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**AB-1208 Utility user taxes: exemption: clean energy resource.** (2019-2020)

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**Assembly Bill No. 1208**

**CHAPTER 238**

An act to amend Section 7284.5 of the Revenue and Taxation Code, relating to taxation.

[ Approved by Governor September 05, 2019. Filed with Secretary of State September 05, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1208, Ting. Utility user taxes: exemption: clean energy resource.

Existing law generally provides that the legislative body of any city and any charter city may make and enforce all ordinances and regulations with respect to municipal affairs, as provided, including, but not limited to, a utility user tax on the consumption of gas and electricity. Existing law provides that the board of supervisors of any county may levy a utility user tax on the consumption of, among other things, gas and electricity in the unincorporated area of the county.

Existing law, until January 1, 2020, exempts from any utility user tax on the consumption of electricity imposed by a local jurisdiction, as defined, the consumption of electricity generated by a clean energy resource for the use of a customer or the customer's tenants.

This bill would extend the repeal date of the above-described exemption from January 1, 2020, to January 1, 2027. The bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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

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

**SECTION 1.** Section 7284.5 of the Revenue and Taxation Code is amended to read:

**7284.5.** (a) For the purposes of this section:

(1) "Local jurisdiction" means any city, county, city and county, including any chartered city, county, or city and county, district, or public or municipal corporation.

(2) "Clean energy resource" means either of the following:

(A) A device or technology used for a renewable electrical generation facility, as set forth in paragraph (1) of subdivision (a) of Section 25741 of the Public Resources Code.

(B) A technology that meets all of the following requirements:

(i) The emissions standards adopted by the State Air Resources Board pursuant to the distributed generation certification program requirements of Article 3 (commencing with Section 94200) of Subchapter 8 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations.

(ii) Produces de minimis emissions of sulfur oxides and nitrogen oxides.

(iii) The greenhouse gases emission performance standard established by the Public Utilities Commission pursuant to Section 8341 of the Public Utilities Code.

(iv) Has a total electrical efficiency of no less than 45 percent.

(v) Is sized to meet the generator's onsite electrical demand.

(vi) Has parallel operation to the electrical distribution grid.

(vii) Utilizes renewable or nonrenewable fuel.

(viii) Pays any applicable utility users tax for nonrenewable fuels used in electricity generation.

(b) (1) There is exempt from any utility user tax on the consumption of electricity, imposed by any local jurisdiction, a customer's consumption of electricity generated by a clean energy resource that is located on the customer's premises and used solely for the customer or the customer's tenants.

(2) This section does not exempt from any utility users tax imposed by any local jurisdiction any electricity or gas, not described in paragraph (1), that is provided to a customer by an electrical corporation, publicly owned utility, electrical cooperative, or irrigation district.

(c) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

**SEC. 2.** The Legislature finds and declares that exempting the consumption of electricity generated by a clean energy resource that is installed for the exclusive use of a single customer, or the customer's tenants, from local utility user taxes will ensure statewide uniformity and fairness in the overall imposition of the utility user tax. Therefore, exempting from utility user taxes the consumption of electricity generated by a clean energy resource that is installed for the exclusive use of a single customer is a matter of statewide concern, and not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution.