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**AB-2425 Property taxation: property records: transmission by mail or electronic format. (2017-2018)**

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**Assembly Bill No. 2425**

**CHAPTER 968**

An act to amend Sections 408, 441, and 470 of the Revenue and Taxation Code, relating to taxation.

[ Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2425, Berman. Property taxation: property records: transmission by mail or electronic format.

Existing property tax law requires, upon request of an assessee of property or designated representative, a county assessor to permit the assessee or representative to inspect or copy all information, documents, and records, other than market data, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of the assessee's property, and any penalties and interest thereon.

This bill would require, upon written request of an assessee or the assessee's designated representative, the assessor to transmit the information, documents, or records by mail, or in electronic format if the information, documents, or records are available in electronic format or have been previously digitized. By imposing a new duty on county assessors, this bill would impose a state-mandated local program.

Existing property tax law, if the assessor, pursuant to the request of any party, provides information or records that the assessor is not required by law to prepare or keep, authorizes the county to require that a fee reasonably related to the actual cost of developing and providing that information be paid by the party receiving the information, including developmental and indirect costs.

This bill would provide that fees for costs of providing information or records that the assessor is not required by law to prepare or keep do not apply to information, documents, or records requested by the assessee or representative if that information is transmitted in electronic format, except that any developmental or indirect costs to provide that information, such as costs to acquire or compile data that is not required to be kept or prepared by the assessor, may be recovered.

Existing property tax law requires each person owning taxable personal property, other than a certain class of manufactured housing, having an aggregate cost of \$100,000 or more for any assessment year to file a signed property statement with the assessor. Existing property tax law also requires every person, as required by the county assessor, to make available for examination information or records regarding his or her property or any other personal property located on premises that he or she owns or controls.

This bill would require, upon written request of an assessor, the assessee or the assessee's designated representative to transmit the information or records by mail, or in electronic format if the information or records are available in electronic format or have been previously digitized.

Existing property tax law requires a person owning, claiming, possessing, or controlling property subject to local assessment to make available at his or her principal place of business, principal location or principal address in California, or at a place mutually agreeable to the county assessor and the person, a true copy of business records relevant to the amount, cost, and value of all property that he or she owns, claims, possesses, or controls within the county.

This bill would eliminate the requirement of making a true copy of business records available at a place mutually agreeable to the county assessor and the person, and would require, upon written request of an assessor, that copy business records be transmitted by an assessee or the assessee's designated representative by mail, or electronic format if the business records are available in electronic format or have been previously digitized.

This bill would incorporate additional changes to Section 408 of the Revenue and Taxation Code proposed by SB 1172 to be operative only if this bill and SB 1172 are enacted and this bill is enacted last.

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.

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

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

**SECTION 1.** Section 408 of the Revenue and Taxation Code is amended to read:

**408.** (a) Except as otherwise provided in subdivisions (b), (c), (d), (e), and (g), any information and records in the assessor's office that are not required by law to be kept or prepared by the assessor, disabled veterans' exemption claims, and homeowners' exemption claims, are not public documents and shall not be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records which shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in his or her possession to the assessor of any county.

The assessor shall disclose information, furnish abstracts, or permit access to all records in his or her office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees, or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the county recorder when conducting an investigation to determine whether a documentary transfer tax is imposed, the Controller, employees of the Controller for property tax postponement purposes, probate referees, employees of the Franchise Tax Board for tax administration purposes only, staff appraisers of the Division of Financial Institutions, the Department of Transportation, the Department of General Services, the State Board of Equalization, the State Lands Commission, the State Department of Social Services, the Department of Child Support Services, the Department of Water Resources, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records. Whenever the assessor discloses information, furnishes abstracts, or permits access to records in his or her office to staff appraisers of the Department of Business Oversight, the Department of Transportation, the Department of General Services, the State Lands Commission, or the Department of Water Resources pursuant to this section, the department shall reimburse the assessor for any costs incurred as a result thereof.

(c) Upon the request of the tax collector, the assessor shall disclose and provide to the tax collector information used in the preparation of that portion of the unsecured roll for which the taxes thereon are delinquent. The tax collector shall certify to the assessor that he or she needs the information requested for the enforcement of the tax lien in collecting those delinquent taxes. Information requested by the tax collector may include social security numbers, and the assessor shall recover from the tax collector his or her actual and reasonable costs for providing the information. The tax collector shall add the costs described in the preceding sentence to the assessee's delinquent tax lien and collect those costs subject to subdivision (e) of Section 2922.

(d) The assessor shall, upon the request of an assessee or his or her designated representative, permit the assessee or representative to inspect or copy any market data in the assessor's possession. For purposes of this subdivision, "market data" means any information in the assessor's possession, whether or not required to be prepared or kept by him or her, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his or her assessment of the assessee's property, in whole or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise. However, for purposes of providing market data, the assessor may not display any document relating to the business affairs or property of another.

(e) (1) With respect to information, documents, and records, other than market data as defined in subdivision (d), the assessor shall, upon request of an assessee of property, or his or her designated representative, permit the assessee or representative to inspect or copy all information, documents, and records, including auditors' narrations and workpapers, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of the assessee's property, and any penalties and interest thereon.

(A) Upon written request of an assessee or the assessee's designated representative, the assessor shall transmit the information, documents, or records described in paragraph (1) by mail, or in electronic format if the information, documents, or records are available in electronic format or have been previously digitized. This subparagraph shall not be construed or interpreted to limit the authority of the assessee or the assessee's designated representative to also inspect or copy information, documents, or records described in paragraph (1).

(B) Information, documents, and records requested by an assessee, or the assessee's designated representative, shall be transmitted pursuant to subparagraph (A) within a reasonable time period.

(C) The costs enumerated in subdivision (a) of Section 409 shall not apply to information, documents, or records requested by the assessee or the assessee's designated representative if that information is transmitted in electronic format, except that any developmental or indirect costs to provide that information, such as costs to acquire or compile data that is not required to be kept or prepared by the assessor, may be recovered pursuant to Section 409.

(2) After enrolling an assessment, the assessor shall respond to a written request for information supporting the assessment, including, but not limited to, any appraisal and other data requested by the assessee.

(3) Except as provided in Section 408.1, an assessee, or his or her designated representative, may not be permitted to inspect or copy information and records that also relate to the property or business affairs of another, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of the assessment of his or her property.

(f) (1) Permission for the inspection or copying requested pursuant to subdivision (d) or (e) shall be granted as soon as reasonably possible to the assessee or his or her designated representative.

(2) If the assessee, or his or her designated representative, requests the assessor to make copies of any of the requested records, the assessee shall reimburse the assessor for the reasonable costs incurred in reproducing and providing the copies.

(3) If the assessor fails to permit the inspection or copying of materials or information as requested pursuant to subdivision (d) or (e) and the assessor introduces any requested materials or information at any assessment appeals board hearing, the assessee or his or her representative may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of continuance.

(g) Upon the written request of the tax collector, the assessor shall provide to the tax collector information for the preparation and enforcement of Part 6 (commencing with Section 3351). The tax collector shall certify to the assessor that he or she needs the contact information to assist with the preparation and enforcement of Part 6 (commencing with Section 3351). The assessor shall provide the information, which may not include social security numbers. Any information provided to the tax collector pursuant to this subdivision shall not become a public record and shall not be open to public inspection. The tax collector shall reimburse the assessor for the actual and reasonable costs incurred by the assessor for providing the information to administer this subdivision. The tax collector shall add the costs described in the preceding sentence to the assessee's delinquent taxes and include the costs incurred subject to Sections 4112 and 4672.2. The tax collector or his or her designated employee shall, under penalty of perjury, certify to the assessor that he or she needs the information to assist with the preparation and enforcement of Part 6 (commencing with Section 3351), and that the information provided pursuant to this subdivision that is not public record and that is not open to public inspection shall not become public record and shall not be open to public inspection.

**SEC. 1.5.** Section 408 of the Revenue and Taxation Code is amended to read:

**408.** (a) Except as otherwise provided in subdivisions (b), (c), (d), (e), and (g), any information and records in the assessor's office that are not required by law to be kept or prepared by the assessor, disabled veterans' exemption claims, and homeowners' exemption claims are not public documents and shall not be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records that shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) (1) The assessor may provide any appraisal data in his or her possession to the assessor of any county.

(2) The assessor shall disclose information, furnish abstracts, or permit access to all records in his or her office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees, or

representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the county recorder when conducting an investigation to determine whether a documentary transfer tax is imposed, the Controller, employees of the Controller for property tax postponement purposes, probate referees, employees of the Franchise Tax Board for tax administration purposes only, staff appraisers of the Division of Financial Institutions, the Department of Transportation, the Department of General Services, the High-Speed Rail Authority, the State Board of Equalization, the State Lands Commission, the State Department of Social Services, the Department of Child Support Services, the Department of Water Resources, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records. Whenever the assessor discloses information, furnishes abstracts, or permits access to records in his or her office to staff appraisers of the Department of Business Oversight, the Department of Transportation, the Department of General Services, the High-Speed Rail Authority, the State Lands Commission, or the Department of Water Resources pursuant to this section, the department, commission, or authority shall reimburse the assessor for any costs incurred as a result.

(c) Upon the request of the tax collector, the assessor shall disclose and provide to the tax collector information used in the preparation of that portion of the unsecured roll for which the taxes thereon are delinquent. The tax collector shall certify to the assessor that he or she needs the information requested for the enforcement of the tax lien in collecting those delinquent taxes. Information requested by the tax collector may include social security numbers, and the assessor shall recover from the tax collector his or her actual and reasonable costs for providing the information. The tax collector shall add the costs described in the preceding sentence to the assessee's delinquent tax lien and collect those costs subject to subdivision (e) of Section 2922.

(d) The assessor shall, upon the request of an assessee or his or her designated representative, permit the assessee or representative to inspect or copy any market data in the assessor's possession. For purposes of this subdivision, "market data" means any information in the assessor's possession, whether or not required to be prepared or kept by him or her, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his or her assessment of the assessee's property, in whole or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise. However, for purposes of providing market data, the assessor shall not display any document relating to the business affairs or property of another.

(e) (1) With respect to information, documents, and records, other than market data as defined in subdivision (d), the assessor shall, upon request of an assessee of property or his or her designated representative, permit the assessee or representative to inspect or copy all information, documents, and records, including auditors' narrations and workpapers, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of the assessee's property, and any penalties and interest.

(A) Upon written request of an assessee or the assessee's designated representative, the assessor shall transmit the information, documents, or records described in paragraph (1) by mail, or in electronic format if the information, documents, or records are available in electronic format or have been previously digitized. This subparagraph shall not be construed or interpreted to limit the authority of the assessee or the assessee's designated representative to also inspect or copy information, documents, or records described in paragraph (1).

(B) Information, documents, and records requested by an assessee, or the assessee's representative, shall be transmitted pursuant to subparagraph (A) within a reasonable time period.

(C) The costs enumerated in subdivision (a) of Section 409 shall not apply to information, documents, or records requested by the assessee or the assessee's designated representative if that information is transmitted in electronic format, except that any developmental or indirect costs to provide that information, such as costs to acquire or compile data that is not required to be kept or prepared by the assessor, may be recovered pursuant to Section 409.

(2) After enrolling an assessment, the assessor shall respond to a written request for information supporting the assessment, including, but not limited to, any appraisal and other data requested by the assessee.

(3) Except as provided in Section 408.1, an assessee or his or her designated representative shall not be permitted to inspect or copy information and records that also relate to the property or business affairs of another, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of the assessment of his or her property.

(f) (1) Permission for the inspection or copying requested pursuant to subdivision (d) or (e) shall be granted as soon as reasonably possible to the assessee or his or her designated representative.

(2) If the assessee or his or her designated representative requests the assessor to make copies of any of the requested records, the assessee shall reimburse the assessor for the reasonable costs incurred in reproducing and providing the copies.

(3) If the assessor fails to permit the inspection or copying of materials or information as requested pursuant to subdivision (d) or (e) and the assessor introduces any requested materials or information at any assessment appeals board hearing, the assessee or his or her representative may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of continuance.

(g) Upon the written request of the tax collector, the assessor shall provide to the tax collector information for the preparation and enforcement of Part 6 (commencing with Section 3351). The tax collector shall certify to the assessor that he or she needs the contact information to assist with the preparation and enforcement of Part 6 (commencing with Section 3351). The assessor shall provide the information, which may not include social security numbers. Any information provided to the tax collector pursuant to this subdivision shall not become a public record and shall not be open to public inspection. The tax collector shall reimburse the assessor for the actual and reasonable costs incurred by the assessor for providing the information to administer this subdivision. The tax collector shall add the costs described in the preceding sentence to the assessee's delinquent taxes and include the costs incurred subject to Sections 4112 and 4672.2. The tax collector or his or her designated employee shall, under penalty of perjury, certify to the assessor that he or she needs the information to assist with the preparation and enforcement of Part 6 (commencing with Section 3351), and that the information provided pursuant to this subdivision that is not a public record and that is not open to public inspection shall not become a public record and shall not be open to public inspection.

**SEC. 2.** Section 441 of the Revenue and Taxation Code is amended to read:

**441.** (a) Each person owning taxable personal property, other than a manufactured home subject to Part 13 (commencing with Section 5800), having an aggregate cost of one hundred thousand dollars (\$100,000) or more for any assessment year shall file a signed property statement with the assessor. Every person owning personal property that does not require the filing of a property statement or real property shall, upon request of the assessor, file a signed property statement. Failure of the assessor to request or secure the property statement does not render any assessment invalid.

(b) The property statement shall be declared to be true under the penalty of perjury and filed annually with the assessor between the lien date and 5 p.m. on April 1. The penalty provided by Section 463 applies for property statements not filed by May 7. If May 7 falls on a Saturday, Sunday, or legal holiday, a property statement that is mailed and postmarked on the next business day shall be deemed to have been filed between the lien date and 5 p.m. on May 7. If, on the dates specified in this subdivision, the county's offices are closed for the entire day, that day is considered a legal holiday for purposes of this section.

(c) The property statement may be filed with the assessor through the United States mail, properly addressed with postage prepaid. For purposes of determining the date upon which the property statement is deemed filed with the assessor, the date of postmark as affixed by the United States Postal Service, or the date certified by a bona fide private courier service on the envelope containing the application, shall control. This subdivision shall be applicable to every taxing agency, including, but not limited to, a chartered city and county, or chartered city.

(d) (1) At any time, as required by the assessor for assessment purposes, every person shall make available for examination information or records regarding his or her property or any other personal property located on premises he or she owns or controls. In this connection details of property acquisition transactions, construction and development costs, rental income, and other data relevant to the determination of an estimate of value are to be considered as information essential to the proper discharge of the assessor's duties.

(2) (A) Upon written request of an assessor, the assessee or the assessee's designated representative shall transmit the information or records described in paragraph (1) by mail, or in electronic format if the information or records are available in electronic format or have been previously digitized. This paragraph shall not be construed or interpreted to limit the assessor's authority to also examine information or records described in paragraph (1).

(B) Information or records requested pursuant to this paragraph shall be transmitted within a reasonable time period.

(3) (A) This subdivision shall also apply to an owner-builder or an owner-developer of new construction that is sold to a third party, is constructed on behalf of a third party, or is constructed for the purpose of selling that property to a third party.

(B) The owner-builder or owner-developer of new construction described in subparagraph (A), shall, within 45 days of receipt of a written request by the assessor for information or records, provide the assessor with all information and records regarding that property. The information and records provided to the assessor shall include the total consideration provided either by the purchaser or on behalf of the purchaser that was paid or provided either, as part of or outside of the purchase agreement, including, but not limited to, consideration paid or provided for the purchase or acquisition of upgrades, additions, or for any other additional or supplemental work performed or arranged for by the owner-builder or owner-developer on behalf of the purchaser.

- (e) In the case of a corporate owner of property, the property statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign the statements on behalf of the corporation.
- (f) In the case of property owned by a bank or other financial institution and leased to an entity other than a bank or other financial institution, the property statement shall be submitted by the owner bank or other financial institution.
- (g) The assessor may refuse to accept any property statement he or she determines to be in error.
- (h) If a taxpayer fails to provide information to the assessor pursuant to subdivision (d) and introduces any requested materials or information at any assessment appeals board hearing, the assessor may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of the continuance.
- (i) Notwithstanding any other provision of law, every person required to file a property statement pursuant to this section shall be permitted to amend that property statement until May 31 of the year in which the property statement is due, for errors and omissions not the result of willful intent to erroneously report. The penalty authorized by Section 463 does not apply to an amended statement received prior to May 31, provided the original statement is not subject to penalty pursuant to subdivision (b). The amended property statement shall otherwise conform to the requirements of a property statement as provided in this article.
- (j) This subdivision shall apply to the oil, gas, and mineral extraction industry only. Any information that is necessary to file a true, correct, and complete statement shall be made available by the assessor, upon request, to the taxpayer by mail or at the office of the assessor by February 28. For each business day beyond February 28 that the information is unavailable, the filing deadline in subdivision (b) shall be extended in that county by one business day, for those statements affected by the delay. In no case shall the filing deadline be extended beyond June 1 or the first business day thereafter.
- (k) The assessor may accept the filing of a property statement by the use of electronic media. In lieu of the signature required by subdivision (a) and the declaration under penalty of perjury required by subdivision (b), property statements filed using electronic media shall be authenticated pursuant to methods specified by the assessor and approved by the board. Electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, and facsimile machine.
- (l) (1) After receiving the notice required by Section 1162, the manager in control of a fleet of fractionally owned aircraft shall file with the lead county assessor's office one signed property statement for all of its aircraft that have acquired situs in the state, as described in Section 1161.
- (2) Flight data required to compute fractionally owned aircraft allocation under Section 1161 shall be segregated by airport.
- (m) (1) After receiving the notice required by paragraph (5) of subdivision (b) of Section 1153.5, a commercial air carrier whose certificated aircraft is subject to Article 6 (commencing with Section 1150) of Chapter 5 shall file with the lead county assessor's office designated under Section 1153.5 one signed property statement for its personal property at all airport locations and fixtures at all airport locations.
- (2) Each commercial air carrier may file one schedule for all of its certificated aircraft that have acquired situs in this state under Section 1151.
- (3) Flight data required to compute certificated aircraft allocation under Section 1152 and subdivision (g) of Section 202 of Title 18 of the California Code of Regulations shall be segregated by airport location.
- (4) Beginning with the 2006 assessment year, a commercial air carrier may file a statement described in this subdivision electronically by means of the California Assessor's Standard Data Record (SDR) network. If the SDR is not equipped to accept electronic filings for the 2006 assessment year, an air carrier may file a printed version of its property statement for that year with its lead county assessor's office.
- (5) This subdivision shall remain operative only until December 31, 2016.

**SEC. 3.** Section 470 of the Revenue and Taxation Code is amended to read:

**470.** (a) Upon request of an assessor, a person owning, claiming, possessing, or controlling property subject to local assessment shall make available at his or her principal place of business, principal location, or principal address in California, a true copy of business records relevant to the amount, cost, and value of all property that he or she owns, claims, possesses, or controls within the county.

(b) (1) Upon written request of an assessor, the assessee or the assessee's designated representative shall transmit the business records described in subdivision (a) by mail, or in electronic format if the business records are available in electronic format or

have been previously digitized. This paragraph shall not be construed or interpreted to limit the assessor's authority to also examine information or records described in subdivision (a).

(2) Information or records requested by the assessor under this subdivision shall be transmitted within a reasonable time period.

(c) In the case of a taxpayer that has its principal place of business outside of California and has been requested to make business records available pursuant to subdivision (a), that taxpayer may, as an alternative to making the requested business records available pursuant to the terms of that subdivision, pay the county the amount of reasonable and ordinary expenses for food, lodging, transportation, and other related items incurred by the assessor's representative, in traveling to the place outside California where the requested business records are available for examination and performing his or her official duties with respect to the examination of those records.

**SEC. 4.** The amendments made to this act to Sections 408, 441, and 470 of the Revenue and Taxation Code shall not be read to alter or lessen any of the confidentiality provisions provided to taxpayers pursuant to Section 408 of the Revenue and Taxation Code.

**SEC. 5.** Section 1.5 of this bill incorporates amendments to Section 408 of the Revenue and Taxation Code proposed by both this bill and Senate Bill 1172. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 408 of the Revenue and Taxation Code, and (3) this bill is enacted after Senate Bill 1172, in which case Section 1 of this bill shall not become operative.

**SEC. 6.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.