



Legislative Bill Analysis

[Senate Bill 257](#) (Skinner)

Date: April 22, 2021 (Amended)

Program: Property Taxes

Revenue and Taxation Code Section 214.14

Effective: Immediately upon chaptering

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Summary: This bill adds a definition of "museum" for purposes of the property tax welfare exemption and expands the exemption to museums that are occasionally used for private rentals as a service to the community, if certain conditions are met.

Summary of Amendments: Since our last analysis, SB 257 has been amended to recast its provisions to provide that "used exclusively" includes property that a museum makes available for special events, including private rental events for its members, that provide access to the museum as part of the events.

Fiscal Impact Summary: The revenue loss is indeterminable.

Existing Law: Under the California Constitution, all property is taxable, unless otherwise provided.¹ Property used for free museums is specifically exempt.² Museums that charge admission may qualify for the welfare exemption,³ if their properties are owned and operated by organizations meeting all the requirements of Revenue and Taxation Code⁴ section [214](#).

Section 214 generally exempts from taxation, subject to certain conditions and qualifications, property that is (1) owned by nonprofit organizations organized and operated for charitable purposes, and (2) used exclusively for those purposes.

Section [214.14](#) provides generally that property used exclusively for the charitable purposes of museums, and owned and operated by a qualifying religious, hospital, scientific, or charitable fund, foundation, or corporation, shall be deemed to be within the exemption authorized by section 214. Section 214.14(b) clarifies what "used exclusively" means and provides that this term does not include property used for activities and facilities not related to the primary charitable purposes of museums and not reasonably necessary or incidental to those purposes.⁵

Proposed Law:

Museum Definition. For purposes of the property tax welfare exemption, this bill defines "museum" as a public or private nonprofit entity or institution organized on a permanent basis for essentially educational or aesthetic purposes and that utilizes a professional staff, owns or utilizes tangible objects, cares for tangible objects, and exhibits those tangible objects to the public on a regular basis. This definition

¹ California Constitution, article XIII, section [1](#).

² Section [3](#)(d) of article XIII of the California Constitution and section [202](#)(a)(2) of the Revenue and Taxation Code.

³ Section [4](#)(b) of article XIII of the California Constitution.

⁴ All statutory references are to the Revenue and Taxation Code, unless otherwise provided.

⁵ Section 214.14(b)(3).

This staff analysis is provided to address various administrative, cost, revenue, and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

specifies that the term includes, but is not limited to, museums that have both tangible and digital collections, aquariums, arboretums, botanical gardens, art museums, children's museums, general museums, historic houses and sites, history museums, nature centers, natural history and anthropology museums, planetariums, science and technology centers, specialized museums, and zoological parks.

Exclusive Use. This bill adds an exception to the "exclusive use" requirement. Under this bill, "used exclusively" for the charitable purposes of the museum includes property that a museum makes available for special events, including private rental events for its individual or corporate members, that provide access to the museum's exhibitions, collections, or other educational offerings as part of the events, or that the museum makes available to other nonprofit or government organizations for charitable or governmental purposes, regardless of whether the museum charges any fee or receives charitable contributions in connection with those special events. This bill specifies that these special event uses are related to the primary charitable purposes of museums and reasonably necessary or incidental to those purposes.

In General: Under section 4(b) of article XIII of the California Constitution, the Legislature is authorized to exempt from taxation, in whole or in part:

Property used exclusively for religious, hospital, or charitable purposes and owned or held in trust by corporations or other entities (1) that are organized and operating for those purposes, (2) that are nonprofit, and (3) no part of whose net earnings inures to the benefit of any private shareholder or individual.

In exercising the above constitutional authorization, the Legislature enacted section 214, which reiterates the constitutional authorization and outlines numerous conditions and qualifications for receiving the exemption. When the Legislature enacted section 214 to implement the Constitutional provision in 1945, a fourth purpose *scientific*, was added to the three mentioned in the Constitution. Section 214 parallels and expands upon the Constitutional provision that property used exclusively for the stated purposes (religious, hospital, scientific, or charitable) and owned by qualifying nonprofit organizations is exempt from taxation if certain requirements are met. An organization's *primary* purpose must be either religious, hospital, scientific, or charitable. Whether its operations are for one of these purposes is determined by its activities.⁶

Charitable Purposes. An organization's primary purpose must be either religious, hospital, scientific, or charitable. Whether its operations are for one of these purposes is determined by its activities. The courts have broadly construed *charitable* to include some educational purposes and activities.⁷ These court decisions have been codified in section 214(j), which provides that charitable purposes include certain educational purposes and activities, subject to the following requirements:

- The educational purposes and activities must benefit the community as a whole or an unascertainable and indefinite portion thereof.
- The educational activities include the study of relevant information, the dissemination of that information to interested members of the general public, and the participation of interested members of the general public.

⁶ See Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions*, Part I, page 1.

⁷ See *Lundberg v. County of Alameda* (1956) 46 Cal.2d 644, 653; *Stockton Civic Theatre v. Board of Supervisors* (1967) 66 Cal.2d. 13; *Greek Theatre Association v. County of Los Angeles* (1978) 76 Cal.App.3d 768, 778-779.

Section 214(j) expressly precludes exemption to educational purposes and activities primarily for the benefit of the organization's shareholders.

Exclusive Use. The Revenue and Taxation Code does not specifically define the term *used exclusively*; however, the courts have done so in a series of decisions. The California Supreme Court has stated that the phrase "exclusively used" may not be given a literal interpretation so as to mean that the property exempted must be used solely for the purposes stated to the total exclusion of any other use. The Supreme Court held that *used exclusively* for exempt purposes includes any property which is used exclusively for any facility which is incidental to and reasonably necessary for the accomplishment of the exempt purpose.⁸ Courts have applied this precedent to mean that a qualified organization's primary use of its property must be for exempt purposes and any other uses of property must be related to and reasonably necessary to the accomplishment of the exempt purpose.⁹

In discussing the exclusive use requirement, the Assessor's Handbook gives the following example of a nonqualifying use:¹⁰

A qualified organization uses its property for the primary exempt purpose of providing a museum to the public while regularly leasing portions of the property to private firms for their business activities. The portions of the property leased to non-qualifying entities would be disqualified from exemption because:

- The organization's leases of the property to non-qualifying entities is not incidental to and reasonably necessary for the accomplishment of the exempt purpose, except as a method of generating rental income, and
- The use of the property by non-qualifying entities is not reasonably necessary for or in furtherance of the primary exempt purpose but rather, is in furtherance of non-exempt business purposes.

Legislative History. In 2020, AB 1977 (Bonta) was introduced and contained similar provisions. AB 1977 was held in the Assembly Revenue and Taxation Committee.

Commentary:

1. **Summary of Amendments.** The **April 22** amendment recasts the provisions to provide that "used exclusively" includes property that a museum makes available for special events, including private rental events for its members, that provide access to the museum as part of the events.
2. **Museum Definition.** This bill defines a "museum" as "a public or private nonprofit entity or institution organized on a permanent basis for essentially educational or aesthetic purposes ...". Does the author intend that a museum be a nonprofit entity or *property owned by* a nonprofit entity or institution? What is meant by a "public" nonprofit entity? This may cause confusion, as "public" museums are owned by a government entity and generally would be exempt as

⁸ *Cedars of Lebanon v. County of Los Angeles* (1950) 35 Cal.2d 729, 736.

⁹ *Honeywell Information Systems, Inc. v. County of Sonoma* (1974) 44 Cal.App.3d 23; *YMCA v. County of Los Angeles* (1950) 35 Cal.2d 760; *St. Germain Foundation v. County of Siskiyou* (1963) 212 Cal.App. 911; *Greek Theatre Association v. County of Los Angeles* (1978) 76 Cal.App.3d 768.

¹⁰ Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions*, Part I, pages 46-47, Example 1.

government-owned property and, therefore, not eligible for exemption under the welfare exemption.

3. **Types of Museums.** This bill provides that the term "museum" includes other types of properties such as aquariums, arboretums, botanical gardens, historic houses and sites, nature centers, planetariums, science and technology centers, and zoological parks. Under this bill, all these different types of properties will be able to rent out their facilities without losing a portion of their exemption.
4. **Charitable Purpose.** Section 214 generally exempts from taxation, subject to certain conditions and qualifications, property that is (1) owned by nonprofit organizations organized and operated for charitable purposes, and (2) used exclusively for those purposes. Section 214(j) provides that charitable purposes includes certain educational purposes and activities. This bill provides that the exemption applies to a public or private nonprofit entity or institution organized on a permanent basis for "essentially educational or aesthetic purposes." The terms "essentially" and "aesthetic" may be read to expand the charitable purpose. Further, it is unclear what "essentially" and "aesthetic" mean.

Costs: The BOE would incur absorbable costs to update claim forms and Assessors' Handbook Section [267](#), *Welfare, Church, and Religious Exemptions*.

Revenue Impact: Estimating the revenue impact of this bill is difficult. Staff cannot estimate the number of properties that would qualify as museums under this bill. Staff also does not know the location and value of those properties. Revenue impact depends on (1) the number of properties that would qualify as museums under this bill, (2) the area rented by those museums, and (3) the taxable value of the rented area. At this time, based on these unknown factors, the revenue loss is indeterminable.