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SB-1494 Property taxation: revenue allocations: tax-defaulted property sales. (2021-2022)

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Senate Bill No. 1494

CHAPTER 451

An act to amend Sections 97.68, 2621, 2706, 3692, 3700, and 4675 of, and to amend, repeal, and add Section 3693 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 19, 2022. Filed with Secretary of State September 19, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1494, Committee on Governance and Finance. Property taxation: revenue allocations: tax-defaulted property sales.

(1) 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 provides 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 requires that, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, 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. Existing property tax law 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.

Existing property tax law requires the county auditor to decrease, for the fiscal adjustment period, as defined, the amount of ad valorem property tax revenue allocated to a county's Educational Revenue Augmentation Fund by the countywide adjustment amount, as defined, and requires the auditor to instead allocate this amount to the Sales and Use Tax Compensation Fund in the county. Existing property tax law defines "fiscal adjustment period" for these purposes as the period beginning with the 2004–05 fiscal year and continuing through the later of the fiscal year in which the Director of Finance notifies the State Board of Equalization, as described, or the fiscal year in which an additional countywide adjustment amount, as described, is determined. Existing property tax law also defines, except as provided, "countywide adjustment amount" to mean the combined total revenue loss of the county and each city in the county that is annually estimated by the Director of Finance, based upon the actual amount of sales and use tax revenues transmitted, as described, in that county in the prior fiscal year and any projected growth on that amount for the current fiscal year as determined by the State Board of Equalization and as prescribed.

This bill would instead change the references above to the State Board of Equalization to the California Department of Tax and Fee Administration.

(2) Existing property tax law requires the county tax collector to collect all property taxes. Existing property tax law provides that all taxes on personal property and one-half the taxes on real property, as described, are due and payable on November 1, and provides that the other half of the taxes on real property are due and payable on February 1. Under existing property law, the 2nd half of taxes on real property, if unpaid, are delinquent at 5 p.m., or the close of business, whichever is later, on April 10. Under

existing property tax law, after the 2nd installment of taxes on the secured roll is delinquent, the tax collector is required to collect a cost of \$10 for preparing the delinquent tax records and giving notice of delinquency, as described. Existing law also sets forth an alternate procedure for collecting both personal and real property taxes in equal installments and also requires, if the 2nd installment of taxes on the secured roll is delinquent, the tax collector to collect a cost of \$10 for preparing the delinquent tax records and giving notice of delinquency, as described.

This bill would instead require, under both procedures, the tax collector to collect up to \$55, but no more than the actual cost, for preparing the delinquent tax records and giving notice of delinquency, as described.

(3) Under existing property tax law, if unpaid property taxes are declared delinquent and the taxes remain unpaid, the property is declared tax-defaulted and subject to sale, as provided, if not redeemed by the owner within a certain amount of time. Existing property tax law sets forth procedures for the tax collector to sell tax-defaulted property, including by using, in certain circumstances, sealed bid sale procedures in which the property is sold to the highest eligible bidder or by public auction to the highest bidder.

This bill, until January 1, 2029, would authorize, under the sealed bid or public auction sale procedures, the tax collector to offer, if the highest bidder does not consummate the sale of nonresidential commercial property within the time period determined by the tax collector, the property to the next highest bidder at their bid price. Additionally, if a sale occurs at a public auction for specified parcels of property and the sale is unconsummated, the bill, until January 1, 2029, would authorize the tax collector to offer that property for sale to the next highest bidder at their price if the next public auction for that parcel of property occurs more than one year after the date of that first auction and the highest bidder does not consummate that subsequent sale within the time period determined by the tax collector.

(4) Existing property tax law requires the tax collector to transmit a certain notice containing specified information to the board of supervisors in order to make any sale of tax-defaulted properties pursuant to specified provisions. Under existing property tax law, upon providing notice, the tax collector is required to forward a copy of the notice to specified entities and requires the notice to be mailed or delivered at least 30 days before the first publication or posting of the notice of intended sale.

This bill would additionally authorize the notice to be sent electronically.

(5) Existing property tax law authorizes any party of interest in property that is sold as a tax-defaulted property to file a claim with the county for the excess proceeds, in proportion to that person's interest held with others of equal priority in the property at the time of sale, at any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser. Existing property tax law requires any action or proceeding to review the decision of the board of supervisors on the claim to be commenced within 90 days after the date of that decision of the board of supervisors. Existing law also permits the board of supervisors to authorize, by resolution, any county officers to perform on its behalf any act required or authorized to be performed by the board relating to excess proceeds claims.

This bill would clarify the timeframe in which to bring an action or proceeding in response to a decision on an excess proceeds claim applies to decisions by a county officer authorized to perform actions in relation to those claims.

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

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

SECTION 1. Section 97.68 of the Revenue and Taxation Code is amended to read:

97.68. Notwithstanding any other provision of law, in allocating ad valorem property tax revenue allocations for each fiscal year during the fiscal adjustment period, all of the following apply:

(a) (1) The total amount of ad valorem property tax revenue otherwise required to be allocated to a county's Educational Revenue Augmentation Fund shall be reduced by the countywide adjustment amount.

(2) The countywide adjustment amount shall be deposited in a Sales and Use Tax Compensation Fund that shall be established in the treasury of each county.

(b) For purposes of this section, the following definitions apply:

(1) "Fiscal adjustment period" means the period beginning with the 2004–05 fiscal year and continuing through the later of either of the following:

(A) The fiscal year in which the Director of Finance notifies the California Department of Tax and Fee Administration pursuant to subdivision (b) of Section 99006 of the Government Code.

(B) The fiscal year in which an additional countywide adjustment amount, as described in subparagraph (B) of paragraph (3) of subdivision (d), is determined.

(2) Except as otherwise provided in subdivision (d), the "countywide adjustment amount" means the combined total revenue loss of the county and each city in the county that is annually estimated by the Director of Finance, based upon the actual amount of sales and use tax revenues transmitted under Section 7204 in that county in the prior fiscal year and any projected growth on that amount for the current fiscal year as determined by the California Department of Tax and Fee Administration and reported to the director on or before August 15 of each fiscal year during the fiscal adjustment period, to result for each of those fiscal years from the 0.25-percent reduction in local sales and use rate tax authority applied by Section 7203.1. The director shall adjust the estimates described in this paragraph if the board reports to them any changes in the projected growth in local sales and use tax revenues for the current fiscal year.

(3) "In lieu local sales and use tax revenues" means those revenues that are transferred under this section to a county or a city from a Sales and Use Tax Compensation Fund or an Educational Revenue Augmentation Fund.

(c) Except as otherwise provided in subdivision (d), for each fiscal year during the fiscal adjustment period, in lieu sales and use tax revenues in the Sales and Use Tax Compensation Fund shall be allocated among the county and the cities in the county, and those allocations shall be subsequently adjusted, as follows:

(1) The Director of Finance shall, on or before September 1 of each fiscal year during the fiscal adjustment period, notify each county auditor of that portion of the countywide adjustment amount for that fiscal year that is attributable to the county and to each city within that county.

(2) The county auditor shall allocate revenues in the Sales and Use Tax Compensation Fund among the county and cities in the county in the amounts described in paragraph (1). The auditor shall allocate one-half of the amount described in paragraph (1) in each January during the fiscal adjustment period and shall allocate the balance of that amount in each May during the fiscal adjustment period.

(3) After the end of each fiscal year during the fiscal adjustment period, other than a fiscal year subject to subdivision (d), the Director of Finance shall, based on the actual amount of sales and use tax revenues that were not transmitted for the prior fiscal year, recalculate each amount estimated under paragraph (1) and notify the county auditor of the recalculated amount.

(4) If the amount recalculated under paragraph (3) for the county or any city in the county is greater than the amount allocated to that local agency under paragraph (2), the county auditor shall, in the fiscal year next following the fiscal year for which the allocation was made, transfer an amount of ad valorem property tax revenue equal to this difference from the Sales and Use Tax Compensation Fund to that local agency.

(5) If the amount recalculated under paragraph (3) for the county or any city in the county is less than the amount allocated to that local agency under paragraph (2), the county auditor shall, in the fiscal year next following the fiscal year for which the allocation was made, reduce the total amount of ad valorem property tax revenue otherwise allocated to that city or county from the Sales and Use Tax Compensation Fund by an amount equal to this difference and instead allocate this difference to the county Educational Revenue Augmentation Fund.

(6) If there is an insufficient amount of moneys in a county's Sales and Use Tax Compensation Fund to make the transfers required by paragraph (4), the county auditor shall transfer from the county Educational Revenue Augmentation Fund an amount sufficient to make the full amount of these transfers.

(d) (1) At such time as the Director of Finance estimates that the notification described in subparagraph (A) of paragraph (1) of subdivision (b) is likely to occur within the subsequent 12 months, the director shall, at the beginning of each subsequent calendar year quarter, determine the month in which the notification will occur.

(2) (A) In the calendar year quarter in which the Director of Finance determines that the notification described in subparagraph (A) of paragraph (1) of subdivision (b) will occur within either the current or subsequent quarter, the director shall revise the countywide adjustment amount described in subdivision (c) for the current fiscal year such that the countywide adjustment amount is calculated only through the quarter in which the director gives notification pursuant to subparagraph (A) of paragraph (1) of subdivision (b). The director, when appropriate, may revise the countywide adjustment amount described in subdivision (c) for the subsequent fiscal year such that the countywide adjustment amount described in subdivision (c) is calculated only through the quarter in which the director gives notification pursuant to subparagraph (A) of paragraph (1) of subdivision (b).

(B) If the determination regarding the notification described in subparagraph (A) is revised, the countywide adjustment amount calculated in subparagraph (A) for either the current or the subsequent fiscal year shall be recalculated such that the countywide adjustment amount described in subdivision (c) is calculated only through the quarter in which the Director of Finance gives notification pursuant to subparagraph (A) of paragraph (1) of subdivision (b).

(3) (A) After the end of the revenue exchange period, the Director of Finance shall do both of the following:

(i) Provide to the Controller, with a copy to the Joint Legislative Budget Committee, a schedule providing for a transfer from the Fiscal Recovery Fund, established pursuant to Section 99008 of the Government Code, to the Sales and Use Tax Compensation Fund of either of the following amounts:

(I) An amount equal to the local sales and use tax revenue not received by the county and each city in the county during the revenue exchange period as a result of the 0.25-percent reduction in local sales and use tax authority applied by Section 7203.1 minus the sum of all countywide adjustment amounts deposited during the revenue exchange period, as determined by the director. This amount shall be summed over all counties.

(II) If the amount summed over all counties in subclause (I) is greater than the difference between the balance in the Fiscal Recovery Fund and an amount sufficient to cover the estimated costs associated with closing the Fiscal Recovery Fund, then a proportion shall be calculated equal to the proportion between the amount in subclause (I) summed over all counties and an amount equal to the difference between the balance in the Fiscal Recovery Fund and an amount sufficient to cover the estimated costs associated with closing the Fiscal Recovery Fund. The amount calculated under this subclause is equal to the product of the amount calculated in subclause (I) and the proportion calculated in this subclause.

(ii) Provide a schedule to the auditor of each county of the amounts calculated under clause (i).

(B) If the amount provided for in the schedule required pursuant to clause (i) of subparagraph (A) is the amount that is described in subclause (II) of clause (i) of subparagraph (A), an amount equal to the difference between the amount that is described in subclause (I) of clause (i) of subparagraph (A) and the amount that is described in subclause (II) of clause (i) of subparagraph (A) shall constitute an additional countywide adjustment amount to be applied in the manner prescribed in subdivision (a) for either the current or subsequent fiscal year, as determined by the director.

(4) The Controller shall transfer, from the Fiscal Recovery Fund to the Sales and Use Tax Compensation Fund for each county, the amount specified for that county in the schedule provided by the Director of Finance pursuant to clause (i) of subparagraph (A) of paragraph (3).

(5) Within 60 days of the transfer by the Controller of revenues from the Fiscal Recovery Fund to the Sales and Use Tax Compensation Fund for each county, each county auditor shall allocate revenue to the county and each city in the county per the schedule provided by the Director of Finance pursuant to clause (ii) of subparagraph (A) of paragraph (3).

(6) For purposes of this subdivision, "revenue exchange period" has the same meaning as defined in subdivision (b) of Section 7203.1.

(e) For the 2005–06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, may not reflect any portion of any property tax revenue allocation required by this section for a preceding fiscal year.

(f) This section may not be construed to do any of the following:

(1) Reduce any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3, or Article 4 (commencing with Section 98), had this section not been enacted. The allocation made pursuant to subdivisions (a) and (c) shall be adjusted to comply with this paragraph.

(2) Require an increased ad valorem property tax revenue allocation to a community redevelopment agency.

(3) Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is determined or allocated in a county.

(g) Existing tax exchange or revenue sharing agreements, entered into prior to the operative date of this section, between local agencies or between local agencies and nonlocal agencies shall be deemed to be temporarily modified to account for the reduced sales and use tax revenues, resulting from the temporary reduction in the local sales and use tax rate, with those reduced revenues to be replaced in kind by property tax revenue from a Sales and Use Tax Compensation Fund or an Educational Revenue Augmentation Fund, on a temporary basis, as provided by this section.

SEC. 2. Section 2621 of the Revenue and Taxation Code is amended to read:

2621. After the second installment of taxes on the secured roll is delinquent, the tax collector shall collect a cost of up to fifty-five dollars (\$55), but no more than the actual cost, for preparing the delinquent tax records and giving notice of delinquency on each

separate valuation on the secured roll of:

- (a) Real property, except possessory interests.
- (b) Possessory interests.
- (c) Personal property cross-secured to real property.

The cost shall be collected even though the property appears on the roll due to a special assessment and no valuation of the property is given.

SEC. 3. Section 2706 of the Revenue and Taxation Code is amended to read:

2706. After the second installment of taxes on the secured roll is delinquent, the tax collector shall collect a cost of up to fifty-five dollars (\$55), but no more than the actual cost, for preparing the delinquent tax records and giving notice of delinquency on each separate valuation on the secured roll of:

- (a) Real property, except possessory interests.
- (b) Possessory interests.
- (c) Personal property cross-secured to real property.

The cost shall be collected even though the property appears on the roll due to a special assessment and no valuation of the property is given.

SEC. 4. Section 3692 of the Revenue and Taxation Code is amended to read:

3692. (a) The tax collector shall attempt to sell tax-defaulted property, as provided in this chapter, within four years of the time that the property becomes subject to sale for nonpayment of taxes unless, by other provisions of law, the property is not subject to sale. If there are no acceptable bids at the attempted sale, the tax collector shall attempt to sell the property at intervals of no more than six years until the property is sold.

(b) When oil, gas, or mineral rights are subject to sale for nonpayment of taxes, the tax collector may offer the interest at minimum bid to the holders of outstanding interests where the interest subject to sale is a partial interest or, where the interest subject to sale is a complete and undivided interest, to the owner or owners of the property to which the oil, gas, or mineral rights are appurtenant.

(c) When parcels that are rendered unusable by their size, location, or other conditions are subject to sale for nonpayment of taxes, the tax collector may offer the parcel, at a minimum bid, to owners of contiguous parcels or to a holder of record of either a predominant easement or a right-of-way easement. If the parcel is sold to a contiguous property owner, the tax collector shall require that the successful bidder request the assessor and the planning director to combine the unusable parcel with the bidder's own parcel as a condition of sale.

(d) Sealed bid sale procedures shall be used when offers are made pursuant to subdivision (b) or subdivision (c), and the property shall be sold to the highest eligible bidder. The offers shall remain in effect for 30 days or until notice is given pursuant to Section 3702, whichever is later. If the highest bidder does not consummate the sale within the time period determined by the tax collector, the tax collector may offer the property to the next highest bidder at their bid price.

(e) The Notice to the Board of Supervisors and Notice of Intended Sale of Tax-Defaulted Property shall indicate that any parcel remaining unsold may be reoffered within a 90-day period and any new parties of interest shall be notified in accordance with Section 3701. This subdivision does not apply to properties sold pursuant to Chapter 8 (commencing with Section 3771).

SEC. 5. Section 3693 of the Revenue and Taxation Code is amended to read:

3693. (a) With the exception of the sealed bid sale procedures authorized under Section 3692 and of the procedures authorized in subdivisions (b) and (c), all sales pursuant to this chapter shall be at public auction to the highest bidder. The amount of the high bid shall be paid by any method of payment authorized by Section 2502, 2503.2, or 2504, which method is at the discretion of the tax collector. Unless otherwise specified by the tax collector, payment is due on or before the close of auction.

(b) For nonresidential commercial property, if the highest bidder does not consummate the sale within the time period determined by the tax collector, the tax collector may offer the property to the next highest bidder at their bid price.

(c) If a sale occurs at a public auction for a parcel of property subject to this chapter and the sale is unconsummated, if the next public auction for that parcel of property occurs more than one year after the date of that first auction and the highest bidder does

not consummate that subsequent sale within the time period determined by the tax collector, the tax collector may offer that property, regardless of type, for sale to the next highest bidder at their price.

(d) The tax collector may require a person to submit a deposit, by any method of payment authorized by Section 2502, 2503.2, or 2504, for the purposes specified in this subdivision. A tax collector requiring a deposit pursuant to Section 3693.1 may determine, and shall provide public notice before the date of the sale upon determining, all of the following:

(1) The method of payment of this deposit.

(2) The amount of this deposit.

(3) The due date of this deposit.

(4) Whether the deposit will be applied for one or more of the following purposes:

(A) As a condition to submitting a bid on property that is being sold under this chapter.

(B) As a payment toward specified property that is being sold under this chapter. If a deposit is applied for this purpose, the deposit may be applied as payment toward more than one specified property based upon the amount of the minimum bid for each property.

(e) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

SEC. 6. Section 3693 is added to the Revenue and Taxation Code, to read:

3693. (a) With the exception of the sealed bid sale procedures authorized under Section 3692, all sales pursuant to this chapter shall be at public auction to the highest bidder. The amount of the high bid shall be paid by any method of payment authorized by Section 2502, 2503.2, or 2504, which method is at the discretion of the tax collector. Unless otherwise specified by the tax collector, payment is due on or before the close of auction.

(b) The tax collector may require a person to submit a deposit, by any method of payment authorized by Section 2502, 2503.2, or 2504, for the purposes specified in this subdivision. A tax collector requiring a deposit pursuant to Section 3693.1 may determine, and shall provide public notice before the date of the sale upon determining, all of the following:

(1) The method of payment of this deposit.

(2) The amount of this deposit.

(3) The due date of this deposit.

(4) Whether the deposit will be applied for one or more of the following purposes:

(A) As a condition to submitting a bid on property that is being sold under this chapter.

(B) As a payment toward specified property that is being sold under this chapter. If a deposit is applied for this purpose, the deposit may be applied as payment toward more than one specified property based upon the amount of the minimum bid for each property.

(c) This section shall become operative on January 1, 2029.

SEC. 7. Section 3700 of the Revenue and Taxation Code is amended to read:

3700. Upon providing notice to the board of supervisors as required by Section 3698, the tax collector shall forward one copy to the clerk or secretary of the governing board of each taxing agency, other than the county, having the right to levy taxes or assessments on the property and may forward one copy to each nonprofit organization that has submitted, within one year prior to the next scheduled tax sale or prior to July 31 of the current calendar year, a written request to the tax collector for notification. The copy or copies shall be mailed, sent electronically, or delivered at least 30 days before the first publication or posting of the notice of intended sale. However, where the tax collector has on file a consent from each taxing agency, the tax collector may proceed to publish or post the notice of sale.

SEC. 8. Section 4675 of the Revenue and Taxation Code is amended to read:

4675. (a) Any party of interest in the property may file with the county a claim for the excess proceeds, in proportion to that person's interest held with others of equal priority in the property at the time of sale, at any time prior to the expiration of one year

following the recordation of the tax collector's deed to the purchaser. The claim shall be postmarked on or before the one-year expiration date to be considered timely.

(b) After the property has been sold, a party of interest in the property at the time of the sale may assign their right to claim the excess proceeds only by a dated, written instrument that explicitly states that the right to claim the excess proceeds is being assigned, and only after each party to the proposed assignment has disclosed to each other party to the proposed assignment all facts of which that party is aware relating to the value of the right that is being assigned. Any attempted assignment that does not comply with these requirements shall have no effect. This subdivision applies only with respect to assignments on or after the effective date of this subdivision.

(c) Any person or entity who in any way acts on behalf of, or in place of, any party of interest with respect to filing a claim for any excess proceeds shall submit proof with the claim that the amount and source of excess proceeds have been disclosed to the party of interest and that the party of interest has been advised of their right to file a claim for the excess proceeds on their own behalf directly with the county at no cost.

(d) The claims shall contain any information and proof deemed necessary by the board of supervisors to establish the claimant's rights to all or any portion of the excess proceeds.

(e) (1) Except as provided in paragraph (2), no sooner than one year following the recordation of the tax collector's deed to the purchaser, and if the excess proceeds have been claimed by any party of interest as provided herein, the excess proceeds shall be distributed on order of the board of supervisors to the parties of interest who have claimed the excess proceeds in the order of priority set forth in subdivisions (a) and (b). For the purposes of this article, parties of interest and their order of priority are:

(A) First, lienholders of record prior to the recordation of the tax deed to the purchaser in the order of their priority.

(B) Second, any person with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser.

(2) (A) Notwithstanding paragraph (1), if the board of supervisors has been petitioned to rescind the tax sale pursuant to Section 3731, any excess proceeds shall not be distributed to the parties of interest as provided by paragraph (1) sooner than one year following the date the board of supervisors determines the tax sale should not be rescinded, and only if the person who petitioned the board of supervisors pursuant to Section 3731 has not commenced a proceeding in court pursuant to Section 3725.

(B) If a proceeding has been commenced in a court pursuant to Section 3725, any excess proceeds shall not be distributed to the parties of interest as provided by paragraph (1) until a final court order is issued.

(f) In the event that a person with title of record is deceased at the time of the distribution of the excess proceeds, the heirs may submit an affidavit pursuant to Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code, to support their claim for excess proceeds.

(g) Any action or proceeding to review the decision of the board of supervisors, or the county officer to whom the board delegated authority pursuant to Section 4675.1, to accept or deny the claim shall be commenced within 90 days after the date of that decision of the board of supervisors or the county officer.