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AB-1157 School property: school district advisory committees: teacher and school district employee housing: property tax exemption. (2017-2018)

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Assembly Bill No. 1157

CHAPTER 717

An act to amend Sections 17391 and 17456 of the Education Code, and to amend Section 202 of the Revenue and Taxation Code, relating to school facilities.

[Approved by Governor October 12, 2017. Filed with Secretary of State October 12, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1157, Mullin. School property: school district advisory committees: teacher and school district employee housing: property tax exemption.

(1) Existing law authorizes the governing board of any school district, and, prior to the sale, lease, or rental of any excess real property, except rentals not exceeding 30 days, requires the governing board of each school district, to appoint a school district advisory committee to advise the governing board of the school district in the development of districtwide policies and procedures governing the use or disposition of school buildings or space in school buildings which is not needed for school purposes. Notwithstanding that law, existing law authorizes the governing board of a school district to elect not to appoint an advisory committee in the case of a lease or rental to a private educational institution for the purpose of offering summer school in a facility of the school district.

This bill would also authorize the governing board of a school district to elect not to appoint a school district advisory committee in the sale, lease, or rental of excess real property to be used for teacher or school district employee housing.

Existing law exempts certain transactions from the requirements that otherwise apply to the sale or lease of real property by a school district if certain conditions are met, including that the financing proceeds obtained by the school district pursuant to the transaction are expended solely for specified capital outlay purposes.

This bill would specify that the construction, reconstruction, or renovation of rental housing facilities for school district employees is a permissible capital outlay expenditure for purposes of those provisions.

(2) The California Constitution provides that all property is taxable, and requires that it be assessed at the same percentage of fair market value, unless otherwise provided by the California Constitution or federal law. The California Constitution exempts from taxation, among other types of property, property used exclusively for public schools, community colleges, state colleges, and state universities. Existing property tax law implements these exemptions for property used exclusively for public schools, community colleges, state colleges, and state universities, including the University of California.

This bill would specify that the exemption for school, college, or university property applies to an interest in property, including a possessory interest, belonging to the state, a county, a city, a school district, a community college district, or any combination thereof, that is used to provide rental housing for employees of one or more public school or community college districts.

By increasing the duties of local assessors with respect to applying the above-described property tax exemptions, this bill would impose a state-mandated local program.

Existing law requires the state 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 those provisions, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

(3) 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 the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 17391 of the Education Code is amended to read:

17391. Notwithstanding Section 17388, the governing board of a school district may elect not to appoint a school district advisory committee pursuant to Section 17388 in either of the following circumstances:

- (a) A lease or rental of excess real property to a private educational institution for the purpose of offering summer school in a facility of the school district.
- (b) The sale, lease, or rental of excess real property to be used for teacher or school district employee housing.

SEC. 2. Section 17456 of the Education Code is amended to read:

17456. Notwithstanding Section 17455, the sale by the governing board of a school district of any real property belonging to the school district or the lease by that governing board, for a term not exceeding 99 years, of any real property, together with any personal property located thereon, belonging to the school district shall not be subject to any other provision of this chapter, to Article 5 (commencing with Section 17485), or to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, if all of the following conditions are met:

- (a) The property is sold or leased to another local governmental agency, or to a nonprofit corporation that is organized for the purpose of assisting one or more local governmental agencies in obtaining financing.
- (b) (1) In the case of the sale of school district property pursuant to this section, the school district, as part of that same sale transaction, simultaneously repurchases the same property that is the subject of the transaction.

(2) In the case of the lease of school district property pursuant to this section, the school district, as part of that same lease transaction, simultaneously leases back, for a term that is not substantially less than the term of that lease, the same property that is the subject of the transaction.
- (c) (1) The financing proceeds obtained by the school district pursuant to the transaction described in this section are expended solely for capital outlay purposes, including the acquisition of real property for intended use as a schoolsite and the construction, reconstruction, and renovation of school facilities.

(2) For purposes of this section, the construction, reconstruction, or renovation of rental housing facilities for school district employees constitutes a permissible capital outlay expenditure of the financing proceeds obtained by the school district.

SEC. 3. Section 202 of the Revenue and Taxation Code is amended to read:

202. (a) The exemption of the following property is as specified in subdivisions (a), (b), (d), and (h) of Section 3 of Article XIII of the Constitution, except as otherwise provided in subdivision (a) of Section 11 thereof:

- (1) Growing crops.
- (2) Property used for free public libraries and free museums.
- (3) Property used exclusively for public schools, community colleges, state colleges, and state universities, including the University of California.

(4) Property belonging to this state, a county, or a city. Property belonging to the State Compensation Insurance Fund is not property belonging to this state.

(b) (1) The exemption described in paragraph (3) of subdivision (a) shall apply to off-campus facilities owned or leased by an apprenticeship program sponsor, if such facilities are used exclusively by the public schools for classes of related and supplemental instruction for apprentices or trainees which are conducted by the public schools under Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

(2) The exemption described in paragraph (3) of subdivision (a) shall apply to an interest in property, including a possessory interest as defined in Section 107, belonging to the state, a county, a city, a school district, a community college district, or any combination thereof, that is used to provide rental housing for employees of one or more public school districts or community college districts.

(c) Without prejudice to the right to assert an exemption otherwise available under subdivision (a), (d), or (e) of Section 3 of Article XIII of the Constitution, a property tax under this division shall be imposed upon that portion of the bookstore property determined to be generating the unrelated business taxable income, as defined in Section 512 of the Internal Revenue Code, to the extent property is:

(1) Owned by an educational institution of collegiate grade or used by a nonprofit corporation operating a student bookstore affiliated with such an educational institution, and

(2) Is primarily devoted to bookstore use that produces income that is taxable as unrelated business taxable income.

This tax shall be determined by establishing a ratio of the unrelated business taxable income to the bookstore's gross income as defined by the Internal Revenue Code. That percent shall be the maximum percentage of such bookstore property on which a property tax can be levied.

At the end of a fiscal year when unrelated business income has been generated, the nonprofit organization shall file with the assessor copies of the organization's most recent tax return filed with the Internal Revenue Service.

SEC. 4. 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. 5. 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.