

AMENDED IN ASSEMBLY MAY 2, 2013
AMENDED IN ASSEMBLY MARCH 21, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1055

Introduced by Assembly Member Pan

February 22, 2013

An act to add Part 11 (commencing with Section 5500) to Division 1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1055, as amended, Pan. Taxation: qualified heavy equipment.

The California Constitution authorizes the Legislature to classify personal property for differential taxation or for exemption by means of a statute approved by a $\frac{2}{3}$ vote of the membership of each house.

This bill would, pursuant to this constitutional authorization, ~~on and after January 1, 2014,~~ impose a tax on every qualified lessee *rentee*, as defined, of qualified heavy equipment, as defined, for the privilege of ~~leasing or~~ renting qualified heavy equipment in this state at the rate of ~~1.25%~~ _____% of the gross receipts of the ~~qualified lessee rental price from the renting of qualified heavy equipment. This bill would require a qualified renter to collect the tax from the qualified rentee at the time of rental, as provided.~~ This bill would provide that this tax shall be in lieu of any personal property tax on qualified heavy equipment. This bill would require the tax to be administered by the State Board of Equalization and to be collected pursuant to the procedures set forth in the Fee Collection Procedures Law. This bill would require all revenues, interest, penalties, and other amounts, *less refunds and the board's costs*

of administration, derived from the imposition of the tax to be deposited in the Heavy Equipment Revenue Fund in the State Treasury, established by this bill. This bill would require all revenues in the fund, upon appropriation by the Legislature, to be used to reimburse local entities for their loss of property tax revenues resulting from this bill. This bill would allow the Director of Finance to authorize a loan from the General Fund to the board to meet cash needs resulting from the delay in receipt of revenues into the Heavy Equipment Revenue Fund, provided the loan is repaid from the Heavy Equipment Revenue Fund, as provided.

By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, 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.

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.

~~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: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Part 11 (commencing with Section 5500) is added
- 2 to Division 1 of the Revenue and Taxation Code, to read:

1 PART 11. TAXATION OF QUALIFIED HEAVY EQUIPMENT

2

3 5500. For purposes of this part, all of the following definitions
4 shall apply:

5 (a) *“Rental price” means the total amount of the charge for*
6 *renting the qualified rental equipment, excluding any separately*
7 *stated charges that are not rental charges, including but not limited*
8 *to, separately stated charges for delivery and pickup fees, damage*
9 *waivers, environmental mitigation fees, or use taxes.*

10 ~~(a)~~

11 (b) *“Local entity” means a city, county, and special district.*

12 ~~(b)~~

13 (c) (1) *“Qualified heavy equipment” means construction,*
14 *earthmoving, or industrial equipment that is mobile, including*
15 *attachments for the equipment, including, but not limited to, all of*
16 *the following:*

17 ~~(1)~~

18 (A) *A self-propelled vehicle that is not designed to be driven*
19 *on the highway.*

20 ~~(2)~~

21 (B) *Industrial electrical generation equipment.*

22 ~~(3)~~

23 (C) *Industrial lift equipment.*

24 ~~(4)~~

25 (D) *Industrial material equipment.*

26 (E) *Equipment used in shoring, shielding, and ground trenching.*

27 (2) *Qualified heavy equipment is mobile if the qualified heavy*
28 *equipment is not intended to be permanently affixed to real*
29 *property for the purpose of using the qualified heavy equipment*
30 *for its intended use. Qualified heavy equipment is mobile if it is*
31 *intended to be moved among worksites as needed.*

32 ~~(e) *“Leasing or renting” means a short-term lease or rental for*~~
33 ~~*a period of 365 days or less.*~~

34 ~~(d) *“Qualified lessee” rentee” means a lessee rentee that leases*~~
35 ~~*or rents qualified heavy equipment from a qualified lessor renter.*~~

36 ~~(e) *“Qualified lessor” renter” means a lessor renter that satisfies*~~
37 ~~*all of the following:*~~

38 ~~(1) *The principal business of the lessor renter is the short-term*~~
39 ~~*lease or rental of qualified heavy equipment.*~~

1 (2) _____ percent of the total gross receipts of the qualified
2 lessor's business is derived from the lease or rental of qualified
3 heavy equipment.

4 (3)
5 (2) Is engaged in a line of business described in NAICS Industry
6 Code 532412 of the North American Industry Classification
7 System published by the United States Office of Management and
8 Budget, 2012 edition.

9 (f) "Renting" or "rent" means a rental for a period of less than
10 365 days or for an undefined period.

11 5501. ~~On or after January 1, 2014, there~~ (a) There is hereby
12 imposed a tax on every qualified lessee rentee of qualified heavy
13 equipment for the privilege of leasing or renting qualified heavy
14 equipment in this state at the rate of 1.25 _____ percent of the gross
15 receipts of the qualified lessee from the lease or rental price from
16 the renting of qualified heavy equipment.

17 (b) (1) The qualified renter shall collect the tax from the
18 qualified rentee at the time of rental and remit the tax to the board
19 as required by this part. Any amount unreturned to the qualified
20 rentee who paid an amount in excess of the tax, but was collected
21 from the qualified rentee under the representation by the qualified
22 renter that it was owed as tax, constitutes debts owed by the
23 qualified renter to this state.

24 (2) Every qualified rentee who rents qualified heavy equipment
25 in this state is liable for the tax until it has been paid to this state,
26 except that payment to a qualified renter relieves the qualified
27 rentee from further liability for the tax. Any tax collected from a
28 qualified rentee that has not been remitted to the board shall be
29 a debt owed to the state by the qualified renter required to collect
30 and remit the tax. Nothing in this part shall impose any obligation
31 upon a qualified renter to take any legal action to enforce the
32 collection of the tax imposed by this part.

33 (c) The qualified renter shall separately state the amount of the
34 tax imposed under this section on any contract, receipt, invoice,
35 or other similar document given by the qualified renter to the
36 qualified rentee at the time of rental.

37 (d) The board shall administer and collect the tax imposed by
38 this part pursuant to the Fee Collection Procedures Law (Part 30
39 (commencing with Section 55001) of Division 2). For purposes of
40 this part, the references in the Fee Collection Procedures Law to

1 “fee” shall include the tax imposed by this part, and references
2 to “feepayer” shall include a person liable for the payment of the
3 taxes imposed by this part and collected pursuant to that law.

4 ~~5502. The State Board of Equalization shall administer and~~
5 ~~collect the tax imposed by this part pursuant to the Fee Collection~~
6 ~~Procedures Law (Part 30 (commencing with Section 55001) of~~
7 ~~Division 2). For purposes of this part, the references in the Fee~~
8 ~~Collection Procedures Law to “fee” shall include the tax imposed~~
9 ~~by this part and references to “feepayer” shall include a person~~
10 ~~required to pay the tax imposed by this part.~~

11 *5502. Every qualified renter required to collect the tax imposed*
12 *under this part shall register with the board. Every application*
13 *for registration shall be made upon a form prescribed by the board*
14 *and shall set forth the name under which the applicant transacts*
15 *or intends to transact business, the location of its place or places*
16 *of business, and other information as the board may require. An*
17 *application for an account shall be authenticated in a form or*
18 *pursuant to methods as may be prescribed by the board.*

19 ~~5503. The State Board of Equalization board~~ may prescribe,
20 adopt, and enforce regulations relating to the administration and
21 enforcement of this part, including, but not limited to, collections,
22 reporting, refunds, and appeals.

23 ~~5504. The taxes imposed by this part are due and payable to~~
24 ~~the State Board of Equalization board~~ quarterly on or before the
25 last day of the month next succeeding each quarterly period.

26 5506. (a) On or before the last day of the month following
27 each quarterly period of three months, a return for the preceding
28 quarterly period shall be filed using electronic media with the ~~State~~
29 ~~Board of Equalization board.~~

30 (b) ~~The State Board of Equalization board~~ may prescribe those
31 forms and reporting requirements as are necessary to implement
32 the tax.

33 (c) Returns shall be authenticated in a form or pursuant to
34 methods as may be prescribed by the board.

35 ~~5507. The qualified lessor shall collect the tax imposed pursuant~~
36 ~~to this part on each lease or rental of qualified heavy equipment~~
37 ~~and remit the tax to State Board of Equalization as required by this~~
38 ~~part.~~

39 5508. (a) All revenues, interest, penalties, and other amounts
40 collected pursuant to this part, less refunds *and the board’s costs*

1 *of administration*, shall be deposited in the Heavy Equipment
 2 Revenue Fund, which is hereby established in the State Treasury.

3 (b) Upon appropriation by the Legislature, revenues in the fund
 4 shall be used to reimburse local entities for their loss of property
 5 tax revenues resulting from the act that added this subdivision.

6 (c) *Notwithstanding any other law, the Director of Finance may*
 7 *authorize a loan from the General Fund to the board to meet cash*
 8 *needs resulting from the delay in receipt of revenues into the Heavy*
 9 *Equipment Revenue Fund, provided the loan is repaid from the*
 10 *Heavy Equipment Revenue Fund by December 31 of the second*
 11 *fiscal year following that in which the loan was authorized. Interest*
 12 *charges shall be waived pursuant to subdivision (e) of Section*
 13 *16314 of the Government Code. The Director of Finance shall*
 14 *notify the Chairperson of the Joint Legislative Budget Committee*
 15 *and the chairperson of the committees in each house of the*
 16 *Legislature that consider appropriations no later than 30 days*
 17 *after authorizing the loan.*

18 5509. (a) For the 2014–15 fiscal year and for each fiscal year
 19 thereafter, the tax imposed pursuant to this part shall be in lieu of
 20 any property tax on qualified heavy equipment subject to taxation
 21 pursuant to this part.

22 (b) *Qualified heavy equipment of a business that is not for rent*
 23 *shall remain subject to any applicable property taxes.*

24 5510. *This part shall not apply to any rental contract for*
 25 *qualified heavy equipment that was entered into before the*
 26 *operative date of the act adding this section.*

27 SEC. 2. No reimbursement is required by this act pursuant to
 28 Section 6 of Article XIII B of the California Constitution because
 29 the only costs that may be incurred by a local agency or school
 30 district will be incurred because this act creates a new crime or
 31 infraction, eliminates a crime or infraction, or changes the penalty
 32 for a crime or infraction, within the meaning of Section 17556 of
 33 the Government Code, or changes the definition of a crime within
 34 the meaning of Section 6 of Article XIII B of the California
 35 Constitution.

36 SEC. 3. Notwithstanding Section 2229 of the Revenue and
 37 Taxation Code, no appropriation is made by this act and the state
 38 shall not reimburse any local agency for any property tax revenues
 39 lost by it pursuant to this act.

1 ~~SEC. 4.—This act provides for a tax levy within the meaning of~~
2 ~~Article IV of the Constitution and shall go into immediate effect.~~
3 *SEC. 4. This act provides for a tax levy within the meaning of*
4 *Article IV of the Constitution and shall go into immediate effect.*
5 *However, the provisions of this act shall become operative on the*
6 *first day of the first calendar quarter commencing more than 180*
7 *days after the effective date of this act.*