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AB-1528 Housing authorities: property taxation. (2023-2024)

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Assembly Bill No. 1528

CHAPTER 766

An act to amend Section 34400 of the Health and Safety Code, relating to housing.

[Approved by Governor October 11, 2023. Filed with Secretary of State October 11, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1528, Gipson. Housing authorities: property taxation.

The California Constitution provides that all property is taxable and requires property to be taxed in proportion to its full value. The California Constitution exempts certain property from property taxation, including property owned by a local government, as specified. The California Constitution authorizes the Legislature to exempt from taxation, in whole or in part, property that is used exclusively for religious, hospital, or charitable purposes, and is owned or held in trust by a nonprofit entity.

The Housing Authorities Law establishes a public body corporate and politic, known as a housing authority, within each county and city. Upon enactment of a resolution by the county or city declaring that there is need for a housing authority to function, existing law authorizes the authority to undertake various specified activities relating to affordable housing. Existing law specifies that the property and bonds of a housing authority are exempt from taxation.

This bill would specify that property held by a nonprofit public benefit corporation that is controlled by a housing authority, as described, is exempt from taxation. The bill would require any outstanding ad valorem tax, interest, or penalty that was levied on the property of a housing authority to be canceled, and any tax, interest, or penalty levied that was paid prior to January 1, 2024, to be refunded.

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.

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.

This bill would make findings and declarations related to a gift of public funds.

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

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

SECTION 1. Section 34400 of the Health and Safety Code is amended to read:

34400. (a) The Legislature has found and declared all of the following in the Housing Authorities Law (Chapter 1 (commencing with Section 34200)) and the Housing Cooperation Law (Chapter 2 (commencing with Section 34500)):

(1) There exist in the state housing conditions which constitute a menace to the health, safety, morals, and welfare of the residents of the state.

(2) These conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident prevention, and other public services and facilities.

(3) The public interest requires the remedying of these conditions by the creation of housing authorities to undertake projects for slum clearance and for providing safe and sanitary dwelling accommodations for persons who lack sufficient income to enable them to live in decent, safe, and sanitary dwellings without overcrowding.

(4) These housing projects are for public uses and purposes and are governmental functions of state concern.

(b) (1) As a matter of legislative determination, it is hereby found and declared that the property and bonds of a housing authority are of such character as shall be exempt from taxation.

(2) Property held by a nonprofit public benefit corporation that is controlled by a housing authority shall be included in the exemption from taxation described in paragraph (1).

(c) For purposes of this section, a nonprofit public benefit corporation shall be deemed to be controlled by a housing authority if both of the following conditions are met:

(1) The nonprofit public benefit corporation is organized for purposes pursuant to the Housing Authorities Law and is solely directed and managed by directors, officers, or employees of the housing authority.

(2) The organizational documents of the nonprofit public benefit corporation contain provisions that in the event of the liquidation, dissolution, or winding up of the nonprofit public benefit corporation, all assets of the nonprofit public benefit corporation revert to ownership by the housing authority.

(d) (1) It is the intent and purpose of this section to clarify subdivisions (a) and (b) of Section 3 of Article XIII of the California Constitution and, therefore, the changes made by this bill to this section do not constitute a change in, but are declaratory of, the existing law.

(2) Any outstanding ad valorem tax, interest, or penalty that was levied on the property of a housing authority that meets the requirements of this section shall be canceled, and any tax, interest, or penalty, as so levied, that was paid prior to January 1, 2024, shall be refunded.

SEC. 2. 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.

SEC. 3. 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. 4. The Legislature hereby finds and declares that the refund authorized by Section 34400 of the Health and Safety Code, as amended by this act, serves the public purpose of providing safe and sanitary dwelling accommodations in the state and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.