

AMENDED IN SENATE APRIL 25, 2012

AMENDED IN SENATE APRIL 16, 2012

SENATE BILL

No. 1257

Introduced by Senator Hernandez

February 23, 2012

An act to amend Section 7284.2 of, *and to add Section 7284.3 to*, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1257, as amended, Hernandez. Utility user tax: *exemption*: public transit vehicles.

Existing law *generally provides that the legislative body of any city and any charter city may make and enforce all ordinances and regulations with respect to municipal affairs, as provided, including, but not limited to, a utility user tax on the consumption of gas and electricity*. Existing law provides that the board of supervisors of any county may levy a utility user tax on the consumption of, among other things, *gas and electricity*, in the unincorporated area of the county.

This bill would provide that ~~no a local jurisdiction, as defined, may not impose a utility user tax shall be imposed under these provisions upon~~, as specified, upon either the consumption of compressed natural gas dispensed by a gas compressor, within a local jurisdiction, that is separately metered and is dedicated to providing compressed natural gas as a motor vehicle fuel for use by the local agency or public transit operator or the consumption of electricity used to charge electric bus propulsion batteries, within a local jurisdiction, that is separately metered and is dedicated to providing electricity as fuel for an electric public transit bus.

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

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

1 SECTION 1. It is the intent of the Legislature to recognize
2 that public transit operators are moving towards the use of
3 electricity as ~~the a~~ primary fuel source to meet air quality objectives
4 at the state and regional levels, as well as to provide vital public
5 transportation services to transit-dependent citizens in California.
6 Further, the Mills-Hayes Act (Section 8655 of the Revenue and
7 Taxation Code) provides that a tax shall not be imposed upon the
8 use of fuel by public transit operations. Enactment of this
9 legislation will clarify that, pursuant to the Mills-Hayes Act, the
10 ~~use~~ *consumption* of electricity as a motor vehicle fuel for use by
11 an electric public transit bus shall be exempt from any taxes
12 imposed upon ~~fuel~~ *the consumption of electricity*.

13 SEC. 2. Section 7284.2 of the Revenue and Taxation Code is
14 amended to read:

15 7284.2. (a) ~~The board of supervisors of any county may levy~~
16 a utility user tax on the consumption of electricity, gas, water,
17 sewer, telephone, telegraph, and cable television services in the
18 unincorporated area of the county.

19 ~~(b) (1) For purposes of this section, "gas" shall not be construed~~
20 ~~as referring to the consumption of compressed natural gas~~
21 ~~dispensed by a gas compressor, within a local jurisdiction, that is~~
22 ~~separately metered and is dedicated to providing compressed~~
23 ~~natural gas as a motor vehicle fuel for use by the local agency or~~
24 ~~public transit operator.~~

25 ~~(2) For purposes of this section, "electricity" shall not be~~
26 ~~construed as referring to the consumption of electricity used to~~
27 ~~charge electric bus propulsion batteries, within a local jurisdiction,~~
28 ~~that is separately metered and is dedicated to providing electricity~~
29 ~~as a motor vehicle fuel for use by an electric public transit bus.~~

30 ~~(c) For purposes of this section, "local jurisdiction" means any~~
31 ~~city, county, city and county, including any chartered city, county,~~
32 ~~or city and county, district, or public or municipal corporation.~~

33 ~~(d) For purposes of this section "public transit operator" means~~
34 ~~a local or regional transit agency or a joint powers agency operating~~
35 ~~bus transportation service as defined pursuant to Article 1~~

1 ~~(commencing with Section 99200) of Chapter 4 of Part 11 of~~
2 ~~Division 10 of the Public Utilities Code.~~

3 *SEC. 3. Section 7284.3 is added to the Revenue and Taxation*
4 *Code, to read:*

5 *7284.3. (a) For the purposes of this section:*

6 *(1) "Local jurisdiction" means any city, county, city and county,*
7 *including any chartered city, county, or city and county, district,*
8 *or public or municipal corporation.*

9 *(2) "Public transit operator" means a local or regional transit*
10 *agency or a joint powers agency operating bus transportation*
11 *service as described pursuant to Article 1 (commencing with*
12 *Section 99200) of Chapter 4 of Part 11 of Division 10 of the Public*
13 *Utilities Code.*

14 *(b) There are exempted from any utility user tax, imposed by*
15 *any local jurisdiction, a local agency's or public transit operator's*
16 *consumption of compressed natural gas dispensed by a gas*
17 *compressor, within a local jurisdiction, that is separately metered*
18 *and is dedicated to providing compressed natural gas as a motor*
19 *vehicle fuel for use by the local agency or public transit operator.*

20 *(c) There are exempted from any utility user tax on the*
21 *consumption of electricity, imposed by any local jurisdiction, a*
22 *local agency's or public transit operator's consumption of*
23 *electricity used to charge electric bus propulsion batteries, within*
24 *a local jurisdiction, that is separately metered and is dedicated to*
25 *providing electricity as a motor vehicle fuel for use by an electric*
26 *public transit bus.*

27 *SEC. 4. The Legislature finds and declares that exempting the*
28 *consumption of natural gas, electricity, or both, by a local agency*
29 *or public transit operator from local utility user taxes will ensure*
30 *statewide uniformity and fairness in the overall cost of providing*
31 *vital public transportation services to transit dependent citizens*
32 *in California. Therefore, exempting from utility user taxes the*
33 *consumption of natural gas, electricity, or both, as a motor vehicle*
34 *fuel for public transit vehicles by local agencies or public transit*
35 *operators is a matter of statewide concern, and not a municipal*
36 *affair, as that term is used in Section 5 of Article XI of the*
37 *California Constitution.*

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