requested materials or
37 information at any assessment appeals board hearing, the assessee
38 or his or her representative may request and shall be granted a
39 continuance for a reasonable period of time. The continuance shall

1 ~~extend the two-year period specified in subdivision (c) of Section~~
2 ~~1604 for a period of time equal to the period of continuance.~~

3 SEC. 2. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution for certain
5 costs that may be incurred by a local agency or school district
6 because, in that regard, this act creates a new crime or infraction,
7 eliminates a crime or infraction, or changes the penalty for a crime
8 or infraction, within the meaning of Section 17556 of the
9 Government Code, or changes the definition of a crime within the
10 meaning of Section 6 of Article XIII B of the California
11 Constitution.

12 Moreover, for certain other costs that may be incurred by a local
13 agency, in that regard, this act provides for reimbursement to a
14 local agency in the form of additional revenues that are sufficient
15 in amount to fund the new duties established by this act, within
16 the meaning of Section 17556 of the Government Code.