

Senate Bill No. 871

Passed the Senate June 15, 2014

Secretary of the Senate

Passed the Assembly June 15, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 73 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 871, Committee on Budget and Fiscal Review. Property taxes: new construction exclusion: active solar energy system.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, “full cash value” is defined as the assessor’s valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Pursuant to an authorization in the California Constitution, existing law excludes, through the 2015–16 fiscal year, from classification as “newly constructed” the construction or addition of an active solar energy system, as defined. This exclusion will be repealed on January 1, 2017.

This bill would extend this exclusion through the 2023–24 fiscal year, and would also extend the repeal date to January 1, 2025.

By imposing new duties upon local county officials with respect to the administration of this exclusion, 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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.

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

SECTION 1. Section 73 of the Revenue and Taxation Code is amended to read:

73. (a) Pursuant to the authority granted to the Legislature pursuant to paragraph (1) of subdivision (c) of Section 2 of Article XIII A of the California Constitution, the term “newly constructed,” as used in subdivision (a) of Section 2 of Article XIII A of the California Constitution, does not include the construction or addition of any active solar energy system, as defined in subdivision (b).

(b) (1) “Active solar energy system” means a system that, upon completion of the construction of a system as part of a new property or the addition of a system to an existing property, uses solar devices, which are thermally isolated from living space or any other area where the energy is used, to provide for the collection, storage, or distribution of solar energy.

(2) “Active solar energy system” does not include solar swimming pool heaters or hot tub heaters.

(3) Active solar energy systems may be used for any of the following:

- (A) Domestic, recreational, therapeutic, or service water heating.
- (B) Space conditioning.
- (C) Production of electricity.
- (D) Process heat.
- (E) Solar mechanical energy.

(c) For purposes of this section, “occupy or use” has the same meaning as defined in Section 75.12.

(d) (1) (A) The Legislature finds and declares that the definition of spare parts in this paragraph is declarative of the intent of the Legislature, in prior statutory enactments of this section that excluded active solar energy systems from the term “newly constructed,” as used in the California Constitution, thereby creating a tax appraisal exclusion.

(B) An active solar energy system that uses solar energy in the production of electricity includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. In general, the use of solar energy in the production of electricity involves the transformation of sunlight into electricity through the use of devices such as solar cells or other solar collecting equipment. However, an active solar energy system used in the production of electricity includes only equipment used up to, but not including, the stage of conveyance or use of the electricity. For the purpose of this paragraph, the term “parts” includes spare parts that are owned by the owner of, or the maintenance contractor for, an active solar energy system that uses solar energy in the production of electricity and which spare parts were specifically purchased, designed, or fabricated by or for that owner or maintenance contractor for installation in an active solar energy system that uses solar energy in the production of electricity, thereby including those parts in the tax appraisal exclusion created by this section.

(2) An active solar energy system that uses solar energy in the production of electricity also includes pipes and ducts that are used exclusively to carry energy derived from solar energy. Pipes and ducts that are used to carry both energy derived from solar energy and from energy derived from other sources are active solar energy system property only to the extent of 75 percent of their full cash value.

(3) An active solar energy system that uses solar energy in the production of electricity does not include auxiliary equipment, such as furnaces and hot water heaters, that use a source of power other than solar energy to provide usable energy. An active solar energy system that uses solar energy in the production of electricity does include equipment, such as ducts and hot water tanks, that is utilized by both auxiliary equipment and solar energy equipment, that is, dual use equipment. That equipment is active solar energy system property only to the extent of 75 percent of its full cash value.

(e) (1) Notwithstanding any other law, for purposes of this section, “the construction or addition of any active solar energy system” includes the construction of an active solar energy system incorporated by the owner-builder in the initial construction of a new building that the owner-builder does not intend to occupy or

use. The exclusion from “newly constructed” provided by this subdivision applies to the initial purchaser who purchased the new building from the owner-builder, but only if the owner-builder did not receive an exclusion under this section for the same active solar energy system and only if the initial purchaser purchased the new building prior to that building becoming subject to reassessment to the owner-builder, as described in subdivision (d) of Section 75.12. The assessor shall administer this subdivision in the following manner:

(A) The initial purchaser of the building shall file a claim with the assessor and provide to the assessor any documents necessary to identify the value attributable to the active solar energy system included in the purchase price of the new building. The claim shall also identify the amount of any rebate for the active solar energy system provided to either the owner-builder or the initial purchaser by the Public Utilities Commission, the State Energy Resources Conservation and Development Commission, an electrical corporation, a local publicly owned electric utility, or any other agency of the State of California.

(B) The assessor shall evaluate the claim and determine the portion of the purchase price that is attributable to the active solar energy system. The assessor shall then reduce the new base year value established as a result of the change in ownership of the new building by an amount equal to the difference between the following two amounts:

(i) That portion of the value of the new building attributable to the active solar energy system.

(ii) The total amount of all rebates, if any, described in subparagraph (A) that were provided to either the owner-builder or the initial purchaser.

(C) The extension of the new construction exclusion to the initial purchaser of a newly constructed new building shall remain in effect only until there is a subsequent change in ownership of the new building.

(2) The State Board of Equalization, in consultation with the California Assessors’ Association, shall prescribe the manner, documentation, and form for claiming the new construction exclusion required by this subdivision.

(f) Notwithstanding any other law, the exclusion from new construction provided by this section shall remain in effect only until there is a subsequent change in ownership.

(g) This section applies to property tax lien dates for the 1999–2000 fiscal year to the 2023–24 fiscal year, inclusive.

(h) The amendments made to this section by the act that added this subdivision apply beginning with the lien date for the 2008–09 fiscal year.

(i) (1) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

(2) Active energy solar systems that qualify for an exclusion under this section prior to January 1, 2025, shall continue to be excluded on and after January 1, 2025, until there is a subsequent change in ownership.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

Approved _____, 2014

Governor