

Introduced by Senator KnightFebruary 19, 2014

An act to amend Section 890.3 of the Military and Veterans Code, and to amend Section 5097 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1113, as introduced, Knight. Property taxation: disabled veterans' exemption: refunds: statute of limitations.

Existing tax law provides, pursuant to an authorization of the California Constitution, for the exemption from property taxation of specified amounts of the assessed value of the home of a disabled veteran, or a veteran's spouse in the case in which the person has, as a result of a service-connected disease or injury, died while on active duty in military service, contingent upon a claim being filed, as specified. Existing law requires, if the exemption would have been available but for the claimant's failure to receive a timely disability rating from the United States Department of Veterans Affairs, the refund or cancellation of taxes on that portion of the assessed value of the property that would have been exempt under a timely and appropriate claim, provided a claimant meets certain filing requirements. Existing law requires property taxes to be refunded upon the filing of a claim within 4 years after making the payment sought to be refunded.

This bill would, if a claim for a refund is filed under the circumstances described above for the disabled veterans' exemption on or after January 1, 2015, extend the period of time for which a refund is required to be made from 4 years to 8 years. This bill would also correct an incorrect cross reference in a related provision.

By changing the manner in which local county officials administer property tax refunds with respect to the disabled veterans’ exemption, 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.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The disabled veterans’ property tax exemption law provides
- 4 honors and recognizes the service and sacrifice that members of
- 5 the military and their families gave, and continue to give, to this
- 6 country.
- 7 (b) The disabled veterans’ property tax exemption helps disabled
- 8 veterans defray the property taxes due on their homes. However,
- 9 this benefit provided by the state cannot be granted until the United
- 10 States Department of Veterans Affairs issues the disabled veteran
- 11 a 100 percent disability rating. In some cases, it can take many
- 12 years for the veteran to obtain the required 100 percent disability
- 13 rating. In these instances, the limitations on refunds of property
- 14 taxes paid can preclude veterans from receiving the benefit as of
- 15 their effective disability date.
- 16 (c) The voters of California have repeatedly affirmed their
- 17 support and commitment to disabled veterans and their spouses
- 18 by approving needed changes to this constitutionally provided
- 19 property tax exemption.
- 20 (d) By expanding the period to file a claim for refund, this act
- 21 implements subdivision (a) of Section 4 of Article XIII of the
- 22 California Constitution, and thereby fulfills a valid public purpose
- 23 of relieving economic hardship on persons and their spouses,
- 24 including unmarried surviving spouses, that have incurred injury
- 25 or death in military service to this country.

1 SEC. 2. Section 890.3 of the Military and Veterans Code is
2 amended to read:

3 890.3. (a) (1) Notwithstanding any other ~~provision of law~~, on
4 or after January 1, 2001, a claimant is not ineligible for a disabled
5 veterans' benefit for lack of certification of disability of the veteran
6 with respect to whom the benefit is sought, if there is a currently
7 pending application to the United States Department of Veterans
8 Affairs (USDVA) for certification of disability for that veteran
9 and the subsequently received certification qualifies the veteran
10 for the benefit. An entity of state government, or any political
11 subdivision thereof, to which a claim for a disabled veterans'
12 benefit is made, shall require the claimant to provide written
13 verification that an application had been pending with the USDVA
14 at the time the claim for the disabled veterans' benefit is submitted.

15 (2) For purposes of this subdivision, "disabled veterans benefit"
16 means an exemption, privilege, service, or other legal benefit that
17 is provided pursuant to law by the state, or a political subdivision
18 thereof, exclusively to a disabled veteran, or his or her surviving
19 spouse, parent, or child.

20 (b) (1) For purposes of applying the disabled veterans' property
21 tax exemption set forth in Section 205.5 of the Revenue and
22 Taxation Code, any amount of tax, including any interest or penalty
23 thereon, levied upon that portion of the assessed value of real
24 property that would have been exempt if the veteran's pending
25 application for certification of disability had been finalized, shall
26 be canceled or refunded if both of the following conditions are
27 met:

28 (A) The certification is received and is forwarded to the county
29 assessor.

30 (B) A return is made as required by Section 277 of the Revenue
31 and Taxation Code.

32 (2) Any refund issued pursuant to this subdivision is subject to
33 the limitations periods for refunds set forth in ~~Section 5096~~ 5097
34 of the Revenue and Taxation Code.

35 SEC. 3. Section 5097 of the Revenue and Taxation Code is
36 amended to read:

37 5097. (a) ~~No~~ An order for a refund under this article shall *not*
38 be made, except on a claim:

39 (1) Verified by the person who paid the tax, his or her guardian,
40 executor, or administrator.

1 (2) Except as provided in paragraph (3) *or* (4), filed within four
2 years after making the payment sought to be refunded, or within
3 one year after the mailing of notice as prescribed in Section 2635,
4 or the period agreed to as provided in Section 532.1, or within 60
5 days of the date of the notice prescribed by subdivision (a) of
6 Section 4836, whichever is later.

7 (3) (A) Filed within one year, if an application for a reduction
8 in an assessment or an application for equalization of an assessment
9 has been filed pursuant to Section 1603 and the applicant does not
10 state in the application that the application is intended to constitute
11 a claim for a refund, of either of the following events, whichever
12 occurs first:

13 (i) After the county assessment appeals board makes a final
14 determination on the application for reduction in assessment or on
15 the application for equalization of an escape assessment of the
16 property, and mails a written notice of its determination to the
17 applicant and the notice does not advise the applicant to file a claim
18 for refund.

19 (ii) After the expiration of the time period specified in
20 subdivision (c) of Section 1604 if the county assessment appeals
21 board fails to hear evidence and fails to make a final determination
22 on the application for reduction in assessment or on the application
23 for equalization of an escape assessment of the property.

24 (B) Filed within six months, if an application for a reduction in
25 an assessment or an application for equalization of an assessment
26 has been filed pursuant to Section 1603 and the applicant does not
27 state in the application that the application is intended to constitute
28 a claim for a refund, after the county assessment appeals board
29 makes a final determination on the application for reduction in
30 assessment or on the application for equalization of an escape
31 assessment, and mails a written notice of its determination to the
32 applicant and the notice advises the applicant to file a claim for
33 refund within six months of the date of the county assessment
34 appeals board's final determination.

35 (4) *Filed within eight years after making the payment sought*
36 *to be refunded, if the claim is filed on or after January 1, 2015,*
37 *pursuant to Section 276.1.*

38 (b) An application for a reduction in an assessment filed pursuant
39 to Section 1603 shall also constitute a sufficient claim for refund
40 under this section if the applicant states in the application that the

1 application is intended to constitute a claim for refund. If the
2 applicant does not so state, he or she may thereafter and within
3 the period provided in paragraph (3) of subdivision (a) file a
4 separate claim for refund of taxes extended on the assessment
5 which the applicant applied to have reduced pursuant to Section
6 1603 or Section 1604.

7 (c) If an application for equalization of an escape assessment
8 is filed pursuant to Section 1603, a claim may be filed on any taxes
9 resulting from the escape assessment or the original assessment
10 to which the escape relates within the period provided in paragraph
11 (3) of subdivision (a).

12 (d) *The amendments made to this section by the act adding this*
13 *subdivision shall apply to claims filed on or after January 1, 2015.*

14 SEC. 4. If the Commission on State Mandates determines that
15 this act contains costs mandated by the state, reimbursement to
16 local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.