

Introduced by Senator PanFebruary 26, 2015

An act to add Section 97.83 to, and to add Part 11 (commencing with Section 5500) to Division 1 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 480, as introduced, 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 July 1, 2016, impose a tax on every qualified renter for the privilege of renting qualified heavy equipment in this state at the rate of 0.75% of the rental price from the renting of qualified heavy equipment. This bill would require a qualified renter to pay and remit the tax, 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 General Fund.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject

to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing property tax law also reduces the amounts of ad valorem property tax revenue that would otherwise be annually allocated to the county, cities, and special districts pursuant to these general allocation requirements by requiring, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, that the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. It requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund in that county for allocation to school districts, community college districts, and the county office of education.

This bill would, for the 2016–17 fiscal year and for each fiscal year thereafter, require the county auditor to increase the total amount of ad valorem property tax revenue that is otherwise required to be allocated among the county and each city and special district in the county by the qualified heavy equipment reimbursement amount, as defined, and to commensurately decrease the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund and, if necessary, the amount of those revenue otherwise required to be allocated to school districts, as specified, by the qualified heavy equipment reimbursement amount.

By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, and by imposing new duties upon local officials in the allocation of ad valorem property tax revenues, 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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.

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. Section 97.83 is added to the Revenue and
2 Taxation Code, to read:

3 97.83. (a) (1) Notwithstanding any other law, for the 2016–17
4 fiscal year and for each fiscal year thereafter, the auditor of each
5 county shall do both of the following:

6 (A) Increase the total amount of ad valorem property tax revenue
7 that is otherwise required to be allocated among the county and
8 each city and special district in the county by the qualified heavy
9 equipment reimbursement amount. The qualified heavy equipment
10 reimbursement amount shall be allocated among the county, cities,
11 and special districts in proportion to the amounts of ad valorem
12 property tax revenue otherwise allocated among those local
13 agencies.

14 (B) Decrease the total amount of ad valorem property tax
15 revenue that is otherwise required to be allocated to the county’s
16 Educational Revenue Augmentation Fund by the qualified heavy
17 equipment reimbursement amount.

18 (2) (A) In the event that the county’s Educational Revenue
19 Augmentation Fund does not have sufficient funds to offset the
20 qualified heavy equipment reimbursement amount, the auditor
21 shall, to the extent that those funds are insufficient, decrease the
22 total amount of ad valorem property tax that is allocated to local
23 school districts providing instruction for kindergarten and grades
24 1 to 12, inclusive, that are excess tax school entities, in proportion
25 to their allocations of ad valorem property tax revenue allocated
26 to school districts providing instruction for kindergarten and grades
27 1 to 12, inclusive, in the county, and allocate that amount among
28 the county, cities, and special districts in proportion to the amounts
29 of ad valorem property tax revenues otherwise allocated among
30 those local agencies.

1 (B) In the event that the amount of ad valorem property tax
 2 revenues allocated to the Educational Revenue Augmentation
 3 Fund, together with the allocations to those school districts
 4 providing instruction for kindergarten and grades 1 to 12, inclusive,
 5 that are excess tax school entities, is insufficient to offset the
 6 qualified heavy equipment reimbursement amount, the auditor
 7 may also decrease the amount of ad valorem property tax revenues
 8 allocated to school districts providing instruction for kindergarten
 9 and grades 1 to 12, inclusive, that are not excess tax school entities,
 10 and allocate that amount among the county, cities, and special
 11 districts in proportion to the amounts of ad valorem property tax
 12 revenue otherwise allocated among those local agencies.

13 (b) For purposes of this section, “qualified heavy equipment
 14 reimbursement amount” means the total amount of ad valorem
 15 property tax revenue received by the county and each city and
 16 special district in the county in the 2014–15 fiscal year from renters
 17 of qualified heavy equipment, as defined in Part 11 (commencing
 18 with Section 5500) of Division 1.

19 (c) For the 2017–18 fiscal year and for each fiscal year
 20 thereafter, ad valorem property tax revenue allocations made
 21 pursuant to Sections 96.1 and 96.5, or any successor to either of
 22 those provisions, shall not incorporate the allocation adjustments
 23 made by this section.

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

26
 27 **PART 11. TAXATION OF QUALIFIED HEAVY EQUIPMENT**
 28

29 5500. For purposes of this part, all of the following definitions
 30 shall apply:

31 (a) “Rental price” means the total amount of the charge for
 32 renting the qualified heavy equipment, excluding any separately
 33 stated charges that are not rental charges, including, but not limited
 34 to, separately stated charges for delivery and pickup fees, damage
 35 waivers, environmental mitigation fees, or use taxes.

36 (b) (1) “Qualified heavy equipment” means any construction,
 37 earthmoving, or industrial equipment that is mobile and rented by
 38 a qualified renter, including attachments for the equipment or other
 39 ancillary equipment, including, but not limited to, all of the
 40 following:

1 (A) A self-propelled vehicle that is not designed to be driven
2 on the highway.

3 (B) Industrial electrical generation equipment or portable
4 heating, ventilating, and air-conditioning equipment.

5 (C) Industrial lift equipment.

6 (D) Industrial material equipment.

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

8 (F) Equipment or vehicles not subject to the fee imposed
9 pursuant to the Vehicle License Fee Law (Part 5 (commencing
10 with Section 10701) of Division 2).

11 (2) Qualified heavy equipment is mobile if the qualified heavy
12 equipment is not intended to be permanently affixed to real
13 property for the purpose of using the qualified heavy equipment
14 for its intended use. Qualified heavy equipment is mobile if it is
15 intended to be moved among worksites as needed.

16 (c) “Qualified renter” means a renter that satisfies all of the
17 following:

18 (1) The principal business of the renter is the rental of qualified
19 heavy equipment.

20 (2) Is engaged in a line of business described in Code 532412
21 of the North American Industry Classification System published
22 by the United States Office of Management and Budget, 2012
23 edition.

24 (d) “Renting” or “rent” means a rental for a period of less than
25 365 days or for an undefined period, or an open-ended contract.

26 5501. (a) On and after July 1, 2016, there is hereby imposed
27 a tax on every qualified renter for the privilege of renting qualified
28 heavy equipment in this state at the rate of 0.75 percent of the
29 rental price from the renting of qualified heavy equipment.

30 (b) The qualified renter shall pay and remit the tax to the board
31 as required by this part.

32 (c) The board shall administer and collect the tax imposed by
33 this part pursuant to the Fee Collection Procedures Law (Part 30
34 (commencing with Section 55001) of Division 2). For purposes
35 of this part, the references in the Fee Collection Procedures Law
36 to “fee” shall include the tax imposed by this part, and references
37 to “feepayer” shall include a person liable for the payment of the
38 taxes imposed by this part and collected pursuant to that law.

39 5502. Every qualified renter shall register with the board. Every
40 application for registration shall be made upon a form prescribed

1 by the board and shall set forth the name under which the applicant
2 transacts or intends to transact business, the location of its place
3 or places of business, and other information as the board may
4 require. An application for an account shall be authenticated in a
5 form or pursuant to methods as may be prescribed by the board.

6 5503. The board may prescribe, adopt, and enforce regulations
7 relating to the administration and enforcement of this part,
8 including, but not limited to, collections, reporting, refunds, and
9 appeals.

10 5504. The taxes imposed by this part are due and payable to
11 the board quarterly on or before the last day of the month next
12 succeeding each quarterly period.

13 5505. (a) On or before the last day of the month following
14 each quarterly period of three months, a return for the preceding
15 quarterly period shall be filed using electronic media with the
16 board.

17 (b) The board may prescribe those forms and reporting
18 requirements as are necessary to implement the tax.

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

21 5506. All revenues, interest, penalties, and other amounts
22 collected pursuant to this part, less refunds and the board's costs
23 of administration, shall be deposited in the General Fund.

24 5507. (a) For the 2016–17 fiscal year and for each fiscal year
25 thereafter, the tax imposed pursuant to this part shall be in lieu of
26 any property tax on qualified heavy equipment subject to taxation
27 pursuant to this part.

28 (b) Property of a qualified renter that is not subject to the tax
29 imposed pursuant to this part shall remain subject to any applicable
30 property taxes.

31 SEC. 3. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution for certain
33 costs that may be incurred by a local agency or school district
34 because, in that regard, this act creates a new crime or infraction,
35 eliminates a crime or infraction, or changes the penalty for a crime
36 or infraction, within the meaning of Section 17556 of the
37 Government Code, or changes the definition of a crime within the
38 meaning of Section 6 of Article XIII B of the California
39 Constitution.

1 However, if the Commission on State Mandates determines that
2 this act contains other costs mandated by the state, reimbursement
3 to local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

6 SEC. 4. Notwithstanding Section 2229 of the Revenue and
7 Taxation Code, no appropriation is made by this act and the state
8 shall not reimburse any local agency for any property tax revenues
9 lost by it pursuant to this act.

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